

C37UANN5 Farhat - direct

- 1 Q. How did you meet Zehy Jereis?
2 A. In 1995 he came to me that he is looking for a mortgage.
3 Q. For a mortgage?
4 A. Yes.
5 Q. Did you help him get that mortgage?
6 A. Yes.
7 Q. What if any work did you do for Mr. Jereis to help him
8 prepare his income tax returns?
9 A. Prepare the taxes, the yearend taxes.
10 Q. Did you help him prepare his taxes?
11 A. Yes.
12 Q. For what year?
13 A. From 1995, I think, to 2006.
14 Q. Do you know someone named Sandy Annabi?
15 A. Yes.
16 Q. How did you meet her?
17 A. It came to me through introduction of Zehy Jereis.
18 Q. How many if any other clients did Zehy Jereis refer you to?
19 A. None.
20 Q. About what year did you meet Sandy Annabi?
21 A. I met her around 2002.
22 Q. 2002?
23 A. Yes.
24 Q. What years did you prepare her tax returns for?
25 A. 2001, 2002, 2003 and 2005.

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- 1 Q. 2003 or 2004? What is your best recollection? You said
2 2001, 2002 and then what?
3 A. 2004 and 2005.
4 Q. And why not in 2003?
5 A. For nonpayment I didn't do the taxes.
6 Q. Why didn't you do it again in 2004?
7 A. When we met the second time, it is on good faith, they
8 thought that we had already paid and when we finished the year,
9 they make the payment.
10 Q. When if ever did Ms. Annabi pay you to prepare her tax
11 return?
12 A. No, she never paid.
13 Q. Generally, sir, when you meet with a client to do their
14 taxes, what if any checklist do you go through with the client?
15 A. We have a standard checklist that is a 1040 form. A
16 corporation we have a checklist for a corporation for our
17 questions. We have checklist for questions too.
18 Q. For an individual you have a standard checklist?
19 A. Yes.
20 Q. You said the 1040, you have a standard checklist?
21 A. Yes.
22 Q. Give the jury a sense of what types of questions you ask
23 when you meet with a new client on that checklist?
24 A. First, I think we ask for the name, for their Social
25 Security, for date of birth, what kind work, what kind of

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1 income --

2 Q. I would ask you to talk a little bit slower.

3 A. -- from where their source of income and what expenses they
4 have.

5 Q. What expenses they have, is that what you said?

6 A. If there is any deduction that they have.

7 Q. When you first met with Sandy Annabi, did you go through
8 the checklist?

9 A. Yes.

10 Q. Who provided you with the information to put on Sandy
11 Annabi's tax returns?

12 A. Herself.

13 Q. What if anything did Ms. Annabi tell you about whether she
14 would allow her father to give you information for her return?

15 A. Sometimes, yes, she would ask me if my father bring you any
16 information, you accept it.

17 Q. I think you said "my father." When you said that, who were
18 you referring to?

19 A. Herself.

20 Q. And how many times if ever did you prepare tax returns for
21 Sandy Annabi's father?

22 A. I never did tax return for him.

23 Q. For him?

24 A. Yes.

25 Q. Let me direct your attention to Ms. Annabi's 2005 tax

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1 return. Who gave you the information about her income, her
2 mortgage interest and her expenses?

3 A. Herself.

4 Q. Sir, let me now show you what's been marked as Government
5 Exhibits 651 through 653.

6 MR. HALPERIN: May I approach, Judge?

7 THE COURT: Yes.

8 Q. Sir, please take a moment and review those documents. Just
9 look at them. Do you recognize these documents?

10 A. Yes.

11 Q. Have you reviewed them before trial? Have you reviewed
12 them before coming here today? Did you look at them?

13 A. No.

14 Q. Did you look at them at all before you came here today?

15 A. No.

16 Q. Sir, whose tax returns do these documents relate to?

17 A. Sandy Annabi.

18 Q. And who gave you these documents?

19 A. Sandy Annabi.

20 Q. Is there a Bates number starting with the letters EVGN at
21 the bottom of the page?

22 A. Yes.

23 Q. Did you provide these documents to the government?

24 A. Yes.

25 MR. HALPERIN: Your Honor, the government offers GX
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1 651 through 653 into evidence.

2 MR. ARONWALD: No objection.

3 MR. SIANO: No objection.

4 THE COURT: Admitted.

5 (Government Exhibits 651, 652, 653 received in
6 evidence)

7 MR. HALPERIN: Mr. Turk, let's just display 651
8 please. Let's just highlight the top half of the page, please.
9 BY MR. HALPERIN:

10 Q. Mr. Farhat, in the upper right corner, what is the title of
11 this document?

12 A. This is a 1098 mortgage interest.

13 Q. You said 1098, is that shown under the year 2005?

14 A. Yes.

15 Q. Generally, what does the mortgage interest statement show?

16 A. \$1,458.

17 Q. For which taxpayer?

18 A. Sandy Annabi.

19 Q. At what address?

20 A. 245 Rumsey Road, Apartment 1B, Yonkers, New York 10701.

21 Q. Thank you.

22 MR. HALPERIN: Mr. Turk, could we have the next one.
23 Judge, could we have a moment?

24 (Discussion off the record among counsel)

25 MR. ARONWALD: Your Honor, just for the record, there

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1 is a portion of the document that needs to be redacted. I
2 understand that the government will redact it.

3 MR. HALPERIN: We have agreed to redact the bottom
4 half of the document.

5 THE COURT: You will get the top half, ladies and
6 gentlemen.

7 MR. HALPERIN: Just for the record, we obviously have
8 not shown the jury the bottom half of the document.

9 Let's have the top half of the page, please.

10 BY MR. HALPERIN:

11 Q. What is this document, sir, in the upper right corner?

12 You can look at the computer screen in front of you
13 too.

14 A. This is also a mortgage interest form 1098.

15 Q. For what year?

16 A. 2005.

17 Q. What is the amount of mortgage interest received?

18 A. \$4,934.

19 Q. What is the borrower name?

20 A. Sandy Annabi.

21 Q. What address?

22 A. 45 Bacon Place, Yonkers, New York 10710.

23 Q. Thank you.

24 MR. HALPERIN: Mr. Turk, let's have the next one,
25 please. Let's just have the top half of the page maximized.

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1 Q. Sir, what is this document?

2 A. This is a W-2. It is an income from job.

3 Q. For which taxpayer?

4 A. Sandy Annabi.

5 Q. If you look up under line C, what is the employer's name
6 here?

7 A. City of Yonkers, City Hall, 40 South Broadway, Yonkers, New
8 York 10701.

9 Q. Line 1, what were the total wages for that year?

10 A. \$4,821.

11 Q. 48 cents?

12 A. Usually below 50 cents, they don't count.

13 MR. HALPERIN: Mr. Turk, let's look at the bottom half
14 of the document, please.

15 Q. What is this, Mr. Farhat?

16 A. This is another wages, W-2.

17 Q. From which employer?

18 A. St. Joseph's Hospital.

19 Q. For which borrower?

20 A. Sandy Annabi.

21 Q. What address?

22 A. 45 Bacon Place, Yonkers, New York 10710.

23 Q. And line 1, what was the wages?

24 A. \$61,940.82.

25 MR. HALPERIN: Thank you, Mr. Turk.

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1 Your Honor, I am just going to grab those pages.

2 Mr. Turk, can we have 656, please, top half of the
3 document.

4 Q. Mr. Farhat, what is the title of this document in the upper
5 right corner?

6 A. This is the 2005 student loan.

7 Q. Student loan interest statement?

8 A. Yes.

9 Q. What is the amount of the student loan interest received by
10 lender?

11 A. \$133.

12 Q. For which borrower?

13 A. Sandy Annabi.

14 MR. HALPERIN: Mr. Turk, can we have 661, please.
15 Let's highlight the top half above the -- a little farther
16 down, please. Keep going right to there.

17 Q. In the upper right corner, sir, what is the title of this
18 document?

19 A. 2005 mortgage interest.

20 Q. In the upper left, what is the name of the company there?

21 A. National City Mortgage Company.

22 Q. For which taxpayer?

23 A. Sandy Annabi.

24 Q. What address?

25 A. 45 Bacon Place, Yonkers, New York 10710.

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1 Q. In box number 1, net interest paid, what is the amount
2 listed?

3 A. \$27,796.68.

4 MR. HALPERIN: Thank you, Mr. Turk.

5 Mr. Turk, please display Government Exhibit 611 which
6 the Court has received into evidence. Let's go to the next
7 page. Keep going. Page 3. Let's have the top half of the
8 page maximized, please.

9 BY MR. HALPERIN:

10 Q. Sir, what form is this?

11 A. This is 1040 individual income tax return.

12 Q. For what year?

13 A. 2005.

14 Q. For what taxpayer?

15 A. Sandy Annabi.

16 Q. What address?

17 A. 245 Rumsey Road, Yonkers, New York 10701.

18 Q. Under exemptions who is listed?

19 A. Sami Annabi, Maysoun Annabi, Samer Annabi and Francois
20 Annabi.

21 Q. In box 3 what does it say about the relationship of those
22 three people to the taxpayer Annabi?

23 A. The first two is parent and the other two is brothers.

24 Q. Mr. Farhat, who told you that these four family members
25 should be listed as Sandy Annabi's dependents?

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- 1 A. Sandy.
2 MR. HALPERIN: Let's go to the next page, highlight
3 the top half of the page.
4 Q. Sir, the name at the very top is what name?
5 A. Sandy Annabi.
6 Q. Looking at line 38, what is the figure there?
7 A. 99,819.
8 Q. For line 38, is that the adjusted gross income?
9 A. Yes.
10 Q. Line 40 is what?
11 A. The deduction, itemized deduction.
12 Q. Itemized deductions?
13 A. Yes.
14 Q. So in this case, the taxpayer --
15 A. Itemized some deduction.
16 Q. What is the amount there?
17 A. \$94,850.
18 Q. What attached schedule lists the itemized deductions?
19 A. Schedule A.
20 MR. HALPERIN: Mr. Turk, can we have Schedule A
21 please. Right there.
22 Mr. Turk can we please maximize the top two-thirds of
23 the page. Right there.
24 Q. Now, Mr. Farhat, let me direct your attention to line 10.
25 A. Yes.

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1 Q. To the left of line 10 in bold, what does it say there?

2 A. "Interest you paid."

3 Q. "Interest you paid." So for line 10, what is asked for
4 there in line 10?

5 A. The mortgage interest that you paid for your property.

6 Q. And how much interest did Sandy Annabi list there?

7 A. \$40,996.

8 Q. Then line 14, all the way to the right, is that the same
9 figure there, sir?

10 A. Yes.

11 Q. Who told you that the amount of mortgage interest Sandy
12 Annabi had paid in 2005 was \$40,996?

13 A. She gave me the forms.

14 Q. What if anything did Ms. Annabi tell you about whether
15 anybody else had made any of those payments for her?

16 A. She never mentioned anyone had.

17 Q. What if any decisions would you have made about the
18 deductibility of those expenses if you had known whether she
19 had not paid some of them herself?

20 A. We cannot deduct it, or we have to add it as an income.

21 Q. Let me direct your attention down to the section called
22 casualty and theft losses.

23 MR. HALPERIN: Mr. Turk, can we highlight the last
24 line of what is appearing on the screen, please.

25 Q. Mr. Farhat, on line 19, what is the amount list in line 19?

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- 1 A. \$39,918.
2 Q. Was this figure based on casualty or theft loss?
3 A. Casualty.
4 Q. Who told you about this casualty loss?
5 A. Sandy.
6 Q. What did she tell you about this casualty loss?
7 A. She lent money to a person and they didn't pay back.
8 Q. Who was that person that she lent money to?
9 A. It became her father.
10 Q. What did she say about lending money to her father? How
11 much money did she say she loaned her father?
12 A. She loaned him \$50,000, but the form, the calculation of
13 the form became --
14 THE COURT: What was the number of the form?
15 THE WITNESS: 4684.
16 Q. What did Ms. Annabi say to you about why she wanted to take
17 this casualty loss?
18 A. Because, you know, she lost it.
19 Q. What did she say about it? She loaned money to her father
20 and what happened?
21 A. The father, he didn't give her the money back and she filed
22 it as a loss.
23 Q. Now, when she mentioned this \$50,000 loan to her father and
24 the subsequent loss, what did you say to her about what
25 documentation you needed?

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- 1 A. An amount like this, most likely that we need to prove that
2 there is a \$50,000 outstanding to somebody.
- 3 Q. What if any proof of the loan did you ask for?
- 4 A. I said, to whom you give the money? She said, I give the
5 money to my father. And I said, which way you give him the
6 money to your father, what sources of money did you give to
7 your father?
- 8 Q. And what did she say about in what form she had given her
9 father the money?
- 10 A. She said she give him the money in cash.
- 11 Q. And why did you want proof of the loan?
- 12 A. Because it didn't seem making sense that you lent \$50,000
13 to your father and you claim it as a loss.
- 14 Q. What if anything did Ms. Annabi say about who she was
15 living with in 2005?
- 16 A. She was living with her parents.
- 17 Q. With her parents?
- 18 A. Yes.
- 19 Q. Now, what if anything did Ms. Annabi show you as proof of
20 the \$50,000 loan to her father?
- 21 A. Paper from the bankruptcy court.
- 22 Q. From the bankruptcy court for whom, for which person?
- 23 A. From her father to her. Her father filed bankruptcy, and
24 there is a court bankruptcy court papers show that there is
25 \$50,000 involved.

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1 Q. Did Ms. Annabi leave the papers with you?

2 A. No.

3 Q. Now, what if anything did you say to Ms. Annabi about
4 whether you needed additional proof to support --

5 A. Yeah. I say I need additional proof because it doesn't
6 make sense, this number that you lent it.

7 Q. What did she say to you when you asked for additional
8 proof?

9 A. She said she has a promissory note.

10 Q. When you asked to see more proof, what did she say to you?

11 A. She said, this is not your business.

12 MR. HALPERIN: Mr. Turk, can we please show Form 4684.
13 Go back a page. Right there. Let's highlight the top half.

14 Q. Mr. Farhat, is this the Form 4684 you were referring to
15 before?

16 A. Yes.

17 Q. In line 2 -- I'm sorry -- let's go to number 1 at the top
18 of the page, line A. What does it say there?

19 A. Loan.

20 Q. Where did the loan occur?

21 A. Yonkers, New York.

22 Q. What was the date of the loan?

23 A. 2/11/2003.

24 Q. February 11, 2003?

25 A. Yes.

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1 Q. In line 2, under column A, what is the amount listed?

2 A. \$50,000.

3 MR. HALPERIN: Mr. Turk, let's restore the document,
4 please. Let's highlight line 7 through the bottom of the page.

5 Q. So in line 10, what is asked for there, sir? What does the
6 form say?

7 A. Casualty or theft, add amount of line 10, columns A through

8 D. This is the total of the lines.

9 Q. So it asks for casualty or theft loss there?

10 A. Yes.

11 Q. What is the amount listed?

12 A. \$50,000.

13 Q. Then, is it fair to say, to save a little time, there is a
14 formula and a number in line 21 as a result of that formula?

15 A. Yes.

16 MR. HALPERIN: Thank you, Mr. Turk.

17 Q. Mr. Farhat, how many other times in your decades of work
18 preparing taxes had a client claimed a casualty loss based on a
19 loan to a family member?

20 A. Never.

21 Q. And what if any doubt did you have about whether Ms. Annabi
22 had really made the loan to her father?

23 A. It is a big doubt.

24 Q. Why do you say that?

25 A. It didn't make no sense, I didn't.

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1 Q. It didn't make sense to you?

2 A. No. It doesn't make sense at all.

3 MR. HALPERIN: Mr. Turk, can we go back to Schedule A
4 for a second. Let's highlight the bottom quarter of the page,
5 please -- actually, if you could go back, let's highlight the
6 bottom two-thirds of the page. Right there is great.

7 Q. Mr. Farhat, at the bottom of this page, total itemized
8 deductions, what was the amount listed?

9 A. \$94,850.

10 Q. How much of that figure was the mortgage interest?

11 A. \$40,996.

12 Q. How much of that figure was from the \$50,000 casualty loss?

13 A. \$39,918.

14 MR. HALPERIN: Mr. Turk, can we go back to page 2 of
15 the Form 1040 which I think is page 4 in this document. Let's
16 highlight the top half of the page. Right there is great.

17 Q. Mr. Farhat, line 38 has what amount for the adjusted gross
18 income?

19 A. 99,819.

20 Q. And line 40, the itemized deductions were what?

21 A. \$94,850.

22 Q. Line 43, where it asks for taxable income, what is the
23 amount there?

24 A. Zero.

25 Q. And line 44 which asks for tax, what is the amount there?

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- 1 A. Zero.
2 Q. What impact did the \$94,850 deduction have on Ms. Annabi's
3 taxes that year?
4 A. Most likely wash all the taxes.
5 Q. What?
6 A. There is no tax.
7 MR. HALPERIN: Mr. Turk, could go back out for a
8 moment. And if we could highlight the bottom half of the page
9 right there.
10 Q. Let me direct your attention, Mr. Farhat, to line 72. The
11 word "refund" is there to the left, do you see that?
12 A. Yes.
13 Q. What is the amount listed in line 72?
14 A. \$10,363.
15 Q. That was a refund to the taxpayer?
16 A. Yes.
17 Q. At the bottom of the page here, for paid preparer's use
18 only, what company is listed?
19 A. Evergreen Enterprise Services.
20 Q. Whose company is that?
21 A. My company.
22 Q. Whose name is signed here in the sign here box?
23 A. Sandy Annabi.
24 Q. What date?
25 A. 4/12/06.

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1 Q. After you finished preparing this return for Ms. Annabi,
2 what did you do with it?

3 A. We sent it to the client and we give them the taxes and ask
4 them to mail it, to review it and mail it.

5 Q. To review it and mail it?

6 A. Yes.

7 Q. What address did you send it to?

8 MR. HALPERIN: Mr. Turk, can we have the previous
9 page, top quarter.

10 A. 245 Rumsey Road, Yonkers.

11

12 (Continued on next page)

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C37Qann6 Farhat - Direct

1 BY MR. HALPERIN:

2 Q. Let me direct your attention to the middle of 2006. What,
3 if anything, did you learn about whether Ms. Annabi had
4 received a letter from the New York State Department of
5 Taxation and Finance?

6 A. She receive a letter from New York State Taxation, and I
7 ask for more document about the deduction.

8 Q. Which deduction?

9 A. That shows on Schedule A.

10 Q. The casualty loss?

11 A. Yes.

12 Q. Mr. Turk, can you take it out. How did you get a copy of
13 the letter?

14 A. Sandy sent it to us.

15 Q. Let me now show you what's been marked as Government
16 Exhibit 665. Sir, do you recognize this document?

17 A. Yes.

18 Q. What do you recognize it to be?

19 A. It's coming from New York State Department of Taxation.

20 Q. Who sent this to you?

21 A. Sandy Annabi.

22 Q. Did you provide this to the government?

23 A. Yes.

24 MR. HALPERIN: Your Honor, the government offers
25 Government Exhibit 665 in evidence.

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1 MR. ARONWALD: No objection.

2 MR. SIANO: No objection.

3 THE COURT: Admitted.

4 (Government's Exhibit 665 received in evidence)

5 Q. Mr. Turk, can we please display page 1? Let me maximize
6 the top half of the page, please.

7 Mr. Farhat, the very top of the page under the words
8 New York State Department of Taxation and Finance, what does it
9 say on the document?

10 A. Response to audit inquiry.

11 Q. What's the date on the right side?

12 A. 5/30/2006.

13 Q. The tax year?

14 A. 2005.

15 Q. What's the taxpayer's name and address listed?

16 A. Annabi, Sandy.

17 Q. At what address?

18 A. 245 Rumsey Road 1B, Yonkers, New York, 10701.

19 Q. Thank you, Mr. Turk.

20 Mr. Farhat, let me direct your attention to the fall
21 of 2006. What, if any, conversations did you have with
22 Ms. Annabi about your business relationship?

23 A. We ask Ms. Annabi that we don't want to do business with
24 her; to pick up her papers.

25 Q. When did you have this conversation where you said you

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1 didn't want to do business with her?

2 A. Around October 2006.

3 Q. Why did you decide to end your business relationship with
4 her?

5 A. Not feeling comfortable to work with this case.

6 MR. ARONWALD: I didn't hear that.

7 THE COURT: Read it back again, please.

8 (Read back)

9 Q. Sir, how many other times in your career did you decide to
10 stop doing work for a particular client?

11 A. Never.

12 Q. Let me direct your attention to February 2007. Who, if
13 anyone, came to your office to pick up your files from
14 Ms. Annabi?

15 A. Samir Annabi.

16 Q. What's his relationship to Ms. Annabi?

17 A. Her brother.

18 Q. Sir, I'm now showing you Government Exhibit 650. Do you
19 recognize this document?

20 A. Yes.

21 Q. What do you recognize it to be?

22 A. This is the Mr. Samir's receiving the papers from us.

23 Q. Which of your clients did this relate to?

24 A. Sandy Annabi.

25 Q. Did you produce this to the government?

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1 A. Yes.

2 MR. HALPERIN: Your Honor, the government offers
3 Government Exhibit 650.

4 MR. ARONWALD: No objection.

5 MR. SIANO: No objection.

6 THE COURT: Admitted.

7 (Government's Exhibit 650 received in evidence)

8 Q. Mr. Turk, can we place display 650? Mr. Turk, let's blow
9 up the license on the left side of the document, please, as
10 best we can.

11 Whose driver's license is that, Mr. Farhat?

12 A. Samir Annabi.

13 Q. At what address?

14 A. 45 Bacon Place, Yonkers, New York.

15 Q. Thank you, Mr. Turk. Let's go back out. Let's blow up the
16 handwriting on the right side.

17 Mr. Farhat, what's the date in the upper left corner?

18 A. 2/13/2007.

19 Q. What was that the date of?

20 A. The date that they pick up the document.

21 Q. That Mr. Annabi picked up the document?

22 A. Yes.

23 Q. First of all, whose handwriting is this?

24 A. My handwriting.

25 Q. Who signed it on the bottom underneath your handwriting?

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1 A. Samir Annabi.

2 Q. Can you read your handwriting please on the note?

3 A. Yes. Tax return pickup.

4 Q. I'll ask you to read slowly, please.

5 A. Tax return pickup. On February 13, 2006, I pick up Sandy
6 Annabi personal tax return for the years 2001 and 2004 and 2005
7 with all original document, and signed by Samir Annabi. And I
8 admit a mistake over here. It's not 2006. Supposed to be
9 February 13, 2007.

10 Q. So, in other words, in the upper left, you wrote 2007, but
11 in the first line of the text you wrote 2006?

12 A. Yes.

13 Q. And when you wrote 2006, that was a mistake?

14 A. Yes.

15 Q. Thank you, Mr. Turk.

16 Now, Mr. Farhat, going back to Ms. Annabi's 2005 tax
17 returns, what, if anything, did Ms. Annabi tell you about
18 whether Zehy Jereis had made any of her mortgage payments?

19 A. Never mention anything like this.

20 Q. What, if anything, did she tell you about whether
21 Mr. Jereis had paid her student loan payment?

22 A. Never mention anything.

23 Q. What, if anything, did she tell you about whether Zehy
24 Jereis had given her any other money or made any other payments
25 for her?

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1 A. No. She never mention it.

2 MR. HALPERIN: No further questions.

3 THE COURT: Mr. Aronwald?

4 (Pause)

5 CROSS-EXAMINATION

6 BY MR. ARONWALD:

7 Q. Mr. Farhat, now, you testified that you are in the business
8 of accounting and tax return preparation and financial
9 services, correct?

10 A. Yes.

11 Q. Is that what you said?

12 A. Tax preparation, accounting and payroll service, yes.

13 Q. What degrees in accounting do you have?

14 A. I have three years in college.

15 Q. What degrees in accounting do you have? Do you understand
16 my question?

17 A. No.

18 Q. Did you ever receive a degree from any accredited college
19 or university for accounting? Yes or no.

20 A. No.

21 Q. You never graduated -- withdrawn. You testified you had
22 three years of college, is that correct?

23 A. Yes.

24 Q. In what state was your college? Where in the United States
25 did you go to college?

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- 1 A. I went to college in Lebanon.
2 Q. Was that a four-year program or three-year program or
3 two-year program? What was it?
4 A. It's a four-year program.
5 Q. So you didn't complete it?
6 A. No.
7 Q. OK. You have no licenses in accounting, do you?
8 A. As a public accountant, you don't need a license.
9 Q. But you don't hold any licenses in accounting, do you?
10 A. No.
11 Q. Now, what you said was that you -- in answer to
12 Mr. Halperin's question, when you were telling him that you
13 have over, was it 25 years or 35 years that you said?
14 A. It's about 25 years.
15 Q. 25 years?
16 A. Yes.
17 Q. Do you remember testifying in the grand jury? Do you
18 remember --
19 A. Yes.
20 Q. -- testifying in the grand jury?
21 A. Yes.
22 Q. You testified in the grand jury on October 23, 2008, is
23 that correct?
24 A. Yes.
25 Q. When you testified in the grand jury, you took an oath to

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1 tell the truth, the whole truth, nothing but the truth?

2 A. Yes.

3 Q. So help you God, correct?

4 A. Yes.

5 Q. The same oath you took here half hour ago, correct?

6 A. Yes.

7 Q. By the way, was your memory better in 2008 concerning the
8 things you were being questioned about than it is today in
9 2012?

10 A. Possible. I don't know.

11 Q. Do you remember telling the grand jury that you had over 35
12 years of experience preparing tax returns?

13 MR. HALPERIN: What page is it?

14 MR. ARONWALD: 6.

15 THE COURT: Page and line.

16 MR. ARONWALD: Page 6/lines 21 through 26.

17 THE COURT: Did you tell the grand jury, sir, that you
18 had over 35 years?

19 THE WITNESS: I don't remember.

20 THE COURT: You don't remember.

21 Q. If you told the grand jury four years ago that you had over
22 35 years of experience in preparing taxes, that would not have
23 been correct, is that so?

24 A. Yes, it's not 35; it's 25.

25 Q. Let me show you. Page 6 of the transcript of your

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1 October 23, 2008 grand jury testimony. Would you please read
2 lines 21 through 26 to yourself.

3 A. Are you a certified public accountant.

4 THE COURT: No. No. To yourself. Not out loud, sir,
5 to yourself.

6 A. Yes. OK.

7 Q. Are you finished?

8 A. Yes.

9 Q. Does that refresh your recollection that you told the grand
10 jury you had over 35 years preparing taxes?

11 A. Maybe I made a mistake. I meant 25 years. Maybe I got
12 addition mistake between 1986 and two thousand whatever.

13 Q. So it was a mistake. Do you remember being interviewed on
14 March 12, 2008 by the government before you appeared before the
15 grand jury in October? Do you remember meeting with the
16 government pursuant to a proffer agreement?

17 A. I don't know what you're talking about.

18 Q. Well, do you recall on March 12, 2008, do you recall going
19 to the United States Attorney's office in White Plains, New
20 York together with your attorney Thomas J. Murphy?

21 A. OK.

22 Q. Do you remember that?

23 A. Yeah, I went to Tom Murphy to the court, but I don't know
24 what date.

25 Q. OK. That was before you went to the grand jury, correct?

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1 THE COURT: He didn't ask if you went with Mr. Murphy
2 to the court. He asked if you went to the office of the
3 prosecutors.

4 THE WITNESS: Yes.

5 THE COURT: Thank you.

6 Q. When you went to the office of the prosecutors, you went
7 with your lawyer, Mr. Murphy, correct?

8 A. Yes.

9 Q. When you went to the U.S. Attorney's office, you were
10 interviewed by agents of the FBI and by Assistant United States
11 Attorney Perry Carbone and another Assistant United States
12 Attorney by the name of Cynthia Dunn, correct?

13 A. I don't know.

14 Q. You don't remember that?

15 A. No, I don't remember who's the persons names that interview
16 me.

17 Q. Do you see anybody at the table -- do you see anybody at
18 this table that you remember meeting in the U.S. Attorney's
19 office when you went there?

20 A. Yes.

21 Q. Who is it? Who do you recognize?

22 A. The middle man. The middle -- the gentleman in the middle.

23 Q. Meaning Mr. Carbone?

24 THE COURT: That gentleman that just stood up?

25 THE WITNESS: Yes.

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1 THE COURT: Mr. Carbone.

2 THE WITNESS: Yes.

3 Q. There were other people from the United States Attorney's
4 office that were there at the same time, right?

5 A. Yes.

6 Q. You testified here a moment ago that you prepare 210 to 225
7 tax returns every year?

8 A. Yes.

9 Q. Do you remember telling us that?

10 A. Yes.

11 Q. Do you remember when you were in the grand jury telling the
12 grand jury that you prepare around 150 tax returns a year. Do
13 you remember telling the grand jury that?

14 A. No. We did -- we did -- when you ask me the question today
15 I'm telling you how much we prepare the latest tax returns.
16 Last year we prepare about 220 tax returns.

17 Q. When you were before the grand jury on October 23, 2008,
18 were you asked the following question, did you give the
19 following answer at page 7/lines 16 through 18:

20 "Q. About how many tax returns do you prepare in any given
21 year?

22 "A. Around 150."

23 Do you remember being --

24 A. Yes, at that time we were doing around 150. Last year we
25 did around 220.

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Farhat - Cross

1 Q. Thank you.

2 You testified on direct examination that when you meet
3 with a client for purposes of preparing a tax return, you go
4 through a standard check list?

5 A. Yes.

6 Q. Is that standard check list a preprinted form that you use?

7 A. Yeah, we have forms. We have forms that we use.

8 Q. I know you have forms that you use. I'm saying do you have
9 a preprinted written check list form that you use?

10 A. Yes.

11 Q. Did you have that same form in 2004 and in 2005?

12 A. Yes.

13 Q. When you produced the documents to the government, did you
14 also include a copy of the check list that you used in 2004 and
15 2005?

16 A. I don't know. I don't remember.

17 MR. ARONWALD: May I have a moment, your Honor?

18 THE COURT: Yes.

19 (Pause)

20 Q. In fact, with respect to your background and training, do
21 you remember telling the government that you trained yourself
22 including taking some courses, sometimes attending some
23 seminars to learn about taxes, and also by reading books about
24 taxes? Do you remember telling the government that?

25 A. If you want to be educated, you have to go to all sources

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1 to make you educated.

2 Q. Do you remember telling the government that you are
3 self-taught in terms of tax --

4 A. It's not self-taught. It's just like, you know, taking all
5 the courses that are necessary to be a tax preparer.

6 Q. Did you tell the government on March 12, 2008 that you
7 educate yourself on the topics of finances and tax services
8 from books that you read?

9 A. Possible.

10 Q. Possible that you told them that. You don't remember if
11 you told them that, correct?

12 A. I don't remember what's happened that time.

13 Q. OK. And, by the way, only ten percent of the business of
14 Evergreen is preparing tax returns, isn't that so?

15 A. Yes.

16 Q. Do you remember whether when you met with Sandy Annabi
17 concerning the preparation of her tax return, do you remember
18 if you met with Sami Annabi, her father, alone to discuss her
19 taxes? Do you remember that?

20 A. No.

21 Q. No, you don't remember it, or, no, you did not meet with
22 him alone?

23 A. I didn't meet him alone.

24 Q. Do you remember being interviewed by the government on
25 December 22, 2009. Do you remember?

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1 A. I don't know what's the date I get interviewed by the
2 government. I don't remember date.

3 Q. Do you remember meeting with Mr. Carbone, Mr. Halperin,
4 Special Agent Caroline Gilmore, Vince DeMuro, John Scadinaro.
5 Do you remember meeting with these people?

6 A. I don't remember names.

7 Q. OK. Do you remember telling the government that all of the
8 information concerning the preparation of Sandy Annabi's tax
9 returns came from her or her father?

10 THE COURT: Did you say that to the government at one
11 of your meetings with the government? With the prosecutors?
12 Did you say that to them?

13 THE WITNESS: She --

14 THE COURT: No. Yes or no. Did you say all of the
15 information came from Sandy Annabi or her father? Did you say
16 that?

17 THE WITNESS: I don't remember.

18 THE COURT: You don't remember. OK. He's going to
19 show you something and see if it refreshes your memory, if it
20 jogs your memory.

21 Q. Before I do that, just to save some time --

22 THE COURT: No.

23 Q. Do you remember telling the government that the information
24 was provided by her father, but you cannot recall if it was
25 clarifying or originating information?

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1 MR. HALPERIN: Objection. Can he just show the
2 witness the document, please?

3 THE COURT: No.

4 Q. Do you remember that?

5 THE COURT: Read that -- read that one back, will you,
6 please?

7 Q. I'll do it, Judge.

8 Do you remember telling the government that the
9 information was provided by her father, and you cannot recall
10 if the information was clarifying or originating information?
11 Do you remember saying that to the government?

12 A. No.

13 Q. Let me show you what is marked 3510-F, page 1. I'm going
14 to ask you to please read this highlighted portion to yourself.
15 Don't say it aloud. Just read it to yourself. Does that
16 refresh your recollection that you told the agents that?

17 A. Yes.

18 Q. Didn't you also tell the government at that time that you
19 don't recall if you received the information on the Schedule E
20 to the 2005 tax return from Ms. Annabi or from her father? Do
21 you recall telling them that?

22 A. No.

23 Q. Do you recall telling them that you do not honestly
24 remember if Sandy's father met with you solely and not in the
25 presence of Sandy Annabi?

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Farhat - Cross

1 A. No.

2 Q. Do you remember telling them that?

3 A. No.

4 Q. Let me show you the first page of 3510-F. Would you please
5 now read this portion that's highlighted and read it only to
6 yourself. Does that refresh your recollection you told them
7 that?8 A. I don't know what's the question to answer to have this
9 question --10 THE COURT: Sir, the question is -- you read that. Do
11 you now remember saying those words to the government?

12 THE WITNESS: Yeah, maybe I say that.

13 THE COURT: He doesn't remember because he says maybe
14 he says that. OK?

15 Q. If you told it to them, would that have been the truth?

16 A. If I told it to them --

17 MR. HALPERIN: Objection. Hypothetical.

18 THE COURT: The objection is sustained.

19 Q. Did you tell the government that you did not review the
20 2005 tax return with Ms. Annabi?

21 A. Yes, I didn't review it with her personally.

22 Q. Did you tell the government that if information was
23 provided by her father, you assumed that she knew what the
24 information was that her father had provided? Did you tell
25 them that?SOUTHERN DISTRICT REPORTERS, P.C.
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C37Qann6 Farhat - Cross

1 A. When she gave me the authority --

2 MR. ARONWALD: Your Honor, I am just asking for a yes
3 or no?

4 A. Can I answer, please?

5 THE COURT: Read back the last question, please?

6 (Read back)

7 THE COURT: Did you say those words to the government?

8 THE WITNESS: Yes.

9 THE COURT: Thank you.

10 Q. By the way, do you remember also telling the government
11 that you are 60-years-old and you start forgetting so you're
12 not sure who provided the information?

13 A. I have a heart attack in July of this year, you know, like
14 on July of 2011, and I'm taking some medication now for this.

15 Q. I'm sorry to hear that, but I'm asking you about
16 information that you provided to the government in 2009 before
17 you had the heart attack, and I'm asking you did you tell the
18 government in 2009 that you are already 60-years-old and you
19 start forgetting?

20 A. Possible.

21 Q. So you're not sure who provided the information. Did you
22 tell them that?

23 A. Yes.

24 Q. Was that the truth when you told them that?

25 A. Yes.

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Farhat - Cross

1 Q. Did you also tell the government that it is your normal
2 course of business to review the information on the return with
3 the taxpayer? Do you recall telling the government that?

4 A. Usually we don't review it all the time. Sometimes we mail
5 it to the client. We don't review it with the client.

6 MR. ARONWALD: Just a moment, please, your Honor.
7 (Pause)

8 Q. When you prepare these tax returns, you didn't actually
9 prepare the returns by hand, did you?

10 A. No.

11 Q. You used a computerized program, correct?

12 A. Yes. Yes.

13 Q. So you would put in information and then you would rely on
14 the computerized program to do the correct return, isn't that
15 so?

16 A. Yes.

17 Q. Now, with respect to the 2005 tax return, Sandy Annabi
18 never mentioned the words casualty loss to you when she met
19 with you, did she?

20 A. Yes, she mention to me, and she tell me -- which way I get
21 the numbers if she didn't mention it to me?

22 Q. Well, do you remember telling the FBI and the government
23 when you met with them -- do you remember telling the
24 government that for the 2005 tax year Sandy Annabi gave
25 information to you relating to a \$50,000 loss claim. Do you

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1 remember telling that to the government?

2 MR. HALPERIN: Could we have a date, please?

3 Q. Well, do you remember telling them that on March 12, 2008?

4 A. Yes, she -- she mention -- I mention that she have lost
5 50,000.

6 Q. She didn't say casualty loss. She said she lost \$50,000,
7 right?

8 A. Yes.

9 Q. By the way, what is a casualty loss? Do you know?

10 A. No, what's the -- what's the --

11 Q. Do you know what a casualty loss is under the Internal
12 Revenue Code of the United States? Yes or no.

13 A. No.

14 Q. Did you ever bother to look at the Internal Revenue Code to
15 determine how a casualty loss was defined? Yes or no.

16 A. I didn't look for the code, no.

17 Q. No. Did you know at that time that a casualty loss relates
18 to the non-business property of individuals arising from fire,
19 storm, shipwreck, or other casualty or from theft? Did you
20 know that when you prepared the 2005 tax return? Yes or no.

21 A. No.

22 Q. Did you know when you prepared the return that under the
23 Internal Revenue Code, a loss from a casualty occurs from an
24 event due to some sudden, unexpected or unusual cause, such as
25 hurricane, flood, quarry, blast, vandalism, sonic boom,

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1 earthquake, or earth slide?

2 Did you know that when you prepared the 2005 tax
3 return listing a casualty loss? Yes or no.

4 A. No.

5 Q. Did you know when you prepared the return that a casualty
6 loss includes loss to shoreline buildings and structures from
7 battering by waves and winds or flooding of buildings. Did you
8 know that? Yes or no.

9 A. No.

10 Q. Were you familiar with the provision in the Internal
11 Revenue Code that talks about a deduction for a bad debt? Did
12 you know that when you prepared the return in 2005? Yes or no.

13 A. Yes.

14 Q. And a bad debt is when someone loans someone some money,
15 and they don't get repaid, correct?

16 A. Yes.

17 Q. And what Sandy Annabi told you when she met with you to
18 prepare her 2005 tax return --

19 MR. HALPERIN: Objection. Hearsay.

20 MR. ARONWALD: I just was going to --

21 THE COURT: Excuse me. I haven't heard the rest of
22 the question.

23 MR. HALPERIN: But the way --

24 THE COURT: Ask the question.

25 Q. Didn't you testify on direct examination in response to

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1 Mr. Halperin's questions that Sandy Annabi told you that she
2 had loaned her father money, and he had not repaid it? Isn't
3 that what she told you?

4 A. Yes.

5 MR. HALPERIN: Objection. Hearsay.

6 THE COURT: The objection is overruled.

7 Q. In that conversation, she didn't tell you that she owned
8 any property that had been damaged by earthquake, flood,
9 hurricane or any of those things, did she?

10 A. No.

11 Q. When you prepared her 2005 tax return, were you familiar
12 with the provisions in the Internal Revenue Code that limit the
13 amount of deductions that someone can take for a bad debt? Yes
14 or no.

15 A. Yes.

16 Q. What is the limit? What was the limit in 2005 that someone
17 could take for a bad debt deduction, do you know?

18 A. We did the calculation. I don't remember the figure now.

19 Q. What you're talking about is for a casualty loss, correct?

20 A. Yes.

21 Q. I'm talking about a deduction not for casualty loss but for
22 a bad debt. Do you know what bad debt means?

23 A. Yes.

24 Q. OK. You do. So if someone loans money and the borrower
25 doesn't repay it, that's where it's a bad debt, right?

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1 A. Yes.

2 Q. That's what Sandy Annabi told you; she told you she wanted
3 to know if she could take a deduction because she had loaned
4 her father money and he had not repaid it, right?

5 A. Yes.

6 Q. And you said that she showed you some bankruptcy papers, do
7 you remember that?

8 A. Yes.

9 Q. Let me show you what's been marked as Defense Exhibit 64 --
10 your Honor, if I just have a moment with the government?

11 THE COURT: Yes.

12 (Pause)

13 MR. ARONWALD: Your Honor, at this time we would offer
14 as Defense Exhibit 64 a certified copy of the discharge and
15 bankruptcy of Sami Annabi by the United States Bankruptcy Court
16 for the Southern District of New York on November 16 of 2005, a
17 copy of which has been provided to the government. I believe
18 there's no objection to its admission.

19 MR. HALPERIN: No objection.

20 MR. SIANO: No objection.

21 THE COURT: Admitted.

22 (Defendant's Exhibit 64 received in evidence)

23 MR. ARONWALD: May I approach, your Honor?

24 THE COURT: You may.

25 Q. I'm showing you what's marked as Defense Exhibit 64. Is

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1 that the discharge and bankruptcy papers that Ms. Annabi showed
2 you when she met with you to prepare her 2005 income tax
3 return?

4 A. Yes.

5 Q. Would you please -- I am going to impose upon Mr. Turk with
6 the government's permission.

7 THE COURT: Would you, please?

8 MR. ARONWALD: Thank you, your Honor.

9 Is there any way that we can sort of bring that into a
10 sharper focus? It's probably my eyesight, not the machine,
11 but -- this is in reference to Sami Annabi. Now you testified
12 that Sami Annabi was Ms. Annabi's father, correct?

13 A. Yes.

14 Q. And could we just highlight the portion that's line 1?

15 This order discharges Sami Annabi from all
16 dischargeable debts. Now, if you would please turn, if you
17 can, Mr. Turk, to page 2. And the line that has the number
18 3867483, is there any way possible to highlight or to blow that
19 portion of it up?

20 MR. CARBONE: Not with this device.

21 Q. Not with that device. OK. It lists Sandy Annabi as one of
22 the creditors whose debt has been -- one of the creditors to
23 whom Mr. Sami Annabi is indebted in his discharge.

24 Now let me show you --

25 MR. ARONWALD: Your Honor, at this time without

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1 objection by the government, we would offer Defense Exhibit
2 64-A, which is the actual petition itself that was filed by
3 Sami Annabi in the bankruptcy court.

4 MR. CARBONE: No objection.

5 MR. SIANO: No objection.

6 THE COURT: Admitted.

7 (Defendant's Exhibit 64-A received in evidence)

8 THE COURT: Mr. Aronwald, I guess I hoped to get
9 through with this witness, but is that not going to be
10 possible?

11 MR. ARONWALD: Well, no, Judge, no, it's not, but what
12 I would ask is can I just ask one question?

13 THE COURT: Yes, you may.

14 Q. What I would like Mr. Turk to do, if he would, with respect
15 to this last exhibit, if we could turn to -- just to save time.
16 Let me give you my copy for this portion here.

17 Mr. Turk, if you would be good enough to put up on the
18 screen that portion of Schedule F of the bankruptcy petition
19 that has Sandy Annabi's name as a creditor with her mailing
20 address of 245 Rumsey Road, Yonkers, New York, personal loan in
21 the amount of \$35,000. Do you see that? Do you see that,
22 Mr. Farhat?

23 A. Yes.

24 MR. ARONWALD: Your Honor, this would be a convenient
25 time to break. I'm going into a new area.

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Farhat - Cross

1 THE COURT: Well, we will come back tomorrow. Don't
2 discuss the case. Keep an open mind. We are going to go till
3 1:00 tomorrow because my staff reminds me that I am supposed to
4 be at a committee meeting tomorrow at 1:00, so, from 9:30 until
5 1:00 tomorrow. Don't discuss the case. Keep an open mind.

6 (Jury recessed)

7 (Continued on next page)

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C37Qann6

Farhat - Cross

1 (Jury not present)

2 THE COURT: So just out of curiosity, Mr. Aronwald,
3 how much more do you have?4 MR. ARONWALD: Well, your Honor, I had anticipated
5 that we would move more quickly, I really did. So I would say
6 assuming it moves at the same pace, about a half hour.

7 THE COURT: I would assume that.

8 MR. ARONWALD: About a half hour. I will try to be
9 brief. Ill try to review my notes tonight to see if I can
10 eliminate some of it.11 MR. HALPERIN: Judge, I mentioned this to
12 Mr. Aronwald, and he has no objection. We'd ask the Court to
13 give the witness the usual admonishments except he is being
14 driven up and back to his home in Connecticut by an IRS agent,
15 so there will need to be some discussion unrelated to the case.16 THE COURT: Sir, when you're in the car on the way
17 back to Connecticut and being driven down tomorrow, don't talk
18 to the agent about the case.

19 THE WITNESS: OK.

20 THE COURT: And you're not going to talk to the
21 prosecutors about the case because you are in the middle of
22 questioning by the defense lawyers, all right?

23 THE WITNESS: OK.

24 THE COURT: We will see you tomorrow morning. I'm
25 sorry I couldn't get you done today. Thank you. He can leave.

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1 You can't.

2 (Witness excused)

3 THE COURT: So what are these documents that I need to
4 make rulings on?

5 MR. CARBONE: Judge, there were three interviews
6 conducted of Ms. Annabi: On January 30, '07, February 7, '07
7 and 12/2/09.

8 THE DEPUTY CLERK: Take seats, please.

9 MR. CARBONE: We intend to introduce portions of those
10 statements. Under the rule of completeness Mr. Aronwald wants
11 to offer additional portions of those statements. We've talked
12 about it. We've eliminated some of the area of dispute.

13 THE COURT: Give me the ones I need to rule on. I am
14 going to rule right this minute. We are not going to waste any
15 time with it tomorrow. I am going to do it now.

16 MR. ARONWALD: Your Honor, could we just approach for
17 a minute? I want to say something that's not on the record.

18 THE COURT: Then don't say it on the record.

19 MR. ARONWALD: I don't want to say it in open court.

20 THE COURT: Oh, you want a secret? Like from the
21 press?

22 MR. ARONWALD: No. No.

23 THE COURT: Do you want me to get sued? I will have
24 Mr. Abrams in here getting an injunction.

25 (Side bar discussion off the record).

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Farhat - Cross

1 THE COURT: I am going to wait while Mr. Aronwald
2 makes a call.
3 (Recess taken)
4 MR. CARBONE: Judge, I think the first area of dispute
5 is in connection with the January 30, 2007 statement on page 3
6 of 302.
7 THE COURT: Hang on. Sorry.
8 MR. CARBONE: Mr. Aronwald has requested that --
9 THE COURT: What parts are you planning to read?
10 MR. CARBONE: We are offering if you want to go
11 through it from page 2, the highlighted --
12 MR. SIANO: Does your Honor have one of the
13 highlighted ones?
14 THE COURT: I have yellow highlights. Excuse me. I
15 would like the government to tell me what the government
16 proposes to offer. Then I would like Mr. Aronwald to tell me
17 what he thinks is necessary to make the statement
18 comprehensible under the rule of completeness. All right? Is
19 this my copy? This is not my copy. Is this my copy?
20 MR. CARBONE: Yes, it is, Judge.
21 THE COURT: My copy, OK. The government is going to
22 introduce what?
23 MR. CARBONE: On page 2.
24 THE COURT: Yes.
25 MR. CARBONE: The fourth paragraph which is
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Farhat - Cross

1 highlighted.

2 THE COURT: Highlighted in yellow. The government
3 wants to introduce what's highlighted in yellow.

4 MR. CARBONE: Yes.

5 THE COURT: I see that. What does Mr. Aronwald -- and
6 the government has something else on page 3 that's highlighted
7 in yellow?

8 MR. CARBONE: Yes.

9 THE COURT: I assume there is something in between
10 those two things that Mr. Aronwald thinks is necessary under
11 the rule of completeness. Am I guessing right?

12 MR. ARONWALD: Yes, you are.

13 THE COURT: Good. What do you want to introduce,
14 Mr. Aronwald?

15 MR. ARONWALD: Well, we go to page 2, the bottom of
16 the page that is highlighted beginning with the word Sandy
17 stated. I believe that the rule of completeness would --

18 THE COURT: Wait a minute. Page 2 doesn't say Sandy
19 stated anywhere.

20 MR. ARONWALD: I'm sorry.

21 THE COURT: What's highlighted is: The agents asked
22 Sandy if the approximately \$60,000 in funds stated on her
23 Hudson Valley Bank statement for 5/31/2004 was her money.
24 Sandy replied that she had never had \$60,000 in her account and
25 that "someone helped me." Sandy then explained that based on

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1 her financial situation at the time Sandy approached Zehy
2 Jereis for help with the mortgages. Sandy described Jereis as
3 a very smart businessman who knew a lot about real estate and
4 mortgages.

5 That's what the government wants to introduce.

6 MR. ARONWALD: If you turn to page 3.

7 THE COURT: Yes.

8 MR. ARONWALD: The second full paragraph.

9 THE COURT: Under the rule of completeness, you want
10 to introduce: Sandy advised that her parents and brothers
11 reside at 45 Bacon Place, and she resides at 245 Rumsey Road in
12 Yonkers, New York.

13 Not necessary under the rule of completeness. Has
14 nothing to do with what the government is introducing.

15 Sandy advised that Jereis also pays her maintenance
16 for 245 Rumsey Road because he "feels for me." Sandy described
17 Jereis as having more feelings for her than just being friends
18 even though Sandy just "loves him like a brother."

19 Not going to be introduced under the rule of
20 completeness.

21 Next.

22 MR. CARBONE: Your Honor, on page 3 the government
23 seeks to introduce the --

24 THE COURT: The following statement: Sandy advised
25 that Jereis was guiding her in the mortgage process. Sandy

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1 surmised she was approved for both of the mortgages because
2 neither mortgage company knew of the other since she applied to
3 each mortgage company simultaneously.

4 MR. ARONWALD: The government has advised me that the
5 first sentence of that paragraph they are striking. So there
6 is --

7 THE COURT: Is that correct?

8 MR. CARBONE: We agree to take that out, your Honor.

9 THE COURT: First sentence is not being offered. We
10 are starting with Sandy surmised.

11 MR. ARONWALD: Turning to page 4, which is the next
12 issue.

13 THE COURT: So I'm done with page 3? There is no rule
14 of completeness thing here?

15 MR. ARONWALD: No. No.

16 THE COURT: Fine. Page 4 the government has a big
17 long thing on page 4.

18 MR. ARONWALD: If I can speed the process, your Honor,
19 the only thing that I believe that is required under the rule
20 of completeness would be with respect to the first full
21 paragraph on page 4, the first four lines of that paragraph
22 which is not included within the government's proffer.

23 THE COURT: No. On the copy I have it says OK next to
24 the --

25 MR. CARBONE: We're fine with that, Judge.

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Farhat - Cross

1 THE COURT: Fine. The government will introduce them.
2 Next on page 5 there's another big, long hunk.

3 MR. CARBONE: I don't think there are any issues on
4 page 5.

5 MR. ARONWALD: Yes, there is.

6 THE COURT: There is something on top of page 6 that
7 says dispute, and there is a paragraph that's not highlighted
8 that says in. There is a paragraph on the bottom of page 6
9 that says dispute.

10 MR. ARONWALD: The dispute --

11 THE COURT: Well, let me start here. OK? On top of 7
12 dispute. Page 8 dispute. Lots of disputes.

13 Let me see what the government is proposing to offer.
14 On page 5: Sandy surmised that the problem with the
15 information found in these mortgage documents may be related to
16 her political position and that someone placed these documents
17 in her file to "set her up." Sandy suggested that perhaps the
18 phony documents "were planted" in her mortgage file. Sandy
19 suggested that the false information was planted in her file
20 after the deal was completed to make it look as if she had done
21 something wrong. Sandy suggested that someone may have "had it
22 out for me" and placed phony documents into her mortgage file.

23 Sandy was then asked by the agents to explain her
24 signature on the mortgage application which contained the same
25 false information as found on the altered financial documents.

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1 Sandy was advised by the agents that the mortgage documents
2 containing her signature were signed and dated before the
3 actual closing date. Sandy advised that she did not review the
4 documents before signing them, which explained why her
5 signature is found on the mortgage documents containing false
6 information.

7 Sandy was asked to explain her relationship with
8 Jereis. Sandy advised she cared for Jereis deeply as a friend,
9 but there is nothing more to the relationship.

10 Then there is a subsequent statement next to which it
11 says dispute. Is that disputed?

12 MR. CARBONE: Yes, it is.

13 THE COURT: A statement that Mr. Aronwald wants in is:
14 Jereis owns many buildings and has vast experience in the real
15 estate market. Jereis is also the Yonkers Republican chairman
16 and is experienced in politics. Sandy advised that she often
17 consults Jereis for financial real estate and political advice
18 since she knows very little about financial matters and is new
19 to politics.

20 Sandy -- all of that seems to go to the issue of
21 explaining her relationship with Jereis.

22 MR. ARONWALD: Yes.

23 THE COURT: So under the rule of completeness, that
24 would come in.

25 Sandy added that although she and Jereis discussed

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1 various political issues. They do not always agree and even
2 have some very strong arguments. Sandy stated that she also
3 consults her father, Sami, on these political issues and does
4 not always agree with his point of view either.

5 None of that is needed under the rule of completeness.

6 So up to the words is new to politics comes in under
7 the rule of completeness.

8 And following that, the last two sentences of that
9 paragraph will not come in under the rule of completeness.

10 The next paragraph has the word in next to it in
11 governmental handwriting. Does that mean that the dispute over
12 the next paragraph has been resolved?

13 MR. CARBONE: Yes, we have no objection to that.

14 THE COURT: The next paragraph beginning: Sandy was
15 asked by the agents if she resides at 45 Bacon Place will be
16 shown to the jury.

17 The next paragraph that is highlighted says: Sandy
18 was asked to explain the details surrounding her living
19 arrangement at 245 Rumsey Road. Sandy advised that in her
20 position as a council person, Sandy was required to reside in
21 her district, the second district of Yonkers. Sandy explained
22 that she resided in the second district of Yonkers when she and
23 her family resided at 51 Linden Street. However, after her
24 family relocated to 45 Bacon Place, Sandy needed to find
25 another residence in the second district. Sandy asked Jereis

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1 for his help in finding her a residence. Sandy temporarily
2 lived at 53 Linden Street for approximately six months to
3 remain in the second district until Jereis found her the
4 cooperative apartment at 245 Rumsey Road which is also located
5 in the second district of Yonkers.

6 OK, the next one, two -- one and three-quarters
7 paragraphs are in dispute.

8 The government wants to introduce the last sentence of
9 the second following paragraph which says: Sandy also stated
10 that she and Jereis are not actually related through family but
11 they consider themselves cousins because they are from the same
12 neighborhood in Jordan.

13 And then there is something else that's in dispute.
14 It's couple paragraphs later. Let's read the disputed portion:
15 Sandy advised that because of her mortgage at 45 Bacon Place
16 Sandy could not afford to pay for an additional residence.
17 Jereis told Sandy not to worry; that he would take care of
18 everything. Jereis advised that -- Sandy advised that Jereis
19 paid the down payment for the purchase of the cooperative
20 apartment.

21 Not necessary under the rule of completeness.

22 MR. ARONWALD: Your Honor, if I may, the first
23 sentence of the preceding paragraph: Sandy was asked to
24 explain the details surrounding her living arrangement at 245
25 Rumsey Road.

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1 THE COURT: Her living arrangement, I am ruling is not
2 her mortgage payment. You have your exception. Take it to the
3 Court of Appeals if you need to some day. That's not rule of
4 completeness.

5 Next: Sandy advised that because of her current
6 financial situation Jereis continues to pay for all the
7 expenses related to 245 Rumsey Road including the monthly
8 maintenance, the monthly cable and electric bills. When asked
9 by the agents as to why Jereis would incur all the expenses for
10 her, Sandy stated that Jereis does it because he is "in love"
11 with her and is infatuated with her. Sandy stated that Jereis
12 would do anything for her even though Jereis is married and has
13 two children. Sandy advises that Jereis is always flirting
14 with her and wants her to view him as her "knight in shining
15 armor." Sandy denied that she was having an affair with
16 Jereis.

17 Not admissible under the rule of completeness.

18 Finally, Mr. Aronwald wants the following in:

19 Sandy was asked by the agents if Jereis ever asked for
20 a political favor in exchange for paying for her apartment.
21 Sandy denies that Jereis ever influenced her vote on any issue
22 brought before the council and that many times she adamantly
23 disagreed with Jereis' political views on certain issues. Not
24 appropriate under the rule of completeness.

25 All right. That seems to take care of the first

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1 interview.

2 What's next?

3 MR. CARBONE: Unless Mr. Aronwald has withdrawn his
4 request, there was another passage, your Honor, on the bottom
5 of page 7.

6 THE COURT: Are we talking about the first interview?

7 MR. CARBONE: Yes, bottom of page 7, top of page 8.

8 THE COURT: There is nothing marked on my copy on the
9 bottom of page 7.

10 There is one on Page 8 beginning:

11 Sandy was asked to explain her unopposed run for city
12 council.

13 That is so plainly not having anything to do with
14 anything that the government has introduced, let alone adjacent
15 material that is needed to be clarified. So forget it. Not
16 coming in.

17 Next.

18 MR. CARBONE: On the February 9 interview --

19 THE COURT: Yes.

20 MR. CARBONE: -- sorry February 7, the governments
21 seeks to offer last paragraph on the first page.

22 THE COURT: First paragraph on the second page and the
23 third paragraph on the second page and the first sentence of
24 the fourth paragraph on the second page.

25 Usually the rule of completeness is information that

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1 is immediately adjacent to something gets introduced so that it
2 can be put into context; not that it occurs pages and pages
3 later.

4 Let me read all of this:

5 Sandy was asked to explain certain items on her annual
6 statement of financial disclosure for the city of Yonkers 2004,
7 which she submitted for her 2004 financials. Sandy confirmed
8 that she signed the document and that she handwrote all of the
9 information contained on the forms. The document indicated
10 that 245 Rumsey Road Apartment 1B, Yonkers, New York, 10701 was
11 her residence, and that 45 Bacon Place, Yonkers, New York,
12 10710 was an investment property. Sandy advised that the
13 information she entered on the document was truthful. Sandy
14 signed her financial disclosure form on 3/29/2005.

15 Sandy was then shown a copy of her commitment letter
16 from her mortgage from Columbia Equities which she signed and
17 was dated 2/14/2005, and the agents pointed out to Sandy that
18 the commitment letter indicated that 245 Rumsey Road was being
19 purchased by Sandy as an investment property, not as a
20 residence. Sandy advised that she did not review the document
21 in detail before signing it, and that it was simply a mistake
22 on her part.

23 Sandy was asked to review Section 5 of her financial
24 disclosure. In that section, she indicated that she has
25 received no gifts in excess of \$200 other than from immediate

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1 family for all of 2004. She stated that although Zehy Jereis
2 is paying for all of the expenses related to 245 Rumsey Road,
3 Sandy does not consider the money as a gift to her because Sami
4 is going to repay the funds to Jereis.

5 Then: Sandy stated that the agreement for repaying
6 the funds to Jereis is between Sami and Jereis, and, therefore,
7 Sandy was not required to disclose this information on her
8 financial disclosure form.

9 And then Mr. Aronwald wants to introduce:

10 When Sandy was asked by the agents what Jereis asked
11 for from Sandy in exchange for him financing the apartment,
12 Sandy replied that Jereis did not ask her for anything. Sandy
13 advised she was not influenced by Jereis, etc., etc.

14 None of this paragraph, the rest of it, has anything
15 to do with financial disclosure. It is not admissible under
16 the rule of completeness.

17 The top of the next page, the paragraph that begins:

18 Sandy was asked by agents if she thought it was a
19 problem for Jereis as the Yonkers Republican chairman to pay
20 her living expenses.

21 Again, this whole paragraph has nothing to do -- and
22 the next paragraph has nothing to do with financial disclosure
23 matters. Financial disclosure statements are disclosures which
24 are the subject of what the government is planning to introduce
25 and, therefore, they are entirely distinct from what the

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1 government proposes to introduce and have nothing to do with
2 the rule of completeness.

3 The last section that the government seeks to
4 introduce returns to the subject of financial disclosure in
5 Section 4B of Sandy's financial disclosure forms, Sandy
6 indicated that her only other source of income is from her
7 employment at St. Joseph's Medical Center. The agents reminded
8 Sandy that her mortgage application for 245 Rumsey Road --

9 MR. ARONWALD: There are no other disputes, your
10 Honor, with respect to that statement.

11 THE COURT: Great, because that's all about the
12 mortgage applications and financial disclosures and not about
13 the things that are in the paragraphs that Mr. Aronwald wanted
14 to introduce. So those aren't coming in.

15 Next.

16 MR. CARBONE: Page 5 of the final interview on 12/2/09
17 is the first statement.

18 THE COURT: Which is transcribed 1/11/10?

19 MR. HALPERIN: Yes, your Honor.

20 THE COURT: There is a lot of stuff that's
21 highlighted, and there's nothing in dispute on page 5, I
22 gather.

23 MR. ARONWALD: Page 6.

24 MR. CARBONE: The first dispute page 6, second
25 paragraph on the bottom.

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1 THE COURT: OK. On page 5, the government seeks to
2 introduce information about assistance from Jereis for vehicle
3 purchases, assistance from Jereis with the purchase of Rumsey
4 Road, assistance from Jereis with the student loan, assistance
5 from Jereis with mortgage payments maintenance fees,
6 Cablevision and ConEd bills for Rumsey Road.

7 Then on page 6 it says: Annabi called Jereis her
8 campaign manager although this was not an official title.
9 Jereis often advised her on campaign and political issues but
10 Annabi does not believe Jereis was paid by her campaign.
11 Jereis may have lobbied people on her behalf.

12 Annabi was then shown document number SA 27, which
13 were three checks: One for \$1,000 to Jereis, one for \$2,000
14 to Jereis, and one for \$1,500 made payable to cash which Jereis
15 cashed. Annabi believed these were reimbursements to Jereis
16 for campaign-related expenditures made by Jereis.

17 The disputed section, which is two paragraphs later,
18 says: Annabi often talked about political matters with Jereis
19 and she valued his opinion. At times Annabi stated that Jereis
20 created the perception that he controlled her. She had
21 discussions with Jereis about this, and Jereis denied he was
22 attempting to create this impression. Annabi did not discuss
23 her financial disclosure forms with Jereis.

24 Not necessary under the rule of completeness; not
25 admissible.

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Farhat - Cross

1 I am just going to look at the next paragraph which
2 the government is going to introduce to see if that would
3 change my mind, but it doesn't.

4 MR. CARBONE: Page 8 are the next two paragraphs the
5 government seeks to introduce.

6 THE COURT: All right.

7 MR. CARBONE: No disputes on that page.

8 THE COURT: There are no disputes on that page. The
9 government seeks -- we're talking about tax preparers.
10 Mr. Farhat makes it, Mr. Rocco makes it, and Ms. Annabi is
11 shown the casualty loss tax.

12 MR. ARONWALD: Your Honor, there really are no
13 disputes with respect to page 8. And on page 9 there are no
14 disputes because the government has agreed to strike out the
15 first highlighted paragraph which is three paragraphs up from
16 the bottom of the page.

17 THE COURT: Is that correct?

18 MR. CARBONE: That's correct, your Honor.

19 THE COURT: And that eliminates the dispute because
20 you don't want the paragraph before and the paragraph after,
21 the middle paragraph is not going in, is that correct?

22 MR. ARONWALD: Correct. No disputes as to paragraph
23 ten under the rule of completeness.

24 MR. CARBONE: That's page 10, third full paragraph,
25 there is no more dispute.

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1 THE COURT: Page 10 the third full paragraph, there is
2 no more dispute?
3 MR. ARONWALD: Correct.
4 THE COURT: Is it coming in or going out?
5 MR. ARONWALD: Out.
6 MR. CARBONE: Out.
7 THE COURT: Next. How about page 11?
8 MR. CARBONE: I think, your Honor -- Mr. Aronwald,
9 correct me if I'm wrong -- Mr. Aronwald had withdrawn his
10 request.
11 MR. ARONWALD: That is correct.
12 THE COURT: OK. For page 11. We can forget about
13 page 11.
14 MR. CARBONE: Then on page 12, I think this was -- was
15 this withdrawn?
16 MR. ARONWALD: Yes.
17 THE COURT: Page 12 is withdrawn? OK.
18 MR. CARBONE: We are offering the bottom, but
19 Mr. Aronwald has withdrawn his request.
20 THE COURT: The top, OK.
21 MR. CARBONE: Then we're on the top of 13. I think
22 that's the last dispute.
23 THE COURT: Top of 13. Does that relate to the
24 preceding or the following paragraph Mr. Aronwald?
25 MR. ARONWALD: I believe it relates to the preceding
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1 paragraph.

2 THE COURT: Preceding paragraph says: Annabi knows
3 she told Jereis she was taking a trip to Jordan. She never
4 discussed with him that she needed extra money for this trip.
5 She never asked him for money, and no one ever approached her
6 about providing her with money.

7 And Mr. Aronwald says Annabi stated that neither
8 Mangone nor Jereis ever gave her cash relating to the
9 Longfellow project. Annabi stated she never, ever accepted
10 cash for any vote ever. She stated she did receive cash from
11 family members as birthday gifts, which she used for spending
12 money.

13 Not rule of completeness.

14 MR. ARONWALD: I'm sorry?

15 THE COURT: Not rule of completeness.

16 MR. ARONWALD: That ends the disputed issues, your
17 Honor. Thank you very much.

18 MR. HALPERIN: Judge, if I may, may I make a
19 logistical proposal to the Court which I think would save a lot
20 of time tomorrow, which I know the Court always appreciates.

21 THE COURT: Well, I do. Does it have to do with the
22 witness' difficulties?

23 MR. HALPERIN: No. It's actually related to this. My
24 proposal is Mr. Carbone and I have met with the agents, the two
25 different agents, Ms. Karaka and Mr. O'Connor. They had been

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1 prepared to kind of go through the mechanical process what, if
2 anything, did Ms. Annabi say about X, Y and Z. Now that the
3 Court has made pre-rulings, my proposal to the Court and
4 counsel is that later tonight we can circulate redacted
5 versions of these three 302s with only the portions that the
6 Court has authorized and essentially we can dispense with the
7 refreshing process and just if the Court and counsel is fine
8 with this, we can just essentially put them up on the screen
9 and ask the agents to read the portions that the Court has
10 allowed. I think that would save a lot of time in terms of the
11 whole refreshing process.

12 Can I ask if counsel has any --

13 MR. SIANO: I have a preliminary question, Judge. You
14 are going to instruct the jury that this is evidence as to
15 Ms. Annabi only?

16 MR. CARBONE: Yes.

17 THE COURT: Hey, Bruton. Don't I have to?

18 MR. HALPERIN: Yes, we would agree with that.

19 THE COURT: Yes. If I were you, I would want that
20 clarified up front too, Mr. Siano.

21 MR. HALPERIN: We agree with that, your Honor. Judge,
22 what does the Court think about that?

23 THE COURT: It's fine with me. If you can work it out
24 with them, work it out with them.

25 MR. HALPERIN: We'll talk to Mr. Aronwald. Thank you,

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Judge.

Farhat - Cross

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THE COURT: OK.
(Trial adjourned to March 8, 2012 at 9:30 a.m.)

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GOVERNMENT EXHIBITS

Exhibit No.	Received
4702092
4692093
472, 472A, 472B, 472C2107
479 and all identified exhibits . . . . .	.2183
605 through 618 excluding 609-A and 611 . . . . .	.2207
1002 through 1008 excluding 1002-A . . . . .	.2207
1010 . . . . .	.2217
651, 652, 653 . . . . .	.2227
665 . . . . .	.2242
650 . . . . .	.2244

DEFENDANT EXHIBITS

Exhibit No.	Received
64 . . . . .	.2262
64-A . . . . .	.2264

C38Qann1 Trial
1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

2
3 UNITED STATES OF AMERICA,

3
4 v.

10 CR 007 (CM)

4
5 SANDY ANNABI and ZEHY JEREIS,

5
6 Defendants.

6
7 -----x

7
8 New York, N.Y.
8 March 8, 2012
9 10:00 a.m.
9

10
10
11 Before:

11
12 HON. COLLEEN MCMAHON

12
13 District Judge

14
15 APPEARANCES

15
16 PREET BHARARA
16 United States Attorney for the
17 Southern District of New York
17 JASON P.W. HALPERIN
18 PERRY A. CARBONE
18 Assistant United States Attorneys

19
19 WILLIAM I. ARONWALD
20 Attorney for Defendant ANNABI

20
21 ANTHONY J. SIANO
21 JEANNIE GALLEGO
22 Attorneys for Defendant JEREIS

C38Qann1 Trial

1 (Trial continuing)

2 (In open court; jury not present)

3 THE DEPUTY CLERK: Case on trial continued. The
4 government and defendants are present. The jurors are not
5 present.

6 THE COURT: Good morning. I hear we have a medical
7 problem this morning.

8 MR. HALPERIN: We do, Judge. There is really nothing
9 beyond what I sent to the Court and counsel this morning. We
10 will be staying in touch with Mr. Farhat.

11 THE COURT: And I assume praying really, really hard
12 for his prompt recovery.

13 MR. HALPERIN: Exactly. And I think Mr. Aronwald has
14 an issue related to timing to raise about that to which the
15 government has no objection, and then I have some other
16 preliminary issues.

17 THE COURT: Good morning, Mr. Aronwald.

18 MR. ARONWALD: Good morning, your Honor. It's not so
19 much an issue. What I discussed with Mr. Halperin this morning
20 when I received the email was that we were preparing to go
21 forward with the witness' cross, and I told him that I have no
22 objection to suspending the cross, but I was not going to be
23 prepared to begin my cross of Mr. Dennehy today. So I proposed
24 to Mr. Halperin that I would have no objection to suspending
25 the witness' cross with the understanding that if the

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C38Qann1 Trial

1 government completed its direct of Mr. Dennehy today, I would
2 not have to start my cross of him.

3 THE COURT: OK. Well, who are we calling this
4 morning?

5 MR. HALPERIN: Judge, this morning we have Kyle
6 Campbell, a Wells Fargo custodian. I imagine he will be a
7 total of seven or eight minutes.

8 THE COURT: We have two custodians. We have Special
9 Agent Karaka.

10 MR. HALPERIN: And O'Connor.

11 THE COURT: And O'Connor. And then Kevin Cacace is
12 not a special agent.

13 MR. HALPERIN: Correct, he is a chamber of commerce
14 witness and we passed up a proposed limiting instruction to the
15 Court that the Court previously read, so we would ask the Court
16 to read that before he testifies.

17 We have spoken to counsel in terms of Karaka's and
18 O'Connor's testimony, and we are going to proceed along the
19 lines of the process we mentioned yesterday. We are going to
20 hand up --

21 THE COURT: Good.

22 MR. HALPERIN: -- the redacted 302s based on the
23 Court's rulings, and we will just basically ask the witnesses
24 to read aloud the statement.

25 I should also say that with respect to Agent Karaka, I

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1 have spoken to Mr. Aronwald, and I think we have reached an
2 agreement on this point as well. On direct we are not going to
3 get into anything about the timing of the investigation. He
4 has indicated that in the defense case next week, he may want
5 to call Agent Karaka about that phone message from
6 December 2005, and we said we will make her available if he
7 wants to do that.

8 I think those are the only issues we have. Then we
9 will get to Mr. Dennehy at the end of the day, Judge.

10 MR. CARBONE: Judge there is one other issue. I
11 think, as Mr. Halperin said, it is highly likely we'll get to
12 Mr. Dennehy. He is going to introduce some summary charts, and
13 there is a little bit of a dispute --

14 THE COURT: Never, ever has agent Dennehy gotten on
15 the stand without a summary chart.

16 MR. CARBONE: That's what he does best.

17 One of the charts Mr. Aronwald and Mr. Siano just
18 raised an issue about, and we have a dispute about, we would
19 just like a ruling from your Honor. I could hand it up to you.
20 It's Government Exhibit 8. The objection to the chart by the
21 defense is that it says unreported income for Sandy Annabi.
22 That's our contention, and we'd like to not have to make a
23 change to the chart.

24 THE COURT: You don't have to make a change to the
25 chart.

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1 MR. CARBONE: Also, down the bottom left where it says
2 Mangone and Jereis cash given to Annabi, defense's position is
3 there's no evidence that anyone handed cash to Annabi.

4 THE COURT: Indeed, there is none.

5 MR. CARBONE: But, Judge, there is evidence that a
6 co-conspirator of Mr. Mangone's, who is Mr. Jereis, said to
7 him, we need or he needed the cash because Sandy Annabi --

8 THE COURT: Look, what I am going to tell the jurors
9 about this is that it is the government's contention that this
10 is unreported income, and it is the government's contention
11 that there is evidence from which the jurors could conclude
12 beyond a reasonable doubt that the \$20,000 ended up in
13 Ms. Annabi's hands; and it is the defense's strong contention
14 that there is no such evidence, and that in the end they cannot
15 look at this as proof that the income is not reported or that
16 the \$20,000 ended up in Ms. Annabi's hands. It is not proof of
17 that. This is a summary of the government's argument if you
18 believe the government's evidence beyond a reasonable doubt.
19 That's all it is. OK?

20 MR. CARBONE: Yes. Thank you.

21 MR. ARONWALD: Thank you, Judge.

22 THE COURT: Sadly, that caused Mr. Siano, who was
23 standing up, to sit down.

24 MR. SIANO: No. Your Honor's instruction was what
25 caused me to sit down, and I'm satisfied with that. As long as

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1 the jury hears that, then so be it.

2 MR. ARONWALD: For the record, your Honor, if
3 Mr. Siano was satisfied, then so too am I.

4 With respect to the Karaka issue, what I said to
5 Mr. Halperin, just so that we're clear, is depending upon the
6 preliminary questions that are asked of Agent Karaka, then I
7 would have -- assuming they don't open the door to anything
8 indicating when her first contact was with Ms. Annabi, then if
9 they want me to call her back on the defense case, that's fine;
10 but just so that there is no mistake, I am definitely going to
11 call her to testify to that telephone message, and the
12 government will have to make her available, and at the same
13 time if she has any documents, I expect her to have them.

14 THE COURT: She is in and out all the time.

15 MR. HALPERIN: Actually, just to kind of resolve this
16 issue beforehand, I actually read this morning on the phone the
17 preliminary questions to Mr. Aronwald which don't ask anything
18 about when she started working on this investigation. So we
19 will make her available whenever counsel could give us a day's
20 notice because she lives out of town, that would be great.

21 MR. SIANO: May I, your Honor?

22 THE COURT: Oh, please, Mr. Siano, you've been quiet
23 for two days.

24 MR. SIANO: Judge, Mr. Aronwald and I have over the
25 last couple of days been asking for access to the passports of

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1 Antonio and Franco Milio.

2 THE COURT: I thought you took them --

3 MR. SIANO: They were provided this morning, Judge.

4 THE COURT: Good. Nice to know that my rift runs
5 somewhere.

6 MR. ARONWALD: I think you were referring to the issue
7 with respect to Ms. Annabi's passport.

8 THE COURT: No, no, no.

9 MR. SIANO: Milios' passports. They were provided
10 this morning. We believe they have information which is
11 relevant to the resolution of the case. We are endeavoring to
12 work out with the government either information from Homeland
13 Security or information from the Milios that will allow the
14 government to stipulate to what I believe the visa stamps
15 reveal.

16 That having been said, I do want to alert the Court
17 that this is right now an open item of discussion between the
18 government and the defense. You will recall that at least one
19 of the Milios identified them as having been out of the country
20 in September.

21 THE COURT: Yes.

22 MR. SIANO: The visa stamps are illuminating on this
23 topic.

24 THE COURT: Ah.

25 MR. SIANO: Therefore, after some discussion with

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1 Mr. Carbone and Mr. Halperin, they are going to see what
2 Homeland Security can add to the stamps. That is just a work
3 in progress. I wanted to let the Court know that we remain
4 concerned about this. We did get access to them.

5 THE COURT: I know we must be getting closer to
6 summations because when we're getting closer to summations, all
7 these kinds of issues pop up.

8 MR. HALPERIN: Judge, just on that point, we have
9 asked the agents to contact Homeland Security and try to run
10 travel records immediately for the Milios. I think not to get
11 into it at length, but I'm not sure I would say that the visa
12 stamps are illuminating. There are a lot of travel records
13 indicated, so I think from my looking at the passports, it's
14 difficult to figure out when each of them left and came back to
15 the country, but we will certainly make every effort to quickly
16 get the official records from DHS.

17 THE COURT: OK. Are we ready?

18 MR. HALPERIN: We are, your Honor.

19 THE COURT: So let's get our next witness in here and
20 I will explain to the jury what's going on.

21 MR. HALPERIN: Mr. Campbell.

22 (Continued on next page)

23
24
25

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1 (Jury present)

2 THE COURT: OK. Have a seat for a minute. All right.

3 Good morning, everybody.

4 THE JURY: Good morning.

5 THE COURT: You will notice this is not Mr. Farhat.

6 JUROR: No.

7 THE COURT: You picked that up. OK.

8 Mr. Farhat is ill this morning. So we are going to
9 put off the rest of his cross until Monday when he can get
10 better, and we are going to go on with some more of the
11 government's witnesses. I am sorry I kept you waiting this
12 morning.

13 As I said to the lawyers, I know when we are starting
14 to get close to the end of the case of the government's case
15 because all these issues keep coming up that they need me to
16 address: A little bit of this and a little bit of that. And
17 that is what we were doing, and I apologize for starting late
18 with you.

19 Call your next witness.

20 MR. HALPERIN: Your Honor, the government calls Kyle
21 Campbell.

22 KYLE CAMPBELL,

23 called as a witness by the Government,

24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

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C38Qann1 Campbell - Direct

1 BY MR. HALPERIN:

2 THE DEPUTY CLERK: Tell us your full name.

3 THE WITNESS: Kyle Campbell.

4 THE DEPUTY CLERK: Spell that.

5 THE WITNESS: K-Y-L-E; C-A-M-P-B-E-L-L.

6 THE COURT: You may inquire.

7 MR. HALPERIN: Thank you, your Honor.

8 BY MR. HALPERIN:

9 Q. Good morning, Mr. Campbell. Where are you employed, sir?

10 A. Wells Fargo Bank, NA. Wells Fargo Bank, NA.

11 Q. What's your title at Wells Fargo Bank?

12 A. I'm a vice-president of loan documentation.

13 Q. How long have you been employed by Wells Fargo?

14 A. 22 months.

15 Q. Where is Wells Fargo headquartered?

16 A. In DesMoines, Iowa.

17 Q. What are your duties and responsibilities as vice-president
18 of loan documentation at Wells Fargo?

19 A. I work on loans that are typically in litigation, reviewing
20 research and business records, verifying information that's
21 true and accurate, and making appearances such as today.

22 Q. Are you also a custodian of records?

23 A. I am.

24 Q. What do you do as a custodian of records?

25 A. I have access to the records on file for personal review in

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C38Qann1 Campbell - Direct

1 cases such as this.

2 Q. Are you familiar with the books and records of Wells Fargo?

3 A. I am.

4 Q. I am now going to show you what's been marked as Government
5 Exhibits 513, 514, 519, 524, 526, 528 through 534, 536, through
6 538 and 208 F through 208 KK.

7 MR. HALPERIN: Judge, I will refer to these as the
8 Wells Fargo exhibits.

9 THE COURT: OK.

10 MR. HALPERIN: May I approach, Judge?

11 THE COURT: Yes.

12 Q. Sir, take a moment please and look through those documents.
13 Mr. Campbell, do you recognize those documents?

14 A. I do.

15 Q. Have you reviewed all of these exhibits before your
16 testimony here today?

17 A. I have.

18 Q. Which borrower do these records relate to?

19 A. Sandy Annabi.

20 Q. Do you know who Sandy Annabi is?

21 A. I do not.

22 Q. What was the address of the property for these files?

23 A. 245 Rumsey Road, Apartment 1B in Yonkers, New York.

24 Q. Is the loan still active?

25 A. It is.

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C38Qann1 Campbell - Direct

- 1 Q. Let me direct your attention to Government Exhibit 524.
2 What is that document, sir?
3 A. This is an adjustable rate note.
4 Q. For which borrower?
5 A. Sandy Annabi.
6 Q. On the same property you just mentioned?
7 A. Yes, 245 Rumsey Road.
8 Q. Who was the original lender on this loan?
9 A. It was Columbia Home Loans LLC.
10 Q. What was the date of the note?
11 A. February 14, 2005.
12 Q. When did the file come into Wells Fargo's possession?
13 A. On or about December 1, 2005.
14 Q. Please explain how Wells Fargo acquired the file.
15 A. Wells Fargo doing business as America's Servicing Company
16 acquired the loan through a servicing transfer through, I
17 believe it was, GMAC.
18 Q. Is there an abbreviation for American Servicing?
19 A. ASC.
20 Q. Now, for the documents you have in front of you, did Wells
21 Fargo provide these documents to the government?
22 A. Yes, we did.
23 Q. Are all these records kept in the regular course of Wells
24 Fargo's business?
25 A. They are.

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C38Qann1 Campbell - Direct

1 Q. Is it the regular practice of Wells Fargo to make and keep
2 such records?

3 A. It is.

4 Q. Are the entries on the records made for the documents
5 received at or near the dates reflected on the documents?

6 A. They are.

7 Q. Are the documents created by or based on information
8 received from someone with knowledge of the transaction?

9 A. They are.

10 MR. HALPERIN: Your Honor, the government offers into
11 evidence the Wells Fargo documents.

12 MR. ARONWALD: No objection.

13 MR. SIANO: No objection.

14 THE COURT: Admitted.

15 (Government's Exhibits 513, 514, 519, 524, 526, 528
16 through 534, 536, through 538 and 208-F through 208-KK received
17 in evidence)

18 Q. Now, Mr. Campbell, since December 2005 when Wells Fargo
19 acquired the file, how are the monthly payments on this loan
20 made to Wells Fargo?

21 A. It was done either online, mailed in payments or over the
22 phone.

23 Q. Mailed in using the U.S. mail?

24 A. That's correct.

25 MR. HALPERIN: Thank you. No further questions.

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C38Qann1 Campbell - Direct

1 CROSS-EXAMINATION

2 BY MR. ARONWALD:

3 Q. Mr. Campbell, with respect to the documents that are now
4 referred to as the Wells Fargo documents, just so it is clear,
5 you were not with Wells Fargo at the time that Wells Fargo
6 acquired the loan, correct?

7 A. That's correct.

8 Q. So you certainly had nothing to do with the loan
9 application process in connection with the 245 Rumsey Road
10 mortgage loan, correct?

11 A. That's correct.

12 Q. In fact, Wells Fargo had nothing at all to do with the
13 original loan application process, correct?

14 A. That's correct.

15 Q. So the documents that you produced, these are the documents
16 which you received from Columbia when the loan was acquired,
17 correct? When I say you, I mean Wells Fargo.

18 A. Yes, through the servicing transfer.

19 Q. So you never actually saw the original loan documents,
20 correct?

21 A. Personally, no.

22 MR. ARONWALD: No further questions. Thank you.

23 MR. HALPERIN: Nothing else, Judge.

24 THE COURT: That was quick. You may go.

25 (Witness excused)

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C38Qann1 Campbell - Cross

1 THE COURT: Call your next witness.
2 MR. CARBONE: The government calls Kyle Lucas.

3 KYLE LUCAS,
4 called as a witness by the Government,
5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. CARBONE:

8 THE DEPUTY CLERK: Tell us your name.

9 THE WITNESS: Kyle Lucas.

10 THE DEPUTY CLERK: Spell that.

11 THE WITNESS: K-Y-L-E; L-U-C-A-S.

12 THE COURT: You may inquire.

13 MR. CARBONE: Thank you.

14 Q. Good morning, Mr. Lucas.

15 A. Good morning.

16 Q. Sir, where do you work?

17 A. GMAC Mortgage.

18 Q. How long have you worked for GMAC Mortgage?

19 A. Six years.

20 Q. What do you do there?

21 A. I'm a senior litigation analyst.

22 Q. Where is GMAC Mortgage headquartered?

23 A. Excuse me?

24 Q. Where is GMAC Mortgage headquartered?

25 A. We are located in Waterloo, Iowa.

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C38Qann1 Lucas - Direct

1 Q. Are you the custodian of records for GMAC Mortgage?

2 A. The custodian, no, sir, I'm not custodian of records.

3 Q. Well, have you searched the records -- are you familiar
4 with the records of GMAC Mortgage?

5 A. That I am, sir.

6 Q. Did GMAC Mortgage service a loan made to Sandy Annabi?

7 A. That is accurate, yes.

8 Q. During what approximate time period?

9 A. From May 2005 up until December of 2005.

10 Q. Who originated the loan?

11 A. I do believe Columbia Equities LTD is who we acquired
12 servicing from.

13 Q. When you say acquired servicing, what exactly did GMAC
14 mortgage do in connection with this loan?

15 A. We were responsible for the collection and recording of
16 payments.

17 Q. Is GMAC mortgage still servicing this loan?

18 A. No, sir.

19 Q. Approximately when did GMAC mortgage stop servicing the
20 loan?

21 A. In December of 2005.

22 Q. Who, if you know, was the loan transferred to?

23 A. I believe Wells Fargo.

24 Q. Does GMAC Mortgage keep records of payments received in
25 connection with that loan?

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C38Qann1 Lucas - Direct

1 A. Yes, sir, that is accurate.

2 Q. Have you reviewed Government Exhibits 208-B through 208-E?

3 A. Yes, I have.

4 Q. Can you explain without reading from the document generally
5 what those are?

6 A. These are money orders of payments.

7 Q. Were those payments received in connection with the loan
8 that you were servicing for Sandy Annabi?

9 A. Yes, that is accurate.

10 Q. Are those records kept in the regular course of GMAC's
11 business?

12 A. They are.

13 Q. And is the regular course of GMAC to make and keep such
14 records?

15 MR. ARONWALD: Your Honor, I'm objecting. He's not a
16 record custodian.

17 THE COURT: I really don't think that's particularly
18 important. Many companies do not even have someone of that
19 type, as you well know, Mr. Aronwald.

20 Q. Are they at made at or near the dates reflected on them?

21 A. They are.

22 Q. Are they made by and received with someone with knowledge
23 of the transactions?

24 A. Yes.

25 MR. CARBONE: The government offers 208-B through
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C38Qann1 Lucas - Direct

1 208-E in evidence.

2 MR. ARONWALD: No objection.

3 MR. SIANO: No objection.

4 THE COURT: Admitted.

5 (Government's Exhibits 208-B through 208-E received in
6 evidence)

7 Q. Mr. Turk, could you please broadcast Government Exhibit
8 208-B.

9 Mr. Lucas, can you tell us how much the postal money
10 order reflected in 208-B is for?

11 A. It appears to be for \$402.75.

12 Q. Who does it indicate it's from?

13 A. That would be Sandy Annabi.

14 Q. Was that payment received in connection with her mortgage
15 loan?

16 A. Yes, that is accurate.

17 Q. Please broadcast Government Exhibit 208-C.

18 What is the date of this postal money order?

19 A. It would be August 12 of 2005.

20 Q. Again, is it a payment received in connection with Sandy
21 Annabi's mortgage?

22 A. It is.

23 Q. Who does it indicate it's from?

24 A. Sandy Annabi.

25 Q. Please broadcast Government Exhibit 208-D.

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C38Qann1

Lucas - Direct

1 What is the date of this postal money order?

2 A. September 6 of 2005.

3 Q. Who does it indicate it's from?

4 A. Sandy Annabi.

5 Q. Was this the payment received in connection with Sandy
6 Annabi's mortgage?

7 A. Yes.

8 Q. Please broadcast Government Exhibit 208-E.

9 Tell the jury what the date of this postal money order
10 is.

11 A. November 14 of 2005.

12 Q. Was this also a payment received by GMAC in connection with
13 Sandy Annabi's mortgage?

14 A. Yes, that is accurate.

15 Q. Mr. Turk, could you please place on the Elmo Government
16 Exhibit 3.

17 Mr. Lucas, could you please read this stipulation
18 received in evidence Government Exhibit 3. Please read
19 paragraph two.

20 A. The postal money orders marked as Government Exhibits 208-B
21 through 208-E were filed (sic) out by Zehy Jereis, the
22 defendant.

23 MR. CARBONE: Thank you. No further questions, your
24 Honor.

25 MR. ARONWALD: No questions.

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C38Qann1

Lucas - Direct

- 1 MR. SIANO: No questions, your Honor.
2 THE COURT: That was quick. You are excused.
3 Good-bye.
4 (Witness excused)
5 THE COURT: Call your next witness.
6 MR. HALPERIN: Your Honor, the government calls
7 Rosemary Karaka.
8 ROSEMARY KARAKA,
9 called as a witness by the Government,
10 having been duly sworn, testified as follows:
11 DIRECT EXAMINATION
12 BY MR. HALPERIN:
13 THE DEPUTY CLERK: Tell us your name.
14 THE WITNESS: My name is Rosemary Karaka.
15 R-O-S-E-M-A-R-Y. Last name K-A-R-A-K-A.
16 THE COURT: You may inquire.
17 MR. HALPERIN: Thank you, your Honor.
18 Q. Good morning, Ms. Karaka.
19 A. Good morning.
20 Q. Ms. Karaka, up until 2011, where did you work?
21 A. At the Federal Bureau of Investigation.
22 Q. What was your title at the FBI?
23 A. Special agent.
24 Q. How long have you worked at the FBI?
25 A. 20 years.

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C38Qann1 Karaka - Direct

1 Q. What squads did you work on within the FBI?

2 A. I worked on white collar squads for the first 18 years and
3 then I worked in the organized crime branch in the forfeiture
4 assets seizure team.

5 Q. I direct your attention to 1999 to 2009. What squad did
6 you work on at that time?

7 A. I worked on a white collar squad in the White Plains
8 resident agency, and previous to that, we were in New Rochelle.
9 That was in Westchester County.

10 Q. What squad number was that?

11 A. That was C21.

12 Q. What were your duties and responsibilities as an FBI
13 special agent on squad C21 in Westchester County?

14 A. We investigated white collar crimes such as political
15 corruption, health care fraud, bank fraud, securities fraud,
16 mortgage fraud.

17 Q. Directing your attention to early 2007, did you work on an
18 investigation relating to Sandy Annabi?

19 A. Yes, I did.

20 Q. Did you ever interview Sandy Annabi in late January and
21 early February 2007 as part of this investigation?

22 A. Yes, I did. I interviewed her on January 30, 2007 and
23 again on February 7, 2007.

24 Q. Who else from the FBI participated in those two interviews?

25 A. Special Agent Michael Mazzuca.

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C38Qann1 Karaka - Direct

1 Q. Where did the two interviews take place? First where did
2 the January 30, 2007 interview take place?

3 A. That took place at her residence at 45 Bacon Place in
4 Yonkers, New York.

5 Q. Where did the February 7, 2007 interview take place?

6 A. That took place at 245 Rumsey Road in Yonkers, New York.

7 Q. Who else, if anyone, was present along with Ms. Annabi?

8 A. During the first interview, Ms. Annabi's father, Sami
9 Annabi, was also present, and her mother, Maysoun Annabi, was
10 also at the house. During the second interview, it was just
11 Ms. Annabi and her father, Sami Annabi.

12 Q. Let's start with the first interview on January 30, 2007.
13 What was generally the subject matter of this interview?

14 A. It concerned her mortgage application and related documents
15 to the three properties she purchased.

16 Q. Now, Ms. Karaka, with the Court's permission and counsel's
17 consent to this process, I placed in front of you Government
18 Exhibit 4 and 4-A. If you could take out Government Exhibit 4.
19 Do you have that in front of you?

20 A. Yes, I do.

21 Q. Generally, what is Government Exhibit 4?

22 A. Government Exhibit 4 is an FD-302 of the interview
23 conducted on January 30, 2007.

24 Q. Ms. Karaka, I'm going to ask you to please read the first
25 statement on page 2.

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C38Qann1 Karaka - Direct

1 A. The agents asked Sandy if the approximately \$60,000 in
2 funds stated on her Hudson Valley Bank savings statement for
3 5/31/2004 was her money. Sandy replied that she never had
4 \$60,000 in her account, and that "someone helped me." Sandy
5 then explained that based on her financial situation at the
6 time, Sandy approached Zehy Jereis for help with the mortgages.
7 Sandy described Jereis as a very smart businessman who knows a
8 lot about real estate and mortgages.

9 Q. Please read the next statement.

10 A. Sandy surmised she was approved for both of the mortgages
11 because neither mortgage company knew of the other since she
12 applied to each mortgage company simultaneously.

13 Q. Please read the next statement.

14 A. Sandy advised that Jereis referred them to the mortgage
15 broker Sam Hattar of Columbia Home Loans for the purchase of 45
16 Bacon Place. Hattar was referred to her by Jereis because they
17 are all part of the same Arab community in Yonkers, and they
18 try to refer business to each other within this community.

19 Sandy stated that she provided the supporting
20 financial documentation for the mortgage to Hattar. Sandy
21 advised that because she is busy with work, her father may have
22 also delivered some of her documents to Hattar for her. Sandy
23 was then shown copies of the mortgage application and closing
24 documents for 45 Bacon Place. Sandy confirmed that she
25 executed and initialed the documents.

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Karaka - Direct

1 When asked to explain the difference in some of the
2 signatures, Sandy stated that she had -- that she "has a few
3 different signatures." Sandy explained that she sometimes
4 signs her name quickly if she is in a rush, and that sometimes
5 her signature looks as if someone else signed it. Sandy
6 recalled that at some point during the purchase of 45 Bacon
7 Place, Sandy was at work and was not able to sign one of the
8 documents. Sandy advised that she telephonically gave Sami the
9 authority to sign her name on one of the documents. Neither
10 Sandy or Sami could recall which document or documents Sandy
11 told Sami to sign for her.

12 Q. I will ask you to slow down just a little bit.

13 A. OK.

14 Q. Please continue.

15 A. Sandy was then shown copies of the supporting financial
16 records which were provided to Hattar for her mortgage
17 application. These documents included her 2002 and 2003 IRS
18 W-2s, a pay stub from St. Joseph's Hospital for the period
19 ending 6/12/04, and her May 2004 savings account bank statement
20 from Hudson valley Bank.

21 Sandy stated that she provided these documents to
22 Hattar. Sandy could not recall whether she directly gave
23 Hattar new copies of these records or whether she or Sami
24 retrieved these documents from the mortgage company used for
25 the purchase of 13 Patton Drive and gave them to Hattar.

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Karaka - Direct

1 Upon further inspection and after being advised by the
2 agents to review the amounts reflected on these documents,
3 Sandy stated the documents were not accurate. The salaries
4 stated on her W-2 forms was incorrect. The amount listed on
5 her pay stub was almost double her actual salary, and the
6 amount listed as the balance of her savings account was
7 incorrect.

8 Q. Please read the next statement.

9 A. Sandy surmised that the problem with the information found
10 in these mortgage documents may be related to her political
11 position, and that someone placed these documents in her file
12 to "set her up." Sandy suggested that perhaps the phony
13 documents "were planted" in her mortgage file. Sandy suggested
14 that the false information was planted in her file after the
15 deal was completed to make it look as if she had done something
16 wrong. Sandy suggested that someone may have "had it out for
17 me" and placed the phony documents into her mortgage file.

18 Sandy was then asked by the agents to explain her
19 signature on the mortgage application which contained the same
20 false information as found on the altered financial documents.
21 Sandy was advised by the agents that the mortgage documents
22 containing her signature were signed and dated before the
23 actual closing date. Sandy advised that she did not review the
24 documents before signing them, which explained why her
25 signature is found on the mortgage documents containing the

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1 false information.

2 Sandy was asked to explain her relationship with
3 Jereis. Sandy advised she cares for Jereis deeply as a friend,
4 but there is nothing more to the relationship. Jereis owns
5 many buildings and has vast experience in the real estate
6 market. Jereis is also the Yonkers Republican party chairman
7 and is experienced in politics. Sandy advised that she often
8 consults Jereis for financial, real estate and political advice
9 since she knows very little about financial matters and is new
10 to politics.

11 Q. Please read the next statement.

12 A. Sandy was asked by the agents if she resides at 45 Bacon
13 Place. Sandy stated that she does not live at the premises
14 because she has an obligation to live in her council district
15 which is the second district of Yonkers. Sandy advised that
16 her residence is located at 245 Rumsey Road, although she often
17 visits her family regularly at 45 Bacon Place and spends quite
18 a bit of time at her family's house. Sandy was asked to
19 explain the details surrounding her living arrangement at 45
20 Rumsey Road.

21 Q. I'm sorry, what was the number there?

22 A. I'm sorry?

23 Q. I think you said 45.

24 A. I'm sorry, 245. I'll re-read that sentence.

25 Q. Thank you.

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1 A. Sandy was asked to explain the details surrounding her
2 living arrangement at 245 Rumsey Road. Sandy advised that in
3 her position as a council person, Sandy was required to reside
4 in her district, the second district of Yonkers. Sandy
5 explained that she resided in the second district of Yonkers
6 when she and her family resided at 51 Linden Street. However,
7 after her family relocated to 45 Bacon Place, Sandy needed to
8 find another residence in the second district.

9 Sandy asked Jereis for his help in finding her a
10 residence. Sandy temporarily lived at 53 Linden Street for
11 approximately six months to remain in the second district until
12 Jereis found her the cooperative apartment at 245 Rumsey Road
13 which is also located in the second district of Yonkers.

14 Q. Please read the next statement.

15 A. Sandy also stated that she and Jereis are not actually
16 related through family but they consider themselves cousins
17 because they are from the same neighborhood in Jordan.

18 Q. Thank you, Ms. Karaka. That was from an interview dated
19 what?

20 A. That was from January 30, 2007.

21 Q. From an interview with Ms. Annabi?

22 A. With Ms. Annabi.

23 MR. HALPERIN: Your Honor, I don't know when the Court
24 wants to do the Bruton instruction.

25 THE COURT: Ladies and gentlemen, statements made by
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1 Ms. Annabi, the statements that are being read to you are
2 absolutely inadmissible against Mr. Jereis. They may not be
3 considered by you in any manner, shape or form as you consider
4 the charges against Mr. Jereis. They are offered only against
5 Ms. Annabi.

6 So when it comes time for you to discuss whether the
7 government has proved beyond a reasonable doubt that Mr. Jereis
8 did X or Mr. Jereis did Y, that he's guilty of this charge or
9 that charge, these statements have no probative value at all.
10 None. OK?

11 MR. HALPERIN: Thank you, your Honor.

12 Q. Ms. Karaka, about a week later, you had another interview
13 with Ms. Annabi?

14 A. Yes.

15 Q. Again, where did that one take place?

16 A. At 245 Rumsey Road in Yonkers, New York.

17 Q. Who else was with you on that day?

18 A. Special Agent Michael Mazzuca.

19 Q. I am now showing you Government Exhibit 4-A which you have
20 in front of you. Is this the 302 from that interview with
21 Ms. Annabi?

22 A. Yes, it is.

23 Q. Generally, what was the subject matter of this second
24 interview?

25 A. This concerned her financial disclosure statement for 2004

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1 for the city of Yonkers.

2 Q. Ms. Karaka, please read the first statement.

3 A. Sandy was asked to explain certain items on her annual
4 statement of financial disclosure for the city of Yonkers for
5 2004 which she submitted for her 2004 financials. Sandy
6 confirmed that she signed the document and that she handwrote
7 all of the information contained on the form. The document
8 indicated that 245 Rumsey Road, Apartment 1B, Yonkers, New
9 York, 10701 was her residence, and that 45 Bacon Place,
10 Yonkers, New York, 10710 was an investment property.

11 Q. Please continue.

12 A. Sandy advised that the information she entered on the
13 document was truthful. Sandy signed her financial disclosure
14 form on 3/29/2005. Sandy was then shown a copy of her
15 commitment letter for her mortgage from Columbia Equities
16 Limited, which she signed and was dated 2/14/2005. The agents
17 pointed out to Sandy the commitment letter indicated that 245
18 Rumsey Road was being purchased by Sandy as an investment
19 property, not as her residence. Sandy advised that she did not
20 review the document in detail before signing it, and that it
21 was simply a mistake on her part.

22 Q. Please read the next statement.

23 A. Sandy was asked to review section 5 of her financial
24 disclosure. In that section, she indicated that she has
25 received no gifts in excess of \$200 other than from immediate

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1 family for all of 2004. She stated that although Zehy Jereis
2 is paying for all of the expenses related to 245 Rumsey Road,
3 Sandy does not consider the monies as a gift to her because
4 Sami is going to repay the funds to Jereis.

5 Q. Please read the next statement.

6 A. Sandy stated that the agreement for repaying the funds to
7 Jereis is between Sami and Jereis, and, therefore, Sandy was
8 not required to disclose this information on her financial
9 disclosure form.

10 Q. Please read the next statement.

11 A. In section 4B of Sandy's financial disclosure form, Sandy
12 indicated that her only other source of income is from her
13 employment at St. Joseph's Medical Center. The agents reminded
14 Sandy that her mortgage application for 245 Rumsey Road listed
15 her receiving rental income from her property at 13 Patton
16 Drive, Yonkers, New York. Sandy advised that the information
17 on the mortgage application was an error. Sandy advised she
18 did not notice that rental income was listed since she did not
19 review her application before signing it. Sandy stated that
20 she has never received any rental income from any of her
21 properties. Sandy could not offer an explanation as to why
22 this information was included on her mortgage application.

23 MR. CARBONE: Thank you, Ms. Karaka.

24 No further questions.

25

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1 CROSS-EXAMINATION

2 BY MR. ARONWALD:

3 Q. Ms. Karaka, my name is William Aronwald. I'm the attorney
4 representing Sandy Annabi. Good morning.

5 A. Good morning.

6 Q. With respect to the initial interview that you had with
7 Ms. Annabi on January 30 of 2007, you testified that that
8 interview occurred, using your words, at her residence at 45
9 Bacon Place. Do you recall that?

10 A. Yes.

11 Q. But Ms. Annabi never told you she lived at 45 Bacon Place,
12 did she?

13 A. No.

14 Q. She told you she lived at 245 Rumsey Road, correct?

15 A. Yes.

16 Q. By the way, you testified that you were 20 years of
17 training as an FBI agent?

18 A. Yes.

19 Q. Before you actually became a special agent, you went
20 through a course of training with the FBI, correct?

21 A. Yes.

22 Q. One of the things that you were taught when you were --
23 were in FBI school, if you will, is how to testify in court,
24 correct?

25 A. Yes.

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1 Q. Whatever principles you were taught with respect to how to
2 testify, they included not volunteering any information
3 correct?

4 MR. HALPERIN: Objection.

5 THE COURT: The objection is sustained.

6 Q. How many hours did you spend when you were training to
7 become an FBI agent in how to testify in judicial proceedings?

8 MR. HALPERIN: Objection.

9 THE COURT: The objection is sustained.

10 Q. When you first went to see Ms. Annabi, you didn't tell her
11 you wanted to interview her in connection with any
12 investigation, did you?

13 A. We told her we were there to ask her information concerning
14 her mortgage application and the related documents.

15 Q. Didn't you first tell her that you were there because you
16 were investigating some break-ins and burglaries in the
17 neighborhood and wanted to speak to her about that?

18 A. I don't recall that.

19 Q. Are you saying that didn't happen or you just don't recall
20 that?

21 A. I don't recall stating that.

22 Q. By the way, when you were interviewing her, there came a
23 time when you told her that you would like for her to wear a
24 wire, didn't you?

25 A. I don't recall that.

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1 Q. Well, it took you a little while to answer that question,
2 so is there some doubt in your mind that you asked her to wear
3 a wire when you first met with her?

4 A. I don't recall asking her to wear a wire.

5 Q. So, you're not saying it didn't happen; you're saying you
6 don't recall?

7 A. I don't recall.

8 MR. ARONWALD: May I have a moment?

9 (Pause)

10 Q. Isn't it a fact that when you first met with her on
11 January 30 of 2007, she told you that she was not willing to
12 wear a wire?

13 MR. HALPERIN: Objection. Hearsay.

14 THE COURT: The objection is sustained.

15 Q. Did you tell her that if she didn't wear a wire that you
16 would start looking at her?

17 A. No.

18 Q. Did you ever say that if -- did you ever receive any
19 information from her or did you ever say to her that you were
20 going to --

21 THE COURT: Those are two different things. At least
22 half of it is objectionable, Mr. Aronwald.

23 Q. Did you ever tell her you would start looking at her?

24 MR. HALPERIN: Objection. Asked and answered.

25 THE COURT: The objection is sustained.

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Karaka - Cross

- 1 Q. Now, in reading from the document that was placed before
2 you -- by the way, Ms. Annabi never refused to answer any of
3 your questions, did she?
4 A. She -- she answered our questions, yes.
5 Q. And when you went back and spoke to her the second time,
6 she again answered your questions, correct?
7 A. She answered our questions, yes.
8 Q. Now, would you look at the Government Exhibit 4. With
9 respect to page 5, the first paragraph --
10 A. Yes.
11 Q. -- when you say "Sandy suggested that perhaps the phony
12 documents 'were planted' in her mortgage file, Sandy suggested
13 that the false information was planted in her file after the
14 deal was completed to make it look as if she had done something
15 wrong," when you use the word suggested instead of the word
16 advised as you did throughout other portions of the document,
17 does that mean that Sandy never actually said that but that's
18 what you took her statements to mean?
19 A. No, that's what she stated.
20 Q. Then why did you use the word suggested instead of advised
21 as you did throughout the rest of the document?
22 A. Because she was -- she was guessing that that's possibly
23 what happened with her mortgage documents.
24 Q. Did you prepare this report or did Agent Mazzuca prepare
25 this report?

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1 A. We both prepared the report.

2 Q. But you reviewed it before it was accepted in the final
3 form that it is, correct?

4 A. Yes.

5 Q. So you used the word suggested instead of saying Sandy
6 advised; that she guesses that or that she assumes that,
7 correct?

8 A. Yes.

9 Q. Just so that we're clear, Sandy never actually said that
10 the phony documents were planted in her mortgage file?

11 MR. HALPERIN: Objection. Misstated.

12 THE COURT: The objection is overruled. The witness
13 could take care of herself.

14 A. She -- she did state that they were planted. When it was
15 in quotes, those were her words: "Were planted," the "set her
16 up," those were statements she made.

17 Q. Yes, but -- so when you put the words in quotes like "were
18 planted" --

19 A. Right.

20 Q. -- that's because those were the words that Sandy Annabi
21 actually used. She actually said "were planted"?

22 A. Yes.

23 Q. But if you read that sentence again, you don't put
24 quotation marks anywhere else in that sentence. For example,
25 specifically you say in that one sentence, Sandy suggested that

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1 perhaps the phony documents "were planted" in her mortgage
2 file. You don't put quotation marks anywhere else in that
3 sentence other than around the words "were planted." Yes? No?

4 A. No. Because we don't end up putting -- we don't verbatim
5 write a 302 as it's being dictated. It's a summary of an
6 interview.

7 Q. My question may not have been as clear as it should have
8 been. For that, I apologize.

9 What I am saying to you is that the reason you put
10 quotes around the words "were planted" is because those words
11 were verbatim from what she said; she used those words?

12 A. Correct.

13 Q. And you agree nowhere else in that report in that sentence
14 that you wrote do you have any quotation marks around any other
15 words, correct?

16 A. Correct.

17 Q. The only time that you would put quotation marks would be
18 when it is a verbatim quote from what the witness is telling
19 you?

20 A. Just sometimes we put verbatim what somebody says if it's
21 easier to describe what they're discussing.

22 Q. So it was easier for you to describe what she was
23 discussing by simply saying Sandy suggested that perhaps the
24 phony documents "were planted" in a mortgage file, correct?

25 MR. HALPERIN: Objection. Asked and answered.

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Karaka - Cross

1 THE COURT: The objection is overruled.

2 A. She ended up stating -- we were discussing the documents.
3 Again, the interview on the rest of the 302 is a summary of the
4 information discussed. We ended up putting this information in
5 quotes, her specific statements, because that's how she
6 described possibly how the false documents got into her file.

7 Q. Let me see if I can sort of narrow this down. When you
8 prepared the report, what is the difference between your use of
9 the word advised as compared to what you mean when you say the
10 word suggested?

11 MR. HALPERIN: Objection. Asked and answered.

12 THE COURT: Overruled.

13 A. What's the difference?

14 THE COURT: Yes. Why do you one word as opposed to
15 the other?

16 A. It's just writing style. I mean, in this case I think we
17 ended up using suggested because she was bringing up possible
18 descriptions of why there were false documents in her file;
19 that it could have been that the documents were planted; that
20 someone was setting her up. So it was variables of how these
21 documents got into her file.

22 Q. What I am getting at is when you used the word advised
23 instead of suggested, does the word advised as you used it
24 signify that that is what she actually said?

25 A. Well, advised, yes. And so does suggested.

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1 Q. So does what?

2 A. So does suggested. It's just another word, it's --

3 Q. So what you are saying then is in your vernacular as you
4 prepared these reports, there really was no practical
5 difference between the word suggested and the word advised, is
6 that so?

7 A. Correct.

8 MR. ARONWALD: No further questions. Thank you.

9 REDIRECT EXAMINATION

10 BY MR. HALPERIN:

11 Q. Ms. Karaka, who gave you all the information that you put
12 into these two FBI 302 reports?

13 A. It was an interview on Sandy Annabi.

14 Q. For both the interviews?

15 A. Yes.

16 MR. HALPERIN: Nothing further, Judge.

17 MR. ARONWALD: No further questions.

18 THE COURT: OK. You may step down.

19 (Witness excused)

20 THE COURT: Get your next witness in here.

21 MR. CARBONE: The government calls James O'Connor.

22 JAMES O'CONNOR,

23 called as a witness by the Government,

24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

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1 BY MR. CARBONE:

2 THE DEPUTY CLERK: Tell us your name.

3 THE WITNESS: My name is James J. O'Connor; O
4 apostrophe C-O-N-N-O-R.

5 THE COURT: You may inquire.

6 BY MR. CARBONE:

7 Q. Good morning, Agent O'Connor.

8 A. Good morning.

9 MR. CARBONE: Your Honor, I think Mr. Siano would like
10 the same limiting instruction. This is a subject matter that
11 is similar.

12 THE COURT: You are going to hear more information
13 here consisting of statements allegedly made by Ms. Annabi.
14 It's admissible only against Ms. Annabi. Absolutely not
15 admissible against Mr. Jereis. It proves nothing about
16 Mr. Jereis. Not offered by the government to prove anything
17 about Mr. Jereis. You may not consider this evidence when you
18 are discussing whether the government has proved Mr. Jereis's
19 guilt beyond a reasonable doubt.

20 BY MR. CARBONE:

21 Q. Agent O'Connor, where are you employed?

22 A. I'm employed by the United States Treasury Department as a
23 special agent with the inspector general's office known as
24 SIGTARP, which is the Special Inspector General for the
25 Troubled Asset Relief Program.

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1 Q. How long have you been a special agent with SIGTARP?

2 A. Approximately 14 months.

3 Q. Where were you employed before that?

4 A. I was a special agent with the FBI for just under 25 years.

5 Q. What were your duties as a special agent with the FBI?

6 A. I was -- my final assignment was the white collar crime
7 supervisor for the New York office in the White Plains resident
8 agency that handled white collar crime matters in the six
9 counties north of New York City.

10 Q. Directing your attention to December of 2009, what position
11 did you hold with the FBI at that time?

12 A. I was a supervisory special agent.

13 Q. At that time, were you assigned to the group investigating
14 allegations of corruption in the city of Yonkers?

15 A. Yes, I was.

16 Q. Directing your attention specifically to December 12 of
17 2009, were you working that day?

18 A. Yes.

19 Q. And what were you doing?

20 A. I believe it was December 2, 2009.

21 Q. That's what I meant. Thank you.

22 A. I participated in an interview of Sandy Annabi which
23 occurred at United States Attorney's office in White Plains,
24 New York.

25 Q. Who was present at the meeting?

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- 1 A. Myself and Special Agent Mazzuca for the FBI, and yourself
2 and Assistant United States Attorney Jason Halperin, as well as
3 Ms. Annabi and her attorney, Murray Richman.
4 Q. Had Ms. Annabi appeared voluntarily for the interview?
5 A. Yes.
6 Q. Prior to beginning the interview, what, if any, instruction
7 was given to Sandy Annabi about her obligation to truthfully
8 answer questions?
9 A. Ms. Annabi was told that it was critical that she be
10 truthful during this interview.
11 Q. Now, Agent O'Connor, can you please look at Government
12 Exhibit 4-B in front of you?
13 A. Yes.
14 Q. What is Government Exhibit 4-B which has been marked for
15 identification?
16 A. It is an FD-302 which is an FBI report of an interview.
17 Q. Whose interview is reflected in this report?
18 A. This is the December 2, 2009 interview of Sandy Annabi.
19 Q. Who drafted this FD-302?
20 A. I did.
21 Q. Agent O'Connor, if you would, please turn to page 5.
22 A. OK.
23 Q. Was Sandy Annabi questioned about the subject about whether
24 Zehy Jereis made payments towards her Mercedes Benz?
25 A. Yes, she was.

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1 Q. Can you please read your report and tell the jury what
2 Ms. Annabi said?

3 A. Annabi was then asked about Jereis providing any assistance
4 to her to purchase any vehicles. Annabi stated her father
5 asked Jereis to help Annabi with her car. Annabi recalled
6 Jereis accompanying her to a Mercedes Benz dealership in
7 approximately 2005 where he paid \$9- or \$10,000 towards the
8 purchase of a car for Annabi. She does not believe her father
9 ever paid Jereis back for this.

10 Q. Now, can you please read the next statement on the same
11 subject?

12 A. Annabi was then shown document number SA-50, a cashier's
13 check and a credit card receipt relating to the Mercedes Benz
14 transaction. Annabi acknowledged these documents relate to the
15 vehicle which Jereis provided funds for, but she does not view
16 this as a benefit to her.

17 Q. Now, moving down the page, could you please read the next
18 statement.

19 A. Annabi was then shown a check dated 11/30/2004 in the
20 amount of \$7,200 which she acknowledged was for the purchase of
21 Rumsey Road. Annabi believes Jereis paid a total of \$11,500
22 towards the purchase of this property.

23 Q. Please continue.

24 A. Annabi does not recall the years which Jereis paid her
25 student loan for her nor was she certain of the total amount,

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1 but she acknowledged it could have been from 2004 through 2006
2 and could have totaled \$7,200.

3 Q. Was she also questioned on the subject of who made the
4 mortgage payments on Rumsey Road and the maintenance fees, the
5 Cablevision and the ConEd bills?

6 A. Yes, she was.

7 Q. What did she say about that?

8 A. Annabi also acknowledged Jereis made the mortgage payments
9 on the Rumsey Road property and paid the maintenance fees, the
10 Cablevision and ConEd bills on several occasions.

11 Q. Let's turn to page 6. What, if anything, did Sandy Annabi
12 tell you about Jereis's involvement in her campaign?

13 A. She discussed that topic and indicated specifically that
14 Jereis was called her campaign manager, although this was not
15 an official title. Jereis often advised her on campaign and
16 political issues but Annabi does not believe Jereis was paid by
17 her campaign. Jereis may have lobbied people on her behalf.

18 Annabi was then shown document number SA-27 which were
19 three checks: One for \$1,000 to Jereis; one for \$2,000 to
20 Jereis; and one for \$1,500 made payable to cash which Jereis
21 cashed. Annabi believes these were reimbursements to Jereis
22 for campaign-related expenditures made by Jereis.

23 Q. And she also was questioned about the subject of her
24 financial disclosure forms?

25 A. Yes, she was.

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1 Q. Would you please read the next statement?

2 A. Sure. Annabi was then shown documents beginning with the
3 number SA-01 which she identified as being financial disclosure
4 forms she filed relating to her position on the city council.
5 Annabi read the questions before providing answers on these
6 forms and informed that she had filled them out and signed
7 them. She did not receive help from anyone when she filled
8 them out and believes they were done in her home or in her
9 office. Annabi may have provided copies of some of these
10 disclosure forms to her staff to file for her.

11 Q. Now, did Ms. Annabi also discuss the subject of \$50,000
12 casualty loss claimed on her 2005 tax return?

13 A. Yes, she did.

14 Q. Would you please read what she said about that?

15 A. Yes. Annabi used several different individuals to prepare
16 her tax returns over the years. She recalled using the
17 preparer Walid Farhat on one or two occasions and also recalled
18 using the preparer Frank Rocco. Jereis recommended Farhat to
19 Annabi.

20 Annabi was asked about the casualty loss of \$50,000
21 which she claimed on one of the tax returns. Annabi explained
22 this related to the money she had provided to her father, as
23 she had "always" given her father money and had loaned her
24 parents "so much money" over the years. Annabi supported her
25 parents by paying "everything" for them. Annabi stated "my

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1 father never gave me a penny."

2 Annabi was then shown document number SA-14, the tax
3 return originally filed by Annabi which included the \$50,000
4 casualty loss amount. Annabi stated she has provided her
5 father far more than the \$50,000 over the years. Annabi
6 continued that this was a cumulative amount, not a lump sum.
7 This went back well before the time she was elected in Yonkers.
8 Annabi could not recall how the topic of the \$50,000 casualty
9 loss came up with her tax preparer. She did recall telling her
10 preparer that her father had never paid back the money she had
11 provided to him.

12 Q. Now, was Sandy Annabi also questioned that day about her
13 attendance at a meeting on May 18, 2006 at the Westchester
14 Country Club with Al Pirro?

15 A. Yes, she was.

16 Q. And what did she say about that subject?

17 MR. ARONWALD: Objection, your Honor. May I have a
18 moment with Mr. Carbone?

19 (Pause)

20 MR. ARONWALD: Thank you, your Honor.

21 THE COURT: OK.

22 MR. CARBONE: Your Honor, I'll withdraw --

23 THE COURT: The question is being withdrawn.

24 MR. CARBONE: It's being withdrawn, and I'll rephrase
25 it.

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1 BY MR. CARBONE:

2 Q. Was Sandy Annabi questioned about her attendance at a
3 meeting on May 18, 2006 with Dee Barbato, John Murtagh and Al
4 Pirro?

5 A. Yes, she was.

6 Q. What, if anything, did she say?

7 A. On May 18, 2006 Annabi acknowledged meeting with council
8 members Dee Barbato and John Murtagh and Forest City Ratner
9 lobbyist, Al Pirro. Annabi did not recall representatives of
10 Forest City Ratner being at this meeting. Murtagh and Barbato
11 were opposed to the project. Pirro wanted to know what was the
12 council members' opposition to the project. Annabi deferred to
13 Barbato on this as the project was in her district. Annabi
14 believes she may have said something to Barbato and Murtagh
15 about the three of them needing to stick together regarding
16 their opposition to the project as the five votes needed for
17 approval could not be achieved if they did.

18 Q. Now, was Ms. Annabi questioned about who drafted the press
19 release?

20 A. Yes, she was.

21 Q. What did she say?

22 A. She said Annabi recalled that Cantone drafted the press
23 release for her which she tweaked. Jereis played no role in
24 the press release.

25 Q. Was she also questioned on the subject of the Longfellow

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1 project?

2 A. Yes, she was.

3 Q. What, if anything, did she say about the subject of whether
4 she had ever discussed the Longfellow project with Zehy Jereis
5 or Anthony Mangone?

6 A. She stated -- excuse me, Annabi does not recall if she had
7 any discussions with Mangone or Jereis about supporting the
8 Longfellow project.

9 Q. Please read her next statement.

10 A. Annabi knows she told Jereis she was taking a trip to
11 Jordan. She never discussed with him that she needed extra
12 money for this trip. She never asked him for money and no one
13 ever approached her about providing her with money.

14 Q. Was Ms. Annabi questioned about her credit card?

15 A. Yes, she was.

16 Q. Please read her statement.

17 A. Annabi was shown document number SA-106, a credit card
18 statement from June 2006. Annabi identified this as her credit
19 card and indicated she shared this account with her brother,
20 Samir Annabi.

21 Q. Before we move on, Mr. Turk, could you please broadcast
22 Government Exhibit 213.

23 Was Ms. Annabi questioned about the subject of her
24 cash purchase of a diamond bezel Rolex watch?

25 A. Yes, she was.

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C38Qann1 O'Connor - Direct

1 Q. Would you please tell the jury what she said about that?

2 A. Sure. Annabi was then shown document number SA-107 dated
3 July 28, 2006 indicating a Rolex watch was purchased for
4 \$3,847.31 in cash. Annabi acknowledged that this was a watch
5 for her, but she does not remember how this watch was paid for.
6 Annabi may have looked at Rolex watches on line prior to going
7 to T&R Jewelers. This watch may have been a special order
8 watch as Annabi recalled something had to be changed on the
9 watch. Annabi was uncertain as to when she ordered the watch
10 or when she picked up the watch. Annabi stated she did not
11 have "that kind of cash" and that maybe Jereis had paid for the
12 watch for her.

13 (Continued on next page)

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C38UANN2 O'Connor - direct

1 Q. Now, when she said that maybe Jereis had paid for the watch
2 for her, did she volunteer that information?

3 A. No. That was in response to questions being put to her as
4 to who paid for the watch.

5 Q. Just to be clear, what did she say first?

6 A. She said she didn't recall how the watch was paid for.

7 Q. Was she also questioned about why the vote on the
8 Longfellow project was pushed back to September from July?

9 A. Yes.

10 Q. What did she say?

11 A. "Annabi has no idea why the vote on the Longfellow project
12 was pushed back to the meeting in September 2006 from July
13 2006. She speculated that it was possible the Yonkers
14 Corporation Counsel had a problem which caused the delay."

15 MR. CARBONE: Thank you.

16 No further questions.

17 CROSS-EXAMINATION

18 BY MR. ARONWALD:

19 Q. Good morning, Mr. O'Connor.

20 A. Good morning, sir.

21 Q. How are you?

22 A. Fine.

23 Q. Been a long time since we last saw each other?

24 A. Yes, sir.

25 Q. This interview that occurred on December 2 of '09, I note

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C38UANN2 O'Connor - cross

- 1 that this report that is Government Exhibit 4B runs 14 pages.
2 So do you recall how long that interview lasted?
3 A. I don't recall the specific time, but it was several
4 hours -- I would say three or four hours.
5 Q. You said in response to Mr. Carbone's question that
6 Ms. Annabi voluntarily appeared, correct?
7 A. Yes.
8 Q. So she was not there pursuant to any subpoena, was she?
9 A. That's correct.
10 Q. During those several hours, she answered all of the
11 questions that were being asked?
12 A. Yes. I think there were times her attorney paused and they
13 may have spoken privately before and then subsequently the
14 question may have been rephrased or something -- but to answer
15 your question, yes.
16 Q. When you say that you drafted the report, correct me if I
17 am wrong, but the process of preparing the form 302 is that
18 when you were there, you basically were taking notes, correct?
19 A. Yes.
20 Q. And then at the completion or end of the interview, at some
21 point you then dictated a report from your notes, correct?
22 A. No. I didn't dictate. I physically typed a report. I
23 used to dictate, but I haven't done that in a number of years.
24 Q. Now, Agent Mazzuca was also with you during that interview,
25 correct?

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C38UANN2

O'Connor - cross

1 A. Yes.

2 Q. Did Agent Mazzuca also take notes?

3 A. No.

4 Q. Do you recall how soon after you took the notes did you
5 begin typing the report?6 A. The exact day, no, but I am sure it was a process. And
7 then, if memory serves me correctly, the date of transcription
8 on the top of the first page of the 302 is January 11, 2010 and
9 that would be on or about the time that the report was
10 completed.11 Q. So the interview took place on December 2 and the report of
12 the interview was not completed until on or about January 11 of
13 2010?

14 A. Correct.

15 Q. More than a month later?

16 A. Correct.

17 MR. ARONWALD: Thank you.

18 No further questions.

19 REDIRECT EXAMINATION

20 BY MR. CARBONE:

21 Q. Agent O'Connor, do you recall Mr. Aronwald just asking you
22 whether Sandy Annabi voluntarily answered all of the questions
23 that were asked?

24 A. Yes.

25 Q. Do you recall what happened in the interview when

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C38UANN2 O'Connor - redirect

1 Ms. Annabi was asked about who paid for the diamond bezel Rolex
2 watch, what happened in the interview after that?

3 A. Her attorney --

4 MR. ARONWALD: Your Honor, objection to anything her
5 attorney said during the interview as hearsay -- also another
6 ground.

7 THE COURT: You said there is no privilege -- let's
8 start with what Ms. Annabi said, OK.

9 BY MR. CARBONE:

10 Q. Did the questioning cease after Ms. Annabi answered the
11 question about the diamond bezel Rolex watch?

12 A. Yes.

13 Q. Did the government have additional questions that they
14 would have asked?

15 A. Many more questions, yes.

16 MR. CARBONE: Thank you.

17 RE-CROSS EXAMINATION

18 BY MR. ARONWALD:

19 Q. I appreciate Mr. Carbone's questioning, but let me ask you
20 this. My question to you was whether or not during the several
21 hours that Ms. Annabi was there, did she answer all of the
22 questions that were asked and your answer to that was yes,
23 correct?

24 A. Yes.

25 Q. And that was the truth, correct?

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C38UANN2

O'Connor - recross

- 1 A. Yes.
- 2 Q. So whether you had other questions for her or not, she was
- 3 there voluntarily, correct?
- 4 A. Yes.
- 5 Q. And she was represented by an attorney during that
- 6 several-hour interview, correct?
- 7 A. Yes.
- 8 Q. Just so we are clear, at no time did Ms. Annabi ever say to
- 9 you she was not willing to answer any of your questions, did
- 10 she?
- 11 A. She never used those words, correct.
- 12 Q. She never did not answer any question that was asked of her
- 13 during those several hours, did she?
- 14 A. The attorney ceased the questioning at a point, and when he
- 15 stated that he wanted to do that, the questioning stopped.
- 16 Q. Just so if I am not making myself clear, let me put it this
- 17 way. During the several hours she was asked a series of
- 18 questions?
- 19 A. Yes.
- 20 Q. Not only by you, but by the other people that were there
- 21 representing the government?
- 22 A. Yes.
- 23 Q. Including the Assistant United States Attorneys?
- 24 A. Yes.
- 25 Q. Including Mr. Mazzuca?

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O'Connor - recross

1 A. Yes.

2 Q. Including anybody else that was there from the government?

3 A. There was no one else there from the government.

4 Q. So the questions were not coming at her from just one
5 representative of the government but the collective group of
6 the representatives from the government, correct?7 A. Yes. At different times different people asked her
8 questions, that's correct.9 Q. Do you recall anyone asking her a question which she did
10 not answer?11 THE COURT: You already asked that question, Mr.
12 Aronwald.13 MR. ARONWALD: And I am asking it again to clarify the
14 confusion.15 THE COURT: And I am saying you won't ask it again.
16 There is nothing to clarify.

17 MR. ARONWALD: Thank you, your Honor.

18 No further questions.

19 THE COURT: Anything else?

20 MR. CARBONE: No. Thank you.

21 THE COURT: You may step down.

22 (Witness excused)

23 THE COURT: Call your next witness.

24 MR. HALPERIN: Your Honor, the government calls Kevin
25 Cacace, but first if the Court wants to give the instruction

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O'Connor - recross

1 that we suggested?

2 THE COURT: One of the problems with having two
3 defendants is that you have to give all kinds of limiting
4 instructions; you are always doing two separate trials together
5 and this re-enforces that fact.

6 Now, you will remember that I told you earlier that
7 the government had offered some evidence that tended to show
8 that on different occasions, Mr. Jereis engaged in conduct
9 similar to the conduct that was charged in the indictment. I
10 told you that that evidence was only offered for a limited
11 purpose.

12 You are going to hear testimony now that relates to a
13 consulting agreement that Mr. Jereis allegedly had -- I haven't
14 heard the testimony myself -- with the Yonkers Chamber of
15 Commerce. The government is introducing evidence about this
16 subject so that it can argue that after the investigation in
17 this case that you are considering, it became public that
18 Mr. Jereis submitted reports to the Chamber of Commerce that,
19 according to the government, were backdated in the same manner
20 as the government alleges Mr. Jereis backdated reports that he
21 sent to Forest City Ratner.

22 I am admitting this evidence for a limited purpose.
23 You may consider it only on the question of whether Mr. Jereis
24 was acting pursuant to some modus operandi, way of doing
25 things, common scheme or plan or whether he acted with criminal

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O'Connor - recross

1 intent in connection with the charges in this case.

2 Once again I remind you, Mr. Jereis is not on trial
3 for submitting backdated reports to the Yonkers Chamber of
4 Commerce. There is no such charge in this case. You may not
5 consider the evidence of similar acts that I guess Mr. Cacace
6 is going to testify about as a substitute for proof that he
7 committed the acts that he is actually charged with nor may you
8 consider it as evidence that he has a propensity to commit
9 crimes or a bad character.

10 The evidence of other similar acts has been admitted
11 only for the limited purpose of deciding whether Mr. Jereis'
12 acts were pursuant to a way of doing things, a modus operandi,
13 a common scheme or plan or whether he had criminal intent in
14 connection with the charges in the case.

15 If you determine that Mr. Jereis committed the acts
16 that are charged in the indictment and that he committed the
17 acts about which you will hear that are similar allegedly to
18 the acts of the indictment, then you may infer that in doing
19 the acts charged in the indictment, Mr. Jereis acted knowingly
20 and intentionally and not because of some mistake or accident
21 or other innocent reason. However, you do not need to draw
22 that inference. You may but you do not need to draw such an
23 inference.

24 Evidence of similar acts may not be considered by you
25 for any other purpose and you may not use this evidence to

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O'Connor - recross

1 conclude that because Zehy Jereis committed whatever acts
2 Mr. Cacace is going to testify about, he must also have
3 committed the acts that are the subject of this indictment.
4 The one does not follow from the other.

5 Now, just as I told you that the statements by
6 Ms. Annabi cannot be considered by you against Mr. Jereis, you
7 may not consider the evidence that you are about to hear from
8 Mr. Cacace against Ms. Annabi. It has nothing to do with any
9 charge against her, and you have to put it out of your mind
10 when you are considering whether the government has proved her
11 guilt beyond a reasonable doubt.

12 All right. Let's go.

13 MR. HALPERIN: Thank you.

14 The government calls Kevin Cacace.

15 KEVIN CACACE,

16 called as a witness by the government,
17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. HALPERIN:

20 THE COURT: You may inquire.

21 Q. Good morning, Mr. Cacace.

22 Where do you work, sir?

23 A. At the Yonkers Chamber of Commerce.

24 Q. What is your title at the Yonkers Chamber of Commerce?

25 A. President.

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C38UANN2 Cacace - direct

1 Q. How long have you worked at the chamber?

2 A. About 16 years.

3 Q. What are your duties and responsibilities as the president
4 of the Yonkers Chamber of Commerce?

5 A. I am the president and executive director. I am
6 responsible for all operations of the chamber. I report to
7 both the board and the executive committee.

8 Q. What is the current budget of the Chamber of Commerce of
9 Yonkers?

10 A. About 1.6 million annually.

11 Q. Roughly, what percent of the budget is devoted to employee
12 salaries?

13 A. Probably about 85 percent.

14 Q. Roughly, how many employees does the chamber have
15 currently?

16 A. About 25.

17 Q. How is the chamber funded?

18 A. We are funded in various different ways. We have
19 membership fees that come in from our members, obviously. We
20 run different events throughout the year where we raise money.
21 We have a golf outing. We have an annual dinner. We have a
22 limited business luncheon. We have monthly breakfasts. We
23 produce a newspaper three times a year for which we sell
24 advertising. We do other things periodically like directories
25 and maps where we sell advertising. Our other funding comes

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C38UANN2 Cacace - direct

- 1 from various different sources. We answer any number of RFPs
2 and we have had funding from the federal government, the state
3 government, the county government and the city government over
4 the years.
- 5 Q. You mentioned RFP. What does that stand for?
6 A. Request for proposal.
- 7 Q. Is the chamber a not-for-profit?
8 A. It is. It is a 501(c)(6).
- 9 Q. Where is the chamber located?
10 A. 55 Main Street in Yonkers.
- 11 Q. Generally, explain to the jury what the mission of the
12 Chamber of Commerce is?
13 A. Our main mission is to promote the business community in
14 Yonkers. We provide networking opportunities for our members.
15 We provide, at different times, symposiums. We involve
16 ourselves in workforce development. We basically answer the
17 needs of the business community.
- 18 Q. Let me direct your attention to 2006. Did the Chamber of
19 Commerce receive a member item grant from New York State?
20 A. We were awarded a member item, yes.
- 21 Q. How much money was the member item supposed to be for
22 initially?
23 A. 175,000.
- 24 Q. What is a member item grant?
25 A. A member item was an allotment appointed by an elected

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C38UANN2

Cacace - direct

- 1 official in the state legislature given to different
2 organizations for specific purposes.
- 3 Q. Who was the elected official who sponsored the member item
4 for the chamber?
- 5 A. Senator Spano.
- 6 Q. State Senator Nick Spano?
- 7 A. Yes.
- 8 Q. Who if anyone did the chamber plan to hire as a consultant
9 using some of the moneys from the \$175,000 member item grant?
- 10 A. Zehy Jereis.
- 11 Q. How much of the money was supposed to go to Zehy Jereis?
- 12 A. Our agreement at the time was \$100,000.
- 13 Q. Let me direct your attention to April 2006. Did the
14 chamber hire Zehy Jereis as a consultant at that time?
- 15 A. We did.
- 16 Q. What were you hoping Jereis could do for the chamber?
- 17 A. We were looking for someone to help us broaden our horizons
18 in terms of finding new sources of revenue for the chamber,
19 getting us involved in different and more opportunities and he
20 specifically -- we asked him to work with the business
21 community toward different projects throughout the year.
- 22 Q. What was Zehy Jereis' role in Yonkers at the time?
- 23 A. He was the Republican city chair.
- 24 Q. When if ever had Mr. Jereis worked for the chamber
25 beforehand?

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C38UANN2 Cacace - direct

1 A. Previous to that he hadn't.

2 Q. Generally, how can businesses support the Chamber of
3 Commerce?

4 A. Businesses can support the chamber in many different ways,
5 everything from participating with us as we are trying to place
6 folks from going from public support to work, hiring people,
7 obviously becoming members, becoming active and participating
8 in our various events.

9 Q. Roughly, what month and year did the chamber begin paying
10 Mr. Jereis as a consultant?

11 A. I believe it was April.

12 Q. Of 2006?

13 A. Of 2006.

14 Q. I am going to ask you to look at what is in front of you,
15 sir, as Government Exhibit 1051. There is a Redweld folder on
16 the edge of the witness stand. If you could pull out 1051,
17 please. Sir, do you recognize these documents?

18 A. I do.

19 Q. What do you recognize them to be?

20 A. These are checks to ZJ Enterprises dated 5/01 and
21 5/15/2006.

22 Q. Who was the owner of ZJ Enterprises?

23 A. Zehy Jereis.

24 Q. Do these documents relate to Mr. Jereis' consulting
25 contract?

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C38UANN2 Cacace - direct

1 A. They do.

2 Q. Did you provide them to the government?

3 A. I did.

4 MR. HALPERIN: Your Honor, the government offers
5 Government Exhibit 1051 into evidence.

6 MR. SIANO: No objection.

7 THE COURT: Admitted.

8 (Government Exhibit 1051 received in evidence)

9 MR. HALPERIN: Mr. Turk, could we please have 1051 on
10 the monitors, please. Let's highlight the top two-thirds of
11 the page, please. Right there is great.

12 BY MR. HALPERIN:

13 Q. Sir, in the upper left corner, what is the name of the
14 organization?

15 A. The Yonkers Chamber of Commerce.

16 Q. In the upper right, what was the date of this paycheck?

17 A. 5/01/2006.

18 Q. Where it says "pay to the order of," who is listed?

19 A. ZJ Enterprises, 17 Robbins Place.

20 Q. Let's go down to the lower left on the page. "Employer
21 information," what was the pay period for this paycheck?

22 A. 4/16/06 to 4/30/06.

23 Q. Would this have been the first paycheck then for Mr.
24 Jereis?

25 A. I believe so, yes.

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C38UANN2 Cacace - direct

1 MR. HALPERIN: Let's go to page 2, please, Mr. Turk.

2 Let's maximize again the top two-thirds.

3 Q. The upper right, what is the date of this paycheck?

4 A. 5/15/2006.

5 Q. "Pay to the order of"?

6 A. ZJ Enterprises, 17 Robbins Place.

7 Q. A couple of lines down where it says "deposit amount," what
8 is the figure listed?

9 A. \$4,095.

10 Q. How does the chamber pay its employees, semi-monthly or
11 bi-weekly?

12 A. We pay semi-monthly.

13 Q. So this was a semi-monthly payment in that amount?

14 A. It was.

15 Q. Directing your attention to the lower left of the page,
16 what was the pay period there?

17 A. Pay period 5/01/06 to 5/15/06.

18 MR. HALPERIN: Thank you very much, Mr. Turk.

19 Q. Sir, I am now going to ask you to look at what has been
20 marked as Government Exhibit 1050 in your folder. Do you
21 recognize this document, sir?

22 A. I do.

23 Q. What do you recognize it to be?

24 A. These are 1099s from the year 2006 and 2007.

25 Q. When you say 1099s, do you mean IRS Form 1099?

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C38UANN2 Cacace - direct

1 A. Correct.

2 Q. Is that for miscellaneous income?

3 A. Yes. This is what we had paid to ZJ Enterprises.

4 Q. I'm sorry. For what two years?

5 A. 2006 and 2007.

6 Q. Does this document relate to Mr. Jereis' consulting
7 contract?

8 A. It does.

9 Q. Did you provide this document to the government?

10 A. We did.

11 MR. HALPERIN: Your Honor, the government offers
12 Government Exhibit 1050 into evidence.

13 MR. SIANO: No objection.

14 THE COURT: Admitted.

15 (Government Exhibit 1050 received in evidence)

16 MR. HALPERIN: Mr. Turk, please display 1050. Let's
17 start with the bottom half first, please.

18 BY MR. HALPERIN:

19 Q. And in the upper right, sir, what tax year is this for?

20 A. This is for 2006.

21 Q. Under 2006, that's where it says Form 1099, that's what you
22 were referring to before?

23 A. Correct.

24 Q. In the upper left, what is the payor's name?

25 A. The Yonkers Chamber of Commerce.

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C38UANN2 Cacace - direct

1 Q. Going down to lines under "recipient's name," what is
2 listed?

3 A. ZJ Enterprises.

4 Q. And who is ZJ Enterprises.

5 A. Zehy Jereis.

6 Q. What is the total amount of income that the Yonkers
7 Chambers of Commerce paid Zehy Jereis in 2006?

8 A. \$67,567.50.

9 MR. HALPERIN: Mr. Turk, let's go to the top half of
10 the document and let's maximize the top half.

11 Q. What tax year is this for, sir?

12 A. 2007.

13 Q. Recipient's name?

14 A. ZJ Enterprises.

15 Q. Line 7, the total amount of income paid to Mr. Jereis in
16 2007?

17 A. \$28,665.

18 MR. HALPERIN: Thank you, Mr. Turk.

19 Q. Now, Mr. Cacace, until about what month in 2007 did
20 Mr. Jereis work for the chamber?

21 A. March.

22 Q. So from April 2006 until about March 2007, how much money
23 total did the chamber pay Mr. Jereis as a consultant?

24 A. In the neighborhood of \$96,000.

25 Q. Now, once Mr. Jereis began working for the chamber, who at

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C38UANN2 Cacace - direct

1 the chamber did he report to?

2 A. He reported to me.

3 Q. What was your assessment of Mr. Jereis' performance on his
4 consulting contract?

5 A. Mr. Jereis, we needed to continually prod and ask him for
6 reports.

7 Q. What type of reports are you talking about?

8 A. Monthly reports, delineating his activities for the month.

9 Q. Roughly how often would you talk to Mr. Jereis during his
10 consulting contract?

11 A. I think it varied. I would say, on average, every week to
12 two weeks.

13 Q. What would you ask him about what he was doing for the
14 chamber?

15 A. We would ask him, you know, what he has been doing. We
16 were interested in finding if there were opportunities for us
17 to either provide services or for us to find new areas of
18 funding.

19 Q. When you asked him these questions, what did he tell you?

20 A. He was working. He was talking to different people, but
21 very little came of it.

22 Q. Now, what if anything did you ask him about who you should
23 talk to about getting additional funding for the chamber?

24 A. Well, part of our conversation was always, you know, we are
25 looking for different opportunities. We were looking for

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C38UANN2 Cacace - direct

1 different and new contacts, and that was part of our
2 conversation.

3 Q. What if any members of the state assembly did he mention to
4 you?

5 A. The only member -- we have relationships with all the
6 members within the city of Yonkers and the surrounding
7 environs. At one point Zehy had said that there was a fellow
8 from Brooklyn, Joe Lentol, but the at the time I didn't follow
9 up on it at all because I thought, what good is an assemblyman
10 from Brooklyn going to do when I have good relations with the
11 folks in Westchester and Yonkers.

12 Q. What if anything was Mr. Jereis supposed to do in terms of
13 providing you with monthly reports about his work?

14 A. Typically, we like to know what is going on. We like to
15 have reports at the end of the month, to keep good track of
16 things, and we had some difficulty with that with Zehy Jereis.

17 Q. Why do you say that?

18 A. I don't believe that I received the first reports -- the
19 first two or three months I received maybe in September '06.
20 And I didn't receive any other reports until just after the
21 newspaper came out and exposed the fact that Zehy had an
22 agreement with us.

23 Q. Sir, let me show you what's been marked as Government
24 Exhibit 1052 which you have in front of you. It is in your
25 folder there, sir. Take a moment, please, to flip through

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C38UANN2 Cacace - direct

1 those.

2 Mr. Cacace, do you recognize these items?

3 A. I do.

4 Q. What do you recognize them to be?

5 A. These are the monthly reports that we got from Zehy.

6 Q. By Zehy you mean Zehy Jereis?

7 A. Yes. Zehy Jereis.

8 Q. Did you provide these to the government?

9 A. Yes, we did.

10 MR. HALPERIN: Your Honor, the government offers 1052
11 into evidence.

12 MR. SIANO: No objection.

13 THE COURT: Admitted.

14 (Government Exhibit 1052 received in evidence)

15 MR. HALPERIN: Mr. Turk, could you please display page

16 1.

17 BY MR. HALPERIN:

18 Q. Just read the top three lines there, please.

19 A. "Starting April 15 to become familiar with the chamber and
20 the staff."

21 Q. The top left of the page says what?

22 A. "Report, April 2006, Zehy Jereis."

23 And then it says summary.

24 First bullet is: "Starting April 15 to become
25 familiar with the chamber and the staff."

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C38UANN2

Cacace - direct

1 Second bullet: "Set up objectives for role."

2 Subparagraph 1: "Look for educational opportunities
3 for employer.

4 "2. New employment opportunities.

5 "3. Additional funding."

6 Q. Let me stop you there.

7 What if any additional funding did Mr. Jereis bring to
8 the chamber during his year at the chamber?

9 A. We did not get any.

10 MR. HALPERIN: Mr. Turk, let's go to the second to
11 last page of the document, the month of February, 2007. If we
12 could maximize that, please.

13 Q. Sir, could you read the summary for February 2007?

14 A. "Summary."

15 First bullet: "Began to review and analyze commercial
16 space available in Yonkers."

17 Second bullet: "Followed up on possible funding
18 opportunities from the state and county."

19 Third bullet: "Met with the following businesses,
20 Lagravinese Jewelers and Sunsations Tanning Salon (follow up)."

21 Q. Now, Mr. Cacace, when did you receive the majority of these
22 monthly reports from Mr. Jereis?

23 A. Right after the newspaper article came out which I believe
24 was March 2007.

25 Q. What if any conversations did you have with Mr. Jereis

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Cacace - direct

1 about his failure to provide you with monthly reports in a
2 timely fashion?

3 A. Well, we had any number of conversations throughout the
4 year, and we continually asked for reports.

5 Q. What did Mr. Jereis say when you asked him continually?

6 A. Zehy was always promising to get them to us.

7 Q. You mentioned news reports in March of '07. After those
8 news reports appeared, what if anything did you receive from
9 Mr. Jereis?

10 A. I received the remainder of the reports, everything after
11 the first three.

12 Q. So the remaining eight or nine?

13 A. Eight or nine, yeah.

14 Q. Mr. Cacace, what if any benefit did the chamber receive
15 from Mr. Jereis during his year-long consulting contract?

16 A. Very hard to quantify -- practically nothing.

17 MR. HALPERIN: No further questions.

18 MR. ARONWALD: Your Honor, could we take a short
19 break?

20 THE COURT: I guess we are going to take our morning
21 break now.

22 Don't discuss the case. Keep an open mind.

23 (Recess)

24 MR. ARONWALD: I have no questions.

25 MR. SIANO: May I proceed, your Honor?

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1 THE COURT: Yes, Mr. Siano.

2 CROSS-EXAMINATION

3 BY MR. SIANO:

4 Q. Good morning, Mr. Cacace.

5 I am Anthony Siano.

6 I represent Zehy Jereis.

7 We met briefly in your office a couple of weeks ago?

8 A. We did.

9 Q. You described Mr. Jereis as an employee of the Chamber of
10 Commerce. Do you recall using that word on direct?

11 A. He was a consultant to the Chamber of Commerce.

12 Q. He was in fact paid on a 1099?

13 A. Correct.

14 Q. He was not paid as an employee, was he?

15 A. No, he was not.

16 Q. So when you used that word, you were speaking in a more
17 generic sense, would that be fair to say?

18 A. That would be fair.

19 Q. In fact Government Exhibit 1050 which was put up on the
20 board reflects the payments made to Mr. Jereis as an outside
21 contractor, isn't that correct?

22 A. That's correct.

23 Q. And that's why there are no taxes anywhere in any of these
24 forms, correct?

25 A. That's correct.

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- 1 Q. I didn't notice the government putting up Mr. Jereis'
2 employment contract with the Chamber of Commerce. Did he have
3 a written contract?
4 A. He did not have a written contract. It was an agreement.
5 Q. He had an oral agreement?
6 A. Correct.
7 Q. So this concept of written reports is something that you
8 and Mr. Jereis talked about from time to time?
9 A. That's correct.
10 Q. He was less than timely in the submission of the reports,
11 is that a fair statement?
12 A. That is a fair statement.
13 Q. When he did give you these reports --
14 MR. SIANO: 1052, Mr. Turk, if I could, not to
15 interrupt what you are doing. I can wait. If you could blow
16 up the part with the writing. Thank you.
17 Q. This report of April of 2006, at the time you received it,
18 Mr. Cacace, were you in the understanding that it was being
19 written in April of 2006 or it was for April 2006?
20 A. I was of the understanding that it was for April 2006.
21 Q. So you were not misled in any way by the form; it was just
22 tardy, is that correct?
23 A. Yes.
24 Q. You said that you talked to Mr. Jereis from time to time
25 about this, isn't this right?

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Cacace - cross

- 1 A. I did.
- 2 MR. SIANO: Thank you, Mr. Turk.
- 3 Q. And you counseled him, is that correct?
- 4 A. I don't know if you want to call it counseled him or pled
5 with him to get me some reports.
- 6 Q. And he didn't answer your pleading, is that fair to say?
- 7 A. Well, he answered, but it would be, I will bring them, I
8 will bring them, I will bring them.
- 9 Q. And he was tardy?
- 10 A. Yes.
- 11 Q. Ever stop paying him?
- 12 A. No.
- 13 Q. Ever fire him?
- 14 A. No.
- 15 Q. I believe you testified that you didn't take the
16 opportunity to go see Mr. Lentol because, in your words, you
17 had good relationships with the politicians in Westchester and
18 Yonkers. Do you remember saying that to Mr. Halperin on
19 direct?
- 20 A. I do.
- 21 Q. That wasn't exactly the case in the years 2003 and 2006 was
22 it, Mr. Cacace?
- 23 A. I had very good relations with the state representatives in
24 those years.
- 25 Q. Did you give an interview to the FBI before you went to the

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1 grand jury?

2 A. I did.

3 Q. Do you recall describing to the FBI agents the Yonkers
4 Chambers of Commerce as the leper child in Yonkers?

5 A. I don't know if I used those words, but we did have a
6 disagreement with the city government.

7 MR. SIANO: May I have 3506C, please.

8 3506C, for the government's benefit.

9 Q. Mr. Cacace, I am give you this so that you can look at it.
10 Let me get you a reference here.

11 Would you be kind enough, sir, to look at the bottom
12 of page 4, the last paragraph. Just read it to yourself.
13 Don't read it out loud.

14 A. OK.

15 Q. In fact you reported to the agents that Mayor Amicone
16 considered Yonkers City Council to be the leper child, is that
17 correct?

18 A. I don't recall leper child, that specific verbiage but I
19 can say that we were not at all in good straits with the mayor
20 at that time.

21 Q. Well, in that 302, those words are in quotes, Mr. Cacace.

22 A. OK.

23 Q. Do you understand that 302 to be not reflecting what you
24 said?

25 A. I don't see anything in 302 that I wouldn't agree with

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Cacace - cross

1 today.

2 Q. You would agree that Mr. Amicone considered the Yonkers
3 Chamber of Commerce to be a leper child in the years 2003 to
4 2006?

5 A. I would agree that we did not have any relations at all
6 with the mayor between those years.

7 Q. So when you told Mr. Halperin on direct that you didn't
8 need Mr. Jereis' help with an assemblyman because you had good
9 relations with the politicians in Westchester and Yonkers, you
10 were not including the mayor?

11 A. No. I was talking about the assembly and the senate and
12 the legislative folks.

13 Q. In fact there was money that the chambers got historically
14 from the City of Yonkers, isn't that right?

15 A. That's correct.

16 Q. When you took over in 2003, the City of Yonkers started to
17 cut substantially the money that the Chamber of Commerce got,
18 isn't that right?

19 A. No. First of all, I took over in the late '90s, it was not
20 2003. And we got cut out totally by the city over a period of
21 six months because we had had a severe disagreement over the
22 Ridge Hill development project.

23 Q. Didn't you tell the grand jury that you felt that your
24 relations with the City of Yonkers were strained because you
25 had unsuccessfully challenged Liam McLaughlin in a contest for

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1 the City Council in --

2 A. That could have been part of it, but I really feel that the
3 thing that we did that annoyed them the most was we questioned
4 where the tax revenue and land lease revenue was going to go
5 from the Ridge Hill project. We were very interested in seeing
6 it go to the city rather than the LBC.

7 Q. Sir, do you recall being asked these questions and giving
8 these answers in the grand jury?

9 MR. SIANO: Mr. Halperin, page 13, line 6.

10 Q. I am going to read them to you, Mr. Cacace. You can read
11 along if you want to. It is 3506A.

12 A. I don't have that page.

13 Q. It is 3506A. If you would go to page 13, sir. Just listen
14 to my question, please, Mr. Cacace. Do you recall being asked
15 these questions and giving these answers:

16 "Q Now, at some point did the chambers' relationship with
17 Yonkers City Hall become strained?

18 "A Yes, it did.

19 "Q Tell us about that.

20 "A We ran into a time in 2002, 2003 where we had differences
21 with the way some of the economic development projects were
22 putting forth. It didn't help that I ran against the city
23 council member who was friendly to the administration.

24 "Q That is Council Member McLaughlin?

25 "A Council Member McLaughlin. And we expressed our

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1 discontent to them and it got pretty ugly and our funding was
2 eliminated."

3 Do you recall being asked those questions and giving
4 those answers in the grand jury?

5 A. I do.

6 Q. In fact, the amount of money that Yonkers gave to the city
7 council was essentially eliminated, isn't that right?

8 A. To the Chamber of Commerce. It was eliminated over about a
9 six-month period.

10 Q. In fact you found, as you went about trying to replace that
11 money, that the administration in Yonkers was essentially
12 interfering with your ability to raise money, isn't that right?

13 A. That is a fair statement.

14 Q. In fact, that had to do with Mr. Spencer who was the mayor
15 and then with Mr. Amicone, isn't that right?

16 A. Yes.

17 Q. The politics got pretty hardball for the Yonkers Chamber of
18 Commerce, didn't it?

19 A. Yes, it did.

20 Q. Indeed, among the many things that happened were that the
21 Yonkers Chamber of Commerce evinced questions about the way the
22 Ridge Hill development was progressing, isn't that right?

23 A. That's correct.

24 MR. HALPERIN: Objection. Relevance and beyond the
25 scope.

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1 THE COURT: Overruled.

2 Q. In fact you spoke out about the need for more money to go
3 into the coffers of the City of Yonkers, isn't that right?

4 A. That's correct.

5 Q. And it would be fair to say that Mr. Amicone viewed the
6 chambers' conference as adversarial, and this was another
7 reason why he cut off the funding?

8 A. That's correct.

9 Q. And your board told you, essentially -- these are my words
10 not your boards -- to shut up and not oppose the city, isn't
11 that right?

12 A. No, that's not right. Our board was supportive. While not
13 unanimous at the time, our board was supportive and there was a
14 significant amount of outrage at what was going on.

15 Q. Now, the mayor also had evinced his unhappiness with the
16 Chamber of Commerce by executing a police raid?

17 MR. HALPERIN: Objection. Relevance.

18 THE COURT: Objection sustained.

19 Q. Isn't it a fact, sir, that one of the reasons why the
20 chambers wanted to hire Mr. Jereis was because, in your words,
21 the chamber needed political friends?

22 A. I think that is a fair statement.

23 Q. Well, that is the statement you made in the grand jury,
24 wasn't it?

25 A. I think it is a fair statement.

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1 Q. Is it the statement you made in the grand jury, sir?

2 A. If it is in there, then I am not denying that I made that
3 statement.

4 Q. In fact, that was the basis for the relationship between
5 Mr. Jereis and the Chamber of Commerce, isn't that right?

6 A. I would say that it didn't hurt that we were looking for
7 political allies. I mean, we were on our heels politically
8 with the city administration in regard to the city
9 administration.

10 Q. In fact, you told the grand jury that you were looking for
11 anyone who would be your friend in your battle with the
12 administration, isn't that right?

13 A. There is an old axiom in politics, the enemy of my enemy is
14 my friend.

15 Q. In this situation, we are talking about battles among the
16 political factions among the Republicans in Yonkers, isn't that
17 right?

18 A. I am a Democrat.

19 Q. I didn't ask you what you were, sir.

20 Mr. Amicone is a Republican?

21 A. Mr. Amicone is --

22 MR. HALPERIN: Objection. Relevance.

23 THE COURT: Overruled.

24 Q. Mr. Spencer is a Republican?

25 A. He is.

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1 Q. Mr. Spano is a Republican?

2 A. Correct.

3 Q. And Mr. Jereis was well known to you to be aligned with the
4 Spano Republicans, is that right?

5 A. Correct.

6 Q. You continued to pay Mr. Jereis despite all of your
7 objections or concerns or unhappiness about his performance,
8 isn't that right?

9 A. That's correct.

10 Q. Although you were aware that a grant application was made
11 with regard to a member item, the member item never paid
12 Mr. Jereis' earnings, the money you paid to him as a
13 consultant, isn't that right?

14 A. That's correct.

15 Q. Paid it out of Chamber of Commerce money?

16 A. Correct.

17 Q. You knew at the time the chamber was footing the bill?

18 A. Correct.

19 Q. Never fired him?

20 A. Never fired him.

21 Q. In fact, when the newspaper article came out, that's when
22 you asked him for the rest of the reports, isn't that right?

23 A. I think it is --

24 THE COURT: Yes or no?

25 THE WITNESS: I asked him at that time. That was not
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Cacace - cross

1 the only time.

2 Q. I didn't suggest it was the only time. You asked him at
3 that time?

4 A. I did.

5 Q. When you were interviewed by the newspaper in March of
6 2007, you described Mr. Jereis as having had some small
7 successes?

8 A. OK.

9 Q. Do you recall saying that, sir?

10 A. If it was in the newspaper, it must be true.

11 Q. All right. And on that basis, you also told them that you
12 were not going to renew the contract anyway?

13 A. That's correct.

14 MR. SIANO: No further questions for Mr. Cacace.

15 THE COURT: Mr. Halperin.

16 REDIRECT EXAMINATION

17 BY MR. HALPERIN:

18 Q. Mr. Cacace, when the chamber first gave Mr. Jereis a
19 contract in April 2006, what if any hopes did you have for what
20 Zehy Jereis could bring to the Chamber of Commerce?

21 A. We had hopes that he would broaden our horizon and help us
22 to attain additional funding. And we had hopes and
23 expectations, perhaps I should say, that we would have positive
24 things going on through his employment agreement.

25 Q. Overall, during the course of the year, what if any success

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C38UANN2 Cacace - redirect

1 did Mr. Jereis have in bringing additional funding to the
2 chamber?

3 A. None.

4 Q. Overall, how did Jereis' contract work out for the chamber?

5 A. It didn't work out well.

6 Q. How good or bad of an investment of \$96,000 was it for the
7 chamber to give Jereis that consulting contract?

8 A. It was not a good investment.

9 MR. HALPERIN: Thank you, sir.
10 Nothing further.

11 THE COURT: Anything else?

12 MR. SIANO: No questions, your Honor.

13 THE COURT: Thank you, Mr. Cacace. You may step down.
14 (Witness excused)

15 MR. CARBONE: The government calls Special Agent John
16 Dennehy.

17 JOHN DENNEHY,
18 called as a witness by the government,
19 having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. CARBONE:

22 THE COURT: You may inquire.

23 MR. CARBONE: Thank you, your Honor.

24 Q. Good afternoon, Mr. Dennehy.

25 A. We'll see.

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C38UANN2 Dennehy - direct

- 1 Q. Where do you work?
2 A. The Internal Revenue Service.
3 Q. Can you please describe your educational background?
4 A. I have a BBA from Pace University in data processing and
5 accounting.
6 Q. And what does BBA stand for?
7 A. Bachelor of business administration.
8 Q. What is your position with the Internal Revenue Service?
9 A. I am an internal revenue agent.
10 Q. How long have you been an internal revenue agent in the
11 Internal Revenue Service?
12 A. Almost 39 years.
13 Q. Where are you assigned within the Internal Revenue Service?
14 A. I am assigned out of 290 Broadway, but most of my cases are
15 up in White Plains, New York.
16 Q. Have you ever worked for any other employer besides the
17 Internal Revenue Service?
18 A. I have. I worked for New York Telephone Company for five
19 years.
20 Q. In your capacity as a revenue agent with the IRS, have you
21 taken training and courses?
22 A. Yes, I have.
23 Q. Have you previously testified as a summary witness?
24 A. Summary witness and expert witness, yes.
25 Q. Approximately how many times?

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Dennehy - direct

- 1 A. 20.
2 Q. Now, in connection with your work in this case, what types
3 of materials have you examined?
4 A. Bank accounts, cancelled checks in particular, loan
5 records, financial statements filed.
6 Q. What bank records have you reviewed?
7 A. Do you mean which banks?
8 Q. Who do they belong to, the accounts?
9 A. Sandy Annabi and some of her family members and Zehy
10 Jereis.
11 Q. Were you involved in the investigation of this case?
12 A. No.
13 Q. When did you become involved in this case?
14 A. Roughly in -- I believe it is like October or November of
15 2009.
16 Q. What were the sources of some of the documents that you
17 reviewed in connection with preparing for your testimony here
18 today?
19 A. They were subpoenaed from banks and various institutions,
20 and that's basically a good part of what I looked at.
21 Q. To what extent have you attended the trial in this case?
22 A. I have been here every day.
23 Q. Have you reviewed many of the documents that have been
24 received in evidence?
25 A. I have.

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C38UANN2 Dennehy - direct

- 1 Q. Did you review the documents just here in court or did you
2 also have access to them outside of court?
3 A. Both.
4 Q. Is it fair to say, much of the analysis that you did of the
5 records in this case went into charts that you prepared in
6 advance of today?
7 A. Yes.
8 Q. Did you prepare those charts initially before trial?
9 A. I did.
10 Q. Have you prepared summaries of the financial benefits that
11 Zehy Jereis gave to Sandy Annabi?
12 A. I have.
13 Q. That has been marked as Government Exhibit 5?
14 A. It is.
15 Q. Have you also created timelines summarizing the financial
16 benefits provided by Zehy Jereis to Sandy Annabi from 2002 to
17 2008 and some of the events that have been testified to in this
18 trial?
19 A. I have.
20 Q. Is that marked as Government Exhibit 6?
21 A. It is.
22 Q. Did you prepare any charts comparing the gross income
23 reported by Zehy Jereis on his tax returns to the money he paid
24 to or for the benefit of Sandy Annabi between 2002 and 2008?
25 A. I have.

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1 Q. Has that been marked as Government Exhibit 7?

2 A. It was.

3 Q. Did you also prepare a summary of the alleged unreported
4 income received by Sandy Annabi from Zehy Jereis in 2005 and
5 2006?

6 A. I have.

7 Q. Was that marked as Government Exhibit 8?

8 A. It was marked as 8.

9 Q. Did you prepare a chart comparing the additional income
10 received by Sandy Annabi from Zehy Jereis as compared to her
11 reported income for the '05 and '06 years?

12 A. I have.

13 MR. ARONWALD: Objection to the characterization, your
14 Honor, as to --

15 THE COURT: Folks, Agent Dennehy is going to testify
16 about tax matters that relate to the government's allegations
17 which you have not yet decided are proved beyond a reasonable
18 doubt, that Ms. Annabi received certain money and that
19 Ms. Annabi underreported income that was required to be
20 reported on her tax returns.

21 So I need you to understand that the chart that Agent
22 Dennehy is going to show you and the testimony he is going to
23 give is all predicated on the assumption that you would find
24 the government's case to have been proved, that you would have
25 been convinced by the government's evidence. You may not be

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1 convinced by the government's evidence. You may not conclude
2 that the government has proved its case beyond a reasonable
3 doubt, in which case nothing that he says is worth a hill of
4 beans because the fact that Mr. Dennehy says it does not make
5 it so.

6 Sorry.

7 THE WITNESS: It's OK, your Honor.

8 THE COURT: It is probably the 15th time he has
9 testified in my courtroom, so we go back a long way. But he
10 has heard this speech before -- no offense meant -- but it is
11 for you to decide, for you to decide whether Ms. Annabi did or
12 did not get this or that; whether the government has proved it
13 beyond a reasonable doubt; whether it was or was not income;
14 whether the government has proved that beyond a reasonable
15 doubt; whether it did or did not have to be reported on her tax
16 return; whether the government has proved that beyond a
17 reasonable doubt. You have to decide that. The fact that it
18 is on a chart that this man is going to testify about does not
19 make it so.

20 BY MR. CARBONE:

21 Q. Agent Dennehy, did you prepare a chart comparing the
22 alleged additional income received by Sandy Annabi from Zehy
23 Jereis as compared to her reported income from 2005 to 2006?

24 A. Yes.

25 Q. And have those charts been marked as Government Exhibits 9

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1 and 10?

2 A. They have.

3 Q. Now, would those summary charts aid you here today in
4 explaining the financial benefits provided by Zehy Jereis to
5 Sandy Annabi?

6 A. They would.

7 Q. And do they summarize the underlying government exhibits
8 that have been introduced in evidence in this case?

9 A. They do.

10 Q. Do the charts contain references to the underlying
11 exhibits?

12 A. Yes.

13 MR. CARBONE: Your Honor, we offer Government Exhibits
14 5 through 10 in evidence.

15 MR. ARONWALD: No objection, your Honor.

16 MR. SIANO: No objection.

17 THE COURT: These are admitted with the understanding
18 that these charts are basically illustrations of the
19 government's contention, what the government believes the
20 evidence proves, and you can't consider them as proof of the
21 underlying matters. It is the other evidence in the case that
22 either will or will not establish beyond a reasonable doubt the
23 things that are in these charts.

24 (Government Exhibits 5 through 10 received in
25 evidence)

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Dennehy - direct

- 1 BY MR. CARBONE:
2 Q. Agent Dennehy, let's begin with Government Exhibit 5.
3 A. Yes.
4 Q. Can you explain what is reflected on Government Exhibit 5?
5 A. Government Exhibit 5 is a chart that depicts the
6 expenditures by Mr. Jereis on behalf of Sandy Annabi for the
7 tax years 2002 through 2008.
8 Q. Can you begin with the first entry on your chart?
9 A. Do you mean as far as what it shows?
10 Q. Actually, can you broadcast it?
11 A. Hopefully.
12 Q. What financial benefit is described in that first spoke?
13 A. This represents the moneys from Mr. Jereis to acquire the
14 house at 13 Patton Drive in Yonkers, New York.
15 Q. Can you explain what exhibit is listed there in each box?
16 A. 200A. And I have links underneath each of the icons, that
17 basically gives you an explanation as to what it is and what it
18 represents. And then underneath each of those I have the check
19 number, check date, the amount, who the payee was, the source
20 and the exhibit number of that particular document.
21 Q. So how much was this first financial document?
22 A. \$50,000.
23 Q. And what was the date that Mr. Jereis wrote the check?
24 A. May 4, 2004.
25 Q. Now, let's go to the second financial benefit given by Zehy

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- 1 Jereis to Sandy Annabi that appears in your chart, and what is
2 reflected in that icon?
3 A. The acquisition of 45 Bacon Place. The exhibit indicated
4 there is Exhibit 2001. And once again if you click on the
5 item, a brief explanation as to what it contains.
6 Q. You said 2001. Is it 201?
7 A. Exhibit Number, yes, 201.
8 Q. What was the date of the check that Zehy Jereis?
9 A. June 9 of 2004, check number 2592.
10 Q. And that check was used for what purpose?
11 A. As a down payment.
12 Q. What is the next benefit that appears on your chart?
13 A. 245 Rumsey Road.
14 Q. Can you explain how that benefit was paid?
15 A. Government Exhibit 202, Jereis check to Annabi, money used
16 for down payment on purchase of co-op apartment at 245 Rumsey
17 Road, \$7200.
18 Q. And the date that check was written?
19 A. November 30, 2004, check number 2807, \$7200, and Government
20 Exhibit 202.
21 Q. Now, let's go to the next spoke on your wheel.
22 A. Sure. It represents a payment to John Bond who was in
23 court the other day -- actually, it is two payments.
24 Q. What are the exhibit numbers?
25 A. 203 and 203C. First item, 203 was paid 2/10/05. Check

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1 number is displayed there -- it is a cashier's check. And the
2 second item is dated 2/14/05, check number 2900 for \$500 for a
3 total of \$11,500.

4 Q. Those were all paid in connection with the Rumsey Road
5 closing?

6 A. Correct.

7 Q. By Mr. Jereis on Ms. Annabi's behalf?

8 A. They were.

9 Q. And what is the next financial benefit reflected on your
10 chart?

11 A. These were payments to Hudson United Bank, and they
12 encompass a couple of years. This had to do with a car loan
13 that Sandy Annabi had with the bank.

14 Q. What exhibits are reflected there?

15 A. It reflects 28 payments that were made by Mr. Jereis for
16 the car. There are a number of checks starting in August of
17 2002: \$293.56, Exhibit Number 229, less a check in 2002, Check
18 Number 1925, 229D is the exhibit number, and the amount of that
19 check is \$293.56.

20 Q. Please take us to the next spoke on your wheel.

21 A. I was going to show you the payments on the Hudson Valley
22 loan because it encompasses a number of years.

23 Q. OK. Keep going.

24 A. Rather than go through the individual items, you will see
25 that each of the items for each of the checks has the

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- 1 individual exhibit numbers contained on them, the dates, etc.
2 It is sort of like a good road map to look at the various
3 expenditures that were paid for over that period of time from
4 2002 through 2008. The grand total on that particular loan was
5 \$8,239.68.
6 Q. Now, let's go to the Mercedes-Benz next.
7 A. Exhibit numbers for that are 206A and 206B. Two payments
8 were paid by Mr. Jereis on behalf of Ms. Annabi. The first
9 payment was dated 9/27/05, \$500. It was through a credit card
10 of Mr. Jereis'. And the second payment was December 8, 2005
11 for \$9500, and that was a cashier's check. This is Government
12 Exhibit 206B.
13 Q. Were those payments in connection with Ray Catena Mercedes?
14 A. They were. I indicate Ray Catena Mercedes on the face of
15 the chart.
16 Q. What are the next series of payments reflected on your
17 summary?
18 A. This had to do with a student loan that Ms. Annabi had.
19 Again, this covers a number of years, from January 2002 through
20 January 2006. And once again, each year, by year, I list the
21 individual checks that were paid, the check numbers, dollar
22 amounts of the checks and the exhibit numbers of the various
23 checks.
24 Q. So what was the total there for, say, 2003?
25 A. Sorry. \$4800.

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1 Q. How about in 2004?

2 A. \$4500.

3 2005 is \$2,566.60.

4 2006 is \$311.54.

5 And this last slide basically shows the recap of all
6 of the prior slides totaling \$16,578.14.

7 Q. Did Zehy Jereis also make payments on the Rumsey Road
8 apartment?

9 A. Yes. Same premise was used. The government exhibits are
10 displayed, and under each, an explanation of what the items are
11 contained and the individual payments are listed by year for
12 each of these items. Grand total over the period of time was
13 \$14,627.62.

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15 (Continued on next page)

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C38Qann3

Dennehy - Direct

1 BY MR. CARBONE:

2 Q. What, if any, payments did Zehy Jereis make for the monthly
3 maintenance charges for the cooperative apartment located at
4 245 Rumsey Road?5 A. Those are displayed with Government Exhibits 209, 209-A
6 through 209-LL.7 Q. What are the exhibits underlying that total? How many
8 payments? I'm sorry, how many payments?9 A. 39 payments from April 2005 through August 2008. Again,
10 the individual years are listed. Grand total through 2008 was
11 \$20,199.73.

12 Q. Did he also pay utilities for that apartment?

13 A. Well, they paid cable TV if you consider that a utility 31
14 payments from 2005 through 2008 total \$4,879.95. Once again,
15 the individual checks under exhibit numbers are displayed.

16 Q. What is the next financial benefit reflected on your wheel?

17 A. Con Edison.

18 Q. What address were those Con Edison payments made in
19 connection with?20 A. 245 Rumsey Road. Once again, the individual checks, check
21 numbers, dollar amounts and exhibit numbers are displayed in
22 the underlying document.23 Q. Can you tell us what's reflected on the last spoke of the
24 wheel?

25 A. This represents the testimony concerning the amount of cash

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1 that Mr. Mangone passed over to Mr. Jereis to ultimately pass
2 on to Sandy Annabi.

3 Q. How much is reflected there?

4 A. \$20,000.

5 Q. You indicate there are two exhibit numbers there. What are
6 those exhibits?

7 A. One of them is the T&R Jewelers, the other one is the
8 airline ticket for Royal Jordanian Airlines.

9 Q. Why did you include those?

10 A. Because those were cash payments made by Ms. Annabi
11 occurring close to the time when supposedly cash was paid over
12 to her.

13 Q. What is the grand total of financial benefits given by Zehy
14 Jereis to Sandy Annabi or made on her behalf during that time
15 period?

16 A. It's over \$174,000.

17 Q. Directing your attention to Government Exhibit 6, did you
18 also create a chart summarizing these financial benefits and
19 listing them in chronological fashion?

20 A. Yes.

21 Q. Can you please broadcast Government Exhibit 6?

22 A. This is a time line that starts with Ms. Annabi's election
23 in November, November 6, 2001. And, once again, each of the
24 years will have the various expenditures that were paid for by
25 Mr. Jereis on her behalf.

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1 Q. What were the expenditures made in 2002?

2 A. There are actually two. One had to do with her student
3 loan, and one had to do with her dad's car loan.

4 Q. What was the total amount for that year?

5 A. \$5,867.80. Once again, like I had with the other chart,
6 each of these has a link underneath it which contains the
7 various documentation that supports the expenditures.

8 Q. In 2003, what was the grand total of amounts?

9 A. \$8,328.72.

10 Q. Can you explain the two components of that \$8,328.72?

11 A. Similar to the prior year, it's the student loan payments
12 which total \$4,800 and payments on her dad's car loan,
13 \$3,527.72.

14 Next item is when she is re-elected, November 4, 2003.
15 Similarly, for each of the years, I display the items that were
16 purchased by Ms. Annabi funded by funds from Mr. Jereis. So,
17 in particular, here 13 Patton, underneath that, that's the
18 \$50,000 we talked about earlier in the other chart. 45 Bacon--

19 Q. Do you have the total financial benefits given by
20 Mr. Jereis to Sandy Annabi in 2004?

21 A. \$74,994.16.

22 Q. I'm sorry, I interrupted. You were about to explain the 45
23 Bacon Place entry?

24 A. Again, just pointing out that each of these items has an
25 underlying link that gives you the details of what the item --

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- 1 how it was funded or paid. We have 245 Rumsey Road, \$7,200
2 down payment that was funded by Mr. Jereis for that. We heard
3 testimony about how Ms. Annabi had made comments that even if
4 the entire community supported it, I would be opposed, and the
5 project was outrageous and a slap in the face to the taxpayers
6 of Yonkers.
- 7 Q. What project did that relate to?
8 A. That related to Ridge Hill.
9 Q. Did that relate to Longfellow or --
10 A. Pardon me, yes, it related to the Longfellow project.
11 Q. At the time that that was happening in June of 2005, can
12 you explain what financial benefits Ms. Annabi received during
13 that year?
14 A. Once again, the student loan was paid for by Mr. Jereis or
15 payments were made by Mr. Jereis. Her mortgage on 245 Rumsey
16 Road.
17 Q. Totaling how much?
18 A. \$1,969.09. The two payments to John Bond.
19 Q. Is that in connection with the Rumsey Road closing?
20 A. It was.
21 Q. What was the total of those two payments?
22 A. \$11,500.
23 Q. How much did he pay for the maintenance of Rumsey Road
24 apartment in 2005?
25 A. \$4,499.49. Then we have the \$10,000 concerning the

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- 1 Mercedes.
2 Q. When did the Mercedes payments take place again?
3 A. 9/27/05, \$500 through his credit card, and 12/8/05 with a
4 cashier's check for \$9,500.
5 Q. What was the grand total of the payments made during 2005?
6 A. \$30,741.32.
7 Q. What is reflected above the line?
8 A. She was re-elected as council woman in November,
9 November 8, 2005.
10 Q. Can you take us to 2006.
11 A. Yes. This is where the Milios hire Mr. Mangone to try to
12 persuade Sandy Annabi to support the Longfellow project. Once
13 again, each of the expenditures that were paid for are listed
14 individually: The dollar amounts, the exhibit numbers.
15 Q. What were the total payments made in connection with
16 maintenance to Rumsey Road that year?
17 A. Maintenance was \$5,713.81.
18 Q. How about the mortgage payments?
19 A. Mortgage payments were \$4,697.81.
20 Q. How about ConEd?
21 A. ConEd totaled \$352.22. The last item on the list was cable
22 TV. That totaled \$1612.22.
23 Q. Grand total of financial benefits given by Zehy Jereis to
24 Sandy Annabi in 2006?
25 A. \$32,687.60.

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1 Q. Tell us what was happening above the line.

2 A. Mr. Mangone arranged a meeting between the Milios and Zehy
3 Jereis.

4 Q. Take us to the next entry above the line -- I see that you
5 have a red button there, June 2?

6 A. Right.

7 Q. -- through the 15th, did you create --

8 A. This is the 15-day period in June 2006, and there is a
9 separate sort of time line within a time line.

10 Q. Can you explain what happened?

11 THE COURT: Excuse me. I'm sorry. Excuse me.

12 (Pause)

13 THE COURT: Go on.

14 Q. Agent Dennehy, what is the first event reflected above the
15 line in your time line?

16 A. This was the meeting at the Marco Polo Restaurant.

17 Q. I think you said 15 days. Is June 2nd to the 15th, is that
18 13 or 15 days?

19 A. I believe it's 13, but --

20 Q. All right. And what exhibits document the meeting on
21 June 2 at the Marco Polo meeting?

22 A. As you see, right next to the Marco Polo meeting is GX-447
23 and 447A, and, once again, the individual exhibits are
24 underneath each of these items.

25 Q. Are those the expense reports for Bruce Bender and Scott

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1 Cantone?

2 A. Yes. And 447A is the actual receipt from the Marco Polo
3 restaurant.

4 Q. What is the next event?

5 A. Meeting at Jake's Steakhouse.

6 Q. That's the meeting attended by Sandy Annabi and Zehy Jereis
7 with the Forest City Ratner people?

8 A. Yes.

9 Q. What exhibits document that meeting?

10 A. Exhibit 445 and 445-A.

11 Q. What are they?

12 A. 445 is the expense report for Scott Cantone and Bruce
13 Bender. Once again, the receipt for Jake's Steakhouse.

14 Q. What is the next event on this 13-day time line?

15 A. On the 13th day of June, Mr. Bender leaves a message --
16 excuse me, Mr. Jereis leaves a message for Mr. Bender. The
17 message was: Zehy, lists his phone number; he's at home today.

18 Q. That's Government Exhibit 104?

19 A. Correct.

20 Q. What happens next?

21 A. There is another message on June 14, Zehy called. The
22 message was: Maybe meet today at 12:30 at Madison's and
23 Riverdale Avenue.

24 Q. Who does Zehy call?

25 A. Bruce Bender.

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1 Q. What documents are reflected next to the picture of
2 Madison's Steakhouse restaurant?

3 A. Government Exhibit 447-B and 447-C. These are the expense
4 reports.

5 Q. Is this Bruce Bender's calendar, the first one?

6 A. Pardon me, that's the calendar, yes.

7 Q. That's 447-B?

8 A. B.

9 Q. What does it reflect on Wednesday, June 14?

10 A. Friends of Yonkers, Madison's, Riverdale Avenue.

11 Q. Let's go back to GX-388.

12 A. That's an email from Sandy Annabi to Scott Cantone.

13 Q. Who does she copy on the email?

14 A. Zehy Jereis on his AOL account.

15 Q. Can you read the email, please?

16 A. Scott, I notice there is no mention of the 10.8 we
17 discussed. I need that in there, since that is the reason I
18 agreed to come on board. Also, I'd like to be able to say that
19 FCR and I are continuing negotiations in regard to traffic
20 mitigation and that FCR is committed to exploring all options
21 available in order to alleviate the increased traffic or
22 something to that effect that shows FCR's willingness to
23 continue to address the traffic concerns. Thanks. Sandy.

24 Q. Now, Mr. Turk, if we could just switch over to sanction for
25 a minute, can you broadcast Government Exhibit 415? What is

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- 1 reflected in Government Exhibit 415?
2 A. It's an email sent from Mr. Jereis to Scott Cantone.
3 Q. What's attached?
4 A. Rsum and cover.
5 Q. How long after Sandy Annabi issued her press release
6 announcing her support for the Ridge Hill project which she
7 copied Zehy Jereis did Zehy Jereis send this cover letter and
8 rsum to Forest City Ratner?
9 A. One day.
10 Q. Let's go back to the main time line.
11 A. On the top part of the time line, there is the Annabi press
12 release from Scott Cantone. It's faxed -- or to Scott Cantone,
13 pardon me, from Debbie Kayal, and that's a copy of the press
14 release.
15 Q. Let's return now to the time line. Now let's return to the
16 main time line.
17 A. We are back on the main time line.
18 Q. And --
19 A. I am just going to show this email from Mr. Mangone to
20 Franco Milio.
21 Q. That's Government Exhibit 700?
22 A. Right.
23 Q. What is the date of the email?
24 A. July 10, 2006 at 4:20 p.m.
25 Q. What condition does Mr. Mangone tell Franco Milio is

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1 necessary to approve the project?

2 A. 20 percent of the units will be offered at below market
3 rent housing. The city council will have an independent
4 appraisal conducted. Those results will not affect the
5 approval which will happen tomorrow. The appraisal is being
6 done for her own selfish political gain so that when people in
7 her district ask if she conducted one as she said she would,
8 then she has cover. The applicant will advertise for a period
9 of six months the availability of housing for senior citizens.
10 The applicant will further work with the second district
11 council member in accepting recommendations for consideration
12 of seniors her office comes in contact with for the housing.

13 Q. What is the next time line?

14 A. 2007, mortgage payments made by Mr. Jereis on behalf of
15 Sandy Annabi total \$4,706.48. Once again, the Government
16 Exhibit numbers are displayed; and, once again, if you click
17 underneath, the various underlying documents or documentation
18 is shown. We have maintenance payments totaling \$5,646.06.
19 Cable payments in 2007 totaled \$1,826.15. ConEd payments by
20 Mr. Jereis on behalf of Sandy Annabi \$432.44 for a total of in
21 2007 of \$12,611.13.

22 Q. So do the benefits go up or down from 2006 to 2007?

23 A. Well, between -- 2007 they went down.

24 Q. And 2008?

25 A. Mortgage payments total \$3,254.24. Maintenance payments

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1 total \$4,340.37. Cable payments total \$1,235.44. ConEd
2 payments totaled \$388.36. With a total for 2008 of \$9,218.41.

3 Q. Is that more or less than 2007?

4 A. It's less.

5 Q. Did you also create a chart comparing the payments made by
6 Zehy Jereis to his reported income for the years he gave these
7 financial benefits to Sandy Annabi?

8 A. Yes.

9 Q. Directing your attention to Government Exhibit 7. Please
10 explain Government Exhibit 7.

11 A. Government Exhibit 7 is going to be a bar chart where each
12 of the years appear individually. So in 2002 Mr. Jereis
13 reported on his tax returns \$69,142. He expended \$5,867 on
14 behalf of or to the benefit of Sandy Annabi, and the various
15 exhibits that show the expense are contained as well as the tax
16 return reflecting that amount are displayed at the bottom of
17 the chart.

18 Q. And 2003?

19 A. Tax return reveals \$71,797. The expenditures total
20 \$8,328.72.

21 Q. 2004?

22 A. Tax return reveals \$77,939; the expenditures total \$74,944.

23 2005 tax return reveals \$69,968; expenditures total \$30,741.

24 2006 tax return shows \$172,171; expenditures total \$32,687.

25 2007 tax return shows \$122,021; expenditures total \$12,611.

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1 2008 Mr. Jereis's tax return reflects a negative amount of
2 \$11,386. His expenditures on her behalf total \$9,218.

3 Q. What do you mean when you say his tax return showed a
4 negative amount of \$11,386?

5 A. If we bring up the exhibit, it would show that that's the
6 number that's displayed on the return. It's a negative number.

7 Q. A loss?

8 A. Right. Yes.

9 Q. You said you also created a summary of the unreported
10 income by year?

11 A. Yes.

12 Q. Please broadcast Government Exhibit 8.

13 Can you explain what information is reflected on
14 Government Exhibit 8?

15 A. Each of the years are displayed. The source of the
16 payments are -- excuse me -- where the payments were made on
17 behalf of Ms. Annabi. 2005, you see Ocean First Bank, Columbia
18 Equities Limited \$402.75. On the far right column, you'll see
19 the exhibit numbers. I do that for each of the expenditures in
20 2005 and 2006. The amounts that are unreported for my analysis
21 for Ms. Annabi are \$30,741.32 for 2005. For 2006, \$32,687.60.
22 Total for the two years combined is over \$63,428.92.

23 Q. What's reflected in the column on the right?

24 A. The far right you're talking about?

25 Q. Yes.

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1 A. That's the various exhibits that will corroborate these
2 numbers.

3 Q. Were any of these payments at all reflected on Sandy
4 Annabi's 2005 or 2006 returns?

5 A. No, they were not.

6 MR. CARBONE: Your Honor, would this be a good time to
7 break?

8 THE COURT: I think it would be an excellent time to
9 break. I need to take something up with the lawyers in any
10 event before the 1:00 p.m. committee meeting. Sorry about the
11 interruptions this morning. Don't discuss the case over the
12 weekend: Discussed used in the broadest sense of the term.
13 Keep an open mind. I am positive that the government will be
14 resting next week, and we will move on to any defense case that
15 the defendants would choose to put in, remembering always that
16 they have no burden to prove anything because we are presuming
17 that they are innocent.

18 Have a pleasant weekend, folks. I'll see you all on
19 Monday.

20 (Jury recessed)

21 (Continued on next page)

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C38Qann3

1 (Jury not present)

2 THE COURT: One thing I wanted to just call to your
3 attention for whatever use you might want or need to make of
4 it, Mr. Aronwald and Mr. Siano had asked me to take judicial
5 notice of a case called Matter of Kourland, a First Department
6 case in which it says: Unless there be any doubt for purposes
7 of disciplinary proceedings, a felony conviction calls for
8 automatic disbarment upon entry of plea, rather than upon
9 imposition of the sentence as a matter of New York State law,
10 and that was the subject of some questioning with Mr. Mangone.

11 I just want to call to your attention that in this
12 morning's Law Journal, there is a First Department case called
13 Matter of Bristol, which I have yet to read, but which suggests
14 that when the plea is a federal plea, that that rule may not be
15 quite the same because -- I see you read the law journal too,
16 Mr. Siano.

17 I'm not suggesting that I know the answer to this
18 question. I am suggesting that perhaps before people want to
19 make arguments, they might need to look into this because I
20 understand that the First Department allowed a partner at the
21 Winston & Strawn firm who pled to a federal felony to avoid
22 automatic disbarment, and is said to resign from the bar.

23 MR. SIANO: I was going to say, your Honor, that case
24 was not in existence at the time Mr. Mangone charted his course
25 in the state court in front of Judge Molea.

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1 THE COURT: I don't know that this case announces new
2 law. I think there has always been a distinction because if
3 the Law Journal's story -- which is all I've read; I haven't
4 read the case -- but the Law Journal story cites to something
5 that I dimly recall -- and I took the bar and you took the bar,
6 Mr. Siano and Mr. Aronwald took the bar before any of us was
7 required to take an ethics course or ethics exam. We are all
8 that old.

9 MR. SIANO: That is true.

10 THE COURT: So I am the youngest.

11 The disbarment is automatic only, and resignation not
12 permitted, only if the federal crime is on all fours with some
13 analogous state crime, and Mr. Partner at Winston & Strawn pled
14 guilty to something that the First Department held was not
15 analogous on all fours to some state crime, and I think that
16 that is in fact the case. So it's a little more complicated
17 than perhaps was suggested by Mr. Siano's questioning.

18 It's a small point in the great overall scheme of
19 things, but since it came up, and since I was particularly
20 asked to attend to it, the story in this morning's Law Journal
21 jumped out at me.

22 MR. HALPERIN: Judge, if it was in the papers, it must
23 be true.

24 THE COURT: So I heard this morning. So I heard this
25 morning.

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1 MR. SIANO: You have to love politicians.

2 THE COURT: I'm very sorry that the New York Times was
3 not here to hear that.

4 OK. So what do you have, folks? We have to finish.

5 MR. HALPERIN: Monday morning we have to finish
6 Mr. Farhat's testimony, your Honor.

7 THE COURT: Mr. Farhat. If you don't, things are
8 going to get very interesting.

9 MR. HALPERIN: And then we will finish with
10 Mr. Dennehy's testimony, and I think that will be the point at
11 which the government will rest.

12 THE COURT: And that would be it. OK.

13 I imagine that there will be some motion practice
14 thereafter and then obviously the rubber doesn't meet the road
15 until next week, but do we anticipate that there is going to be
16 some kind of defense case? First for Ms. Annabi.

17 MR. ARONWALD: Your Honor, I provided the government
18 with a list this past Tuesday of witnesses that we intend to
19 call. I can tell the Court that at this juncture we are
20 definitely planning on putting on a defense case. It is
21 unlikely that that will change between now and the time the
22 government rests.

23 MR. CARBONE: Mr. Aronwald had identified some nine
24 witnesses, Judge, and we haven't received any exhibits from
25 either defense counsel yet, but Ms. Gallego advised that

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1 tomorrow she will be producing some exhibits. Mr. Aronwald has
2 indicated that Ms. Annabi may testify as well so we expect
3 that --

4 THE COURT: Well, that's a decision that will be made
5 at the last possible moment for both defendants, I would think.

6 MR. ARONWALD: Just to correct what Mr. Carbone has
7 said, we have in fact provided the government with exhibits.
8 We provided them with exhibits some time ago; namely,
9 transcripts. We've also indicated to the government that we
10 plan on playing the tape of the September 26, 2006 city council
11 meeting as well as various real estate committee meetings. The
12 government is on notice of that.

13 THE COURT: Do you have any estimate, Mr. Aronwald, at
14 this point of how long it would take to put in Ms. Annabi's
15 case?

16 MR. ARONWALD: I would think including the playing of
17 the tapes, I would think it would probably take perhaps three
18 days. It could be less.

19 THE COURT: It's always less in my hope.

20 MR. ARONWALD: In an exercise of extreme caution
21 consistent with your Honor's ruling, I provided the government
22 with a list of witnesses. That list may be shortened over the
23 weekend.

24 THE COURT: I would be shocked if it were not.

25 MR. HALPERIN: Judge, if that's the case, I would just

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1 ask Mr. Aronwald if by tomorrow if he could let us know --

2 THE COURT: No, because he's going to think about this
3 over the weekend. Honestly, Mr. Halperin, until you've sat in
4 Mr. Aronwald's chair, you cannot know how difficult it must be
5 to make these decisions, and one makes them when one has time
6 to reflect; and when one is on trial, one does not have time to
7 reflect until the weekend.

8 MR. HALPERIN: Judge, I also just want to note that
9 with regard to the real estate committee tapes and any other
10 statements that the government has not offered as admissions
11 against Ms. Annabi, the government will object because, as the
12 Court has ruled previously in this case -- the Court did not
13 rule specifically on those issues, but the government's
14 position, which I think has the same legal analysis as the
15 Court's previous rulings, is that those things would constitute
16 rank hearsay.

17 THE COURT: All of these things are going to have to
18 be teed up, are they not?

19 MR. ARONWALD: Yes, your Honor. I can try to
20 alleviate some of Mr. Halperin's concerns because those tapes
21 will be -- the foundation will be laid through testimony of
22 witnesses such as, for example, Mr. DelBello, who is definitely
23 going to be testifying and he was present at those meetings.

24 THE COURT: That's as may be. That doesn't resolve
25 the hearsay issue. The hearsay issues are going to have to be

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1 teed up and they are going to have to be decided on a
2 tape-by-tape basis. So that is going to take some time.

3 Mr. Siano.

4 MR. SIANO: Good afternoon, your Honor.

5 THE COURT: And might Mr. Jereis have a case to put
6 on?

7 MR. SIANO: I believe he might. I've provided some
8 names to Mr. Carbone.

9 THE COURT: And were he to do so, how long do you
10 think that might take?

11 MR. SIANO: In the general spirit of my presentation,
12 it will be shorter than Mr. Aronwald's. I can't imagine my
13 case would take more than a day or so, Judge.

14 THE COURT: OK.

15 MR. SIANO: Judge, I am a little more concerned about
16 the transition on Monday. I know your Honor has spoken quite
17 firmly about keeping the line moving, and I am just concerned
18 about sort of do we start after -- does the defense start after
19 lunch if there is just a rump portion of the government's case.

20 THE COURT: Let me put it this way: I don't know how
21 long Mr. Farhat's testimony is going to take. He says no. Or
22 how much cross we have for Agent Dennehy. I think there will
23 be a rump portion of the government's case on Monday. God help
24 us if we don't have Mr. Farhat. Then I imagine that you will
25 have some fairly fulsome argument.

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1 I am only speaking from experience, involving
2 Mr. Aronwald, but I would imagine that there might be some
3 fulsome argument on motions which everyone is going to make and
4 everyone is going to make a record of, right? Right.

5 But it's possible, it is entirely possible that
6 Mr. Aronwald would have to call his first witness --
7 Ms. Annabi's name appearing ahead of Mr. Jereis's name on the
8 caption -- before lunch. It's possible. Possible.

9 MR. SIANO: I'm sort of hoping the Court might
10 countenance the notion that 2:00 might be a better aiming
11 point.

12 THE COURT: That would depend. If we reach the magic
13 moment at 11:30, 2:00 would not look so good to me. If we
14 reach the magic moment at 12:10, I might decide to take an
15 early lunch.

16 MR. SIANO: We have what might be described as a
17 civilian with a health problem, Judge. I wonder if the Court
18 might give us a little more flexibility in this regard only to
19 the start time because we really don't know whether this
20 gentleman is going to make a trip to Lourdes and recover or
21 whether or not he is going to decide to pack it in. I don't
22 mean to wish him ill. We understood he was ill before he got
23 on the witness stand. He'd had some cardiac problems in the
24 past year. I am kind of disguising the seriousness of it. But
25 that is more of a concern to me lest we start running afoul of

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1 the Court's schedule, and I don't want to do --

2 THE COURT: I just don't see there to be a problem of
3 having a witness or two around in the morning. If we have a
4 problem with Mr. Farhat on Monday, it's going to be infinitely
5 more of a problem than simply moving on. I would anticipate
6 that there might be some applications made if that were to be
7 the case.

8 MR. SIANO: I've raised my concern with the Court.
9 Your Honor has heard it.

10 THE COURT: I hear you, Mr. Siano.

11 MR. SIANO: Thank you, Judge.

12 MR. ARONWALD: Just one other thing, your Honor, if we
13 can.

14 THE COURT: Yes, Mr. Aronwald.

15 MR. ARONWALD: With respect to the witnesses, we would
16 ask that Rosemary Karaka be available Monday.

17 MR. HALPERIN: Absolutely.

18 MR. ARONWALD: We would ask that Agent Mike Mazzuca be
19 available Monday to testify. And we would ask that to the
20 extent necessary, and I'll review it over the weekend and speak
21 to the government, that Special Agent Gilmore be available to
22 testify concerning prior inconsistent statements made by
23 various witnesses including Mr. Mangone, Antonio Milio, Franco
24 Milio and the Forest City representatives.

25 MR. CARBONE: Judge, as I know consistent with your

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1 Honor's prior practice, when defense counsel seeks to call an
2 agent to contradict or introduce a prior inconsistent
3 statement, the typical practice is that defense counsel
4 identify the particular statement in advance so that we can
5 determine --

6 THE COURT: I'm sure that can all take place over the
7 course of the next three days. What cannot take place over the
8 course of the next three days is my attendance at the grievance
9 committee meeting of this court which began two minutes ago.

10 (Trial continued Monday, March 12, 2012 at 9:30 a.m.)
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GOVERNMENT EXHIBITS

Exhibit No.	Received
513, 514, 519, 524, 526, 528 through2301
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10512350
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1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

2
3 UNITED STATES OF AMERICA,

3
4 v.

10 CR 007 (CM)

4
5 SANDY ANNABI and ZEHY JEREIS,

5
6 Defendants.

6
7 -----x

7
8 New York, N.Y.
8 March 12, 2012
9 9:40 a.m.
9

10
10
11 Before:

11
12 HON. COLLEEN MCMAHON

12
13 District Judge

13
14
15 APPEARANCES

15
16 PREET BHARARA
16 United States Attorney for the
17 Southern District of New York
17 JASON P.W. HALPERIN
18 PERRY A. CARBONE
18 Assistant United States Attorneys

19
19 WILLIAM I. ARONWALD
20 Attorney for Defendant ANNABI

20
21 ANTHONY J. SIANO
21 JEANNIE GALLEGO
22 Attorneys for Defendant JEREIS

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1 (In open court; jury not present)

2 THE DEPUTY CLERK: Case on trial continued. The
3 government and the defendants are present. The jurors are not
4 present.

5 Still waiting on one juror, Judge.

6 THE COURT: That's all right. We have plenty to do.
7 Have a seat.

8 Just so we get it on the record, when I was on my way
9 to the airport to join my husband for his birthday, I received
10 a call from Mr. O'Neill indicating that Mr. Farhat's doctors
11 had weighed in with the information that he would not be able
12 to or had been advised not to return to court or, indeed, to
13 expose himself to any stressful conditions of any sort
14 whatsoever.

15 I was not in a position where I was able to open the
16 letters. I attempted to raise counsel on conference calls. We
17 actually got as far as all getting on the phones before
18 deficiencies with the telephone service at Terminal 5 at
19 Kennedy Airport prevented the call from going any further. I
20 had a lot of calls back and forth with Mr. O'Neill who was
21 calling back and forth with you. The entire situation was
22 unfortunate and unsatisfactory.

23 I indicated that I wanted the government to make such
24 arrangements as would be necessary to allow us to go to
25 Connecticut and invoking Rule 15, complete Mr. Farhat's

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1 testimony if that should be required because I didn't want to
2 lose any time at this critical juncture in the trial going into
3 our fourth week when I begin to worry about things like losing
4 jurors. And that's what happened on Friday.

5 I received a letter from Mr. Aronwald indicating his
6 opposition to any such course, at least in the absence of
7 having a hearing at which I presume some physicians from
8 Connecticut would be brought down unwillingly by the United
9 States Marshals to give testimony. I am prepared to send the
10 send the marshals out right now to those doctors and bring them
11 down if that is what is required, if that's what I have to do
12 in order to move this along.

13 Mr. Halperin.

14 MR. HALPERIN: Judge, we don't think any such hearing
15 is required under Rule 15. The Court is allowed an exercise of
16 its reasonable determination as to whether there are
17 exceptional circumstances. There is nothing, no case law that
18 Mr. Aronwald has provided that says the Court is not entitled
19 to rely on these two letters from these two doctors which are
20 very, very clear about the physical and psychological and
21 mental burden that can result from Mr. Farhat being brought an
22 hour and a half away from his home into court.

23 THE COURT: What is Mr. Farhat's physical and
24 psychological state at the thought that we are going to descend
25 upon him in short order?

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1 MR. HALPERIN: Judge, I am sure he is not thrilled
2 with --

3 THE COURT: What is this, I am sure; you haven't been
4 in touch with him?

5 MR. HALPERIN: We have been in touch with his counsel
6 who has spoken to Mr. Farhat, and Mr. Farhat has said he is
7 able to, in the comfort of his home where he would have access
8 to oxygen, his medical necessities, he would be fine continuing
9 and finishing the cross-examination and any redirect
10 examination.

11 I note that one of the issues, for example, in Second
12 Circuit's case of United States v. Johnpoll which is 739 F.2d
13 702, a 1984 Second Circuit case, one of the standards is, in
14 terms of unavailability, in terms of a witness testifying in
15 court, the courts are instructed to take a practical standard
16 of whether under the circumstances, the government has made a
17 good faith effort to produce the person to testify at trial.
18 Certainly we have done that. He did testify at trial and got
19 through his direct examination and part of the way through his
20 cross-examination. So we really don't see any prejudice --

21 THE COURT: What efforts have you made to produce him
22 at trial since you found out that he didn't want to come back?

23 MR. HALPERIN: We spoke to his doctor Friday morning,
24 that was Dr. Michael Taweh, who said he was concerned about
25 Mr. Farhat coming here back to court which is obviously a very

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1 stressful situation, about the possible results that could
2 follow including another nervous breakdown, stress on his
3 heart. He had triple bypass surgery in July after having a
4 major heart attack in July. He is in weakened condition as it
5 is.

6 THE COURT: Then why did you bother to call him? He
7 is hardly a necessary witness. I appreciate what he added, but
8 he wasn't a necessary witness. You have gotten us into this
9 pickle.

10 MR. HALPERIN: Judge, first of all, the government
11 thought he was an important witness, if the Court says he was
12 unnecessary.

13 Also, frankly, we did not realize, no one could have
14 predicted that Wednesday evening after testifying in court,
15 what his medical reaction would have been to such a stressful
16 situation. We could not have predicted that he was that
17 fragile a witness

18 Certainly, his attorney who is a seasoned former AUSA
19 in Connecticut, told us that he had been recovering from the
20 surgery six months ago, but never raised any concerns for
21 something like that happening. So for that, I think it was
22 obviously very difficult to predict. But in light of what has
23 happened and the fact that we have now a very reasonable
24 alternative avenue to finish his testimony we think that the
25 Rule 15 deposition is completely appropriate. We have checked

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1 this with supervisors in our office. They see no issue at all
2 with a videotape deposition. And we submit that that is a fair
3 way to finish and complete his testimony, and we don't see any
4 need for an evidentiary hearing.

5 Judge, I'm sorry. I don't know if the Court has
6 actually now seen the letters from the doctors.

7 MR. ARONWALD: Good morning.

8 THE COURT: Good morning, Mr. Aronwald.

9 MR. ARONWALD: I hope that despite being burdened with
10 this while you were waiting on line to board your airplane and
11 having to deal with TSA that you enjoyed your weekend
12 nonetheless.

13 THE COURT: I did. I enjoyed the weekend. It is my
14 husband's birthday today. I wished my husband a happy
15 birthday. He is going to have a happier birthday than I am
16 going to have but, yes, as between TSA and this, it was a very,
17 very close call.

18 MR. ARONWALD: Having dealt with TSA myself --

19 THE COURT: Well, you know those of us who have knee
20 replacements have issues with TSA and they have issues with us.

21 MR. ARONWALD: Your Honor, I disagree with Mr.
22 Halperin. First off, as I pointed out in my letter, it seems
23 to me that your Honor was in a position to judge for yourself
24 the fact that Mr. Farhat, when he was here last Wednesday was
25 able to testify on direct and during a portion of the cross

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1 that I was able to get through without showing or manifesting
2 any signs of physical or nervous distress.

3 I note also that Mr. Farhat was transported to and
4 from the courthouse by an agent of the FBI. I am confident
5 that Mr. Farhat did not manifest any signs of distress or
6 anxiety on the ride back, otherwise, I believe the agent would
7 have done the prudent thing which would have been to take him
8 to the nearest hospital to be checked out.

9 I also note that the doctors' letters do not in any
10 way suggest that Mr. Farhat was hospitalized following his
11 return home on Wednesday. Quite the contrary, according to the
12 initial email that the government sent to Mr. O'Neill, they
13 indicated that when the agent went to pick Mr. Farhat up
14 Thursday morning to bring him back to conclude his cross, Mr.
15 Farhat's wife said that her husband was not feeling well the
16 night before, was not feeling well that morning and so he was
17 not going to come to court, instead he was going to see his
18 cardiologist.

19 So from the time he left his courtroom until the
20 following morning when he was picked up or about to be picked
21 up, there was no indication that he was in such physical or
22 emotional distress that he had to go to the emergency room or
23 be hospitalized.

24 THE COURT: No. Apparently, he was evaluated by his
25 physician on the 7th, which was Wednesday and which would have

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1 been Wednesday evening after he came home from court.

2 MR. ARONWALD: And the doctor on that evaluation did
3 not think it necessary to hospitalize Mr. Farhat. He sent him
4 home.

5 The other thing is, your Honor, there is nothing in
6 here indicating what the stressor is. Mr. Halperin alludes to
7 Dr. Taweh's letter. What Dr. Taweh's letter says is, I have
8 advised him to not appear in court and, more importantly, and I
9 am quoting, "to avoid any and all stressful situations as this
10 would lead to another major cardiac event and psychological
11 nervous breakdown and possible death." That's what Dr. Taweh
12 says. I don't see anything in here where Dr. Taweh says that
13 his traveling to Manhattan and having to testify in a courtroom
14 that is the stressor. It seems to me that what would be more
15 stressful would be having to be examined and having to answer
16 questions.

17 THE COURT: That's why I asked the question that I
18 asked. I read the same sentence that you read in Dr. Taweh's
19 letter. It wasn't just the burden of travel; it was the burden
20 of being subjected to testimony. And that's why I wondered
21 what the government had learned, if anything, from Mr. Farhat
22 or his attorney whom the government has been speaking that
23 would have an impact on what we do here.

24 I have to tell you, if it were me having more
25 difficulty with having about 12 total strangers show up at my

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1 home, along with a video camera, to finish the testimony.

2 I appreciate that that's what the rule allows to us
3 to.

4 MR. ARONWALD: Before Mr. Halperin speaks, there is
5 another letter. And the other letter from Dr. Alexander pretty
6 much says the same thing because in the last sentence of that
7 letter, he says "any stressful situation/environment is
8 potentially hazardous to his health and can create stress to
9 his heart."

10 My concern is several. First, I think that, although
11 the cases have said it is not an absolutely guaranteed right of
12 confrontation in a courtroom setting, it seems to me that it
13 was highly preferable from my point of view to have Mr. Farhat
14 testify three-dimensionally in front of a jury.

15 THE COURT: I couldn't agree with you more. It is
16 preferable.

17 MR. ARONWALD: Another thing, your Honor, and I am not
18 trying to sound overly dramatic.

19 THE COURT: Come on, Mr. Aronwald, it wouldn't be you.

20 MR. ARONWALD: My point is that if I have to
21 cross-examine Mr. Farhat in the face of what these two doctors
22 have said, does that mean that I have to be more careful in how
23 I question him or what questions I put to him so that I make
24 sure that am not contributing --

25 THE COURT: No indeed, Mr. Aronwald, I would expect

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1 you would do whatever was in the best interests of Ms. Annabi.

2 MR. ARONWALD: That leads me to what I think is the
3 threshold determination and that is whether or not these
4 doctors are of the view that Mr. Farhat would not be subjected
5 to far more stress -- what is it that caused the stress,
6 sitting in the courtroom in Manhattan or being questioned by me
7 and Mr. Halperin or Mr. Carbone? So it seems to me that is
8 really the threshold issue and neither of these letters really
9 resolve that issue and that is part of the problem that I have
10 with the government's application. And one other thing --

11 THE COURT: By the way, what would your solution be
12 for this problem, Mr. Aronwald?

13 MR. ARONWALD: My solution to the problem would be,
14 your Honor, first of all, I agree with you that Mr. Farhat's
15 testimony was not absolutely necessary in this case. It deals
16 with one little issue and that is the casualty loss deduction
17 that was taken on the 2005 return. But it seems to me that the
18 solution would be that the government either agrees to strike
19 his testimony and we can't complete the examination. Secondly,
20 it would be that Mr. Farhat, that we have a hearing to
21 determine whether Mr. Farhat is malingering or whether or not
22 he is legitimately under stress.

23 If the Court were to determine based upon whatever
24 medical opinion that these doctors give under oath, that
25 Mr. Farhat is unavailable to continue his testimony because of

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1 the stress that may result from being examined, then it seems
2 to me that my recourse would be to move to strike his testimony
3 because we haven't completed his testimony. But certainly this
4 is not a situation that we created. It is a situation that we
5 are reacting to, as you are.

6 THE COURT: You are a victim.

7 MR. ARONWALD: I wouldn't go quite that far, but we
8 are both confronted --

9 THE COURT: -- with a situation that was not of our
10 making, OK. I will tamp it down too.

11 MR. HALPERIN: There is obviously no indication that
12 Mr. Farhat is malingering. The Court has letters from the two
13 doctors.

14 THE COURT: I would love to say, though, that I never
15 see letters from doctors that cause me to suspect that people
16 are malingering but, Mr. Halperin, how many times have you and
17 I been through voir dire together? How many people have shown
18 up with doctor's letters?

19 MR. HALPERIN: Judge, that is true, but we have two
20 different doctors here. The government has also spoken to Dr.
21 Taweh, and we have spoken to Mr. Farhat's counsel. And this
22 was not something that came entirely out of the blue.

23 THE COURT: It did to us. It did to me. I didn't
24 know the man had a heart condition.

25 MR. HALPERIN: Certainly the government knew --

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1 THE COURT: You knew. We didn't know.

2 MR. HALPERIN: We knew that he had a major heart
3 surgery last --

4 THE COURT: If you knew this, perhaps you could have
5 put him on earlier in the day so he could have completed his
6 testimony. You will recall, I was trying desperately to get
7 through his entire testimony on Wednesday. We went until after
8 5 o'clock.

9 MR. HALPERIN: I do remember that. I think it was the
10 latest day we went and we appreciate that. And 20/20
11 hindsight, we certainly would have tried to move him on earlier
12 and to bump other witness.

13 We did speak to Dr. Taweh. He was very clear that it
14 would be less stressful for Mr. Farhat to be in his own home to
15 finish his testimony than to come down to a big courtroom,
16 traveling back and forth. And Mr. Farhat's counsel said the
17 same exact thing, so we have those representations.

18 Look, the casualty loss is one of the two principal
19 charged false statements on the 2005 return, so it is not an
20 unimportant issue to Count 10.

21 THE COURT: Some of us think that Count 10 is the tail
22 wagging the dog.

23 MR. HALPERIN: Judge, that may be but it is one of the
24 charged counts in the indictment.

25 I think when the Court just asked Mr. Aronwald what

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1 his solution is, that really strikes to the heart of it. There
2 is no other solution than finishing this at home or striking
3 his testimony because --

4 THE COURT: At least we have the options on the table.
5 It has to be finished one way or another or we can strike his
6 testimony.

7 MR. HALPERIN: What I was going to say, Judge, is that
8 Mr. Farhat's doctors and his attorney have made it very clear
9 that he is not going to come back into court.

10 THE COURT: Well, he can come back into court if I
11 send the marshals to bring him to court. My writ runs to
12 Danbury, Connecticut.

13 MR. HALPERIN: I didn't mean that, Judge. Obviously
14 the Court's authority does -- what I meant is the doctors and
15 his attorney have raised very, very serious concerns about --

16 THE COURT: It seems to me that Mr. Aronwald and I
17 should at the very least have the option to talk to Dr. Taweh
18 or doctor somebody and to put what I think are Mr. Aronwald's
19 very reasonable questions about whether the stressor here is
20 the testimony or is the locus and that we can reduce the stress
21 sufficiently -- look, testifying is always stressful. I have
22 done it, I know. But if it would reduce the stress
23 sufficiently to do it at his home and if we can get a little
24 more clarity about his condition that the government knows a
25 lot more about than Mr. Aronwald and I do, I think that what we

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1 need to do is, we need to arrange to have one of the physicians
2 available by telephone and we can have here in the courtroom,
3 with the court reporter taking it down, and me putting such
4 questions to the doctor as Mr. Aronwald needs to have answered
5 so that we can make a rational decision about whether we all
6 get in our cars and troop up to Danbury, Connecticut or whether
7 we strike the witness' testimony which I think we are all are
8 on the same page is the alternative.

9 MR. HALPERIN: Judge, that makes perfect sense. What
10 time would the Court like to do that because --

11 THE COURT: ASAP. We have the advantage that the
12 person who is on the stand now is Agent Dennehy and Agent
13 Dennehy is quite capable of interrupting his testimony at any
14 point to accommodate this. So what I think we need to do is if
15 some members of the government team who are not involved in the
16 examination of Agent Dennehy -- I don't know whether you want
17 to call the attorney and have the attorney call the doctor or
18 call the doctor and make the necessary arrangements. And if,
19 for example, the doctor had a break in his schedule at 10:40
20 this morning, I would be on the phone at 10:40 this morning.
21 Proceed with the jurors for awhile, Dennehy can restart
22 whenever he restarts.

23 Mr. Siano, do you want to weigh in on this?

24 MR. SIANO: Not on this issue, your Honor.

25 THE COURT: I didn't think you would.

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1 MR. SIANO: Regrettably, I have a different issue.

2 THE COURT: I am sorry to hear that.

3 MR. HALPERIN: Judge, can I have the copies of the
4 doctors' letters because it has the phone numbers on it?

5 THE COURT: Yes, you may.

6 Meanwhile that is happening, Mr. Siano looks very
7 distressed.

8 MR. SIANO: Judge, I would like to hand to the Court
9 what I have marked for identification as Defense Exhibit 65.
10 It is three pages that were provided to me by the government
11 over the weekend. They are information from the Department of
12 Homeland Security relative to the actual absence of the Milios
13 from the United States of America during the period of
14 September 24 through October 1, 2006.

15 As difficult as it is, this is, your Honor, I need to
16 make an argument with the flow of the information and the point
17 we find ourselves today.

18 THE COURT: Why don't you explain the information to
19 me.

20 MR. SIANO: Judge, if you will note, I have
21 highlighted in the top two lines, there is a report to Homeland
22 Security that I believe the top Milio is Franco --

23 THE COURT: -- Franco Milio.

24 MR. SIANO: In Mexico, entering on 9/24/06. And then
25 the top line --

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1 THE COURT: I am looking for the 09 --

2 MR. SIANO: The third or fourth column over, Judge.

3 THE COURT: I have Franco Milio, date of birth
4 9/12/75. The second entry is the entry into Mexico, and the
5 first entry is his return --

6 MR. SIANO: It progresses.

7 THE COURT: I see that.

8 MR. SIANO: You see, return to United States on --

9 THE COURT: -- 10/1/06.

10 MR. SIANO: This is mirrored by Antonio Milio further
11 down the page. Antonio Milio has some additional travels after
12 September 24 of '06. But Antonio as well travels to Mexico
13 9/24/06, returns 10/1/06.

14 In fact the government orally reported to Mr.
15 Aronwald, this is conclusive proof that the Milios were not in
16 the United States in the period 9/24/06 through October 1 of
17 '06. And in fact I have seen their passports and my own
18 examination of the visa stamps confirms this. Since two of the
19 stamps were overlaid when we finally saw the passports late
20 last week, the government, in order to satisfy itself went to
21 Homeland Security, found these documents at long last and
22 provided them to us.

23 Judge, the government began the cooperation of the
24 Milios in at least September of 2008. They are FD 302 reports
25 of interviews prior to September of 2008, but in September of

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1 2008 both of the Milios testified in grand jury. That grand
2 jury led to an indictment in January 2010 in which the
3 indictment at paragraph 20 specifically says -- and in order to
4 make this argument carefully, allow me to turn to the page of
5 the indictment, your Honor.

6 Paragraph 20 reads as follows: "In or about June
7 2006, having invested significant time and money into the
8 Longfellow project, a representative of Developer Number 1" --
9 that is the Milios -- "agreed to Anthony Mangone's demand and
10 brought Mangone approximately \$30,000 in cash to give to Sandy
11 Annabi. A representative of Developer Number 1 also paid
12 Mangone an additional \$10,000 in cash, Mangone requested as his
13 fee for legal services."

14 That paragraph was mirrored on the witness stand by
15 both Milios.

16 THE COURT: Correct.

17 MR. SIANO: What is significant, your Honor, is that
18 the government's indictment in January 2010 clearly shows that,
19 in my words, the plighted their troth to the Milios as of
20 January 2010. Sometime thereafter, Mr. Mangone gave his
21 interview of March 2010 which I spent a great deal of time
22 cross-examining him on. And he subsequently began to cooperate
23 with the government. And as your Honor will remember somewhat
24 bitterly, in May of 2011, the government superseded the case.

25 THE COURT: I do recall.

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Trial

1 MR. SIANO: Particularly significant was, paragraph 20
2 changed in material part. Paragraph 20 in the superseding
3 indictment which we were handed in May of 2011, in or about the
4 summer of 2006, having invested significant time and money into
5 the Longfellow project, Developer Number 1 agreed to Anthony
6 Mangone's demand and representative of Developer Number 1
7 brought Mangone approximately \$40,000 in cash to pay Sandy
8 Annabi, the defendant. Anthony Mangone subsequently gave
9 \$20,000 in cash to the defendant to give to Annabi."

10 And it continues further down and describes in
11 particular part that these events took place incrementally.

12 Now, the government changes the theory that they
13 decided to bring forward.

14 THE COURT: They changed the amount. They didn't
15 change the theory.

16 MR. SIANO: The amount is also tied to Mr. Mangone's
17 recitation of events. Mr. Mangone testified on the witness
18 stand, as he did in his FD 302 in March of 2010, that he paid
19 my client, one piece in July and another piece in the last week
20 of September, the 28th of September.

21 Your Honor, the minute Anthony Mangone said that and
22 at the very latest the minute the government superseded, the
23 document that you have in front of you becomes conclusive proof
24 that Mr. Mangone was lying and that the government's theory was
25 not only incredible but impossible. It is not possible that

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1 Franco Milio and Antonio Milio gave Mangone money after the
2 vote on September 26th because they were not in the country.

3 Now, this information was exclusively in the
4 government's possession. It was re-enforced by the Milio's
5 passports. And, frankly, Judge, we were not given these
6 documents until after all of these witnesses left the witness
7 stand. We were not given the 3500 material in a sufficiently
8 timely fashion to even look for this information. There is one
9 passing reference in the 3500 in an email that Mr. Aronwald
10 located that indicated that Franco said he was going to be out
11 of the country.

12 Your Honor, this is Brady material. This would have
13 changed my opening statement. It would have changed my
14 approach to both the Milios and Mr. Mangone. And I know that
15 your Honor has worked hard on this case and tried to be fair.
16 I have accepted your Honor's rulings. I have tried to proceed
17 within the rules.

18 This is exactly what comes of your Honor's approach to
19 the government and their approach to Brady material. This
20 material was denied to us in a timely fashion, and I ask the
21 court for a mistrial. And that's my argument.

22 MR. ARONWALD: Your Honor, the only thing, I join in
23 the application, but I would add also that it was last week
24 after the Milios and Mr. Mangone had completed their testimony
25 that we asked the government whether or not as part of their

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1 plea allocution the Milios was required, as is the custom, to
2 surrender their passports. And we were told that they had.
3 And that's when we asked the government to make arrangements
4 through Judge Briccetti to have the pretrial services release
5 the passports to the government.

6 THE COURT: That happened last week.

7 MR. ARONWALD: You interceded to see that that would
8 happen and we appreciate that. So this information about the
9 passports, we were not given the passports until, I believe, it
10 was Wednesday or Thursday of last week. We asked the
11 government at that time whether they would stipulate to the
12 admissibility of the passports. The government indicated that
13 they first wanted to A) speak to the Milios and then wanted to
14 speak to Homeland Security to confirm that. So we only
15 received the confirmation, I believe it was Friday -- this past
16 Friday or Saturday.

17 THE COURT: Mr. Carbone.

18 MR. CARBONE: Judge, I know you don't like to hear
19 differences --

20 THE COURT: No, indeed, I don't. I derailed an entire
21 major trial because of this kind of --

22 MR. CARBONE: Wait a minute. What I was about to say
23 is I know you don't know like to hear about how the government
24 disagrees with defense counsel's characterization of things and
25 when they receive things.

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1 THE COURT: You are right. I know when they got the
2 passports because we called Judge Briccetti. The whole
3 passport didn't come up, wasn't in any consciousness until last
4 week. And I would assume that the government, in its
5 investigation of its witnesses, before it supersedes an
6 indictment and changes dates, that the government would, in an
7 exercise of its discretion, use a belt-and-suspenders
8 approach -- the approach that it uses to indictment -- to nail
9 down the whereabouts of its witnesses so that there are no
10 holes in its story.

11 Does the government have some dispute about the
12 accuracy of the Homeland Security records?

13 MR. CARBONE: Judge, we have no dispute that the
14 records demonstrate that from between September 24 and October
15 1, Franco Milio and Antonio Milio were outside of the country.

16 THE COURT: Did I or did I not hear, did I or did I
17 not hear Mr. Mangone say that the Milios gave him money a
18 couple of days after the Longfellow vote?

19 MR. CARBONE: Shortly after the Longfellow vote, he
20 said that was his recollection.

21 And what he also said, Judge, was that he is aware,
22 was aware when he came in to testify what the Milios said about
23 the timing of the payments and amount of the payments. He said
24 this was his best recollection. He was asked specifically on
25 the stand when he received the money that he paid, and he said,

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1 approximately September 27th. He said that being aware of what
2 the Milios said, that is his best recollection.

3 Judge, the government is not in the business of
4 conforming witnesses' testimony to each other. If that is his
5 best recollection then it is not up to the government to get
6 him to say that it happened back in July when the Milios did.
7 That's their best recollection.

8 Mr. Aronwald and Mr. Siano were fully aware that
9 Franco Milio said that he was out of the country and even
10 testified to that. So they can make all of the hay they want
11 with that in summation. It is not Brady material. It is two
12 different recollections from two different witnesses. And it
13 is entirely consistent with the indictment. That's what we
14 charged.

15 Judge, it would be nice, in the best of all worlds if
16 witnesses' testimonies always matched up, but they don't.

17 THE COURT: Let me posit a slightly different theory.
18 If it is not in fact, Brady material -- although I think it may
19 well be -- is it not at least Giglio material.

20 MR. CARBONE: Giglio material for which witnesses?

21 THE COURT: All three of them.

22 MR. CARBONE: Absolutely not. Judge, that is their
23 recollection. And beyond that, Judge, they were given the 3500
24 material far in advance and in fact they very effectively used
25 the 3500 material.

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1 THE COURT: I am not concerned about the timing of the
2 3500 material. I am concerned about whether this information
3 should have been made available before the cross-examination,
4 certainly, of Mr. Mangone and of any and all of the witnesses
5 and whether I need to have you all bring them all back rather
6 than grant a mistrial motion.

7 MR. CARBONE: Franco Milio testified before Mr.
8 Mangone and he said that he was out of the country. They, of
9 course, had this information. They not only had it, but they
10 effectively used it and they asked Mr. Mangone very
11 specifically whether he was sure that that was the date. And
12 he said, that's my recollection. So this is all a tempest in a
13 teapot. They had the information. They effectively crossed
14 him with it. And we are willing to stipulate that the Homeland
15 Security records indicate that Franco and Antonio Milio were
16 outside the country between September 4 --

17 THE COURT: -- September 24.

18 MR. CARBONE: -- September 24 and October 1. We will
19 stipulate to that. And it is a jury question. They had the
20 information. They effectively used it. And let us argue to
21 the jury that we believe that both witnesses were telling the
22 truth and they had an honest difference in recollection.

23 THE COURT: OK. I will think about this. I will
24 think about this.

25 I would like the transcript of the Milios' testimony

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1 on this point and Mangone's testimony on this point. We are
2 going to have to find those references in the transcript.

3 MR. CARBONE: Judge, Mr. Halperin just reminded me
4 that we didn't know about the passport issue. We didn't have
5 the passport. We got it for them as soon as they requested it.
6 And we got the Homeland Security records for them as soon as
7 they requested it. No one is hiding the ball on anything here.

8 THE COURT: All I can tell you is that, when I was in
9 private practice, if two of my witnesses who were critical
10 witnesses had had such incredibly disparate recollections and I
11 had had the power -- which of course I did not when I was in
12 private practice -- to go to another branch of the government
13 and to say, we can clear this up pretty quickly, I would have
14 done it.

15 Mr. Siano.

16 MR. SIANO: Judge, I would make one additional
17 observation. Mr. Mangone's 302 on the matter of dates has no
18 "approximately," no "I recall," no obfuscation or equivocation
19 whatsoever. And I note that your Honor heard this man testify
20 that he is an admitted perjurer.

21 THE COURT: Indeed.

22 MR. SIANO: The notion that somehow adding a weasel
23 word clears this problem up is ill befitting the government and
24 ill befitting this Court. This man, it was impossible that
25 what he told the government occurred. It is not a matter of

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1 his recollection. He places money in a place where the people
2 he said paid him were not there.

3 And I will tell, your Honor, as an offer of proof, his
4 testimony as to what he did with the money will be shown to be
5 false in my case, because he said he took \$10,000 to gamble at
6 Atlantic city and he didn't. He gambled on markers and that's
7 the reason why the government sent you a Sunday night letter
8 trying to knock out of one of my witnesses because they are
9 voluminous and they are complex.

10 And I have someone who will explain to the jury that
11 the Caesars in Atlantic City is the only casino he entered on
12 the 29th of September, and he gambled on markers. This man's
13 testimony is not just unbelievable, it is impossible. If it is
14 impossible, the counts as to the Milios brothers do not exist
15 in this case.

16 This is not a trivial matter and I apologize for
17 raising my voice to the Court. I really do. This is just -- I
18 have said enough.

19 THE COURT: I understand that the government sent me a
20 letter last night seeking to strike one of the witnesses. I
21 haven't reviewed that letter yet. I haven't had the
22 opportunity to review that letter yet; there has been too much
23 going on this morning. I will get to it later in the day or
24 maybe tomorrow.

25 MR. SIANO: Judge, I would like the opportunity to
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1 reply. I was with my family yesterday.

2 THE COURT: You may reply. I will tell you, it is not
3 my inclination to strike any of your witnesses but then I
4 haven't read the government's letter.

5 MR. SIANO: I would like until tomorrow, your Honor.

6 THE COURT: That's fine. Who knows? We may be on our
7 way to Danbury Connecticut.

8 So somebody from the government team needs to get us
9 citations to where in the transcript we can find the relevant
10 testimony.

11 MR. HALPERIN: We are working on that right now.

12 THE COURT: Somebody from the government needs to be
13 working on getting the doctor on the telephone. Somebody from
14 the government needs to be examining Agent Dennehy because, as
15 you all know, I have substantial care for the jurors. We are
16 now into week 4.

17 MR. CARBONE: Judge, we have two extremely brief
18 custodian witnesses that we would like to interrupt Agent
19 Dennehy's testimony for.

20 THE COURT: Do you all have any problem with that? It
21 may give them more time to get the doctor?

22 MR. ARONWALD: I don't, Judge.

23 MR. HALPERIN: May I step out?

24 MR. SIANO: I have no objection.

25 THE COURT: Thank you, Mr. Siano.

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1 MR. HALPERIN: May I step out and work on the doctor
2 issue?

3 THE COURT: Please.

4 MR. HALPERIN: Thank you.

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6 (Continued on next page)

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C3CUANN1 Trial

1 (Jury present)

2 ANTHONY CECCHETTO,

3 called as a witness by the government,

4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. CARBONE:

7 THE COURT: Could I speak to the jury first.

8 Good morning.

9 I hope you had a great weekend.

10 This is not Agent Dennehy. One of the advantages of
11 Agent Dennehy's of this world is that because they are part of
12 the team, we can interrupt their testimony from time to time
13 when the government needs to slip in a little something. So
14 Agent Dennehy is here. He will resume his testimony shortly.
15 The government tells me that they have a couple of brief
16 custodian witnesses to get on and off the stand. I told you
17 things happen towards the end of the government's case. This
18 is part of the things happening.

19 Mr. Siano.

20 MR. SIANO: I'm sorry, Judge. I apologize.

21 THE COURT: So this is one of those witnesses.

22 MR. SIANO: Sidebar?

23

24 (Continued on next page)

25

C3CUANN1 Cecchetto - direct

1 (At the sidebar)

2 MR. SIANO: These are part of the two documents.

3 THE COURT: Are these the document that you propose to
4 introduce through this witness?

5 MR. CARBONE: They are, your Honor.

6 MR. SIANO: Why? He is not charged with any mortgage
7 loan application inaccuracy. He is not charged with any of
8 these counts.

9 MR. CARBONE: Judge, would you like an offer of proof?

10 THE COURT: I certainly would like an offer of proof.

11 MR. CARBONE: The testimony is, in or about June of
12 2004, Mr. Jereis made a \$60,000 "loan" to Ms. Annabi which was
13 documented by a demand note which is in evidence. These loan
14 applications by Mr. Jereis were submitted shortly thereafter.
15 And in the asset section they make no mention at all of the
16 alleged loan. So they are submitted not as any kind of 404(b)
17 but as direct evidence --

18 THE COURT: Sounds like he has got you there,

19 Mr. Siano.

20 MR. SIANO: Fine, Judge.

21 MR. ARONWALD: That is only admissible as against

22 Mr. Jereis.

23 THE COURT: Absolutely.

24

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(Continued on next page)

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C3CUANN1 Cecchetto - direct

1 (In open court)

2 DIRECT EXAMINATION

3 BY MR. SIANO:

4 Q. Good morning, Mr. Cecchetto.

5 Sir, where do you work?

6 A. I work for OceanFirst Bank.

7 MR. CARBONE: Mr. O'Neill, has the witness been sworn?

8 THE COURT: The witness has been sworn.

9 Q. How long have you been employed by OceanFirst Bank?

10 A. It will be five years this August.

11 Q. What do you do there?

12 A. I am the manager of secondary marketing.

13 Q. Is Columbia Equities a subsidiary of OceanFirst Bank?

14 A. Yes.

15 Q. Are you familiar with the records of Columbia Equities?

16 A. Yes, I am.

17 Q. Directing your attention to 2004, did Columbia Equities
18 make loans to Zehy Jereis?

19 A. Yes, it did.

20 Q. Would you please look in front of you as Government
21 exhibits 1300 and 1301 which have been marked for
22 identification.

23 What are Government Exhibits 1300 and 1301?

24 A. They are uniform residential loan applications.

25 Q. Who is the borrower?

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C3CUANN1 Cecchetto - direct

1 A. The borrower is a Zehy Jereis.

2 Q. Zehy Jereis?

3 A. Yes.

4 Q. Are those loan applications kept in the ordinary course of
5 Columbia Equities' business?

6 A. Yes, they are, on all loans.

7 Q. Is it the ordinary course of Columbia Equities to make or
8 keep such records?

9 A. Yes.

10 Q. They were made at or near the dates reflected on them?

11 A. Yes.

12 MR. CARBONE: Your Honor, I offer Government Exhibits
13 1300 and 1301 in evidence.

14 MR. ARONWALD: No objection.

15 THE COURT: These documents are being offered and,
16 ladies and gentlemen, they are admissible only against
17 Mr. Jereis. They have nothing to do with Ms. Annabi.

18 (Government Exhibits 1300, 1301 received in evidence)

19 MR. CARBONE: Mr. Turk, could you please broadcast
20 Government Exhibit 470.

21 BY MR. CARBONE:

22 Q. Mr. Cecchetto, have you ever seen this demand note?

23 A. I have not.

24 Q. And it is dated June 8, 2004 in the amount of \$60,000?

25 A. That is correct. I have not seen this document.

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C3CUANN1 Cecchetto - direct

1 Q. Who does this document indicate the payee is?

2 A. It looks like Sandy Annabi, I believe.

3 Q. Turn to page 2, please.

4 MR. CARBONE: And now, Mr. Turk, would you broadcast
5 Government Exhibit 1300.

6 Q. How much does it indicate that this loan application is
7 for?

8 MR. CARBONE: Maximize the top.

9 A. \$600,000.

10 Q. Again, the borrower is who?

11 A. The borrower is Zehy Jereis.

12 Q. Would you turn to page 2.

13 MR. CARBONE: Mr. Turk, would you maximize the left
14 side where it says "assets."

15 Q. Mr. Cecchetto, does Mr. Jereis disclose anywhere on this
16 application that he had as an asset a \$60,000 demand note?

17 A. I do not see it on the document.

18 MR. CARBONE: Mr. Turk, would you maximize the
19 document, please.

20 Q. Whose initials appear on the bottom of the document?

21 A. The borrower's initials.

22 Q. Now, would you turn to page 3. Would you please read the
23 date that this application appears to have been signed?

24 A. November 3, 2004.

25 MR. CARBONE: Now, Mr. Turk, would you broadcast

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C3CUANN1 Cecchetto - direct

1 Government Exhibit 1301.

2 Q. And is this another uniform residential loan application
3 for Mr. Jereis?

4 A. Yes, it is.

5 Q. Please turn to page 2.

6 MR. CARBONE: Mr. Turk, would you maximize the assets
7 section.

8 Q. Now, on this loan application, did Mr. Jereis disclose
9 anywhere that he had a \$60,000 demand note as an asset?

10 A. I do not see it.

11 Q. Please turn to page 3.

12 MR. CARBONE: Maximize the signature and date section.

13 Q. What is the date that it indicates that Mr. Jereis signed
14 this application?

15 A. September 16, 2004.

16 MR. CARBONE: No further questions.

17 Thank you, sir.

18 THE COURT: Mr. Siano.

19 CROSS-EXAMINATION

20 BY MR. SIANO:

21 Q. Mr. Cecchetto, my name is Anthony Siano. I represent Zehy
22 Jereis.

23 Do you have the two documents in front of you?

24 A. I do.

25 Q. Each of those was a secured mortgage loan?

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C3CUANN1

Cecchetto - cross

- 1 A. That is correct.
- 2 Q. And there was a piece of real property that secured each
- 3 loan, is that correct?
- 4 A. Yes, it appears --
- 5 Q. You heard the government ask you if there was any
- 6 indication of a \$60,000 asset for that promissory note that
- 7 they put up on the screen and you said there wasn't?
- 8 A. That is correct.
- 9 Q. Is there anywhere indicated on this document the fact that
- 10 Mr. Jereis owed somebody \$60,000?
- 11 A. I do not know.
- 12 Q. Why don't you take a look at the liability side of the
- 13 ledger.
- 14 A. On which exhibit?
- 15 Q. Excuse me?
- 16 A. On which exhibit are you referring to?
- 17 Q. Both of them.
- 18 A. I do not see it on these two documents.
- 19 Q. So there is no indication of a promissory note for \$60,000
- 20 and there is no indication of indebtedness for \$60,000?
- 21 A. That I do not know. I only know from the documents here.
- 22 Q. It is not on either side of these documents?
- 23 A. On the assets and liabilities section.
- 24 Q. The total assets that would be considered by the lender in
- 25 connection with each of these loans was slightly in excess of

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C3CUANN1 Cecchetto - cross

1 \$3 million?

2 A. Again, you are referring to both exhibits?

3 Q. Yes.

4 A. And the subtotal of liquid assets?

5 Q. Total assets at the bottom of page 2.

6 A. 3.2 million.

7 Q. In each loan?

8 A. The same assets appear to be, if you are asking for a total
9 of 6.4, I do not believe so.

10 Q. No. I didn't ask you that.

11 In each indication, the indications are, Mr. Jereis
12 had both of these times in 2004 had in excess of \$3 million in
13 total assets?

14 A. That's what appears on the documents.

15 MR. SIANO: No further questions.

16 MR. CARBONE: Nothing further.

17 THE COURT: Thank you, sir.

18 You may step down.

19 (Witness excused)

20 MR. CARBONE: The government calls Ann Kawas.

21 ANN KAWAS,

22 called as a witness by the government,

23 having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. CARBONE:

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C3CUANN1 Dennehy - direct

1 Q. It is on your screen.

2 MR. CARBONE: Mr. Turk, could you --

3 Q. Now, what was the total amount of financial benefits
4 reflected on your charts, given by Zehy Jereis to Sandy Annabi
5 in the year 2005?

6 A. \$30,741.32.

7 Q. Were any of those benefits reflected anywhere on Sandy
8 Annabi's 2005 tax return?

9 A. They weren't.

10 Q. And the total amount of financial benefits in 2006 per your
11 chart?

12 A. \$32,687.60.

13 Q. Were any of those payments reflected on Sandy Annabi's 2006
14 federal income tax return?

15 A. They were not.

16 MR. CARBONE: Mr. Turk, would you broadcast Government
17 Exhibit 611, page 7.

18 Q. Agent Dennehy, can you explain to the jury what a Schedule
19 A is?

20 A. That's the schedule where a taxpayer lists their itemized
21 deductions. Typically, most individuals are filing itemized
22 deductions. Anybody who owns a home would be filing a Schedule

23 A. So mortgage interest, contributions -- things like that are
24 deductible from your taxes to ultimately arrive at your tax.

25 Q. A Schedule A, is that part of the Form 1040?

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C3CUANN1 Dennehy - direct

1 A. Yes, it is.

2 Q. Now, would you tell us, indicating there the highlighted
3 line 10, where it says "interest you paid, home mortgage
4 interest and points reported to Form 1098," how much did
5 Ms. Sandy Annabi indicate that she paid?

6 A. \$40,996.

7 MR. CARBONE: Now, would you please, Mr. Turk,
8 maximize line 19.

9 Q. It indicates there a casualty and theft loss in the amount
10 of \$39,918 and it says "attach Form 4684." Is there a 4684
11 attached to this term?

12 A. Yes, it is.

13 MR. CARBONE: Mr. Turk, could you please turn to page
14 10 of this exhibit. Maximize the top half.

15 Q. Can you explain the purpose of a Form 4684?

16 A. Basically, what you are doing is listing the casualty or
17 theft loss that you incurred during the tax year 2005.

18 Q. Indicating there on Property A where it says loan, Yonkers,
19 New York, what does it indicate the date of the loan is?

20 A. 2/11/2003.

21 MR. CARBONE: Restore the page.

22 Q. What are those calculations below the line 10?

23 MR. CARBONE: If you could maximize the bottom half of
24 the page, Mr. Turk.

25 A. Well, once you have the casualty loss amount, certain

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C3CUANN1 Dennehy - direct

1 adjustments have to be made to that number in order to bring it
2 down to what you can include on your tax return and that is
3 what those adjustments represent.

4 Q. So what line transfers over to the Schedule A?

5 A. Line 21, \$39,918.

6 Q. Can you tell the jury what a casualty loss is?

7 A. Normally, that would be something that you incur, say, a
8 theft. Somebody broke into your house and stole something from
9 your house, that could be a deductible casualty loss on your
10 tax return.

11 MR. CARBONE: Mr. Turk, would you please broadcast
12 Government Exhibit 13 which is Ms. Annabi's financial
13 disclosure for the City of Yonkers 2003. Would you please
14 broadcast page 3. Please turn to page 3 and maximize paragraph
15 8.

16 BY MR. CARBONE:

17 Q. Where it says "investments," would you please read the
18 sentence after that?

19 A. "Itemize and describe all investments in excess of \$5,000
20 or 5 percent of the value in any business, corporation,
21 partnership, or other assets including stocks, bonds, loans" --

22 Q. Stop after loans.

23 Do you see any loans disclosed there?

24 A. No.

25 MR. CARBONE: And now please broadcast Government
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C3CUANN1 Dennehy - direct

1 Exhibit 486J which is the loan application submitted by
2 Ms. Annabi in connection with the Bacon Place property.

3 Now turn to page 2. Maximize the side of the page
4 that says "assets."

5 BY MR. CARBONE:

6 Q. Does Ms. Annabi indicate there that she owned any loans as
7 an asset?

8 A. No. There are no other assets. There is nothing listed.

9 Q. Did she disclose in the liability section any loans that
10 she had received from Zehy Jereis?

11 A. Could you let me see that?

12 MR. CARBONE: Maximize the document where it says
13 "liabilities" on the right.

14 A. No. There is nothing there.

15 MR. CARBONE: Now, Mr. Turk, please broadcast
16 Government Exhibit 481 which is the loan application for the
17 Patton property. Turn to page 2.

18 Q. Indicating on the asset side, any indication of any alleged
19 loan that she had made to her father as an asset?

20 A. You are going to have to go down further because you cut
21 off other assets, and I don't believe there is anything there.

22 No, there isn't.

23 Q. Referring to the right-hand side of the liability section,
24 did Ms. Annabi disclose any loans that she had received from
25 Zehy Jereis?

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C3CUANN1 Dennehy - direct

1 A. It is not reflected on this statement.

2 Q. Have you reviewed Sandy Annabi's bank and credit card
3 statements for the period between 2002 and 2008?

4 A. Yes, I have.

5 Q. What bank accounts have you reviewed?

6 A. There are two bank accounts at Hudson Valley. One is a
7 savings and one is a checking account.

8 Q. What credit cards have you reviewed?

9 A. There are several credit cards. Citibank, she shares a
10 card with Samir, her brother. There are a couple of others. I
11 mean, I can't remember right off the top of my head.

12 Q. What if any evidence did you see that Sandy Annabi had made
13 a \$50,000 loan to her father during that 2003 time period
14 reflected on the tax return?

15 A. I didn't see anything.

16 Q. Did you also prepare charts reflecting a comparison of
17 financial benefits received by Sandy Annabi from Zehy Jereis
18 for 2005 and 2006 and her reported income on her tax returns?

19 A. I have.

20 MR. CARBONE: Can you please broadcast Government
21 Exhibit 9.

22 Q. What is reflected in Government Exhibit 9?

23 A. For that tax year, Ms. Annabi did not report any income on
24 her tax return -- in fact, she had a negative taxable income.
25 So the whole amount, the benefit she received by the

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C3CUANN1 Dennehy - direct

1 expenditures by Mr. Jereis for her benefit was totally not
2 reflected on her tax return.

3 Q. How much was the total received by Ms. Annabi from
4 Mr. Jereis for that year?

5 A. \$30,741.32.

6 Q. She reported how much income that year?

7 A. Basically zero, but it is actually -- if you actually
8 looked on her tax return and saw what the actual number was, it
9 is a negative number.

10 Q. Did you see one of those for 2006?

11 A. I did.

12 Q. Can you explain how much income she reported in 2006 and
13 the percentage of the benefits that Mr. Jereis gave to her in
14 that year as compared to her reported income?

15 A. Ms. Annabi reported \$29,625. And the benefit that she
16 received from Mr. Jereis was \$32,687.50. And it represents 52
17 percent of her total income.

18

19 (Continued on next page)

20

21

22

23

24

25

C3cQann2

Dennehy - Direct

1 BY MR. CARBONE:

2 Q. Now, please broadcast Government Exhibit 10.

3 A. I'm not sure which one is Government Exhibit 10, which
4 chart.

5 Q. 2006 year is 10, my apologies. Let's switch gears for a
6 minute.

7 Please broadcast, Mr. Turk, Government Exhibit 13,
8 which is the receipt for the purchase of the diamond bezel
9 Rolex watch. And the date reflected on the receipt, can you
10 read that?

11 A. 7/28/2006.

12 Q. What's the total amount of that receipt?

13 A. \$3,847.31.

14 Q. Is it indicated it was a cash purchase?

15 A. It does.

16 Q. Now, please broadcast Government Exhibit 212-B, which is
17 the receipt for the ticket stubs for the upgraded Royal
18 Jordanian air ticket. Mr. Turk, can you maximize the word cash
19 at the bottom quarter of the document there? From the word
20 cash. Just highlight the word cash.

21 What was the total amount of this cash purchase?

22 A. \$3,864.20.

23 Q. Now Mr. Turk, could you just restore this document.

24 Agent Dennehy, can you add together the amount of the
25 cash purchase for the diamond bezel Rolex watch and the upgrade

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C3cQann2 Dennehy - Direct

- 1 air ticket?
2 A. Can I see the watch receipt again?
3 Q. That's 213.
4 A. That totals \$7,711.51.
5 Q. Did you review Sandy Annabi's bank accounts during this
6 time period the summer of 2006?
7 A. I did.
8 Q. What accounts did she have during that time period?
9 A. The two Hudson Valley Bank accounts.
10 Q. Did you analyze those accounts to determine whether she
11 made any cash withdrawals to pay for the upgraded ticket to
12 Jordan or the diamond bezel Rolex watch?
13 A. I did.
14 Q. Did she make any cash withdrawals during this time period?
15 A. She did not.
16 Q. Did she take any advances on her credit card during that
17 time period?
18 A. No cash advances.
19 Q. How about loans; did you see any documents indicating that
20 she had borrowed the cash?
21 A. No.
22 Q. Did she cash any checks during this time period?
23 A. I assume when you say cash, you mean --
24 Q. Write a check to cash?
25 A. Write a check to cash and cash it? No.

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C3cQann2 Dennehy - Direct

- 1 Q. Please broadcast Government Exhibit 214, which is the
2 receipt for the diamond cross.
3 What's the date of that purchase?
4 A. August 22, 2006.
5 Q. What is the total amount of the purchase?
6 A. \$3,251.25.
7 Q. How was this diamond cross purchased?
8 A. Her credit card.
9 Q. Now, did you review the credit card account statements for
10 Sandy Annabi?
11 A. I did.
12 Q. For what time period?
13 A. From 2002 through 2008.
14 Q. Did you look for any other charges between that time period
15 and an amount, say, in excess of \$1,500?
16 A. I did.
17 Q. How many other charges in excess of that amount did you
18 find over that seven-year period?
19 A. I didn't find any.
20 Q. What was the highest amount reflected in the charged item?
21 A. I think the original purchase on the Royal Jordanian was
22 approximately \$1,400.
23 Q. How much was this purchase?
24 A. This purchase was \$3,200.
25 Q. Did you also review the checks written by Zehy Jereis to

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C3cQann2 Dennehy - Direct

1 pay for the financial benefits for Sandy Annabi?

2 A. I did.

3 Q. To the extent he wrote checks as opposed to postal money
4 orders or bank checks, what accounts did he write the checks
5 from?

6 A. Predominantly from his Chase account.

7 Q. Did you view that account to determine what it was used
8 for?

9 A. It was used for both business and personal. By business, I
10 mean his rental properties.

11 Q. Did you also review an account relating to ZJ Enterprises?

12 A. I did.

13 Q. Was the account for the business and personal JP Morgan
14 Chase account, is that marked as Government Exhibit 185?

15 A. I believe so.

16 Q. Can you tell the jury approximately how many binders for
17 the relevant time period the Government Exhibit 185 take up?

18 A. I believe eleven.

19 Q. Would that be these three-inch binders?

20 A. Yes.

21 Q. How many binders did the ZJ Enterprises account marked as
22 Government Exhibit 186 take up?

23 A. One.

24 Q. Is that one of these one-inch binders?

25 A. Yes.

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C3cQann2 Dennehy - Direct

1 Q. Did you total up the number of checks, bank drafts, money
2 orders written by Zehy Jereis to and for the benefit of Sandy
3 Annabi?

4 A. I did.

5 Q. In terms of the actual number of instruments?

6 A. Yes.

7 Q. Please tell the jury approximately how many checks, bank
8 drafts and money orders he wrote to and for the benefit of
9 Sandy Annabi?

10 A. In excess of 200.

11 Q. Please broadcast Government Exhibit 1004 and turn to page
12 6. Maximize the top quarter of the document.

13 What is the Schedule E?

14 A. Schedule E is where taxpayer reports rental property that
15 they own, they're receiving rental income, they have various
16 expenses to take against it, and that's reflected on a Schedule
17 E.

18 Q. Is this Mr. Jereis's Schedule E?

19 A. Yes.

20 Q. Please read the addresses reflected on his Schedule E for
21 the properties that he owns.

22 A. 18 Mulberry Street, Yonkers, New York. 34 Loudoun Street,
23 Yonkers, New York. 16 Mulbury Street, Yonkers, New York.

24 Q. Mr. Turk, please turn to page 7, and again maximize the top
25 quarter of the document.

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C3cQann2 Dennehy - Direct

1 Please read the address of those places.

2 A. 17 Robbins, Yonkers, New York. 107 McLean Avenue, Yonkers,
3 New York.

4 MR. CARBONE: Thank you, Agent Dennehy.

5 Your Honor, no further questions.

6 MR. ARONWALD: Your Honor, can we take a short break
7 now before I start cross?

8 THE COURT: Sure. OK. Let's take a little break.
9 Five minutes. Really short. Don't discuss the case. Keep an
10 open mind.

11 (Recess)

12 (In open court)

13 THE DEPUTY CLERK: Case on trial continued.

14 Government and defendants are present. Jurors are not present.

15 (Jury present)

16 THE COURT: OK. You are still under oath,

17 Mr. Dennehy.

18 Mr. Aronwald.

19 CROSS-EXAMINATION

20 BY MR. ARONWALD:

21 Q. Mr. Dennehy, how are you?

22 A. Fine.

23 Q. Unlike so many other witnesses in this case, you and I know
24 each other, correct?

25 A. We do.

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C3cQann2 Dennehy - Cross

- 1 Q. You testified on direct examination that you, in
2 preparation for testimony and in the process of preparing these
3 summary charts, examined various bank accounts, canceled
4 checks, loan records and financial statements, correct?
5 A. I did.
6 Q. And that you were not involved in the investigation of this
7 case. Do you recall saying that?
8 A. Yes.
9 Q. So would it be fair to say that you did not interview any
10 of the witnesses who testified in this case?
11 A. I didn't interview them, correct.
12 Q. But you were present during some of the interviews?
13 A. Yes.
14 Q. Were you present during the interviews of Anthony Mangone?
15 A. A couple of them, yes.
16 Q. Were you present during the interviews of Franco Milio and
17 Antonio Milio?
18 A. Again, a couple of them I was.
19 Q. Were you present during the interviews of Bruce Bender and
20 Scott Cantone?
21 A. No.
22 Q. Also, you testified that you have in fact been in court
23 every day throughout this trial, correct?
24 A. Yes.
25 Q. So, to the best of your recollection, you have been here

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C3cQann2 Dennehy - Cross

1 throughout the testimony of each and every witness that has
2 testified so far, correct?

3 A. Yes. I may have stepped out briefly, but I read the
4 transcripts at the end of the day.

5 Q. In the course of preparing the summary charts, would it be
6 fair to say that you have reviewed all of the financial
7 documents that have been received in evidence?

8 A. Yes.

9 Q. Did you also review any financial documents that have not
10 been offered in evidence by the government?

11 A. I may have, yes.

12 Q. Well, what I am getting at is, the summary charts that you
13 prepared, are those charts based only on the actual evidence
14 that has been presented in this courtroom before this jury?

15 A. Yes.

16 Q. So there is nothing in your charts that is based upon
17 anything that this jury has not seen or heard, correct?

18 A. Correct.

19 Q. With respect to the preparation of the charts themselves,
20 who prepared those charts?

21 A. Some of them I prepared. In a couple cases I had some
22 assistance from our trial illustration unit.

23 Q. But was your -- when I say your now, I'm talking
24 collectively -- in other words, you together with any
25 assistants in the IRS who helped prepare the chart, were the

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C3cQann2 Dennehy - Cross

- 1 preparation of these charts a collaborative effort which was
2 participated in by either Mr. Carbone or Mr. Halperin?
3 A. I would say Mr. Carbone participated in some of them, yes.
4 Q. So were there some charts that you prepared which
5 Mr. Carbone perhaps wanted changed in one way or another?
6 A. There were some changes, but I understand that they were
7 because of changes you wanted on the charts.
8 Q. Were there any other changes that Mr. Carbone suggested you
9 make that were not changes that I requested or that Mr. Siano
10 requested, to your knowledge?
11 A. Well, there could have been. I just -- I already answered
12 that.
13 Q. Well, let's put it this way: Before the trial began on
14 February 14 or February 15 of 2012, before the beginning of the
15 trial, were there any instances where you reviewed the charts
16 that you prepared with Mr. Carbone and made changes in those
17 charts based upon what Mr. Carbone asked you to do?
18 A. I don't remember an instance like that, but I do remember
19 telling Mr. Carbone I wanted to change a couple of the charts.
20 Q. OK. Now, you were asked some questions just a few minutes
21 ago. I wonder if we can have -- perhaps we don't need it, but
22 with respect to the 2005 income tax return that was filed by
23 Ms. Sandy Annabi, do you recall who prepared that return for
24 her?
25 A. I think it was -- I'm forgetting his last name, Fahid --

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C3cQann2

Dennehy - Cross

1 Q. Walid Farhat?

2 A. That's it.

3 Q. He's the gentleman that testified here last Wednesday,
4 correct?

5 A. Right.

6 Q. So with respect to the 2006 return that was filed, do you
7 recall who prepared that return for Ms. Annabi?

8 A. I believe I do, I know who prepared it.

9 Q. Who was that?

10 A. Mr. Carlisto.

11 Q. Mr. Carlisto, the certified public accountant?

12 A. Yes.

13 Q. Compared to Mr. Farhat, the non-licensed accountant,
14 correct?

15 A. Right. I think he said he was a public accountant.

16 Q. Yes, OK. You were here when he testified that he has no
17 degrees in accounting, weren't you?

18 A. Yes.

19 Q. You were also here when he testified that he basically took
20 whatever information he received from Ms. Annabi and entered
21 that information into some computerized tax preparation program
22 or tax return preparation program, correct?

23 A. Yes.

24 Q. Now, a few minutes ago Mr. Carbone asked you if you were
25 familiar with casualty loss. Do you recall that?

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C3cQann2

Dennehy - Cross

1 A. Yes.

2 Q. Do you recall testifying that a casualty loss is usually a
3 theft?

4 A. Well, it can be a theft.

5 Q. But you said a theft, didn't you?

6 A. I said -- I don't believe I said it's only a theft, but it
7 can be a theft.8 Q. Would it be fair to say that what you said was that a
9 casualty loss is normally a theft?

10 A. Well, if I said that, I was mistaken.

11 Q. But, in fact, if you could be a little bit more expansive
12 in terms of how you define casualty loss, would it be fair to
13 say that casualty loss is defined in the Internal Revenue Code,
14 isn't it?

15 A. Yes.

16 Q. You would agree that the definition of casualty loss in the
17 Internal Revenue Code is certainly under no circumstances
18 limited to losses from theft, isn't that so?

19 A. Correct.

20 Q. Would you agree also that Internal Revenue Code section
21 165(c)(3) defines a casualty loss as a loss involving
22 non-business property of individuals arising from fire, storm,
23 shipwreck or other casualty or from theft?

24 A. I agree with that.

25 Q. Do you agree with that?

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C3cQann2

Dennehy - Cross

1 A. Yes.

2 Q. OK. In fact, before you testified here, did you review the
3 Internal Revenue Code definition of casualty loss?

4 A. No.

5 Q. Would you agree also that under the Internal Revenue Code,
6 a loss from a casualty, as distinguished from a loss from
7 theft, arises from an event due to some sudden, unexpected or
8 unusual cause, such as, hurricane, flood, quarry blast,
9 vandalism, sonic boom, earthquake or earth slide, correct?

10 A. Yes.

11 Q. Now, the charts that you prepared, those charts were
12 prepared before the jury had the opportunity to hear the
13 testimony of Walid Farhat, correct?

14 A. Yes.

15 Q. When you were preparing these charts or in the process of
16 preparing these charts, were you present during the interview
17 of Walid Farhat by any assistant United States?

18 A. No.

19 Q. Before you prepared your summary charts, did you review any
20 of the reports prepared by the FBI agents assigned to this case
21 concerning the government's interview of Mr. Farhat?22 A. I remember looking at -- I don't remember if it was a 302
23 or an MOI prepared by the IRS agent.

24 Q. Did you review his grand jury testimony?

25 A. No.

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C3cQann2

Dennehy - Cross

1 Q. Now, were you present when Mr. Farhat testified that when
2 Ms. Annabi came to see him in connection with the preparation
3 of his 2005 tax return, she told him that she had loaned her
4 father some money, and that he had not paid it back. You heard
5 that correct?

6 A. Yes, I did.

7 Q. Did you also hear him say that he asked for some
8 documentation, and that Ms. Annabi showed him an order from the
9 bankruptcy court discharging her father's debts. Do you
10 remember him saying that?

11 A. Yes.

12 Q. Then when you prepared the chart or the charts, did you by
13 any chance have occasion to review the order of the bankruptcy
14 court discharging all of Mr. Sami Annabi's debts that were
15 listed in his petition?

16 A. I reviewed them.

17 Q. May we have Defense Exhibit 65, I believe it is? I'm
18 sorry, 64. I believe the government has that. Defense Exhibit
19 64.

20 MR. ARONWALD: May I just speak to Mr. Turk for a
21 minute, your Honor?

22 THE COURT: Yes.

23 MR. ARONWALD: Your Honor, I'm told it's not been
24 scanned. With the Court's permission, may I approach the
25 witness?

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C3cQann2 Dennehy - Cross

1 THE COURT: You may.

2 Q. Mr. Dennehy, I'm showing you what's in evidence as Defense
3 Exhibit 64, specifically, the second page of the document. If
4 you would just look to the line where my finger is pointing and
5 just read that across.

6 A. Sandy Annabi --

7 Q. Just read it to yourself. You can read it aloud, go ahead.

8 A. Sandy Annabi, 245 Rumsey Road, Yonkers, New York.

9 Q. This is one of the debts that was discharged in bankruptcy,
10 correct?

11 A. Yes.

12 Q. Directing your attention now to Defendant's Exhibit 64-A,
13 which is Mr. Sami Annabi's bankruptcy petition, did you review
14 this before you prepared your charts?

15 A. Yes, I had reviewed that earlier.

16 Q. Do you see that on the Schedule F of the bankruptcy
17 petition, which is creditors holding unsecured non-priority
18 claims, do you see an entry for Sandy Annabi?

19 A. I do.

20 Q. That is described as what type of a claim?

21 A. Personal loan.

22 Q. And the amount of it is \$35,000?

23 A. That's correct.

24 Q. OK. If we can now turn to Government Exhibit 611. I
25 believe that's something you were questioned about a short

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C3cQann2 Dennehy - Cross

1 while ago by Mr. Carbone -- if we could turn to the Schedule A,
2 please, which is something that was put up on the screen,
3 again, and shown awhile ago. The second highlighted entry, if
4 we could have that highlighted somewhat. Casualty and theft
5 losses. It says casualty or theft losses \$39,918. You do see
6 that, right?

7 A. I do.

8 Q. Then you were asked some questions about the attached form
9 4684. Could we have that put up on the screen? On this
10 schedule, it indicates that the fair market value of the
11 casualty or theft was \$50,000, correct?

12 A. Yes.

13 Q. But the top line which describes the nature of the loss,
14 that describes it as loan, doesn't it?

15 A. It does.

16 Q. And it's clear, is it not, that from the Internal Revenue
17 Code a loan that is unpaid is not deductible as a casualty or
18 theft loss, isn't that so?

19 A. That's correct.

20 Q. But there is another provision called a deduction for a bad
21 debt?

22 A. There is.

23 Q. You were here for the testimony of Mr. Farhat when he was
24 asked whether or not he -- when he was asked to explain what a
25 casualty loss is; you were here for that, right?

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C3cQann2

Dennehy - Cross

1 A. Yes.

2 Q. He's the fellow that prepared the return using the
3 computer, correct?

4 A. Correct.

5 Q. And were you here when he said he doesn't know what a
6 casualty loss is?

7 A. I don't remember precisely what he said, but ...

8 Q. Well, do you recall him providing any definition of
9 casualty loss?

10 A. No.

11 Q. All right. You remember him being asked to explain the
12 difference between a loss for a bad debt and a casualty loss,
13 do you recall that?

14 A. I remember him being asked that, yes.

15 Q. Do you remember he had no explanation for what the
16 difference is between the two?

17 A. I remember that.

18 Q. So, from the standpoint of the return that Ms. Annabi filed
19 in 2005, it is perfectly clear from the face of the return
20 itself that the nature of the casualty loss deduction was in
21 fact the loan that is reflected on the 4684 form, correct?

22 A. Yes.

23 Q. There is nothing in this form indicating that the loss is
24 related to some property which was damaged by some catastrophic
25 event such as earthquake, hurricane, flood, etc., etc., as

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C3cQann2 Dennehy - Cross

1 defined in the Code, correct?

2 A. Correct.

3 Q. That's the return that Sandy Annabi signed and filed with
4 the Internal Revenue Service, correct?

5 A. Correct.

6 Q. Now, is it the function of the summary charts that you
7 prepared to fairly and accurately reflect the evidence that has
8 been placed before this jury?

9 A. Yes.

10 Q. The fact of the matter is that -- and correct me if I'm
11 wrong -- your chart that has been received in evidence as
12 Government Exhibit 8, is captioned on the top: Unreported
13 income for Sandy Annabi, items paid for by Zehy Jereis?

14 A. That's correct.

15 Q. You were here when Judge McMahon explained to the jury that
16 the words unreported income, that is the government's
17 contention, but it's for the jury to determine whether or not
18 it was income or not, correct? You were here for that, right?

19 A. Correct.

20 Q. If whatever payments were made by Mr. Jereis on Sandy
21 Annabi's behalf were in fact gifts, would she be required to
22 report them as income in her tax return?

23 A. No.

24 Q. If in fact the payments that Mr. Jereis made on
25 Ms. Annabi's behalf were loans, would she have to report them

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C3cQann2 Dennehy - Cross

1 as income on her return?

2 MR. CARBONE: Objection to that hypothetical, your
3 Honor.

4 THE COURT: Overruled.

5 Q. Let me state the question again. If in fact the payments
6 made by Mr. Jereis, in whole or in part, were loans to her, she
7 would not be required to report that as income on her returns
8 either, would she?

9 A. That's correct.

10 Q. Because gifts and loans are not income, isn't that so?

11 A. Correct.

12 Q. Just so we're clear, you heard as you sat throughout the
13 testimony that there were a number of witnesses who were
14 asked -- or perhaps it was Mr. Farhat, I think that's
15 correct -- do you recall Mr. Farhat being asked whether or not
16 he would have taken a mortgage interest deduction on
17 Ms. Annabi's 2005 return if he had known that the mortgage
18 payments were being made by Mr. Jereis. Do you recall that?

19 A. Yes.

20 Q. Now, in fact, isn't it true that Ms. Annabi would be
21 entitled to take a mortgage interest deduction that was paid on
22 any mortgage that she owed on regardless of who paid the
23 mortgage, isn't that so?

24 A. I'm not certain about that.

25 Q. Well, isn't it so that as long as Mr. Jereis himself did

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C3cQann2 Dennehy - Cross

- 1 not take a mortgage interest deduction for the mortgage
2 payments he was making on Sandy Annabi's behalf, she would be
3 entitled to the interest deduction?
4 A. She could be entitled to it.
5 Q. OK. You're saying she could be, but you're not sure?
6 A. Correct.
7 Q. Well, let me ask you this question: We agree that mortgage
8 interest payments are deductible, are they not?
9 A. Normally they are deductible, yes.
10 Q. So, are you saying that if Mr. Jereis doesn't take a
11 mortgage interest deduction and Ms. Annabi is not allowed to
12 take the mortgage interest deduction, then that means that
13 nobody gets the deduction for the interest, is that what you're
14 saying?
15 A. Could be, yes.
16 Q. You don't know?
17 A. I'm saying it could be. It may not be deductible.
18 Q. But you're also saying that you don't know whether or not
19 under that scenario she would have been entitled to the
20 mortgage interest deduction even though the payments were made
21 by Mr. Jereis, isn't that so?
22 A. I'm saying she's not entitled to it if somebody else is
23 paying her expense.
24 Q. Now, would you be good enough please to give us the
25 Internal Revenue Code section that specifically says what you

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C3cQann2

Dennehy - Cross

1 just said?

2 A. I don't have the Internal Revenue Code memorized.

3 Q. But you prepared these charts months ago, correct?

4 A. Correct.

5 Q. And you knew that one of the items that's in issue here are
6 the mortgage payments that were made on her behalf by
7 Mr. Jereis, correct?

8 A. I wasn't sure if it was an issue, but I know it was one of
9 the items that I was using to determine her income.

10 Q. Let me ask you this question: Were you here during opening
11 statements?

12 A. Yes.

13 Q. Do you recall that the attorneys in opening statements gave
14 conflicting views as to what the evidence would show the
15 payments by Mr. Jereis represented?

16 MR. CARBONE: Objection to characterizing the opening
17 statements.

18 THE COURT: The objection is sustained. Remember,
19 ladies and gentlemen, the opening statements are not evidence.

20 Q. Are you saying that in anticipating your testimony here and
21 then in your preparation of these charts that it never occurred
22 to you that one of the issues that might come up is whether or
23 not Sandy Annabi would be entitled to a mortgage interest
24 deduction on the mortgages that she was responsible for if
25 someone else such as Mr. Jereis paid the mortgage? Is that

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C3cQann2 Dennehy - Cross

1 what you're saying?

2 A. That's correct.

3 Q. Well, as you sit here now, are you absolutely certain that
4 under the provisions of the Internal Revenue Code, Ms. Annabi
5 was not entitled to a mortgage interest deduction on any
6 mortgage payments made by Zehy Jereis? Are you absolutely
7 certain of that?

8 MR. CARBONE: Objection, your Honor. That's for the
9 jury to decide.

10 THE COURT: The objection is sustained.

11 MR. ARONWALD: Well, your Honor --

12 THE COURT: The objection is sustained.

13 Q. The bottom line is you don't know what the Internal Revenue
14 Code section says, is that correct?

15 A. Well, I know there's an Internal Revenue Code section, but
16 I can't recite the specific section, correct.

17 MR. ARONWALD: Your Honor, during the afternoon recess
18 could we have Mr. Dennehy be asked to find out what that
19 section of the code is so we can --

20 THE COURT: We'll discuss that later. Ask him your
21 questions.

22 BY MR. ARONWALD:

23 Q. You were asked a series of questions by Mr. Carbone
24 concerning the financial disclosure forms that Ms. Annabi filed
25 which do not reflect the loan from Mr. Jereis, the \$60,000 loan

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C3cQann2 Dennehy - Cross

1 as a liability. Do you recall that?

2 A. Correct.

3 Q. But you were here during the testimony of Mr. Bond, the
4 attorney, who handled the closings at 45 Bacon Place and 245
5 Rumsey Road, correct?

6 A. Yes.

7 Q. You were here when Mr. Bond explained to the jury that he
8 prepared the promissory note signed by Ms. Annabi indicating
9 that she was obligated to pay \$60,000 to Mr. Jereis, correct?

10 A. Yes.

11 Q. By the way, when you prepared your charts, is one of the
12 documents that you looked at that promissory note?

13 A. No.

14 Q. When for the first time did you become aware that there was
15 a promissory note that Mr. Bond had prepared that was signed by
16 Ms. Annabi payable to Ms. Jereis?

17 A. During the trial.

18 Q. During the trial. So you were not present during the
19 government's interview of Mr. Bond?

20 A. No, I was not.

21 Q. Mr. Bond testified a week and a half ago, two weeks ago, do
22 you recall that?

23 A. Yes.

24 Q. After hearing his testimony, did you then review the
25 promissory note?

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C3cQann2

Dennehy - Cross

1 A. Yes.

2 Q. And you made no changes or alterations to the charts,
3 correct?

4 A. Correct.

5 MR. ARONWALD: May I just have a moment?

6 THE COURT: Yes.

7 (Pause)

8 Q. Could we see Government Exhibit 469, please, and have that
9 put up on the screen?10 Before you prepared your charts, did you review
11 Government Exhibit 469?

12 A. I'm not sure.

13 Q. Do you recall whether you reviewed it after Mr. Bond's
14 testimony?15 A. No, I'm not sure. I'm aware I believe was something that's
16 contained in this.17 Q. Let's turn to page 4, the highlighted portion. Can we have
18 that magnified, please?19 Now, this shows, does it not, that at the closing, at
20 which Ms. Annabi sold 13 Patton Drive, the distribution of the
21 proceeds from the sale included a \$23,000 check to Mr. Jereis,
22 which is reflected on the closing statement as a loan
23 repayment. Do you see that?

24 A. Yes.

25 Q. But as I understand your testimony, you were not aware of

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C3cQann2 Dennehy - Cross

1 that, of not seeing that closing statement at the time you
2 prepared the chart?

3 A. No, I think I had seen this document. I just don't
4 remember the precise circumstances when I saw it.

5 Q. In fact, I misspoke before. That was at the closing where
6 Ms. Annabi was purchasing it. It was part of the excess
7 proceeds, correct? That's what Mr. Bond testified to, do you
8 recall that?

9 A. Yes.

10 Q. You could take that down. Thank you.

11 So, despite the fact that Ms. Annabi did not list the
12 loan on her financial disclosure forms filed with the city of
13 Yonkers, there is in evidence a promissory note, and there is
14 evidence that a \$23,000 partial repayment of that \$60,000 loan
15 was made, correct?

16 A. Yes.

17 Q. When you prepared the charts, did you exclude from
18 inclusion in the charts any information on any of the financial
19 documents that are in evidence?

20 A. I'm not sure I understand that. Did I --

21 Q. Well, there are a number of financial documents in
22 evidence. You testified that you reviewed bank records,
23 canceled checks, quote unquote, in particular, loan records,
24 financial statements filed, federal income tax returns, you
25 recall that, right?

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C3cQann2

Dennehy - Cross

1 A. Yes.

2 Q. So when you reviewed the documents, were there any
3 financial entries in any of the documents which you decided
4 that you would not include in the summary charts?

5 A. I don't believe so.

6 Q. With respect to Government Exhibit 5 -- could we have that
7 put up, please -- on the top it says payments, you got a spoke
8 with the little house with the chimney, the little house with
9 the one door, you have 13 Patton Drive, Yonkers, New York
10 \$50,000. To the right of that, you have another house and that
11 says 45 Bacon Place, Yonkers, New York, \$10,000, correct?

12 A. Correct.

13 Q. So, these two figures represent the \$60,000 that Mr. Jereis
14 loaned to Ms. Annabi, correct?15 A. Well, that represents the same amount, but I'm not sure
16 that it specifically represented those two items.17 Q. But the chart does not -- unless I am not seeing it, the
18 chart does not reflect any spoke going in the opposite
19 direction showing the \$23,000 check that was written to
20 Mr. Jereis, does it?

21 A. It does not.

22 Q. Now, with respect to this chart, to the left of the first
23 little green house, it says Mangone and Jereis gave cash to
24 Sandy Annabi \$20,000, and then you show three bundles of cash
25 each with -- is it a rubber band?

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C3cQann2 Dennehy - Cross

1 A. Some sort of band; I'm not sure what it is.

2 Q. Then it says trial testimony of Anthony Mangone and Franco
3 Milio. Now, were you here throughout Anthony Mangone's
4 testimony?

5 A. I was.

6 Q. Were you here through the testimony of Franco Milio?

7 A. I was.

8 Q. Did you ever hear Anthony Mangone say that he ever gave any
9 cash to Sandy Annabi?

10 A. No.

11 Q. In fact, were you here when Anthony Mangone said he never
12 gave any cash to Sandy Annabi?

13 A. Correct.

14 Q. Were you also here when Anthony Mangone testified that he
15 never even had any discussions with Sandy Annabi concerning the
16 Longfellow project?

17 A. Yes.

18 Q. Were you here when he said that in any discussions he had
19 with Sandy Annabi about anything, there was never any mention
20 or discussion about the payment of any money to her?

21 A. Correct.

22 Q. Were you also here when Anthony Mangone testified that the
23 money that he says he gave to Zehy Jereis, he doesn't know
24 what, if anything, Mr. Jereis did with that money?

25 A. Correct.

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C3cQann2

Dennehy - Cross

1 Q. You were also here during the testimony of Franco Milio.
2 Did Franco Milio ever testify that he gave any money, cash or
3 otherwise, to Sandy Annabi?

4 A. No.

5 Q. Were you here when you heard Mr. Franco Milio say that at
6 no time did he even have any discussion with Sandy Annabi
7 concerning the subject of money in exchange for voting for
8 Longfellow?

9 A. No.

10 Q. You were not here for that?

11 A. No, I was here.

12 Q. You didn't hear him say it?

13 A. He didn't say it, right.

14 Q. And you recall Mr. Franco Milio testifying that he does not
15 know what, if anything, Anthony Mangone did with the money that
16 Antonio Milio gave to Mr. Mangone, correct?

17 A. Correct.

18 Q. You were also here when Mr. Milio testified that for all he
19 knows, Anthony Mangone used the \$40,000 that his father Antonio
20 had given to Mangone for other things such as gambling. You
21 were here for that, right?

22 A. I don't remember him saying that.

23 Q. In any event, can we agree that the chart is inaccurate
24 because neither Mangone nor Franco Milio did in fact testify
25 that Sandy Annabi was given \$20,000 in cash, isn't that so?

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C3cQann2

Dennehy - Cross

1 A. I would say I disagree with how you characterize it, but I
2 would say there's testimony from Mr. Mangone that he passed the
3 money to Mr. Jereis, who, in turn, passed it on to Ms. Annabi.

4 Q. Well, you prepared the chart so why doesn't the chart say
5 precisely that instead of saying Mangone and Jereis gave cash
6 to Sandy Annabi?

7 A. Because that's the way I termed it on that chart.

8 Q. But the way you termed it in that chart does not accurately
9 reflect what Anthony Mangone or Franco Milio said, does it?

10 MR. CARBONE: Objection. Asked and answered.

11 THE COURT: The objection is sustained. This is all
12 argumentative. Save it for the closing.

13 Q. Were you here during the testimony of Antonio Milio when he
14 said that he gave \$40,000 cash to Anthony Mangone?

15 A. Yes.

16 Q. Were you also here when Franco Milio testified that Anthony
17 Mangone told him that he wanted \$30,000 to give to Zehy Jereis,
18 and \$10,000 would be his fee. Do you recall that?

19 MR. CARBONE: Objection. Argumentative.

20 THE COURT: The objection is sustained.

21 MR. ARONWALD: Your Honor, I'm not arguing. I'm just
22 asking him to explain the chart.

23 THE COURT: I think this is all argumentative,

24 Mr. Aronwald.

25 BY MR. ARONWALD:

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C3cQann2 Dennehy - Cross

1 Q. Could you explain why your chart says the \$20,000 was given
2 to Sandy Annabi, when according to the testimony of Franco
3 Milio, Mangone said he wanted \$30,000?

4 MR. CARBONE: Asked and answered, and argumentative.

5 MR. ARONWALD: I didn't get an answer to that.

6 THE COURT: Just answer the question, please.

7 A. Could you repeat that question?

8 THE COURT: Read it back.

9 (Read back)

10 A. I relied on Mr. Mangone's testimony.

11 MR. ARONWALD: May I just have a moment with

12 Mr. Carbone, please?

13 THE COURT: Yes.

14 (Pause)

15 BY MR. ARONWALD:

16 Q. With respect to Government Exhibit -- I believe with
17 respect to Government Exhibit 6-A -- could we have 6-A put up,
18 please -- I believe you said that -- this is the chart that you
19 prepared which is captioned Sandy Annabi time line?

20 A. Yes. It's actually a chunk of time within the larger time,
21 time line.

22 Q. But do you recall testifying last Thursday that the chart
23 also refers to the meeting at the Marco Polo Restaurant?

24 A. Yes.

25 Q. You were here during the testimony of Mr. Bender and

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C3cQann2 Dennehy - Cross

1 Mr. Cantone when both of them testified that Sandy Annabi was
2 not at the Marco Polo restaurant meeting?

3 A. Yes.

4 Q. You can take that down. Thank you.

5 MR. ARONWALD: I just need one second, your Honor.

6 THE COURT: Yes.

7 (Pause)

8 MR. ARONWALD: I have no further questions.

9 Thank you, your Honor.

10 THE COURT: Mr. Siano.

11 MR. SIANO: Thank you, your Honor.

12 THE COURT: Can I see counsel for one second, please.

13 (Side bar discussion off the record)

14 CROSS-EXAMINATION

15 BY MR. SIANO:

16 Q. Good afternoon, Mr. Dennehy.

17 A. Good afternoon, sir.

18 Q. You are the gentleman I introduced to the jury in my
19 opening statement, is that right

20 A. That's correct.

21 Q. I didn't give you offense when I did that, did I?

22 A. No.

23 Q. Mr. Dennehy, your job description is revenue agent for the
24 Internal Revenue Service, is that correct?

25 A. That's correct.

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C3cQann2

Dennehy - Cross

- 1 Q. Can you describe for me generally please the duties of a
2 revenue agent.
- 3 A. A revenue agent typically examines taxpayers -- they could
4 be individuals, partnerships, corporations -- determines
5 whether or not the correct tax has been reported in those
6 various returns and ultimately whether the proper tax has been
7 paid.
- 8 Q. So, when a person such as myself files a tax return, the
9 examination is done by someone called a revenue agent?
- 10 A. Not necessarily. It could be done by somebody in office
11 audit.
- 12 Q. It can be done by a revenue officer as well?
- 13 A. No. Revenue officers collect the money.
- 14 Q. Collect the money?
- 15 A. Right.
- 16 Q. How many revenue agents are there working for the IRS
17 today, would you say?
- 18 MR. CARBONE: Objection. Relevance.
- 19 A. I don't know.
- 20 THE COURT: Overruled.
- 21 Q. Tens of thousands?
- 22 A. I don't think so.
- 23 Q. Well, thousands?
- 24 A. I would say probably thousands.
- 25 Q. Thousands. And they're all spread all around the country?

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C3cQann2

Dennehy - Cross

1 A. Correct.

2 Q. It would be fair to say not all of them find their way into
3 courtrooms testifying the way you are?

4 A. Correct.

5 Q. Testifying in court is a rather specialized duty, isn't
6 that correct?

7 A. I guess so.

8 Q. Well, you more than guess so, revenue agent. You in fact
9 teach classes in how to testify, isn't that right?

10 A. Yes.

11 Q. In fact, you are not the only person in the courtroom who
12 has participated in such training programs, are you?

13 A. Correct.

14 Q. All right. So there is at least one other person in the
15 courtroom that has?

16 MR. CARBONE: Objection.

17 THE COURT: The objection is sustained.

18 Q. Now, you teach this because it's specialized work, isn't
19 it?

20 A. I guess it would be characterized as specialized.

21 (Continued on next page)

22

23

24

25

C3CUANN3 Dennehy - cross

- 1 Q. And approximately how many times have you taken the witness
2 stand to testify as a witness in the United States district
3 courts?
4 A. 20.
5 Q. On how many of the those occasions were you called
6 initially as a government witness?
7 A. I think on each and every one.
8 Q. Absolutely all of them?
9 A. Yes.
10 Q. Your regular duties involve this computation of tax, isn't
11 that correct?
12 A. Yes.
13 Q. And in doing that, you have occasion to examine personal
14 income tax returns, these forms 1040 and corporate income tax
15 returns, among others?
16 A. Correct.
17 Q. In fact in this case you had occasion to actually see some
18 of those tax returns, isn't that right?
19 A. Yes.
20 Q. There was some discussion here about gifts. Do you recall
21 hearing testimony at various points in time about gifts?
22 A. Yes.
23 Q. In fact, the Internal Revenue Service provides some
24 guidance with respect to what a gift is, isn't that right, Mr.
25 Dennehy?

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C3CUANN3

Dennehy - cross

1 A. Yes.

2 Q. Isn't it a fact that, as far as the Internal Revenue
3 Service is concerned, a gift is any transfer to an individual
4 either, directly or indirectly, where full consideration
5 measured in money or money's worth is not received in return,
6 is that correct?

7 MR. CARBONE: Your Honor, objection. Beyond the law.

8 THE COURT: Overruled.

9 Q. Isn't that correct, Mr. Dennehy?

10 A. Yes.

11 Q. In fact, that's the guidance that any human being could get
12 if they go to your employer's web site and pull down a
13 discussion of gift tax, isn't that right?

14 A. Correct.

15 Q. The phrase "bona fides," you heard Mr. Rocco use that
16 phrase?

17 A. I don't remember bona fides.

18 Q. There is no question about good faith there. It is defined
19 as, I give something away and I don't get consideration back?

20 A. Yes.

21 Q. So if I took one of Mr. Antonio Milio's bundles of \$10,000,
22 opened that window and threw it out and people picked up and
23 went away with it, as far as the Internal Revenue Service would
24 be concerned, I did not get full consideration?

25 A. Correct.

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C3CUANN3 Dennehy - cross

- 1 Q. And therefore as to me, the person who threw the money out
2 the window, for me it would be a gift?
3 A. Yes.
4 Q. Now, indeed, with respect to gift, it isn't just everything
5 you give away that leads itself onto a gift tax return, is
6 there?
7 A. Correct.
8 Q. There are in fact things that never have to be put on any
9 kind of gift tax return, isn't that right?
10 A. Yes.
11 Q. Including tuition or medical expenses that the taxpayer
12 pays for someone, isn't that correct?
13 A. Yes.
14 Q. So, therefore, we are going to talk a little bit about
15 whether or not a gift tax return needs to be filed.
16 There is something called an annual gift tax
17 exemption, isn't there?
18 A. There is.
19 Q. In fact, there is a number in which Uncle Sam says to all
20 the taxpayers, even if it belongs on the return, if it is below
21 this amount of money, don't bother to file?
22 A. Correct.
23 Q. That's my phrase, but do you agree with that description?
24 A. Yes.
25 Q. And Uncle Sam says, in figuring the annual gift tax

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C3CUANN3 Dennehy - cross

1 exemption, you can leave out tuition or medical expenses you
2 pay for someone, isn't that right?

3 A. Correct.

4 MR. SIANO: Mr. Turk, if you would be kind enough to
5 put up Government Exhibit Number 6, the first page, please.

6 Q. Mr. Dennehy, the annual gift tax exemption in fact has been
7 adjusted throughout the decades of the aughts -- 2001, 2002 --
8 for inflation, is that right?

9 A. It has been adjusted. I am not quite sure precisely what
10 the reason is, but yes.

11 Q. It has been adjusted by your employer, isn't that right?

12 A. Yes.

13 Q. You didn't decide to adjust it?

14 A. Correct.

15 Q. Let me show you what's been marked as Defendant Exhibit 67.
16 Just so that we can keep track of how it moved, does Exhibit 67
17 for identification refresh your recollection as to the steps of
18 the upward adjustment in the gift tax return?

19 A. Yes.

20 Q. Just a minute, I want to show it to the prosecutors, just
21 so maybe they can have their memory refreshed to.

22 MR. CARBONE: Your Honor, if we could ask if there are
23 any additional documents Mr. Siano intends to show the witness
24 so --

25 THE COURT: One at a time would be just fine.

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C3CUANN3 Dennehy - cross

1 MR. CARBONE: As soon as the government is finished, I
2 want to give it back to Mr. Dennehy so that we can make sure
3 that we have the right numbers.

4 Thank you.

5 BY MR. SIANO:

6 Q. Now, Mr. Dennehy, using Defendants Exhibit 67 for
7 identification, does that refresh your recollection as to what
8 the annual gift tax exemption was in the year 2002?

9 A. Yes.

10 Q. What was it?

11 A. \$11,000.

12 Q. That is \$11,000 net of educational expenditures that the
13 payor, the giver pays for somebody, isn't that right?

14 A. Yes.

15 Q. So you would agree with me that if you look at Government
16 Exhibit Number 6, in no way, shape or form was a gift tax
17 return required by Mr. Jereis?

18 A. For 2002?

19 Q. For 2002?

20 A. Right.

21 Q. The IRS does this year by year, isn't that right?

22 A. Correct.

23 Q. So for 2002 you and I can agree, there is no gift tax due
24 and owing whatsoever. Forget about taxes, just a piece of
25 paper filed not required?

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C3CUANN3

Dennehy - cross

1 A. Correct.

2 Q. Using Defendant Exhibit 67 to compare that to Government
3 Exhibit Number 6, do you agree with me no gift tax return was
4 due to be filed in that year either?

5 A. Correct.

6 Q. Now, let's go to the year 2004. Your chart lists
7 \$74,994.16, is that correct?

8 A. It does.

9 Q. That includes \$60,000, isn't that right, a lump sum of
10 \$60,000?

11 A. Yes.

12 Q. And the lump sum of \$60,000 is not in the little yellow
13 expansion band up there, isn't that right?

14 A. Correct.

15 Q. Did you decide to leave the \$60,000 item out yourself, or
16 did you do that in consultation with the prosecutors?

17 A. I don't remember specifically having a conversation about
18 that.

19 Q. You left out the \$60,000 Mr. Jereis provided to Ms. Annabi
20 for the two down payments you put on one of your other charts,
21 isn't that right?

22 A. Correct.

23 Q. You knew the items were there. You didn't put them in this
24 little expansion band?

25 A. I didn't display them, that's correct.

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C3CUANN3 Dennehy - cross

1 Q. Did you make any effort to determine whether or not that
2 \$60,000 was paid back?

3 A. Yes.

4 Q. And what did you determine, sir?

5 A. I believe there's \$23,000 that was paid back.

6 Q. Is it your testimony, sir, that your independent
7 examination of everything in this case shows you that only
8 \$23,000 was paid back?

9 MR. CARBONE: Objection.

10 THE COURT: Overruled.

11 A. I believe that \$23,000 is the number I can remember, yes.

12 Q. Well, there have been a number of instances where you were
13 testifying for Mr. Aronwald and now you are testifying for me
14 where you have indicated that you have a failure of
15 recollection. Let me see if I can assist you in that regard.

16 MR. CARBONE: Objection, your Honor. Move to strike.

17 Q. Let me show you what's been marked as Defendant Exhibit 68
18 for identification and 69.

19 MR. CARBONE: Do you have copies for us?

20 MR. SIANO: They come out of your discovery.

21 THE COURT: What numbers are they, please?

22 MR. SIANO: Defendants Exhibit 68 for identification.

23 THE COURT: So that the government can find it in
24 their binders, please identify them as what they are from the
25 discovery or else, before you show them to the witness, show

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C3CUANN3 Dennehy - cross

1 them to the lawyers from the government so the government will
2 know where to look.

3 MR. CARBONE: Judge, I just note for the record that
4 there are no Bates numbers on these document.

5 THE COURT: That, of course, is a discovery issue.

6 BY MR. SIANO:

7 Q. Did you see Defense Exhibit 68 for identification during
8 the course of your examination of the financial records of
9 Mr. Zehy Jereis that the government placed in front of you in
10 this myriad of binders marked as Government Exhibit 185?

11 A. I could tell you if I could have my 3500 material.

12 Q. Isn't it placed in front of you, the 3500 material?

13 A. No, I don't have it.

14 Q. The government didn't give you your 3500 material?

15 MR. CARBONE: And neither did the defense, apparently.

16 THE COURT: As you can tell, tempers are getting a
17 little bit frayed, ladies and gentlemen.

18 Q. I am placing in front of the witness his 3500 binder.

19 A. Yes, I have seen this before.

20 Q. In fact, that is a \$37,000 deposited item, deposited into
21 one of Mr. Jereis' bank accounts, isn't that right?

22 A. Correct.

23 Q. Now, I take it, sir, you and I can agree that 23,000 and
24 37,000 equals \$60,000?

25 A. Yes.

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C3CUANN3 Dennehy - cross

1 Q. Did you make any effort to determine what that item was
2 when you saw the item deposited?

3 A. I think I did.

4 Q. Let me show you what's been marked for identification as
5 Defendants Exhibit 69. Look at the top check, sir.

6 A. I don't remember seeing this.

7 Q. What did you identify the \$37,000 item to be, Mr. Dennehy,
8 when you looked for it prior to coming to court here today?

9 A. I indicated that is Emigrant Savings Bank.

10 Q. That's all?

11 A. Official check, check number.

12 Q. Oh, well.

13 A. I have a different check number, though.

14 MR. SIANO: Well, I do have a Bates number document to
15 help the government, 43655.

16 Q. Let's see if we can clear this up, Mr. Dennehy. Is this
17 the item you recall seeing?

18 A. Yes.

19 Q. And in fact that is an Emigrant Savings Bank check for
20 \$37,000?

21 A. Yes.

22 Q. Did you make any effort to determine the source of that
23 money?

24 A. I think I did. As I said, I just don't remember what it
25 was.

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C3CUANN3 Dennehy - cross

- 1 Q. Do you recall it being the proceeds of a distribution of
2 the estate of one of Ms. Annabi's relatives, sir?
3 A. No.
4 Q. Do you recall it being a refinancing of 53 Linden Street?
5 A. No.
6 Q. Now, can you tell us what provision if any you made for the
7 deduction of \$23,000 on Government Exhibit Number 6 in the
8 third column?
9 A. I didn't make any.
10 Q. Did you make any provision whatsoever for the repayment of
11 the balance of \$37,000?
12 A. I did not.
13 Q. Now, you and I can agree, sir, that if you deduct \$60,000
14 from that figure, the sum there is \$14,994.16, is that correct?
15 A. That's correct.
16 Q. Among that, in your chart, educational expenses, Mr. Jereis
17 paid on behalf of Ms. Annabi on your chart is \$4,500?
18 A. That's correct.
19 Q. Therefore, net of 60 and 4500, the amount of money there
20 would be approximately \$10,000, isn't that right?
21 A. Correct.
22 Q. And that is below the amount of money required for a gift
23 tax return to be filed at all?
24 A. That's correct.
25 Q. There is a somewhat larger box for 2005, even though the

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C3CUANN3 Dennehy - cross

- 1 numbers are smaller. Can you and I agree that the educational
2 expenses would be excluded under the definition and the terms I
3 read to you from the IRS instructions?
4 A. Yes.
5 Q. Now, that's a year in which it would appear, without that
6 number, that a gift tax return might be required?
7 A. That's true.
8 Q. In addition to the annual gift tax exemption, the
9 government and the Internal Revenue Service provide that there
10 is something called a lifetime exclusion, isn't that right?
11 A. That's correct.
12 Q. The lifetime exclusion says, no matter what is going on
13 every year, any taxpayer cannot pay taxes, doesn't have to pay
14 taxes on a very large sum over the course of their lifetime,
15 isn't that correct?
16 A. Correct.
17 Q. Do you recall that being something in the area of a
18 \$1,300,000 in this period, 2005?
19 A. It is a large sum. I don't remember precisely what it is.
20 Q. It is over a million dollars, isn't that right, a lifetime?
21 A. I think so.
22 Q. Now, so you are not suggesting by the absence of a gift tax
23 return for the year 2005 that Mr. Jereis would necessarily have
24 any tax liability whatsoever, are you?
25 A. No.

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C3CUANN3

Dennehy - cross

1 MR. SIANO: Now, if we could, Mr. Turk, go to the
2 second page, number 6, the second colored page.

3 Q. Now, Mr. Dennehy, using the schedule I gave you to help you
4 refresh your recollection, can you tell us what the annual gift
5 tax exemption was for the year 2006?

6 A. \$12,000.

7 Q. Included in this sum of money that you list on Exhibit 6,
8 the second page is Mangone and Jereis gave money to Sandy
9 Annabi, is that correct?

10 A. Yes.

11 Q. So that \$20,000 is included in the \$32,000 figure?

12 A. That's correct.

13 Q. In addition, I believe I heard you say, you relied on
14 Anthony Mangone in deciding what to include in your chart?

15 A. Yes.

16 Q. Hmmm.

17 In addition, that number also includes what you list
18 as 311.54 of educational expenses?

19 A. Right.

20 Q. So if someone chose not to rely on Anthony Mangone for some
21 reason, that number would be reduced by \$20,000, isn't that
22 right?

23 MR. CARBONE: Objection.

24 THE COURT: Overruled.

25 A. That's right.

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C3CUANN3 Dennehy - cross

- 1 Q. And if someone chose to follow the instructions of the IRS,
2 it would also be reduced by another \$311.54?
3 A. Correct.
4 Q. So the exposure on a gift tax return, at most, would be
5 somewhat in excess of \$300 for 2006, isn't that right?
6 A. Approximately, yes.
7 Q. So it doesn't mean that any tax is due, it just means there
8 might be the necessity to file a gift tax return?
9 A. That is correct.
10 Q. Now, in 2007, sir, your chart includes \$4,706 in
11 educational expenses -- no, excuse me. I'm wrong. There are
12 no educational expenses that year. What is the gift tax
13 threshold for the annual gift tax exemption?
14 A. 12.
15 Q. \$12,000. Here we are talking \$611.13?
16 A. Correct.
17 Q. I wonder if we could spend a little time on Government
18 Exhibit Number 8. We have Government Exhibit 8 up here, and
19 you described this as income?
20 A. I described it as unreported income, yes.
21 Q. I see. What kind of income was this?
22 A. What kind of income?
23 Q. Yes. You are familiar with the fact that the Internal
24 Revenue Code provides for different kinds of income, isn't that
25 right?

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C3CUANN3

Dennehy - cross

- 1 A. Yes.
- 2 Q. Was it earned income?
- 3 A. No.
- 4 Q. Was it unearned income?
- 5 A. I would say -- well, I am not sure if it is earned or
- 6 unearned, but it is definitely income under Section 61.
- 7 Q. It is definitely income?
- 8 A. Yes.
- 9 Q. If it is a gift, is it income?
- 10 A. No.
- 11 Q. So first you had to make the conclusion that it was not a
- 12 gift?
- 13 A. Correct.
- 14 Q. What is the basis for you drawing that conclusion, sir?
- 15 A. Because of the relationship that Mr. Jereis had with
- 16 Ms. Annabi.
- 17 Q. What was that relationship?
- 18 A. He was basically her mentor and he was teaching her the
- 19 trade, as it were, to be a politician.
- 20 Q. And that's what you base it on. Who testified he was
- 21 teaching her the trade, to be a politician, sir?
- 22 A. There was testimony from various people who indicated that
- 23 he was sort of a mentor to Ms. Annabi.
- 24 Q. I didn't ask you about mentor, sir. You used the phrase
- 25 "teaching her the trade." And I am asking you, what witness

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C3CUANN3 Dennehy - cross

1 can you point me to see that testimony?

2 A. I can't.

3 Q. Because there isn't any testimony, is there, that says
4 that?

5 A. Where that is specifically stated, that's correct.

6 Q. You decided to say that to me during cross-examination,
7 didn't you, Mr. Dennehy?

8 A. I decided to say that because that's my understanding.

9 Q. That's your understanding.

10 Did you hear the witnesses say they were close?

11 A. Yes.

12 Q. Did you hear them say that they saw them together all the
13 time?

14 A. Yes.

15 Q. Did you hear witnesses say that they broke bread together
16 and were together in the mornings and afternoons and nights?

17 Did you hear that?

18 MR. CARBONE: Objection. Argumentative.

19 THE COURT: Overruled.

20 A. I believe there was testimony about that, yes.

21 Q. What happened in those conversations morning, noon and
22 night, Mr. Dennehy?

23 A. I don't know.

24 Q. You were not there, were you?

25 A. No.

C3CUANN3 Dennehy - cross

1 Q. Did you listen to the analyst chart to see if you could
2 hear any of the conversations, Mr. Dennehy.

3 MR. CARBONE: Objection.

4 THE COURT: That's argumentative, Mr. Siano.

5 MR. SIANO: I'll try hard, Judge.

6 Q. Mr. Dennehy, you haven't heard a single conversation in any
7 manner, shape or form that limits Mr. Jereis' relationship with
8 Ms. Annabi to being her mentor, do you?

9 A. No.

10 Q. By the way, did you hear Mr. Mangone use the expression
11 "they were sleeping together"?

12 MR. CARBONE: Objection. Mischaracterizes the
13 testimony.

14 Q. Did you hear Mr. Mangone say such a thing?

15 THE COURT: The objection is overruled.

16 A. I don't remember him saying that, but --

17 Q. Ahh. This is another gap in your recollection?

18 THE COURT: Not necessarily, Mr. Siano. You have your
19 answer to the question. Let's move on.

20 Q. Now, on chart number 8, included therein as unreported
21 income is \$20,000 under 2006?

22 A. Correct.

23 Q. And, once again, you decided to rely on Mr. Mangone and
24 attribute that to Ms. Annabi as her income?

25 A. Correct.

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C3CUANN3 Dennehy - cross

- 1 Q. Did you hear Mr. Mangone say that he gave that money to
2 Ms. Annabi?
3 A. No.
4 Q. Did you hear him say that he gave Mr. Jereis \$20,000?
5 A. Yes.
6 Q. He did?
7 Did you hear Mr. Mangone say in response to my
8 specific question he didn't recall the exact amount of money he
9 allegedly gave Mr. Jereis outside of Trotter's in July of 2006?
10 A. I thought he said \$10,000.
11 Q. You believe he said \$10,000?
12 A. Yes.
13 Q. Exactly?
14 A. Yes.
15 Q. And that's your recollection?
16 A. Yes.
17 Q. Now, I would like to spend a few minutes on chart number 7,
18 Mr. Dennehy, would that be all right, Government Exhibit Number
19 7. Now, in this particular chart, the yellow bands, you
20 testified, represent total income per tax return for
21 Mr. Jereis, is that correct?
22 A. I don't remember saying total income. I think it is in
23 fact adjusted gross income.
24 Q. You think it is AGI?
25 A. Yes.

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C3CUANN3 Dennehy - cross

1 Q. Let's do this. Let's take a look at his tax return. Let's
2 look at 2008. Do you have 2008 up there?

3 A. I don't.

4 Q. Let's see if I can give them to you.

5 Take your time.

6 MR. SIANO: If I might, your Honor.

7 Q. Mr. Dennehy, I would ask you to take your time because I
8 want to ask you some questions about this and I want to make
9 sure that you have the opportunity to help us figure out where
10 the little yellow numbers come from. Might I suggest to you,
11 sir, they come from line 22 on the return?

12 A. Yes. Line 22, but it is also the same number on line 35 on
13 this return.

14 Q. But on Uncle Sam's tax return, it isn't the line for
15 adjusted gross income, is it?

16 A. That's correct.

17 Q. It is the line for total income, isn't that right?

18 A. Correct.

19 Q. And that phrase "total income" is a tax return phrase,
20 isn't that right?

21 A. It is.

22 Q. That is line 22, isn't that right?

23 A. For that year, yes.

24 Q. Well, line 22 is total income for every year, isn't that
25 right? The line on the form hasn't changed?

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C3CUANN3 Dennehy - cross

1 A. I am not certain about that. Let me look at the other
2 years.

3 Q. Take your time.

4 A. You are missing that page on 2003. I don't have that page.

5 Q. Right. What is the exhibit number, Mr. Dennehy?

6 A. 1003.

7 Q. I will use my book instead of Mr. Aronwald's book. Does
8 that have the missing page?

9 A. Yes.

10 Q. Is it line 22 in 2003?

11 A. It is.

12 Q. So in all instances, this is provided -- this is line 22 on
13 a Form 1040, isn't that right?

14 A. Correct.

15 Q. You would agree with me that, in connection with the
16 execution of these federal tax returns, you go line by line,
17 isn't that right, on a Form 1040?

18 A. That's correct.

19 Q. It is confusing enough, isn't it, if you start jumping
20 around?

21 A. I am not sure.

22 Q. Let's try this.

23 MR. CARBONE: Objection.

24 Q. Let's try this. If the components of line 22 are limited
25 on the face of the return to lines 7 through 21, isn't that

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C3CUANN3

Dennehy - cross

1 right?

2 A. That's correct.

3 Q. I would like you, if you would, sir, let's start, just for
4 convenience's sake, with Government Exhibits 1008.5 MR. SIANO: Mr. Turk, if you could bring up Government
6 Exhibit 1008. We will take this little chart down for a while
7 since we know the yellow numbers are line 22. I would just
8 like, if you could, Mr. Turk, after I put you to the task of
9 finding it, if you could blow up 7 through 22.

10 BY MR. SIANO:

11 Q. Now, would it be fair to say, Mr. Dennehy, that these lines
12 from 7 down to 21 are the components that lead to line 22?

13 A. That's correct.

14 Q. This is why we all love tax returns. Let's see what is
15 included here. All of these particular numbers are listed and
16 there are various places where the Internal Revenue Service
17 happily directs you to fill out schedules, isn't that right?

18 A. That's correct.

19 Q. Would you agree with me, sir, that nothing in the
20 components of lines 7 through 21 have anything to do with the
21 box that is listed as box 6, isn't that right?

22 A. Box 6? I see a box 6A.

23 Q. There's a box up above that lists exemptions, isn't that
24 right?

25 A. Yes.

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C3CUANN3 Dennehy - cross

1 Q. And I ask you, sir, does anything in the list of exemptions
2 carry down to lines 7 through 21 on the United States'
3 individual income or tax return Form 1040?

4 A. No.

5 Q. In fact, the exemption information doesn't show up until
6 after adjusted gross income in line 40 on the second page,
7 isn't that right?

8 A. That's correct.

9 Q. Nevertheless, did you see the government display for you
10 the exemptions block when you were on direct examination?

11 A. No.

12 Q. When you testified, sir, on Thursday, is it your testimony
13 you don't recall the government showing you the box immediately
14 above line 7 in which my client's children's names were listed?

15 A. No. They probably showed it, but I don't recall them
16 zooming in on that particular line.

17 Q. Did you ask them to include that in their presentation?

18 MR. CARBONE: Objection.

19 THE COURT: The objection is sustained.

20 Q. Did the names or the existence of exemptions have anything
21 to do with the numbers you took off my client's federal income
22 tax returns?

23 A. No.

24 MR. CARBONE: Objection.

25 MR. SIANO: I have an answer: "No."

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C3CUANN3 Dennehy - cross

1 Q. Is that correct, Mr. Dennehy?

2 A. That's correct.

3 Q. Line 22 is limited by the information that the IRS asks the
4 taxpayer to put down, isn't that right?

5 A. Correct.

6 Q. Now, this is not a recitation of my client's cash flow or
7 revenue in any of these years that are on the chart that is
8 number 7?

9 A. Well, it is a reflection of his revenue as far as gross
10 income.

11 Q. Could you show me where this reflects Mr. Jereis' gross
12 revenue in the year 2008?

13 A. It is total income. It is a negative figure, \$11,386.

14 Q. Are you saying, sir, that this reflects Mr. Jereis' total
15 revenue in the year 2008?

16 A. I am saying it reflects what is required on the Form 1040
17 for 2008.

18 Q. And it doesn't reflect total revenue on line 22, does it?

19 A. Line 22 is total income.

20 Q. It is not total revenue, is it, sir?

21 MR. CARBONE: Objection. Asked and answered.

22 THE COURT: Overruled.

23 Q. Shall we go to schedule E, you and I, Mr. Dennehy.

24 THE COURT: Did you want an answer to your last
25 question?

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C3CUANN3 Dennehy - cross

1 MR. SIANO: I am going to help Mr. Dennehy with that
2 last question.

3 Q. Can we go to Schedule E, please, Mr. Dennehy.

4 MR. SIANO: Mr. Turk, if you could be kind enough to
5 bring up the first page of schedule E on Zehy Jereis'
6 individual tax return for the year 2008. If you could be kind
7 enough to stay on the first page, Mr. Turk and if you would
8 highlight line 3.

9 BY MR. SIANO:

10 Q. Now, did you recall seeing when you were preparing the
11 chart that was Government Exhibit number 7 that Mr. Jereis had
12 rent receipts in the year 2008 of \$381,365?

13 A. Yes.

14 Q. You did.

15 Now, so this reflects that he actually received money
16 that he disclosed to the government totaling \$381,365 in the
17 year 2008?

18 A. That's correct.

19 Q. On this form Schedule E, is there a line for depreciation?

20 A. Yes.

21 Q. And that is line 20?

22 A. It is.

23 Q. Depreciation in laymen's terms is a sum that the United
24 States of America allows a taxpayer to exclude from taxable
25 income, isn't that right?

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C3CUANN3

Dennehy - cross

1 A. Yes.

2 Q. So when you were telling us about Mr. Jereis' line 22
3 taxable income, did you include in that figure his depreciation
4 for the year 2008?

5 A. Yes.

6 Q. You did?

7 A. Because it is part of the Schedule E that is reflected on
8 the first page, the \$58,000 includes that.9 Q. I ask you, sir, did he have to include the \$58,000 in his
10 taxable income?

11 A. Yes.

12 Q. He did? I see. So he had \$58,000 of revenue that didn't
13 have to be put in taxable income?14 A. He had \$58,000 of negative income due to his rental real
15 estate.

16 Q. Now, let's try it again, Mr. Dennehy. On Schedule E --

17 MR. CARBONE: Judge, I am going to ask that Mr.

18 Siano --

19 THE COURT: The little comments shall cease,

20 Mr. Siano.

21 Q. Mr. Dennehy, the item depreciation is a deduction from his
22 rent revenue, isn't that right?

23 A. That's right.

24 Q. It is a deduction, so the amount of rent he got was
25 \$381,000 and Uncle Sam lets him take out 59 as he goes down the

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C3CUANN3 Dennehy - cross

- 1 sheet, isn't that right?
2 A. Correct.
3 Q. He takes that out, isn't that correct?
4 A. Correct.
5 Q. So that number is deducted from the number that, as we go
6 down the page, the total rental income?
7 A. That's correct.
8 Q. He doesn't have to give the money away in the year 2008,
9 does he?
10 A. No.
11 Q. He has that money?
12 A. Correct.
13 Q. In Mr. Jereis' Schedule E, it is not just rental income, is
14 it, on his business expenses?
15 A. Correct.
16 Q. He has a loss, isn't that right, in another business?
17 A. That's correct.
18 Q. And that loss can be from any number of sources, isn't that
19 right, as long as it is from that business?
20 A. Correct.
21 Q. And that passive loss is a further item that ends up being
22 a subtraction item, isn't that right?
23 A. It is not a passive loss; it is a non-passive loss.
24 Q. That nonpassive loss in 2008 is another subtraction item,
25 isn't that right?

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C3CUANN3

Dennehy - cross

- 1 A. Correct.
- 2 Q. And he subtracted that in coming up with the number that
- 3 ends up on line 22?
- 4 A. That's correct.
- 5 Q. So that is another instance in which that is a sum, a flow
- 6 of money that doesn't end up on line 22?
- 7 A. Well, I would say it ends up on line 22 because it is part
- 8 of that component, that negative \$58,000 --
- 9 Q. It is part of the computation?
- 10 A. Correct.
- 11 Q. You didn't do a cash flow analysis for Mr. Jereis, did you?
- 12 A. I did not.
- 13 Q. You did not do any attempt to find out what his actual
- 14 liquidity was in any of these years, isn't that right?
- 15 A. That's correct.
- 16 MR. SIANO: Could we have chart number 7 again, Mr.
- 17 Turk.
- 18 Q. In each of these instances as to 2002, the \$69,142 figure
- 19 is a take-off from line 22 of the tax return, isn't that right?
- 20 A. Correct.
- 21 Q. And it is a take-off all the way across, isn't that right?
- 22 A. Yes.
- 23 Q. There was no effort by you to figure out what his actual
- 24 cash flow and the liquidity was in any of these years?
- 25 A. That's correct.

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C3CUANN3

Dennehy - cross

- 1 Q. And there is no chart that you provided in testifying for
2 the government which so reflects, is there?
3 A. That's correct.
4 Q. Indeed, sir, if he in fact had a line of credit and drew on
5 that line of credit at any time in any one of these years, it
6 would still not be reflected on his tax return of necessity,
7 isn't that correct?
8 A. Correct.
9 Q. In fact, sir, when you were preparing to testify here, did
10 you look at the government's exhibits in evidence?
11 A. Yeah.
12 Q. And did you see that Mr. Jereis was in fact drawing on a
13 line of credit from time to time?
14 A. I believe so, yes.
15 Q. You believe so. Let me show you what's been marked as
16 Government Exhibit 206F.
17 A. Yes, I remember seeing this.
18 Q. You remember seeing that \$9,500 check that Mr. Jereis drew
19 and used for Ms. Annabi, isn't that correct?
20 A. Yes.
21 Q. In fact the face of the check says what about the source of
22 the money?
23 A. Home equity credit line.
24 Q. Do you have any reason to doubt that the bank was actually
25 drawing on a home equity credit line?

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C3CUANN3

Dennehy - cross

1 A. No.

2 Q. Now, I believe you testified on direct that you categorized
3 all the items that Mr. Jereis expended on behalf of Ms. Annabi
4 and you listed checks, bank drafts and money orders, isn't that
5 right?

6 A. Correct.

7 Q. There were four money orders, isn't that right?

8 A. Correct.

9 Q. And the rest of them were either checks that Mr. Jereis
10 drew directly on an account that he maintained or a bank check
11 drawn on one of his accounts?

12 A. That's correct.

13 Q. Now, did you make any effort, sir, to examine Mr. Jereis'
14 credit cards?15 A. At this point I can't remember whether I did. I went
16 through a lot of credit cards over the time I was involved in
17 this case.18 Q. Did you make any lists or charts for the jury involving
19 Mr. Jereis' credit card expenditures?

20 A. No.

21 Q. Did you make any effort to determine whether or not
22 Mr. Jereis, other than the witnesses who testified in this
23 case, had any other source of assets that he was using to spend
24 money on Ms. Annabi?

25 A. I think I was aware of --

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C3CUANN3 Dennehy - cross

1 Q. Did you determine whether or not Mr. Jereis sold any
2 assets?

3 A. I don't remember a sale of assets.

4 Q. Thank you.

5 MR. SIANO: No further questions.

6 MR. CARBONE: Would this be a good time to break, your
7 Honor?

8 THE COURT: There is not a going to be a break. This
9 would be a good time to continue with your questions until we
10 get word on the other matters.

11 REDIRECT EXAMINATION

12 BY MR. CARBONE:

13 Q. Agent Dennehy, you were asked a series of questions about
14 the bank checks that were deposited into Mr. Jereis' account in
15 connection with an alleged sale of property. Do you recall
16 that?

17 A. Yes.

18 Q. Do you have any direct information that that was a
19 repayment of any loan?

20 A. No.

21 MR. CARBONE: Mr. Turk, would you please broadcast
22 Government Exhibit 6.

23 Q. You were asked by Mr. Siano whether the yellow box
24 indicated that there was any money given by Zehy Jereis to
25 Sandy Annabi in connection with the purchase of the Patton and

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C3CUANN3 Dennehy - redirect

1 Rumsey Road properties? Do you recall that?

2 A. I don't remember him asking me about the money. I think he
3 was asking me about something that was not indicated on this
4 chart.

5 Q. Is the \$50,000 that Mr. Jereis gave to Ms. Annabi in
6 connection with the Patton Drive house reflected on the
7 timeline?

8 A. It is.

9 Q. Where is it reflected?

10 A. In May of 2004.

11 Q. And is it above the line because it merely represents that
12 there was an event at that time?

13 A. That's correct.

14 Q. And what is Government Exhibit 200A?

15 A. I believe that's the check from Mr. Jereis to Ms. Annabi.

16 Q. You were also asked about why the 45 Bacon check for
17 \$10,000 reflected there as Government Exhibit 201, why that
18 wasn't reflected on the timeline, is it in fact there?

19 A. It is on the timeline.

20 Q. Where is it?

21 A. It is in June.

22 Q. Any reason to put it in the yellow box if it is also above
23 the line?

24 A. No.

25 Q. Now, are you familiar with the phrase "detached and

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C3CUANN3 Dennehy - redirect
1 disinterested generosity"?

2 A. Yes.

3 Q. And what does that phrase mean?

4 A. That there is no sort of relationship between the parties.

5 Q. What is the test for a gift applied by the IRS when you are
6 trying to determine whether a payment is legally a gift?

7 A. If there is this sort of, determine if there is a detached
8 interest between these parties.

9 Q. Are illegal payments income?

10 A. Yes.

11 Q. Are bribes income?

12 A. Yes.

13 Q. Are gratuities income?

14 A. Yes.

15 Q. If any part of a payment, any part of it, is made for the
16 purpose of influencing or rewarding a public official, is that
17 income to the public official?

18 MR. ARONWALD: Your Honor, objection as leading.

19 MR. CARBONE: Your Honor, I am just asking a question.

20 The door has been opened.

21 THE COURT: The objection is overruled.

22 A. It is income.

23 Q. And you were asked a series of questions about the need to
24 file gift tax returns. If you pass above the threshold,
25 regardless of whether there is a tax due, does the taxpayer

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C3CUANN3 Dennehy - redirect

1 have to file a gift tax return?

2 A. Yes.

3 Q. Do you know, sir, whether someone paying someone's student
4 loans, is that a tuition expense?

5 A. Without me doing some research, I am not familiar with it.

6 Q. So you were just basing your responses to Mr. Siano's
7 questions on his questions?

8 A. Correct.

9 Q. Is it fair to say, if any part of those payments were made
10 in order to influence or reward Ms. Annabi in any way, that
11 they would be income to Ms. Annabi?

12 A. That's correct.

13 Q. Now, you were asked about the payments in 2002, 2003 and
14 2004. Are they charged tax years in this case?

15 A. No, they are not.

16 Q. And what are the years that Ms. Annabi is charged with
17 subscribing to false returns?

18 A. 2005 and 2006.

19 MR. CARBONE: Please broadcast Government Exhibit 8.

20 Q. In 2005 and 2006, what is the total of financial benefits
21 given by Mr. Jereis to Ms. Annabi in both of these years?

22 A. \$63,428.92.

23 Q. Any reason to believe in either of those two years any of
24 those payments that you have identified there were "loans"?

25 A. No.

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C3CUANN3

Dennehy - redirect

1 Q. Referring to the \$9500 check that Mr. Siano just showed you
2 in December of 2005 for \$9500, do you recall what that money
3 was used for?

4 A. It may have been used for one of the payments that he
5 passed on to Ms. Annabi.

6 Q. Referring to Government Exhibit 206, I believe it is A --
7 206C.

8 Let's go back to the exhibit you said, that is 206F,
9 and Mr. Jereis is writing himself a check there?

10 A. He is writing sort of a check against his home equity loan.

11 MR. CARBONE: Then broadcast 206C.

12 Q. What does he do with that money?

13 A. That is used to get an official check for Ray Catena
14 Mercedes-Benz.

15 Q. Now, referring back to Government Exhibit 7, can you tell
16 us again what is reflected in the yellow lines?

17 A. Yellow and green, I guess it is -- that's the income that
18 is reported on the various tax returns over the years.

19 Q. And the blue lines?

20 A. That represents the amount that was expended for these
21 expenditures for Ms. Annabi by Mr. Jereis.

22 Q. Is that what the chart says?

23 A. Yes.

24 Q. You were asked a series of questions about whether you were
25 relying exclusively on Mr. Mangone's testimony for the \$20,000,

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C3CUANN3

Dennehy - redirect

1 the cash payment?

2 A. Yes.

3 MR. CARBONE: Please broadcast Government Exhibit 212B
4 which is reflected on your chart.

5 Q. What if any large unexplained cash purposes did Ms. Annabi
6 make on or about the same time period that Mr. Mangone
7 testified that he gave the cash to Mr. Jereis?

8 A. That was the cash payment to the Royal Jordanian Airlines
9 \$3,864.20.

10 Q. Please go back to Government Exhibit 5. What is the other
11 exhibit that you have reflected there?

12 A. 213. That's the Rolex watch.

13 Q. So in addition to Mr. Mangone's testimony, did you also
14 rely on Ms. Annabi's cash purchases during that time period?

15 A. I did.

16 Q. Did you rely on the fact that there were no cash
17 withdrawals from her bank account during that period?

18 A. Yes.

19 Q. Did you also rely on Franco and Antonio Milio's testimony
20 relating to the money they gave to Mr. Mangone?

21 A. Yes.

22 Q. Is this chart intended to reflect every singly piece of
23 evidence that came in on this trial?

24 A. No.

25 Q. And did you also rely on the fact that Ms. Annabi purchased

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C3CUANN3 Dennehy - redirect

1 the diamond cross right around the same time period?

2 A. Yes.

3 MR. CARBONE: No further questions.

4 Thank you.

5 THE COURT: Mr. Aronwald.

6 RECROSS EXAMINATION

7 BY MR. ARONWALD:

8 Q. Mr. Dennehy, you were asked a question a moment ago by Mr.
9 Carbone about the term "detached and disinterested generosity."
10 Now, are you saying that if Mr. Jereis made the payments to
11 Ms. Annabi out of love and affection for her, that they would
12 not be considered gifts in the eyes of the Internal Revenue
13 Service?

14 A. They could be considered gifts.

15 Q. So if the gentleman is seeing a lady and decides to make a
16 gift of a diamond ring to her, does the IRS take the position
17 that because the gift is driven by his affection for her, he
18 has to consider the gift for tax purposes? Is that what the
19 IRS says?

20 A. No.

21 Q. If somebody decides to pay a \$10,000 down payment for a car
22 for someone that he is in love with or that he has affection
23 for, does the IRS take the position that that is not considered
24 a gift, it must be reported as income by the woman that he is
25 doing that for?

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Dennehy - recross

1 A. No.

2 Q. Your chart, Government Exhibit 5, in response to Mr.
3 Carbone's question, you indicated that Government Exhibit 5
4 does not reflect any loans; these are just total payments that
5 Mr. Jereis made on Ms. Annabi's behalf, correct?

6 A. Correct.

7 Q. By the way, getting back to the question I asked before, if
8 somebody out of love and affection decides to make mortgage
9 payments for someone, the IRS doesn't say that that is income
10 to the person who payments are being made for, correct?

11 A. That's correct.

12 Q. Same thing with paying student loan payments, correct?

13 A. Correct.

14 Q. The same thing with respect to paying utility bills,
15 correct?

16 A. Correct.

17 Q. Or maintenance payments on a car, for an apartment?

18 A. Correct.

19 Q. Or cable vision payments, right?

20 A. Yes, sir.

21 Q. Now, with respect to Government Exhibit 5, this chart does
22 not reflect anything that you have characterized as a loan;
23 this is just a sum of the total payments that were made by
24 Mr. Jereis on Ms. Annabi's behalf, correct?

25 A. That's correct.

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C3CUANN3 Dennehy - recross

1 Q. With the exception of the \$20,000 that Mr. Mangone and
2 Mr. Milio testified about, right?

3 A. Correct.

4 Q. So we can agree, can we not, that at the end of the day, if
5 these were in fact gifts or loans by Mr. Jereis to or on
6 Ms. Annabi's behalf, they are not income, isn't that correct?

7 A. If they were gifts, yes.

8 Q. Or loans?

9 A. Correct.

10 Q. By the way, with respect to Government Exhibit 6 --

11 MR. ARONWALD: Could we just have that up on the
12 chart, please.

13 Q. -- the portion that relates to 2008, that is not -- those
14 items that are listed in the yellow box, those items only are
15 for the period January through August of 2008, correct?

16 A. I need that up on the screen.

17 MR. ARONWALD: Second page of the chart. I'm sorry.

18 Q. It is the second page with the blue and yellow for the
19 years 2006 to 2008.

20 MR. ARONWALD: There you go.

21 A. No --

22 MR. ARONWALD: Government Exhibit 6.

23 May I approach, Mr. Turk, your Honor?

24 A. I can display it from here if you switch it over.

25 Q. You should have it.

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Dennehy - recross

1 A. Got it.

2 Q. So 2008, that's only for the period January through August
3 of 2008, correct?

4 A. That's correct.

5 Q. 2007 into 2006, 2005 to 2004, that's for the full calendar
6 year, isn't that so?

7 A. That's correct.

8 MR. ARONWALD: No further questions.

9 Thank you.

10 MR. SIANO: No questions.

11 MR. CARBONE: Two questions.

12 THE COURT: Quickly.

13 REDIRECT EXAMINATION

14 BY MR. CARBONE:

15 Q. Mr. Dennehy, if someone who is seeking official action from
16 a public official gives money or a financial benefit to that
17 public official and any part of the motive or intent for giving
18 that money is to influence or reward that official, is that
19 income?

20 A. It is.

21 Q. If any part of the public official's intent or motive in
22 receiving the payment has to do with their public office
23 instead of love and affection, is that income?

24 A. It is.

25 MR. CARBONE: No further questions.

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C3CUANN3 Dennehy - redirect

1 THE COURT: Are we done?
2 Thank you, Agent.
3 You may step down.
4 (Witness excused)
5 THE COURT: Jim would you please take the jurors into
6 the jury room for a minute.
7 Before you go into the jury room, we will wait you in
8 the jury room for a minute. We are trying to figure what is
9 going on.
10 Don't discuss the case, keep an open mind.
11 (Jury not present)
12 THE COURT: This portion of the transcript will be
13 sealed.
14 (Pages 2522 through 2533 sealed)
15
16 (Continued on next page)
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C3cQann4

Trial

1 (Pages 2522 through 2533 sealed)

2 (In open court; jury present)

3 THE COURT: You may have noticed there was a lot of
4 agita going on this morning. You also notice that you haven't
5 seen Mr. Farhat yet. Mr. Farhat is not a well man. So here is
6 what we are going to do: The government, once it is done with
7 Mr. Farhat's testimony, is ready to rest, all right? So, I am
8 going to excuse you for the day and for tomorrow morning. I
9 want you here and ready to go at 1:00 tomorrow. We are
10 actually going to spend tomorrow morning going to Mr. Farhat's
11 home, and we are going to finish his testimony by videotape as
12 he has some medical stuff that he has in the home that will be
13 available to him. All right?

14 Then we are going to bring the videotape back, and we
15 are going to play it for you. The government will rest. I am
16 going to have some discussion with the lawyers today about the
17 legal matters. I am going to have some discussion with them
18 tomorrow, and we are going to start in on the defense case, all
19 right? So the day we've gained, we lost because of
20 Mr. Farhat's illness, but we've figured out a way to deal with
21 it.

22 Don't discuss the case. Keep an open mind. Have a
23 nice unexpected afternoon off. I'll see you tomorrow.

24 JUROR: Tomorrow afternoon?

25 THE COURT: Right. Be ready to go at 1:00.

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1 (Jury recessed)

2 (Jury not present)

3 THE COURT: I would appreciate it if you all would be
4 back here in an hour.

5 MR. ARONWALD: We have no other plans.

6 THE COURT: I'm aware of that, Mr. Aronwald. I can't
7 bring myself to let you go. But sick witness or no sick
8 witness, I need to see you all at 2:30.

9 (Luncheon recess)

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C3cQann4

Trial

1 (In open court; jury not present)

2 AFTERNOON SESSION

3 2:30 p.m.

4 THE DEPUTY CLERK: Case on trial continued. The
5 government and defendants are present. Jurors are not present.6 THE COURT: OK. First things first. Logistics for
7 tomorrow. I would like to get this done as early as humanly
8 possible.9 MR. ARONWALD: I'm advised by the government it's
10 approximately an hour and a half to --

11 THE COURT: I know how far it is to Danbury.

12 MR. ARONWALD: I know you know how far it is to
13 Danbury. I don't know how far off 84 Mr. Farhat lives. So
14 that I don't know.15 MR. HALPERIN: We're going to supply the exact address
16 to the Court and counsel, but I have been informed it should
17 take from lower Manhattan roughly an hour and half.18 THE COURT: I won't be leaving from lower Manhattan.
19 At least it has the virtue of going against traffic. I would
20 like us to be able to begin at 10:00 a.m.

21 MR. ARONWALD: That's fine.

22 MR. HALPERIN: That's fine.

23 THE COURT: OK. That means that the government has to
24 get there early to set up the video equipment.

25 MR. HALPERIN: We will do that, Judge.

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C3cQann4 Trial

1 THE COURT: Are we taking our own court reporter? The
2 witness was sworn here in Manhattan. The witness remains under
3 oath for purposes of this trial.

4 MR. HALPERIN: Our staff in White Plains is arranging
5 for a court reporter and videographer, unless the Court has
6 another preference.

7 THE COURT: I have no other preference.

8 MR. ARONWALD: I take it, the court reporter will be
9 one of the official court reporters from the White Plains
10 branch?

11 THE COURT: Do we know if it's going to be Sue or
12 Christina or Mary or Albi?

13 MR. HALPERIN: I don't know yet. I'll find out
14 immediately when this is done. We'll shoot an email to the
15 Court and counsel.

16 THE COURT: Great. It's a pretty full courthouse up
17 there now finally. So they're actually busy a lot of the time.

18 Now, having the unexpected gift of an hour, I realize
19 that the government isn't going to rest until tomorrow, but I
20 would like to talk a little bit about what will officially be
21 done at the close of the government's case.

22 Forgive me if I'm in error. Perhaps you were not
23 moving to dismiss the indictment at the close of the
24 government's case.

25 MR. ARONWALD: We are.

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C3cQann4 Trial

1 MR. SIANO: I am.

2 THE COURT: Well, I guess what I would like, so that I
3 can start -- start -- I have been thinking about this -- I
4 understand the government's theory on the Longfellow case. I
5 understand the government's theory to be a circumstantial case
6 that nobody can put the money in Ms. Annabi's hands, but there
7 is a combination of conversations between Mangone and the
8 Milios evidencing an intent to get the money there, and the
9 payment of the money and the timing of the payments which has
10 now become infinitely more interesting and the actual timing of
11 the vote and Ms. Annabi's change of heart. I get the theory.

12 I am having a little trouble with the government's
13 other theory, and I intimated that last week, and I anticipate
14 that the defense will be moving to dismiss the indictment
15 relating to Ridge Hill on the ground that -- let's take the
16 conspiracy count -- on the ground that there is no evidence of
17 any agreement. I would be interested in hearing a little mini
18 closing from the government. I would like to hear a little
19 precis of what it is that you think you've proved. Now.

20 MR. CARBONE: Sure, Judge. First of all, Count One
21 charges the conspiracy to commit Section 666 violation. Count
22 Two is the honest services conspiracy. The second --

23 THE COURT: But I specifically want to deal with Ridge
24 Hill because my understanding is -- and this is maybe addressed
25 to the honest services more than 666, but my understanding is

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1 that the theory goes something like this: Back in 2002 when
2 Ridge Hill was not even a gleam in the eye of the developers of
3 Forest City Ratner, or the officials of the city of Yonkers,
4 Zehy Jereis began showering his fifth cousin Sandy Annabi with
5 stuff, the characterization of which is in dispute. But it is
6 your view those things were not gifts.

7 In your view they were given as markers, if you will,
8 in light of some understanding that had been reached between
9 the two of them that if the day came, when the day came, if it
10 ever came, that Zehy needed a favor, Sandy would in the
11 immortal words of Tom Hagen, do a service for her don. Is that
12 the theory? I mean, is that the theory of the expanded
13 indictment?

14 MR. CARBONE: Judge, the theory of the indictment, as
15 I think your Honor recognized in your May pretrial rulings, the
16 theory of the indictment is that the defendant -- Zehy Jereis
17 makes payments to Sandy Annabi in exchange for favorable action
18 as specific opportunities arose.

19 THE COURT: What I want to know is where is the
20 evidence of that agreement? Is the evidence of that agreement
21 to be found in the Ridge Hill vote or is there some other
22 evidence, some evidence that goes back to maybe 2002 or 2003
23 when the gifts started being given that would suggest that an
24 agreement had been made that she would do a service when the
25 opportunity arose, if the opportunity ever arose. Maybe the

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1 opportunity would never arise. What's the evidence of that
2 agreement aside from the fact that after getting an additional
3 \$10 million from Forest City Ratner, which may or may not have
4 been enough, she changed her vote.

5 MR. CARBONE: Judge, first of all, we don't have to
6 prove -- all we have to prove is official action. Our evidence
7 of the agreement is purely circumstantial.

8 THE COURT: It's a conspiracy. You have to prove an
9 agreement.

10 MR. CARBONE: OK. I'm happy to explain what I think
11 the evidence is.

12 THE COURT: That's what I want to hear. I want to
13 hear what the evidence is of the agreement to do the thing that
14 you say I said so eloquently last May.

15 MR. CARBONE: Judge, just so we're clear, the
16 agreement is not an express agreement to flip your vote on
17 Ridge Hill.

18 THE COURT: I understand that.

19 MR. CARBONE: The agreement is not an express
20 agreement --

21 THE COURT: I understand that. It's an agreement that
22 when the day comes that your don comes to you and asks you for
23 a favor, you will do a service for him. I mean, it's like
24 right out of The Godfather. It's right out of -- the words
25 keep coming into my head. We're going to give you presents.

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1 We're going to pay your student loan off. I'm going to buy you
2 a watch. I'm going to do this and I'm going to do that; and,
3 boy, if I need you some day, and I come to you and I say,
4 "Sandy, I need your vote, this is all going to count."

5 Nobody has Ridge Hill in mind when it begins. I'm
6 trying to figure out where the agreement is, where the
7 agreement -- when did this understanding, this understanding
8 arise between these two people? And what's the evidence that
9 the understanding arose at that time between these two people?

10 MR. CARBONE: The agreement, Judge, is demonstrated by
11 all the conduct encompassed by the entire course of the
12 conspiracy. What is that conduct? In or about late 2001,
13 Mr. Jereis, the head of the republican party, gets involved in
14 her campaign. It's undisputed that he gets her elected. You
15 heard the statements, Ms. Annabi's own statements, to the
16 agents that he gets her elected. He gets her re-elected. He
17 was her campaign manager. Almost immediately after she gets
18 elected, he begins to give her things of value. Those things
19 increase in amounts as we get closer to the two opportunities
20 that we have demonstrated or charged in the indictment.

21 Let me make clear, Judge, we have not alleged, we
22 don't have to prove that there was any express agreement to
23 flip the vote. The three elements, as the Second Circuit has
24 repeatedly said, and said most recently in United States v.
25 Bruno that the need for a circumstantial bribe case are:

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1 Financial benefits, evidence of concealment, and official
2 action. And the official action can be any official action.
3 That's any official action, even showing up at a meeting, which
4 I think there is no doubt whatsoever the Forest City Ratner
5 people clearly testified to it in connection with the Forest
6 City piece; that Mr. Jereis got Ms. Annabi to a meeting, when
7 all those other high-paid lobbyists couldn't.

8 So, there is clearly official action. The official
9 action on the Longfellow project is also clear. The evidence
10 of the agreement is that --

11 THE COURT: I don't want the Longfellow. I want to
12 say on Ridge Hill. I understand your theory on Longfellow. I
13 understand the evidence. I don't understand -- forgive me, I'm
14 just stuck in the jury instruction. I'm just stuck in charging
15 that a conspiracy is an agreement, and so there has to be
16 evidence of -- the first element that the government must prove
17 beyond a reasonable doubt is that two or more persons entered
18 into an agreement to achieve some unlawful end. I think I've
19 charged that in about 50 cases. So that's what I'm asking you
20 to focus in on.

21 MR. CARBONE: Judge, United States v. Ganim, as the
22 Second Circuit said, we don't have to tie a particular payment
23 to any particular official act. So the fact that Mr. Jereis
24 begins to pay her almost immediately after she gets elected,
25 the fact that it's concealed for four years straight, for eight

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1 years straight over the entire course of the conspiracy, and
2 then we have official action. Maybe we haven't demonstrated
3 official action as early in the conspiracy as your Honor would
4 like for us to demonstrate it --

5 THE COURT: No. No. No. It's not what I would like.
6 I'm trying to figure out what the evidence is from which the
7 jury can rationally infer that going all the way back to 2002
8 there was this understanding that if the day ever came --
9 nothing specific, tied to nothing specific -- if the day ever
10 came when Zehy ever needed her vote, she'd give it to him.

11 That is what I am focusing in on. I am not trying to
12 say you have to have evidence that she agreed in 2002 that she
13 would flip her vote on Longfellow or flip her vote on Ridge
14 Hill, neither one of them being in existence in 2002. I am
15 just trying to figure out what's the evidence from which the
16 jury can rationally infer that when Zehy gave her her first
17 present in 2002, it was with the understanding that there might
18 be a quid pro quo somewhere down the road.

19 MR. CARBONE: When you say quid pro quo, Judge, the
20 short answer to your question is financial benefits and
21 concealment; and those things we've proven overwhelmingly.

22 When you say quid pro quo, the theory of the
23 indictment in the quid pro quo is that some day when I call on
24 you or any day that I call on you as specific opportunities
25 arise, you will take official action that benefits me, Zehy

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1 Jereis, who is paying you.

2 THE COURT: I understand that. Is the only evidence
3 that you have of that understanding the fact that he made
4 payments starting as early as -- that he conferred benefits on
5 her or gave her gifts as early as the first year of her term?
6 Is that it? There's nothing else? It's just the giving and
7 receiving of stuff?

8 MR. HALPERIN: Judge, in terms of the --

9 THE COURT: It's a yes-or-no question, Mr. Carbone.

10 MR. CARBONE: Well, it is, but --

11 THE COURT: So do me a favor and answer it yes or no,
12 and then you may elaborate.

13 MR. CARBONE: The answer is yes.

14 THE COURT: OK.

15 MR. CARBONE: Because there is no official action in
16 the record that we have proven to the jury between 2002 and as
17 we get closer to the Longfellow and Ridge Hill projects --

18 THE COURT: I understand there is no official action.

19 MR. CARBONE: Judge, think of it this way: If we had
20 left the time frame in the indictment as it originally was, I
21 think it was 2004, we would certainly be able to prove up these
22 acts as in preparation or as relevant --

23 THE COURT: I am obviously not making myself
24 understood. Somehow I am just not getting through to you.

25 The fact that the official action hadn't happened,

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1 might not ever happen, wasn't within anybody's contemplation in
2 2002 is conceded by me. I concede it. In 2003 or 2004, maybe
3 in 2005 we're getting a little closer, but your theory is that
4 all along starting way back in 2002 these people had a meeting
5 of the minds, these two people had a meeting of the minds that
6 if Zehy ever needed, ever needed, ever, needed Sandy's vote, he
7 could get it. And he was giving her benefits to stroke her,
8 keep her on the payroll, however you want to put it, but I am
9 trying to figure out if there is any evidence of the meeting of
10 the minds other than the fact that he gave her stuff and she
11 received it.

12 MR. CARBONE: Judge, as I said, it's financial
13 benefits and concealment, that's the evidence, and the fact
14 that he started the timing of the payments, he began to give
15 her these payments shortly after she is elected. There is
16 concealment straight through. We think that that is perfectly
17 adequate under Bruno and Ganim, a whole line of Second Circuit
18 cases, Biaggi, that talk about how concealment and financial
19 benefits followed at some point by official action --

20 THE COURT: Bruno, as I recall, is a case in which a
21 conviction was overturned on honor services.

22 MR. CARBONE: That's true, your Honor, but as the
23 Second Circuit said in Bruno in remanding the case for a new
24 trial, we think that you had enough proof to go to the jury on
25 a bribe count because summarizing prior Second Circuit law, if

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1 you have payments, concealment and official action, then you
2 have a bribe. That's enough to get you to the jury. And in
3 that case the Second Circuit thought that the evidence was
4 quite compelling.

5 That's exactly what we have here. We just don't have
6 as much official action in the early part of the conspiracy or
7 official action as we'd like because the investigation started
8 in 2006. That's the practical answer -- 7 rather, January of
9 2007. So we don't have the emails going back to 2002, '03,
10 '04.

11 So, Judge, you know, the law is clear that any part of
12 the intent, just one percent --

13 THE COURT: I understand.

14 MR. CARBONE: -- and that's the friendship charge that
15 your Honor has included in the draft charge. If any part of
16 the motive or intent in making the payments or receiving the
17 payments has anything other than to do with friendship, any
18 part of that intent, then they don't get a pass for that.
19 That's corrupt intent. And that's exactly what we have here.

20 There is absolutely no evidence in this record to
21 contradict the fair inference that is drawn from the facts we
22 had proven right after she gets elected, the head of the
23 republican party chair begins to pay her, or the chair of the
24 republican party begins to pay her, and those payments are
25 concealed repeatedly. Then he asks her for big favors, and all

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1 we would have to prove is that she so much as came to a
2 meeting, and that we've proved beyond any doubt.

3 So, again, I want to emphasize that in Ganim the
4 Second Circuit said that there is no need to link a payment to
5 an act. It's these for these. And that's why we think the
6 fact that the conspiracy as charged in 2002 --

7 THE COURT: Well, wait. It has to be these for
8 something. You charged it was these for official acts
9 unspecified. It can't be these for nothing.

10 MR. CARBONE: That's right, these for these.

11 THE COURT: Otherwise, it's just a gift.

12 MR. CARBONE: Again, Judge, I harken back to your
13 ruling when we briefed this issue on May 11, as your Honor
14 pointed out after reviewing the indictment --

15 THE COURT: I've reviewed the indictment. Now I've
16 heard the evidence.

17 MR. CARBONE: And the indictment is a very detailed
18 indictment that spells out all of the facts that we intended to
19 prove, and in fact have proven, and it is in exchange for
20 favorable action as specific opportunities arose.

21 THE COURT: But you're simply either not understanding
22 me or not willing to grapple with my question. And, OK, I know
23 your theory is that I'll give you stuff in exchange for
24 official action unspecified. I get that. I get that.

25 All I asked was is there any evidence that such an

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1 understanding was reached between the two of them other than
2 the giving and receiving of stuff? And you have told me there
3 is no such other evidence. Great. That's all I needed to
4 hear.

5 MR. CARBONE: That's not exactly what I said. I said
6 the evidence is concealment and financial benefits, and that is
7 totally consistent with the Second Circuit case law as in many
8 many prior cases, Judge, it is a circumstantial bribe case. In
9 fact, that's the proposed charge that your Honor has
10 circulated: Concealment, financial benefits, official action.

11 THE COURT: I understand. I don't want to talk about
12 the charge. I want to talk about evidence. I want to talk
13 about evidence. That is what I am interested in at the close
14 of the government's case is the evidence.

15 MR. CARBONE: Judge, can I suggest this? If instead
16 of the student loan payments in the early years, if it was a
17 bag of cash or bundles of cash --

18 THE COURT: It wouldn't make any difference. The fact
19 that one looks dirtier than the other? I'm looking for, and
20 maybe you're right and there doesn't need to be any other
21 evidence of an understanding, an agreement. The conspiracy
22 element of conspiracy, it doesn't address Count Three. It
23 doesn't address Count Four. It doesn't address Count Five. It
24 doesn't address Count Six. I'm looking at the conspiracy
25 element of conspiracy, the agreement.

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1 MR. CARBONE: Or understanding.

2 THE COURT: Or understanding, right. Usually there is
3 a little more evidence of that than you have in this case as
4 far as Ridge Hill is concerned. Not talking about Longfellow.

5 MR. HALPERIN: Judge, just to be clear when you say
6 usually there's a little more evidence, I think the Court's
7 focus is on the early years because clearly the Court would
8 agree in '05 and '06 viewing the evidence in the light most
9 favorable to the government there is a clear, at least
10 arguably, nexus between the benefits and the official action
11 and the concealment. So, I think if I am understanding the
12 Court's inference properly, the Court is focused on the '02 to
13 '04.

14 THE COURT: I actually am not focused on anything.
15 You charge an agreement that goes back to 2002. You don't
16 charge an agreement any longer that only goes back to 2004.
17 You chose to supersede. So the agreement, whatever it is, has
18 to have begun in 2002. I realize that it's for the jury to
19 decide whether something is in or about or is reasonably close.
20 I don't think 2004 is reasonably close to 2002. If I did, I
21 wouldn't have put off the trial in the first place. I mean,
22 we're stuck with the conspiracy that you've pleaded. It's too
23 late to amend the indictment.

24 MR. HALPERIN: And we accept that, and we don't seek
25 to add meant it. I think as Mr. Carbone says, our theory is

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1 that Mr. Jereis helps Ms. Annabi get elected, he serves as her
2 campaign manager, and the second she becomes council member, he
3 is giving her payments that are concealed repeatedly, concealed
4 over and over, on financial disclosure forms, on loan
5 applications, everywhere in the documents. And subsequently in
6 various statements that Annabi makes throughout time in '07 and
7 later in '09 when she is debriefed by the agents. There is
8 concealment throughout the case. Statements to other
9 witnesses, denials to other council members about getting
10 benefits, by both Mr. Jereis, who denies to Mr. Galimi that he
11 ever got a contract with Forest City Ratner, and by Ms. Annabi
12 to various council members. Dennis Robertson testified about
13 that. And various council members testified that they would
14 have liked to have known and did not know at the time of these
15 votes regarding Ridge Hill that Ms. Annabi was getting these
16 benefits.

17 So, clearly, we are not going to dispute that the
18 evidence becomes greater and greater as the time frame of the
19 conspiracy goes on, but we think, as Mr. Carbone said, under
20 Second Circuit law -- Ganim, Biaggi -- we are on firm ground in
21 charging the beginning of the conspiracy dating back to '02
22 because of the three elements that Mr. Carbone alluded to:
23 Financial benefits, concealment evidence repeatedly starting
24 from day one, and the official action, and, granted, the
25 official action does become more clear in the '05-'06 time

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1 frame.

2 THE COURT: OK. Anybody back there want to say
3 anything?

4 MR. SIANO: Well, Judge, I was anticipating making
5 this argument after the government rested.

6 THE COURT: Yes, I understand that, Mr. Siano. It's
7 just that we have some time now, and I want to think about
8 these things as the only witness who remains to finish his
9 testimony is a witness whose relationship in this case rests
10 entirely on the tax counts against Ms. Annabi.

11 MR. SIANO: Judge, the circum of fusion which you just
12 heard from the government suggests if they had an agreement,
13 they would have answered your question yes and shown you an
14 agreement. They don't have an agreement. They have no meeting
15 of the minds. And I would prefer, Judge -- I think my answer
16 is pretty straightforward. I can't point you at a meeting of
17 the minds because there isn't one that exists.

18 On the other hand, I would not care to merely comment
19 on the government's theory with regard to Longfellow because it
20 isn't the government's theory with respect to Longfellow that I
21 think argues quite strongly to the Court that Longfellow should
22 be dismissed on a Rule 29 basis.

23 My argument with regard to Longfellow is that Anthony
24 Mangone's testimony is that no reasonable jury can choose to
25 believe the story that Mr. Mangone told in no small part

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1 because several components of it are impossible of occurrence.
2 Not that they're incredible. He's incredible from the first
3 time he opens his mouth until the last time he opens his mouth,
4 but there are parts of the story he tells that are impossible
5 of occurrence.

6 It is not possible that he received money from Franco
7 Milio or Antonio Milio between the 26th and the 29th of
8 September. No reasonable jury can conclude that people who
9 weren't in the United States made payments to Anthony Mangone
10 so that Anthony Mangone could pass those payments to
11 Mr. Jereis. That's number one.

12 Number two, no one says that whatever may or may not
13 have been passed to Mr. Jereis was handed to Ms. Annabi. No
14 one says that. Anthony Mangone doesn't say that. The Milios
15 don't say that. They say it was their corrupt intent. And I
16 do not believe that any reasonable jury can choose to believe a
17 witness who testifies to events that didn't happen and are
18 demonstrated not to have happened. There is no contract in
19 July. He testifies to the fact that he reviewed a nonexistent
20 document in July. There is no Milios at the end of September.

21 Now, the Milios say 30,000 plus 10 one lump sum in
22 June. We don't know where it went other than it went in
23 Mangone's hands. That's all they provide. They do not
24 corroborate the government's theory of the case

25 THE COURT: No, they do not.

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1 MR. SIANO: In fact, when Mr. Mangone testifies, he
2 tells a story that in virtually every detail contradicts the
3 Milios, and he provides his explanation, and he says, I went
4 hand in hand with Zehy Jereis. And he says, I went hand in
5 hand in Zehy Jereis in a detailed minuet of events in September
6 of 2006 which are impossible of occurrence. No reasonable jury
7 can choose to believe Anthony Mangone, and without Mr. Mangone,
8 there is no Longfellow case. There isn't anything.

9 I submit that what the evidence establishes quite
10 clearly is that Mr. Mangone scammed the Milios. That is what
11 the evidence does show, and he has a powerful monetary motive
12 to do that.

13 Now, that may be a jury argument for another day, but
14 for your Honor to conclude that somehow a reasonable jury can
15 compartmentalize what Anthony Mangone says I do not believe is
16 what the law provides.

17 I believe that the law says, is there any way a jury
18 can follow the government's proof and have a verdict of guilty,
19 and I don't believe that's the case here; is that this man, he
20 didn't just lie, he created a complete fiction which is
21 demonstrably false from the government's own records. That's
22 my argument as to Longfellow.

23 There is nothing here related to Ridge Hill other than
24 the fact that -- first of all, let me stop and say one thing
25 about the evidence. There is no proof Mr. Jereis was the head

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1 of the republican party in the city of Yonkers in 2001 and
2 2003, and for the first nine months of 2003 -- 2001 and 2002 he
3 wasn't the head of the republican party in the city of Yonkers.
4 He was elected in September, at the convention in September of
5 2003. That is not a fact they've proven because it's not what
6 the events were.

7 It is clear he become the head of the republican party
8 in September of 2003. There's an ongoing relationship before
9 then, and if you take out the machinations over loans and
10 repayments, if you take out Anthony Mangone's testimony, Judge,
11 the payments have a continuity of scale for all the years
12 they're together. It runs between \$10- and \$14,000 all the way
13 across. There is no agreement here. He does what he does. He
14 makes these payments. He makes these gifts. He does these
15 things for her. They haven't established any meeting of the
16 minds. The merest nod, a wink, a shake of a head, one email,
17 they can't point to any of it because it doesn't exist.

18 So I agree with your Honor's analysis with regard to
19 agreement. I have watched the evidence carefully looking for
20 that, and I've listened to Mr. Carbone's response. He can't
21 answer your question because there isn't an agreement.

22 And I choose not to skip over Longfellow because it's
23 not the government's theory; it's the impossibility of the
24 government's proof persuading 12 reasonable jurors, and I think
25 that's very significant as to Longfellow. And that's my

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1 argument.

2 MR. HALPERIN: Judge, for Mr. Siano to claim that no
3 reasonable juror could believe Mr. Mangone is preposterous and
4 wishful thinking. The Milios and Mangone are very clear about
5 some big picture things. They are very clear that Mr. Mangone
6 asks for money for Annabi. They are all very clear that the
7 Milios gave a total of \$40,000 in cash. The Milios thought
8 that \$30,000 of that was the bribe for Ms. Annabi. The Milios
9 didn't even know about Jereis's involvement. Mangone
10 establishes that, and Mangone says that \$20,000 was a cash
11 bribe to Annabi to flip her vote on Longfellow.

12 Obviously, there are inconsistencies between the
13 Mangiones and Milios about whether there were one or two
14 payments, and defense can make whatever arguments they want
15 about their facts to the jury. There are inconsistencies about
16 the timing of those two payments. This ties into a point
17 Mr. Siano made earlier today about the passports. I did want
18 to address that because Mr. Siano categorized the government's
19 failure to turn over the Milios' passports as a Giglio or Brady
20 violation, and we strongly take issue with such a
21 characterization.

22 I want to review the facts about the timing of that.
23 First of all, as we said earlier, the government did not have
24 the passports in our possession until last week.

25 THE COURT: That's your own fault.

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1 MR. HALPERIN: You know what, Judge, that was a fair
2 point that the Court made that maybe we should have checked
3 out, but we didn't.

4 THE COURT: If you knew from reading the 302s and the
5 grand jury testimony and other things, there must have come a
6 point, Mr. Halperin, when you knew that the Milios were saying
7 they were in Mexico at the very time same time your star
8 witness, Mr. Mangone, said he was receiving money from them.

9 MR. HALPERIN: Judge, we're talking possibly three
10 days difference. The Milios said they leave the 24. Mangone
11 said he got the money from Milios approximately September 27.
12 This is an issue that is a mountain out of a mole hill. They
13 can make whatever arguments they want, but --

14 THE COURT: But before and after the vote, but there
15 is some --

16 MR. HALPERIN: I understand that, but it's within a
17 day -- there is one day on the back end of the vote and two
18 days before, at most. We would argue that it's an
19 inconsequential difference. And for Mr. Siano this morning to
20 claim this is somehow a Giglio violation is absurd because --

21 THE COURT: I'm the one who raised Giglio. I will get
22 Mr. Siano off the hook. Mr. Siano said it was a Brady
23 violation.

24 MR. SIANO: Absolutely.

25 MR. HALPERIN: We take issue more strongly with that

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1 characterization. But, Judge, let me point out that the Court
2 is aware of discrepancies between different witnesses.
3 Discrepancies between the Milios on one hand and Mangone on the
4 other hands are not Giglio violations. If Mangone says X in
5 his grand jury testimony and then says something differently
6 three years later, two different statements by one witness are
7 certainly Giglio. But in the same way, Judge, that different
8 recollection about who was at the May 18, 2006 Westchester
9 Country Club meeting is not Giglio. On the one hand, you have
10 Dee Barbato and John Murtagh, who have a very specific
11 recollection about Ms. Annabi being there, and, in fact, we
12 heard from James O'Connor, the FBI agent, that Ms. Annabi
13 acknowledged in December 2009 in that interview with the
14 government that she was present there; but the point is Forest
15 City Ratner officials, Bruce Bender and Scott Cantone, have a
16 recollection that she wasn't there. That's not Giglio for any
17 of them, as the Court well knows. I don't want to go through
18 law that the Court is very familiar with.

19 Judge, in terms of Brady, this was absolutely not a
20 Brady violation. We were not hiding anything. It became very
21 clear, as the Court has noted on previous occasions, and was
22 the subject of pretrial motions in discovery demands, once we
23 superseded the indictment and dropped that cash bribe amount
24 from \$30,000 to \$20,000, it was clear that there was a
25 difference in recollections in the Milios' account of certain

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1 details and Mangone's. We weren't hiding that as all. So I
2 just want to be eminently clear about that, Judge.

3 MR. ARONWALD: Your Honor, again, not getting into
4 everything, we would say during Rule 29, first let me say --

5 THE COURT: I hope you're getting into things you
6 would say in Rule 29, Mr. Aronwald.

7 MR. ARONWALD: I didn't hear you, Judge.

8 THE COURT: I said, I hope you're getting into things
9 you would say in Rule 29.

10 MR. ARONWALD: Some of them, yes. But I want to
11 correct the record because Agent O'Connor, although he said
12 Annabi was at the Westchester Country Club meeting, on further
13 reflection acknowledged that she never said she was at
14 Westchester Country Club meeting. She said she was at a
15 meeting with Bender and Cantone but not a meeting which
16 attended by Murtagh and Barbato. In fact, Murtagh and Barbato
17 both testified there was another meeting they were at which
18 Ms. Annabi was not present at, and that was a meeting with Al
19 Pirro.

20 Putting that aside, what I think is being lost here in
21 the translation to some extent is that the government needs to
22 prove not only that there was an agreement but that Ms. Annabi
23 was a member of the conspiracy, and there has been absolutely
24 no evidence whatsoever that she was a member of any conspiracy,
25 even assuming your Honor were to conclude that there was some

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1 evidence sufficient to go to the jury on the question of
2 whether there was an agreement that was involving either
3 Bender, Cantone, Milio, Mangone, Jereis, whatever. There is no
4 evidence whatsoever that Ms. Annabi joined any conspiracy.

5 In fact, Bender and Cantone said any meetings they had
6 concerning the consulting agreement with Jereis, Ms. Annabi was
7 not only not present, she wasn't privy to it. They never
8 discussed it with her. There were emails back and forth
9 between Forest City Ratner and Zehy Jereis. None of those
10 emails were copied to Sandy Annabi.

11 Bender and Cantone said that there was some concern as
12 to whether if they didn't give Mr. Jereis the consulting
13 agreement, then Ms. Annabi might decide to withdraw her
14 support, but both of them acknowledged that they never
15 approached her to ask her whether or not there was any linkage
16 between the consulting agreement and Sandy's vote.

17 So, the bottom line here is that it seems that the
18 government I don't think can point to any evidence that
19 establishes that Sandy Annabi ever became a member of any
20 illegal agreement or conspiracy, and it's not enough to say,
21 well, she received benefits, and she didn't report those
22 benefits on her financial disclosure forms, especially in light
23 of the testimony earlier on by Ms. Henkel that for the first
24 few years the term relative was not even defined in the
25 financial disclosure forms and anything you received from a

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1 relative was not required to be disclosed.

2 It seems to me what the government is doing is they
3 are sort of focusing on things that not only are simply
4 circumstantial, but they're pointing to things that do not lend
5 themselves to establishing Sandy Annabi's membership in any
6 conspiracy and certainly don't establish an agreement.

7 That, I think, is the heart of the issue, and I think
8 that is what your Honor is alluding to, and I agree with
9 Mr. Siano that if the government felt that there was any
10 evidence of an agreement, they would answer your question in
11 the affirmative, and they would cite chapter and verse.

12 With respect to Mr. Mangone, it's not enough for
13 Mr. Halperin to say, well, he was off by a day or two. The
14 records show that the Milios were out of the country from
15 September 24 and did not return until October 1. And they say
16 the money happened in June.

17 Now, with respect to Mangone, Mangone said initially
18 that he received the money from the Milios the day after the
19 Longfellow vote. The Longfellow vote was September 26. So, by
20 Mangone's testimony -- and he was not at all equivocal about
21 it -- he testified that he received that money on September 27.

22 When he was pressed on cross-examination as to that,
23 and I believe it was the last series of questions Mr. Siano
24 asked him, he said, well, it might have been the next day. And
25 Mr. Siano said to him, are you as certain about that as you are

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1 about everything tells you've testified to, and his answer was
2 yes.

3 The fact of the matter is they were out of the country
4 from September 24 to October 1. That's not just a day or two
5 after the Longfellow vote.

6 The fact of the matter is whether we want to quibble
7 about whether it's Giglio or Brady, the fact is that I think
8 your Honor hit the nail on the head; that is, the government
9 prepares their witnesses. The government knows what their
10 witnesses are going to say. When you have two witnesses who
11 are basically out of the country during the period of time
12 Mangone says he received money from them, it seems to me that
13 that should send off some sort of a signal or an alert to the
14 government to look beyond what their witnesses are saying to
15 see whether or not there is any evidence to establish that the
16 payment could have occurred when Mangone says it occurred.

17 The Milios were cooperating. All the government had
18 to do at any time was ask the Milios to present their passports
19 so the government could look at it. I'm not even sure that the
20 government ever asked the Milios during the period of time that
21 they were being prepared exactly when was it that you left the
22 country and exactly when was it that you returned to the
23 country. They certainly had the passports as of the time that
24 the Milios surrendered them as part of their plea. If the
25 government just chose to turn a deaf ear and blind eye to what

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1 the passports would show, it seems to me that that doesn't make
2 it not Giglio, and it doesn't make it not Brady.

3 For those reasons, your Honor, I think the Rule 29
4 motion if you focus on the fact that there is simply no
5 evidence of an agreement, and there is certainly no evidence
6 that Sandy Annabi ever became a member of any conspiracy as
7 charged in the indictment.

8 As far as specific opportunities arose, I don't
9 remember hearing testimony from any witness in this case that
10 Zehy Jereis ever told Sandy Annabi how to vote on any project
11 including Ridge Hill and including Longfellow. That is another
12 hole in the government's case.

13 MR. CARBONE: Judge, just to be clear, Mr. Aronwald
14 made reference to neither Mr. Bender nor Mr. Cantone feeling
15 like they were a part of some conspiracy, and just so that the
16 record is clear, the indictment doesn't charge that they were
17 part of the conspiracy.

18 They were being, to use Mr. Cantone's words,
19 persistently pursued by Mr. Jereis for a job. They are not
20 charged as they weren't aware that Mr. Jereis had been paying
21 Ms. Annabi at the time that he produced her to that June 9
22 meeting. So they are not part of the conspiracy, and the fact
23 that they don't implicate Ms. Annabi --

24 THE COURT: I understood that the conspiracy you
25 charged was a conspiracy between Ms. Annabi and Mr. Jereis.

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1 MR. HALPERIN: And Mr. Mangone.

2 MR. CARBONE: To the extent it involved the Longfellow
3 payments, Mr. Mangone was a co-conspirator. So to the extent
4 that Mr. Mangone was relaying to the Milios what the purpose of
5 the payments were for, those are co-conspirator's statements.

6 Judge, it cannot be the case that in order to prove a
7 bribe case, you always have to have the person putting the
8 money in the public official's pocket. Mr. Jereis was as much
9 of a bag man as Mr. Mangone was. On the backside, Mr. Jereis
10 is also paying Ms. Annabi all these other financial benefits in
11 addition to the \$20,000.

12 I just also want to make clear that the timing of the
13 payments, the Milios say late June, early July. Mr. Mangone
14 says payment number one happens on July 13. Then he says
15 payment number two happens on September 17, or thereabouts. He
16 was asked specifically on direct examination approximately when
17 did you make the payment or did you receive the money from the
18 Milios? And he answered that question, and said it was the
19 27th. Again, that is only three days after the 24th, four days
20 before the 1st. Judge, he significantly on redirect
21 examination said he had received the discovery. He knew
22 specifically what the Milios said because it was charged in the
23 first indictment as to the timing of payments, and he did not
24 tailor his testimony.

25 Judge, you can say what you want about the

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1 government's failure to exercise due diligence about getting
2 the passport, but if you have one witness saying that is his
3 recollection and that's his recollection, and he's not
4 tailoring it, then, if anything, that's powerful proof that he
5 is not making the story up because he knew that his
6 recollection of these payments differed in some respects,
7 significantly because you have July, then you have September --

8 THE COURT: Well, Mr. Carbone, I am just thinking like
9 somebody who used to try cases for a living. It's not
10 tailoring testimony by the government, as you suggested this
11 morning, to get a hold of the record that's easily available to
12 you that would tell you if this discrepancy was going to cause
13 you a problem, see that it's going to cause you a problem, show
14 it to Mangone and say, you know, what you just told me,
15 Mr. Mangone, is impossible, so now do you want to think about
16 that again? That's not tailoring testimony. You do that with
17 people who come into your office all the time.

18 MR. CARBONE: Absolutely, but if a witness --

19 THE COURT: That's what you do for a living.

20 MR. CARBONE: Judge, if a witness has a recollection,
21 and that recollection is on or about that date, then it is not
22 the prosecutor's job to get that witness to say, OK, then it
23 was probably three days later. You're talking about a matter
24 of a difference of a couple of days, when his testimony is that
25 he knew that the Milios said that those payments occurred back

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1 in July. So why would he make it up when you're talking about
2 a difference of July and August? That's over two months.

3 So, if you already have a discrepancy of over two
4 months, why would he make up the difference between a couple of
5 days? That's his recollection, and that's what we intend to
6 argue to the jury, but that doesn't make for a Rule 29.

7 As Mr. Halperin pointed out, Mr. Aronwald spent a
8 great deal of time on cross-examination about Ms. Annabi's
9 attendance or lack thereof at the May 18 meeting at the
10 Westchester Country Club. She admitted she was at a May 18
11 meeting with Al Pirro. She didn't recall Cantone and Bender
12 being there, just like Bender and Cantone didn't recall her
13 being there. But that was her recollection. Some people's
14 recollections differ about the timing of meetings.

15 THE COURT: OK.

16 MR. HALPERIN: Judge, I just want to respond to one
17 factual thing Mr. Aronwald said because I think it's important
18 to clear up the record.

19 Mr. Aronwald just said that no witness ever said that
20 Zehy Jereis told Ms. Annabi how to vote. That's not accurate
21 because the Court will recall Yonkers Mayor, Mike Spano,
22 talking about that time that he and Zehy Jereis were in the car
23 on the way to Ms. Annabi's house and he was speaking to Zehy
24 Jereis about whether or not Annabi would support the Ridge Hill
25 project, and during the car ride on the way to Sandy Annabi's

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1 house, Mr. Jereis reacted pretty favorably. And then once they
2 got to Ms. Annabi's house, and it was the three of them
3 meeting, all of a sudden Mr. Jereis turned on him, surprised
4 Mr. Spano and started talking about all the different reasons
5 why Ms. Annabi should not support project. So I just wanted to
6 clear up that factual inaccuracy by Mr. Aronwald.

7 MR. ARONWALD: Judge, as Mr. Halperin said and
8 Mr. Carbone said, well people have different recollections. We
9 know -- we know from the other evidence in this case that Sandy
10 Annabi was not at the Westchester Country Club meeting. How do
11 we know that? We know that from the testimony of Mr. Bender
12 and Mr. Cantone because both of them said, for example, if she
13 had been at Westchester Country Club meeting in May, then why
14 would they have had to meet with her on June 9? In fact, both
15 of them testified that on June 9 the meeting started off with
16 Mr. Bender asking her how was it we were never able to sit down
17 and meet with you before today? Now there's no dispute about
18 that. So, obviously, that alone shows she was not at the
19 Westchester Country Club meeting.

20 And when she was interviewed by Agent O'Connor or in
21 '08, or whenever it was, and they asked her whether she was
22 ever at a meeting on May 18 with Al Pirro and Dee Barbato and
23 John Murtagh, yeah, she was at a meeting but it was not a
24 meeting that Bender and Cantone were at. That is why she said,
25 yeah, I had a meeting, but I don't remember Bender and Cantone

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1 being there.

2 The fact is with respect to the Mike Spano thing,
3 Mr. Halperin may have misunderstood me. What I'm saying is
4 there has been no evidence, none, that Zehy Jereis told Sandy
5 Annabi to vote for Ridge Hill or that he told her to vote for
6 Longfellow. That's not what the conversation was that
7 Mr. Spano testified about.

8 Mr. Spano testified that when they went to meet with
9 Sandy Annabi at her parents' home at 45 Bacon, on the way there
10 Zehy Jereis said that he was in favor of the Ridge Hill
11 project; but when they got to the house and they sat down and
12 started the meeting, Zehy Jereis turned and said he was not in
13 favor of the Ridge Hill project, and on the way back Spano said
14 to him, "What's going on? I thought you were in favor of the
15 project?" And he said, "I need to support Sandy." That's not
16 the same as saying that Zehy Jereis told her to change her vote
17 to a yes vote on Ridge Hill in July of 2011. That's not any
18 proof of that whatsoever.

19 THE COURT: Mr. Siano has wanted to say something.

20 MR. SIANO: Judge, the notion that the only disparity
21 between Mr. Mangone and the Milios involves two or three days
22 in either direction on September 26 just suggests that some
23 people have been sitting in another courtroom.

24 The Milios talk about one pass of currency totaling
25 \$40,000. Mr. Mangone told us a story that starts with \$10,000

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1 on or about July 11, continues with \$\$20,000 on or about the
2 day after the vote, and another \$10,000 either that afternoon
3 or the next day.

4 It's not a discrepancy of about two or three days.
5 Mr. Mangone says I got three payments, two of which came from
6 Franco in the first payment, Antonio in the second payment
7 three months away from when it actually happened. He places
8 the money at the votes. It's a highly studied placement of
9 events. Just as he places this contract at the July 11 vote.
10 This is not a small inconsistency. This is not solely related
11 to one payment.

12 Mr. Mangone's testimony is a tissue of lies, as the
13 phrase is often used; but in this circumstance, the fact that
14 there were no Milios during the operative period of time when
15 he says he got 30 of the \$40,000, and got two separate
16 payments, it is not a small inconsistency over days.

17 That's the only point I wanted to make.

18 MR. CARBONE: Judge, getting back to Mr. Aronwald's
19 point about not a single witness ever came in here and
20 testified that Mr. Jereis ever told Sandy Annabi how to vote.
21 Both Forest City Ratner witnesses testified that on June 9 at
22 the Jake's Steakhouse meeting and at the Madison's meeting,
23 Mr. Jereis spoke favorably in front of her for project. They
24 both testified that he was instrumental in getting her to
25 support the project. He brought her to a meeting on June 9

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1 when no one else could and back again at Madison's Restaurant
2 on the 14th.

3 And in addition to the timing of getting her to come
4 to the meeting, remember the testimony that came from a bunch
5 of different sources about his request for a job. First, they
6 couldn't get a one-on-one meeting with her. At least four
7 witnesses testified about the job. Dennis Roberston said when
8 he met with Al Pirro, Al Pirro told him that they would just
9 Zehy Jereis a job, and then they would get Sandy Annabi's vote.
10 He went back to Ms. Annabi and confronted her about that, so
11 she's clearly on notice, many, many months before the June of
12 '06 meeting where Zehy Jereis brings her to the table. John
13 Murtagh testified that Jereis said, where are all the jobs for
14 the republican leaders? On June 9 Scott Cantone said right
15 when they walked out of the Jake's Steakhouse meeting, Jereis
16 for the first time asked him directly for a job. And then as
17 all four Forest City Ratner witnesses testified to, that long
18 chain of emails and that relentless barrage of calls and emails
19 where Mr. Jereis is hounding them for a job as soon as she
20 announces her support and up to and including the day of the
21 vote.

22 And then as Agent Dennehy testified and summarized in
23 the exhibits, what does she get right at that very same time?
24 She buys the diamond bezel Rolex watch, \$3,700 in cash, and she
25 buys the upgraded flight to Jordan in cash. No cash

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1 withdrawals from her account, no checks to cash, no ATM
2 withdrawals coming out of her accounts. And, remember, that it
3 was Mr. Jereis in front of Ms. Annabi who asked the Forest City
4 Ratner witness if they would pay for the change in the flight.
5 When they said no, they communicated that back to Mr. Jereis,
6 and he said, "Maybe I'll pay for it."

7 So, Judge, it's clear, you know, the timing, the
8 critical timing in July -- we can quibble all we want about
9 whether Mangone was telling the truth, whether the Milios were
10 telling the truth. They are consistent on the basic story, and
11 these guys could make an argument to their hearts' content to
12 the jury about why they think Mr. Mangone lied or why they
13 think Mr. Milio lied, but that's not a basis for a Rule 29.

14 THE COURT: OK.

15 MR. ARONWALD: Judge, can I briefly say one thing?

16 THE COURT: All right.

17 MR. ARONWALD: I think we are sort of overlooking one
18 important fact. As I recall the testimony of Mr. Cantone, and
19 I believe Mr. Bender, there came a point during that June 9
20 meeting where things became very hot. As a result -- because
21 Mr. Pesin was getting very confrontational with Sandy Annabi
22 and after a short period of time she got up and left the
23 meeting, and he left the meeting, and that left Mr. Jereis
24 together with Bender and Cantone.

25 The testimony was that after Ms. Annabi left, and

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1 after Pesin left, Zehy Jereis said to Forest City Ratner,
2 "Look, if you want her vote, you are going to have to make some
3 concessions. You are going to have to give more taxes or you
4 are going to take care of parking, but if you want her vote,
5 that's what you're going to have to do." According to the
6 testimony, Bender and Cantone's response was, we are going to
7 go back and see what we can do by way of concessions. That was
8 the way the meeting ended.

9 Soon thereafter, according to the undisputed evidence
10 in the record, Forest City Ratner agreed to pay an additional
11 \$10 million to the city of Yonkers. That was the concession
12 they made. While Murtagh and Barbato testified while they
13 didn't think that that was enough and they thought perhaps they
14 could have done better, the fact of the matter is to Sandy
15 Annabi \$10 million was not an insignificant amount of money for
16 people in the city of Yonkers. That's the evidence.

17 There is no evidence that Zehy Jereis ever told her
18 how to vote. There is also no evidence that Zehy Jereis didn't
19 say that he would try to talk to Sandy Annabi about Ridge Hill,
20 but only if they were going to make some concessions because he
21 told them without concessions, she's not going to change her
22 mind. The same thing happened with respect to Longfellow.

23 This is something the government overlooks. In both
24 instances, the developers made substantial and significant
25 concessions and changes in the resolution, and that is the

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1 catalyst that caused her to change her vote. There is no
2 evidence that she was influenced to change her vote but for the
3 concessions that Forest City Ratner made, and but for the
4 concessions that the Milios made with respect to providing
5 housing for the seniors.

6 MR. HALPERIN: Those are great jury arguments
7 obviously Mr. Aronwald can make, but when he talks about the
8 June 9, '06 meeting at Jake's Steakhouse ended, he omits a very
9 important fact. And the Court knows exactly what I'm going to
10 say. Yes, it's true that the meeting went badly, and
11 Ms. Annabi left the meeting because she was getting into an
12 argument with Mr. Pesin about the substance of the project, but
13 what Mr. Aronwald just omitted was that on the way out to the
14 parking lot, when Mr. Cantone and Mr. Jereis were together,
15 Mr. Cantone testified that that was when Jereis turned to him
16 and said, "Can I have a job?" And that's a critical fact.

17 THE COURT: Okay.

18 MR. CARBONE: And I guess one last critical fact,
19 Judge. In terms of the Rule 29, the government only has to
20 prove that there was some official action, and, again, the fact
21 that she showed up at the meeting it was undisputed that she
22 showed up at the meeting because Zehy Jereis brought her there
23 that's official action, especially when you consider how much
24 she's getting paid over that time period and that it's being
25 concealed.

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1 MR. SIANO: That's not what the indictment says.

2 MR. CARBONE: Oh, yes, it does.

3 MR. ARONWALD: You know, it's funny. Sometimes you're
4 in a position where you can't do right no matter what you do.
5 One of the things the government pointed out is that while
6 Barbato and Murtagh agreed to meet with the developer, Sandy
7 Annabi didn't, and that there was something peculiar and odd
8 about that. So now in June when she agrees to meet with the
9 developer, they're saying that's official action that shows she
10 was part of this agreement. It just doesn't add up.

11 Judge, there is one other housekeeping matter. We
12 spoke to the government before your Honor took the bench, and
13 the parties are going to stipulate that during period September
14 24 of 2006 until October 1 of 2006, both Antonio and Franco
15 Milio were in fact outside of the United States.

16 THE COURT: Right.

17 MR. SIANO: And the documents of homeland security so
18 reflect.

19 THE COURT: Fine. I figured that you were going to
20 stipulate to that because Mr. Carbone said this morning that
21 the government would stipulate to that.

22 MR. CARBONE: Judge, there is also one other
23 stipulation. The parties agree that Government Exhibit 770,
24 which contains an email from Sandy Annabi to Debbie Kayal, was
25 sent on or about July 25, 2006.

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C3cQann4

Trial

1 THE COURT: Stipulated?

2 MR. SIANO: So stipulated.

3 MR. ARONWALD: So stipulated.

4 THE COURT: Fine. Remind me to tell the jurors about
5 that tomorrow.

6 MR. HALPERIN: May I hand up Mr. Farhat's address to
7 Mr. O'Neill?

8 THE COURT: You may.

9 MR. HALPERIN: Thank you. And to counsel? So 10:00
10 tomorrow, your Honor, and government will be there first.

11 THE COURT: 10:00 tomorrow. The government should get
12 there and get everything set up.

13 MR. ARONWALD: Judge, could we just talk about
14 scheduling in terms of the defense case?

15 THE COURT: Yes.

16 MR. ARONWALD: Mr. Siano and I have discussed it.
17 I've spoken to government counsel subject to your Honor's
18 agreement with us. It is unlikely that we would get to defense
19 witnesses tomorrow afternoon if we come back and have to first
20 play the videotape for the jury.

21 THE COURT: Well, that is the first thing we have to
22 do.

23 MR. ARONWALD: Yes. I was wondering whether or not
24 for convenience of the witnesses, and so we don't have to have
25 people come here and be sent home, would it be OK if we start

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C3cQann4 Trial

1 defense case on Wednesday morning? And I told Mr. O'Neill that
2 I believe what I said before, that we would take three days
3 for our case, I think that's more likely a day and a half.

4 THE COURT: Great. In that case, Mr. Aronwald, I will
5 happily let you start Wednesday morning.

6 MR. ARONWALD: Thank you.

7 THE COURT: That means that there will be a half day
8 for Mr. Siano to start his case on Thursday afternoon. What
9 can I say? OK. I am going to put this into Mapquest, but if
10 anybody gets really good directions, let me know. I guess I
11 will see all of you who are in the well of the courtroom
12 tomorrow morning so that we can pursuant to Rule 15 preserve
13 the rest of the testimony of Mr. Farhat so that we can show it
14 to everybody else in the world tomorrow afternoon at 1:00.

15 MR. HALPERIN: Thank you.

16 (Trial continued March 13, 2012 at 1:00 p.m.)

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6222442

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Trial

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA,

v. 10 CR 007 (CM)

SANDY ANNABI and ZEHY JEREIS,

Defendants.

-----x

New York, N.Y.
March 13, 2012
1:00 p.m.

Before:

HON. COLLEEN MCMAHON

District Judge

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APPEARANCES

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C3dQann1 Trial

1 (Trial continuing; in open court)

2 THE DEPUTY CLERK: The Honorable Colleen McMahon
3 presiding. The case on trial is continued. The government and
4 defendant are present. The jurors are not present.

5 THE COURT: I am having a very clumsy day, folks. I
6 spilled coffee all over my kitchen.

7 MR. HALPERIN: Judge, we have one brief preliminary
8 issue, which is simply that now we are even closer to the end
9 of the case, and the jury --

10 THE COURT: I hope so, Mr. Halperin.

11 MR. HALPERIN: The government intends to rest today,
12 as we've said. We would just ask the Court to remind the jury
13 again, which I know the Court has done, but I think maybe not
14 in a couple of days, not to read the newspapers. There were
15 obviously some articles in the paper, and I think at times this
16 case is alluded to, and the papers, as good as they are, don't
17 always characterize perfectly everything that happened in the
18 courtroom. So we would just ask --

19 THE COURT: Mr. Weiser, you have just been criticized.

20 MR. WEISER: Not the first time.

21 MR. HALPERIN: I certainly am not criticizing
22 Mr. Weiser, and I didn't single out The New York Times, but
23 just generally we would ask the Court to remind the jurors of
24 their obligation not to read the papers or talk to anybody who
25 has read the papers.

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C3dQann1 Trial

1 In terms of today, we have the short stipulation, and
2 then we have Mr. Farhat's testimony ready to go.

3 THE COURT: Good afternoon.

4 MR. ARONWALD: Good afternoon, your Honor.

5 THE COURT: Nice to see you all in your accustomed
6 places.

7 Mr. Aronwald, thank you for your -- you were in
8 difficult straits this morning, and I thank you for your
9 cooperation.

10 MR. ARONWALD: My pleasure, your Honor.

11 THE COURT: The jurors are asking time. I understand
12 what the jurors are asking. We will discuss that at the end of
13 the day. Why don't we bring in the jurors?

14 (Continued on next page)

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C3dQann1 Trial

1 (Jury present)

2 THE COURT: Good afternoon.

3 THE JURY: Good afternoon.

4 THE COURT: Well, we have been to Connecticut and
5 back, and so here we are.

6 I believe that what we are going to start with is a
7 stipulation that the government wants to introduce, and there
8 were a couple of stipulations that we made yesterday at the end
9 of the day, I believe, that need to be brought to the attention
10 of the jury as well.

11 MR. CARBONE: There are. There are two, your Honor.
12 The first is that Government Exhibit 770 which contains an
13 email written by Sandy Annabi was sent on or about July 25 of
14 2006.

15 And the second is that --

16 THE COURT: That's stipulated, folks. Government
17 Exhibit 770, was that the number?

18 MR. CARBONE: Yes, 770.

19 THE COURT: -- was sent on or about --

20 MR. CARBONE: July 25, 2006.

21 THE COURT: -- July 25, 2006, a proven fact.

22 MR. CARBONE: The second is that from between
23 September 24, 2006 and October 1, 2006 Franco Milio and Antonio
24 Milio were not in the country.

25 THE COURT: OK.

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C3dQann1 Trial

1 Mr. Siano.

2 MR. SIANO: And that the Defendant's Exhibit which was
3 provided to your Honor is a true and accurate reflection of the
4 documents of the government of the United States.

5 THE COURT: Also true. There is a Defendant's
6 Exhibit -- what was the number -- Defendant's Exhibit's 65 is a
7 true and accurate copy of a record prepared and kept in the
8 ordinary course of business by the Department of Homeland
9 Security, the wonderful people who have immigration and
10 customs, who greet us at the airport when we come into the
11 country, those folks, all right?

12 Mr. Halperin.

13 MR. HALPERIN: Your Honor, I was simply going to ask
14 the Court's permission if we could play the videotape.

15 THE COURT: All right. Now, you will recall that when
16 we left Mr. Farhat, we were in the middle of Mr. Aronwald's
17 cross-examination. The videotape should take us about an hour
18 or a little bit under an hour to listen to.

19 Now, fair warning -- and I really want people to cut
20 Mr. Aronwald some slack here -- we were in a gentleman's
21 basement den, so we were not in ideal circumstances for doing
22 this. He had no place to put his notes. Mr. Halperin gave him
23 like a folding chair that we were able to locate. So it takes
24 him awhile to go through things. There are some pauses in the
25 tape. I've already told him this and I will tell you this: In

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1 the circumstances he really did a great job of getting us
2 through this so we could get back here in time to see you all.

3 With that caveat, let's go.

4 (Videotape played)

5 THE COURT: You remember him.

6 (Videotape played)

7 (Continued on next page)

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C3DUANN2

1 THE COURT: This is, of course, the problem that was
2 occasioned by having no space.

3 (Videotape played)

4 MR. HALPERIN: Your Honor, at this point we would
5 offer the videotape into evidence and ask that the transcript
6 by the court reporter be included as part of the record.

7 THE COURT: The transcript that was taken down by the
8 court reporter who I had before me in Connecticut will be
9 included in the transcript of these proceedings. The videotape
10 of the remainder of Mr. Farhat's deposition is accepted in
11 evidence as Government Exhibit --

12 MR. HALPERIN: -- 2000.

13 THE COURT: Pick a number out of a hat.

14 And that is the remainder of Mr. Farhat's testimony.

15 (Government Exhibit 2000 received in evidence)

16 THE COURT: Mr. Halperin.

17 MR. HALPERIN: Your Honor, at this time the government
18 rests.

19 THE COURT: Well, ladies and gentlemen, "the
20 government rests" are magic words in any case. It indicates
21 that the government has presented us with the evidence from
22 which it intends to argue that it has overcome the presumption
23 of innocence and proven the guilt of the defendants of the
24 various crimes with which they are charged beyond a reasonable
25 doubt. Remember that's what the government has to do. And the

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C3DUANN2

1 government has rested, so it thinks it has done that. Of
2 course what the government thinks doesn't matter; it is what
3 you think ultimately that matters.

4 As I told you at the beginning of the case, there is a
5 very carefully orchestrated step of things we have to do at
6 exactly particular times in a criminal case. In a civil case I
7 can have a little slack. For example, what we have to do next
8 is, we have to listen to various applications and legal
9 arguments -- and what I have to do next is listen to legal
10 arguments from counsel. And if this were a civil case, I could
11 have forced counsel to do it yesterday, even though the
12 government had not rested and I could have saved you time.

13 It is a criminal case. And in a criminal case I have
14 to go by the book. And the book says, defense doesn't have to
15 make any argument until the government has rested and it has
16 heard the last thing the government has to say. So I now have
17 little choice but to talk to Mr. Aronwald and Mr. Siano and, of
18 course, to the government lawyers who get to respond, out of
19 your hearing.

20 I asked them how long they thought that that would
21 take. They told me that it would take the rest of the
22 afternoon because it is 2:30.

23 You are shaking your heads. I understand how you
24 feel, believe me.

25 I then asked them, OK, even though you don't have to

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C3DUANN2

1 tell me this until 2:25 this afternoon, is either of the
2 defendants are going to be putting on any kind of a case.

3 Now I have been advised by Mr. Aronwald and Mr. Siano
4 that each of them intends to call several witnesses. Mr.
5 Aronwald anticipates that his case will take about a day and a
6 half to present. And Mr. Siano is on notice that he has to
7 begin presenting his case, which I gather is a smaller number
8 of witnesses, immediately thereafter.

9 So here is what I think that we are looking at. We
10 are looking at tomorrow and Thursday and probably into Monday
11 hearing witnesses from the defense. Whether the government has
12 any rebuttal witnesses after that or not, the government isn't
13 going to know until Monday, but the government is going to have
14 to have them here Monday. I will tell you this. The minute
15 that we are done listening to witnesses, the government is
16 going to begin its closing arguments because you have all been
17 inconvenienced long enough and we are going to push, push,
18 push, push until we are done.

19 So go home today and don't discuss the case and keep
20 an open mind.

21 There was some press coverage this morning, I know
22 because I read it. So please be very, very careful -- not that
23 you shouldn't be careful every day, not that you haven't been
24 careful for the last three weeks. We all appreciate how
25 careful you have been. There is a story in The New York Times

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C3DUANN2

1 today. There is a story in the Journal News today, so don't
2 read the papers. Don't go on the Internet. Don't talk to
3 anybody that has read the papers. Don't expose yourself in any
4 way to what might have appeared in the press today or any day
5 about this case.

6 Keep an open mind.

7 I will see you in the morning, 9:30. We will go right
8 into the first witness.

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10 (Continued on next page)

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C3DUANN2

1 (Jury not present)

2 MR. ARONWALD: Could we just have a moment, your
3 Honor, to --

4 THE COURT: -- to gather your thoughts? You mean
5 yesterday afternoon was not enough thought-gathering?

6 MR. ARONWALD: Actually, to use the facilities.

7 THE COURT: Yes, Mr. Aronwald.

8 (Recess)

9 THE DEPUTY CLERK: Case on trial continued, the
10 government and the defendants are present. The jurors are not
11 present.

12 THE COURT: I would appreciate it if we could do this
13 on a count-by-count basis because, in the end, that's how I am
14 going to have to rule.

15 MR. ARONWALD: Very well, your Honor.

16 May I proceed, your Honor?

17 THE COURT: I am eager to have you begin.

18 MR. ARONWALD: Thank you.

19 It would be easier for me if I were able to do it at
20 the lectern, if that's OK.

21 THE COURT: Wherever you are comfortable.

22 MR. ARONWALD: Your Honor, the standard, as your Honor
23 knows, for a Rule 29 motion is, in the situation where the
24 evidence pointing to guilt is nonexistent or so meager that no
25 reasonable jury could find guilt beyond a reasonable doubt, a

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1 Rule 29 motion should be granted. And that's United States v.
2 Guadagna, 183 F.3d 122 at page 130.

3 In this particular case, taking count by count, it is
4 our position that the government has completely failed to prove
5 the essential elements sufficient to submit this case to a
6 jury.

7 The Court on March 7th, during a sidebar, indicated
8 that the government has not presented "any evidence that
9 actually connects Mr. Jereis' payments to some longstanding
10 four-year-long cooked-up scheme that some day, in case it would
11 ever be needed, Sandy Annabi would vote the way that Zehy
12 Jereis told her to vote."

13 That is the missing piece of evidence, and that
14 appears at transcript page 2014.

15 Indeed, there has been no evidence that Zehy Jereis
16 ever told Sandy Annabi how to vote on any issue before the city
17 council, including but not limited to Ridge Hill or Longfellow.

18 To the contrary, as to Ridge Hill, Bruce Bender and
19 Scott Cantone, John Murtagh and Dee Barbato testified that
20 Sandy Annabi did not change her vote until Forest City Ratner,
21 the developer, agreed to pay an additional \$10 million to the
22 City of Yonkers, a fact further established conclusively by the
23 videotapes of the city council meetings that are in evidence.

24 The government has not presented any evidence
25 whatsoever that Sandy Annabi was even aware that Zehy Jereis

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1 had been engaged in discussions with Forest City Ratner
2 regarding a possible job or that the job was given to him as a
3 quid pro quo for her voting in favor of the project.

4 To the contrary, Mr. Bender and Mr. Cantone testified
5 that she was not present during any of their discussions with
6 Mr. Jereis about a possible job.

7 She was not copied on any of the emails between
8 Mr. Jereis and them about a job and, further, neither of them
9 ever spoke to her concerning the subject of Mr. Jereis seeking
10 or being considered for any job.

11 More importantly, both of them testified that they
12 never asked her if she would withdraw her support for the
13 project if they ultimately elected not to give him a job.

14 Both Mr. Bender and Mr. Cantone testified that Sandy
15 Annabi never asked for or suggested that she would vote for the
16 project only if they agreed to confer a financial benefit to
17 her either directly or indirectly through a consulting
18 agreement given to Zehy Jereis.

19 There is no evidence that the payments made by
20 Mr. Jereis on her behalf were in fact connected to any
21 agreement between the two of them that she would at some point
22 vote as he directed her to.

23 During yesterday's proceedings, your Honor alluded to
24 something that was a scene right out of The Godfather, and I
25 think that your Honor was referring specifically to one of the

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C3DUANN2

1 opening scenes in the movie when the undertaker comes to Don
2 Corleone and asks --

3 THE COURT: You remember.

4 MR. ARONWALD: -- for a favor, and the favor is that
5 he wants a young man killed because of some relationship he had
6 with the daughter. And the Godfather agrees to do that, but
7 his consigliere --

8 THE COURT: No. It is in the first scene where the
9 great Don Corleone is himself insulted to be asked what payment
10 the undertaker should give. He said, there is no payment among
11 friends. Some day -- and that day may never come -- the day
12 comes, I may ask you for a favor; if I come, I will expect that
13 you will do it. It is a great scene.

14 MR. ARONWALD: Yes, it is, Judge.

15 What is lacking in this case is that scene. There is
16 no evidence here that anyone ever told Sandy Annabi that the
17 financial benefits that were being conferred upon her by
18 Mr. Jereis were a favor and would obligate her to doing him a
19 favor when and as opportunities arose, which is what is charged
20 in the indictment. That is the missing piece of evidence in
21 this case.

22 The government yesterday alluded to Ganim. Ganim
23 specifically says that the government must prove that the
24 defendant obtained a payment to which she was not entitled by
25 use of her office -- and here is the critical language --

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C3DUANN2

1 "knowing that the payment was made in return for official acts
2 rather than being given voluntarily or unrelated to the
3 defendant's official position."

4 There is no evidence in this case that Ms. Annabi knew
5 that whatever financial benefits were being conferred upon her
6 by Mr. Jereis were being made in return for official acts
7 rather than being given voluntarily or unrelated to her
8 official position.

9 In Ganim, the Second Circuit said, it is sufficient if
10 the defendant understood he was expected as a result of the
11 payment to exercise particular kinds of influence, that is on
12 behalf of the payor, as specific opportunities arose.

13 There is no evidence in this case that Sandy Annabi
14 understood or should have understood that she was expected, as
15 a result of the financial benefits conferred by Mr. Jereis, to
16 exercise any particular kind of influence on behalf of
17 Mr. Jereis as specific opportunities arose. Indeed, the
18 payments that are in evidence, began in 2002, continued up
19 through 2007.

20 And during that entire period of time, according to
21 the government's theory, the only specific opportunity that
22 arose was the Ridge Hill project that was ultimately voted for
23 on July 11 of 2006 because the government's theory, as I
24 understand it, is not that Forest City Ratner was the briber as
25 to Ridge Hill, but that Zehy Jereis was the briber as to Ridge

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C3DUANN2

1 Hill.

2 As to Longfellow, the government's theory is that
3 Milio Management, Inc. was the briber through Anthony Mangone
4 and, indeed, according to the indictment allegations, Milio
5 Management was the victim of the charged extortion. We will
6 get to that in a short while.

7 There is no evidence that the government has presented
8 that the payments or financial benefits conferred by Mr. Jereis
9 on Ms. Annabi's behalf were in fact connected to any agreement
10 between them that she would at some point vote as he directed
11 her to.

12 That is exactly the point that your Honor made at
13 transcript page 2014. Yet, that is what is specifically
14 charged in this indictment, to wit, that the payments were made
15 with the intent to influence and reward Annabi for official
16 action or inaction that Annabi took and agreed to take in the
17 future in her capacity as councilwoman for the Second District
18 of the City of Yonkers as specific opportunities arose.

19 That is found at paragraph 7 of the superseding
20 indictment.

21 THE COURT: Paragraph 7 is pleaded. It is part of the
22 conspiracy pleaded in Count 1.

23 MR. ARONWALD: Yes.

24 THE COURT: Which is the conspiracy to accept, which
25 apparently also means to give, corrupt payments.

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C3DUANN2

1 MR. ARONWALD: Yes, your Honor.

2 Nor has the government presented any evidence that
3 "Annabi would and did solicit, accept and agree to accept money
4 and a stream of financial benefits, directly and indirectly
5 from Jereis and others known and unknown to the grand jury,
6 intending to be influenced and rewarded for official action or
7 inaction that Annabi took and agreed to take in the future in
8 her capacity as councilwoman for the Second District of the
9 City of Yonkers as specific opportunities arose.

10 That allegation is spelled out in the indictment in
11 Count 1 in paragraph 8.

12 The government has not presented any evidence that the
13 payments or the financial benefits conferred on her by Zehy
14 Jereis were anything but loans and/or gifts, despite the fact
15 that the indictment alleges that those payments or financial
16 benefits constituted income intended to influence her vote on
17 projects of interest to Jereis as opportunities arose.

18 Included within the \$174,000,000 is the \$60,000 loan
19 which, according to witness John Bond, the closing attorney on
20 the 245 Rumsey Road and Bacon Place properties -- or Patton
21 Drive properties -- the \$60,000 alleged in the indictment to be
22 one of the items of unreported income on the tax returns and
23 monthly stream of financial benefits was a loan, \$23,000 of
24 which the jury has already heard was repaid.

25 Both the promissory note he prepared and the one Sandy

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C3DUANN2

1 signed are in evidence.

2 With respect to Longfellow which is included within
3 Count 1, there is again a complete failure of proof.

4 Both Mangone and the Milios testified they never had
5 any discussions with Sandy Annabi concerning the payment of
6 money or any other financial benefit to her as a quid pro quo
7 or an exchange for her vote to ultimately designate Milio
8 Management the Longfellow developer.

9 Mangone testified he never even spoke to Sandy Annabi
10 about Longfellow -- neither did the Milios, other than
11 exchanging emails.

12 The undisputed evidence, including the videotape of
13 the city council meeting at which Sandy Annabi explained her
14 opposition to the designation and explained what concessions
15 would have to be made by the Milios in the form of affordable
16 housing for seniors in her district, together with the evidence
17 that she voted in favor of the designation on September 26,
18 2006 only after Milio Management agreed to make those
19 concessions as stated in the resolution itself, disproves the
20 indictment allegation.

21 Indeed, with respect to Ridge Hill, Ms. Annabi made it
22 very clear when the issue was before the City Council that she
23 was opposed to the project because the developer Forest City
24 Ratner was seeking tax abasements, payment in lieu of taxes.
25 And she felt that they needed to provide more revenue to the

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C3DUANN2

1 City of Yonkers, including engaging in traffic mitigation.

2 In both instances with respect to Longfellow, with
3 respect to Ridge Hill, nothing could be more transparent.
4 Sandy Annabi, when she voted no on both issues, made it very
5 clear that she would not change her vote unless the developers
6 made concessions. Only when, as the evidence clearly
7 indicates, both developers made concessions did she, as she
8 promised she would, change her vote.

9 In fact with respect to Longfellow, she even explained
10 to Milio Management why it would be unfair to designate them
11 the developer and then have them come back later on and vote no
12 to the project because they would have expended a substantial
13 amount of money, which Franco and Antonio Milio acknowledged
14 was correct in putting together the necessary plans and
15 environmental impact studies in order to come back before the
16 City Council to have the project approved.

17 During the tape that the Court has heard, Ms. Annabi
18 told Milio Management that she thought that the project would
19 be a great project anywhere in her district but where the
20 project was going to be situated.

21 And the reason was that the project, if it went
22 forward in the location where it was proposed, the Longfellow
23 School, it would effectively displace the senior citizens that
24 resided in that particular area.

25 And the meeting concluded with her saying to Milio

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1 Management, if you want to provide housing for the seniors, you
2 come back and we will talk. In fact when the Milios did come
3 back with a resolution which provided seniors housing, that's
4 what she voted for.

5 The Court will recall the evidence that at one point
6 in response to the government's questions, Franco Milio
7 indicated that ultimately what was offered by way of concession
8 does not provide housing exclusively for seniors.

9 And the Court will recall, I'm sure, that on
10 cross-examination or recross-examination, Franco Milio
11 acknowledged that there were only 40 units. The resolution
12 that was voted on and was agreed to was that, based upon the
13 concession by Milio Management, seniors would have an exclusive
14 six-month window to apply for the 40 units. The financial
15 criteria would be the financial criteria established by the
16 County of Westchester, not by Milio Management.

17 As Franco Milio acknowledged, had 40 seniors applied
18 for the 40 units and met that criteria, they and only they
19 would have gotten the apartments. So under that scenario, only
20 the seniors would have been able to have those apartments in
21 that housing.

22 There is no evidence -- none whatsoever -- that anyone
23 ever approached Sandy Annabi and spoke to Sandy Annabi about
24 buying her vote. This is a situation that is different,
25 obviously, from Ridge Hill because in this case the government

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1 is specifically alleging that the \$20,000, which is now the
2 alleged bribe, if you will, came from Milio Management to
3 Mangone to Jereis and then on to Sandy Annabi.

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1 MR. ARONWALD: (Continued) However, the only evidence
2 in this record is that the Milios gave a sum of money to
3 Anthony Mangone. There is a huge disagreement between Anthony
4 Mangone and the Milios as to when, under what circumstances,
5 and in what amount that payment was made. Antonio Milio says
6 it was one payment of \$40,000, four \$10,000 bundles of \$100
7 bills, and Anthony Mangone says it was over a series of
8 payments.

9 Milio testified that Mangone told him -- Franco Milio
10 did -- that the alleged bribe, if you will, would be \$30,000.
11 Mangone says he said it was \$20,000. But what's important is
12 that there is no evidence that any of that money ever got to
13 Sandy Annabi.

14 Milio says they gave the money to Mangone. Franco
15 Milio said that they have no idea what Mangone did with the
16 money once he got it. For all they know, he could have used it
17 for gambling or anything else. They just know they gave him
18 the money.

19 Anthony Mangone testified that he gave the money to
20 Zehy Jereis, but he also testified that he does not know that
21 Zehy Jereis ever gave that money to Sandy Annabi. He does not
22 know what Zehy Jereis did with the money that he says he gave
23 to Zehy Jereis.

24 So even assuming that you take the testimony of the
25 Milios and Mangone together, the money begins and ends with

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1 Zehy Jereis. There is no evidence that the money ever went
2 beyond Zehy Jereis if you take the testimony that's in the
3 record. And it seems to me that that's an essential piece of
4 evidence that is missing, because there was no evidence that
5 Sandy Annabi voted quid pro quo for her vote in favor of
6 Longfellow designation with the payment of any money.

7 And that's what the law requires. That's what the
8 Second Circuit said is required in Ganim, and that's basically
9 what the statute talks about, and I don't think you can
10 substitute it by asking the jury to speculate, well, if the
11 money went from Milio to Mangone, then the money must have gone
12 from Mangone to Annabi.

13 Yesterday the government during the discussion we had
14 about the potential or anticipated Rule 29, the government said
15 that all that they're required to show --

16 THE COURT: I think this was with respect to Count Two
17 because they were specifically talking about Senator Bruno's
18 case.

19 MR. ARONWALD: You're right.

20 THE COURT: And that's a Count Two case, not a Count
21 One case.

22 MR. ARONWALD: You're right.

23 So, in this instance, your Honor, absent evidence that
24 Sandy Annabi was a recipient of any of that money with the
25 understanding that the money was intended to influence her vote

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1 on Longfellow, the evidence is insufficient to submit to the
2 jury because no rational jury could on that basis alone find
3 her guilty beyond a reasonable doubt.

4 It's not enough that the money went from Milio to
5 Mangone to Jereis, and then the government makes this leap of
6 faith, well, she voted for the Longfellow designation so
7 obviously it has to be because of the money that was paid by
8 Milio Management. That's just a huge hole in the government's
9 case, especially when you take it all in context, because
10 contextually what she did was, she indicated why she was
11 opposed to the project, and then once the concessions that she
12 insisted on were made, she voted for the project.

13 Early on, before we ever began this trial, I indicated
14 in papers that I had filed that it is true that the Ridge Hill
15 and Longfellow projects were from beginning to end the Ridge
16 Hill and Longfellow projects, but the meat and potatoes of both
17 projects, the guts of both resolutions were substantially
18 different from the time she voted no until the time she voted
19 yes. Those changes based upon all the evidence in this case,
20 that's the engine that drove the train with respect to her
21 changing her vote or flipping her vote, as the government says,
22 from a no vote to a yes vote.

23 So, with respect to Count One, your Honor, we believe
24 that there is no evidence that Sandy Annabi was a member of any
25 conspiracy as charged in Count One, and we ask on what evidence

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1 could a rational trier of fact find that she was? Your Honor
2 is going to instruct the jury that merely associating with a
3 member or members of the conspiracy is not enough to make her a
4 member of the charged conspiracy, and in this case there is no
5 evidence that other than her relationship with Zehy Jereis that
6 the government could argue ties her into any conspiracy and
7 argue based upon the case law and otherwise, that's just not
8 enough.

9 So, for that reason, we think that the government has
10 failed to present sufficient evidence to allow any rational
11 trier of fact to find Ms. Annabi guilty beyond a reasonable
12 doubt of the conspiracy charged in Count One.

13 THE COURT: OK. Well, I want to do this count by
14 count. I want to hear Mr. Siano Count One. I want to hear the
15 government on Count One.

16 MR. SIANO: First of all, your Honor, I'm not going to
17 repeat myself from yesterday. I respectfully --

18 THE COURT: Bless you.

19 MR. SIANO: Excuse me?

20 THE COURT: Bless you.

21 MR. SIANO: I learned from Judge Bryant that chewing
22 the same cabbage twice leads one to be criticized.

23 Judge, on Count One, there is no proof in this case,
24 as Mr. Aronwald said, of what I describe as the Tom Hagen
25 moment. There is no proof hereby action, by writing, by

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1 gesture, by word of an agreement. And with respect to Count
2 One, all of the cases, including Ganim, require an
3 understanding, and the fact that in Ganim the Second Circuit
4 was reacting to the facts that were presented at that trial,
5 there was an understanding in that case, and the fact that the
6 payments pursuant to that understanding did not line up
7 directly with a particular action is what the Circuit was
8 reacting to in the footnote.

9 In this particular situation, I don't have a lengthy
10 argument to make beyond that very straightforward argument with
11 respect to Count One. The mere existence of the payments
12 doesn't establish an agreement to commit a crime, a
13 conspiratorial moment.

14 I'm not really going to spend much more time other
15 than saying that, Judge. I made my points yesterday.

16 I would note, however, your Honor did not ask me about
17 my application for a mistrial. I look forward to the Court
18 making a ruling on it.

19 THE COURT: Denied.

20 MR. SIANO: Thank you, Judge.

21 And I have nothing further to say about Count One.

22 THE COURT: Mr. Carbone. Let's start with the
23 definition of corrupt payments. I want to make sure we're all
24 talking about the same thing. What's the definition of a
25 corrupt payment for purposes of Count One, conspiracy to accept

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1 something called corrupt payment.

2 MR. CARBONE: So that I don't misstate the law --

3 THE COURT: It's a flaw in my charge, that's why I
4 asked. My flaw; my bad.

5 MR. CARBONE: Your charge came from our proposed
6 charge, then I guess --

7 THE COURT: Well, we cut a lot. I didn't have five
8 days to charge the jury.

9 MR. CARBONE: To act corruptly means to act
10 voluntarily and intentionally with an improper motive or
11 purpose to be rewarded. This involves conscious wrongdoing or,
12 as sometimes has been expressed, the bad or evil state of mind.

13 THE COURT: So corrupt payment is a payment that made
14 with a bad or evil state of mind.

15 MR. CARBONE: A state of mind bad or evil -- a state
16 of mind to violate the law, to be influenced or rewarded. And
17 maybe this would be helpful, your Honor, because I think all of
18 these Counts One through Six involve --

19 THE COURT: I want to talk about Count One. I don't
20 want to talk about any other count. We're going to do this my
21 way.

22 MR. CARBONE: That's what I want to talk about too,
23 but I just want to make clear, because I'm not sure
24 Mr. Aronwald was clear because he was sort of making reference
25 to mens rea requirements for other statutes, that Count One

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1 involves a conspiracy to violate Section 666, which is a
2 conspiracy to accept and receive corrupt payments, as the
3 indictment charges, specific opportunities arose. That's
4 paragraph seven and then --

5 THE COURT: I understand that. I have told you that I
6 understand that. Yesterday we talked right past each other
7 even though I told you over and over again I understand that in
8 2002 it is not your -- it is not your theory that in 2002 when
9 the corrupt payments allegedly started that Mr. Jereis said or
10 could have said or intimidated to Sandy Annabi: The day is going
11 to come when somebody is going to decide to develop Ridge Hill,
12 because it's logical, it's rational, and I'm going to want you
13 to vote in favor of that, so I'm going to take care of you
14 until that happens. And on the day it happens, you've got to
15 vote for it.

16 Now, I know that's not your theory, OK? I know that
17 the theory is that back in 2002 these two people allegedly came
18 to an understanding that if Zehy "took care of" in quotes
19 Sandy, who needed a little more money than she was making at
20 her job and as a councilwoman to live the kind of life that she
21 wanted to live, that if Zehy did that, then if he ever needed
22 her vote on something, she'd give it to him, OK? That's your
23 theory. Not with any specific project in mind. The kind of
24 general, you scratch my back -- or I'll scratch your back and
25 some day you'll scratch mine if I ever get an itch. That's

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1 your theory. So you don't have to keep arguing as though I
2 don't understand your theory. I do.

3 Now, what happened in 2002 that evidences that when
4 these payments began to be made that was their understanding,
5 their mutual understanding?

6 MR. CARBONE: Your Honor, the 2002 payments, the
7 beginning of the conspiracy, like any other conspiracy, was
8 what we call the planning, the beginning stages. Just like
9 with a bank robbery. You rob a bank, you go out six months
10 earlier, maybe you buy a get-away car, you buy a gun, you
11 prepare --

12 THE COURT: You prepare, yes, but you prepare with an
13 understanding that you're going to hit, you're going to hit the
14 Chase Bank at 68th and Broadway.

15 MR. CARBONE: Exactly.

16 THE COURT: Right. Well, OK, so where is -- you admit
17 that there is -- there's no email, there's no conversation that
18 somebody overheard, there's no letter, there's no incident to
19 which you can point, there is no wink, there's no nod that
20 suggests that back in 2002 when the first allegedly corrupt
21 payment was made these guys had entered into an agreement of
22 the someday-you'll-help-me-out variety.

23 MR. CARBONE: Judge, and that's where I think the
24 disconnect is.

25 THE COURT: Well, there's a big disconnect and I want

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1 you to connect it for me.

2 MR. CARBONE: I'm going to try. We do believe that
3 the facts as they exist, and focusing on the beginning or the
4 planning stages of the conspiracy, show exactly what the law
5 requires, and, that is, that we all know that bribes and
6 corrupt agreements are not done in emails. They're not done
7 over the phone. They are done circumstantially with a nod and
8 a wink. The agreements that are charged in this case --

9 THE COURT: What are the circumstances back in 2002
10 that suggest that the conspiracy that you charge began in 2002
11 actually began then? What circumstantial evidence is there?

12 MR. CARBONE: Let me address that.

13 THE COURT: OK.

14 MR. CARBONE: There is absolutely no evidence that
15 before Ms. Annabi became a public official that these two even
16 knew each other. She became a public official --

17 THE COURT: Well, excuse me, there's also no evidence
18 that they didn't. There's evidence that you've adduced that
19 they are fifth cousins or are loosely related. And I must tell
20 you, it's your burden to prove that they didn't know each
21 other. It's not their burden to prove that they did. It's
22 your burden to prove that they didn't, and if that is the
23 burden you have undertaken, Mr. Carbone, you have failed
24 miserably.

25 MR. CARBONE: Judge, the evidence that is before the

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1 Court that came before the jury is that only after Ms. Annabi
2 became a public official did Mr. Jereis begin to pay her.

3 THE COURT: Well, that's true, but yesterday you told
4 me that Mr. Jereis, whom you erroneously, apparently,
5 identified -- because you didn't prove this -- you erroneously
6 identified as the chairman of the Yonkers Republican party back
7 in 2001 had engineered the election of this Democrat.

8 MR. CARBONE: Judge, that's exactly what the proof
9 shows. That's what Ms. Annabi said in her statement, whether
10 he was the chairman in 2003 and he was some other official in
11 the Republican Party in 2002, maybe I was off by a year, but he
12 clearly, according to the testimony of a number of witnesses,
13 including Mr. Mangone, an officer of the Republican Party in
14 Yonkers. And he became the chair a little bit later, and I
15 apologize for that. But, Judge, what the evidence --

16 THE COURT: Did Mayor Bloomberg, who was at least
17 nominally a Republican, endorse Mr. Obama in 2008 and try to
18 help make him the president? Did he not do that? Is the fact
19 that one cross-endorses someone or works for someone of the
20 other party a fact that I am supposed to say suggests corrupt
21 motive?

22 MR. CARBONE: Judge, you asked me to answer a
23 question. I'm trying to answer it. I'm trying you to tell you
24 what the circumstances --

25 THE COURT: You started out by saying these two people

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1 never knew each other before Sandy Annabi got elected to the
2 city council. That was a weak place to start.

3 MR. CARBONE: Judge, let me go where I intended to go.

4 THE COURT: OK.

5 MR. CARBONE: That is, that there is no evidence that
6 he did anything for her, became involved with her politically,
7 gave her a single red cent before she took office. The
8 evidence in the record --

9 THE COURT: They don't have to prove that that didn't
10 happen. If you're going to make that argument, you have to
11 approve that it didn't happen. They have no burden.

12 MR. CARBONE: Judge, we have proven that as of the day
13 she gets elected, that's when the payments start. And we have
14 proven that Ms. Annabi viewed Mr. Jereis as her campaign
15 manager. We've proven that he lobbied for her. He knocked
16 others off the ballot. He did fundraising for her. He
17 provided the campaign literature, and he got her elected and
18 reelected. That's what we've proven.

19 THE COURT: OK.

20 MR. CARBONE: If Mr. Turk could broadcast Government
21 Exhibit 6, I want to take the Court through those early
22 payments to talk about the nature of the payments, and how they
23 changed the course of their relationship.

24 Again, beginning in 2002, only when Ms. Annabi becomes
25 empowered as a public official, only then do the payments

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1 start. Let's look at how they start.

2 You have in 2002 \$4,400 in student loans, and he
3 begins toward the later part of that year to pay for her
4 father's car loan to the tune of \$1,400. This is what we call
5 laying down the markers. He is laying the ground work so that
6 when that day comes, and as we all know it did come in 2006, he
7 will be able to call --

8 THE COURT: We know that you allege that. We do know
9 that you allege that.

10 MR. CARBONE: In 2003, look at the change in the
11 payments. The amounts go up just a bit. He continues to pay
12 the student loan, this year to the tune of \$4,800, and now her
13 father's car loan for the entire year, a relatively modest
14 amount, to ensure that she will be there when he needs
15 something from her.

16 And then look at 2004. We get a little bit closer now
17 to the time period when Mr. Jereis calls in the marker, and
18 look at how the payments increase. This year we have \$74,994.
19 And he continues to pay the student loan, and the car loan for
20 her father. He pays \$50,000 for the purchase of the Patton
21 Drive property, and whether it's a loan or an outright bag of
22 cash doesn't matter under the law. As your Honor has indicated
23 in your proposed charge, it's a thing of value. He gives her
24 \$10,000 for the purchase of the Bacon property house, the down
25 payment, \$7,200 for the purchase of the Rumsey Road property.

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1 Again, we're getting closer to the day when he calls in that
2 favor, that chit.

3 THE COURT: But we still don't have a Ridge Hill
4 project. Ridge Hill is not a gleam in his eye yet. You're not
5 alleging that.

6 MR. CARBONE: We're not alleging that, and that's not
7 what the indictment charges.

8 THE COURT: It's just that she's been around for
9 awhile, so he's upping the ante in case -- nothing has happened
10 yet that he would need her vote on so the logic of why he
11 should be increasing the payments for political reasons escapes
12 me. Other logic doesn't necessarily escape me, but the logic
13 of why in order to "keep her on the payroll," as it were, he
14 should up the ante from \$10,000 to \$70,000 escapes me, because
15 it's closer to an end date of which he is not aware. He
16 doesn't know that it's closer to anything. He can't possibly
17 have known in 2004 that it was closer to 2006 when he was going
18 to need her vote because he didn't know in 2004 that he was
19 going to need her vote in 2006. There is a logical fallacy
20 here.

21 MR. CARBONE: Not a logical fallacy at all.
22 Mr. Jereis is now the head of the Republican Party, and as a
23 multitude of witnesses testified, all roads to Sandy Annabi
24 lead through Zehy Jereis. He was the gatekeeper. And the fact
25 that we have only charged the two specific opportunities

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1 doesn't change the structure of the indictment, the nature of
2 the charge which is as specific opportunities arose.

3 Judge, before I continue on the time line, I just want
4 to point out that the Second Circuit has repeatedly said, and
5 said most recently, as your Honor identified earlier, in the
6 Bruno case which, granted, it is an honest services case, but
7 it applies to all forms of bribery.

8 THE COURT: Honest services is -- let me tell you, in
9 this courtroom, until the Second Circuit tells me otherwise or
10 the United States Supreme Court tells the Second Circuit
11 otherwise, honest services is limited to its specific facts,
12 and it carries over into nothing, nothing.

13 MR. CARBONE: Judge, I beg to differ. That's exactly
14 the point addressed in United States v. Bruno by the Second
15 Circuit. What the Second Circuit said in Bruno is -- the
16 posture the case was in is, Bruno was convicted on an
17 undisclosed material conflicts of interest theory. The issue
18 that the Second Circuit addressed is whether he can now be
19 charged under a quid pro quo bribery theory. And they remanded
20 the case for a new trial, and the Court reviewed Skilling and
21 said that is exactly the law. The Supreme Court has now said
22 that as far as honest services go --

23 THE COURT: Quid pro quo bribery.

24 MR. CARBONE: -- if it is a bribe or kickback, then
25 it's honest services.

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1 THE COURT: Right.

2 MR. CARBONE: And in connection with when they
3 reviewed the facts, you didn't have an express quid pro quo
4 there. You had circumstantial evidence of a bribe. You had
5 benefits, you had concealment, and you had official action.

6 THE COURT: Let me ask you a question. Let me just
7 ask you a question, and I know what you're going to answer.
8 You tell me concealment, but yesterday you said all you had to
9 do was establish that she did something that they would have
10 wanted, show up at a meeting at Forest City Ratner.

11 Identify for me one politician after George Washington
12 who is not amenable to indictment on the theory that people
13 gave money to his campaign or her campaign and thereafter that
14 person showed up at a meeting.

15 MR. CARBONE: I'm happy to address that, Judge. The
16 Supreme Court has addressed that very set of facts, and if you
17 have campaign contributions, then you do in fact need an
18 express agreement. That's why George Washington won't get
19 indicted or any of the other politicians like President Obama
20 and anyone else. You need an express agreement in the context
21 of a campaign contribution. There is no contention here that
22 any of those payments on Government Exhibit 6, Government
23 Exhibit 5, any of the \$174,000 are campaign contributions.

24 In fact, what they are are concealed benefits. And
25 what the Second Circuit said when they were considering honest

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1 services in the Bruno case when they remanded it and said that
2 they think there's a perfectly fine case, they recited Second
3 Circuit law, a long history of Second Circuit law, that says
4 when you have concealed benefits and you have official acts,
5 then you have a circumstantial bribe case because we all know
6 that that's how bribes or corrupt payments are made.

7 In fact, on page 745 of the Court's opinion in Bruno,
8 the Second Circuit -- and, again, this is November of 2011 --
9 cited Biaggi, and said "We have recognized, especially with
10 respect to public officials that evidence of the receipt of
11 benefits followed by favorable treatment may suffice to
12 establish circumstantially that the benefits were received for
13 the purpose of being influenced in the future performance of
14 official duties thereby satisfying the quid pro quo element of
15 bribery."

16 That comes right out of Biaggi. That comes right out
17 of the Friedman case. That's been the law, the well-settled
18 law in the Second Circuit since at least 1990. And that's what
19 we have here, Judge.

20 MR. HALPERIN: Judge, sorry to jump in. Just on that
21 point, because I think the Court raises an interesting issue
22 when you say Mayor Bloomberg was supporting President Obama. I
23 think the key point here, the distinction it's not a question
24 of a Republican supporting Democrats or vice versa. The
25 distinction is Mayor Bloomberg never made personal payments for

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1 President Obama, for his mortgage, for his car, for his cable
2 bills. President Obama never concealed those payments on
3 financial disclosure forms. And Mayor Bloomberg never
4 requested that President Obama take official action.

5 So I think that's the key point that makes this
6 situation different. It's not simply a Republican
7 cross-endorsing Democrat.

8 The other point I wanted to address just on this
9 issue, going back to 2002, the Court raises a good question,
10 what is the understanding.

11 Proof of the understanding -- and this piggybacks on
12 what Mr. Carbone has said -- viewing all facts in the light
13 most favorable to the government, which is obviously the
14 standard on Rule 29, the jury is entitled to draw an inference
15 from the fact that Ms. Annabi is getting all these things
16 designed to influence her official action.

17 Why is Mr. Jereis giving her all these things only
18 once she's elected and not before she's elected? Why does
19 Ms. Annabi conceal these things? They are allowed to draw an
20 inference of an understanding about those things. If these
21 were simply --

22 THE COURT: Can I just interrupt you?

23 MR. HALPERIN: Yes.

24 THE COURT: Because I obviously didn't focus on this
25 as the evidence was coming in in the way you are now

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1 articulating it. What evidence did you introduce to show that
2 Zehy Jereis never gave anything to Sandy Annabi before 2002?
3 That he never gave her anything?

4 MR. HALPERIN: I think --

5 THE COURT: No. No. That says he gave her stuff
6 starting in 2002? What evidence did you introduce that Zehy
7 Jereis never gave Sandy Annabi anything before 2002 to prove
8 that negative? What evidence did you introduce? Because I
9 don't remember hearing it, but I missed a lot.

10 MR. CARBONE: Judge, Agent Dennehy testified that from
11 his analysis of the records, the payments started in January of
12 2002.

13 THE COURT: Did Agent Dennehy testify that he went
14 back through everything that Ms. Annabi ever received from any
15 human being from, say, 1990 on? I don't think that that's what
16 he testified. In fact, my guess is that Agent Dennehy, who is
17 a marvelous revenue agent, looked at exactly what you gave him.

18 MR. CARBONE: Judge, I think that's an unfair standard
19 to hold the government to. The government --

20 THE COURT: Well, then don't make the argument. Don't
21 make an argument that is unsupported by any evidence. There is
22 no evidentiary support for you to get up in front of that jury
23 and say to them "the payments didn't begin until 2002" because
24 you haven't proved that he didn't throw a birthday party for
25 her in 2001, and you haven't proved that he didn't give her a

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1 mink coat in 2000. You haven't done that.

2 MR. CARBONE: Judge, I think that's unfair. I think
3 the evidence shows that the payments started in January of
4 2002, and we are certainly entitled to argue that to the jury.
5 If the defense, when their time comes --

6 THE COURT: They have no burden.

7 MR. CARBONE: They have no burden, but, Judge, our
8 burden is met by proving that that's when the payments started.

9 THE COURT: No. No, you didn't prove they started
10 then. You proved that payments were made in 2002. Proving
11 that payments were made in 2002 is not proof that payments were
12 not made before 2002. There is a difference between proving
13 that payments were made and proving that payments were never
14 made before that date. And if you are hanging your hat here on
15 the payments didn't start until she was elected, I need to know
16 what evidence is in the record that he never made any payments
17 before 2002. Maybe there is such evidence. I never thought of
18 the case in this term before.

19 MR. CARBONE: May I have a moment, your Honor?

20 THE COURT: Eventually we'll get back to that. Let's
21 try to go on without worrying about whether they began in 2002.
22 You have laid out a sequence of payments which, I will admit,
23 are of an unusual nature. I wish somebody paid off my student
24 loan. Actually, my dad did. I wish somebody made my dad's car
25 payments. I wish somebody other than my husband perhaps had

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1 bought me a house. I wish I had a sugar daddy. That would be
2 a lovely thing. It's an unusual sequence of payments. I will
3 grant you that, OK, and you have laid them out. They were
4 made.

5 Now, is it from the unusual nature, perhaps the
6 unnatural nature alone, of the payments that we are to infer
7 that there was an understanding reached between these two
8 people that she would be at his beck and call if need be? Is
9 that one of the inferences you are asking the jury to draw?

10 MR. CARBONE: No. There are three elements.

11 THE COURT: OK.

12 MR. CARBONE: There are three pieces to the puzzle.
13 The answer is no, it's not solely the unusual --

14 THE COURT: I didn't say solely. Is that part of what
15 you are going to argue to the jury?

16 MR. CARBONE: Absolutely, Judge, that, plus
17 concealment, plus official action, you have those three things,
18 and you have a corrupt payment.

19 So just to continue on through 2005 you, can see there
20 were more student loan payments.

21 THE COURT: Yes, I understand what the payments were.

22 MR. CARBONE: You understand what they're for, OK?

23 THE COURT: No, I haven't been sitting here for the
24 last three weeks.

25 MR. CARBONE: During each and every year that she

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1 received these payments, she concealed them. She failed year
2 after year to report them on her financial disclosure forms.

3 Mr. Aronwald suggested yesterday that she may have
4 thought she didn't have to because Mr. Jereis was family. And
5 that, we submit, is ridiculous.

6 THE COURT: That is at best a jury argument; that I
7 will grant you.

8 MR. CARBONE: It's not only a jury argument --

9 THE COURT: It's a weak jury argument.

10 MR. CARBONE: -- it's a weak one, because, number one,
11 she told the agent she wasn't related to Zehy Jereis and she
12 knew it; and that argument is so ungrounded that when
13 Ms. Annabi was asked in the interview in detail about these
14 financial disclosure forms, even she didn't make that claim,
15 that she didn't report them because Mr. Jereis was related to
16 her. She made some suggestion that, well, she didn't see them
17 as financial benefits to her because her father was going to
18 pay Mr. Jereis back for all these things. So, it is a weak
19 jury argument. She failed to disclose those benefits year
20 after year beginning in 2002 going right up through the end
21 date of the conspiracy in 2008 and early 2009.

22 She failed to disclose that she was receiving these
23 financial benefits to the other city council members at a time
24 when she was voting on things like Ridge Hill and Longfellow.
25 When specifically asked, she never disclosed it.

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1 She failed to disclose these benefits on her loan
2 applications. She had \$60,000 in connection with the Patton
3 and Bacon properties; never disclosed it. Never disclosed this
4 alleged loan agreement as a liability. Never disclosed that
5 she had received the payments the "down payments" in connection
6 with her purchase of those two properties.

7 And Jereis also concealed the benefits. Remember, he
8 used postal money orders when paying the Rumsey Road mortgage
9 in the beginning, and he never disclosed this alleged note
10 receivable on any of his mortgage applications that were made
11 reasonably contemporaneous with the execution of the note which
12 was in late June of 2004.

13 He files loan applications in September and November
14 of '04. Never makes any mention of that.

15 And how about those phony, the back-dated reports that
16 he submitted to Forest City Ratner? That's concealment of
17 evidence. If he was really doing the work --

18 THE COURT: We're talking about the corrupt payments
19 right now, so --

20 MR. CARBONE: Well, that's how the corrupt payments --

21 THE COURT: Things he filed with Forest City Ratner
22 are not corrupt payments to Sandy Annabi.

23 MR. CARBONE: They're part of the conspiracy. They're
24 acts of concealment in furtherance of the conspiracy. So,
25 Judge, you have all those payments, you have repeated acts of

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1 concealment, and then you have official action which is the
2 third sort of ingredient, and, again, we charge as specific
3 opportunities arose.

4 I just want to clarify, Mr. Aronwald quoted a passage
5 of Ganim, and that passage actually comes out of the Hobbs Act
6 standard. But here is what the Court actually said. "To the
7 extent Ganim claims that the benefits received must be directly
8 linked to a particular act at the time of the agreement, he
9 overstates the law. We explained in Coyne, in language
10 mirroring the jury charge here, that 'it is sufficient if a
11 public official understands that he or she is expected as a
12 result of the payment to exercise particular kinds of influence
13 i.e., on behalf of the payor as specific opportunities arose.'"

14 So, that's what's charged in the indictment, specific
15 opportunities. We have given as example two opportunities that
16 did arise when Mr. Jereis called upon Ms. Annabi, and the first
17 was Ridge Hill.

18 What is the single, most compelling piece of official
19 action? We know that on June 2 Mr. Jereis met at the Marco
20 Polo with the Forest City Ratner people. He said he would get
21 a meeting with Ms. Annabi.

22 On June 9 Ms. Annabi showed up at that meeting. That
23 in and of itself is official action. We know from Bruce Bender
24 and Scott Cantone that at that meeting Mr. Jereis spoke
25 favorably about the project, and we know that at the first

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1 meeting on June 2 Mr. Jereis said to Mr. Ratner, "You are
2 hiring the wrong people perhaps." And after years of
3 steadfastly opposing this project, after years of telling Dee
4 Barbato and John Murtagh that she will stick with them to the
5 end, she abruptly flips her vote based on Zehy Jereis bringing
6 her to a meeting that Forest City Ratner paid lobbyists,
7 including Mike Spano and Al Pirro, could not get a one-on-one
8 meeting with Bruce Bender and Scott Cantone.

9 THE COURT: OK. Now let's think of that. She flips
10 her vote based on going to a meeting. She doesn't flip her
11 vote based on some conversation with Zehy Jereis about how if
12 she flips her vote, he's going to get a consulting agreement;
13 and she doesn't flip her vote because Zehy says -- because we
14 have the Tom Hagen moment and Zehy comes to her in the middle
15 of the night and says your Don has need of you. She flips her
16 vote because she goes to a meeting with Forest City Ratner?
17 That makes no sense in the context of your argument.

18 MR. CARBONE: Judge, if I may, again, getting back to
19 the legal standard: Payments, concealment, followed by
20 favorable official action. We don't have to prove -- because
21 that's not how corrupt payments are made -- we don't have to
22 prove that Zehy Jereis and Sandy Annabi sat down and said --

23 THE COURT: Let me see if I can get -- I really,
24 really want to understand this. So, the official action that
25 the government alleges in this case is not that Sandy Annabi

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1 voted in favor of the Ridge Hill project; it's that she went to
2 a meeting with officials from Forest City Ratner where they had
3 a discussion about what Sandy Annabi might be able to get for
4 the city of Yonkers in exchange for her vote after which Forest
5 City Ratner gave the city of Yonkers what some people plainly
6 think is inadequate, but that's part of the political process,
7 \$10 million and a traffic study, and then Sandy Annabi changes
8 her vote.

9 If the going to the meeting is the official action
10 that is occasioned by Zehy's years and years and years of
11 gifts; not the vote, not the change of vote, but just showing
12 up at the meeting and hearing the pitch from Forest City Ratner
13 and ending up getting engaged in some kind of a discussion
14 about what it would take to change her vote --

15 MR. CARBONE: Judge, let me back up because I
16 obviously am not expressing myself clearly.

17 THE COURT: Or I am stupid because I'm not getting it.
18 I just am not getting it. I understood when I thought this
19 case was about Sandy Annabi changing her vote because she'd
20 been getting presents for years and years and years.

21 MR. CARBONE: Judge, it is in part that. It's both.
22 I guess my point was that all we have to prove is official
23 action under the law, and the official action can be anything.
24 It can be showing up at a meeting, and that's in your Honor
25 proposed suggested charge. What we have also proven though is

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1 that there are repeated concealed benefits and then --

2 THE COURT: That's a different element. We are now on
3 the official action element. I will grant you that there's
4 evidence of concealment, all right? It's conceded. It's
5 conceded that there is evidence of benefits, so the official
6 action that Sandy Annabi allegedly understood from the
7 get-go -- this is a conspiracy count -- she allegedly
8 understood from the get-go that all she was going to have to do
9 was show up at a meeting with Forest City Ratner and its
10 lobbyists and listen to their pitch? The American political
11 process is in great peril.

12 MR. CARBONE: If people are taking repeated concealed
13 financial benefits, then I would say, yes, the political
14 process is in great peril.

15 Judge, getting back to what we have alleged and what
16 we have to prove, it's as specific opportunities arise, and we
17 never charged, and there is no allegation, that back in 2002
18 there was some agreement to invite Sandy Annabi to a meeting to
19 get her to come to a meeting in June of 2006. That is
20 obviously not what I am saying.

21 What I am saying, and what's charged in the
22 indictment, and what the law requires and permits, is us to
23 prove that payments when they're repeated concealed payments
24 followed by a favorable official action, you may infer corrupt
25 intent. That's what the Second Circuit has said repeatedly.

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1 That's the law. That's what we've charged, and that's what
2 we've proven overwhelmingly.

3 Getting back to the Forest City Ratner meeting. It is
4 our contention that Ms. Annabi accepted a corrupt payment, a
5 series of corrupt payments over a long period of time and took
6 favorable official action. The corrupt intent can be inferred
7 by the fact that she voted in favor of the project. It may be
8 inferred also from the fact that she showed up at a meeting on
9 June 9 when Al Pirro, Mike Spano and any other lobbyists that
10 Forest City Ratner paid a lot of money to could not get her to
11 a one-on-one meeting, could not get her to the table, and as to
12 whether she knew -- and maybe just to step back for a minute,
13 maybe just conceptually what's happening here is we have not
14 alleged that Forest City Ratner was a bribe payer. We have not
15 alleged that Forest City Ratner knew that Zehy Jereis was
16 paying Sandy Annabi behind the scenes.

17 THE COURT: I understand that. I think the government
18 would probably concede that while it believes it to be
19 inadequate, a deal that included an extra \$10 million for
20 Yonkers is a better deal than a deal that didn't include an
21 extra \$10 million for Yonkers.

22 MR. CARBONE: As we have included in our requests to
23 charge, and as your Honor has included in the charge you
24 circulated, whether she thought this was a good deal is
25 irrelevant, and whether it was a benefit to the public is

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1 irrelevant under the law. The question is whether when she
2 took the payments from Mr. Jereis whether she had some corrupt
3 intent. That's the issue. Whether Ridge Hill was good,
4 whether Longfellow was good, legally irrelevant.

5 Getting back to the Forest City meeting at Jake's
6 Steakhouse. Judge, you have to recall that prior to that
7 meeting, at least four witnesses have said that Ms. Annabi knew
8 that Zehy Jereis was seeking a job, or knew that Zehy Jereis
9 was seeking a job. Specifically Dennis Roberston said that
10 when he met with Al Pirro many months earlier, Al Pirro said,
11 we will just get Zehy a job, we'll give him a consulting
12 contract, and that's how we'll get Sandy Annabi's vote.

13 The corrupt relationship here is between Sandy Annabi
14 and Zehy Jereis, and it's not between Bruce Bender and Scott
15 Cantone and Zehy Jereis and Sandy Annabi. He's paying her. He
16 gets her to come to the meeting. He puts the arm on them and
17 gets the consulting contract, a no-show job.

18 Dee Barbato testified that he said where are all the
19 jobs for the republican leaders, or maybe it was Mike Spano. A
20 number of witnesses testified -- Anthony Mangone testified that
21 Zehy Jereis asked him to go to Al Pirro and ask for a job.
22 That's what he wanted. He used his relationship, his corrupt
23 relationship, with Sandy Annabi to get that job. So that's the
24 quid pro quo. The quid pro quo is he is paying her all along.
25 He gets her to come to that meeting. He speaks favorably in

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1 front of her about the project, and we can infer, the Second
2 Circuit says, based upon her subsequent favorable official
3 action and her concealment of repeated financial benefits that
4 there was corrupt intent when she received the payments.

5 We have not charged, and we don't intend to prove or
6 argue to the jury, that there was an express agreement. That's
7 not what this case is about, and that's what your Honor noted
8 back in your May 17 opinion.

9 THE COURT: I wouldn't worry about my May 17 opinion.
10 We are way beyond the May 17 opinion. We are like at the close
11 of evidence in the case. That's what I'm looking at.

12 MR. HALPERIN: Your Honor, the other thing is in terms
13 of official action, as we discussed briefly yesterday, at the
14 end of that June 9 meeting, which is the first time that Annabi
15 and Jereis sit down with Forest City Ratner, you will recall
16 the testimony from Mr. Cantone and Mr. Bender that the meeting
17 did not go particularly well in terms of convincing Ms. Annabi
18 to support the project.

19 But at the end of that meeting, Mr. Cantone, and
20 Mr. Jereis were in the parking lot, and that's the day, the
21 first time that Mr. Jereis turned directly to Forest City
22 Ratner and said, what about a job for me?

23 THE COURT: I hear that, but now here is an issue that
24 Mr. Aronwald raised that has occurred to me, and, again, maybe
25 I've missed something. Just because I do. I do miss things

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1 over the course of a trial. Where is the evidence that Sandy
2 Annabi knew anything about that conversation or any arrangement
3 that Mr. Jereis made with Forest City Ratner?

4 MR. HALPERIN: I will give you two pieces of evidence.

5 THE COURT: Before the vote.

6 MR. HALPERIN: I will give you two pieces. First of
7 all, the jury is entitled to infer --

8 THE COURT: No. No. I want to know what the evidence
9 is. Don't talk to me about what the jury is entitled to infer.
10 I want to know what is the evidence to counter Mr. Aronwald's
11 bold statement that there is none.

12 MR. HALPERIN: FBI analyst Joseph Enright, who did the
13 phone charts, showed phone charts to this jury. He showed
14 day-by-day phone charts and month-by-month phone charts.

15 THE COURT: OK, so they have a lot of phone calls. He
16 also said he had no idea what was said in any of those calls.

17 MR. HALPERIN: Of course. But what those phone charts
18 showed is that in May 2006 there were approximately 50 phone
19 calls between Annabi and Jereis. In June 2006, which was the
20 highest month of the entire year, there were 623 phone calls
21 between Annabi and Jereis. And what was the single day of the
22 year with the most phone calls between Annabi and Jereis?
23 June 9, 2006, the very day we're talking about, when Jereis
24 asked for the job. There were 81 phone calls or phone contacts
25 on that day. And from that fact alone, this jury is absolutely

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1 entitled to infer that because Jereis and Annabi had been
2 meeting with Forest City Ratner, and they had 81 phone calls
3 that day, and since they had such --

4 THE COURT: Or there were 81 attempts to connect
5 because we don't know that they connected because we heard that
6 evidence.

7 MR. HALPERIN: Fair enough.

8 THE COURT: We heard that evidence. In fact, it might
9 have been like one of those days where I call my husband 81
10 times, and he never picks up the phone.

11 MR. HALPERIN: Fair enough.

12 THE COURT: And they happen.

13 MR. HALPERIN: I've had the same experience with my
14 wife, Judge, so I can relate. But the point is there is
15 clearly the greatest number of attempts by far in all of 2006
16 on that day.

17 THE COURT: But because all we know is there's the
18 greatest number of attempts, we don't know what was said. They
19 may indeed have talked about the project, but now you want the
20 jury to infer not only did they talk about the project, but
21 that they talked about something that happened that you admit
22 happened when Sandy Annabi was nowhere present. She wasn't
23 there when he said to Mr. Forest City Ratner, give me a job,
24 give me a job.

25 MR. HALPERIN: That is a data point, however, Judge,

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1 from which the jury can infer in a very fair way that they
2 would have discussed it. I will give you another example.

3 THE COURT: OK. Data point two.

4 MR. HALPERIN: Data point two: Mr. Carbone was saying
5 in approximately spring of 2005, Dennis Roberston went to Al
6 Pirro's office, had a conversation and then Al Pirro made this
7 comment: I'm not worried about Sandy Annabi's vote; we'll just
8 give Zehy the job.

9 THE COURT: Spring of 2005, a year before anything
10 happened.

11 MR. HALPERIN: Absolutely.

12 THE COURT: Al Pirro. What a wonderful witness for
13 your office to rely on. Mr. Pirro said --

14 MR. HALPERIN: We're relying on Mr. Roberston's
15 recollection.

16 THE COURT: Of what Mr. Pirro said.

17 MR. SKWRAO: Correct. And we stand by what
18 Mr. Roberston said. Mr. Roberston said that probably the same
19 exact day that Mr. Pirro made that comment, he was so
20 uncomfortable by it that he went and confronted Ms. Annabi and
21 said, "Sandy, these are the things that people are saying.
22 This is wrong." And she gave him that deer-in-the-headlights
23 stare and didn't say a word.

24 So Ms. Annabi was clearly on notice that people were
25 talking about her relationship with Mr. Jereis, and that was

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1 specifically related to Mr. Jereis getting a job at --

2 THE COURT: OK. She was aware that people were
3 talking about her relationship with Mr. Jereis, but that's not
4 proof that she knew that Forest City Ratner had offered or that
5 he had asked Forest City Ratner to give him a consulting
6 agreement. There comes a point when the number of inferences
7 upon inferences upon inferences that you want the jury to draw
8 becomes implausible in and of itself.

9 MR. CARBONE: Judge, if I may, again, it would be
10 important if we were charging that Forest City Ratner were the
11 bribe payers. But it is a very fair inference in the record
12 that at a time when Mr. Jereis is paying her, they show up
13 together. He gets her to come to a meeting. Why else would he
14 do that? That is a very fair inference that she knew based
15 upon her concessions --

16 THE COURT: So we're back to the official action is
17 that she showed up at the meeting. This case really has
18 nothing to do with how she voted because you have certainly
19 intimated, and certainly intimated in your opening statement,
20 that what this case was about was Zehy Jereis getting Sandy
21 Annabi to vote for the project because he was going to get a
22 no-show consulting agreement with Forest City Ratner. You said
23 that in your opening statement.

24 And Mr. Aronwald fairly asks, and what is the evidence
25 that Sandy ever knew that Zehy had asked Forest City Ratner for

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1 an agreement? And the only evidence is that everyone agreed
2 they were close. Well, I'm close to a lot of people that I
3 don't tell all my business to. Judge Gristedes' comments
4 notwithstanding.

5 MR. CARBONE: That is a totally unfair
6 characterization.

7 THE COURT: Well, I'm trying to figure out what would
8 be a fair characterization.

9 MR. CARBONE: A fair characterization is she knew from
10 multiple sources that he's trying to get a job from Forest City
11 Ratner.

12 THE COURT: Who? What's the evidence?

13 MR. HALPERIN: Dennis Roberston --

14 THE COURT: What's the evidence that in 2006 she knew
15 he was trying to get a no-show job with Forest City Ratner.
16 Not 2005, Al Pirro. 2006, the real deal. The thing that
17 Mr. Halperin tells me is so important because it happened in
18 the parking lot on June 9, 2009, what is the evidence that she
19 knew about that?

20 MR. CARBONE: Well, we agree then at least there's
21 evidence in the record that she knew that he was trying to get
22 a job.

23 THE COURT: No, there's evidence that Dennis Roberston
24 came to her and said this is the kind of thing that people like
25 Al Pirro are saying, but that's all we know from

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1 Mr. Roberston's testimony. All we know is that he went to her
2 and said, "Sandy, watch your back, because this is the kind of
3 thing that people are saying about you." Now, let's jump ahead
4 13 months, 13 months --

5 MR. CARBONE: Judge, this is not a philanthropist
6 sitting at the other side of the table. He didn't show up at
7 that meeting on June 2 with Joe Lentol and tell Forest City
8 Ratner that he would get Sandy Annabi to a meeting and produce
9 her seven days later out of the goodness of his heart. He did
10 it because he was paying her. He knew he could get her there,
11 and he did get her there, and then he got paid, he got a
12 no-show job with Forest City Ratner. That's the essence of the
13 scheme.

14 THE COURT: All you told me is that Mr. Aronwald is
15 correct, we can't ask the jury to infer from the fact that he
16 got a no-show job at Forest City Ratner that Sandy Annabi knew
17 that he got a job with Forest City Ratner because you still
18 haven't pointed me to a scintilla of evidence tending to show
19 admitting of the fair inference even viewed most favorably to
20 the government, which is, of course, not how the jury is going
21 to look at it, because the jury has to look at it most
22 favorably to the defendant, who have no burden of proof, you
23 haven't shown me a scintilla of evidence that Sandy Annabi was
24 ever made aware of this dirty little conversation that happened
25 in a parking lot.

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1 MR. HALPERIN: Judge, as we have said before, this is
2 a circumstantial bribery case. And there has been --

3 THE COURT: But there has to be -- circumstantial
4 evidence is direct evidence of facts from which it is possible
5 to draw an inference that other facts exist. Circumstantial
6 evidence is not circumstantial proof of facts from which you
7 can draw the further circumstantial evidence that facts exist.
8 There has to be direct evidence of something.

9 MR. HALPERIN: We certainly agree, Judge. We
10 certainly agree, and there was direct evidence that Mr. Mangone
11 gave \$20,000 in cash to Mr. Jereis.

12 THE COURT: We're talking about Ridge Hill. We're
13 talking about Ridge Hill.

14 MR. HALPERIN: I understand. Judge, first of all, the
15 evidence in the record, we submit, is very clear that
16 Mr. Jereis does what nobody else is able to do. He sets up a
17 meeting on June 9 with Forest City Ratner and Sandy Annabi.
18 There is also strong circumstantial evidence that that is the
19 single highest number of phone attempts in all of 2006. I know
20 the Court said that \$10 million and some traffic study, but
21 there is also evidence from both Dee Barbato and John Murtagh,
22 who oppose the project, and Dennis Robertson who support the
23 project, as well as one of the Forest City Ratner officials,
24 that that amounted to peanuts. That was an inconsequential
25 change, which calls into question the very motive, the very

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1 reason that Sandy Annabi flipped her vote and provided that
2 critical vote.

3 There is also a strong paper trail of evidence that --
4 let's remember the time frame. June 2 is the very first
5 meeting with Forest City Ratner and Zehy Jereis. The very
6 first meeting Bruce Bender is so excited to finally get a
7 meeting. Only 13 days later Sandy Annabi flips her vote after
8 two years of opposition. Other powerful evidence. June 2, you
9 have the first meeting. June 9, the first meeting with Annabi
10 and Jereis. June 14, the second and final meeting with Annabi
11 and Jereis and the developer at Madison's Restaurant where now
12 they're hammering out a deal only five days after Jereis has
13 asked for a job in the parking lot. June 15 Sandy Annabi
14 announces her change in support. And June 16 the first of
15 those emails, the many emails that the Court saw where Zehy
16 Jereis is bombarding Forest City Ratner, here's my resume and
17 cover letter, asking for a contract. How we doing on the job,
18 Mr. Cantone? I appreciate the movement on the contract.

19 From all these very powerful pieces of circumstantial
20 evidence about the time frame, the phone calls, Ms. Annabi
21 being in the room with Mr. Jereis, the bombarding by Mr. Jereis
22 of Forest City Ratner officials, and the arguably permissible
23 inference for the jury, ridiculous excuse for why Ms. Annabi
24 flipped her vote on such a strong project when she had told
25 four different witnesses at least, including now Yonkers Mayor

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1 Michael Spano, I will never change my vote until Dee Barbato,
2 the councilwoman for the district, supports the project. Those
3 are all powerful pieces of circumstantial evidence from which
4 we can easily ask the jury to infer that official action was
5 taken for corrupt reasons.

6 I did want to add one other thing about the corrupt
7 payments to what Mr. Carbone already said. I think it is
8 critical for the Court to remember the nature of the corrupt
9 payments. He is not just giving Ms. Annabi flowers and
10 chocolate, which might be the hallmarks of the supposed
11 infatuation types of gifts that Mr. Siano referenced in his
12 opening statement.

13 One of the most critical things that Zehy Jereis
14 provides to Sandy Annabi is that apartment within the district,
15 which I don't need to bore the Court with the facts because the
16 Court has heard it all. But the government's contention is she
17 is living out of her district in the summer of 2004. For six
18 or seven months she's living out of district. Maria Chousa,
19 one of her best friends at the time, echoed that and said she
20 always picked Ms. Annabi up at the Bacon Place house which is
21 in the sixth district on the other side of Yonkers. Ms. Annabi
22 needed a house within the district, and Mr. Jereis helps her
23 find that apartment on Rumsey Road within the district, and
24 from 2005 through 2008 he pays all the expenses. That's
25 critical. Look at that. That's not flowers and chocolate.

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1 That is the very apartment she needs in order to continue
2 lawfully serving on the city counsel. So I just wanted to add
3 that because I think that is another important component of the
4 corrupt payment.

5 MR. CARBONE: Any other issues the Court wishes to
6 discuss on Count One?

7 THE COURT: Count Two.

8 Mr. Aronwald.

9 MR. ARONWALD: I, frankly, did intend to at least
10 address some of the questions you raised with --

11 THE COURT: Be my guest. It's your motion. The rest
12 of it all follows from Count One and Count Two anyway.

13 MR. ARONWALD: Maria Chousa, when she was on direct
14 examination, originally started out by saying that she saw
15 Sandy Annabi during that period in 2004 two or three times a
16 week and then again on the weekend. When cross-examination was
17 completed, that two or three days a week plus the weekend
18 turned out to be one day a week, and it was the weekend that
19 that one day was and that she had no idea where Sandy Annabi
20 was living during the other six days of the week.

21 Putting all of that aside, we are still left with the
22 points that your Honor is raising that I don't believe the
23 government has responded to. Whatever Dennis Roberston
24 testified to about what Mr. Pirro told him in the spring of
25 2005, the fact of the matter is that there is no evidence from

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1 anyone that Zehy Jereis ever told Al Pirro, I want a consulting
2 job and I can get Sandy to vote for Ridge Hill. Al Pirro was
3 basically, according to Dennis Roberston, saying, well, we're
4 not worried about Sandy's vote. We'll just do something for
5 Zehy Jereis. Well, Al Pirro was not able to do anything to
6 bring Sandy Annabi to the table or to get Forest City Ratner to
7 talk to Sandy Annabi from the spring of '05, which is the
8 reason why Forest City Ratner fired him. Mike Spano wasn't
9 able to do it. And now the government says, well, because Zehy
10 Jereis was able to do for free what Al Pirro, Mike Spano and
11 other lobbyists could not do for money, I believe the testimony
12 was Pirro got a million dollars from Forest City Ratner, that
13 means the only reason Sandy Annabi went to that meeting on
14 June 9 was because of these corrupt payments because she
15 understood that this was when the godfather was asking for the
16 favor.

17 That just doesn't make any sense. It doesn't hold any
18 water. It's a terribly fallacious argument. The fact is that
19 there is no evidence that Sandy Annabi knew that there was any
20 conversations or discussions between Zehy Jereis and Forest
21 City Ratner with respect to any type of job, consulting
22 agreement or otherwise. That was what your Honor focused on,
23 and I sat and I listened patiently for Mr. Carbone and
24 Mr. Halperin to respond to your Honor's request that they point
25 to some evidence in the record that she knew, and they just

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1 danced around the issue. And at the end of the day, the answer
2 to the question is they can't point you to any evidence because
3 there is no evidence that she knew of any consulting agreement
4 discussions between Forest City Ratner and Zehy Jereis.

5 (Continued on next page)
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1 MR. ARONWALD: Interestingly enough, Forest City
2 Ratner copied Zehy Jereis on the emails that they had with
3 Sandy Annabi, but they did not copy Sandy Annabi on any of the
4 emails that were back and forth between Zehy Jereis and them
5 about the agreement, so there is absolutely no evidence at all.

6 With respect to the phone activity, that doesn't prove
7 anything. It doesn't prove, as your Honor said to the
8 government -- and they didn't really disagree -- there is no
9 evidence as to what the conversations were about. Maybe they
10 dealt with Ridge Hill. Maybe they didn't. But there is no
11 evidence that the number of conversations without knowing the
12 content prove or tend to prove that what they were talking
13 about was Zehy's asking Forest City Ratner for a consulting job
14 or Forest City Ratner's response. That is not a substitute for
15 evidence.

16 By the way, your Honor, my recollection is, when
17 Revenue Agent Dennehy took the stand, on direct examination he
18 was asked and he testified that the only records that he was
19 asked to review were for the period 2002 through 2008.

20 So they asked the question as to what years he
21 reviewed records for, he said 2002 through 2008. He didn't say
22 that the only records the government had in their possession
23 were from 2002 to 2008.

24 He said those were the only records that he was asked
25 to review by the prosecutors in this case.

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1 THE COURT: The government is not going to get to
2 respond to this. We are going to move on to Count 2.

3 MR. ARONWALD: With respect to concealment, I hate to
4 use the term because this is serious business, but I was amused
5 by the government's reference to the four money orders. The
6 fact of the matter is, there could not be a better paper trail
7 of the payments that Mr. Jereis was making on Ms. Annabi's
8 behalf.

9 The student loan payments were made by checks; the
10 checks are in evidence.

11 The \$9500 deposit on the Mercedes-Benz was made by
12 check; the check is in evidence.

13 The checks to Con Ed, the checks to CableVision, the
14 checks to the bank -- they are all in evidence.

15 So if there is any actual concealment here on the part
16 of Mr. Jereis, I don't see it. There was a paper trail left
17 here, unlike other cases like Bruno and Ganim.

18 THE COURT: There is no cash, I understand that, but I
19 think that the allegation of the government was that the
20 concealment was by Ms. Annabi who did not put them on her
21 financial disclosure form, did not put them on her tax
22 return -- that's the government's allegation. She did not tell
23 everybody on the city council that the watch came from Zehy.

24 MR. ARONWALD: With respect to not reporting on the
25 tax returns, as Mr. Dennehy acknowledged, if it gifts alone, it

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1 is not reportable as income.

2 THE COURT: Right.

3 MR. ARONWALD: The fact is, it seems to me that,
4 again, the government ignores one central element in this case.
5 They have not offered any evidence whatsoever to show that when
6 she accepted the financial benefits conferred by Mr. Jereis,
7 she did so with corrupt intent.

8 That is a hole in the case. It is a vacuum that
9 cannot be filled by asking the jury to draw an inference that
10 the only reason that she would have allowed these financial
11 benefits to be made on her behalf by Mr. Jereis was that she
12 was waiting for the day he would come to her and say, now is
13 the time I need you to do me a favor. There has to be some
14 evidence of that, and there is no evidence.

15 THE COURT: Anne Boleyn accepted numerous financial
16 benefits from Henry VIII over a period of about eight years
17 before she finally gave in. I suppose that is an alternative
18 inference?

19 MR. ARONWALD: It certainly is. It is indeed.

20 With respect to the abruptly changing her vote, I
21 apologize for maybe going over ground that your Honor has sort
22 of indicated what your views are --

23 THE COURT: I am developing my views.

24 MR. ARONWALD: I don't know. Where I come from, \$10.
25 Million is not peanuts. \$10 million is a big concession. And

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1 while it may not have been enough for Mr. Murtagh, it may not
2 have been enough for Ms. Barbato to sway their vote, it was
3 enough for Sandy Annabi who came from a completely different
4 district.

5 And, frankly, the testimony of Dee Barbato, this was
6 someone who, no matter what was on the table, she didn't want
7 to see the lights in her bedroom. She didn't want this project
8 in her neighborhood. So I can understand that.

9 It is simply not a substitute for evidence to say to
10 the jury, well, it wasn't good enough for Dee Barbato, it
11 wasn't good enough for John Murtagh. Each council member votes
12 the way they deem it necessary. And the fact that \$10 million
13 was enough to sway Sandy Annabi's vote doesn't mean that she
14 was wrong and they are right or that they are wrong and she is
15 right. That's the reason.

16 With respect to her meeting with Forest City Ratner,
17 my recollection of the meeting is not that Zehy Jereis spoke in
18 favor of Ridge Hill while Sandy Annabi was there. My
19 recollection is the meeting started badly -- by the way, the
20 government makes a reference to this Westchester Country Club
21 meeting. But, again, that meeting was supposedly in May of
22 '06.

23 Both Bender and Cantone were very clear that Sandy
24 Annabi was not at that meeting. John Murtagh and Dee Barbato
25 thought she was.

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1 This meeting occurred in May of '06. It was a meeting
2 that was arranged by Al Pirro. If in fact Sandy Annabi was
3 there at that meeting, why would it have been necessary to
4 reach out to Zehy Jereis to set up a meeting with them on June
5 9th. The fact is on June 9th, they started off the meeting by
6 Bender saying to her -- this is based on the testimony in the
7 record -- why couldn't we get a meeting with you?

8 In fact she was at the Westchester Country Club
9 meeting just three weeks earlier, they would have had that
10 meeting with her. That meeting started badly and it ended
11 badly because of the confrontation between Pesin and her. It
12 was after she left that Zehy Jereis, according to their
13 testimony, said, if you want her vote, you are going to have to
14 make concessions.

15 He didn't say, according to their testimony, if you
16 want her vote, give me a job and I'll get her vote. He said,
17 you are going to have to make concessions, and if you don't,
18 she will not change her vote. She will not support this
19 project.

20 That is the clear evidence in this record. There is
21 no evidence to suggest that there was any quid quo pro between
22 her voting yes and Zehy Jereis getting a consulting agreement.
23 And the government cannot point to anything in the record to
24 the contrary.

25 THE COURT: I think you could probably go on to Count
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1 2.

2 MR. ARONWALD: Yes, Count 2. Thank you.

3 THE COURT: Honest services.

4 MR. ARONWALD: Honest services.

5 There is no evidence to sustain the government's
6 burden of proof that Sandy Annabi knowingly and intentionally
7 received a bribe as a quid quo pro for taking some official
8 action. There is no evidence from which a rational jury could
9 find that she obtained a benefit to which she was not entitled
10 by use of her office, knowing that the payment or benefit was
11 made for or because of official acts rather than being given
12 voluntarily or unrelated to her official position.

13 The fact alone she received a string of financial
14 benefits from Zehy Jereis alone is not sufficient. She must
15 have known that the payments were paid for or because of
16 official action she took or agreed to take.

17 No witness in this case testified to that essential
18 critical element. There is simply no proof. Similarly, there
19 is no proof -- and this is important from Ganim there is no
20 proof whatsoever that she understood during the period of time
21 that the stream of financial benefits was being made on her
22 behalf, that she was expected, as a result of those payments,
23 to exercise influence on behalf of Zehy Jereis or the Milios as
24 specific opportunities arose or that she accepted the payment
25 for or because of some action she previously took.

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1 You know, Count 1 sort of does flow into Count 2
2 because all we have is payments made. And the fact is, your
3 Honor, as common sense and experience tells us, the fact that
4 somebody is making a payment on someone's behalf doesn't mean
5 it is made with a corrupt intent or a corrupt purpose.

6 The witnesses who were on the stand, Barbato and
7 Murtagh, both were asked questions on cross-examination
8 concerning the legislative process, and they both acknowledged
9 that part of the legislative process was the ability for
10 Democrats to talk to Republicans and Republicans to talk to
11 Democrats, and there is no sinister reason that a Democrat
12 would speak to a Republican or vice versa.

13 In fact one of the reasons that many people have
14 become so disenchanted with government in general is because of
15 the respective politicians' inability to reach across the aisle
16 and work together.

17 So for the government to say, in this particular
18 instance, the fact that Sandy Annabi was switching her vote was
19 evidence that she accepted the payment with a corrupt intent
20 with the understanding that she was going to be expected to do
21 what she was asked to do is lacking in this record.

22 More important what is lacking in this record is,
23 there is not one piece of evidence -- not one -- that Zehy
24 Jereis ever told Sandy Annabi how to vote on any project
25 including Ridge Hill and certainly including Longfellow.

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1 THE COURT: Mr. Siano.

2 MR. SIANO: Mr. Aronwald, once again plowed the
3 ground. I might speak with regard to this.

4 Your Honor, I look at the charge in this case and the
5 law with respect to this particular honest services, mail
6 fraud. Once again, it sets forth the notion that there has to
7 be a plan and that there has to be some corrupt payment. And
8 that corrupt payment suggests that Mr. Jereis conferred these
9 benefits on Ms. Annabi for the purpose of eliciting official
10 action.

11 And this is a place where the government's chart
12 doesn't quite work in the way they want it to work on the
13 conspiracy count because the sort of similarity of the nature
14 of the payments argues against the existence of this quid pro
15 quo. There is no proof that Mr. Jereis asked for anything with
16 respect to this. There is no indication that at any point in
17 the 200 checks -- not money orders, not the four money orders,
18 but in the 200 checks -- he expended on her behalf in a myriad
19 of ways, there was any expression that anything he was doing
20 was for or because of a desire for official action. There is
21 no proof as to that.

22 And I listened to the attempt to build inference upon
23 inference upon inference with respect to things third parties
24 said, conversations that did or did not occur between people
25 where my client was not present or Ms. Annabi wasn't present.

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1 In this particular instance, judge, there is no proof that
2 establishes that anything that he did was for or because of
3 anything she was or was not doing.

4 If you look at 2002 and 2003 and 2004, that is proof
5 that the government chose to put before the jury. And I will
6 remind your Honor, the government chose to expand this theory
7 out by two more years. They chose to expand this case out.
8 And under those circumstances, the proof that they decided they
9 wanted to include in this case undermines the argument that
10 there is for or because of.

11 They gave themselves another two years to find a for
12 or because of planned statements, utterance of any kind. Here
13 again, I am left to say, where is that utterance?

14 Rather than go back and comment on Count 1, the notion
15 that because a phone is dialed, that somehow that establishes
16 the content of a conversation which may or may not have
17 occurred is absolutely inappropriate in the extreme.

18 And the notion that the same people that stand in
19 front of this Court and say 81 attempts to dial on one day is
20 significant, refuse to acknowledge to your Honor that an email
21 every three or four days in which the only commonality is the
22 subject line is not particularly persuasive with regard of the
23 question of the job search.

24 And the only word that they could elicit from their
25 witnesses was the word "persistent." He did persist. The

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1 notion that he bombarded Forest City Ratner with emails -- he
2 sent Forest City Ratner the emails they put into evidence.
3 Most of them were one line long. And the only reference to
4 anything is the subject line. And the jury can conclude
5 anything they wish as to that.

6 That's all that I have to say.

7 MR. CARBONE: The only difference between Count 2 and
8 Count 1, Count 2 incorporates by reference Count 1. It is
9 really the legal standard. And for once I think I agree with
10 Mr. Aronwald on something, that is, there has to be under Bruno
11 there has to be some quid pro quo or because -- but the theory
12 charged in Count 2 --

13 THE COURT: -- and the use of the mails.

14 MR. CARBONE: And the use of the mails.

15 Actually, since it is a conspiracy, we don't have to
16 prove the actual use of the mails or interstate wires, although
17 we have done that in spades. The witness from Con Ed testified
18 that the payments were mailed and the witness from Citibank
19 testified that the student loan payments were mailed. We also
20 introduced the Government Exhibit 770 which is an interstate
21 wire communication.

22 THE COURT: I was simply observing that was the other
23 thing you had to prove in connection with Count 2 that you
24 didn't have to prove in connection with Count 1.

25 MR. CARBONE: The other thing we don't have to prove

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1 with Count 2, that we do have to prove with Count 1 is an overt
2 act since 1349 doesn't require an overt act.

3 Judge, since we have kind --

4 THE COURT: Let's focus on the quid pro quo.

5 MR. CARBONE: The quid pro quo, once again, comes back
6 to United States v. Bruno. The second Circuit summarized the
7 long held law in this circuit which is, evidence of a corrupt
8 agreement, a quid pro quo may be proven circumstantially.
9 That's what happened in that case. The Second Circuit cited
10 and relied on United States v. Friedman, United States v.
11 Biaggi.

12 And here's just one passage that said -- didn't read
13 in connection with the argument in Count 1: "Bruno
14 sufficiently claim is limited in scope. Bruno argues that the
15 government failed to provide sufficient proof of a quid pro
16 quo, an essential element of a bribery theory of honest
17 services, citing Ganim. We disagree. A quid pro quo is a
18 government official's receipt of a benefit in exchange for an
19 act he has performed or promised to perform in the course of
20 the exercise of his official duties. This is especially true
21 in cases involving government officials or political leaders
22 whose affairs tend more than most to be subject to public
23 scrutiny. As a result, the jury can in such cases infer guilt
24 from evidence of benefits received and subsequent favorable
25 official action," and again citing Friedman, Ganim and Biaggi.

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1 That's the theory of our case. Let me just make one
2 other point. If Ridge Hill never happened or if Longfellow
3 never happened --

4 THE COURT: It didn't.

5 MR. CARBONE: Well, true. I am talking about the
6 transaction, the bribe payments, the official action in this
7 case.

8 THE COURT: They voted for it seven to nothing and it
9 didn't happen. That's Yonkers.

10 MR. CARBONE: That's Yonkers, the city of hills where
11 nothing is on the level.

12 Judge, if either of those things never happened, the
13 question is, what's in her mind and what is in his mind when he
14 is making the payments.

15 THE COURT: That's the question, what was in her mind.

16 MR. CARBONE: When the payments were made, were they
17 made with corrupt intent. You don't even need official action,
18 but you can infer corrupt agreement from concealed payments,
19 payments concealed and followed by favorable official action.
20 That's what we have here.

21 The fact is there is a completed conspiracy -- or at
22 least the beginnings of a conspiracy in 2002, for all of the
23 reasons that we talked about earlier. It is just all the more
24 powerful when you talk about the circumstantial evidence of the
25 day that ultimately came. And that is, Mr. Jereis called upon

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1 Ms. Annabi to come and give him a favor.

2 So, Judge, as to some of the factual issues, Mr. Siano
3 says there is absolutely no evidence. We think there is not
4 only circumstantial evidence, but in connection with the
5 Longfellow project, that is direct evidence of a bribe. And we
6 have the co-conspirator statement of Anthony Mangone as proof
7 of that.

8 And I think Mr. Halperin wanted to address some of the
9 details of the Longfellow project.

10 MR. HALPERIN: Judge, I will save that until we get to
11 Counts 3 and 6, because I think that's where Longfellow comes
12 into play.

13 THE COURT: It doesn't come into play in Count 2?

14 MR. HALPERIN: It does. But I think all of the
15 arguments we have talked about are incorporated.

16 Just one quick factual point to clarify something that
17 Mr. Aronwald said. A moment ago he said again something that
18 he said yesterday which I pointed out yesterday was wrong and I
19 just want to make it clear again that it is still wrong today.
20 He said there is no proof that Jereis told Ms. Annabi how to
21 vote, and that is simply not the case.

22 Mayor Mike Spano talked about that meeting with Jereis
23 and Annabi at Ms. Annabi's home where before the meeting went,
24 it was just him and Jereis. Jereis was bullish and favorable
25 about the Ridge Hill project. Then they got to the meeting and

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1 Jereis strongly told Ms. Annabi she should vote against this
2 and he gave Mr. Spano a very hard time during that meeting and
3 later both Jereis and Annabi explained that, in sum and
4 substance, Jereis had to show that he was sticking up for
5 Annabi and not going to knock her stock and he kind of had to
6 put on a show for Annabi.

7 In Longfellow, same type of thing, Scott Cantone of
8 Forest City Ratner said that Mr. Jereis had told Cantone that
9 he, Jereis, was "quarterbacking" the Longfellow project through
10 the city council.

11 Now we can certainly argue, I think, strongly, why in
12 the world would the Republican Party chairman be quarterbacking
13 the Longfellow project through the city council in 2006? That
14 has nothing to do with his responsibility.

15 So I just wanted to make that one clarification.

16 THE COURT: Yes, Mr. Aronwald.

17 MR. ARONWALD: Yes, your Honor.

18 My recollection of the testimony of Mike Spano was
19 that, when he and Mr. Jereis were driving to Sandy's parents'
20 home at Bacon Place to meet with Sandy, Zehy was very
21 supportive of the project. When they got to the meeting, it
22 was Sandy who was strongly vocal as to why she was opposed to
23 the project and Zehy did not disagree with her. So when they
24 left the meeting, Spano and Jereis together, Spano asked Jereis
25 what happened. Jereis said he had to support Sandy.

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1 In other words, contrary to what Mr. Halperin's
2 description of that meeting is, this was not an occasion where
3 Zehy Jereis started out the meeting talking about why the
4 project was not a good project. Quite the contrary, it was
5 Sandy who expressed her opposition and Zehy basically agreed
6 with her. That is not proof that Zehy Jereis was telling Sandy
7 Annabi how to vote for the project.

8 There indeed was no evidence that at that meeting Zehy
9 Jereis said to Sandy, vote against this project, that is not a
10 good project. That's not the way that the testimony came in.

11 With respect to the Bruno case, it seems to me that
12 what is still necessary is there needs to be some evidence that
13 the payments were made in exchange for her official action.
14 And there, again, that is a vacuum in this case. There is no
15 evidence that the stream of financial benefits that were paid
16 were paid to her in exchange for her taking official action.
17 There is none of that.

18 The government is taking two sets of circumstances:
19 One, the stream of payments as to which there is no dispute;
20 and, second, her changing her vote as to which there is no
21 dispute. What the government is saying, well, because of the
22 payments, the only reason she changed her vote was because of
23 the payments. That's the missing link to this puzzle, and
24 without that link filled in, I don't see how the government can
25 present a case that gets to the jury. You are asking the jury

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1 to assume that there must be a link, and that's not a
2 substitute for proof.

3 With respect to Counts 3 and 5, once again, your
4 Honor.

5 THE COURT: 3 and 5 are --

6 MR. ARONWALD: -- the corrupt payments.

7 MR. HALPERIN: Judge, Mr. Carbone had a quick point on
8 Count 2, and then I was going to ask if we could take a
9 two-minute break.

10 THE COURT: We should take a two-minute break.

11 MR. HALPERIN: The discussion from this point will
12 likely move a little quicker, but Mr. Carbone had a point.

13 THE COURT: And your point was, Mr. Carbone?

14 MR. ARONWALD: I am deferring to you, Mr. Carbone.

15 MR. CARBONE: Judge, one point I want to make is, and
16 I know you don't want us to hearken back to your May 17
17 opinion --

18 THE COURT: I really don't because all it was, was a
19 decision not throwing out the indictment, pre-evidence.

20 MR. CARBONE: But we did bring up the issue of whether
21 you need an express agreement. We pointed out in our papers at
22 that time, as your Honor pointed out in her opinion, we don't
23 have to prove --

24 THE COURT: You don't need an express agreement. You
25 need in a conspiracy some evidence that the minds met. You

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1 need evidence that there was an understanding, that the parties
2 came to some agreement or understanding. You do need that.

3 MR. CARBONE: You do.

4 I just want to make one point. If in fact Mr.
5 Aronwald and Mr. Siano are right that there is no evidence of
6 an agreement, then you could never have an agreement in a bribe
7 case without having somebody who was a participant actually
8 paying the money to the public official or the public official
9 his or herself.

10 You could never charge a case like that unless you had
11 wiretaps. That's just not the law. And that's why the cases
12 are so overwhelmingly in favor of permitting these schemes to
13 be proven by circumstantial evidence. That's what we have
14 here.

15 THE COURT: Mr. Carbone, I don't think that anyone has
16 ever suggested, least of all me, one cannot prove a conspiracy
17 under Count 1 with circumstantial evidence. I do insist that
18 circumstantial evidence is direct evidence of fact A from which
19 you can conclude or facts A, B and C, from which you can
20 conclude drawing the logical and reasonable inference, using
21 your common sense and life experience, that fact D existed.
22 And it is not circumstantial evidence of facts A, B and C from
23 which you can draw the conclusion that fact D existed. That's
24 the difference that makes a difference.

25 So I am looking for direct evidence of facts A, B and

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1 C from which I can draw the logical -- or a jury can draw the
2 logical and reasonable inference that fact D -- fact D being
3 that Sandy Annabi and Zehy Jereis had an agreement or
4 understanding that she would be there when he needed her.
5 That's fact D. That's the fact that you want to prove by
6 circumstantial evidence.

7 Now, I'm looking for the direct evidence of facts A B
8 and C that add up to fact D. That's what I am looking for.

9 MR. CARBONE: Then, again, that's the stream of
10 benefits, the concealment point which is what Mr. Aronwald
11 admitted a minute ago -- it is the stream of benefits, the
12 concealment followed by favorable official action. And that's
13 what the law permits.

14 THE COURT: Let's take a break because I think that we
15 all need it -- I know I do.

16 (Recess)

17 THE COURT: Count 3 is receiving corrupt payments for
18 Longfellow and Count 5 is receiving corrupt payments -- not
19 Longfellow?

20 MR. HALPERIN: No Count 3 is Longfellow. Count 4
21 giving corrupt payments --

22 THE COURT: Mr. Aronwald wanted to do Counts 3 and 5.
23 It is his motion.

24 MR. HALPERIN: Fair enough.

25 THE COURT: So Count 3 is receiving corrupt payments

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1 for Longfellow.

2 MR. SIANO: Yes. I didn't get an answer as to what
3 Count 5 was, but I am anticipating a motion from Mr. Aronwald.

4 MR. ARONWALD: Yes, Judge, but when I make my motion,
5 I would like to know what I am responding to.

6 THE COURT: Since Count 5 can't be the same as Count
7 3, since you cannot charge exactly the same crime twice, what
8 corrupt payments are we talking about in Count 5? Are those
9 specific corrupt payments, general corrupt --

10 MR. CARBONE: Count 3 charges a violation of 18,
11 U.S.C. --

12 THE COURT: It says receiving corrupt payments for
13 Longfellow.

14 MR. CARBONE: Judge, if you want me to explain, I am
15 happy to do it.

16 Count 3 charges receiving corrupt payments in
17 violation of 666 on the Longfellow project.

18 Count 5 charges the same transaction under a different
19 statute, the Hobbs Act.

20 THE COURT: So they are both receiving corrupt
21 payments from Longfellow one under the Hobbs Act.

22 MR. CARBONE: I thought we were talking about Count 6.

23 THE COURT: No. We are talking about Count 5.

24 MR. CARBONE: Count 5 charges receiving corrupt
25 payments in connection --

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1 THE COURT: Receiving corrupt payments --

2 MR. CARBONE: -- with respect to all of the corrupt
3 benefits that were received beginning in 2002 straight through
4 and including 2008.

5 THE COURT: But not Longfellow because Longfellow is
6 charged in a different count under the same statute.

7 MR. HALPERIN: That's correct.

8 THE COURT: So Longfellow is teased out in Count 3 and
9 Count 5 is everything else, but they are both 666 counts.

10 MR. HALPERIN: And so is Count 4. It is a 666 count.

11 THE COURT: Well, if everything else is in Count 5 and
12 Longfellow is in Count 3, what is in Count 4?

13 MR. HALPERIN: Count 4 charges Mr. Jereis with giving
14 all of those other corrupt payments, and Count 5 charges
15 Ms. Annabi with receiving.

16 THE COURT: We will talk about 3, 4 and 5, but,
17 obviously, Mr. Aronwald has nothing to say about 4 since his
18 client is not charged in Count 4.

19 MR. ARONWALD: Your Honor, my position with respect to
20 Counts 3 and 5 is that, stating it as simply as I can, I don't
21 believe that the government has presented any evidence to
22 establish any link between the thing or value conferred on her
23 in a specific official act for or because of which she
24 solicited or accepted the payment.

25 Once again, we have a situation where we have a stream

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1 of payments which are not in dispute --

2 THE COURT: See, this is where having Longfellow
3 teased out into its own count is actually helpful. Count 3
4 focuses on one payment and one payment only. It has nothing to
5 do with any stream. There are no streams in Longfellow.

6 MR. ARONWALD: Your Honor, with respect to Count 3
7 which is referred to as the Longfellow project count, the
8 evidence began, as I indicated earlier, stops short of putting
9 any money into Sandy Annabi's hands. There is no evidence that
10 she received any money in exchange for voting on Longfellow.

11 The fact is that, if the money that is alleged in
12 Count 3 is the money that Mr. Mangone ostensibly received from
13 Milio, Milio says they gave the money to Mangone. Mangone says
14 he gave the money to Jereis. Milio doesn't know what Mangone
15 did with the money. Mangone says he doesn't know what Jereis
16 did with the money.

17 What we do know is that either the Milios nor Mangone,
18 according to their testimony, ever had any discussions with
19 Sandy Annabi concerning the payment of any money. And even
20 beyond that, Mangone acknowledged during his testimony that he
21 never even spoke to Sandy Annabi about Longfellow, much as he
22 had never spoken to any council member about Longfellow.

23 The other thing I think that we need to focus on, and
24 this is something that relates to Count 6 as well. The fact is
25 that what Mangone testified to is impossible, simply because

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1 Mangone testified that he received a partial payment from the
2 Milios on or about September 27th.

3 THE COURT: I understand that. I think your argument
4 for your client as opposed to Mr. Siano's argument because he
5 started making those yesterday is, your principal argument for
6 your client is that the evidence stops short of Sandy.

7 MR. ARONWALD: That's exactly right, your Honor.

8 THE COURT: Mr. Siano.

9 MR. SIANO: Judge, in order for me to respond to these
10 counts, I want to start in Count 6 because I acknowledge that
11 there is testimony from one witness, as I did in opening
12 statement, with regard --

13 THE COURT: Which one is 6?

14 MR. SIANO: 6 is the extortion. 6 is Longfellow from
15 the perspective of Mr. Mangone's gun, if you will. Mr. Mangone
16 is holding the extortion gun, if you will, in Count 6. It is
17 the Longfellow project from Mr. Mangone's end of the pistol, if
18 you will.

19 Judge, I will acknowledge that, were it a matter of
20 credibility with regard to Mr. Mangone and as to my client
21 these charges would go to the jury. I do not believe it is a
22 question of credibility of Mr. Mangone; it is a question of
23 impossibility as to Mr. Mangone.

24 The very core of his testimony involves testimony as
25 to a sequence of independent payments, three in number: One

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1 tied directly to the July 11th meeting and the other two
2 following the September 26th meeting.

3 You remember the July 11th meeting was where
4 Longfellow was essentially hangfire. They didn't go, whatever
5 the logic was, Ridge Hill got voted on and approved, Longfellow
6 was on the agenda but didn't go forward. The cover story
7 Mr. Mangone offered on the witness stand was that because
8 Barbato and Murtagh were in a snit, in essence. It didn't go
9 further and then there was a \$10,000 payment.

10 Now, the remainder of the Milio's money does not come
11 to Mangone, according to Mangone's testimony, until after the
12 September 26th vote. This is a committee of Milios led by
13 franco that pays 20, and then Antonio shows up either that
14 afternoon or the next day.

15 The government tried, I would say, artfully but that
16 might be a little harsh, to round the corners off Mr. Mangone's
17 testimony about the events of September. What they couldn't
18 round the corners off of were the 302s and they couldn't round
19 the corners off of Mangone testifying that the \$30,000 came in
20 two pieces after the September 26th vote and before the end of
21 September when Mr. Mangone has graciously told us he went to
22 Atlantic City to gamble with \$10,000. Now, the end of the
23 story as to the \$10,000 has not come yet, but your Honor is
24 already aware of the fact that Mr. Mangone couldn't have gotten
25 money from Franco and Antonio Milio because they were not in

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1 the United States of America.

2 THE COURT: It is conceded.

3 MR. SIANO: Also, Judge, that is not the only false
4 absolute impossibility associated with Mr. Mangone's testimony.
5 Mr. Mangone's recitation of July of 2006 are likewise infected
6 by impossibility in that he says he edited a contract that the
7 government -- they are not bribe payers -- the non-bribe-paying
8 gentlemen from Forest City Ratner say there was no contract
9 until October.

10 Now, Mr. Mangone is not a question of credibility.
11 There are lots of witnesses in this case where the jury is
12 going to have to evaluate credibility, including perhaps the
13 one we saw today. But that is not what Mr. Mangone is.
14 Mr. Mangone is an admitted serial perjurer who has lied in this
15 matter.

16 And I submit, your Honor, no rational group of 12
17 citizens can choose to rely on Mr. Mangone. And I believe
18 that's a standard that the 12 citizens don't have to apply, but
19 your Honor does. Your Honor has to ask herself. Do I want to
20 put Mangone in the position -- essentially persuading another
21 jury that what he says is worthy of belief. And I don't think
22 that is appropriate for the Court.

23 I say directly, this is a question of your Honor's
24 decision-making with regard to no rational jury can choose to
25 believe Anthony Mangone, and that is the basis for my

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1 argument -- not that what Mr. Mangone says, if it was said by
2 any other human being might not raise a prima facie case as to
3 my client, but it is not said by another human being; it is
4 said by this particular human being and he is, bluntly, a
5 Frankenstein monster of perjury. He walks around and looks
6 like a living, breathing human being, but he is a monster
7 created of spare parts. And I don't think and I argue to the
8 Court with the greatest respect that you should not allow that
9 to go to the jury.

10 That's my argument. And I am happy to respond to your
11 Honor's questions directed to my theory, if you wish.

12 This witness has given the Court three major
13 benchmarks that are impossible, not improbable, and on that
14 basis --

15 THE COURT: One of them is plainly impossible because
16 the government has stipulated to a fact that renders it
17 impossible. And there is just no getting around this by saying
18 it is a failure or a difference in recollection and maybe the
19 payment was made on September 22nd or maybe the payment was
20 made on October 5th because there is no evidence of that. The
21 jury would be speculating. Mr. Mangone was quite precise that
22 there was a vote and the vote was favorable, and that
23 immediately after the vote, he received the pay-off for Sandy's
24 vote, illogical though it might seem to pay someone off for
25 being the seventh vote in a seven-to-nothing vote in favor of

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1 the project.

2 Then he took the money -- it couldn't have happened a
3 few days later on his testimony because he took the money, his
4 share of the money, his part of the bribe and he went to
5 Atlantic City. That's what he said.

6 We can't tell the jury that September 27 doesn't
7 really mean on or about September 27th it means on or about
8 September 27th so maybe it could be September 29th or September
9 30 because Mr. Mangone precludes our saying anything other than
10 it was after the vote and before he went to Atlantic City to
11 gamble with his share of the proceeds.

12 So that's a conceded impossibility. So now what does
13 that leave us with? That leaves us with the testimony of
14 Mr. Mangone that he got money from the Milios, just that
15 general statement, and the Milio's testimony that they gave
16 Mangone money in June, I think is what they testified to,
17 which, by the way, is not in or about September 27th -- it is
18 just not. I am sorry, it is not -- just like 2002 isn't in or
19 about 2006.

20 So we have testimony -- we have three people, the
21 Milios and Mangone all testifying that the Milios gave Mangone
22 money in order to secure the vote, more ostensibly of Sandy
23 Annabi. At that level of generality, we have that testimony.

24 Now, is that enough at that level of generality to get
25 us to the jury because I have to agree, because the government

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1 has conceded that the Milios could not have possibly given
2 Mr. Mangone the money the day after the vote with Mr. Mangone
3 then going the next day to Atlantic City to gamble his 10,000
4 away -- of course the government has conceded that. It is
5 almost like that testimony is stricken. It doesn't exist. It
6 is of no probative force whatsoever.

7 Let's go back to the level of generality.

8 I was trying to explain this to a friend of mine last
9 night; he is the smartest person I know but not a lawyer.

10 MR. SIANO: Your Honor, at that level of generality,
11 you have nothing given to or handed to Mr. Jereis. But your
12 Honor is altogether too charitable with Mr. Mangone, with
13 respect. Mr. Mangone did not talk about paying a payment in
14 September. Mr. Mangone creates, essentially, an opera of
15 payments.

16 THE COURT: I hear you, but that happens within a
17 24-hour time frame.

18 MR. SIANO: But there was 20,000 here and then
19 10,000 --

20 THE COURT: But we all have to concede that it didn't
21 go down that way because during that 24-hour period, the
22 Milios, according to the records of the United States of
23 America, unimpeachable records of the Department of Homeland
24 Security.

25 MR. SIANO: I submit you cannot cut the heart and

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1 brain out of Frankenstein and let Frankenstein continue to
2 walk.

3 The government is going to stand up and say, but
4 there's the \$10,000 payment in July. Well, equally
5 breathlessly I can say, that's not what the Milios said.

6 You have nothing but the unvarnished, uncorroborated,
7 unwitnessed statement by Mr. Mangone that it happened on July
8 11th. And here is where I would like to spend a moment on what
9 I would call the government's magical mathematics as to the
10 three purchases because the government will say to you, well,
11 Judge, this all this money that was spent, and it is that
12 \$10,000. Well, the first part of that money, for the ticket is
13 spent in June. The ticket is purchased in June and we went to
14 great lengths to put on the Elmo, June 26 cash. It is before
15 Frankenstein says he got the \$10,000.

16 The necklace isn't cash. And there is no indication
17 of what the hell was used to pay the credit card bill --
18 nothing.

19 And, finally, even Mr. Serrao does not say the cash
20 was \$100 bills. It was cash. Wow. I know of no witness who
21 demonstrated to the jury in any manner, shape or form that the
22 United States Treasury was devoid of currency on that period in
23 July except for the Milios' cash -- the one time, the one
24 factor, the one small factoid that this witness could have
25 provided but didn't was that it was \$100 bills.

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1 And so it is not just what happens in September, it is
2 the fact that the other evidence doesn't support Mr. Mangone.
3 There is no net under him when you cut out his heart and lungs.
4 Frankenstein falls at that point. That's my argument. And he
5 is lying about July.

6 THE COURT: Plainly, we have a problem with
7 Mr. Mangone's story about July. And the problem we have with
8 Mr. Mangone's story about July is that he used \$10,000 of Milio
9 money to gamble. He got \$10,000 of Milio money in July, if he
10 is to be believed. And that takes care of all of the Milio
11 money that he says that he got other than the money that the
12 government now must concede that he did not get in the way at
13 the time in the place that he says he got it.

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15 (Continued on next page)
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C3dQann5

Trial

1 MR. SIANO: Your Honor makes a better argument than I
2 make.

3 THE COURT: Well, I mean, I am just trying to figure
4 it out. That takes care of all the money that Mr. Mangone says
5 he got.

6 MR. SIANO: Judge, all of this is directed to the
7 notion as to whether or not your Honor should allow this to go
8 to the jury, and I want to keep the focus there; that this is
9 not somebody whose credibility is subject to great doubt. This
10 is a serial admitted perjurer who has admitted lying in this
11 case. This is --

12 THE COURT: Well, he has admitted lying in this case.
13 He's admitted lying in the Wedra case. He lies to his partner.

14 MR. SIANO: In all the work that one can do to try a
15 case to a jury to search for truth, the most dangerous type of
16 person is an Anthony Mangone. Anthony Mangone is a threat in
17 any episode in which he raises his hand to tell the truth.
18 Under those circumstances, that's the core of my argument. I
19 know your Honor paid attention. There are startling problems
20 with his testimony that go far beyond what I've talked about.

21 THE COURT: But I have to bend over backward on this
22 motion. This is the one place where I bend over -- unless
23 there's a conviction, where I bend over backward in favor of
24 the government.

25 MR. SIANO: They have no proof from any witness that a

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1 rational jury can believe.

2 THE COURT: Let me just -- I want to trace what we've
3 got. The Milios testified that in June they gave Mr. Mangone
4 \$30- or \$40,000.

5 MR. SIANO: 40.

6 MR. HALPERIN: Judge, I just --

7 THE COURT: Mr. Halperin, please, it's not your turn.

8 -- \$40,000, OK? The Milios give Mangone \$40,000. The
9 Milios say they don't know what happened to the money. Mangone
10 doesn't corroborate their account of what he got or when he got
11 it or how he got it, but he does say that he gave Mr. Jereis
12 \$20,000 of money that he received from the Milios. So that is
13 the evidence in the favorable light to the government. Is that
14 fair? I think that's fair.

15 MR. SIANO: That's the best that can be said, your
16 Honor.

17 THE COURT: OK. So why isn't that enough to get us to
18 the jury and for you to have the best argument I've ever heard.
19 There are occasions when I wish I could jump over this bench
20 and go back to my old line of work, and this is one of them.
21 The best jury argument I've ever heard for why there is no way
22 that the government's story holds water.

23 MR. SIANO: Because there is a standard that your
24 Honor is obligated to address and face, and that is whether any
25 rational jury can choose to believe Anthony Mangone. And you

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Trial

1 are not obligated to put unrelenting perjury into the jury
2 room. You are just not obligated to do that. I'm not
3 suggesting your Honor must do this. I am absolutely not
4 suggesting that. I am suggesting to your Honor you should do
5 this. And, yes, there is a -- pardon my phrasing, Judge,
6 because I don't subscribe this to you, but I do think we will
7 be hearing this -- there is a delusional argument that can be
8 made that will attempt to harmonize what this witness has
9 stated; and if these were just ordinary individuals who might
10 be confused or fearful or they fell and hit their head, any of
11 those arguments would be appropriate and your Honor would be
12 well advised to say the jury can sort those out. That's not
13 what we're dealing with.

14 We're dealing with an individual unlike anyone most of
15 us will ever confront in an entire career. That's another way
16 of saying what your Honor is saying. This is not an everyday
17 occurrence. This is a once-in-a-lifetime occurrence. There
18 was no obligation that the government put this man on the
19 witness stand. This is an attempt to let, essentially, a
20 monster wag the government's dog. And when he lied to them
21 repeatedly, they made whatever efforts they did or did not make
22 to determine whether or not he was lying, and your Honor and I
23 respectfully differ about the significance and the timing of
24 things as to the homeland security records, but, frankly --

25 THE COURT: Well, we don't differ about the

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1 significance and the timing of them in one important respect,
2 which is that if I as a lawyer were going to put a witness on
3 the stand, I would try to nail down every conceivable hole in
4 his story before I put him on the stand, especially if he were
5 an admitted perjurer. I would have done that, OK.

6 MR. SIANO: Especially if he were Anthony Mangone.

7 THE COURT: I'm sorry, Mr. Mangone, one perjurer among
8 many -- I would not limit this to Anthony Mangone. I do not
9 give Mr. Mangone the distinction of being the greatest perjurer
10 of all time. I must tell you, I would do it, would have done
11 it, hope I would have done it, would have committed malpractice
12 if I hadn't done it, with any witness, any witness.

13 And for the life of me, I can't figure out -- but the
14 government must have known about this gigantic problem -- I
15 can't figure out why it wasn't done. But it wasn't done, and
16 I'm not prepared to grant a motion for a mistrial.

17 MR. SIANO: And your Honor said that, and it's done.
18 Your Honor made a ruling. I appreciate the Court's ruling.

19 What I'm saying to you is the argument you are going
20 to here is going to be some fascinating obfuscation of the
21 magnitude of the perjury in this case. It's the magnitude of
22 the lies. The lies are not confined to it's a mistake,
23 witnesses have differing recollections, we don't vouch for our
24 witnesses.

25 Your Honor has heard every argument the government

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1 makes when they put an organized crime figure on the stand who
2 has murdered, raped, robbed and extorted. Those are not what
3 we're talking about. We're talking about someone who is
4 essentially the Mozart of false testimony; that he essentially
5 has done a lifetime of deception, and the notion that anyone
6 could allow that in that room is, I think, incorrect. And
7 that's really my argument.

8 I understand your Honor can do this. It is within
9 your authority. I am suggesting to you that the law provides a
10 way in exactly this case to not do this, and it doesn't do
11 violence to their indictment. It just takes the monster out of
12 the courtroom. And that's all I have to say.

13 MR. HALPERIN: Your Honor --

14 MR. ARONWALD: Your Honor, excuse me, Ms. Annabi is
15 also charged in Count Six, and since Mr. Siano addressed that
16 count --

17 THE COURT: Yes, he did.

18 MR. ARONWALD: -- I would say that Count Six alleges
19 that Ms. Annabi committed the crime of extortion under color of
20 official right, to wit, she obtained money from developer
21 number one, meaning Milio Management, with Milio Management's
22 consent under color of official right.

23 Even Mr. Mangone, the Mozart of false statements,
24 doesn't say that he gave any money or ever spoke about money
25 with Sandy Annabi. There simply is no evidence that any of the

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1 money reached her. The money, according to the testimony of
2 the Milios and Mangone, stops with Mangone.

3 And with respect to --

4 THE COURT: Well, no, the money -- the testimony of
5 Milio and Mangone is that it stops with Jereis.

6 MR. ARONWALD: With Jereis. Yes, I misspoke.

7 What also troubles me -- and I have respect for
8 Mr. Halperin and Mr. Carbone -- but, you know, Mr. Mangone
9 testified, the government made a big point of putting evidence
10 before this jury through Forest City Ratner that the consulting
11 agreement that was being negotiated with Mr. Jereis was
12 actually prepared in October and backdated.

13 Yet, here we have Anthony Mangone, the government's
14 other witness, saying that he reviewed the Forest City Ratner
15 consulting agreement that was going to Mr. Jereis in July of
16 '06. That simply is impossible. It could not have happened.
17 There is no dispute whatsoever that Bender and Cantone --

18 THE COURT: Well, Bender and Cantone could be lying.

19 MR. ARONWALD: Well, yes, your Honor, but --

20 THE COURT: The government could have put like a whole
21 bunch of liars on the stand.

22 MR. ARONWALD: Your Honor, that's true but I think
23 that would be unbecoming of Mr. Halperin and Mr. Carbone to
24 elicit that testimony and expect the jury to believe the
25 testimony because they made a big point of the fact that the

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1 agreement was backdated. They can't have it both ways. If the
2 agreement was backdated, that means it wasn't prepared until
3 October, then how is it possible that Mangone reviewed this
4 agreement in July, three months before the agreement, according
5 to their witnesses and their theory testified the agreement
6 came into being.

7 But with respect to just focusing on Ms. Annabi, there
8 simply is no evidence that she obtained any money under the
9 color of official right from Milio Management Company, and that
10 is my argument with respect to Count Six.

11 MR. HALPERIN: Judge, there were so many factual
12 misstatements there by Mr. Siano and Mr. Aronwald that I'm not
13 sure where to begin. I am going to briefly summarize the
14 evidence on Longfellow, but I will start by saying --

15 THE COURT: I want you to correct all the factual
16 misstatements.

17 MR. HALPERIN: Believe me, that's exactly what I plan
18 to do.

19 THE COURT: Because a lot of it supports what I
20 remember.

21 MR. HALPERIN: Well, I want to try to respectfully
22 correct the Court's recollection on some of these things.

23 THE COURT: I want you to do that.

24 MR. HALPERIN: I will do that.

25 I first want to say the gratuitous attacks on

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1 Mr. Mangone as a Frankenstein and monster obviously have no
2 place in this court. I know that Mr. Aronwald did not stoop to
3 that level, but Mr. Siano repeatedly did. And we take umbrage
4 at that, and we strongly disagree with that characterization.
5 Obviously, those are arguments they can make.

6 One global point that's critical to understand is, of
7 course, defense is now going to demonize Mr. Mangone all they
8 want, but the evidence showed that the jury heard and was
9 admissible at this trial that there were several critical
10 interactions between these two defendants and Mr. Mangone. So
11 they can say whatever they want about him now, but during the
12 course of the time line, they were dealing with Mr. Mangone and
13 they made that choice. We obviously disagree with the claim of
14 unrelenting perjury.

15 Let me get to the facts because I think it's
16 important. With the Court's permission, I'll deal with Count
17 Three and Count Six since that's the way defense counsel dealt
18 with it.

19 As the Court heard, starting in 2003 the city of
20 Yonkers approached the Milios. The city of Yonkers proposed
21 this land swap for the Longfellow project. About a year later,
22 the Milios were told that instead of having to go through the
23 IDA, the Industrial Development Administration or Agency, they
24 now had to go through the city council. Because the Longfellow
25 school -- and the Court remembers, there are two schools,

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1 School 6 and Longfellow School. School 6 is in Pat MacDow's
2 district. I'm telling the Court what it already knows. The
3 Longfellow School was in Ms. Annabi's district.

4 The Milios made clear they needed Ms. Annabi's support
5 for the project to proceed. They met with her in 2005, and she
6 told them in the spring of 2005 that they needed to meet with
7 and try to gain the support of the former councilman from the
8 area, Steve Kubicek. They did that. Mr. Kubicek said he
9 supported the project. But then when Mr. Milio, Franco Milio,
10 reported that to Ms. Annabi she remained firmly opposed to the
11 project.

12 The Court and the jury saw the June 14, 2005 city
13 council meeting where Ms. Annabi held up the soda bottle and
14 said the Milios were getting the property for one dollar. They
15 strongly disputed that, but she still adamantly opposed the
16 project.

17 Now, shortly after that June 2005 council meeting, the
18 Milios testified that they hired Al DelBello, a respected blue
19 chip attorney in Westchester County, former lieutenant
20 governor, to try to get project approved. And guess what? Al
21 DelBello made no progress. He couldn't get it done. Nothing
22 happened. The Milios testified they were very disappointed
23 with his work and with his fees.

24 Obviously, I'm not saying anything about his fees.
25 I'm talking about what the Milios said about his fees.

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1 THE COURT: When your client, Mr. Halperin, if you
2 ever go into private practice, you will learn that when you
3 aren't able to attain that for which your client has hired you,
4 your client is necessarily dissatisfied with your fee.

5 MR. HALPERIN: Absolutely. And I've been in private
6 practice, and I recall people talking about that, Judge.

7 So what happens is after seven or eight months of
8 dealing with Mr. DelBello, the Milios are introduced to Anthony
9 Mangone. That happens April 14, 2006 at Reno's Restaurant.
10 Senator Nick Spano stops by the very first meeting, and Mangone
11 tells the Milios at very first meeting that Councilwoman Annabi
12 was being unfair with them -- he used the crass word because
13 that was a direct quote, but I'm not going to say it -- was
14 being unfair with them and giving them a hard time on
15 Longfellow.

16 Mangone knew just what to do next. He contacts Zehy
17 Jereis, someone with whom he had a very close relationship.
18 They'd been working together for Senator Spano for years. One
19 week later Mangone tells Milio to come over to his office on
20 April 21, 2006. We saw Franco Milio's calendar entry for that
21 date and guess who was there? Zehy Jereis. Franco Milio
22 didn't know Zehy Jereis was going to be there. He had never
23 met Zehy Jereis previously. And at the end of the meeting
24 Jereis told Mangone "let me know what I can do to help." This
25 is Jereis and Mangone working together.

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1 Two months later, on or about June 21, 2006, Franco
2 Milio ran into Sandy Annabi at a public meeting, a town hall
3 meeting in Yonkers, and Annabi in a private conversation
4 suggested to Franco that she thought it would be a good thing
5 if he, Franco Milio, hired Mangone to work on the Longfellow
6 project. Critical statement, admission by defendant Annabi.

7 Right around that time, in late June 2006, Jereis and
8 Mangone talk on the phone. Then Mangone calls Franco Milio and
9 tells him, according to Franco Milio, that in order to get the
10 Longfellow project approved, the Milios would have to give
11 Councilwoman Annabi a \$30,000 cash payment. The phone contact
12 charts again corroborate all these phone calls back and forth
13 between Jereis, Mangone and the Milios during this time.

14 Now, Anthony Mangone testified that when he spoke to
15 Jereis during this time, Jereis told Mangone they should hit
16 the Milios up for a really big number. Jereis suggested a
17 \$100,000 cash payment. Mangone said no way. I'm getting a
18 \$20,000 success fee if the project is approved, so I won't ask
19 for more than \$20,000 from Ms. Annabi.

20 Now, Mangone testified that during this time Jereis
21 told him Annabi was "hounding Jereis for money." Admissible as
22 a statement in furtherance of. Admissible as an admission
23 admitted in this court. Direct proof against Annabi about a
24 need and a want for money.

25 Then here's one of the many factual inaccuracies.

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1 Defense counsel says it was late June. Not true. The Milios
2 said clearly that in either late June or early July Antonio
3 Milio brought \$40,000 in cash to Mangone's office.

4 THE COURT: That's fine. Neither one of those
5 qualifies as in or about September 27, 2006, all right?
6 Whether it's late June or early July, it's months earlier.

7 MR. HALPERIN: But, again, Judge, it's corroborated by
8 Mr. Mangone's statement that he did receive a payment on or
9 about July 13 and gave that first payment to Mr. Jereis on or
10 about July 13. So that is the critical point. That matches
11 up. \$10,000 in cash.

12 THE COURT: So the Milios said -- I wanted to be very
13 precise with this. The Milios said in either late June or
14 early July they delivered \$40,000 to Mangone.

15 MR. HALPERIN: Correct, to Mangone's office.

16 THE COURT: To Mangone's office.

17 MR. HALPERIN: And gave it to Mangone directly, and
18 that \$30,000 -- their understanding was that \$30,000 of that
19 \$40,000 was the cash payment for Ms. Annabi to flip her vote --

20 THE COURT: I understand that that's what they
21 understood, but I just want to follow the money, OK?

22 So the evidence is that the Milios delivered \$40,000
23 to Mangone's office. This is evidence the jury could in fact
24 credit. There is no evidence that the Milios were not in
25 Westchester County or the United States in late June or early

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1 July. They could indeed have given it -- Mr. Antonio Milio
2 talked about his office full of bundles of cash, so it's
3 perfectly credible, should the jury decide to credit it, that
4 the Milios did indeed drop off \$40,000 in late June or early
5 July.

6 MR. HALPERIN: Absolutely. And at the time --

7 THE COURT: Not \$10,000; \$40,000.

8 MR. HALPERIN: Agreed. They say 40,000.

9 Now, at the time that Antonio Milio drops off the
10 money in Mangone's office, another critical fact, Mangone tells
11 Antonio something to the effect of "This is going to help.
12 It's going to make her happy. She's going away on a trip."

13 Antonio Milio testified very clearly, as did Franco
14 Milio, when Mr. Mangone first called up Franco that --
15 actually, I think Franco said that Mr. Mangone used
16 Ms. Annabi's name. Antonio I think said Mr. Mangone didn't use
17 Ms. Annabi's name, but it was absolutely clear that that's who
18 they were talking about because she was the councilwoman they
19 needed to get on board.

20 And in terms of the whole seven to nothing, and
21 originally it was four to three, Mr. Mangone made clear that on
22 a smaller project, unlike Ridge Hill which had city-wide
23 implications, Mr. Mangone made very, very clear that on a
24 smaller project like Longfellow, which was in Ms. Annabi's
25 district, once Ms. Annabi supported the project, the other

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1 council members would defer and go along. So it's not like
2 four council members who previously opposed letting the bill
3 out of rules committee suddenly switched their votes on the
4 merits. They were deferring to Ms. Annabi, the councilwoman of
5 this district.

6 Now, Mangone agrees he got a total of \$40,000 in cash
7 from the Milios, and of course he recalls getting \$10,000 in
8 early July and the other \$30,000 in late September.

9 Mangone said he gave the first \$10,000 cash payment --

10 THE COURT: And you concede that that's not possible.

11 MR. HALPERIN: We concede that when he said, "I gave
12 it -- I got it from the Milios on approximately September 27,"
13 we concede that that's --

14 THE COURT: Do you concede that when he testified that
15 he got it after the vote, it's not possible, especially in
16 light of the fact that he further testified that he took his
17 cut, which he said was 10,000, and went the very next day,
18 which was before the Milios came back from Mexico, to Atlantic
19 City where he proceeded to gamble it away?

20 MR. HALPERIN: The 10,000 -- I do so concede that it
21 was factually impossible, but it is critical to underscore that
22 Mr. Mangone said he received the money from the Milios on
23 approximately September 27. So that's piece one. Piece one is
24 Mangone's getting the money from the Milios.

25 Piece two is Mangone then giving the second \$10,000 --

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1 THE COURT: We can agree that July 13 is not
2 approximately September 27.

3 MR. HALPERIN: Of course, Judge. Of course.

4 THE COURT: OK, we'll agree to that.

5 MR. HALPERIN: There is no question about that.

6 But the second component of the September chain of
7 money is Mr. Mangone giving the money to Jereis, both in the
8 country, that both could have happened. So maybe he gets
9 confused about the link in the chains on the second payment
10 that he received of the \$30,000 total. When he got the money
11 from the Milios, maybe he's off by a few days.

12 THE COURT: But he gave the money to Zehy Jereis after
13 the vote.

14 MR. HALPERIN: Yes, and there's nothing about the
15 Milios' travel records that would dispute that.

16 So, your Honor, going back to the July 13 timetable.
17 So Mr. Mangone gets at least some payment of \$10,000, everybody
18 agrees. The Milios say it was \$40,000. And Mangone says that
19 on July 13 he was in Trotter's Restaurant -- by the way, what
20 date does Ms. Annabi go off to Jordan for five weeks? July 14,
21 the next day. Everybody, including the Milios, understood that
22 at least some of the cash payment was made before Ms. Annabi
23 went away to Jordan. Mr. Mangone explained that he was inside
24 Trotter's Restaurant. I don't think it's there any more.

25 THE COURT: They call it something else.

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1 MR. HALPERIN: Something else.

2 THE COURT: Too bad; it was a good restaurant.

3 MR. HALPERIN: Yes, it was. And somewhere on Main
4 Street in White Plains, and he gets a phone call. The jury
5 again saw phone records showing a whole bunch of calls between
6 Mangone and Jereis on July 13. The jury saw the credit card
7 receipt from Mr. Mangone showing he was in Trotter's Restaurant
8 on July 13. Mr. Mangone testified that he stepped out of the
9 restaurant, got into Jereis's car who was pulled up outside,
10 and gave him \$10,000 cash.

11 OK. Now, what was Mr. Jereis's reaction when
12 Mr. Mangone gave him the \$10,000 on July 13? Jereis told
13 Mangone that we, meaning Jereis and Annabi, better not get
14 screwed out of the other \$10,000 we're supposed to get. Jereis
15 told Mangone he was worried about him and Annabi getting
16 screwed and not getting their full payment of \$20,000. And the
17 use of the word we, again, direct evidence against not only
18 Mr. Jereis but also Ms. Annabi.

19 Now, during this time frame again -- withdrawn.
20 Withdrawn.

21 Now, on July 10 -- Mr. Turk, if we can have Government
22 Exhibit --

23 THE COURT: We're going back to July 10?

24 MR. HALPERIN: Yes, I'm sorry, your Honor, going back
25 three days. If we can have Government Exhibit 700, please.

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1 Your Honor recalls the email from Mr. Mangone to Franco Milio
2 about Longfellow talking about the three conditions and what
3 this email shows and Mr. Milio testified to and what
4 Mr. Mangone testified to, was that there was an agreement in
5 principle as of July 10 that Ms. Annabi would approve the
6 Longfellow project.

7 As you can see from paragraph two: The city council
8 have an independent appraisal conducted. Those results will
9 not affect the approval which will happen tomorrow. The
10 appraisal is being done for her own selfish political gain so
11 that when people in her district ask if she conducted one as
12 she said she would, then she has cover.

13 No dispute that the she there is Councilwoman Annabi.
14 No dispute that everybody thought the project would be approved
15 the next day.

16 The Court will remember that the next day was Ridge
17 Hill, and so they couldn't get -- July 11 was the kind of
18 critical vote on Ridge Hill where Ms. Annabi flipped her vote
19 and so they couldn't get at the last minute all seven council
20 members to agree to put Longfellow on the agenda, so although
21 there was an understanding that everybody had reached an
22 agreement in principle, at that time, July 10, it's not
23 actually voted on until about a month after Ms. Annabi returns
24 from Jordan, September 26.

25 Now, Franco Milio when talking about these three

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1 conditions testified that they were insignificant for him and
2 did not change the essence of the project in any meaningful
3 way. So when counsel says that these changes were significant
4 changes for a bribe --

5 THE COURT: Excuse me, Mr. Halperin, that they were
6 insignificant to the developer doesn't mean that they were
7 insignificant to the councilwoman, her constituents or the
8 city.

9 MR. HALPERIN: Agreed. But my point is, Judge --

10 THE COURT: It's a question of who was going to get
11 the apartments. Were her constituents going to get the
12 apartments or were other people going to move in and get the
13 apartments?

14 MR. HALPERIN: Judge, agreed. My point is those are
15 arguments for the jury clearly, and Mr. Milio's understanding
16 and view was that these were totally insignificant concessions.

17 Ms. Annabi then goes to Jordan for five weeks, but
18 while she's away, July 25, that was the subject of today's
19 stipulation, July 25, 2006 smack in the middle of her five
20 weeks in Jordan, Ms. Annabi sends an email to her assistant,
21 Debbie Kayal, saying something like -- I don't have that in
22 front of me.

23 MR. CARBONE: 770.

24 MR. HALPERIN: I'm sorry. Can we have Government
25 Exhibit 770 up, please? Thank you, Mr. Carbone. Can we blow

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1 up the top half, please. Actually, the first paragraph below.
2 That's fine.

3 On July 20, Ms. Kayal had sent Ms. Annabi an email,
4 and the Court can look at line two on the bottom part. The
5 agenda is not out yet and she was inquiring, she, meaning Joan
6 Deierlein, the city clerk, was inquiring whether she should be
7 putting the Milio Management new and changed Longfellow
8 legislation on.

9 Ms. Annabi responds -- and even though the calendar
10 entry is August 15, this was the subject of the stip, this
11 email was sent by Ms. Annabi on July 25 from Jordan. As of
12 today, I may not be back for the August 15 meeting. I may
13 extend my trip. Do not put Milio on just yet. If I am back by
14 then, we can put it on. Also call Z and let him know that the
15 process was not outlined in the legislation and it should be.
16 They have to rewrite it.

17 Direct proof that Mr. Jereis -- and Ms. Kayal
18 testified that Z was Mr. Jereis, no mystery there. Direct
19 proof that Jereis is involved in the Longfellow legislation.
20 Again, why in the world is a Republican Party chairman involved
21 in a piece of legislation? The court heard from numerous city
22 council members that Mr. Jereis got heavily involved in
23 political matters but was extremely rarely involved in policy
24 issues.

25 Now, who else corroborates this? Scott Cantone, a
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1 witness who has nothing to do with Longfellow. He's one of the
2 representatives of Forest City Ratner on the Ridge Hill
3 project. And he said that in July 2006 Jereis told Cantone
4 that he was "quarterbacking Longfellow in the city council."
5 Powerful corroboration from a Ridge Hill witness who has
6 nothing to do with Longfellow.

7 Now on September 26, '06 the city council approved the
8 Milios as designated developer for Longfellow project, and the
9 project is approved.

10 Now, Mr. Siano makes light of the cash and luxury
11 expenditures around this time, but not only are the
12 expenditures significant, but also Mr. Dennehy's analyses are
13 highly significant here.

14 So what other proof is there of the cash bribe to
15 Annabi? The Trifecta of luxury purchases she makes for
16 herself. First, the nearly \$3,900 in cash she uses to upgrade
17 her seat on a flight to Jordan to business class seat 1A in
18 late June 2006. Then the nearly \$3,900 she uses to buy
19 herself --

20 THE COURT: She made that upgrade in late June of
21 2006.

22 MR. HALPERIN: Before the money.

23 THE COURT: Before the Milios money had been passed
24 off.

25 MR. HALPERIN: But after Jereis and Mangone had

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1 already spoken about the need for the cash bribe. So, you
2 know, certainly Jereis could have advanced some of the money at
3 that point because he knew money was coming in.

4 Now, then the nearly \$3,900 she uses to buy herself
5 the Rolex watch, again in cash; and then the \$3,250 she charged
6 on her credit card in August 2006 when she got back from Jordan
7 for the 18 carat white gold diamond necklace.

8 So, when counsel claims there's no evidence that
9 Ms. Annabi ever got the money, that is just absolutely false.
10 There is very powerful circumstantial proof of that fact. We
11 obviously have no burden of showing a secret recorded videotape
12 of Ms. Annabi getting the \$20,000 from Mr. Jereis.

13 First of all, she flips her vote. Second of all, she
14 makes all these purchases. And this is where Mr. Dennehy's
15 testimony comes in in a very critical way. Ms. Annabi makes
16 \$8,000 -- \$7,800 in cash purchases within a one to two month
17 period here, an additional \$3,250 on the credit card.

18 Now, Mr. Dennehy testified that he analyzed
19 Ms. Annabi's accounts and saw no cash withdrawals during the
20 summer of 2006, early 2006. No cash withdrawals.

21 And what else? After analyzing Ms. Annabi's credit
22 card statements from 2002 through 2008, Mr. Dennehy said that
23 the \$3,250 charge for the diamond necklace was her biggest
24 purchase by far. Mr. Dennehy saw no other purchases on her
25 credit card during that six-year period of more than \$1,500 at

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1 all.

2 So that's a summary of the government's proof on
3 Longfellow. I just want to turn to Mr. Carbone to see if there
4 is anything I missed.

5 MR. HALPERIN: Judge, if we could have just a moment,
6 please.

7 (Pause)

8 MR. HALPERIN: Nothing further on that point, Judge.

9 MR. ARONWALD: Your Honor, very briefly. I think
10 recollections obviously differ as to what the testimony was,
11 but my recollection is quite clear that Mr. Halperin's
12 characterization of what Mr. Milio testified about is not
13 completely accurate.

14 When Mr. Halperin says that there was a meeting at
15 which Franco Milio approached Sandy Annabi and Sandy Annabi
16 said it would be a good thing if they would hire Anthony
17 Mangone, my distinct recollection of Mr. Milio's testimony was
18 that he approached Sandy Annabi and mentioned to her that he
19 was thinking of hiring Anthony Mangone; and what Sandy Annabi
20 told him according to his testimony was, "I'm not telling you
21 to hire him, I'm not telling you don't hire him. You do
22 whatever you want."

23 That's my recollection of Franco Milio's testimony
24 which is a far cry from saying it would be a good thing if you
25 would hire Anthony Mangone. And the topic of Anthony Mangone

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1 being hired by the Milios was not something that was initiated
2 by her. It was initiated completely by Mr. Milio as he
3 admitted.

4 If we could have that last exhibit back up again,
5 Government Exhibit 770. Would you highlight the second portion
6 of it, the email from Debbie Kayal to Sandy Annabi July 20,
7 2006 down to the bottom, please. This is the email that
8 Ms. Kayal sent to Sandy Annabi which Ms. Annabi responded to in
9 August. As you can see here, your Honor, Ms. Kayal is
10 basically advising Sandy that a special council meeting has
11 been scheduled for August 15, and that she wanted to know
12 whether or not the new and changed Longfellow legislation
13 should be on the agenda for that meeting.

14 Of course, Sandy wrote back saying that she was
15 probably not going to be back by then. And then she said that
16 the process is not contained within the resolution and it needs
17 to be. But the interesting part here is that according to the
18 email, this portion of it. Quote "As you know, it" -- the
19 Longfellow legislation -- "was changed by DelBello." Not
20 Mangone -- DelBello -- "and Joe Madden had reviewed it, which
21 is the one you received Tuesday, July 11." You can take it
22 down. So, once again, there is no evidence that Anthony
23 Mangone had anything at all to do with affecting the new and
24 changed Longfellow legislation.

25 And I harken back again to what Mr. Mangone himself

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1 agreed. He never spoke to Sandy Annabi about Longfellow. He
2 never spoke to anybody about Longfellow. He never attended a
3 city council meeting. He never attended a real estate
4 committee meeting, so I suppose according to the government's
5 theory, the new and changed Longfellow legislation was a
6 creation of Anthony Mangone through some form of osmosis
7 because it's inconceivable to me that he could have had
8 anything at all to do with structuring a new and changed
9 Longfellow legislation based upon the record. Having never
10 attended any of the meetings and having never spoken to Sandy
11 Annabi or any other council member, it's quite clear that the
12 new and changed Longfellow legislation was something that was a
13 creature of Mr. DelBello's efforts as the attorney for Milio
14 Management.

15 Once again, it just it seems to me that -- not to
16 repeat myself, and I have a habit of doing that -- I don't know
17 what evidence there is in this record that Sandy Annabi
18 committed the crime of extortion. The government makes a big
19 point about the fact that she made cash purchases.

20 Your Honor, if there is anything we know from the
21 record is that Zehy Jereis was constantly providing her with
22 financial benefits beginning at least in 2002, continuing
23 through 2007, and assuming she was hounding him for money to
24 upgrade her ticket to Jordan, how does that translate into her
25 getting money which she knew came from the Milios or how does

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1 that translate into letting the jury decide or make an
2 inference that when she was hounding him for money, she was
3 speaking about the money that was supposed to be coming from
4 Milio Management?

5 It's clear that he was paying all of her bills,
6 mortgage, utilities, Cablevision, automobile expenses. So, you
7 know, the fact that she was a recipient of a stream of benefits
8 is beyond dispute.

9 What is in dispute is whether or not there was any
10 evidence to suggest that when she was asking him for money to
11 upgrade her ticket to Jordan or for her trip to Jordan, that
12 she was doing so with the understanding and intent that
13 ultimately the source of that money was going to be Milio
14 Management, and that what she was going to do in exchange was
15 she was going to vote for this project. The evidence is just
16 full of holes on that issue, and there just is not enough
17 evidence to send this case to the jury with respect to Sandy
18 Annabi on the extortion charge.

19 Your Honor, I'm not going to suggest to the Court that
20 Count Seven, Eight and Nine are subject to a Rule 29 motion. I
21 concede that based upon the evidence that is in the record,
22 there is sufficient evidence to submit this case to a jury.

23 THE COURT: To take those to the jury? Well, good,
24 then we don't have to worry about those. Thank you.

25 MR. ARONWALD: Obviously, whatever arguments need to

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1 be made will be made.

2 With respect to the income tax counts, Counts Ten and
3 Eleven, what's charged in the indictment as to Count Ten is
4 that Ms. Annabi failed to report income in the amount of at
5 least \$30,741 from Jereis and falsely claimed a casualty loss
6 based on a purported 2003 loan to her father.

7 Now, your Honor, much like Mr. Siano's description of
8 the testimony of Anthony Mangone, the only witness with respect
9 to the casualty loss is Walid Farhat.

10 THE COURT: So Count Eleven is the casualty loss.

11 MR. ARONWALD: No, Ten is the casualty loss.

12 THE COURT: I'm sorry, Ten is the casualty loss.

13 MR. HALPERIN: Count Ten is 2005. Count Eleven is
14 2006.

15 THE COURT: But the Count Ten is the count that is
16 specifically addressed to the casualty loss.

17 MR. HALPERIN: No. Count Ten deals with false
18 statements.

19 THE COURT: Which include the casualty loss and
20 failure to report income.

21 MR. HALPERIN: Correct.

22 MR. ARONWALD: Your Honor, what I'm saying is that
23 with respect to that portion of -- first of all, there is no
24 evidence that the money she received was income.

25 THE COURT: Well, and there we have it. It's income,

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1 it's gifts.

2 MR. ARONWALD: Loans.

3 THE COURT: It's loans. It's classic jury question.

4 MR. ARONWALD: Yes. With respect to that portion of
5 Count Ten which alludes to the casualty loss, the only witness
6 to that is Mr. Farhat. If there is anything we know from
7 Mr. Farhat is that he's not (A) an accountant.

8 THE COURT: Right.

9 MR. ARONWALD: (B) Ms. Annabi came to him and said
10 that she had loaned her father money, and he had not repaid it.
11 He had discharged bankruptcy --

12 THE COURT: And Mr. Farhat was deeply offended by that
13 because children should take care of their parents.

14 MR. ARONWALD: That's right.

15 THE COURT: Not lend money to their parents.

16 MR. ARONWALD: That's right. Frankly, Judge, I tell
17 my kids that all the time. You know, you're supposed to take
18 care of me. I'm not supposed to do anything for you. But my
19 point is this: You have a witness who says that she told him
20 that she had loaned her father money, and he hadn't repaid it.
21 And he was discharging bankruptcy --

22 THE COURT: And an accountant put it in as a casualty
23 loss instead of a bad loan.

24 MR. ARONWALD: That's right -- he doesn't know what a
25 casualty loss is.

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1 THE COURT: Bankruptcy is certainly a casualty.

2 MR. ARONWALD: Well, a casualty to the bankrupt; not
3 the casualty loss that is defined in the code.

4 THE COURT: I understand that, but if I declared
5 bankruptcy, I would think it was a casualty, but I appreciate
6 there is a difference between casualty losses and bad loans.

7 MR. ARONWALD: Right. And there's no claim here by
8 the government. She didn't go to him and say, "I want to take
9 a casualty loss." She said, "I loaned my father money." In
10 fact on the return that he prepared on the Schedule 4684, he
11 reports it as a loan. Not only does he report it as a loan, he
12 reports it as a loan in February of 2003. The code says you
13 could only take a casualty loss in the year in which the loss
14 is incurred.

15 THE COURT: Well, the loss is incurred when the loan
16 is not repaid. The loss isn't incurred when the loan is made.
17 I was intrigued by that line of questioning this morning. When
18 the loan is not repaid or when your father is discharged in
19 bankruptcy and you know you're never going to get your money
20 back, that's the casualty or the bad loan. The issue on both
21 of the tax counts is whether Mr. Jereis beneficences were
22 reportable income or were not reportable income. The casualty
23 loss is kind of the tail wagging the dog, and were I the trier
24 of fact, the only inference I could draw is that Ms. Annabi
25 went to this guy, was going -- I don't wish to insult H&R

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1 Block, but a tax preparer, not an accountant, said "I loaned
2 money to my father, and my father declared bankruptcy," and the
3 guy wrote it in as a casualty loss, which it was not, instead
4 of a bad loan; which if it was indeed a loan, it was, and he
5 then did not discuss that with Ms. Annabi. He said he didn't
6 discuss it with Ms. Annabi. He sent her the return. She
7 signed off on the return. She was responsible for checking it
8 to make sure that it was accurate. And he was deeply offended
9 culturally, he said, because she didn't take care of her
10 father. She loaned money to her father and he didn't want to
11 have anything to do with her any more, plus she was nasty to
12 him. She was nasty to him.

13 MR. ARONWALD: But it goes beyond that because he also
14 testified that he never told her that the loss did not qualify
15 as a casualty loss.

16 THE COURT: Well, he didn't tell her because he didn't
17 know.

18 MR. ARONWALD: That's right. And, your Honor, there
19 is another difference. The other difference is that a bad --
20 you can take whatever your casualty loss is as a deduction, but
21 if it's a bad debt loss, there's a formula.

22 THE COURT: There is a formula.

23 MR. ARONWALD: You can only take a certain percentage
24 and it's offset by your capital gains, and you can carry it
25 forward year to year, but you can't take \$50,000 off as a bad

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1 loan in one year. That's what I'm told by an accountant.

2 All I am saying is that -- and I would expect the
3 government, frankly, to concede this because they sat through
4 the testimony of Mr. Farhat and I don't think they can argue to
5 the jury and based upon Farhat's testimony that Sandy Annabi
6 basically knew that she wasn't entitled to a casualty loss and
7 claimed it falsely. That's what the statute is saying.

8 So I am just saying that if the case Counts Ten and
9 Eleven go to the jury, let it go to the jury on a question
10 whether or not the stream of benefits that she received from
11 Mr. Jereis were income or some other non-reportable event.

12 THE COURT: Mr. Carbone.

13 MR. CARBONE: Judge, I think you said that he said
14 that he'd never spoken with her about it. I think his
15 testimony was that after he prepared the return, when he sent
16 her the final one, he didn't review the final one. He
17 certainly indicated that he'd spoken on a number of occasions
18 with her about it.

19 Beyond that there is one --

20 THE COURT: About the casualty loss aspect of it.

21 MR. CARBONE: Yes, absolutely, Judge, that's what he
22 testified to.

23 MR. HALPERIN: Judge, just on that point -- I'm sorry
24 to interrupt Mr. Carbone.

25 THE COURT: But you keep doing it.

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1 MR. HALPERIN: I know. I'm sorry. Forgive me,
2 Mr. Carbone.

3 On that point, Mr. Farhat testified that he had spoken
4 numerous times with Ms. Annabi about the casualty loss because
5 it rubbed him the wrong way. It didn't make sense to him, and
6 he asked for additional documentation. She then gave him the
7 bankruptcy form, for whatever that supposedly proved and he
8 asked for more documentation.

9 THE COURT: He said it rubbed him the wrong way not
10 because he understood what a casualty loss was, and this didn't
11 sound like a casualty loss and Sandy Annabi was begging him for
12 a casualty loss. He said it rubbed him the wrong way because
13 in their culture you take care of your parents. You don't
14 borrow money from your parents. That's why it rubbed him the
15 wrong way.

16 MR. ARONWALD: You don't loan your parents money.

17 THE COURT: You don't loan your parents moan.

18 MR. HALPERIN: He also detailed a series of
19 conversations with Ms. Annabi where he said what proof do you
20 have of this. What proof do you have? Then she gives a
21 supposed promissory note; then she takes it back. She won't
22 even leave it. Then he testified twice, I think, that when he
23 asked her again for more proof, then she turned to him and said
24 it's not your business. So --

25 MR. CARBONE: Judge, there is one wee fact that

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1 Mr. Aronwald kind of glossed over, and that is that agent --
2 there is another witness -- in fact, there were several other
3 witnesses. Agent Dennehy testified that he reviewed
4 Ms. Annabi's financial records for 2003. In fact, 2002 through
5 2008, and there was no evidence of a loan. That loan was made
6 up. There is no loan. So, whether Mr. Farhat checked the
7 wrong box when he checked the forms, and it's a casualty loss
8 instead of a bad debt, it was based on a factually false
9 statement by Ms. Annabi, and she signed the return under
10 penalties of perjury. That's just a little fact that not only
11 gets us to the jury but convicts her.

12 THE COURT: It's still the tail wagging the dog.

13 MR. CARBONE: It was a huge loss that gave her a
14 \$10,000 refund that year. She paid zero dollars in taxes.

15 THE COURT: OK.

16 MR. ARONWALD: But the indictment charges that she
17 took a casualty loss deduction that she wasn't entitled to and
18 it was not her who put the casualty loss in there. It was the
19 person that she went to and relied on to prepare the accurate
20 return.

21 THE COURT: Is there anything else against Mr. Jereis?
22 Am I missing a count somewhere?

23 MR. SIANO: No, Judge. Excuse me. No, Judge.

24 THE COURT: It's OK, Mr. Siano.

25 Could we do one more thing before we leave? The one

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1 more thing that I want to -- two more things. First of all,
2 who is on the witness stand tomorrow, Mr. Aronwald?

3 MR. ARONWALD: Your Honor, I will let the government
4 know what the order is this afternoon. I have to check with
5 schedules, but Mr. DelBello will be here. Mr. Lesnick, the
6 city council president will be here. I expect Agent Karaka and
7 Mazzuca are here.

8 THE COURT: OK.

9 MR. ARONWALD: David Madranda will be here.

10 THE COURT: Who?

11 MR. ARONWALD: David Madranda. He is the person who
12 took the call from Rosemary Karaka in December '05, and there
13 will be some other things that he will testify about.

14 And that's about it. There may be one other witness,
15 but I'm not sure about that.

16 THE COURT: I'm sorry, Mr. Carbone.

17 MR. CARBONE: Judge, to the extent he's going to ask
18 Mr. Madranda about a conversation with Rosemary Karaka, it's
19 clearly hearsay.

20 MR. ARONWALD: It will come in as a business record.
21 It's a record prepared in the regular and ordinary course of
22 business.

23 THE COURT: I have no idea what he's going to ask
24 about, and I'm not making a ruling in a vacuum. OK? I'm not
25 making a ruling in a vacuum.

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1 Now, I also have been asked to make a ruling in a
2 vacuum on issues related to three witnesses of Mr. Siano's, and
3 I don't know if Mr. Siano was able to get to this last night,
4 probably not. He looks very tired.

5 MR. SIANO: I'm not tired yet, but I'm anticipating
6 the opportunity to be tired in a couple of weeks.

7 Judge, the witness -- let me see if I can do this.
8 Mr. Lunney is going to testify to Mr. Murtagh's opinion
9 Mr. Lunney is going to --

10 THE COURT: Mr. Lunney is who?

11 MR. SIANO: Is a witness who is going to testify.

12 THE COURT: Who is he?

13 MR. SIANO: Robert Lunney is a former law partner of
14 John Murtagh.

15 THE COURT: OK.

16 MR. SIANO: He is going to testify that his opinion of
17 Mr. Murtagh's character for truthfulness is bad, that's what
18 his testimony is going to be.

19 THE COURT: OK.

20 MR. SIANO: Now, Mr. Darcy is going to testify as a
21 summary witness on the gambling records. We are going to try
22 to ferret out some information within the documents which are
23 voluminous and complex.

24 THE COURT: OK. You're not purporting to call him as
25 an expert on gaming.

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1 MR. SIANO: No.

2 THE COURT: As was suggested in the government's
3 letter.

4 MR. SIANO: No, he's going to read these records.
5 He's going to try to ferret out information that --

6 THE COURT: He's going to be Mr. Dennehy.

7 MR. SIANO: You know, Judge, I was about to say that.
8 He's going to be my Mr. Dennehy.

9 THE COURT: Only he doesn't have agent as his first
10 name.

11 MR. SIANO: He used to have special and agent as his
12 name.

13 THE COURT: Special and agent. Agent was his middle
14 name. All FBI agents are special.

15 MR. SIANO: He was an special agent for a small
16 governmental office called the Federal Bureau of Investigation.
17 He also was employed in Atlantic City for a period of time, and
18 that's what he is going to testify about.

19 THE COURT: About Mr. --

20 MR. SIANO: Mangone's gambling record. I am going to
21 try to ferret out some details particularly focused on some of
22 the critical dates of the case.

23 THE COURT: OK. You know, what's good for the goose
24 is good for the gander. If the government wants to call
25 summary witnesses, I don't see any reason why the defense can't

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1 call summary witnesses.

2 MR. HALPERIN: We withdraw our objection if he's not
3 being called as an expert. That's fine. But I do want to
4 address Mr. Lunney whenever the Court is ready.

5 THE COURT: I'm not yet because there was a third
6 witness on that list.

7 MR. SIANO: Detective Montero is going to testify with
8 regard to the performance of his duties in the city of Yonkers
9 in the vicinity of 51 and 53 Linden Street depending on
10 testimony from other witnesses as to the hazardous nature of
11 the neighborhood. He was a gang specialist and he worked in
12 those areas, and he's basically going to say that that
13 neighborhood was hell on earth in the year 2004 and 2005. I
14 may have made that little more lurid than the witness will
15 testify to, but that is, in essence, what he will testify to.
16 He was there; he saw it; he did it. We at least heard one
17 witness say it was a dangerous neighborhood. Ms. Chousa said
18 that. If those three witnesses, I believe, were in the letter,
19 and even though I was nodding at the time I read it. So those
20 are the three. Those are three witnesses. I think
21 Mr. Halperin wanted me to speak to --

22 THE COURT: Mr. Halperin wants to speak to the
23 character testimony of Mr. Robert Murtagh's law partner whose
24 personal opinion of course is irrelevant.

25 MR. HALPERIN: Absolutely.

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1 THE COURT: The only thing he can testify to is to
2 Mr. Murtagh's reputation in the community for truthfulness.

3 MR. HALPERIN: And we think that's entirely improper.

4 MR. SIANO: Judge, I don't usually differ with your
5 Honor. 608 expressly says reputation or opinion. It says it
6 in the Rule. I have it right here in front of me.

7 THE COURT: Let me get the Rule.

8 MR. HALPERIN: But he is limited under -- let me wait
9 until the Court has the rule in front of her.

10 THE COURT: Let me get the rule.

11 MR. HALPERIN: 608(a).

12 THE COURT: Credibility of a witness. May be attacked
13 or supported by evidence in the form of opinion or reputation.
14 But subject to these limitations.

15 MR. SIANO: Truthfulness only.

16 THE COURT: The evidence may refer only to character
17 for truthfulness or untruthfulness. And the evidence of
18 truthful character is admissible only after the character of a
19 witness for truthfulness has been attacked by opinion or
20 reputation evidence or otherwise.

21 MR. HALPERIN: Which has not happened.

22 MR. SIANO: Rebuttal proof is limited to after by
23 attack.

24 MR. HALPERIN: Judge, it's absolutely improper. They
25 are the ones who attacked Mr. Murtagh's reputation, and now

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1 they want to --

2 THE COURT: Let's get some case law in here, folks,
3 because I have never understood this rule to bar the defense
4 from attacking the character of a witness called by the
5 government on the ground that the government has not yet or the
6 defense had not yet found some other witness to attack.

7 MR. SIANO: Judge, there is the clause two is limited
8 by the subsequent clause, not clause one.

9 MR. HALPERIN: Judge, we would ask the Court to also
10 look at 608(b) because that bears on this analysis as well.

11 THE COURT: He is not offering evidence of specific
12 instances.

13 MR. HALPERIN: That's exactly what he's trying to do
14 it and shoehorn it under 608(a). He is going to talk about not
15 Mr. Murtagh's general reputation in the community for
16 truthfulness or lack thereof. He is going to talk about his
17 own personal interactions with Mr. Murtagh in his bitter
18 break-up of a three person law firm where Mr. Lunney sued the
19 two other partners and how Mr. Murtagh was a liar, cheat and a
20 thief in that litigation which was ultimately settled out of
21 court for about \$5,000. That is completely in an appropriate
22 under 608(a).

23 THE COURT: I will tell you what we will do. We will
24 have a proffer in the form of Mr. Lunney is coming in and
25 testifying outside the presence of the jury so I can hear

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1 exactly what it is that he proposes to say.

2 MR. HALPERIN: That's fine, Judge.

3 THE COURT: If you all have any case law about
4 608(a)(2) that you want to call to my attention, please feel
5 free to give Mr. O'Neill the citation.

6 MR. HALPERIN: We will, Judge.

7 THE COURT: I can tell you that the motions to dismiss
8 Counts Ten and Eleven to the extent -- or Count Ten, I should
9 say, to the extent of the casualty loss issue is denied. And
10 that as Mr. Weiser so presciently predicted this morning, I'm
11 going to be reserving on the other motions which are infinitely
12 more complicated.

13 (Continued on next page)

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1 MR. HALPERIN: Judge, Mr. Montero, we also oppose.

2 THE COURT: Good job, Mr. Weiser.

3 MR. HALPERIN: We also oppose Detective Montero being
4 called to talk about how in 2004, Linden Street was a dangerous
5 area. That is completely irrelevant and has no bearing on any
6 of the charges in this case and we strongly oppose his
7 testimony for that purpose.

8 THE COURT: And the relevance of his testimony?

9 MR. SIANO: Judge, Mr. Montero is not going to be
10 called first. I believe that you will hear other witnesses
11 that will establish the relevance of that point.

12 THE COURT: Then I will reserve on that point.

13 The main issue was former special agent -- whatever
14 his name.

15 MR. SIANO: Darcy.

16 THE COURT: And he is special enough to testify.

17 MR. SIANO: I will so report to him.

18 THE COURT: You may.

19 MR. HALPERIN: Judge, I know it is late.

20 THE COURT: It has been a long day for us all. We
21 started very early this morning.

22 MR. HALPERIN: We did indeed. And we appreciate,
23 obviously, the Court and Mr. O'Neill and counsel going up to
24 Connecticut.

25 I don't know if the Court wants to rule on this now or

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1 not, but I just do want to point out that pages 1 and 2 of our
2 letter dealt with what we view as rank hearsay, recorded
3 statements from a real estate committee meeting.

4 I don't know if Mr. Aronwald is still planning on
5 offering that. We would object for the same exact reasons as
6 the Court's analysis in its motion in limine ruling that the 22
7 purported Jereis emails were rank hearsay.

8 Any out-of-court statements by Ms. Annabi or
9 Mr. DelBello are similarly rank hearsay and we would object to
10 that being offered.

11 MR. ARONWALD: Your Honor, as was said in the King and
12 I, what I am hearing from Mr. Halperin is puzzlement. The
13 indictment in paragraph 26 makes specific reference.

14 I will read it if your Honor doesn't have it in front
15 of you.

16 THE COURT: I do, but please read it. My eyes are
17 tired.

18 MR. ARONWALD: "In or about September 2006 at a city
19 council meeting, Sandy Annabi, the defendant, reversed her long
20 held opposition to the Longfellow project and voted in favor of
21 making developer 1 the designated developer of the Longfellow
22 project. Attaining designated developer status was the first
23 in a series of favorable actions developer number 1 needed from
24 the Yonkers City Council and the City of Yonkers for the
25 Longfellow project to proceed."

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1 What the government did not place in evidence was the
2 videotape of the September 26, 2006 city council meeting which
3 is specifically alleged in paragraph 26 of the indictment.

4 So what I propose to do is, I propose to seek to admit
5 or to offer in evidence that city council meeting tape. It is
6 the best evidence of what happened at that meeting.

7 There is also another tape which is a tape of a real
8 estate committee meeting. That real estate committee meeting
9 was on June 20 of 2006.

10 THE COURT: I will tell you what, Mr. Aronwald. If I
11 were inclined to let you do this as the best evidence of what
12 happened, we would see the vote and nothing more -- not another
13 word, not a word by Ms. Annabi about why she did what she was
14 doing, not a word from Ms. Annabi about the wonderful benefits
15 that she obtained.

16 We have already seen a videotape in which Ms. Annabi,
17 a year earlier said, if I remember it correctly -- these things
18 stick in one's mind -- she indicated that she was in favor of a
19 project for senior housing in her district.

20 MR. ARONWALD: Yes.

21 THE COURT: And you certainly have a fair argument,
22 which I expect you to make -- you have already made it me and I
23 expect you to make it to the jury -- that that's exactly what
24 she ended up with was a project for senior housing and all that
25 you have to do is look at the government's tape of the meeting

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1 of 2005 that Sandy Annabi said at that time that that's what
2 she would vote for and that is indeed what she ended up voting
3 for.

4 What we will not have is Ms. Annabi's statement of --
5 because the government basically is hoisted on its own petard.
6 It introduced that tape to demonstrate Ms. Annabi's opposition
7 to the project, but the tape happens to say more than I am
8 opposed to the project. It says, I am opposed to this project,
9 but I would love it if you would come and build some senior
10 housing in my district. So they are stuck with that.

11 What we will not do is have Ms. Annabi's victory
12 statement come in on Ms. Annabi's case. If Ms. Annabi wants to
13 get on the stand and give her victory statement, she is welcome
14 to do so.

15 MR. ARONWALD: That's fine, your Honor.

16 The other issue is the real estate committee meeting
17 tape of June 20, 2006 in which Ms. Annabi has very little to
18 say on that.

19 The fact of the matter is that the principal speaker
20 on that tape is Al DelBello who is appearing before the city
21 council in his capacity as the attorney for Milio Management.
22 And in that June 20, 2006 real estate committee meeting, Al
23 DelBello basically speaks to the fact that he had negotiated a
24 compromise with Sandy Annabi.

25 THE COURT: And I assume that is why you are calling

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1 Mr. DelBello who will be here in court. And he will give
2 non-hearsay testimony about what he said at the real estate
3 committee meeting and that will be completely admissible and
4 we will not listen to the tape to have his testimony
5 corroborated.

6 MR. ARONWALD: Thank you, your Honor.
7 MR. HALPERIN: Thank you, your Honor.
8 9:30 tomorrow?

9 THE COURT: Yes. We told the jury 9:30. Yes, we need
10 to push, push, push.

11 MR. CARBONE: Judge, if we are going to have a summary
12 witness testify, just like we turned Agent Dennehy's 3500 over
13 a month in advance, we would like to have some 3500 material.

14 THE COURT: By tomorrow.

15 MR. SIANO: Yes.

16 MR. CARBONE: And for all witnesses for that matter.

17 THE COURT: Yes. Time for the defendants to turn over
18 the 3500 material.
19 The moment has arrived.

20 MR. ARONWALD: I think the rule is the same as it is
21 with the government. It is reciprocal, so we turn it over
22 after the witnesses testify.

23 THE COURT: But that is not the rule in my courtroom.
24 I make the government turn it over in advance, and I make you
25 turn it over in advance. Turn it over.

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1 MR. ARONWALD: Your Honor, you didn't require Debbie
2 Kayal's 3500 to be turned over in advance.

3 THE COURT: Mr. Aronwald, what I have written, I have
4 written.

5 (Proceedings adjourned until 9:30 a.m., March 14,
6 2012)

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C3DUANN6

GOVERNMENT EXHIBITS

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Exhibit No.	Received
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SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

C3EUANN1 Trial
1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK
2 -----x

2
3 UNITED STATES OF AMERICA,

3
4 v.

10 CR 007 (CM)

4
5 SANDY ANNABI and ZEHY JEREIS,

5
6 Defendants.
6
7 -----x

7
8 New York, N.Y.
8 March 14, 2012
9 10:00 a.m.
9

10
10
11 Before:

11
12 HON. COLLEEN MCMAHON

12
13 District Judge
14

14
15 APPEARANCES

15
16 PREET BHARARA
16 United States Attorney for the
17 Southern District of New York
17 JASON P.W. HALPERIN
18 PERRY A. CARBONE
18 Assistant United States Attorneys
19

19
20 WILLIAM I. ARONWALD
20 Attorney for Defendant ANNABI

21
21 ANTHONY J. SIANO
21 JEANNIE GALLEGO
22 Attorneys for Defendant JEREIS
23
24
25

C3EUANN1 Trial

1 (In open court; jury not present)

2 THE COURT: Mr. Aronwald, are you ready?

3 MR. ARONWALD: Yes, I am, your Honor. And the record
4 should indicate I have turned over the 3500 material to the
5 government.

6 THE COURT: Thank you.

7 In that case, bring your first witness in and let's
8 get the jurors in.

9 MR. ARONWALD: OK, your Honor.

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(Continued on next page)

C3EUANN1 Trial

1 (Jury present)

2 THE COURT: Good morning, everybody.

3 We were here until quite late last night. We worked
4 very hard. We are ready for you again.

5 And the government has rested. I remind you, if the
6 defendant chooses to put on a case, the defendant is not
7 assuming the burden of proof. It remains with the government
8 to prove beyond a reasonable doubt all of the elements of the
9 crimes charged. It is critically important that you remember
10 that. There are lots of reasons why defendants who want to put
11 on a case, they want to make this point, they may want to be
12 able to argue that at the end of the case, but not to prove
13 anything because the defendants have nothing to prove. We are
14 presuming them to be innocent.

15 Mr. Aronwald, do you wish to put on a case?

16 MR. ARONWALD: Yes, your Honor, we do.

17 Our first witness, we call Deana Rabadi.

18 DEANA RABADI,

19 called as a witness by the defendant Annabi,

20 having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. ARONWALD:

23 THE COURT: You may inquire.

24 Q. Ms. Rabadi, where do you live?

25 A. Yonkers, New York.

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C3EUANN1 Rabadi - direct

1 Q. Can you tell us about how far did you go in terms of your
2 education?

3 A. Four years' college.

4 Q. Do you have a degree?

5 A. Two classes short.

6 Q. What is your occupation? How are you employed?

7 A. I have two jobs. My first job, I am a medical -- I work at
8 a medical office. I am an office manager. Then in the
9 evenings I work at St. Joseph's Medical Center in the
10 laboratory department.

11 Q. Do you know Sandy Annabi?

12 A. Yes, I do.

13 Q. How do you know Sandy Annabi?

14 A. She is my cousin.

15 Q. I want to direct your attention to the period of August of
16 2004 through February of 2005 -- strike that.

17 I want to direct your attention to the time that
18 Ms. Annabi and her family moved out of 51 Linden Street, OK?

19 A. Yes.

20 Q. So from that point up until February or so of 2005, do you
21 know where Sandy was living?

22 A. Yes.

23 Q. Where?

24 A. 53 Linden Street, first floor.

25 Q. How do you know that?

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C3EUANN1 Rabadi - direct

- 1 A. Because I was asked by Sandy if I could spend several days
2 with her while --
- 3 MR. CARBONE: Objection. Hearsay. Move to strike.
4 THE COURT: Could you read back the question.
5 (Record read)
6 THE COURT: Ma'am, if you know that because someone
7 told you, you cannot tell us. If you know that of your own
8 knowledge because you have been there, you visited her there,
9 because of some other reason of your own knowledge, you can
10 tell us that.
- 11 THE WITNESS: OK.
12 THE COURT: I have to rely on you. If somebody else
13 told you that Sandy lived at that address, we cannot hear it
14 from you, all right?
- 15 MR. ARONWALD: Let me restate the question.
16 BY MR. ARONWALD:
17 Q. How do you know that Sandy lived at 53 Linden Street?
18 A. Because I stayed with her several nights during the
19 weekdays.
20 Q. Was that throughout the entire period of time that she was
21 living at 53 Linden Street?
22 A. Yes.
23 Q. Do you know where she moved to when she left 53 Linden
24 Street?
25 A. Yes.

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C3EUANN1 Rabadi - direct

1 Q. Where did she move to?

2 A. 245 Rumsey Road.

3 Q. Have you been to her apartment at 245 Rumsey Road?

4 A. Yes.

5 Q. Did you have anything at all to do with respect to the
6 furnishing or decorating of 245 Rumsey Road?

7 A. I helped her decorate.

8 Q. Now, you say that you were staying with her several nights
9 a week while she was at 53 Linden Street. Can you please
10 describe the apartment to the jury, please?

11 A. Yes, I can.

12 Q. Would you do that?

13 A. The apartment has a living room which is shared with a
14 kitchenette. There was a full bathroom and one bedroom that we
15 shared. It had two twin beds, a dresser and a closet.

16 Q. Were you familiar with the kind of neighborhood that 53
17 Linden Street was in?

18 A. Yes.

19 Q. What kind of neighborhood was it?

20 MR. CARBONE: Objection.

21 THE COURT: The objection is overruled.

22 Q. Would you describe the neighborhood, please.

23 A. It is a very troubled neighborhood.

24 Q. When you say "troubled," what do you mean?

25 A. It has -- there's a lot of gangs there, a lot of drug

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C3EUANN1 Rabadi - direct

1 trafficking. There's been shootings.

2 Q. OK. Now, do you know how many different telephone lines
3 there were in the apartment at 53 Linden Street?

4 A. Yes.

5 Q. How many were there?

6 A. There were two phone lines.

7 Q. Just so I understand, there were two phones with separate
8 numbers?

9 A. Yes.

10 Q. Now, while you were staying there, were you permitted to
11 use both telephones?

12 A. No, just the one.

13 Q. Do you know what the other phone was for?

14 A. It belonged to Sandy. It is the city council phone.

15 Q. By the way, do you know an individual by the name of David
16 Medranda?

17 A. Yes, I do.

18 Q. How do you know David Medranda?

19 A. He was Sandy's secretary.

20 Q. Did you ever see David Medranda at 53 Linden Street?

21 A. Yes.

22 Q. On what occasions did David Medranda come to 53 Linden
23 Street?

24 A. When he used to drop off paperwork for Sandy.

25 MR. ARONWALD: No further questions.

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C3EUANN1 Rabadi - direct

1 Thank you.

2 THE WITNESS: Thank you.

3 CROSS-EXAMINATION

4 BY MR. CARBONE:

5 Q. Good morning, Ms. Rabadi.

6 A. Good morning.

7 Q. My name is Perry Carbone.

8 We have never met.

9 I am going to ask you a few questions about your
10 testimony here today.

11 A. Sure.

12 Q. Can you tell us your mother's name?

13 A. Diana Rabadi.

14 Q. Who is Randa Rabadi?

15 A. That is Sandy's aunt.

16 Q. Is she any relation to you?

17 A. We are distant cousins.

18 Q. Well, is it fair to say that it is Randa Rabadi who owns 53
19 Linden or did at the time?

20 A. I'm not too sure.

21 Q. You don't know who owns the building?

22 A. No.

23 Q. Were you aware that Randa Rabadi told the FBI that Sandy
24 Annabi did not live there --

25 MR. ARONWALD: Objection.

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C3EUANN1

Rabadi - cross

1 THE COURT: The objection is sustained.

2 Q. Ms. Rabadi, now, you said you are Sandy's first cousin?

3 A. No.

4 Q. I must missed that.

5 THE COURT: What are you? How are you related to her
6 if at all?

7 THE WITNESS: Our grandfathers are first cousins, so
8 we are the granddaughters.

9 Q. So Ms. Annabi is some kind of family, correct?

10 A. She is my cousin. Her uncle is married to my aunt as well.

11 Q. You are here testifying on her behalf today because you
12 want to help?

13 A. No. I'm here because I lived with Sandy and I'm -- I
14 didn't live with Sandy -- I stayed several nights with Sandy
15 Annabi at 53 Linden Street.

16 Q. I guess my question was, you don't want to see anything bad
17 happen to Sandy, correct?

18 A. I just wish her the best, so I --

19 Q. You don't want to see her get hurt in any way?

20 A. Get hurt?

21 Q. You are here testifying on her behalf because you love her,
22 she is related to you and she is your friend, correct?

23 A. Yes.

24 Q. You said a minute ago that you lived there and then you
25 said --

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C3EUANN1 Rabadi - cross

1 A. I stayed there several nights.

2 Q. Let me ask the question?

3 A. Sure.

4 Q. You clarified and said that you stayed there a couple of
5 nights, right?

6 A. Yes.

7 Q. And you don't know where she was any other night, is that
8 right?

9 A. We stayed together Monday through Friday, OK, and on the
10 weekends I would go to my parents' house. So I don't --

11 Q. So was it a couple --

12 MR. ARONWALD: Could she finish her answer, your
13 Honor?

14 THE COURT: Let her finish her answer, Mr. Carbone.

15 MR. CARBONE: Let me withdraw the question and I will
16 rephrase it.

17 MR. ARONWALD: I object to that. Let her finish --

18 THE COURT: Let her finish her answer.

19 Finish your answer.

20 THE WITNESS: On the weekends, I went to my parents'
21 house.

22 BY MR. CARBONE:

23 Q. So when you testified on direct examination that you only
24 stayed there a couple of times and then when you said that
25 again on cross-examination, that was not correct, is that

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C3EUANN1 Rabadi - cross

- 1 right?
2 A. I said I stayed there several days.
3 Q. Is several days Monday through Friday for the whole time
4 period? Is that the same to you?
5 A. It used to be four days, sometimes I spent five days,
6 depending on my work schedule.
7 Q. Which is it? Is it several days or is it all week?
8 A. Several days.
9 Q. And several specific days?
10 A. Four to five days.
11 Q. And you said that you don't know where Sandy was on the
12 weekends?
13 A. At her parents.
14 Q. So you actually stayed at 53 Linden four to five days a
15 week between August and February?
16 A. Yes.
17 Q. What was the apartment number that you stayed in?
18 A. It was the first floor.
19 Q. Do you know the apartment number?
20 A. It was the first door near the top of the staircase.
21 Q. Do you know the apartment number, yes or no?
22 A. First floor, I don't know which letter.
23 Q. There is only one apartment on the first floor?
24 A. No. There was an apartment next door.
25 Q. So you don't know which number or letter apartment you

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C3EUANN1 Rabadi - cross

- 1 stayed in?
2 A. I don't remember.
3 Q. Did you receive mail there?
4 A. No.
5 Q. Did Sandy receive mail there?
6 A. I never had the key to the mailbox so I can't answer that.
7 Q. But it was definitely on the first floor?
8 A. You go up the stairs, then another flight of stairs and the
9 door was right there.
10 Q. Was it Apartment 1?
11 A. It's the first floor.
12 Q. Do you know who else -- who lived there before you?
13 A. No -- yeah, her aunt before she passed.
14 Q. Do you know who lived there after you?
15 A. No.
16 Q. Who is Ayman Rabadi?
17 A. Sandy's uncle.
18 Q. Was that a one- or two-bedroom apartment?
19 A. One bedroom.
20 Q. Do you know what size apartment the other apartment was?
21 A. No.
22 Q. Did Sandy's uncle Ayman Rabadi live in the building at the
23 time?
24 A. I don't know.
25 Q. You never saw him there?

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C3EUANN1 Rabadi - cross

1 A. He used to come and visit us, but I don't know if he had
2 another apartment there for himself.

3 Q. Ms. Rabadi, I want to show you what's been marked as
4 Government Exhibit 2004 which is a packet of all of the leases
5 for 53 Linden at the time, and I want to direct your attention
6 specifically to the lease for Apartment Number 1 on the first
7 floor and ask you if you recognize it?

8 MR. ARONWALD: Excuse me. These are not in evidence.

9 MR. CARBONE: I am asking the witness if she
10 recognizes it, your Honor.

11 MR. ARONWALD: But you are reading from it and they
12 are not in evidence.

13 THE COURT: Are these to be marked for identification
14 so that they can be shown?

15 MR. CARBONE: Yes.

16 THE COURT: Fine. Let Mr. O'Neill mark them for
17 identification. What are they? Government Exhibit what for
18 identification and Government Exhibit what for identification
19 and then we will move on to the next matter.

20 MR. CARBONE: Government Exhibit 2004 for
21 identification.

22 THE DEPUTY CLERK: Deemed marked.

23 MR. CARBONE: And they are a packet --

24 THE COURT: No. You may not identify them on the
25 record. You may show them to the witness. You must give a

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C3EUANN1 Rabadi - cross

1 copy to Mr. Aronwald, Mr. Siano.

2 MR. ARONWALD: I have a copy.

3 THE COURT: Show them to the witness and ask her what
4 they are.

5 MR. ARONWALD: If she knows.

6 BY MR. CARBONE:

7 Q. Ms. Rabadi, do you know what Government Exhibit 2004 is?
8 Have you ever seen that?

9 A. No.

10 Q. Does it refresh your recollection about whether Ayman
11 Rabadi lived in Apartment 1 at 53 Linden?

12 THE COURT: Look through that, ma'am, and see if it
13 jogs your memory that someone named Ayman Rabadi lived in
14 Apartment 1, 53 Linden.

15 (Pause)

16 THE WITNESS: There is nothing with Ayman Rabadi's
17 name on here.

18 MR. ARONWALD: Your Honor, again, it was to refresh
19 her recollection --

20 THE COURT: I am really sorry. This is so hyper
21 technical. I apologize.

22 The question was, does that refresh your recollection
23 that Mr. Ayman Rabadi lived at that address. And the answer is
24 either yes or no; it jogs your memory that he did live there or
25 it doesn't jog your memory that he did live there.

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C3EUANN1 Rabadi - cross

1 THE WITNESS: At the time I was there, no.

2 BY MR. CARBONE:

3 Q. Just for the record, this document that was pulled out that
4 I showed you first is part of Government Exhibit 2001. I want
5 to ask you if that refreshes your recollection about whether
6 Ayman Rabadi lived there.

7 MR. ARONWALD: Asked and answered.

8 THE COURT: Asked and answered. Move on.

9 MR. CARBONE: Your Honor, she had this document
10 separate from the packet.

11 THE WITNESS: And I took a look at it.

12 MR. CARBONE: Thank you.

13 THE WITNESS: You are welcome.

14 BY MR. CARBONE:

15 Q. About how many times would you say you saw David Medranda
16 come by there?

17 A. I usually work at night until 10 p.m. at the hospital, but
18 the times I didn't work, maybe once a month, that I remember.

19 Q. So if we are talking about a period between August and
20 February, that's approximately half a dozen times?

21 A. Like I said, I have seen him there, but I don't know how
22 many times.

23 Q. So you don't know how many times he was there?

24 MR. ARONWALD: Asked and answered.

25 THE COURT: Correct.

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C3EUANN1 Rabadi - cross

1 Next question.

2 Q. Was he there more than 10 times?

3 A. Like I said, I worked nights.

4 Q. But the question is, can you tell us whether he was there
5 more than 10 times, to your personal knowledge?

6 A. I don't remember.

7 Q. Was it more than 100?

8 A. I don't remember.

9 MR. CARBONE: No further questions.
10 Thank you.

11 MR. ARONWALD: No further questions.

12 THE COURT: Anything, Mr. Siano?

13 MR. SIANO: No, your Honor.

14 THE COURT: Thank you, ma'am.

15 You may step down.

16 (Witness excused)

17 THE COURT: Call your next witness.

18 MR. ARONWALD: Your Honor, the defense calls David
19 Medranda.

20 DAVID S. MEDRANDA,

21 called as a witness by the defendant Annabi,

22 having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. ARONWALD:

25 Q. Good morning, Mr. Medranda.

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C3EUANN1 Medranda - direct

1 How are you?

2 A. Good morning.

3 Q. Mr. Medranda, where do you live -- you don't have to give
4 us the street address but what county do you live in?

5 A. Westchester County.

6 Q. Could you tell the jury, please, what your education is,
7 how far you went education wise?

8 A. Completed a bachelor's at NYU and did most of my master's
9 in education at Lehman College.

10 Q. Your bachelor's is in what field?

11 A. It is individualized major. It is science of
12 consciousness. It is basically a combination of science and
13 literature where you examine the nature of consciousness
14 through literature, through history.

15 Q. How are you currently employed?

16 A. I am currently a secretary in the department of opthamology
17 at a hospital.

18 THE COURT: Do us a favor and slow just a little bit
19 slower.

20 Q. I am going to ask you, if you would, to please not speak
21 directly into the microphone but place yourself close enough to
22 it so that everybody in the jury can hear you.

23 You have met with the government previously, haven't
24 you?

25 A. Correct.

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C3EUANN1 Medranda - direct

1 Q. And you were interviewed by either Mr. Carbone or
2 Mr. Halperin, both of whom are seated at the counsel table?

3 MR. CARBONE: Objection. Leading.

4 THE COURT: Overruled.

5 Q. Is that correct?

6 A. I believe that the gentleman with the mustache was present
7 and two FBI agents and another prosecutor.

8 Q. Do you have a recollection of how long ago it was that you
9 were interviewed by Mr. Carbone?

10 A. Approximately a year.

11 Q. And you were only interviewed by them one time?

12 A. Correct.

13 Q. You answered all of their questions?

14 A. To the best of my knowledge.

15 Q. Do you know Sandy Annabi?

16 A. Yes.

17 Q. How do you know Sandy Annabi?

18 A. I worked for her for a number of years at St. Joseph's and
19 in government.

20 Q. When you worked with her at St. Joseph's, what was her
21 position and what was yours?

22 A. She was in charge of the ambulatory surgery and outpatient
23 registration department and I was a registrar.

24 Q. And then did there come a time when Sandy was elected to
25 public office?

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C3EUANN1 Medranda - direct

1 A. Yes.

2 Q. Do you recall what office it was that she was elected to?

3 A. I wasn't sure at the time, but now that I do know it was
4 Second District Council in the City of Yonkers.

5 Q. During the period of time that she was working as a
6 councilwoman for the City of Yonkers, or at least for part of
7 that time, did you work for her in that capacity?

8 A. Yes.

9 Q. And I need you to speak into the microphone, if you can. I
10 am having trouble hearing you.

11 A. Sorry.

12 Q. What position did you have while you were working with her?

13 A. Basically, I was her secretary.

14 MR. ARONWALD: I need just one moment, your Honor.

15 Q. What were your duties when you were working for Sandy as
16 secretary when she was city councilwoman?

17 A. I would answer the phone, interact with the public,
18 maintain files, prepare callers for her, help organize
19 meetings -- public meetings, prepare press advisories, the
20 meetings that were going to happen, etc.

21 Q. What is a call list?

22 A. A call list is basically a list of anyone that called
23 during the day, what their issues were. And when it was
24 available, you would post the results of what you were able to
25 assist them with, and if it wasn't resolved, you let her know

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C3EUANN1 Medranda - direct

1 what was being done to resolve it.

2 Q. Were these call lists prepared by you in the regular course
3 of your business as a secretary to Councilwoman Annabi?

4 A. Yes.

5 Q. Were the entries in these call lists made contemporaneously
6 with the incoming calls?

7 A. The recording would vary in nature. Sometimes it was
8 handwritten notes which were later transferred to Outlook. At
9 some point in time I did try to put it into Outlook right away
10 and she would either receive an email or a printout when she
11 came to the office.

12 Q. But the entry on the call list, at least with respect to
13 the original handwritten entries, they would be made at or
14 about the time that the call came in, correct?

15 A. Yes.

16 Q. Were the records or those call lists kept in the course of
17 the regularly conducted business of the city council?

18 A. Yes.

19 Q. I have placed in front of you a document that is marked
20 Defendant Exhibit 76 for identification. Would you take a look
21 at that, please?

22 MR. ARONWALD: May I approach, your Honor?

23 THE COURT: You may.

24 (Discussion off the record between counsel)

25 Q. Directing your attention to the document that's marked

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C3EUANN1 Medranda - direct

1 Defendant Exhibit 76 for identification, do you recognize that
2 document?

3 A. Yes. It is probably one of the many prepared in my time at
4 the council.

5 Q. Do you recognize that as a document that you prepared while
6 you were working for Councilwoman Annabi?

7 A. Yes.

8 MR. ARONWALD: Your Honor, we would move Defendant
9 Exhibit 76 into evidence -- offer Defendant Exhibit 76 into
10 evidence at this time.

11 I am a slow learner, Judge. I apologize.

12 THE COURT: Do I have a copy of Defendant's 76?

13 MR. CARBONE: We have no objection.

14 THE COURT: Defendant's 76 is admitted.

15 (Defendant Exhibit 76 received in evidence)

16 MR. CARBONE: We have no objection to 76A as well.

17 MR. ARONWALD: I haven't gotten there yet, but I
18 appreciate that, the anticipation.

19 May I have 76 back?

20 THE COURT: You may.

21 MR. ARONWALD: Mr. Turk, I give you what is received
22 in evidence as Defendant Exhibit 76, and directing your
23 attention to the second page.

24 BY MR. ARONWALD:

25 Q. While Mr. Turk is doing that, just look at the screen in

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C3EUANN1 Medranda - direct

1 front of you.

2 MR. ARONWALD: Is it possible to just highlight the
3 first entry -- no.

4 Q. Mr. Medranda, the first entry is 12/12/05: "Rosemary
5 Karaka from FBI/white Plains (914-989-6056) wants to meet with
6 you said Wed" -- is that Wednesday?

7 A. Yes.

8 Q. -- is best or maybe Thursday morning, maybe." Then it
9 says: "Re: Ridge Hill (until 10-1 p.m., then cell)."

10 When you received this call from the person
11 identifying herself as Rosemary Karaka from the FBI, is this
12 all of the information that you were provided by her?

13 A. Obviously, something must have happened to the cell phone
14 number because, as far as I recall, that's complete.

15 Q. At the time that call came in, was Ms. Annabi in the city
16 council office?

17 A. Physically?

18 Q. Was she physically present when the call came in?

19 A. No.

20 Q. When the call came in, what if anything did you do?

21 A. I believe I called her, told her right away because it
22 sounded urgent.

23 Q. You said -- I couldn't hear you -- you called her and told
24 her what?

25 A. About the phone call.

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C3EUANN1 Medranda - direct

1 Q. I also am going to place before you Defendant Exhibit 76A
2 and ask you whether or not you recognize that document?

3 A. It appears to be similar -- or the same document.

4 MR. ARONWALD: Your Honor, we would offer this in
5 evidence at this time, there being no objection by the
6 government.

7 MR. CARBONE: No objection.

8 THE COURT: Admitted.

9 (Defendant Exhibit 76A received in evidence)

10 MR. ARONWALD: With respect to Defense Exhibit 76A, I
11 will hand that to Mr. Turk as well, and if you can place that
12 on the screen.

13 BY MR. ARONWALD:

14 Q. Do you have both documents in front of you, Mr. Medranda?

15 A. Yes.

16 Q. If you look at the second page of 76A and focus on the
17 entry relating to Rosemary Karaka and compare that to the entry
18 on 76 -- we can't put the two of them up on the screen at the
19 same time, so can you just read those and tell us whether or
20 not there is any difference between the two or are the entries
21 as to that call identically the same as to both documents?

22 A. With the exception of the placement of the second "maybe"
23 then, yes, they are identical.

24 Q. Was it normal in the course of your duties as Councilwoman
25 Annabi's secretary to modify these call lists?

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C3EUANN1 Medranda - direct

1 A. I would update them with actions or results.

2 Q. So can you explain what the word "modified" means on the
3 top of 76A?

4 Let me strike that.

5 Comparing the two documents, is there anything in 76A,
6 any information on 76A that is not on 76 -- not limiting myself
7 to the entry relating to Special Agent Karaka?

8 A. Apart from the entry, the heading appears to be different.

9 Q. Aside from the entry, the word "modified"?

10 A. No. Aside from the placement of the word "maybe" in the
11 reference.

12 Q. Otherwise they are identical, correct?

13 A. As far as I can tell, yes.

14 Q. When you were working for Ms. Annabi as her secretary, were
15 any arrangements made for city council members to have
16 telephones that were the property of the City of Yonkers?

17 A. Yes. Every council member had a cell phone -- I'm sorry --
18 a hard line put into their residence.

19 Q. And did Ms. Annabi have a telephone in her residence during
20 the period that you were working for her?

21 A. Yes.

22 Q. Was there a number that -- you recall the number that
23 Ms. Annabi had when she was a council member?

24 A. Yes.

25 Q. Would you tell us what the number was?

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C3EUANN1 Medranda - direct

- 1 A. I don't remember.
2 Q. But was the number the same except for the last digit?
3 A. It was the custom of the council to preserve the digit so
4 that it matched the council district.
5 Q. So in other words, if it was a telephone belonging to
6 Patricia McDow from the First District, the phone number, the
7 last digit would be a 1 and so on?
8 A. Yes.
9 Q. Did you have anything at all to do with arranging for the
10 installation of Councilwoman Annabi's phones at her residence?
11 A. Yes.
12 Q. And how many times did you do that?
13 A. I believe it was twice.
14 Q. Was one of those times with respect to 245 Rumsey Road?
15 A. Yes.
16 Q. And was the other time with respect to 53 Linden Street?
17 A. Yes.
18 Q. By the way, with respect to 53 Linden Street, did you have
19 occasion to go to that apartment?
20 A. Yes.
21 Q. For what reason?
22 A. I would routinely drop off agendas and letters that came
23 in.
24 Q. On average, approximately how many times a week or a month
25 would you do that?

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C3EUANN1 Medranda - direct

1 A. Between two and eight.

2 Q. Is two and eight times a week or two and eight times a
3 month?

4 A. A week.

5 MR. ARONWALD: Thank you.

6 No further questions.

7 I will just take the documents back.

8 MR. CARBONE: May I, your Honor?

9 THE COURT: You may.

10 MR. ARONWALD: May I have just one other question?

11 I'm sorry.

12 THE COURT: Sure.

13 DIRECT EXAMINATION (Continued)

14 BY MR. ARONWALD:

15 Q. Prior to appearing in court to testify this week, when was
16 the last time you spoke to Sandy Annabi?

17 A. Probably more than a year.

18 MR. ARONWALD: Thank you.

19 No further questions.

20 CROSS-EXAMINATION

21 BY MR. CARBONE:

22 Q. Good morning, Mr. Medranda.

23 A. Good morning.

24 Q. Now, sir, you testified at length today about your duties
25 working for Ms. Annabi?

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C3EUANN1 Medranda - cross

- 1 A. Yes.
2 Q. Would it be fair to say that Ms. Annabi was a demanding
3 boss?
4 A. Yes.
5 Q. And she was attentive to detail?
6 A. Yes.
7 Q. And on occasion she would get upset with you?
8 A. Sure.
9 Q. You testified about specifically some of the things that
10 you did. In fact, you did many different things for her,
11 correct?
12 A. Correct.
13 Q. Some of those things related to your City of Yonkers
14 business, right?
15 A. Correct.
16 Q. You also did some political work for her, didn't you?
17 A. Yes. I volunteered on her campaign.
18 Q. You say you volunteered on her campaign. In fact after
19 Maria Chousa quit as her treasurer, she asked you to take over,
20 right?
21 A. Yeah. She needed someone.
22 Q. And you agreed?
23 A. Yes.
24 Q. And you worked on her campaigns?
25 A. Yes.

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C3EUANN1 Medranda - cross

1 Q. You did fundraising?

2 A. I helped run fundraisers.

3 Q. Is it also fair to say in connection with your duties,
4 Ms. Annabi had you -- in connection with your duties in the
5 City of Yonkers, Ms. Annabi had you keep Zehy Jereis in the
6 loop on City of Yonkers' business?

7 A. Yes.

8 Q. You gave him information about political matters on Sandy
9 Annabi's behalf too?

10 MR. ARONWALD: Your Honor. Beyond the scope of
11 direct.

12 THE COURT: The objection is sustained.

13 MR. CARBONE: Your Honor, he was asked on direct
14 examination about his duties. This goes directly to his
15 duties.

16 MR. ARONWALD: As a secretary, not as a volunteer,
17 your Honor.

18 THE COURT: Objection sustained.

19 BY MR. CARBONE:

20 Q. Well, in connection with the information you gave him about
21 City of Yonkers business, is it true that one of the things
22 Ms. Annabi asked you -- Mr. Jereis asked you to do was provide
23 him with a list of all buildings in Ms. Annabi's district with
24 generators?

25 MR. ARONWALD: Objection.

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C3EUANN1 Medranda - cross

1 THE COURT: Objection sustained.

2 MR. CARBONE: This directly relates to his duties as
3 her secretary and I can tie that up in a second.

4 MR. ARONWALD: Objection, your Honor. Beyond the
5 scope of direct.

6 THE COURT: Mr. Aronwald, hang on.

7 Sir, did you hear the question that you were asked?

8 THE WITNESS: I would like it repeated.

9 THE COURT: Please read back the question.

10 (Record read)

11 MR. ARONWALD: The question relates to something
12 Mr. Jereis said which had nothing at all to do with his
13 responsibilities as secretary. It is a hearsay question also.

14 THE COURT: The objection is sustained.

15 BY MR. CARBONE:

16 Q. Mr. Medranda, in connection with your duties as Ms.
17 Annabi's secretary, isn't it true that you were asked by
18 Ms. Annabi to provide a list of all senior citizen buildings in
19 her district, if there were generators in the buildings?

20 MR. ARONWALD: Objection. Beyond the scope of direct.

21 THE COURT: Overruled.

22 In the course of your duties as her secretary, not as
23 a volunteer in her campaign, as a secretary, were you asked by
24 Ms. Annabi to do that?

25 THE WITNESS: Yes, I was.

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C3EUANN1 Medranda - cross

1 THE COURT: Thank you.

2 BY MR. CARBONE:

3 Q. In fact when Mr. Jereis, he also asked you to do that and
4 he told you he had spoken to Ms. Annabi?

5 MR. ARONWALD: Objection. Hearsay.

6 MR. HALPERIN: Your Honor, it is an admission.

7 MR. ARONWALD: It is beyond the scope of direct. It
8 has nothing to do with --

9 THE COURT: The objection is overruled.

10 BY MR. CARBONE:

11 Q. Do you recall the question?

12 A. Yes. I do not recall having a conversation with him.

13 Q. Did he send you an email?

14 Let me withdraw that.

15 Isn't it true that Mr. Jereis sent you an email in
16 which he said, I have spoken to Sandy and please contact the
17 senior citizen buildings in Annabi's district and ask the
18 management companies or supers if there are generators
19 available? Do you recall that?

20 MR. ARONWALD: Objection, your Honor.

21 THE COURT: Overruled.

22 A. I don't recall that.

23 Q. Let me show you what's been marked as Government Exhibit
24 813 and ask you to take a look at that.

25 MR. ARONWALD: May I see the original? This is

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C3EUANN1 Medranda - cross

1 illegible. Before you show the witness, may I see it?

2 THE COURT: Please show a legible copy to Mr.

3 Aronwald.

4 MR. CARBONE: Judge, these are the best copies we

5 have.

6 MR. ARONWALD: Your Honor, I will hand up the copy I

7 have to your Honor and you can see --

8 THE COURT: Show him the clearest copy that you've

9 got. You have to show something that is legible to the
10 witness, so show Mr. Aronwald what you are showing the witness.

11 THE WITNESS: That appears that is the --

12 THE COURT: Don't answer any questions.

13 (Pause)

14 MR. ARONWALD: What is the question for the witness?

15 BY MR. CARBONE:

16 Q. Mr. Medranda, does that refresh your recollection about
17 whether Mr. Jereis sent you an email and said, "Hi, Debbie, I
18 spoke to Sandy about this. Please contact the senior citizen
19 buildings in Annabi's district and ask the management companies
20 or supers if there are generators available, if there is a
21 power outage. Keep in touch."

22 Do you recall that now, sir?

23 A. May I see the document again, please?

24 I do not recall the interaction, but the email appears
25 to be accurate.

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C3EUANN1 Medranda - cross

1 Q. Sir, do you deny that Mr. Jereis sent you an email and
2 said, I spoke with Sandy Annabi and asked you to produce a list
3 of generators and he said please keep in touch?

4 A. I do not recall, however, I verify that this is accurate.

5 THE COURT: You don't recall. The question was: Does
6 that jog your memory. The answer is, he does not recall.

7 Q. Mr. Medranda, is it fair to say that you provided
8 Mr. Jereis with a list of all buildings in Sandy Annabi's
9 district that had generators?

10 MR. ARONWALD: Asked and answered. The witness has
11 said that he does not recall.

12 THE COURT: The objection is sustained.

13 Move on.

14 Q. Mr. Medranda, did you compile a list of the buildings in
15 Ms. Annabi district with generators?

16 MR. ARONWALD: Your Honor, same question. Same
17 objection.

18 THE COURT: Did you do that? Did you compile such a
19 list, yes or no?

20 THE WITNESS: Yes.

21 THE COURT: Yes, he did.

22 Next.

23 BY MR. CARBONE:

24 Q. Thank you, sir.

25 And did you provide that to Mr. Jereis?

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C3EUANN1 Medranda - cross

1 A. I don't recall.

2 Q. Do you recall, sir, that Ms. Annabi thereafter contacted
3 the Yonkers Corporation Counsel and asked them to make
4 arrangements so that the City of Yonkers could buy generators?

5 MR. ARONWALD: Your Honor, that is clearly beyond the
6 scope of direct. I object.

7 THE COURT: The objection is overruled.

8 Q. Do you recall that, sir?

9 A. I was not part of the conversation regarding that.

10 Q. In connection with your duties as Ms. Annabi's secretary or
11 assistant, did you participate at all in the process in which
12 Ms. Annabi went to the Corporation Counsel's office and tried
13 to get the City of Yonkers to buy generators?

14 A. I probably helped to arrange the committee meeting to
15 discuss that. I recall preparing a resolution of support, I
16 guess is the correct term, saying that senior centers should
17 have generators.

18 Q. Sir, did you ask Mr. Jereis at all during this time period
19 whether he had any relationship with any entity that sold
20 generators?

21 A. No.

22 MR. ARONWALD: Objection, your Honor. Beyond the
23 scope.

24 THE COURT: The answer was no.
25 Let's move on.

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C3EUANN1 Medranda - cross

1 Q. Now, sir, is it also true that in connection with your
2 duties for Ms. Annabi, you were required to report on political
3 matters to Mr. Jereis?

4 A. Yes.

5 Q. If you didn't, Mr. Jereis would get pretty "pissed off,"
6 wouldn't he?

7 A. It happened that he did get upset once, yes.

8 Q. And that's because you were not keeping him in the loop on
9 the political matters and that was your job, right?

10 A. Negative. That happened because something happened outside
11 of my knowledge, and I think there was a misinterpretation that
12 I withheld information.

13 Q. Isn't it true that he relied on you to inform him of the
14 Democratic politics as they related to Ms. Annabi?

15 A. Yes.

16 Q. He was upset with you because you didn't keep him in the
17 loop on something -- that's from his perspective?

18 A. You should ask him.

19 THE COURT: You need to speak up because I can't hear
20 you and I am sitting right next to you.

21 THE WITNESS: I'm sorry, Judge.

22 You would have to ask him.

23 Q. I am going to show you Government Exhibit 814, and I would
24 like to ask you what Mr. Jereis said to you. Did he tell you
25 that he was "very pissed off" at you?

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C3EUANN1 Medranda - cross

1 A. Yes.

2 Q. And that's because you didn't keep him in the loop on
3 something from his perspective, correct?

4 A. Correct.

5 Q. Isn't it also true that one of the things that Ms. Annabi
6 did was attempt to get the City of Yonkers to buy metal
7 detectors at Mr. Jereis' request?

8 A. I don't recall.

9 Q. Let me show you Government Exhibit 815 for identification.
10 Does that refresh your recollection about whether Mr. Jereis
11 suggested that the city of Yonkers should buy metal detectors?

12 A. This doesn't relate to me because my name is not in the
13 heading, so I cannot verify that.

14 Q. Mr. Medranda, it is about the same time period as the
15 generators, right?

16 A. I don't recall.

17 Q. So you have no recollection of Mr. Jereis asking Ms. Annabi
18 to buy metal detectors for the City of Yonkers?

19 A. I never witnessed a conversation.

20 Q. You also said that Ms. Annabi had asked you to do some
21 political work and that you had agreed, correct?

22 A. Correct.

23 Q. Was one of the things that she asked you to do, help her at
24 a fundraiser?

25 A. Correct.

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C3EUANN1 Medranda - cross

1 Q. Did she also ask you to write letters on plain paper, not
2 council letterhead, during the day?

3 A. In what regards?

4 Q. For political activity?

5 A. The request would occasionally come in during the day with
6 the understanding that it was to be done on my time.

7 Q. But the request came from Ms. Annabi, correct?

8 A. Sure.

9 MR. CARBONE: In connection with Defense Exhibit 76,
10 Mr. Turk, could you please put that on the Elmo.

11 MR. ARONWALD: I gave you a copy. You have it.

12 MR. CARBONE: No, you didn't. I think you took it
13 back.

14 (Discussion off the record between counsel)

15 MR. CARBONE: By the way, we don't have copies of
16 these exhibits.

17 (Discussion off the record between counsel)

18 MR. CARBONE: Focusing on the top, Mr. Turk, could you
19 please zoom in on the top where it says "modified."

20 BY MR. CARBONE:

21 Q. Mr. Medranda, isn't it true that when you said that you
22 would update these lists, you may go back a couple of days
23 later and update the list, but there is no way why you would
24 have to go back four years later and update it, correct?

25 A. If it was a particularly lengthy topic, for example, using

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C3EUANN1 Medranda - cross

1 a traffic light, I might actually go back and dig up the
2 information and copy and paste it.

3 MR. CARBONE: Mr. Turk, can you zoom in more on the
4 date on top there and slide it down.

5 BY MR. CARBONE:

6 Q. Do you see where it says modified Wednesday, March 25,
7 2009?

8 A. OK.

9 Q. Now, I want you to look at Government Exhibit 76A and see
10 whether there is anything in that exhibit that was modified --
11 withdrawn -- that would require you to go back and modify that
12 document four years later?

13 A. Do you have another copy of it for me to review?

14 The only possible reason to go back would be for snow
15 shoveling. I believe at some point we decided to look
16 backwards and see how many types of snow shoveling problems
17 there were, snow plowing.

18 Q. Mr. Medranda, is it your testimony that there would have
19 been a reason in March of 2009 to go back and change or modify
20 a list of calls that you typed up in 2005?

21 A. If the email program records copying as modification, then
22 yes. I would not be able to tell you from this document
23 whether or not Outlook did that in that version or if it still
24 does it. So that is something you need to ask a computer
25 person.

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C3EUANN1 Medranda - cross

1 Q. Well, we are asking you whether you have any explanation
2 for the entry on the top of that document that says "modified
3 on March 25, 2009"?

4 A. I do not.

5 Q. Thank you.

6 Getting back to Defense Exhibit 76, the entry that
7 relates to the message that you took for Rose Karaka, that
8 entry appears to have been changed, doesn't it?

9 A. In the instance of the word "maybe," I think, was moved.

10 Q. So there is a word in there that wasn't in the earlier one?

11 A. No. It is there, it is just in a different position.

12 Q. Do you recall, sir, when you met with us in our office back
13 on April 13 of 2011?

14 A. Yes.

15 Q. Do you recall that you were asked a series of questions
16 relating to whether you had ever been to 51 Linden Street to
17 drop off papers for Ms. Annabi. Do you recall that?

18 A. Yes.

19 Q. And do you recall telling the agents that day that you had
20 been to 51 Linden Street?

21 A. Yes.

22 Q. And do you recall telling the agents that, after you
23 brought documents to 51 Linden Street, that Ms. Annabi moved
24 out, correct?

25 A. Correct.

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C3EUANN1 Medranda - cross

1 Q. And that then you went to Annabi's parents' home, to Bacon
2 Place a lot because Annabi enjoyed shopping at the Bacon Place
3 home and was located closer to the shops, do you recall that?

4 A. If that's what I said, yes.

5 Q. Do you recall telling us --

6 MR. ARONWALD: Objection. The witness's answer was,
7 if that's what I said, yes. That is not an answer to the
8 question of whether he recalled saying, so I move to strike
9 that portion of his answer. He is not saying that he said it.

10 THE COURT: The question is: Do you recall saying it,
11 yes or no? Do you recall saying it?

12 THE WITNESS: No.

13 THE COURT: No.

14 BY MR. CARBONE:

15 Q. Mr. Medranda, do you recall telling the agents that you
16 probably went to Bacon more than 25 times but less than 100
17 times?

18 A. When I was pressed to pick a number, yes.

19 Q. And that you went to 51 Linden probably weekly, maybe
20 sometimes more?

21 A. Yes.

22 Q. Now I want to show you Government Exhibit 202. Isn't it
23 true, Mr. Medranda, that you never told the agents that day
24 that you had ever been to 53 Linden?

25 A. 51 and 53 are right next to each other, the same doorway,

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C3EUANN1 Medranda - cross

1 so --

2 Q. My question is, isn't it true that you never told the
3 agents that you had been to 53 Linden as opposed to 51 Linden?

4 A. 53 Linden is not referenced.

5 Q. My question is: Does that refresh your recollection that
6 you never told the agents that you had been to 53 as opposed to
7 51 Linden?

8 THE COURT: Does that jog your memory that what you
9 told the agents is what you said?

10 THE WITNESS: In a literal sense, yes.

11 THE COURT: "In a literal sense, yes" -- I don't know
12 what that means. Does it jog your recollection or does it not
13 jog your recollection?

14 THE WITNESS: Yes.

15 MR. CARBONE: Thank you.

16 No further questions.

17 REDIRECT EXAMINATION

18 BY MR. ARONWALD:

19 Q. Mr. Medranda, the questions that Mr. Carbone asked you
20 about generates for seniors and about keeping Zehy Jereis in
21 the loop, did that have anything at all to do with the call
22 that came in from Rosemary Karakas?

23 A. Negative.

24 Q. Did the questions that Mr. Carbone asked you about those
25 subjects, did they have anything at all to do with whether or

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C3EUANN1 Medranda - redirect

1 not you dropped off documents at 53 Linden Street for Sandy
2 Annabi?

3 A. No.

4 Q. By the way, when you met with the government on whatever
5 occasion it was that you were just asked about, do you recall
6 whether anybody in the room from the government even asked you
7 a single question about 53 Linden Street?

8 A. I don't recall.

9 Q. You do recall they asked you about 51 Linden Street,
10 correct?

11 MR. CARBONE: Objection. Leading.

12 THE COURT: Overruled.

13 Q. They asked you about 51 Linden Street, correct?

14 A. Yes.

15 Q. They asked you about 45 Bacon Place, correct?

16 A. Yes.

17 MR. ARONWALD: No further questions.

18

19 (Continued on next page)

20

21

22

23

24

25

C3EUANN1 Medranda - redirect

1 RECROSS EXAMINATION

2 BY MR. CARBONE:

3 Q. Mr. Medranda, isn't it a fact that when you appeared for an
4 interview on April 13 of 2011 during the discussion about where
5 you brought documents on Linden Street, you said you always
6 went to the same building on Linden Street when you needed to
7 see Annabi?

8 A. Yes.

9 Q. And that was 51 Linden Street, correct?

10 A. It's one building, 51-53.

11 Q. The building that you went to was 51 Linden, correct?

12 THE COURT: He just said it was one building.

13 Q. Sir, isn't it true that you told the agents that you would
14 go to the house at 51 Linden Street?

15 A. Yes.

16 Q. Mr. Medranda, isn't it also true that 51, the actual
17 address on 51 Linden is 49-51?

18 A. I don't recall.

19 MR. CARBONE: No further questions.

20 MR. ARONWALD: Nothing further, your Honor. Thank
21 you.

22 THE COURT: Thank you, sir. You may step down.

23 (Witness excused)

24 THE COURT: Call your next witness.

25 MR. ARONWALD: We call Al DelBello, please.

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C3eQann2

Medranda - Recross

1 ALFRED B. DELBELLO,
2 called as a witness by the Defendant Annabi,
3 having been duly sworn, testified as follows:
4 DIRECT EXAMINATION
5 BY MR. ARONWALD:
6 THE DEPUTY CLERK: Tell us your full name.
7 THE WITNESS: Alfred B. DelBello.
8 THE DEPUTY CLERK: Mr. DelBello, spell that.
9 THE WITNESS: D-E-L-B-E-L-L-O.
10 THE COURT: You may inquire.
11 Q. Good morning, Mr. DelBello.
12 A. Good morning.
13 Q. Without giving us your street address, where do you reside?
14 A. Waccabuc, New York.
15 Q. That is in what county?
16 A. Westchester County.
17 Q. Could you tell the jury, please, what your highest level of
18 education is?
19 A. Law school, LL.D.
20 Q. What is your current occupation?
21 A. I'm an attorney.
22 Q. Where do you practice?
23 A. In the law firm -- my law firm in White Plains, New York.
24 Q. What is the name of the firm?
25 A. DelBello Donnellan Weingarten Wise and Wiederkehr.

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C3eQann2

DelBello - Cross

1 Q. In June of 2005, was the name of the firm any different?

2 A. Yes. There was an additional partner.

3 Q. And his name was?

4 A. Tartaglia.

5 Q. And for how long has that firm been in existence?

6 A. I guess we're probably in existence 16 years, 17 years.

7 Q. With respect to your own individual practice as a member of
8 the firm, is there any area or areas of specialty that you are
9 engaged in?

10 A. Yes. I am primarily a real estate land use attorney.

11 Q. Now, some people when they hear real estate, they may think
12 that you do closings and things and purchases of residences.

13 Can you just explain in layman's terms basically what you do as
14 a real estate land use attorney?

15 A. Yes. I deal with land use and zoning issues. My clientele
16 is primarily real estate developers.

17 Q. OK. Have you ever held public office?

18 A. Yes, I have.

19 Q. Could you just run through for us the public offices that
20 you had held during your career.

21 A. I was a councilman in the city of Yonkers, mayor of the
22 city of Yonkers, county executive of Westchester County and
23 lieutenant governor of New York.

24 Q. Taking those office by office, during what period of time
25 were you a city councilman for the city of Yonkers?

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C3eQann2 DelBello - Cross

- 1 A. From 1966 to 1970 I was a councilman.
2 Q. During what period of time were you the mayor of the city
3 of Yonkers?
4 A. From 1970 to 1974.
5 Q. During what period were you the county executive for
6 Westchester County?
7 A. From 1974 to 1983.
8 Q. In fact, you and I first met when you were the county
9 executive, correct?
10 A. I think that's so.
11 Q. And then during what period of time were you the lieutenant
12 governor of the State of New York?
13 A. From 1983 to 1985.
14 Q. Who was the governor during that period?
15 A. Governor Mario Cuomo.
16 Q. Now, have you met with the government with respect to this
17 case?
18 A. Yes.
19 Q. Was that back on April 11 of 2011?
20 A. I don't remember the exact date, but it could have been
21 then, yes.
22 Q. And that meeting took place at the United States Attorney's
23 Offices in White Plains, is that correct?
24 A. Yes, it did.
25 Q. Do you remember that you met with both Mr. Carbone and

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C3eQann2 DelBello - Cross

1 Mr. Halperin during that meeting?

2 A. That's correct.

3 Q. During that meeting, did the subject of discussion involve
4 your representation of Milio Management Company and the
5 Longfellow project?

6 A. Yes, it did.

7 Q. Was that the only time that you met or spoke to them?

8 A. That's right, just that one time.

9 Q. Did there come a time when you were retained to represent
10 Milio Management Company in connection with the
11 Walgreens/Longfellow project, what has become known as the
12 Walgreens/Longfellow project?

13 A. Yes, there was.

14 Q. Do you recall when it was that you were -- withdrawn.

15 Let me show you what is marked in evidence as Defense
16 Exhibit 46. Do you recognize that?

17 A. Yes, I do.

18 Q. That is the retainer agreement that you had with Milio
19 Management?

20 A. That's correct. This is the engagement letter.

21 Q. By the way -- could we have that put up on the screen,
22 Mr. Turk?

23 MR. CARBONE: Can you give him a copy to put on the
24 Elmo? It's not scanned.

25 Q. With respect to Defense Exhibit 46, can you just zoom in

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C3eQann2 DelBello - Cross

1 and we can highlight the second paragraph?

2 A. Do you want me to read it?

3 Q. No. I am going to try to blow it up on the screen in front
4 of you.

5 So, back in 2005 when you entered into this engagement
6 letter with the Milio Management Company, the letter indicates
7 that the rates for partners of the firm currently range from
8 \$275 per hour to \$385 per hour, correct

9 A. That's correct.

10 Q. And the rates for associates range from \$200 per hour to
11 \$330 an hour, correct?

12 A. Correct.

13 Q. And the letter further states that your rate at that time
14 was \$385 per hour, correct?

15 A. That's correct.

16 Q. In the course of your representation of Milio Management,
17 was it the practice of the firm to bill clients on a monthly
18 basis for the work that had been done for that billing cycle?

19 A. Yes.

20 Q. Was it the regular and ordinary course of business of the
21 firm to keep track of the time put in by partners and
22 associates on a client matter?

23 A. Yes, it was.

24 Q. Were the bills or invoices that were sent out to the
25 clients, were those prepared by your firm in the regular and

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C3eQann2 DelBello - Cross

1 ordinary course of the firm's business?

2 A. Yes.

3 Q. Was it the regular and ordinary course of the firm's
4 business to maintain copies of those billing or invoice
5 statements?

6 A. Yes.

7 Q. I would like to place before you, Mr. DelBello, what is
8 marked as Defense Exhibit 72 for identification. I ask you to
9 take a look at that.

10 A. Yes.

11 Q. What do you recognize that document to be?

12 A. These are the way our firm presents its billings to
13 clients. We have our hourly notations and which attorneys
14 handled which matters.

15 Q. Is that document the invoices or billing statements that
16 were prepared by the firm and sent to Milio Management Company?

17 A. They appear to be so, yes.

18 MR. ARONWALD: Your Honor, we would offer Defense
19 Exhibit 72 in evidence.

20 MR. CARBONE: Judge, I just need to take a quick look
21 at it. I don't think we have any objection.

22 (Pause)

23 MR. CARBONE: No objection.

24 THE COURT: Admitted.

25 (Defendant's Exhibit 72 received in evidence)

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C3eQann2

DelBello - Cross

1 Q. When you were retained by Milio Management, do you recall
2 who it was that you met with from that company?

3 A. No, I --

4 Q. Who negotiated the terms of the engagement letter?

5 A. Well, there was no negotiations on the engagement letter,
6 and I don't remember who came to my office on that matter.

7 Q. Can you explain to the jury exactly what it was that you
8 were retained to do on behalf of Milio Management?

9 A. The city of Yonkers was very interested in widening
10 Ashburton Avenue which is a major east/west corridor in the
11 city of Yonkers. And there was a building owned by the Milios
12 on the northwest corner of Ashburton Avenue and North Broadway.
13 On the opposite corner, on the southeast corner was a church.

14 So the city of Yonkers made a determination that it
15 had to acquire that apartment house in order to be able to
16 widen Ashburton Avenue on the north side. I was informed by
17 the city administration that for a number of years there were
18 discussions between my client, the Milios, and the city trying
19 to bring together an accommodation whereby they could acquire
20 this apartment house.

21 The Milios were recommended that they engage me
22 because of my background in this type of a matter in order to
23 bring to conclusion their discussions with the city.

24 Q. How complicated was this project or undertaking?

25 A. Fairly complicated. You know, not onerous but complicated

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C3eQann2 DelBello - Cross

1 in that it involved two pieces of city owned property. One
2 which is known as School 6, which was in a council district
3 headed by a councilwoman named Pat McDow, and another school
4 site known as Longfellow which was in the council district
5 represented by Councilwoman Annabi, so we had two different
6 council districts, two different council people involved.

7 In the city of Yonkers the council tends to defer to
8 the local district council person when it comes to a
9 development in their district. So we were dealing with two
10 different council districts which made it a little complex.

11 Q. By the way, going back to your tenure as a member of the
12 city council, did the city council president have the
13 prerogative to move something out of committee and on to the
14 floor of the city council?

15 A. When I was in the council?

16 MR. CARBONE: Objection. Time frame.

17 Q. Yes -- well, during the period of time that you were a city
18 council member, that's what I'm asking.

19 MR. CARBONE: Then it's irrelevant.

20 THE COURT: Totally.

21 Q. You have appeared before the city council in Yonkers since
22 that time?

23 A. Oh, yes.

24 Q. In connection with a number of matters?

25 A. Yes.

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C3eQann2 DelBello - Cross

1 Q. To your knowledge, does the city council president have any
2 prerogative to move something out of committee, if you know?

3 A. I don't really know if the council president has that
4 prerogative.

5 Q. OK. By the way, just getting back to your billing records,
6 there are initials, so you indicated that the initials
7 identified the person in the firm who actually did that work,
8 correct?

9 A. Yes, that's correct.

10 Q. But at the bottom of the bill, there is a legend
11 identifying what the initials represent, right?

12 A. Yes.

13 Q. So, getting back to the complexity of the project, how long
14 a period of time were you representing the Milios with respect
15 to the Longfellow project?

16 A. With respect to both projects --

17 Q. OK.

18 A. -- School 6 and Longfellow, I think the total period
19 involved 15 months, if I'm not mistaken.

20 Q. The engagement letter that is in evidence is dated -- does
21 the government have that now? Is the engagement letter up by
22 you or does the government have it?

23 MR. CARBONE: We have a copy. Would you like it?

24 Q. June 17 of '05, is that right, the engagement letter is
25 dated the June 17 of '05?

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C3eQann2

DelBello - Cross

1 A. That was the date.

2 Q. Did there come a time in September of '06 that the
3 resolution designating Longfellow as the developer was passed
4 by the city council?

5 A. That's correct.

6 Q. Did you represent Milio Management from June of '05 through
7 September 26 of '06?

8 A. Yes.

9 Q. Did there ever come a time -- withdrawn. Do you know
10 Anthony Mangone?

11 A. No, I do not.

12 Q. Did there ever come a time when Franco Milio asked you if
13 you would be willing to work with Anthony Mangone?

14 MR. CARBONE: Objection. Hearsay.

15 THE COURT: Overruled.

16 A. No, there was never a time when that came up.

17 Q. Did there come a time when you learned that Anthony Mangone
18 was representing Milio Management?

19 A. Yes, I learned that at a later date.

20 Q. Did you learn that before or after September 26, 2006?

21 A. After.

22 Q. How did you learn that Anthony Mangone was representing
23 Milio Management?

24 MR. CARBONE: Objection. Hearsay.

25 THE COURT: Overruled.

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C3eQann2

DelBello - Cross

1 A. I believed after the -- to my memory, after the resolution
2 was adopted by the city council designating Milio Management as
3 the preferred developer for those two sites, some time had
4 passed, and I believe I called up Franco Milio to indicate to
5 him it was time to start putting the documentation together for
6 them to acquire these properties. In that telephone
7 conversation, he told me that I needn't bother any longer
8 because he had Anthony Mangone representing him.

9 Q. Thank you.

10 Now, if you look at Defense Exhibit 72. Before you do
11 that, in the course of time that you were representing Milio
12 Management in connection with the Longfellow project, did you
13 attend any meetings on behalf of your client, Milio Management?

14 A. Many meetings depending on which meetings you're referring
15 to.

16 Q. Well, for example, city council meetings.

17 A. Yes.

18 Q. Were there a number of city council meetings that you
19 attended with respect to the Longfellow project?

20 A. There were. I don't remember exactly, there were a few
21 council meetings, but most of the discussions took place in the
22 real estate committee of the city council.

23 Q. By the way, with respect to whatever meetings you attended
24 on behalf of Milio Management, are all of those meetings --
25 strike that.

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C3eQann2

DelBello - Cross

1 Did you maintain time records of whatever work you did
2 on behalf of Milio Management with respect to the Longfellow
3 project?

4 A. Yes, it's the practice of our office to keep very careful
5 time records.

6 Q. Are those time entries reflected in the bills or invoices
7 that were sent out to Milio Management by the firm?

8 A. Yes.

9 Q. So, to your knowledge, whatever meetings you attended on
10 behalf of Milio Management, whether with respect to the city
11 council, real estate committee meeting or other meetings, is it
12 your understanding that all of those meetings would be
13 reflected in your time records that are in evidence?

14 A. Yes, they would be, no question.

15 Q. Did you have occasion to speak to any public officials with
16 respect to the Longfellow project during the period that you
17 were representing Milio Management?

18 A. Yes.

19 Q. Did that include council members?

20 A. Yes.

21 Q. Was there ever a time when you either met with or spoke to
22 Councilwoman Annabi with respect to the Longfellow project
23 during the period you were representing Milio Management?

24 A. Yes, there was.

25 Q. Is it your understanding that those meetings or discussions

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C3eQann2 DelBello - Cross

1 you had with Councilwoman Annabi are also reflected in your
2 time records and billing?

3 A. Yes, they would be.

4 Q. Based upon your discussions with Councilwoman Annabi, did
5 you have an understanding as to whether she was for or against
6 designating Milio Management as the developer?

7 MR. CARBONE: Objection. Hearsay.

8 THE COURT: The objection is sustained.

9 Q. As a result of your discussions or meetings with
10 Councilwoman Annabi, did you later have conversations with your
11 client, Milio Management, as to what her position was?

12 MR. CARBONE: Objection. Hearsay and leading.

13 THE COURT: The objection is sustained.

14 Q. After you spoke to Councilwoman Annabi, did you do anything
15 with respect to Milio Management, your client?

16 A. Yes.

17 Q. What did you do?

18 A. Well, it depends on which conversation I had, but I was not
19 acting as a lobbyist, I was acting as a lawyer, so I would find
20 out what the councilwoman's position was, and I would convey
21 that to my client so that he might take action accordingly.

22 Q. Did you ever have occasion to convey to your client what
23 you understood Councilwoman Annabi's position was with respect
24 to the resolution?

25 MR. CARBONE: Objection. Hearsay.

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C3eQann2

DelBello - Cross

1 THE COURT: No. Did you ever have occasion to convey
2 that sort of information to your client, the Milios? Yes or
3 no.

4 A. Yes.

5 Q. What did you tell them?

6 MR. CARBONE: Objection.

7 THE COURT: That's the hearsay objection. Thank you.

8 Q. Did there come a time after your discussions with your
9 client, Milio Management, that Milio Management authorized you
10 to appear before the city council real estate committee meeting
11 to state Milio Management's position with respect to
12 Longfellow?

13 MR. CARBONE: Objection. Hearsay.

14 THE COURT: Overruled.

15 Did there come a time when his client asked him to do
16 something? Yes or no.

17 A. Yes.

18 THE COURT: Not a hearsay thing about that.

19 Q. Did you appear before the city of Yonkers real estate
20 committee on June 20 of 2006 concerning the Longfellow project?

21 A. Yes.

22 Q. Did you make a proposal to the real estate committee
23 meeting with respect to Longfellow?

24 A. Yes, I did.

25 Q. What did you tell the real estate committee meeting?

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C3eQann2 DelBello - Cross

1 A. My client authorized me to say that --

2 MR. CARBONE: Objection as to what the client
3 authorized him to say.

4 THE COURT: The question is what did you tell the real
5 estate committee.

6 MR. ARONWALD: Yes.

7 A. I told them -- I told them that we would propose to build a
8 40-unit apartment senior apartment house at Longfellow with 35
9 one-bedroom units and five two-bedroom units, and that the
10 architect had designed senior accommodations for the buildings
11 such as security, wider doors, bathrooms and so forth that
12 would be appropriate for seniors to live in. And that -- I'm
13 sorry, and that we would offer it -- now that I remember it --
14 that we would offer it to the seniors for a period of four
15 months exclusively.

16 Q. When you appeared before the real estate committee meeting,
17 did you tell them what age group would constitute "seniors" for
18 purposes of the Longfellow project?

19 A. I believe I told them at that time that we would accept
20 whatever age they wanted to settle on; 55, 60, whatever age was
21 appropriate.

22 Q. By the way, you made reference to an architect. Who was
23 the architect that was representing Milio Management with
24 respect to the Longfellow project?

25 A. His name is Bruno Pietrosanti.

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C3eQann2

DelBello - Cross

- 1 Q. In the course of your work on behalf of Milio Management
2 Company, did you also have occasion to work together with
3 Mr. Pietrosanti?
4 A. Yes.
5 Q. Were there any meetings that you and Mr. Pietrosanti
6 attended together?
7 A. Oh, yes.
8 Q. Do you recall any meetings that were not before the city
9 council or the real estate committee that you attended with
10 Mr. Pietrosanti?
11 A. I can't say for sure, but I assume there probably were.
12 Q. Do you recall a meeting at the Trinity Orthodox Church in
13 Yonkers?
14 A. Yes.
15 Q. What was the purpose of that meeting?
16 A. Councilwoman Annabi wanted to hold a public community
17 meeting and have us present our thoughts on how we would
18 convert the Longfellow School into a residential facility, and
19 she set a date for a meeting, and we attended and we made a
20 presentation.
21 Q. Now, when you say we, other than you, who was there on
22 behalf of Milio Management Company?
23 A. Well, I'm sure Franco Milio was there and the architect,
24 Bruno Pietrosanti.
25 Q. Were there any other council members present other than

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C3eQann2

DelBello - Cross

1 Ms. Annabi?

2 A. I don't really remember.

3 Q. Do you recall whether there were any other public officials
4 present at the meeting?

5 A. I can't say for sure. I don't remember who was in
6 attendance.

7 Q. Did members of the public attend the meeting?

8 A. Yes.

9 Q. Would you say that the turnout was large, small?

10 A. It was a large turnout, yes.

11 Q. Do you recall from your recollection what age group you
12 would say that the people who were there from the district fell
13 into?

14 A. Well, there are senior -- there's senior housing in the
15 area, so we had quite a few seniors present, and then there was
16 a mixture of neighborhood people.

17 Q. In the course of your representing Milio Management, do you
18 recall what one of the first things you had to do was?

19 A. Yes.

20 Q. Could you tell us what that was?

21 A. Yes. What seems to have been overlooked was the fact that
22 a municipality cannot convey publicly owned property for
23 anything other than fair value, and no appraisals had ever been
24 done on School 6 or Longfellow or on the Milio project. So I
25 got the corporation counsel's office to agree to do appraisals

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C3eQann2

DelBello - Cross

1 on the two projects, and I got my client to agree to do an
2 appraisal on the properties they owned.

3 Q. Using June of 2005 as your reference point, because that
4 was the date of the engagement letter, how soon after you were
5 engaged to represent Milio Management was it that the
6 appraisals were done?

7 A. I don't know the exact time, but it was very early on in
8 the process, because that was, you know, the essential
9 underpinning to creating a trade of buildings, they had to know
10 values and it was not -- it was not easily determined because
11 the two older buildings, School 6 and Longfellow, were very
12 heavily impacted by asbestos, and there had to be formulations
13 on how to value the elimination of that asbestos.

14 Q. To your knowledge, after those appraisals were -- I'm
15 sorry -- those appraisals were done before September 26 of '06?

16 MR. CARBONE: Objection. Leading.

17 Q. When were those appraisals done with respect to the date
18 September 26, '06?

19 A. I don't know the exact date of the appraisals, but they
20 were probably done in the first six or seven months of my
21 representing the Milios.

22 Q. To your knowledge, were there any other appraisals done
23 with respect to the property up to September 26 of '06?

24 A. No, there was an appraisal that the city had done, and an
25 appraisal that we had done, and those were the two appraisals.

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C3eQann2

DelBello - Cross

1 MR. ARONWALD: Your Honor, could we take our morning
2 break now before I move into another area?

3 THE COURT: I guess we're going to take our morning
4 break now. Don't discuss the case. Keep an open mind.

5 (Jury recessed)

6 (Continued on next page)

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C3eQann2

DelBello - Cross

1 (Jury not present)

2 THE COURT: The case on trial continued. The parties
3 are present. Jurors are not present.

4 I gather there is some issue you want to take up with
5 me. It isn't going to be taken up on the jurors' time. If it
6 isn't something that can be resolved in two minutes, it is
7 going to have to be resolved at 1:50 p.m.

8 MR. SIANO: When is lunch today?

9 THE COURT: Here is the deal: Mr. O'Neill is leaving
10 us at ten of 1:00. Mr. O'Neill has a long-scheduled
11 opportunity to attend a two-day continuing education seminar
12 for permanent law clerk, which I have encouraged him to go to.
13 It is a particularly inopportune moment for me to lose him, but
14 he is going. This is Mr. Alden. He is one of my term law
15 clerks. He is going to be serving as Mr. O'Neill for the next
16 two and a half days. So we are going to be taking lunch at
17 about ten of 1:00.

18 MR. ARONWALD: Your Honor, the issue that has come up
19 is during the testimony of Anthony Mangone, the issue was
20 raised by the defense as to whether or not the Milios had
21 waived their attorney-client privilege, and we were provided
22 with a document in which the Milios waived their privilege. I
23 don't recall it being limited to Anthony Mangone, but the
24 government says that it was. They don't have a copy with them,
25 and we don't have a copy with us.

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C3eQann2

DelBello - Cross

1 THE COURT: Well, we're going to have to ask other
2 questions until a copy can be produced. I'm not going to let
3 the jury sit back there for a half hour.

4 MR. ARONWALD: I just want to go beyond what I have
5 said, and that is that I had written to the government by email
6 earlier asking to make sure that the Milios were waiving their
7 privilege as to any discussions they had with Mr. DelBello. I
8 did not receive a response from the government, and I am
9 advised now by Mr. Carbone that the Milios through their
10 attorney, Mr. Lawrence DiGiansanti, refused to waive their
11 privilege as to any conversations they had with Mr. DelBello.
12 It seems to me that by testifying as to the transaction, they
13 have waived any privilege they have with respect to whatever
14 conversations they had with Mr. DelBello --

15 THE COURT: Well, I'm going to have to think about
16 that, and I am not going to think about it at this moment.
17 This is one of those issues that could have been -- I was here
18 until 6:15 last night. I didn't leave the building until 7:15.
19 So this could have been raised. It wasn't raised. I'm not
20 wasting the jury's time.

21 You will have to ask other questions of Mr. DelBello,
22 and if there are no other questions to ask of Mr. DelBello
23 until I've ruled on this issue, then you are going to have to
24 put another witness on, and we will interrupt his testimony. I
25 am very sorry. I will not waste the jurors' time, not any

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C3eQann2

DelBello - Cross

1 longer. No more.

2 MR. ARONWALD: Your Honor, I apologize that the issue
3 was not raised sooner. Had I been advised by Mr. Carbone
4 earlier in response to my email, I would have raised the issue
5 sooner. I was not aware there was an issue because I do not
6 recall that the waiver was limited only to Mr. Mangone.

7 That being said, I will certainly go forward with the
8 questions. I think that if I were asking Mr. DelBello
9 questions as to whether or not he -- whether or not the Milios
10 ever spoke to him about a subject, and if the answer to that is
11 no, that obviously does not implicate the privilege. There
12 were no such communications, so, therefore, there's no
13 communications that would invoke or implicate his privilege.

14 It only comes up if Mr. DelBello says yes, we did have
15 discussions about that, and if that be the case, we could mark
16 that question until we resolve the question as to whether there
17 is a waiver or not.

18 So I will go forward with my examination. I'm hoping
19 not to have Mr. DelBello have to come back, but I will move
20 forward as best I can until we get to the luncheon recess.

21 THE COURT: Are we ready for the jury?

22 MR. CARBONE: Judge, just to be clear, Mr. Turk is
23 going downstairs to retrieve the email with the waiver, and to
24 be clear, the government agreed to provide the waiver in
25 connection with Mr. Mangone's testimony; and as far as the

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C3eQann2

DelBello - Cross

1 scope of that waiver, whether it applied to Mr. DelBello, we
2 told Mr. Aronwald that he should contact counsel because it's
3 not the government's place to get involved in --

4 THE COURT: I'm not getting involved in a pissing
5 contest between the two of you. I'm just not doing it.

6 MR. CARBONE: I'm just correcting the record.

7 THE COURT: It's irrelevant. The issue is -- if they
8 have waived the privilege as to something, they may well as a
9 matter of law have waived the privilege more broadly than they
10 intended. That's a ruling for me to make.

11 I need to see the waiver. I need to know what we're
12 talking about in terms of the testimony that would have
13 allegedly waived the privilege more broadly and then I need to
14 make a call, and that is how we will do it but not now. Get
15 the jury. Get the witness.

16 Is that it? If that's it, give it to me.

17 (Continued on next page)

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C3eQann2 DelBello - Cross

1 (Jury present)

2 ALFRED B. DELBELLO, resumed.

3 THE COURT: OK. Mr. DelBello, you are still under
4 oath.

5 THE WITNESS: Yes, your Honor.

6 BY MR. ARONWALD:

7 Q. How would you characterize your interaction with Sandy
8 Annabi during the period of time that you were representing
9 Milio Management relating to the Longfellow project?

10 A. From time to time, I --

11 MR. CARBONE: Objection. Leading. Ambiguous.

12 THE COURT: Overruled.

13 A. From time to time, I would inquire of her as to what her
14 concerns were. Most of the interaction with her would have
15 been through the real estate committee when she was in
16 attendance.

17 Q. During the period of time that you were representing Milio
18 Management in connection with Longfellow, at any time did
19 anybody make a demand of money with respect to getting the
20 approval of the city council?

21 A. Of me?

22 Q. Yes.

23 A. Absolutely not.

24 Q. At any time, did Franco Milio or -- withdrawn.

25 When you were representing Milio Management, was there

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C3eQann2

DelBello - Cross

1 one particular member of the family that you primarily dealt
2 with
3 A. Yes.
4 Q. And who was that?
5 A. Franco Milio.
6 Q. On how many occasions, if you remember, did you actually
7 meet or speak to Antonio Milio concerning the project?
8 A. Very few, very few times. I don't know that I ever really
9 talked to him about the actual project goings-on. I think I
10 may have met him once or twice.
11 Q. When you met with him -- by the way, do you speak Italian?
12 A. No, I do not.
13 Q. So, when you met with Antonio Milio, did you communicate
14 with him in any other language other than English?
15 A. No. English.
16 Q. During the entire period of time that you represented Milio
17 Management, did Franco Milio, Antonio Milio, or any other
18 member of the Milio family ever tell you that Anthony Mangone
19 had told them that for \$30,000 he could get the project
20 approved?
21 A. No.
22 Q. At any time during the period of time that you were
23 representing Milio Management, did Franco Milio, Antonio Milio
24 or any other member of the Milio family tell you that they were
25 being shaken down by Anthony Mangone or anyone else with

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C3eQann2 DelBello - Cross

1 respect to getting the approval of the Longfellow project?

2 A. No, there was never any discussion like that.

3 Q. During the period of time that you represented Milio
4 Management, did Franco Milio, Antonio Milio or anyone else tell
5 you that they had in fact paid a sum of money to Anthony
6 Mangone to be passed on through Zehy Jereis to Sandy Annabi to
7 get her to vote for the Longfellow project?

8 A. No. If I heard anything like that, I wouldn't be
9 representing them.

10 Q. Did they ever complain to you that they thought that Sandy
11 Annabi was stalling and dicking them around?

12 MR. CARBONE: Objection.

13 THE COURT: Overruled.

14 A. I'm not sure from an attorney/client confidentiality
15 exactly what I could say with regard to what they told me.

16 Q. OK. Were they unhappy with the progress of the resolution?

17 A. Yeah, there was a general feeling that it was taking too
18 long.

19 Q. OK. Did Anthony Mangone ever tell you -- strike that.

20 Did Franco, Antonio or any other member of the Milio
21 family ever tell you that they were dealing with Zehy Jereis
22 with respect to getting the Longfellow project approved?

23 A. No, there was never any discussion like that.

24 Q. Did you ever have any discussions with Zehy Jereis relating
25 to Longfellow?

C3eQann2

DelBello - Cross

- 1 A. No.
- 2 Q. Who is Joseph Madden?
- 3 A. Joseph Madden at that point in time was the deputy
4 corporation counsel.
- 5 Q. For the city of Yonkers?
- 6 A. For the city of Yonkers.
- 7 Q. What is the role of the corporation counsel?
- 8 A. The corporation counsel is the city's attorney.
- 9 Q. So with respect to Longfellow, the Milios were represented
10 by you, correct?
- 11 A. Correct.
- 12 Q. Who was representing the city of Yonkers?
- 13 A. Joseph Madden was the most active member in addition to the
14 corporation counsel there was Frank Rubino.
- 15 Q. In terms of drafting the resolution that ultimately
16 appeared before the city council in September of '06, do you
17 know who it was that actually drafted the resolution?
- 18 A. Well, the resolutions that come before the council are
19 drafted by the corporation counsel's office, and in this case
20 it would be Joe Madden who would be responsible for that.
- 21 Q. When the corporation counsel's office drafted a resolution,
22 was that the result of any input or communications between
23 corporation counsel and the attorney representing the developer
24 whose project was the subject of the resolution?
- 25 A. Yes.

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C3eQann2

DelBello - Cross

1 Q. Was that a process that you engaged in with Mr. Madden?

2 A. Yes.

3 Q. I would like to place before you what is marked as Defense
4 Exhibit 73 for identification and ask you, is this a document
5 that was prepared by you in the regular and ordinary course of
6 your business as the attorney for Milio Management?

7 A. Yes, it appears to be so.

8 Q. Was that a document that would have -- withdrawn.

9 Is that a document that was sent to the corporation
10 counsel's office by your firm in the regular and ordinary
11 course of the firm's business?

12 A. Yes.

13 Q. Is this a document which is maintained in the files of the
14 firm in the regular and ordinary course of the firm's business?

15 A. Yes. This no doubt would be in the file jacket.

16 MR. ARONWALD: Your Honor, we would offer in evidence
17 Defense Exhibit 73.

18 MR. CARBONE: Objection, your Honor. The document
19 contains all hearsay.

20 THE COURT: I don't have a copy.

21 MR. CARBONE: And we just received a copy.

22 MR. ARONWALD: The document came from the
23 government --

24 THE COURT: Because you just received a copy doesn't
25 answer the question whether I can look at it and rule. I can't

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C3eQann2 DelBello - Cross

1 rule without looking at it.

2 MR. ARONWALD: Judge, the document was provided to us
3 by the government in discovery.

4 THE COURT: And that doesn't answer the question of
5 whether it contains hearsay.

6 MR. ARONWALD: I understand.

7 THE COURT: Mr. Carbone, would you please sit down?

8 (Pause)

9 THE COURT: The document is hearsay. It will not be
10 admitted.

11 Q. Did you on July 31 of 2006 receive a telephone call from
12 Franco Milio concerning the Longfellow project and Councilwoman
13 Annabi's discussions with him?

14 A. I believe I did.

15 Q. Did Franco Milio authorize you to communicate that to the
16 corporation counsel's office for purpose of drafting the
17 resolution that would appear before the city council?

18 MR. CARBONE: Objection.

19 THE COURT: Read it back, please.

20 (Read back)

21 THE COURT: Ground?

22 MR. CARBONE: Hearsay. It's the same thing that's in
23 the document, your Honor.

24 THE COURT: Yes, as long as it deals with Annabi's
25 discussions with him, it's not admissible. Sorry.

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C3eQann2

DelBello - Cross

1 Q. Did you tell Mr. Madden of the corporation counsel's office
2 that for purposes of the resolution, all marketing and
3 solicitation material for the rental of the building from the
4 time it is put into service and for a period of six months
5 thereafter will expressly state that the rental is limited to
6 seniors 55 years and older who meet the necessary credit
7 requirements? Did you tell that to Mr. Madden?

8 A. Yes, I did.

9 Q. Was that language incorporated into the resolution that was
10 ultimately approved by a vote of seven to zero by the city
11 council on September 26, '06?

12 A. Yes, it was.

13 Q. Did you have any communications with Franco Milio
14 concerning the September 26, 2006 city council meeting?

15 A. Yes, I must have.

16 Q. I am putting before you what is marked as Defense Exhibit
17 74.

18 MR. ARONWALD: May I approach, your Honor?

19 THE COURT: You may.

20 Q. Do you recognize that document as an email that you
21 received from Franco Milio in the regular and ordinary course
22 of your business as his attorney?

23 A. Yeah, I assume this is in our files. Yes.

24 Q. Was it in the regular and ordinary course of business of
25 the firm to maintain emails from its clients in the firm's

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C3eQann2 DelBello - Cross

1 records?

2 A. Oh, yes, of course.

3 Q. Was it the regular and ordinary course of the firm's
4 business to communicate from time to time with clients by way
5 of email?

6 A. Yes.

7 MR. ARONWALD: Your Honor, we would offer Defense
8 Exhibit 74 in evidence.

9 MR. CARBONE: Objection. Hearsay.

10 MR. ARONWALD: Yes, your Honor.

11 (Pause)

12 THE COURT: The objection is overruled.

13 (Defendant's Exhibit 74 received in evidence)

14 Q. I would ask Mr. Turk to put Defense Exhibit 74 in evidence
15 up on the screen, please.

16 Mr. DelBello, when you received this email from Franco
17 Milio dated September 16 advising that he was not going to be
18 around for the September 26 real estate committee meeting, he
19 makes reference to Bruno, and I assume that's Bruno
20 Pietrosanti?

21 A. I would assume so, yes.

22 Q. Who is Dennis?

23 A. He was --

24 Q. Dennis Cieri?

25 A. I'm not sure. He was a consultant of some sort that was

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C3eQann2 DelBello - Cross

1 helping out, I think, on the evaluations, but I don't remember
2 specifically.

3 Q. You can take that down. Thank you.

4 I am placing before you what's marked as Defense
5 Exhibit 75 for identification. Following the September 26,
6 2006 real estate committee meeting, did you send any
7 communication to Franco Milio concerning the results?

8 A. Yes.

9 Q. By what form of communication?

10 A. I believe I emailed him telling him that the resolution had
11 been approved.

12 (Continued on next page)

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C3EUANN3 DelBello - direct

1 Q. Again, this form of communication, something that was done
2 in the regular and ordinary course of the business of the firm?

3 A. Yes.

4 Q. Was it the regular and ordinary course of the business of
5 the firm to maintain copies of these email communications with
6 clients in the firm's client file?

7 A. If they were printed out -- they are not always printed
8 out, but sometimes we print them out and then they are kept in
9 the file.

10 Q. This one was printed out, correct?

11 A. I assume so, yes.

12 MR. ARONWALD: Your Honor, we would offer Defense
13 Exhibit 75 at this time.

14 MR. CARBONE: No objection.

15 THE COURT: Admitted.

16 (Defendant Exhibit 75 received in evidence)

17 BY MR. ARONWALD:

18 Q. By the way, is there any reason that when you would be
19 sending emails to Milio Management, you would not copy Antonio
20 Milio or any other member of the Milio family on the emails?

21 A. It was clear to me that Franco Milio was responsible for
22 all of the interaction with me, so I didn't bother copying
23 anybody else.

24 Q. When you say in your email, "I agreed to some minor
25 changes," do you recall what those minor changes were?

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C3EUANN3 DelBello - direct

1 A. No, I do not.

2 Q. Mr. DelBello, as far as you know, were the Milios
3 represented by any other attorney during the period of time
4 that you represented them with respect to the Longfellow
5 project?

6 A. I had no knowledge of any other attorney representing them.

7 Q. Did the Milios ever complain to you about the amount of
8 money that you were charging or billing them?

9 MR. CARBONE: Objection. Hearsay.

10 THE COURT: I will allow it.

11 A. No.

12 MR. ARONWALD: No further questions.

13 Thank you.

14 THE COURT: Mr. Carbone.

15 CROSS-EXAMINATION

16 BY MR. CARBONE:

17 Q. Good afternoon, Mr. DelBello.

18 Now, you said that you were retained by the Milios on
19 or about June 17, 2005?

20 A. Correct.

21 Q. Is it fair to say that you had some preliminary discussions
22 about being retained which resulted in this retainer agreement
23 dated June 17th?

24 A. Yes. I assume they came in and explained what their
25 situation was.

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C3EUANN3

DelBello - cross

- 1 Q. Were you aware that on June 14, 2005 at a city council
2 meeting, Ms. Annabi said that "even if the entire community
3 supported it," she would be opposed and that the project was
4 outrageous and a slap in the face of the taxpayers of the city
5 of Yonkers?
6 A. I don't know whether I was aware of that or not.
7 Q. Were you made aware of an incident where she held up a Coke
8 bottle or Pepsi bottle at a council meeting?
9 A. All that I know was that she was very opposed to the
10 project, yes.
11 Q. So you were brought in, as you said, not to lobby but to be
12 a land use lawyer because that's what you do well, best?
13 A. Correct.
14 Q. You were sort of brought in to primarily interact with the
15 corporation counsel's office?
16 A. That's correct, yes.
17 Q. Would it be fair to say that you did not lobby Sandy Annabi
18 but you only acted as counsel for her?
19 A. Not for her.
20 Q. I'm sorry. For the Milios?
21 A. That's correct.
22 Q. Would it also be fair to say that your responsibility was
23 focusing on dealing with Madden and the legal issues regarding
24 the land deal?
25 A. That plus confirming what was necessary to get the

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C3EUANN3 DelBello - cross

1 resolution and get my client designated as the preferred
2 developer.

3 Q. Would it be fair to say that Franco Milio was the one who
4 was focused on and handling the dealings with Annabi?

5 A. Yes, I would say primarily.

6 THE COURT: I'm sorry. Excuse me a moment. I
7 apologize.

8 (Pause)

9 THE COURT: Sorry. Let's continue.

10 BY MR. CARBONE:

11 Q. Now, Mr. DelBello, you just indicated that it was Franco
12 Milio who was primarily dealing with Ms. Annabi, is that
13 correct?

14 A. That's correct.

15 Q. And that's because you were not a lobbyist, you were just
16 there to give your legal expertise on putting the land deal
17 together?

18 A. Legal expertise and I would convey to my client what I
19 understood to be the problems that the councilwoman would have.

20 Q. But he was dealing with her directly one-on-one, primarily,
21 correct?

22 A. I assume so.

23 Q. I'm sorry. Didn't you just say that it was really his
24 focus to handle the dealings with Ms. Annabi?

25 A. When I would convey, you know, the concerns of the council

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C3EUANN3 DelBello - cross

1 and the councilwoman, both councilwomen to my client through
2 Franco Milio and I would get a response of how to deal with the
3 issue.

4 Q. But Mr. Milio dealt with Ms. Annabi directly. It was his
5 function to do the sort of lobbying for the project, is that
6 correct?

7 A. Yes.

8 MR. CARBONE: Mr. Turk, would you please broadcast
9 Government Exhibit 43 in evidence -- 44 -- I'm sorry --
10 Defendant Exhibit 44.

11 Q. Do you recall, sir, that Mr. Milio had sent you an email
12 dated August 10, 2006 at approximately 1:03 p.m.?

13 A. I am looking at it and it refreshes my memory, yes.

14 Q. Is it fair to say that what this was, was a draft from
15 Franco Milio that was submitted to you for comment before he
16 sent that email on to Sandy Annabi and Debbie Kayal?

17 A. Yes. I think that's what this is.

18 Q. Now, your response to him, which looks like it was about
19 1:59 p.m., you said, "I think you mean HFA not MHA"?

20 A. Correct.

21 Q. Also, "I was not aware that the deal depended upon some
22 affordable units."

23 Now, can we agree that as of August 10, 2006, at 1:59
24 p.m., you had not been made aware that there was any component
25 of the resolution that would include affordable units?

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C3EUANN3

DelBello - cross

1 A. No. It is not totally accurate because during the real
2 estate discussions, the councilwoman kept repeating that she
3 wanted the units to be affordable for the seniors.

4 Q. Could we agree that "affordable housing" is a term of art?

5 A. Yes, it is.

6 Q. Whether someone can afford something doesn't mean the same
7 thing as affordable units?

8 A. That's correct.

9 Q. Can you tell the jury what affordable units mean?

10 A. Affordable, there is what is called a median average income
11 on a county-wide basis. And when you deal with affordable
12 units, it is a percentage of -- it is a percentage of the
13 median income of the county. So you could have an affordable
14 unit that is at 60 percent of median income or 30 percent of
15 median income. And that is the kind of language that is dealt
16 with for the agencies that subsidize housing, be it state,
17 county.

18 Q. So getting back to my question. Can we agree that on
19 August 10, 2006, you wrote that, "I was not aware that the deal
20 depended upon some affordable units," and that that phrase,
21 "affordable units" was a term of art?

22 A. Correct.

23 Q. At least as of that date, you had not been made aware that
24 that was going to be a condition of the deal?

25 A. There's a lot of dialog that went on before this. The

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C3EUANN3 DelBello - cross

1 determination was that market rate housing in that area was at
2 a level that was comparable to what might be called affordable
3 housing. In other words, the rental in that area was not very
4 high, and if you put on the market something that was
5 comparable to market rate, it could be considered affordable.
6 These are discussions that took place in the real estate
7 committee.

8 Q. I've got it.

9 I am focusing on the phrase, the term of art
10 "affordable units," and we can agree, can't we, that affordable
11 housing is a different question than whether someone can afford
12 the housing?

13 THE COURT: The objection is sustained. I think
14 Mr. DelBello has been quite clear in his testimony. I think
15 that we can move on.

16 MR. CARBONE: Mr. Turk, would you please broadcast
17 Government Exhibit 770 -- 700.

18 BY MR. CARBONE:

19 Q. Mr. DelBello, this is an email dated -- it is in
20 evidence -- July 10, 2006, 4:20 p.m. And it says: "Here are
21 the conditions: 20 percent of the units will be offered at
22 below market rent housing. The city council will have an
23 independent appraisal conducted. Those results will not affect
24 the approval which will happen tomorrow. The appraisal is
25 being done for her own selfish political gain so that when

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C3EUANN3 DelBello - cross

1 people in her district ask if she conducted one as she said she
2 would, then she has cover. The applicant will advertise for a
3 period of six months the availability of housing for senior
4 citizens. The applicant will further work with the second
5 district council member in accepting recommendations for
6 consideration of seniors her office comes in contact with for
7 housing."

8 The question is, were you made aware at or about that
9 date that it was Anthony Mangone that had communicated the
10 terms and conditions of the deal after speaking with Zehy
11 Jereis to Franco Milio?

12 A. I had absolutely no knowledge of that.

13 MR. CARBONE: Could you broadcast Government Exhibit
14 702, Mr. Turk, in evidence and broadcast the top half of the
15 page right up and including the first paragraph.

16 Q. Were you made aware, Mr. DelBello, that in or about April
17 of 2006, that Franco Milio had retained the firm of Santangelo
18 Randazzo and Mangone to represent them in connection with the
19 Longfellow School 6 project?

20 MR. ARONWALD: Objection, your Honor. It
21 mischaracterizes the testimony.

22 THE COURT: Mr. DelBello is perfectly capable of
23 telling us if his testimony has been mischaracterized.

24 A. Would you repeat the question?

25 Q. Were you made aware that on or about April 26 of 2006 that

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C3EUANN3 DelBello - cross

1 Franco Milio, care of Milio Management, had entered into a
2 retainer agreement with Santangelo Randazzo and Mangone to
3 represent them in connection with the Longfellow School 6
4 project?

5 A. No, I was not aware. And if I was aware, I would have
6 withdrawn as counsel for the Milios.

7 Q. Were you aware that Franco Milio had agreed to pay the firm
8 a \$20,000 success fee?

9 A. I was not aware of it.

10 Q. I think you indicated on direct examination that you were
11 not aware of any cash changing hands or any bribes?

12 A. That's correct, never heard of anything like that.

13 Q. That's because had you heard of that, you would have run
14 for the hills?

15 A. I would have withdrawn.

16 Q. That is because you would never engage in any activity like
17 that?

18 A. Absolutely.

19 MR. CARBONE: Mr. Turk, would you please broadcast
20 Government Exhibit 770.

21 Q. I want to show you an email that Ms. Annabi sent to Debbie
22 Kayal on or about July 25 of 2006. And if you look down at the
23 bottom piece of the email, it says -- this is from Debbie Kayal
24 to Sandy Annabi -- "if Joan had advised that the special
25 council meeting that will be held on August 15th at 7 p.m. at

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C3EUANN3 DelBello - cross

1 Saunders High School, the agenda is not out yet, and she was
2 inquiring whether she should be putting Milio Management, new
3 and changed Longfellow legislation on it. As you know, it was
4 changed by DelBello and Joe Madden."

5 Now, Ms. Annabi responds and says: "As of today, I
6 may not be back for the August 15th meeting. I may extend my
7 trip. Do not put Milio on just yet. If I am back by then, we
8 can put it on and also call Z and let him know that the process
9 was not outlined in the legislation and it should. They have
10 to rewrite it."

11 Do you have any idea why Ms. Annabi was telling her
12 secretary to contact Z for Zehy Jereis?

13 MR. ARONWALD: Objection to the form of the question.

14 THE COURT: Objection overruled. If you understand
15 the question, you may answer it.

16 A. No. I have no idea. I am not familiar with this at all.

17 Q. And that's because you weren't aware that Zehy Jereis was
18 involved in the project, were you?

19 A. That's correct, no.

20 MR. CARBONE: Now, Mr. Turk, would you please
21 broadcast Government Exhibit 778 -- 706, please.

22 Turn to page 2 and page 3, please.

23 May I have a minute, your Honor?

24 BY MR. CARBONE:

25 Q. Mr. DelBello, you testified about some appraisals that were

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C3EUANN3

DelBello - cross

1 done?

2 A. Yes.

3 Q. Now, did the final resolution call for an additional
4 appraisal to be done?

5 A. I don't remember.

6 MR. CARBONE: Actually, Mr. Turk, it is page 4.

7 Q. Now, you mentioned that there was an earlier appraisal?

8 A. Yes.

9 Q. Government Exhibit 706 is the final resolution that was
10 passed September 26, 2006. Would it be fair to say that one of
11 the conditions was that an additional appraisal be conducted,
12 paragraph F?

13 A. F?

14 Q. Do you agree with that, Mr. DelBello?

15 A. I am assuming it is contained in that resolution, yes.

16 Q. Do you recall what the final conditions were in the
17 resolution?

18 A. Not specifically, no. It was some time ago.

19 Q. By looking at this, does that refresh your recollection at
20 all?

21 A. Yes, yes, it does.

22 Q. So one of the conditions was that an additional appraisal
23 would be conducted?

24 A. I see that, yes.

25 Q. And also one of the conditions was that, not less than 20

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C3EUANN3 DelBello - cross

1 percent of the units small be affordable housing, correct?

2 A. I see that, yes.

3 Q. One of the other conditions was that for a period of six
4 months, that the units would be marketed to seniors. Do you
5 recall that?

6 A. Yes.

7 Q. And again going back to Government Exhibit 700, can we
8 agree that those are the conditions that Anthony Mangone
9 communicated to Franco Milio on July 10, 2006?

10 A. They seem to be the same, yes.

11 MR. CARBONE: I have no further questions.

12 Thank you, Mr. DelBello.

13 THE COURT: Do you have any questions, Mr. Siano?

14 MR. SIANO: No, your Honor. Thank you, your Honor.

15 THE COURT: I just don't want to overlook you,

16 Mr. Siano.

17 MR. SIANO: No offense taken.

18 MR. ARONWALD: Could I have a moment, your Honor?

19 THE COURT: Yes.

20 MR. ARONWALD: Can we have Government Exhibit 700 --
21 could we put that back up again, please.

22 REDIRECT EXAMINATION

23 BY MR. ARONWALD:

24 Q. When for the first time did you see this email?

25 A. I don't know that I ever saw it.

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C3EUANN3 DelBello - redirect

1 Q. You are not copied on this email, are you?

2 A. No, I am not.

3 Q. Do you have any recollection of ever seeing this email
4 before today?

5 A. No. I don't believe I have ever seen it.

6 Q. Just to be clear, were you aware at any time prior to
7 September 26 of '06 that Anthony Mangone had anything
8 whatsoever to do with the Longfellow project?

9 A. No.

10 Q. With respect to this email where Mr. Mangone talks about
11 what the conditions are, do you know where Mr. Mangone got this
12 information from?

13 A. I have no way of knowing.

14 Q. Are these conditions, conditions that had been discussed
15 back and forth between you and Mr. Madden?

16 A. The only one that I remember being discussed is the six
17 months. We had offered four months and that didn't appear to
18 be satisfactory, so I had agreed to a six-month period rather
19 than a four-month period.

20 Q. With respect to the exhibit, the engagement letter that was
21 put up before -- I believe that was Government Exhibit 702 --
22 when for the first time did you see this document?

23 A. I don't know that I have ever seen it.

24 Q. You have no recollection of seeing it before Mr. Carbone
25 showed it to you?

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C3EUANN3

DelBello - redirect

1 A. No.

2 Q. Mr. Carbone asked you about interaction that you had with
3 city council members concerning the Longfellow project. Do you
4 recall that?

5 A. Yes.

6 Q. You testified on cross-examination that you talked to city
7 council members to confirm what was necessary to get the
8 approval of your client as the preferred developer. Do you
9 recall that?

10 A. Yes.

11 Q. Who on the city council did you interact with in order to
12 determine what would be necessary to get the approval of Milio
13 as a preferred developer?14 A. Well, again, we had a number of real estate committee
15 meetings. There was a lot of give-and-take at these meetings.
16 I would, from time to time, check with Councilwoman Annabi to
17 see what it is that she was seeking and convey that to my
18 client.

19 Q. And what did she tell you she was seeking?

20 MR. CARBONE: Objection.

21 MR. ARONWALD: Your Honor, the door was opened on
22 cross.

23 MR. CARBONE: I did not --

24 THE COURT: The objection is sustained.

25 BY MR. ARONWALD:

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C3EUANN3 DelBello - redirect

1 Q. Do your billing records fairly reflect the magnitude and
2 frequency of your interaction with city council members
3 concerning the Longfellow project including Sandy Annabi?

4 A. Yes, I would assume so.

5 MR. CARBONE: Objection. Asked and answered.

6 Q. What did you convey to your clients as to the results of
7 your interaction with Sandy Annabi?

8 MR. CARBONE: Objection. Hearsay.

9 THE COURT: If you told your clients something that
10 doesn't tell them what Ms. Annabi said to you, Mr. DelBello,
11 then you can of course share that with us. However, we don't
12 want to know what Ms. Annabi said to you. That would be a
13 problem, and I know you know that.

14 THE WITNESS: I would convey to Franco Milio what I
15 understood to be the objections to the project and that he had
16 to make accommodations accordingly if we were going to get the
17 approval we were seeking.

18 BY MR. ARONWALD:

19 Q. Did you describe to Mr. Milio what accommodations he would
20 have to make?

21 MR. CARBONE: Objection. Calls for hearsay.

22 THE COURT: It is a yes or no question.

23 A. Yes.

24 Q. What accommodations did you tell Mr. Milio his company
25 would have to make in order to be designated the preferred

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C3EUANN3 DelBello - redirect

1 developer?

2 THE COURT: The objection is sustained.

3 MR. ARONWALD: I am not asking what he told him about
4 Ms. Annabi.

5 THE COURT: The objection is sustained.

6 Q. You testified that after you had conveyed to your clients
7 the concerns of the city council members, or in your words, you
8 would convey to your clients the information that would be
9 necessary in order to confirm with them what they would need to
10 do to get approval as preferred developer, correct?

11 A. That's correct.

12 Q. And then you said that Franco Milio would then respond,
13 correct?

14 A. Correct.

15 Q. Was the byproduct of his response what ultimately was
16 incorporated into the resolution that was passed on September
17 26 of '06?

18 A. Yes.

19 Q. Now, the resolution, if we could have that back up,
20 Government Exhibit 706, you testified earlier that you first
21 learned that Mr. Mangone was involved in representing the
22 Milios with respect to Longfellow when sometime after September
23 26th you called Franco Milio to tell him you needed to get the
24 ball rolling in terms of doing the work that was necessary,
25 that was required, correct, with respect to Longfellow?

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C3EUANN3 DelBello - redirect

1 A. That's basically correct, yes.

2 Q. The items that needed to be done that you were calling him
3 about, those are the items that are set forth in this
4 resolution, is that yes or no?

5 MR. CARBONE: Objection. Leading.

6 THE COURT: Objection is overruled.

7 Q. Do you understand my question, Mr. DelBello?

8 A. I understand it.

9 The resolution lays out the actions that need to be
10 taken and I was inquiring of Franco Milio as to whether he was
11 ready to pursue this. The most important piece of that was the
12 negotiations with the mayor to conclude a contract.

13 Q. As well as the other terms?

14 A. And the other terms, yes.

15 Q. And that was when you were terminated by Milio Management?

16 A. Yes.

17 Q. Mr. Carbone asked you whether or not you would have agreed
18 to participate in a bribery scheme had you known about it,
19 correct?

20 A. He asked something to that effect.

21 MR. CARBONE: Yes. That wasn't the question, your
22 Honor.

23 THE COURT: Something to that effect, I think he said.

24 Q. Would you, had you known about it, have countenanced your
25 client to go forward with a bribe?

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C3EUANN3 DelBello - redirect

1 A. Of course I would have told him not to do it.

2 Q. I want to just get back to the discussion about affordable
3 housing and the resolution itself. When you were answering Mr.
4 Carbone's questions, were you speaking in a hypothetical sense
5 or was it your understanding at the time that because of the
6 rental rate in the second district where the Longfellow project
7 was going to be situated that market rate housing really was
8 the same as affordable housing in that area?

9 MR. CARBONE: Objection. Form. Leading. Ambiguous.

10 THE COURT: I don't understand it, so you can try
11 again.

12 MR. ARONWALD: Let me break it down. I apologize.

13 Q. In the district or the specific location where the
14 Longfellow construction was going to take place, what if any
15 difference was there between market rate and affordable rate
16 housing using the formula that you described?

17 A. The conclusion, after some investigation, was that the
18 market in that area, in that particular area which is called
19 The Hollows section of Yonkers had a relatively low rental rate
20 and that it was or could be considered comparable to a
21 subsidized unit.

22 Q. Which would be affordable unit?

23 A. Which could be affordable unit.

24 MR. ARONWALD: Could I just have a moment, your Honor?

25 THE COURT: We are saying goodbye to Jim for a while.

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C3EUANN3

DelBello - redirect

1 Goodbye, Jim. Leave. Don't miss your plane.

2 MR. ARONWALD: Your Honor, I have no further

3 questions.

4 THE COURT: Do you have anything else?

5 MR. CARBONE: No, your Honor.

6 Thank you, Mr. DelBello.

7 THE COURT: Mr. DelBello, it has been so nice to see

8 you.

9 (Witness excused)

10 I will see you at 5 after 2.

11 Don't discuss the case.

12 (Luncheon recess)

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14 (Continued on next page)

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C3eQann4

Trial

AFTERNOON SESSION

2:05 p.m.

(In open court; jury not present)

THE DEPUTY CLERK: Case on trial continued. The government and defendants are present. The jurors are not present.

MR. ARONWALD: Your Honor, I had indicated that I wanted to raise one brief issue.

THE COURT: You did so indicate.

MR. ARONWALD: Your Honor, I confess, I don't have case law on this at this point. I wanted to alert you to an issue.

THE COURT: Yes, go ahead.

MR. ARONWALD: It seems to me that I am requesting that the Court advise the jury that while the Milios waived their attorney-client privilege as to any communications they had with Anthony Mangone or Michael Santangelo, the jury be advised that they refused to waive their attorney-client privilege as to any communications they had with Al DelBello concerning the same Longfellow transactions.

THE COURT: I have a much more fundamental question, a much more fundamental question. My understanding of the waiver of attorney-client privilege is that it pertains to subject matter, not to attorney, and I need to see some case law holding that you can waive your attorney/client privilege on a

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1 subject with respect to Attorney A but not with respect to
2 Attorney B, but I don't think that's the way it works.

3 MR. ARONWALD: I don't know, but I confess --

4 THE COURT: It's the government's problem. It's not
5 my problem.

6 MR. ARONWALD: Well, I guess it's my problem in a way
7 because I am the one making the application.

8 THE COURT: Well, you have the problem because you
9 need to make an application, I assume, (A) that he waived the
10 attorney-client privilege. But they've waived it. By waiving
11 it as to one attorney, they've waived it on that subject
12 matter, and all those conversations are open. And I'm not sure
13 that the government has standing to oppose it. It would seem
14 to me that the only attorneys for the Milios would have
15 standing to oppose that.

16 MR. ARONWALD: I would be happy to do the research,
17 your Honor, and provide you with the benefit of the results of
18 my research before tomorrow morning. Thank you.

19 THE COURT: Great.

20 MR. ARONWALD: I will bring in my next witness now,
21 your Honor.

22 THE COURT: No, because Mr. Carbone wants to say
23 something.

24 MR. CARBONE: Judge, I want to make it clear we have
25 no dog in that fight. We communicated the request to

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1 Mr. Digiansante and suggested that Mr. Aronwald take it up with
2 him. It is what it is. It's not our privilege to waive or
3 not.

4 THE COURT: Mr. Siano, I know you have no dog in the
5 fight, so your skeptical look --

6 MR. SIANO: I bite my tongue.

7 MR. ARONWALD: Should I get my next witness, your
8 Honor?

9 THE COURT: And I never have a dog in the fight.
10 You should.

11 MR. ARONWALD: Thank you, Judge.

12 (Continued on next page)

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C3eQann4 Trial

1 (Jury present)

2 THE COURT: Welcome back from lunch. Fair warning. I
3 am having some issues today that may require me to run up and
4 run out. Forgive me.

5 All right. Call your next witness, Mr. Aronwald.

6 MR. ARONWALD: Thank you, your Honor we call Chuck
7 Lesnick.

8 CHARLES LESNICK,

9 called as a witness by the Defendant Annabi,
10 having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. ARONWALD:

13 THE DEPUTY CLERK: Please state and spell your name
14 for the record.

15 THE WITNESS: Charles Lesnick, L-E-S-N-I-C-K. Most
16 people call me Chuck.

17 THE COURT: Have a seat, Mr. Lesnick.

18 You may inquire.

19 MR. ARONWALD: Thank you, your Honor.

20 Q. Mr. Lesnick, would you begin by telling us where you live
21 without giving us your street address.

22 A. I live in Yonkers, New York. I've lived there for 25 --
23 more -- years.

24 Q. And what is the highest level of education that you have?

25 A. I have a law degree from NYU, class of '85; and a master's

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C3eQann4 Lesnick - Direct

1 in urban and regional planning and policy analysis from the
2 Woodrow Wilson School of Public Affairs at Princeton 1986.

3 Q. How are you employed?

4 A. Mostly as city council president in Yonkers. That's
5 technically a part-time job. I also practice law a little bit.

6 Q. In terms of your practice of law, are you a sole
7 practitioner or a member of a firm?

8 A. I'm a sole practitioner. I was a member of a firm until I
9 was elected to the city council, but in compliance with the
10 ethics code, I had to resign. I rent space and management
11 services from the former firm, but I am the Law Offices of
12 Charles Lesnick, Esquire.

13 Q. Why would you have had to have resigned under the ethical
14 rules?

15 A. The city ethics code -- I actually ran on an ethics
16 platform -- says that you cannot as an attorney appear before
17 any Yonkers board, agency or commission, neither could any law
18 firm that you are affiliated with. That law firm even, if I
19 was of counsel, I couldn't. I did seek an ethics board ruling
20 when I first was elected, and they advised that I could
21 continue to rent space and management services in the same
22 location, which I do, but I don't have my name on the
23 letterhead or on the masthead or anything like that.

24 Q. Now, with respect to your sole practice, is there any
25 particular area of law that you specialize in?

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C3eQann4 Lesnick - Direct

1 A. I try to work with historic tax credits. I work with
2 owners of old buildings who want to rehabilitate or preserve
3 their buildings.

4 Q. Have you ever held any public office?

5 A. I currently am the Yonkers City Council president, a
6 position I was first elected to in 2005; I took office January
7 1, 2006; and was re-elected in 2009.

8 Q. When you were elected, who was it that you succeeded as
9 city council president?

10 A. Richard Martinelli was my predecessor; he had served for
11 two years. Prior to that Vincenza Restiano. And those are the
12 only three council presidents in the history of Yonkers. The
13 former government changed in 1991.

14 Q. You took office in 2006 you said, correct?

15 A. Yes.

16 Q. So were you serving as city council president on both
17 July 11, 2006 and September 26, 2006?

18 A. Yes.

19 Q. Now, did you some time ago meet with Assistant United
20 States Attorney Carbone and Special Agents Mazzuca and Karaka
21 on March 11, 2008 at the U.S. Attorney's office in White
22 Plains?

23 A. I believe that date is correct. I remember Mr. Carbone, I
24 believe the other special agents were the ones I met.

25 Q. After you met with them, did you also appear before the

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1 grand jury?

2 A. Yes.

3 Q. To the best of your knowledge, did you answer any and all
4 questions that you were asked both when you met with
5 Mr. Carbone and when you appeared before the grand jury?

6 A. Yes.

7 Q. Did you also provide the government with documents --

8 A. Yes.

9 Q. -- in connection with this matter?

10 A. Yes.

11 Q. Do you recall providing documents to the government on both
12 February 28, 2008, March 12, 2008 and again on May 27 of 2008?

13 A. I believe that would have been the time range. I don't
14 know the dates.

15 Q. Now, with respect to politics as it is in Yonkers,
16 particularly with respect to the city council, how are the
17 leadership positions decided?

18 A. Well, it's actually interesting. The Yonkers council is
19 like any other -- unlike any legislative branch I'm familiar
20 with. Usually the majority members of the majority party votes
21 for the majority leader, and the minority party elects the
22 minority leader.

23 In Yonkers, by both tradition and our rules, a
24 majority of four will elect a majority leader of one party and
25 a minority leader from another party.

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C3eQann4

Lesnick - Direct

1 So it has happened that a coalition has formed that
2 elected a majority or minority leader that wasn't necessarily
3 the choice of that party, but, rather, the choice of the body.

4 When I first joined the Yonkers City Council in 2006,
5 there were actually two coalitions: One group of two democrats
6 and one republican; one group of two republicans and one
7 democrat, each hoping for me to be the fourth member -- I'm a
8 democrat -- to put their potential majority and minority leader
9 in the positions of leadership.

10 The six members of the council are elected by district
11 and as council president, I'm elected citywide. I run for a
12 four-year term with half the council; two years later the mayor
13 runs with the other half of the council for a four-year term.

14 MR. ARONWALD: May I just have one moment, your Honor?

15 (Pause)

16 MR. ARONWALD: Your Honor, I am going to, with
17 permission, approach and present to the witness some
18 photographs that have been previously marked and shown to other
19 witnesses.

20 THE COURT: Fine.

21 Q. Mr. Lesnick, I'm placing before you a series of photographs
22 that have been previously marked as Defense Exhibits 25 through
23 30 for identification. Would you take a look at these, please,
24 and I will ask you a question about each one. Starting with
25 Exhibit 25, do you recognize the scene that is depicted in that

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Lesnick - Direct

1 photograph?

2 A. Sure. That would be the Sherwood House which is the second
3 oldest structure in Yonkers. It's on Tuckahoe Road on the
4 overpass over the sprain. I guess you're on the northbound
5 side of Tuckahoe Road. Tuckahoe Road goes east/west, so that
6 would be on the westbound lane.

7 Q. Does that picture fairly and accurately what the Tuckahoe
8 Road portion that's depicted in that photograph is?

9 A. Yes, it does.

10 Q. With respect to Defense Exhibit 26 for identification, do
11 you recognize what's depicted in that photograph?

12 A. Sure. That is a current picture of Tuckahoe Road looking
13 west. You can see the Ridge Hill sign. You can see the gas
14 station that's not open any more; McDonalds, some old
15 billboards, the Shop Rite.

16 Q. Passing on to Defense Exhibit 27, do you recognize what's
17 depicted in that photograph?

18 A. Sure. This would be, if you're at the corner of Tuckahoe
19 Road and Sprain Road looking north, you can see the Sprain
20 Brook Parkway on the right. You can see the Hudson Valley Bank
21 building, and you can see the road that connects the Sprain
22 Brook Parkway up towards Ridge Hill.

23 Q. And the next exhibit would be 27?

24 A. No, that was 27.

25 Q. 28?

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C3eQann4

Lesnick - Direct

1 A. 28.

2 Q. Do you recognize what's depicted in that photograph?

3 A. Yes. That's the intersection of Grassy Sprain Road which
4 is actually marked. It's the road that you would take from the
5 Sprain Brook Parkway going west to the connector road, which is
6 Ridge Hill Boulevard, going into the project.

7 Q. Into the Ridge Hill project?

8 A. Into the Ridge Hill project. You actually see the REI
9 sign, the Showcase cinema sign, you can see some houses to the
10 right which was part of the impacted neighborhood.11 Q. With respect to Exhibit 29, do you recognize what's
12 depicted in that photograph?13 A. Sure. This would be Ridge Hill Boulevard. I believe this
14 would be standing almost at Tuckahoe Road looking north. You
15 could see the power lines and you could see a car that's just
16 come from the Sprain Brook Parkway up the ramp coming into the
17 project.18 Q. Finally, Exhibit 30, do you recognize the scene in that
19 photograph?20 A. Sure. This would be Ridge Hill Boulevard, the road leading
21 up to the project, again, from that area of Tuckahoe Road and
22 Sprain.23 Q. Do each of those photographs fairly and accurately depict
24 the scenes depicted in the photographs?

25 A. Yeah, I guess so. It's a photograph.

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C3eQann4 Lesnick - Direct

1 Q. Do they fairly and accurately represent --

2 THE COURT: Is that what it looks like?

3 THE WITNESS: Yes.

4 MR. ARONWALD: Your Honor, I offer defense Exhibits 25
5 through 30 in evidence.

6 MR. HALPERIN: No objection.

7 THE COURT: Admitted.

8 (Defendant's Exhibits 25 through 30 received in
9 evidence)

10 Q. Do you know Sandy Annabi?

11 A. Yes.

12 Q. How long have you known her?

13 A. I think I first met her in 2001. When she was running for
14 her position for the first time, I was a member of the
15 Westchester Democratic Committee in Yonkers, we endorsed her,
16 carried her petitions.

17 Q. In 2001, was she running as a Democrat, Republican or
18 Independent?

19 A. Definitely a Democrat. I don't believe that she had any
20 other lines. She didn't have the Republican line, but she's
21 been a registered Democrat for as long as I've known her.

22 Q. She was elected in 2001, correct?

23 A. Yes.

24 Q. And began serving as a city councilwoman in 2002, correct?

25 A. Correct.

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C3eQann4 Lesnick - Direct

1 Q. Is the position of city councilperson term limited?

2 A. It is now. I don't remember if it was in 2002, but I do
3 believe that they changed it somewhere along the line, and some
4 council members have the opportunity to serve ten years, but
5 for the most part, it's two consecutive four-year terms. I
6 think initially they were two-year terms.

7 Q. And the city council is comprised of -- the city of Yonkers
8 is comprised of how many separate districts?

9 A. Six.

10 Q. As city council president, do you represent any particular
11 one of those six districts?

12 A. I represent all of them. I run citywide.

13 Q. So you are city councilperson-at-large?

14 A. Correct.

15 Q. So in terms of residency requirements, are you required to
16 reside in any particular district?

17 A. No, just within the city of Yonkers.

18 Q. Now, do you recall which of those districts Sandy was
19 elected to represent?

20 A. The second district.

21 Q. Now, of the six districts in the city of Yonkers, which of
22 those districts is the poorest district?

23 MR. HALPERIN: Objection. Relevance.

24 THE COURT: Overruled.

25 A. I would think the second one is. The second one was

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1 originally drawn as a Hispanic opportunity district. The first
2 district was an African American opportunity district. The
3 other districts had no particular classification, but that
4 district, the second district, has the oldest homes. It had
5 Nodine Hill. It has -- it's an interesting area. It's not as
6 affluent even as the downtown district is, but it's got a lot
7 of -- a lot of families.

8 Q. When you say Hispanic opportunity district, what does that
9 mean?

10 A. I think the Justice Department has certain standards when
11 you're doing redistricting and certain percentages that give a
12 Hispanic an opportunity to run and be elected in that district,
13 not necessarily guaranteeing the outcome. Obviously, Sandy
14 Annabi is not Hispanic, but she ran after several Hispanics had
15 served, in part, because there was no viable Hispanic for the
16 Democrats to put up that year.

17 Q. Of the six districts, which of those districts has the
18 highest unemployment rate?

19 MR. HALPERIN: Objection. Relevance.

20 THE COURT: Overruled.

21 A. Again, I would think it would be the second district, just
22 from my observations of going door-to-door in the area, you
23 know, seeing houses that are foreclosed. I did work in the
24 city administration in economic development, so I'm familiar
25 with the different census trends, and it would either be the

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1 first or the second; I think the second.

2 Q. Does the city of Yonkers basically keep records in terms of
3 which of the districts is the highest user of public services
4 such as police, fire, public assistance and the like?

5 A. Probably different entities would. I do know that the
6 superintendent has recently said that the largest population
7 within the schools are the Hispanic population, the most
8 growing population, and anecdotally I would observe seeing kids
9 at bus stops between the first and second districts, they are
10 the heavier users of schools. The crime is greatest in those
11 two districts. Fires in those two districts, especially the
12 second because of the wood-framed houses, are more prevalent
13 than in the rest of the city. There are some parks, maybe not
14 as many as in the rest of the city --

15 MR. HALPERIN: Judge, objection as non-responsive to
16 the question.

17 THE COURT: The objection is overruled. I'm not
18 striking it. Go on.

19 BY MR. ARONWALD:

20 Q. Now, during the time when you and Sandy served as members
21 of the city council, do you know where she lived?

22 A. Yes.

23 Q. Where did she live?

24 A. 245 Rumsey Road.

25 Q. How do you know that?

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1 A. Well, number one, it was on the petitions when we
2 circulated them. Number two, we had at least one, maybe two,
3 caucus meetings of the council members leading up to the time
4 that we selected Sandy as majority leader in the beginning of
5 2008, it would have been late 2007. And, number three, I do
6 remember once calling Sandy up -- actually, I was watching the
7 Super Bowl, I guess that was the Giants Super Bowl, 2006 or
8 2007, whatever that season was; but I had to pick something up
9 from her, and I called her up and asked her if I could pick it
10 up from her, and I happened to be in her building because
11 somebody else was having a Super Bowl party there, and she
12 answered the door, and she was wearing a bathrobe and her hair
13 in curlers, which was sort of striking to me because she is
14 usually so put-together. So, clearly, she was not expecting a
15 visitor. And I would say when we had our caucus meetings, I
16 did use the bathroom from time to time and, you know, you see
17 personal effects. You will get the sense that people are
18 living there. They're not just staying there.

19 Q. Now, are there any provisions made for city council members
20 to have dedicated telephone lines installed in their
21 residence --

22 A. Yes.

23 Q. -- for use in connection with city council business?

24 A. Yes. It's on the Centric system so all the systems sort
25 out 377; and then if I wanted to, I could use my city hall

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1 phone from home and call any of the departments at city hall
2 without going through the outside phones.

3 Q. Now, in your capacity as city council president -- let me
4 strike that.

5 Does the office of city council president, the person
6 holding that office, does he or she also automatically serve on
7 any committees of the city council?

8 A. Yes. The city council president serves on every committee
9 of the city council. In addition, the city council president
10 is the chair of the rules committee, and, in addition, they can
11 chair other Committees. Traditionally, they chair the real
12 estate committee. I currently chair the environmental
13 committee.

14 Q. What is the purpose and function of the real estate
15 committee?

16 A. OK. So when an item comes to city council, it either comes
17 in through the administration or it comes from a council
18 member. It then goes to the rules committee. And the council
19 meets on the first and the third Tuesdays of the month to
20 decide where to send it.

21 If it is something related to the land, a project,
22 real estate development or the like, we send it to the real
23 estate committee, and we have more open discussions in
24 committee meetings. They're all open to the public. They're
25 often televised. At least I always televise the meetings that

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1 I chair. It's up to the chairman of the committee to decide
2 whether to televise it or not.

3 At rules, we don't discuss substance, only process,
4 where we're sending it.

5 In all of the committee meetings, whether be it real
6 estate or budget, we discuss the details of the project, and we
7 hear from the affected community members, the developers,
8 taxpayers, whomever.

9 Q. What, if any, protocol is there regarding voting a
10 resolution out of committee?

11 A. So, there are several ways something could come out of
12 committee: Either the chair of the committee can just pull it
13 out of committee and report it back to the rules committee and
14 say this is ready to go, in which case we vote it; or there can
15 be a vote of the committee to vote it out of committee; or the
16 council president can actually pull something out of committee
17 and put it right on the agenda.

18 Q. So, if I understand you correctly, you as city council
19 president and as chair of the real estate committee, you could
20 at any time remove something out of committee, is that correct?

21 A. Yes. During that term I was actually a co-chair, so it
22 needed the consent of my co-chair if I was doing it as a real
23 estate chair; but as council president, I could pull it out
24 whenever I want.

25 Q. Regardless of what the vote was by the other council

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1 members, correct?

2 A. Right. I mean, the practical application is unless I have
3 enough votes to pass it on the council, I'm not going to pull
4 something that's not ready, but, yes, I have that right -- that
5 ability.

6 Q. In fact, was that what happened with respect to the Ridge
7 Hill project?

8 MR. HALPERIN: Objection. Leading.

9 THE COURT: Overruled.

10 A. So, that happened with my predecessor, Richard Martinelli,
11 when the project was percolating along in the fall of 2005, and
12 his co-chair at the time for that committee at that time was
13 Murtagh, Councilman John Murtagh, who did not want to take it
14 out of committee, but as city council president he pulled it
15 out and scheduled votes on the floor.

16 I don't recall whether or not I needed to do that
17 during my tenure as council president with respect to Ridge
18 Hill because I believe the majority of the real estate
19 committee at that time supported the project.

20 Q. During the period of time that you served as city council
21 president, was there ever an occasion -- when, if ever, was
22 there an occasion where you were prepared to move something out
23 of the real estate committee?

24 A. Several times. I like to get things done, and I sort of
25 get impatient sometimes if there's too much discourse. Yet,

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1 for instance, the SFC project, which was a huge project. We
2 had months and months of public hearings, but at a certain time
3 it becomes ripe for pulling out after there has been adequate
4 public discourse.

5 Q. What about with respect to the Longfellow project?

6 A. The Longfellow project was one I was very concerned with
7 because I do work with historic preservation, and I really
8 wanted to see the adaptive reuse of that school. In addition,
9 I hoped to see School 6 adaptively reused, but it dragged too
10 long, and architecturally there was no way to save that
11 building.

12 We did get some concessions from the developer through
13 his attorney, Al DelBello, to keep the arch from School 6 in
14 any sort of construction, and concessions that they would keep
15 the majority of the Longfellow School intact if they did
16 restore it. So, yes, I was ready to move that project.

17 Q. And that would have been as of June 20, 2006?

18 A. Yes, I think so. We deliberated that project for quite
19 some time among the council.

20 Q. Before you were elected to the city council presidency in
21 2005, what was your position with respect to the Ridge Hill
22 project?

23 A. Well, I had observed the process for a long period of time,
24 but I was running against a person, Richard Martinelli, who in
25 the eyes of many in the community had railroaded the project

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1 through --

2 MR. HALPERIN: Objection. Hearsay. Community views.

3 THE COURT: The objection is sustained.

4 A. OK. So I was running against a person who was in favor of
5 the project who some people said --

6 MR. HALPERIN: Objection. Hearsay.

7 Q. Just tell us what your position is.

8 A. OK. I felt the need to distinguish myself from my opponent
9 in the election, so I spoke with the community members about
10 their concerns, and their biggest concern was traffic. So I
11 actually had a press conference very close to where those
12 photographs were by the Sherwood House declaring that while I
13 was not against the project, I had concerns with the traffic
14 and the process, and I wanted to see the traffic mitigated
15 before I would approve the project.

16 Q. When you were talking about the process, what did that
17 refer to?

18 A. Prior to my election, I felt that the community had not
19 adequately been enabled the opportunity to address traffic
20 concerns. After I was elected, the city council took some
21 steps to approve the project quickly before I was sworn in
22 between Election Day and January 1, and I did not approve of
23 the process that they undertook at that time.

24 Q. Are you referring specifically to the city council's vote
25 on November 22 of 2005 to override or eliminate the

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1 supermajority requirement?

2 A. Yes.

3 Q. That was followed by the, I think it was, December 9, 2005
4 vote by a four-to-three majority to approve the Ridge Hill
5 project?

6 A. Correct.

7 Q. So those two things were "the process" that you were
8 referring to that you were opposed to, correct?

9 A. Yes.

10 Q. Now, on November 23, 2005, a lawsuit was filed in
11 Westchester County Supreme Court, the lead plaintiff being
12 Sandy Annabi to get a declaratory judgment overriding that
13 supermajority --

14 MR. HALPERIN: Objection, your Honor. This is all
15 incredibly leading.

16 THE COURT: You know, I consider it introductory,
17 introductory material. It's not like your witnesses didn't
18 testify about this lawsuit.

19 MR. HALPERIN: They did, your Honor. They did.

20 Q. With respect to that lawsuit, did you join in that lawsuit
21 as one of the plaintiffs?

22 A. Yes, I did.

23 Q. So, as of January of 2006, you now are successor to
24 Mr. Martinelli as city council president, correct?

25 A. Yes.

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1 Q. Then subsequent to your taking office, Judge Colabella
2 declares that the supermajority vote was invalid, and he
3 basically restores the supermajority requirement, correct?

4 A. Yes.

5 Q. At that point, at that point what was your position with
6 respect to the Ridge Hill project?

7 A. So when I took office on January 1, one of the first
8 meetings I had was with the Forest City Group with Mr. Ratner
9 and some of his associates, and at that point I told him what
10 my concerns were vis-a-vis the traffic.

11 We then worked together to secure funds for a traffic
12 charrette to examine alternatives how one could get into the
13 project without causing traffic on Tuckahoe Road. We
14 identified some issues, some concerns which I can elaborate on
15 if asked -- if not, I won't -- and by April or May, I was now a
16 supporter of the project because I felt that the traffic
17 concerns had been addressed.

18 Q. You talk about a charrette. Can you explain exactly what a
19 charrette is?

20 A. Sure. It's a French word. It comes from the word cart,
21 and it's when the students in the University of Paris used to
22 do their paintings and collaboratively -- individually they do
23 their paintings and the night before the paintings were due,
24 they would collaborate. They put all the paintings on the
25 cart, and they'd help each other finish up the paintings.

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1 That's where the expression charrette comes from. In the
2 planning vernacular, it's when you roll up your sleeves, you
3 bring in all the parties, and you work to address a problem.

4 We hired a group called the Environmental Simulation
5 Center, a not-for-profit based in New York City. A gentleman
6 by the name of George Janes coordinated this charrette, and we
7 brought in people from the community who were affected. We had
8 three community representatives designated to ask the question.
9 We had several public meetings videotaped. We came up with
10 different schemes. We looked at different traffic options; and
11 at the conclusion of the charrette, we had a set of
12 recommendations and a strategy to follow the charrette.

13 Q. Do you recall where the charrette was held?

14 A. The largest part of the charrette was held in the Yonkers
15 City Council Chambers with the public access cable TV running,
16 and we had small meetings in the community and in other places.

17 Q. How soon after you assumed office in January of '06 did you
18 schedule the charrette?

19 A. Well, it took awhile. First we met with Forest City
20 Ratner, and initially we asked them to pay for it. Initially,
21 they agreed, but then their lawyers told them that that would
22 indicate that they hadn't done all of the --

23 MR. HALPERIN: Objection. Hearsay.

24 THE COURT: The objection is sustained.

25 A. So they decided not to pay for it because --

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1 THE COURT: They decided not to pay for it.

2 Q. They decided not to pay for it. So who paid for it?

3 A. So Senator Spano, Nicholas Spano, made a members' item
4 grant. I think it was through the department of transportation
5 directly to the Environmental Simulation Center, so they paid
6 for it.

7 Q. You've indicated that there came a time when you were in
8 favor of the project, correct?

9 A. Yes.

10 Q. What, if anything, did you do to announce publicly that you
11 were supporting the project?

12 A. Well, I have eBlasts that I send out generally every two
13 weeks.

14 Q. What is an eBlast?

15 A. We use a firm called Constant Contact, and we put in --
16 it's email that goes out to a group of people. It started at
17 about 2,000. I have about 9,000 names on my eBlast, mostly
18 people from the community. It includes the press and all the
19 elected officials as well. So I give people regular updates on
20 what I'm doing, what I'm thinking. We also sometimes give news
21 letters.

22 Q. Now, are these eBlasts things that you in your capacity as
23 president of the city council publish or send out in the
24 regular and ordinary course of your business as city council
25 president?

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1 A. Absolutely. As I said, I do it every two weeks. Sometimes
2 I'll do it more often. Usually a couple times a month.

3 Q. Is it the regular and ordinary course of business of the
4 city council to maintain copies of these eBlasts that you send
5 out?

6 A. I don't know if the council maintains them, but I do know
7 that they appear on the hard drives on our computers so that
8 they are retrievable. I actually post them to my web site.
9 So, yes, I guess I answered that question in the affirmative.

10 Q. Let me show you what is marked as Defense Exhibit 73 for
11 identification. Do you recognize that?

12 A. Yes.

13 Q. Is that the eBlast that you referred to?

14 A. No. This would be a press release.

15 Q. OK.

16 A. I might have linked to it in an eBlast. Generally, the
17 eBlasts have a different masthead that says, you know, City
18 Council President Chuck Lesnick Reports, and sometimes has more
19 than one issue. But this would be a statement that I probably
20 would have linked to in my eBlasts. I probably also would have
21 sent it out to the press.

22 Q. So was the issue in this press release something that was
23 done in the regular and ordinary course of your business as
24 city council president?

25 A. Yes.

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1 Q. Is it the regular and ordinary course of business of the
2 Yonkers City Council to maintain copies of the press releases
3 issued by its city council president?

4 A. Yes.

5 MR. ARONWALD: Your Honor, I would offer Defense
6 Exhibit 73 in evidence at this time.

7 MR. HALPERIN: Objection. It's all hearsay, Judge.

8 THE COURT: Can I see it, please?

9 MR. ARONWALD: Yes, your Honor.

10 Q. This is something that you issued, correct?

11 A. Yes.

12 THE COURT: Your objection is overruled.

13 (Defendant's Exhibit 73 received in evidence)

14 Q. Mr. Lesnick, Defense Exhibit 73 is in evidence. I would
15 ask if you would please read it aloud so that the jury can hear
16 it.

17 A. OK. For release June 15, 2006. Statement by City Council
18 President Chuck Lesnick regarding public hearings on Ridge Hill
19 village:

20 Last month I met with Ridge Hill developer, Bruce
21 Ratner, and had a frank face-to-face discussion to try to
22 resolve the important remaining issues that concerned many
23 local residents about the project. We made progress on some of
24 these issues, particularly the need to address traffic, tax
25 revenues and public safety concerns. We agreed to set a target

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1 date of June 15, 2006 to identify what specific steps could be
2 taken by FCR -- that would be Forest City Ratner -- the city
3 council and the community to raise everyone's comfort level
4 about the project's future and earn it more broad-based
5 community support, particularly from the people who will be
6 Ridge Hill's closest neighbors.

7 An important part of the discussion centered on the
8 traffic alternatives developed in the traffic charrettes
9 conducted by the not-for-profit Environmental Simulation
10 Center, ESC, with members of the community.

11 One traffic alternative that received considerable
12 support was a modification of an option that was first
13 suggested by the town of Greenburgh that would reduce traffic
14 on Tuckahoe Road by nearly 1,000 cars in a peak hour. It
15 proposes to build an entrance and exit to and from the proposed
16 Ridge Hill Village from the southbound Sprain Brook Parkway in
17 between Jackson Avenue and Tuckahoe Road.

18 One challenge to making this alternative a reality is
19 that some of the land that would be required to build the road
20 is presently owned by ConEd and Westchester County. We have
21 been engaged in discussions with Westchester County officials
22 regarding the possibility of obtaining the property that is
23 needed through a swap of park land. Frankly, so far county
24 officials have not been enthusiastic about the idea.

25 An additional challenge is that we are under time

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1 pressure to make this happen because the swap of park land
2 would require additional approval of both the county board of
3 legislators and the New York State legislature. The state
4 legislature goes in recess for the year on June 22, 2006. We
5 are going to make the case for this proposal directly to the
6 county board of legislators and do everything possible to
7 secure a vote of approval from them on June 21, 2006 to
8 convince county officials to give a vote of approval. The
9 proposal we put forward must take into account the concerns
10 expressed by the county's parks commissioner.

11 Even more important, if we are to have any hope to
12 succeed in obtaining the support of the county, we will have to
13 speak with an unprecedented and historic show of unity from
14 community members, the Yonkers City Council, the mayor and the
15 Ridge Hill developer. This will be a challenge for many of us
16 given the history of passionate, and sometimes contentious,
17 debate over the project; but if we are to achieve our
18 objective, we must try to take a leap of faith together that
19 everyone is sincerely committed to finding a successful
20 resolution on the traffic issue so that the Ridge Hill project
21 can go forward.

22 In order to meet the deadline for submitting this
23 proposal to the county board of legislators, the Yonkers City
24 Council will vote on a resolution in support of the park land
25 exchange at a special meeting that has been called for Friday,

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1 June 16, 2006 at 1:00 p.m. I urge people to attend the meeting
2 to learn more about what is being proposed so that hopefully
3 they will join us in expressing their strong support to the
4 county legislators before they vote on June 21.

5 If the community, city officials and the developer can
6 come together in an agreement on ways to significantly address
7 traffic concerns, that will be an important first step in the
8 building of the partnership that will be needed to move the
9 Ridge Hill project forward. Hopefully, we can then move on to
10 quickly resolve the other important -- although arguably less
11 complex -- outstanding issues.

12 It is our goal to be able to announce specific
13 proposals from the Ridge Hill developer that sufficiently
14 address the major outstanding community concerns in time for
15 the city council to schedule a public hearing on the project's
16 site plan on July 11, 2006 at 7:00 p.m.

17 When the previous city council undertook this process,
18 a lawsuit was successfully challenged in the manner in which it
19 was handled. This will not happen this time -- that will not
20 happen this time. Correct process will be followed and a
21 timely notice will be given to the county planning board, the
22 Yonkers planning board, and, most importantly, the public.

23 The Yonkers City Council must also reconsider the
24 question of whether a "supermajority" of five votes should
25 continue to be required when the Westchester County -- I

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1 spelled county wrong; it says count -- Planning Board renders
2 an advisory recommendation against a project, as was the case
3 with the Ridge Hill project. This is an important question
4 that must be addressed since Yonkers is at the present time the
5 only municipality for or against -- the only municipality in
6 Westchester County that still has the supermajority
7 requirement. There are legitimate arguments both for and
8 against this requirement that the Yonkers City Council, county
9 officials and the public should consider fully.

10 Just to let you know my view, I will be asking the
11 city council to call upon the county to eliminate the present
12 opt-out provision of the supermajority requirement so that it
13 is required of all municipalities. Otherwise, Yonkers should
14 be allowed to opt out so that everyone is subjected to the same
15 rules.

16 However, it's important not to change the rules in the
17 middle of the game in regard to the number of votes required
18 for Ridge Hill. Therefore, I will request that the public
19 hearing on this issue be scheduled in August, one month after
20 the hearing on the Ridge Hill site plan. Hopefully, the Ridge
21 Hill developer will render the supermajority requirement a
22 non-issue by agreeing to modifications to the project
23 beforehand that will earn it the support of every council
24 member and the community.

25 Finally, we will also continue to urge the Ridge Hill

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1 developer to negotiate -- I spelled that wrong too -- with our
2 neighbors in the town of Greenburgh to resolve their
3 outstanding concerns about the project. After all, their
4 support of Ridge Hill will be critical for the project's
5 success, and if built right, Ridge Hill's success is Yonkers
6 success

7 Q. Thank you.

8 Now, with respect to the portion of your release that
9 discussed eliminating the supermajority requirement, did you
10 subsequent to the issuance of this release undertake any action
11 to try to lay the ground work for eliminating the supermajority
12 requirement?

13 A. Yes. As I telegraphed my press release, the city council
14 took a vote to send this to the county planning board and ask
15 their consent. This was the root of the lawsuit that we had
16 brought in December because they did not take that important
17 step. And when the county planning board responded that it had
18 no objection to us dropping the supermajority requirement from
19 five to four votes, we were then free to vote with only four
20 council members to get rid of the supermajority requirement.
21 Had they objected, then we would have also needed five votes to
22 vote to eliminate the supermajority requirement.

23 Q. Let me show you what is in evidence as Defendant's
24 Exhibit's 22. I'm showing you what is in evidence as
25 Defendant's Exhibit 22. Is that the resolution that you just

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1 referred to?

2 A. Yes.

3 Q. Now, following the passage of the resolution, did you
4 initiate any communication or correspondence with the
5 Westchester County Planning Board on the subject of eliminating
6 the supermajority requirement?

7 MR. HALPERIN: Objection. Relevance, Judge.

8 THE COURT: Overruled.

9 A. Pursuant to the resolution, the city clerk, who acts at the
10 direction of the council, sent a letter to the county planning
11 board again asking for percentages to drop the supermajority
12 requirement from five to four.

13 Q. I am placing before you what is Defendant's Exhibit 74 for
14 identification. Have you seen that document before?

15 A. Yes, I have.

16 Q. What do you recognize it to be?

17 A. What I just said it would be. She took the resolution that
18 we had -- well, she says: Attached for your information,
19 review--

20 Q. Don't read from it.

21 A. This is what we requested. She sent to the planning board
22 a letter expressing the wishes of the city council to drop the
23 requirement.

24 MR. HALPERIN: Judge, I'm sorry. Just so the record
25 is clear, there is already a Defense Exhibit 74 and a Defense

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1 Exhibit 73.

2 THE COURT: So could we call this Defense Exhibit 75?

3 MR. HALPERIN: There is already 75.

4 THE COURT: What is the highest number that we have?

5 MR. ARONWALD: Judge, if we can --

6 MS. GALLEGO: 77 is next.

7 MR. ARONWALD: 77 is fine, your Honor.

8 THE COURT: 77. This is now Exhibit 77 for
9 identification.

10 (Continued on next page)

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1 MR. ARONWALD: I appreciate Mr. Halperin pointing that
2 out.

3 BY MR. ARONWALD:

4 Q. Defendant's Exhibit 77 for identification, is that a
5 document which is kept in the regular and ordinary course of
6 business of the city council?

7 A. Yes.

8 Q. Was it the regular and ordinary course of business of the
9 Yonkers City Council to maintain copies of these types of
10 communications within its files?

11 A. Yes. And in fact there is a section --

12 MR. HALPERIN: Objection. Nonresponsive.

13 THE COURT: Of course you have to read that back
14 because you guys are changing.

15 (Record read)

16 THE COURT: The answer is yes or no.

17 THE WITNESS: Yes.

18 MR. ARONWALD: Your Honor, I offer Defendant's Exhibit
19 77 in evidence at this time.

20 MR. HALPERIN: Objection. Hearsay.

21 THE COURT: It would help, Mr. Aronwald, if when you
22 come up to give a copy to the witness, you gave a copy to me
23 too.

24 MR. ARONWALD: Yes, your Honor. I'm sorry.

25 MR. HALPERIN: It is a letter by a third party.

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1 THE COURT: Did you say something, Mr. Halperin?

2 MR. HALPERIN: I just said it is a letter by a third
3 party. That is the basis of our objection.

4 MR. ARONWALD: I think that the witness has said that
5 the third party --

6 THE COURT: Excuse me.

7 It is not hearsay. The objection is overruled. The
8 fact that it is by a third party does not make it hearsay. Go
9 read the hearsay rule.

10 MR. ARONWALD: Thank you.

11 BY MR. ARONWALD:

12 Q. Do you have a copy of Defendant's Exhibit 77 in front of
13 you?

14 A. Yes.

15 Q. And I am going to mispronounce the name, I am sure, Joan --

16 A. -- Deierlein.

17 Q. D-E-L --

18 A. D-E-I-E-R-L-E-I-N, Deierlein.

19 THE COURT: Deierlein.

20 MR. ARONWALD: That explains why I couldn't pronounce
21 it.

22 Q. Who is she?

23 A. She is the city clerk.

24 Q. And this letter is dated June 19, 2006?

25 A. Yes.

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1 Q. The resolution that you alluded to before that is in
2 evidence was June 16 of '06?

3 A. Yes.

4 Q. Would you read this letter, please, for the members of the
5 jury?

6 A. It is dated June 19, 2006 addressed to Municipal Referrals,
7 Westchester County Department of Planning, the address in White
8 Plains, regarding the proposed zone changes, proposed hearings,
9 Ridge Hill Village.

10 "Dear ladies and gentlemen, attached for your
11 information review are the following certified resolutions with
12 attachments:

13 "1. Resolution 117-2006, a resolution referring a
14 proposed general ordinance amending the zoning code of the City
15 of Yonkers to create a new zoning district to be known and
16 designated as the planned multi-use development, PMD, in the
17 City of Yonkers and other amendments to the zoning code.

18 "2. Resolution number 118-2006, a resolution
19 referring to a proposed general ordinance amending Section
20 43-167C of the zoning code of the City of Yonkers in regard to
21 decision on proposed amendments.

22 "These resolutions were referred by the Yonkers City
23 Council at a special city council meeting held Friday, June 16,
24 2006. Please do not hesitate to contact me if any additional
25 information is needed.

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1 "Very truly yours, Joan C. Deierlein, city clerk,"
2 with copies to the Yonkers planning board.

3 MR. ARONWALD: Your Honor, I think Mr. Siano had to
4 leave. Can we wait until he gets back?

5 THE COURT: Not only can we, we must.

6 MR. ARONWALD: Thank you.

7 MR. HALPERIN: Judge, do you want to take the
8 afternoon break then?

9 THE COURT: No.

10 (Pause)

11 MR. SIANO: Sorry.

12 THE COURT: Mr. Aronwald simply could not continue
13 without your.

14 MR. SIANO: Turn my head.

15 BY MR. ARONWALD:

16 Q. Did there come a time when Ms. Deierlein responded to
17 Defendant Exhibit 77?

18 A. Please ask the question again.

19 Q. Did there come a time when Ms. Deierlein responded?

20 THE COURT: Deierlein -- think of a line of deer.

21 A. Yes.

22 Q. Let me place before you Defendant Exhibit 78 for
23 identification. Do you recognize that document?

24 A. Yes, I do.

25 Q. Tell us what that document is without reading from it.

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1 Just describe what it is.

2 A. This is the response from the Westchester planning board,
3 their decision on the proposed amendment, the zoning text
4 amendment, and it basically says --

5 THE COURT: Not it basically says, what it is.

6 Q. We will get to that in a minute.

7 A. It is the response of the county planning board to our
8 request.

9 Q. Was that a document that was received in the regular and
10 ordinary course of business of the city council?

11 A. Yes.

12 Q. Was it the regular and ordinary course of the city council
13 to maintain copies of these files?

14 A. Yes.

15 MR. ARONWALD: Your Honor, we offer Defense Exhibit 78
16 in evidence.

17 MR. HALPERIN: Objection. Hearsay.

18 THE COURT: Overruled. It is an official document of
19 the County of Westchester.

20 MR. HALPERIN: That doesn't get past the hearsay
21 exception.

22 THE COURT: Well, there is not hearsay in it, for
23 heaven's sake.

24 BY MR. ARONWALD:

25 Q. The document is in evidence. Would you please be good

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1 enough to read it to the jury, please?

2 A. Sure. Dated June 11, 2006, Joan C. Deierlein, City Clerk,
3 City of Yonkers, City Hall, 40 South Broadway, Yonkers, New
4 York, referral file number Y-O-N --

5 THE COURT: Read the text of the letter.

6 A. "The Westchester County Claim Board has received a copy of
7 the proposed text amendment to the zoning code of the City of
8 Yonkers. The proposed amendment would change the voting
9 requirements for the city council with regard to amendments to
10 the text of the city's zoning code which includes text and map.
11 Currently, the zoning code specifies that the vote of a
12 majority plus one is required for the city council to act
13 contrary to a recommendation of the county planning board to
14 modify or disapprove a proposed amendment. The new text would
15 replace majority plus one with a majority. We have reviewed
16 this matter pursuant to the provisions of sections" -- I won't
17 read -- "of the county administrative code and find that there
18 are no county or inter-municipal planning issues of concern to
19 the county planning board. This action is a matter for local
20 determination in accordance with your community's planning and
21 zoning policies.

22 "Thank you for calling this matter to our attention.

23 "Respectfully, the Westchester County Planning Board,
24 by Ed Buroughs, deputy commissioner."

25 Q. So what was the practical effect of this letter in terms of

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1 the super majority requirement?

2 A. It meant that the city council was free, if it chose, to
3 drop the requirement from five to four with a simple vote of
4 four to three.

5 Q. As city council president, what were you going to do if on
6 July 11, 2006, the Ridge Hill proposal had been voted down?

7 MR. HALPERIN: Objection. Hypothetical and relevance.

8 THE COURT: The objection is overruled.

9 A. I had already explained to you that in the resolution that
10 we had passed in June, we actually called for a public meeting
11 on August 11, 2006. And in the email that I read prior, I
12 already explained that we were prepared to drop the requirement
13 from a super majority to a simple majority if we had to, but
14 that was not my preference.

15 Q. Now, directing your attention to July 10, 2006 --

16 MR. ARONWALD: Your Honor, I am going to put before
17 the witness a document that is Defendant's Exhibit 79 for
18 identification. I am going to show the government a copy of
19 it. Unfortunately, I don't have a third copy to hand up to
20 you, but once the government looks at it, we will hand it up to
21 you, Judge.

22 With the Court's permission can I ask the witness some
23 questions from here?

24 THE COURT: Sure.

25 BY MR. ARONWALD:

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- 1 Q. Now, Mr. Lesnick, do you recognize Defense Exhibit 79 for
2 identification?
3 A. Yes. It is an email.
4 Q. Is it an email that you sent?
5 A. Yes.
6 Q. To whom did you send it?
7 A. I sent it to Henry Hocherman, who is the attorney for the
8 developer Frank Rubino who was the corporation counsel and Joan
9 Deierlein, our city clerk, with copies to several people at
10 Forest City Ratner, Richard Pesin, Mr. Berliner, Michael Govan,
11 John Swagerty, and I also copied my chief of staff, Rocky
12 Richard.
13 Q. You say Henry Hocherman was the attorney for the developer.
14 You are referring to Forest City Ratner, correct?
15 A. Yes. And he was the attorney on the zone work, yes.
16 Q. You testified earlier that you had discussions with Mr.
17 Ratner?
18 A. Yes.
19 Q. The mr. Ratner you are referring to was Bruce Ratner?
20 A. Correct.
21 Q. Were you familiar with Bruce Bender or Scott Cantone?
22 A. Yes.
23 Q. In the course of the evolution of this project, did you
24 have discussions or meetings with Mr. Bender and/or
25 Mr. Cantone?

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1 A. Yes.

2 Q. Did you also have meetings with Richard Pesin?

3 A. Yes.

4 Q. And John Swagerty?

5 A. Yes.

6 Q. Did this email relate to the Ridge Hill project resolution
7 that was scheduled on the July 11, 2006 agenda?

8 A. Yes.

9 MR. ARONWALD: Your Honor, I would offer Defendant
10 Exhibit 79 at this time.

11 MR. HALPERIN: Objection. Hearsay. The bottom
12 portion is pure hearsay, and the top portion contains
13 statements from Ms. Annabi which are hearsay.

14 THE COURT: The parenthetical at the top will be
15 redacted and everything else will be submitted -- the second
16 parenthetical, the one that begins "I would have." The first
17 parenthetical will remain in. For the fact that it was
18 transmitted, the lower portion is admissible although hearsay,
19 not offered for the truth of the matter asserted. It is
20 offered to prove that it was sent, therefore, it is admissible.
21 So with that one redaction, that singular redaction of one
22 sentence that is at the end of that one paragraph that is in a
23 parenthetical. It is the second parenthetical to appear in
24 that paragraph and it begins with the words "I would have." It
25 is admitted.

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1 (Defendant Exhibit 79 received in evidence)

2 BY MR. ARONWALD:

3 Q. Mr. Lesnick, would you just read the portion of Defense
4 Exhibit 79 that appears above the red line that I have put
5 through the second parenthetical portion?

6 A. Certainly. It was a memo from me to, again, Mr. Hocherman
7 I am asking a question --

8 THE COURT: What was the date of the document, please?

9 THE WITNESS: Monday, June 10, 2006 at 1:30 p.m.

10 THE COURT: Thank you.

11 Just read the words --

12 Q. June?

13 A. Did I say June?

14 July 10, 2006, 1:30 p.m., and it was regarding
15 resolutions:

16 "Which resolution incorporates the minimum and actual
17 tax payment agreement that @Sean Griffin was working on."

18 The first parenthetical that I am allowed to read
19 says: "10 million per year at full billed out and the 10
20 million that Sandy negotiated for that starts now."

21 Q. Directing your attention to the city council meeting on
22 July 11, 2006, what if anything happened with respect to the
23 Ridge Hill resolution?

24 A. Well, first we had a very long public hearing. It is what
25 we called a committee of the whole which proceeds any council

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1 meeting we have in which any member of the public can speak for
2 up to three minutes on items that are on the agenda.

3 My recollection was that there were a lot of speakers
4 that night, both in favor and against the project. And that
5 portion of the meeting went on for quite a long time.

6 At the conclusion of the committee of the whole, we
7 had a vote and the project passed by a vote of five to two.

8 Q. Was there another item that was on the agenda -- strike
9 that.

10 With respect to the workings of the city council, the
11 city council meets how often?

12 A. The city council meets on the second and fourth Tuesday of
13 the month except for July and August where we don't meet at all
14 unless there is a special meeting scheduled. And in December
15 we only meet the second Tuesday of that month and we don't meet
16 the second Tuesday because it is the holiday season.

17 Q. So the July 11, 2006 city council meeting, that was a
18 special meeting, correct?

19 A. Yes.

20 Q. Was that special council meeting called -- was there any
21 other agenda item on for the July 11, 2006 special council
22 meeting other than Ridge Hill?

23 A. I don't believe so although usually the second item on our
24 call is usually for any other items that arise. Sometimes the
25 council resists when I put that in, but that is generally

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1 there.

2 Q. Do you recall whether or not prior to the actual meeting,
3 the Longfellow issue was also on the original agenda for the
4 special July 11 council meeting?

5 A. I wanted to put it on the agenda for that meeting, but I
6 don't think that I had support from the council to do that so I
7 didn't.

8 Q. Were there any council members in particular that were
9 opposed to putting the Longfellow project on the agenda for
10 that meeting, if you remember?

11 A. I don't remember.

12 Q. Now, if you can, would you describe for us what the
13 significance is of a developer being designated the developer
14 for a specific project?

15 A. It varies from project to project --

16 Q. Let me interrupt you. With respect to the Longfellow
17 project, what would the significance be of Milio Management
18 being designated the developer?

19 A. What typically happens in Yonkers, we have a strong mayor
20 form of government. The administration would issue an RFP or,
21 in any other manner, decide to select a developer to go forward
22 with. But, ultimately, it is the city council who is empowered
23 to transfer land. So even if they selected a developer as a
24 preferred developer it still has to come before the city
25 council to transfer land. And the terms of the deal are

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1 discussed at that point. And that is usually our chance to
2 look at the totality of the project and decide whether we like
3 the particular mix of affordable housing units, the
4 preservation of the building, what it is going to look like,
5 the parking requirements, whatever issues the council members
6 have.

7 MR. HALPERIN: Your Honor, objection as nonresponsive.

8 THE COURT: It is responsive.

9 Q. I'm sorry for the interruption. Do you remember where it
10 was you stopped?

11 A. That was pretty much it. That is the significance. The
12 council has an opportunity to vote on the project, and that's
13 what we were doing. So the developer, as the designated
14 developer, is the only developer that the city is negotiating
15 with at that time. We don't have the power to say oh, we would
16 like a different developer.

17 Q. You used the term "RFP" which means what?

18 A. Request for proposals.

19 Q. And the request for proposals is something that goes out to
20 anybody that is interested in becoming a designated developer,
21 is that it?

22 A. Typically, yes. Sometimes it is preceded by a request for
23 qualifications, RFQ, and then only the developers that qualify
24 get the RFP, but I don't believe that was the case in this.

25 Q. Aside from the fact that only the person that is designated

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1 the developer gets to put forth a proposal, is it custom and
2 practice within the city council that the person who is
3 designated the developer ultimately will become the developer,
4 assuming his proposal meets the requirements?

5 A. Generally, yes.

6 Q. During the time that you were president of the Yonkers City
7 Council, in terms of the Longfellow resolution, who did you
8 understand to be the attorneys representing Milio Management?

9 A. Al DelBello.

10 Q. Do you recall any other attorney other than Mr. DelBello
11 appearing before either the city council or its real estate
12 committee meetings with respect to Longfellow?

13 A. It is possible that a member of his firm may have gone, but
14 there was a long period of time but I think it was principally
15 Mr. DelBello.

16 Q. By the way, in the course of the evolution of the
17 Longfellow project, did you have occasion to interact or meet
18 with Mr. DelBello concerning the Longfellow project?

19 A. Yes.

20 Q. On more than one occasion?

21 A. Yes.

22 Q. Do you recall on approximately how many occasions?

23 A. Well, Mr. DelBello had a number of developers that he
24 represented before the Yonkers City Council, so sometimes he
25 would talk to us about various projects at the same time.

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1 Specifically, I remember requesting a field trip that
2 Mr. DelBello arranged with the Milio developers and members of
3 the community. And because it was potentially more than four
4 council members to comply with open meetings law, we let people
5 know that we were having the meeting because we looked at both
6 School 6 and the Longfellow School. Really, the objective was
7 to look at the landmark features of those buildings and
8 determine how much of it we could preserve.

9 Q. Do you recall attending a meeting concerning the Longfellow
10 project at the Trinity orthodox church?

11 A. I have attended meetings in that church on that project,
12 yes.

13 Q. Do you recall whether any attorney other than Mr. DelBello
14 appeared at those meetings?

15 A. I don't remember.

16 Q. During the period of time that you served on the city
17 council together with Ms. Annabi, how would you characterize
18 your interaction with her?

19 MR. HALPERIN: Objection.

20 THE COURT: The objection is sustained.

21 MR. ARONWALD: Mr. Lesnick, thank you very much.

22 I have no further questions, your Honor.

23 MR. HALPERIN: Does the Court want to take a break or
24 does the Court want me to proceed now?

25 THE COURT: Let's take a five-minute break.

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1 Don't discuss the case. Keep an open mind.

2 (Recess)

3 THE COURT: Sir, you are still under oath.

4 Mr. Halperin.

5 MR. HALPERIN: Thank you, your Honor.

6 CROSS-EXAMINATION

7 BY MR. HALPERIN:

8 Q. Good afternoon, Mr. Lesnick.

9 A. Good afternoon, Mr. Halperin.

10 Q. We have met before, haven't we, sir?

11 A. Yes.

12 Q. As counsel asked, you testified in grand jury during this
13 investigation, correct?

14 A. Yes.

15 Q. And that was on or about July 29, 2008?

16 A. Yes.

17 Q. Now, on direct you testified that you ran for council on an
18 ethics platform. Do you recall that?

19 A. Yes.

20 Q. What did that ethics platform include?

21 A. The City of Yonkers has an ethics code which I supported.

22 I was also in favor of open and transparent government, so
23 whenever possible, I televise council meetings and I try to
24 broadcast the schedule and my thinking behind the schedule in
25 advance.

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C3EUANN5 Lesnick - cross

1 Q. And you believe that government officials should act openly
2 and transparently, correct?

3 A. Yes.

4 Q. And that they should act ethically, correct?

5 A. Yes.

6 Q. Mr. Lesnick, as a member of the Yonkers City Council, you
7 fill out annual financial disclosure forms?

8 A. Yes.

9 Q. Generally, what is the purpose of requiring city council
10 members to fill out these forms?

11 MR. ARONWALD: Your Honor, beyond the scope of direct.

12 MR. HALPERIN: He testified he ran on an ethics
13 platform, your Honor.

14 MR. ARONWALD: He didn't. He wasn't asked any
15 questions about an ethics platform.

16 THE COURT: I happen to agree that it is beyond the
17 scope.

18 MR. HALPERIN: Your Honor, in that case we would ask
19 that the witness be instructed that the government may call him
20 as a rebuttal witness.

21 THE COURT: You can do what you want. Serve him with
22 a subpoena on the way out of court.

23 MR. HALPERIN: Thank you.

24 THE COURT: And I will say this, Mr. Halperin, while
25 the witness did indeed volunteer that fact, that wasn't the

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1 question that Mr. Aronwald asked.

2 BY MR. HALPERIN:

3 Q. Mr. Lesnick, as part of the transparent and open government
4 that you ran on, that platform that you ran on, what types of
5 things did that entail?

6 A. Like I said, one of them was televising the meetings. And
7 the other was to change the city council rules that the
8 committee of the whole, which in the past had just preceded
9 regular council meetings, also preceded special council meeting
10 so that meeting of July 11, 2006, a special meeting, would not
11 have in the past required a committee of the whole if we had
12 one.

13 Q. As part of your platform of open and transparent
14 government, do council members have a duty to avoid possible
15 conflicts of interest?

16 A. Yes.

17 Q. Should a council member err on the side of disclosure when
18 they have a possible conflict of interest?

19 A. Yes.

20 MR. ARONWALD: Objection. Beyond the scope.

21 MR. HALPERIN: Again, Judge, relates to his ethics
22 platform.

23 THE COURT: Again, Mr. Aronwald did not ask any
24 questions, not a single question -- I remember this vividly --
25 about any ethics platform, Mr. Halperin. He did not ask any

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1 questions. The witness did volunteer in a nonresponsive manner
2 that he had run on an ethics platform. That does not, that
3 does not mean that Mr. Aronwald is stuck with that as part of
4 what he asked. So it is beyond the scope of the direct. It is
5 beyond the scope of the direct. And it is not entirely clear
6 that it is proper rebuttal because it is beyond the scope of
7 the direct.

8 MR. HALPERIN: Judge, I will move on.

9 THE COURT: Good, because I have now ruled twice.

10 BY MR. HALPERIN:

11 Q. Mr. Lesnick, counsel asked if you knew where Ms. Annabi
12 lived. Do you recall those questions?

13 A. Yes.

14 Q. You said that you knew that Ms. Annabi lived at Rumsey Road
15 as some point, in part because that's what was written on her
16 petitions, is that correct?

17 A. Yes.

18 Q. You said that you called her once and you went over to her
19 apartment and she was wearing a bathrobe one day. That was
20 another reason, correct?

21 A. Evening, yes.

22 Q. You said you had one to two caucus meetings there?

23 A. Yes.

24 Q. Those times would have been once you took office in January
25 2006, right?

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Lesnick - cross

1 A. Correct.

2 Q. Because you wouldn't have had caucus meetings before your
3 time on the city council in 2003, correct?

4 A. Correct.

5 Q. Or 2004?

6 A. Correct.

7 Q. Or 2005?

8 A. Correct.

9 Q. So in 2004, 2005, you would have no way of knowing where
10 Ms. Annabi lived?

11 A. Only from the petitions.

12 Q. Thank you.

13 Now, let me direct your attention to July 11, 2006.
14 On that day the city council approved the zoning change for
15 Ridge Hill five to two, correct?

16 A. Correct.

17 Q. At the time of that vote, the super majority requirement
18 was still in effect, correct?

19 A. Yes.

20 Q. And counsel showed you your press release where you said
21 you didn't want to change the rules in the middle of the game,
22 correct?

23 A. Correct.

24 Q. So despite the fact that there was some talk about possibly
25 changing the super majority requirement in the future, as of

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1 July 11, 2006, five votes were still required to pass the Ridge
2 Hill project, correct?

3 A. Correct.

4 Q. Now, at the time of the vote on July 11, 2006, you did not
5 know that Zehy Jereis had been giving money and benefits to
6 Sandy Annabi, correct?

7 A. Correct.

8 Q. And you had no idea that he had helped her buy real estate,
9 correct?

10 A. Correct.

11 Q. You had no idea that Mr. Jereis had paid her mortgage bill
12 many times, correct?

13 A. Correct.

14 Q. You had no idea that he had paid the expenses for her
15 Rumsey Road apartment?

16 A. Correct.

17 Q. You had no idea at the time of the vote that Jereis had
18 already given Annabi tens of thousands of dollars of benefits,
19 correct?

20 A. Correct.

21 Q. And, Mr. Lesnick, at the time of the vote on July 11, 2006,
22 you had no idea about any business relationship between Zehy
23 Jereis and Forest City Ratner, correct?

24 A. Correct.

25 Q. And you had no idea that Jereis had asked Forest City

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1 Ratner for a consulting contract for himself before that vote,
2 correct?

3 A. Correct.

4 Q. Ms. Annabi never told you that she met with Jereis and the
5 developer on June 9, 2006, correct -- that she met with Forest
6 City Ratner on June 9, 2006, correct?

7 A. I don't ever remember hearing that she and Mr. Jereis met
8 with the developer. It would have been consistent if she had
9 met with the developer at any time.

10 Q. You had no idea that at the end of the June 9, 2006
11 meeting, Mr. Jereis asked Forest City Ratner for a job,
12 correct?

13 A. Correct.

14 Q. And you would agree that these are facts that you, as the
15 council president, would have wanted to know, correct?

16 A. Correct.

17 Q. And that your other council colleagues would have wanted to
18 know as well, correct?

19 MR. ARONWALD: Objection to that, your Honor.

20 THE COURT: Objection sustained.

21 Q. Now, in 2005, Mr. Jereis was a Republican chairman in
22 Yonkers, correct?

23 A. Yes.

24 MR. ARONWALD: Beyond the scope of direct. I didn't
25 ask a single question about Mr. Jereis.

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1 MR. HALPERIN: Your Honor, Mr. Aronwald asked about
2 the \$10 million which was ostensibly the reason --

3 MR. ARONWALD: I did not ask a question --

4 THE COURT: I did not, I did, I did not, I did. Isn't
5 this amazing?

6 I will listen to a few questions. This particular
7 question is particularly inoffensive since I think about 85
8 witnesses have so testified.

9 I may cut you off, Mr. Halperin.

10 MR. HALPERIN: Fair enough. I am duly warned.

11 BY MR. HALPERIN:

12 Q. In 2005, Mr. Jereis was the Republic party chairman in
13 Yonkers, correct.

14 A. Yes.

15 Q. In late 2005 after you were elected as council president,
16 Mr. Jereis called you and asked you to support Sandy Annabi's
17 election as a majority --

18 THE COURT: The objection is sustained.

19 Q. Mr. Lesnick, at one point you had a conversation with Sandy
20 Annabi about whether she had ever gotten any financial benefits
21 from Mr. Jereis, correct?

22 A. I don't recall. I may have.

23 Q. I am going to show you now your grand jury testimony, and I
24 will ask you about page 40.

25 Mr. Lesnick, when you testified in the grand jury you

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1 were under oath obviously, right?

2 A. Yes.

3 Q. As far as you recall, you testified as truthfully as you
4 could, correct?

5 A. Yes.

6 Q. Now, in your grand jury testimony on page 4, do you recall
7 being asked: "Has Annabi ever told you" --

8 MR. ARONWALD: Beyond the scope, your Honor.

9 MR. HALPERIN: Again, goes to the benefits and goes to
10 her reason for changing her vote, your Honor.

11 MR. ARONWALD: Your Honor, beyond the scope.

12 BY MR. HALPERIN:

13 Q. Mr. Lesnick, do you recall being asked --

14 THE COURT: Excuse me. Honestly, Mr. Halperin.

15 MR. HALPERIN: Your Honor, I did not realize the Court
16 had not made a ruling.

17 THE COURT: Really? Did you hear me say anything?

18 Have I ever spoken softly in your presence?

19 MR. HALPERIN: No comment, your Honor.

20 Your Honor, it is line 9 through 14 on page 40.

21 THE COURT: Yes, I see. That would be quite a bit
22 that I think would have to be in under the rule of completeness
23 from the preceding page, the following page.

24 MR. SIANO: Thank you, Judge.

25 MR. HALPERIN: That's fine. We have no objection.

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1 THE COURT: Swell. Then you go right ahead.

2 MR. HALPERIN: Thank you, your Honor.

3 BY MR. HALPERIN:

4 Q. Do you recall being asked, "Has Annabi ever told you she
5 ever got any financial benefits from Jereis or anyone else
6 seeking to do business with the city of Yonkers, and your
7 answering "quite the contrary, she told me she hasn't gotten
8 anything from anybody." Do you recall that?

9 A. Yes.

10 Q. And, Mr. Lesnick, Zehy Jereis never made any payments to
11 you for personal items, correct?

12 A. Correct.

13 Q. He never paid your mortgage, correct?

14 A. No.

15 Q. Never paid your student loans?

16 A. Correct.

17 Q. Never paid \$10,000 towards a down payment on a Mercedes for
18 you, correct?

19 A. No.

20 MR. HALPERIN: Nothing further, your Honor.

21 REDIRECT EXAMINATION

22 BY MR. ARONWALD:

23 Q. Mr. Lesnick, do you still have your grand jury testimony in
24 front of you?

25 A. I never had it.

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1 THE COURT: Nor should you, sir.
2 Q. I'm sorry. I thought Mr. Halperin had given you a copy.
3 Let me give you a copy and direct your attention to
4 page 38, line 4.
5 MR. HALPERIN: What page?
6 MR. ARONWALD: Page 38, line 4.
7 THE COURT: I must say, Mr. Aronwald, that wasn't
8 within my contemplation of the rule of completeness. I was
9 thinking more of page 39, line 7, up to the question that Mr.
10 Halperin asked.
11 MR. HALPERIN: Which was page 40, line 9.
12 THE COURT: That was more of what I was looking at
13 when I was thinking --
14 MR. ARONWALD: Your Honor, I will follow your lead.
15 THE COURT: Not lead, just what I would be inclined to
16 rule.
17 MR. ARONWALD: I'm sorry.
18 BY MR. ARONWALD:
19 Q. Beginning at page 39, line 7, do you recall being asked
20 these questions and giving these answers:
21 "Q Have you ever had any conversations with Sandy Annabi
22 about any conflicts with Jereis?
23 "A Could you specify?
24 "Q Conflicts of interest with Jereis. Did you ever talk to
25 her about anything like that?

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Lesnick - redirect

1 "A No.

2 "Q Did" -- the word you is missing -- "ever talk to Annabi
3 about how Jereis would ask her how she was going to vote?

4 "A Yes, yes.

5 "Q So tell us about that.

6 "A Well, Sandy had actually said to me once that people think
7 that Zehy Jereis controls her vote but in reality, she said,
8 they would ask her, he would ask her, how she was going to vote
9 and she would tell him and then he would boast to her friends,
10 his friends, 'you watch, you see how Sandy votes on this, you
11 know, that's because we talk.' And she was annoyed with that
12 because she felt that he was using that relationship to imply
13 that he had more power with her than he actually did."14 Do you recall being asked those questions and giving
15 those answers immediately prior to the question and answer that
16 Mr. Halperin asked you about?

17 A. Yes.

18 MR. ARONWALD: Your Honor, subject to having not seen
19 the grand jury testimony before, I have no further questions of
20 the witness.

21 THE COURT: I don't understand what that means.

22 MR. ARONWALD: I would like an opportunity to review
23 it to see whether there is anything else that is within the
24 rule of completeness but I can't say that there is or isn't
25 because I haven't read it.

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Lesnick - redirect

1 THE COURT: I will tell you that it would be within
2 the rule of completeness in my courtroom, it would be
3 immediately prior to or immediately following the question.
4 And I think you can probably review what is immediately
5 following the question in about a minute.
6 MR. ARONWALD: Could I just have a moment, your Honor?
7 I have no further questions, your Honor.
8 THE COURT: Anything further from this witness?
9 MR. HALPERIN: No, your Honor.
10 THE COURT: Thank you very much, Mr. Lesnick.
11 (Witness excused)
12 THE COURT: The next witness, Mr. Aronwald.
13 MS. GALLEGO: Your Honor, I will get the next witness.
14 THE COURT: We have just heard from Ms. Gallego. I am
15 always glad to hear from the women lawyers.
16 MR. SIANO: Judge, can we approach on a flow issue?
17 THE COURT: You want to call a witness out of order,
18 Mr. Siano?
19 MR. SIANO: We want to call a witness out of sequence
20 with regard to the defendants in order that the day continue to
21 be productive.
22 THE COURT: Mr. Siano, I am with you. Do it.
23 MR. SIANO: Thank you, your Honor.
24 MR. CARBONE: Judge, we would like to talk about that.
25 THE COURT: You want to talk about having the rest of

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Lesnick - redirect

1 (At the sidebar)

2 MR. ARONWALD: I had intended to call Agent Mazzuca or
3 Agent Karaka. I am trying to locate the information that I
4 forwarded to Mr. Halperin and Mr. Carbone. Also, I need to
5 know which witness to call because some of the documents were
6 handwritten, and I don't know whether it is Mazzuca's
7 handwriting or Karaka's handwriting.

8 So If Mr. Siano calls a witness out of sequence, I can
9 locate the documents and then speak to the government about
10 which of the witnesses I could call. Certainly the
11 handwritten --

12 THE COURT: Yes, Mr. Carbone.

13 MR. CARBONE: Judge, Agent Karaka is here and is
14 available. At least one the statements Mr. Aronwald seeks to
15 question her about is the handwriting.

16 And the other objection is as to the summary witness
17 who I think is the witness --

18 MR. SIANO: No. It is Hoffman.

19 MR. HALPERIN: Judge, we are not prepared for the
20 cross-examination of Hoffman because we had planned for Mr.
21 Aronwald's witnesses to take a day and a half. And Mr. Hoffman
22 was not even on the witness that Mr. Siano gave two days ago.

23 MR. SIANO: That is not who --

24 MS. GALLEGO: He is with Forest City Ratner --

25 MR. HALPERIN: They gave an order this morning which

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1 included Karaka and Mazzuca.

2 THE COURT: I can't be unfair to the government. As
3 much as I am trying to be overly fair to you, I can't be unfair
4 to the government.

5 MR. SIANO: We only offered a witness so that Mr.
6 Aronwald could have time to work out the logistics.

7 THE COURT: The government doesn't want to. Let's put
8 Agent Karaka on the stand.

9 MR. ARONWALD: I am only calling Agent Karaka
10 concerning the prior inconsistent statement.

11 THE COURT: I understand.

12 MR. ARONWALD: I don't have the material with me.

13 MR. CARBONE: I have what you sent me.

14 THE COURT: The file room is back there.

15 MR. ARONWALD: I am going to go and look for it,

16 Judge.

17 THE COURT: Go look for it.

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19 (Continued on next page)

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C3EUANN5

Lesnick - redirect

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(In open court)

THE COURT: Mr. Aronwald needs to go back to the file room and get something.

MR. ARONWALD: Could I just have a moment to confer with government counsel?

(Discussion off the record between counsel)

MR. ARONWALD: Your Honor, one moment.

(Continued on next page)

C3eQann6

1 ROSEMARY KARAKA,
2 called as a witness by the Defendant Annabi,
3 having been previously duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. ARONWALD:

6 THE COURT: Ladies and gentlemen, a familiar face,
7 Agent Karaka, you are still under oath.

8 MR. ARONWALD: Does the government have a copy of
9 3520-D that they can provide the witness? I only have the one
10 copy.

11 MR. HALPERIN: We only have one copy as well. Let me
12 check.

13 MR. ARONWALD: With the Court's permission, I'll
14 approach the witness.

15 THE COURT: Sure.

16 MR. HALPERIN: Mr. Aronwald, we may have a copy.

17 MR. ARONWALD: I have a copy, thank you.

18 Q. Ms. Karaka, I believe the last time you were here, you
19 testified that during the period of time that you were a
20 special agent with the Federal Bureau of Investigation, you
21 were working on the Ridge Hill or city council investigation,
22 correct?

23 A. We were working on the investigation concerning Sandy
24 Annabi, yes.

25 Q. Well, that investigation concerning Sandy Annabi

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C3eQann6 Karaka - Direct

1 specifically related to Longfellow and Ridge Hill, didn't it?

2 A. Yes, it did later on, but --

3 Q. Thank you. Now, in the course of your investigation, did
4 you interview various individuals including Franco Milio?

5 A. Yes, I did.

6 Q. When you interviewed Franco Milio, did you take notes of
7 what Mr. Milio said?

8 A. Yes, I did.

9 Q. Looking at 3520-D, do you recognize that document?

10 A. Yes, I do.

11 Q. What do you recognize that document to be?

12 A. They're notes from March 12, 2008 of Franco Milio'S
13 interview.

14 Q. The notes do not reflect whether anyone other than yourself
15 was present during the interview, does it?

16 A. Not on these notes.

17 Q. Do you recall who else was present during that interview?

18 A. Do you have a copy of the 302 that went along with this so
19 that I can refresh my memory?

20 Q. Looking at 3520-D, those are your handwritten notes, do
21 your notes reflect who else was present during your interview
22 of Franco Milio?

23 A. Well, it states that it was under a proffer agreement when
24 we were interviewing him, so I would -- I believe that besides
25 AUSA Perry Carbone, whose name is here, his defense attorney

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C3eQann6 Karaka - Direct

1 was also present during the interview, I was there and there
2 may have been other individuals.

3 Q. Was it your practice when you took notes at an interview to
4 be as precise and accurate as possible in putting down what the
5 subject of the interview told you?

6 A. I try to, yes.

7 Q. Directing your attention to page 6 of the notes.

8 A. What does it start out with on that just so we're on the
9 same page?

10 Q. The bottom of the page, the last paragraph, to the left it
11 says "to Mangone."

12 A. Yes.

13 Q. OK? Did Anthony Mangone -- did Franco Milio, rather, tell
14 you on March 12, 2008 that he asked Anthony Mangone "what the
15 fuck does it take to get this woman on board? Does she need
16 something?"

17 A. That's not in quotes.

18 Q. No, I'm quoting from the document.

19 A. Oh, OK. Well, the defendant --

20 THE COURT: Ma'am, I want you to listen very carefully
21 to Mr. Aronwald's questions. I'm making a guess. I'm going to
22 guess that he's not going to ask you a single question that
23 can't be answered yes or no. Answer it yes or no.

24 A. OK. Can you repeat that, please?

25 Q. Sure. Did Franco Milio tell you that he had asked Anthony

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C3eQann6 Karaka - Direct

1 Mangone, "What the fuck does it take to get this woman on
2 board? Does she need something?"

3 A. According to my notes, yes.

4 Q. If Mr. Siano would give me a copy of 3520-B.

5 Ms. Karaka, do you recall if the notes that you made
6 of the March 12, 2008 interview of Mr. Milio, were those notes
7 prepared as the interview was going on?

8 A. I believe so, yes.

9 Q. When you say that according to your notes, that is what
10 Mr. Milio said he asked Mr. Mangone, is it your recollection
11 that you wrote that because that's what Mr. Milio said?

12 A. Yes, I believe so.

13 Q. Now, subsequently you prepared -- did you subsequently
14 prepare a formal FBI Form 302 concerning that interview?

15 A. Yes, I would have.

16 Q. Well, let me show the witness 3520-B and ask you to look at
17 that, and tell me, if you would, whether or not you prepared
18 that 302?

19 A. I prepared it and also Special Agent Michael Mazzuca, we
20 worked on this together, yes.

21 Q. Was Special Agent Mazzuca present when you interviewed
22 Mr. Milio on March 12 of 2008?

23 A. I'm just -- I'm just trying to refresh my memory by
24 reviewing the --

25 Q. If you look at the first paragraph, the second sentence, if

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C3eQann6 Karaka - Direct

- 1 you read that to yourself, does that refresh your recollection
2 as to whether Special Agent Mazzuca was present during the
3 March 12, 2008 interview?
4 A. No, he was not. Wait. On March 12, yes, and March 19,
5 2008, he was interviewed by me and Mr. Mazzuca.
6 Q. Perhaps you misspoke. Is its March 19 or May 19?
7 A. I'm sorry, May 19, 2008.
8 Q. At the bottom of the first page of the 302, do you see your
9 initials above your name?
10 A. Yes.
11 Q. And are you familiar with Agent Mazzuca's handwriting?
12 A. Somewhat. I mean --
13 Q. Well, do you recognize the initials next to Agent Mazzuca's
14 name as having been written by Agent Mazzuca and not someone
15 else?
16 A. Yes.
17 Q. Now, in the course of preparing the FBI 302, would you just
18 explain to the jury which portions of this you prepared, which
19 portions of it Agent Mazzuca prepared, if you know?
20 A. Well, I mean, I don't specifically know as far as anything
21 that had to do with the July 17, 2008. When Mr. Mazzuca wasn't
22 present, that would have been myself writing those parts.
23 MR. ARONWALD: I just need a moment, your Honor.
24 (Pause)
25 Q. As far as you know, according to your notes, Mr. Carbone

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C3eQann6 Karaka - Direct
1 was present during the March 12, 2008 interview?

2 A. Yes.

3 MR. ARONWALD: Your Honor, I have no further questions
4 of Ms. Karaka.

5 MR. HALPERIN: Very briefly, your Honor.

6 THE COURT: Certainly, Mr. Halperin.

7 CROSS-EXAMINATION

8 BY MR. HALPERIN:

9 Q. Good afternoon, Ms. Karaka.

10 A. Good afternoon.

11 Q. When you conduct an interview and write an FBI 302 report,
12 is that a verbatim report or a summary of the witness'
13 statement?

14 A. It's a summary.

15 Q. Does the FBI generally tape-record these interviews?

16 A. No.

17 Q. What's the FBI policy on tape-recording interviews of
18 witnesses?

19 A. Well, I believe we do not tape-record interviews with
20 witnesses.

21 Q. I will ask you to refer to I think you have in front of you
22 3520-D. Turn to that same page 6 that Mr. Aronwald asked you
23 to review. Look at the bottom of the page. Do you see that
24 there, Ms. Karaka?

25 A. Yes.

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C3eQann6

Karaka - Cross

1 Q. Mr. Aronwald asked you about the statement by Mr. Milio:
2 What the fuck does it take to get this woman on board? Does
3 she need something? What do you recall the context of that
4 statement being?
5 A. I think he was just sort of stating --
6 MR. ARONWALD: Your Honor, objection to what she
7 thinks.
8 THE COURT: The objection is sustained. (A) That
9 wouldn't be responsive; and (B) she can't get inside his head.
10 MR. HALPERIN: I'll withdraw that question.
11 Q. Ms. Karaka, above that line, what is written right above
12 that line?
13 A. Felt like the bribe was expected.
14 Q. Mr. Milio said he felt like the bribe was expected?
15 A. Yes.
16 MR. HALPERIN: Nothing further, your Honor.
17 MR. ARONWALD: Nothing further.
18 THE COURT: Thank you, agent.
19 (Witness excused)
20 THE COURT: Do we have time to do Agent Mazzuca too?
21 MR. ARONWALD: I believe we do, your Honor.
22 THE COURT: You know what? (Indicating) I can't take
23 any more.
24 MR. ARONWALD: It wasn't anything I said, was it,
25 Judge?

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C3eQann6

Karaka - Cross

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THE COURT: Never. Never. OK. I will see you in the morning 9:30. We will continue with the defense case. Don't discuss this case. Keep an open mind.

(Jury recessed)
(Continued on next page)

C3eQann6

Karaka - Cross

1 (Jury not present)

2 MR. HALPERIN: Your Honor, very briefly.

3 THE COURT: Everybody sit down.

4 Who wants to go first?

5 MR. HALPERIN: Just logistically, can we please have
6 the rest of the order of Mr. Aronwald's case and can we be
7 informed by Mr. Siano as to which witnesses that is on his list
8 of witnesses?

9 THE COURT: I should have gone first myself.

10 Mr. Aronwald, how much more do you have besides Agent
11 Mazzuca?

12 MR. ARONWALD: Your Honor, as of this moment, I
13 believe I will rest after Agent Mazzuca.

14 THE COURT: OK. So the two days which was a day and a
15 half has basically turned into a day.

16 MR. ARONWALD: It's even less than a day now.

17 THE COURT: That's great.

18 OK. Now, Mr. Siano.

19 MR. SIANO: Pursuant to your Honor's guidance that I
20 would not go until Thursday afternoon, I brought two witnesses
21 today on Wednesday.

22 THE COURT: You know me, Mr. Siano.

23 MR. SIANO: I know life, Judge, and I certainly do not
24 want to be the cause of any raised voices other than the ones I
25 earned.

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C3eQann6

Karaka - Cross

1 I have two witnesses here, Mr. Hoffman, and I have
2 Mr. Darcy. That is who I have here today. The other two
3 witnesses I've identified on my list I didn't bring today
4 thinking that bringing all four witnesses would be more of an
5 imposition on innocent bystanders than I care to provoke. On
6 my list I have two people here.

7 THE COURT: They will all be here tomorrow.

8 MR. SIANO: The good Lord willing, Judge, they will
9 all be here tomorrow.

10 THE COURT: Be ready, Mr. Halperin.

11 MR. HALPERIN: We will, your Honor.

12 I just want to note I am not seeking to impose on the
13 Court's time now because I know you have another matter, but we
14 do have objections we filed both letters both this morning and
15 on Sunday as to those two witnesses, Mr. Lunney and
16 Mr. Montero..

17 THE COURT: The first thing in the morning we will get
18 those resolved.

19 MR. HALPERIN: Thank you.

20 MR. ARONWALD: Your Honor, I don't know whether it's
21 too premature, but does the government anticipate a rebuttal
22 case at this point?

23 MR. HALPERIN: We may have a couple of brief
24 witnesses.

25 THE COURT: Have them here tomorrow.

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C3eQann6

Karaka - Cross

1 MR. HALPERIN: We will. We will.

2 THE COURT: OK. I will at some point tomorrow have a
3 revised charge out for you. The answer to your question when
4 are we having a charge conference. We're having a charge
5 conference on Friday. When on Friday? I have conferences on
6 Friday, but they're coming off at a rapid clip. Nobody seems
7 to be ready to talk about the cases they filed three months
8 ago. So what looks good?

9 MR. HALPERIN: Judge, if there is any way to ask
10 without imposing on the Court -- I think the Court just said
11 it's leaving at 3:00 -- can we ask for something early in the
12 morning or what works for the Court?

13 THE COURT: We don't know what's come off yet? I've
14 got 15 letters. People don't want to come in.

15 Hang on a second.

16 (Pause)

17 THE COURT: As far as I'm concerned, you can be here
18 at 9:30. Just be here at 9:30.

19 MR. HALPERIN: We will, your Honor.

20 THE COURT: OK.

21 MR. HALPERIN: Thank you, your Honor.

22 THE COURT: OK.

23 MR. SIANO: Tomorrow 9:30 and Friday at 9:30.

24 Your Honor, while at the sidebar, may I inquire
25 whether the government has a problem with the defendants taking

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C3eQann6

Karaka - Cross

1 things out of order tomorrow? They seemed to be a little --

2 THE COURT: I don't know how you could take anything
3 out of order. Mr. Aronwald has Agent Mazzuca.

4 MR. ARONWALD: I think he means --

5 MR. SIANO: If I had scheduling issues.

6 THE COURT: I don't care what order you call your
7 witnesses in. They have to come in here tomorrow morning ready
8 to cross-examine them all.

9 MR. HALPERIN: We have no objection, Judge.

10 MR. SIANO: Thank you.

11 MR. ARONWALD: Your Honor, with respect to any
12 potential rebuttal case, we would obviously ask for an offer of
13 proof or proffer so your Honor could determine whether it is
14 properly in rebuttal.

15 THE COURT: Tomorrow morning.

16 MR. ARONWALD: Yes, your Honor. Thank you.

17 I hope you feel better, Judge.

18 THE COURT: Me too.

19 One of the jurors told Ben -- we have a very observant
20 juror -- Mr. Lesnick may have walked out with a copy of his
21 grand jury testimony?

22 MR. ARONWALD: I'm not aware of it, Judge, but I
23 will --

24 THE COURT: I wasn't watching what he walked out with.

25 MR. ARONWALD: I didn't see him walk out.

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C3eQann6

Karaka - Cross

1 MR. HALPERIN: We'll contact his counsel, I guess.

2 MR SIANO: Very attentive jurors.

3 THE COURT: After four weeks, it's amazing.

4 (Trial recessed to Thursday March 15, 2012 at

5 9:30 a.m.)

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DEFENDANT EXHIBITS

Exhibit No.	Received
762734
76A2736
722761
742786
752788
25 through 302817
732832
792849

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C3fQann1 Trial
1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

2
3 UNITED STATES OF AMERICA,

3
4 v.

10 CR 007 (CM)

4
5 SANDY ANNABI and ZEHY JEREIS,

5
6 Defendants.

6
7 -----x

7
8 New York, N.Y.
8 March 15, 2012
9 9:30 a.m.
9

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11 Before:

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12 HON. COLLEEN MCMAHON

13
13 District Judge

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14
15 APPEARANCES

15
16 PREET BHARARA
16 United States Attorney for the
17 Southern District of New York
17 JASON P.W. HALPERIN
18 PERRY A. CARBONE
18 Assistant United States Attorneys

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19 WILLIAM I. ARONWALD
20 Attorney for Defendant ANNABI

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21 ANTHONY J. SIANO
21 JEANNIE GALLEGO
22 Attorneys for Defendant JEREIS

23
24
25 SOUTHERN DISTRICT REPORTERS, P.C.
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C3fQann1 Trial

1 (In open court; jury not present)

2 THE DEPUTY CLERK: Case on trial continued. The
3 government and defendants are present. The jury is not
4 present.

5 THE COURT: Good morning. How is everyone this
6 morning?

7 MR. HALPERIN: Good. How is the Court feeling?
8 Medium. Better than yesterday.

9 THE COURT: At the moment it's better than yesterday,
10 that's true.

11 OK. Have a seat. So, are we ready for Special Agent
12 Mazzuca?

13 MR. ARONWALD: What we are going to do is Mr. Siano
14 will handle the prior inconsistent statements. We are going to
15 rest.

16 THE COURT: Well, you can do that in front of the
17 jury.

18 MR. ARONWALD: Yes, I will.

19 THE COURT: So, Mr. Siano, we are ready to go?

20 MR SIANO: (Indicating) Yes, Judge. Excuse me,
21 Judge.

22 THE COURT: As I tell witnesses so frequently, the
23 court reporter must be able to take it down.

24 MR SIANO: Well, also I should be standing when I'm
25 nodding, Judge. Yes.

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C3fQann1 Trial

1 THE COURT: In that case, let's bring in the jury.

2 MS. GALLEGO: Your Honor, thank you for your kind
3 words yesterday.

4 THE COURT: I'm looking forward to hearing more from
5 you Ms. Gallego. Surely, he's given you three witnesses.

6 MR SIANO: Excuse me, your Honor? What was the
7 number?

8 THE COURT: I was just interested in promoting the
9 careers of young women lawyers, Mr. Siano. It's a passion of
10 mine.

11 (Continued on next page)

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C3fQann1 Trial

1 (Jury present)

2 THE COURT: All right. Mr. Aronwald, what next?

3 MR. ARONWALD: Your Honor, the defense rests.

4 THE COURT: Ms. Annabi has presented the evidence that
5 she wishes for you to consider. Remember, she assumes no
6 burden of proof by presenting any evidence at all.

7 Mr. Siano, does Mr. Jereis wish to put on a case?

8 MR SIANO: Yes, your Honor. Defense calls Zehy
9 Jereis.

10 ZEHY JEREIS,

11 called as a witness by the Defendant,
12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. SIANO:

15 THE COURT: You know the drill by now, Mr. Jereis.

16 THE DEPUTY CLERK: Please state and spell your name
17 for the record.

18 THE WITNESS: Zehy Jereis. Z-E-H-Y. Last name
19 Jereis, J-E-R-E-I-S.

20 THE COURT: Have a seat, sir. You have seen adjust
21 and fiddle with that microphone enough that I think you know
22 how to deal with it.

23 Mr. Siano, you may inquire.

24 MR SIANO: Thank you, your Honor.

25 Q. Mr. Jereis, are you the defendant in this case?

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C3fQann1 Jereis - Direct

- 1 A. Yes.
2 Q. Mr. Jereis, what city do you live in?
3 A. Yonkers.
4 Q. Sir, how old are you today?
5 A. 40 years old.
6 Q. When were you born?
7 A. 1971.
8 Q. Where were you born?
9 A. Yonkers.
10 Q. Where were your parents born?
11 A. In Jordan.
12 Q. When did they come to the United States?
13 A. 1967.
14 Q. Describe the village from which they came.
15 A. They lived in a tiny, small village about an hour from the
16 capital. It's a predominantly Christian village called
17 Erimemin.
18 Q. Why did they come to the United States?
19 A. For economic and religious freedoms.
20 Q. Now, do you have siblings, sir?
21 A. Yes.
22 Q. How many of them were born in Jordan?
23 A. Four sisters and one brother.
24 Q. Any of your siblings born in the United States?
25 A. Yes. One sister.

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C3fQann1 Jereis - Direct

- 1 Q. Thank you, sir. Did you go to high school?
2 A. Yes.
3 Q. Where?
4 A. One year in Yonkers High School and the remainder of the
5 three years in Saunders High School.
6 Q. What occasioned the change?
7 A. Yonkers High School had closed in 1985.
8 Q. Did you graduate from Saunders High School?
9 A. Yes.
10 Q. Did you go to college?
11 A. Yes.
12 Q. Where did you go to college, sir?
13 A. I went to Westchester Community College for two years and
14 majored in math and science, and then I transferred my courses
15 to the City College of New York.
16 Q. Did you graduate from the City College of New York?
17 A. Yes.
18 Q. When?
19 A. In 1995.
20 Q. With what degree?
21 A. A bachelor's in biology.
22 Q. After you got your bachelor's in biology, did you take any
23 educational courses after college?
24 A. Yes.
25 Q. May I approach, your Honor?

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C3fQann1 Jereis - Direct

1 THE COURT: You may.

2 Q. I show you what's been previously marked as Defendant's
3 Exhibits 81, 82, 83, copies of which have been provided to the
4 government.

5 Mr. Jereis, do you recognize Defendant's Exhibits 81,
6 82 and 83, sir?

7 A. Yes.

8 Q. What are those exhibits, sir?

9 A. They were real estate courses that I took.

10 Q. What do the documents reflect?

11 A. Certificates.

12 Q. For what?

13 A. One is for real estate appraisal. One is for valuation
14 principles and procedures in appraisals. And fair housing,
15 fair lending and environmental issues in real estate.

16 Q. Do those certificates reflect your completion of the three
17 courses so named?

18 A. Yes.

19 MR SIANO: I offer into evidence Defendant's 81, 82
20 and 83.

21 THE COURT: Any objection?

22 MR. HALPERIN: No objection, your Honor.

23 THE COURT: Admitted.

24 (Defendant's Exhibits 81, 82 and 83 received in
25 evidence)

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C3fQann1 Jereis - Direct

1 Q. Mr. Jereis, where did you live after college?

2 A. 17 Robbins place.

3 Q. What was 17 Robbins place at the time?

4 A. It was my home. It's where I lived, my parents lived
5 there. We lived there; our family lived there.

6 Q. What did you do for a living after graduating college?

7 A. I was working for the New York State Senate, and I was also
8 doing work at the Hispanic Progress Foundation.

9 Q. What were you doing in the New York State Senate?

10 A. I was working as a legislative aid.

11 Q. What were you doing at the Hispanic Progress Foundation?

12 A. We were helping people in the community who needed
13 assistance in housing, immigration, any issues where people
14 needed to go to. It was like a foundation pretty much where
15 everybody was welcome, but the fact that it was in the
16 southwest portion of Yonkers, they catered to mostly Hispanics.

17 Q. When in time did you first get involved in politics in
18 Westchester County?

19 A. I got involved in 1991.

20 Q. Did you have a mentor?

21 A. Yes.

22 Q. Who was that?

23 A. Frank Coppola.

24 Q. Who was Mr. Coppola at the time in 1991?

25 A. He was the republican chairman.

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C3fQann1 Jereis - Direct

1 Q. What sorts of things did you observe and assist Mr. Coppola
2 with?

3 A. I spent a lot of time at Mr. Coppola's office which was
4 located on 50 Riverdale Avenue, and I pretty much learned the
5 business of politics. I learned organization skills. I
6 learned about conventions. I learned about petitions. I would
7 sit there and spend -- if it was nights, weekends, just
8 learning how to elect people, how to elect party leaders,
9 learned about petitions, learned about literature, learned
10 about voter lists, voter ID's, everything that entailed in
11 getting somebody elected in office.

12 Q. Now, did there come a point in time where you met an
13 individual named Sandy Annabi?

14 A. Yes.

15 Q. Now, did there come a point in time, sir, where you had an
16 individual meeting with her?

17 A. Yes.

18 Q. Prior to that, had you seen Ms. Annabi?

19 A. Yes.

20 Q. Prior to your individual meeting, where had you seen
21 Ms. Annabi?

22 A. In church, weddings.

23 Q. Now, did there come a point in time -- I want to direct
24 your attention to the summer of 2009 -- excuse me, Judge,
25 everyone.

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C3fQann1 Jereis - Direct

1 THE COURT: 2009, OK.

2 Q. 2001 -- excuse me -- in the summer of 2001, did you have
3 occasion to receive a call from Ms. Annabi's parents?

4 A. Yes.

5 Q. Where were you going after you received that call?

6 A. I was going to meet her father.

7 Q. When approximately was this? Can you fix it any better
8 than a year for me, sir?

9 A. In May of 2001.

10 Q. Just how were you going to the Annabi --

11 A. I was driving -- I was leaving my home, and I was driving
12 down to meet her dad, which is about a couple miles away from
13 my house, and as I was driving, I had saw Sandy standing in
14 front of an apartment building on South Broadway, and I was
15 meeting her dad a half a block from where she was standing.

16 Q. Describe what you saw.

17 A. I saw Sandy there, and she was gorgeous. She was
18 beautiful. She was wearing a summer blue dress, and I stopped
19 the car, and I got out and I said, "What are you doing?" And
20 she goes, "Oh, running for office." I said, "I'm going to meet
21 your dad." And at that point in time, I was very much -- very
22 attracted to her. It was like love at first sight.

23 Q. Now, at the time, sir, you met Ms. Annabi on the street in
24 Yonkers, how much did you weigh?

25 A. Over 400 pounds.

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C3fQann1 Jereis - Direct

- 1 Q. Let me show you what's been previously marked as
2 Defendant's Exhibits 86.
3 MR. HALPERIN: Judge, can we see a copy?
4 MR SIANO: It's in the set.
5 THE COURT: Can't you guess what it is, Mr. Halperin?
6 MR. HALPERIN: Well, this is 88.
7 MR. SIANO: I'm sorry, I'm having a little trouble
8 with numbers today, Judge. I apologize to the Court and
9 Mr. Halperin. It's 88, excuse me. Apologize.
10 Q. Do you recognize Defendant's Exhibit 88?
11 A. Yes.
12 Q. Does that picture fairly and accurately depict how you
13 appeared in May of 2001?
14 A. Yes.
15 MR SIANO: I offer in evidence Defendant's 88.
16 THE COURT: Any objection?
17 MR. HALPERIN: No objection, Judge.
18 THE COURT: Mr. Aronwald, do you have any objection?
19 MR. ARONWALD: None whatsoever.
20 THE COURT: Admitted.
21 (Defendant's Exhibit 88 received in evidence)
22 MR SIANO: Mr. Turk, if you would be so kind.
23 Q. Mr. Jereis, do you see the picture on the screen?
24 A. Yes.
25 Q. For purposes of clarity only, which individual are you in

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1 this picture?

2 A. The big guy to the right.

3 Q. Now, after you met Ms. Annabi, where did you go?

4 You can take that down, Mr. Turk, please.

5 A. Sorry?

6 Q. Where did you go after your street meeting with Ms. Annabi
7 in the blue dress?

8 A. I actually went to meet her dad.

9 Q. Did you have a conversation with her father?

10 A. Yes.

11 Q. I don't want you to tell us the conversation. After that,
12 what did you do with respect to Ms. Annabi?

13 A. At that point when I was -- I sat with her dad I was in a
14 cafe about a half a block from where she was and he was
15 discussing to me --

16 MR. HALPERIN: Objection.

17 Q. No, I don't want to hear what he said.

18 A. I'm sorry.

19 Q. I want to hear what you did after the conversation.

20 A. After the conversation, we had went to Sandy's house.

21 Q. Did you meet with Ms. Annabi?

22 A. Yes.

23 Q. What subject matter did you talk about?

24 A. We were talking about the election and politics.

25 Q. All right. And did you hear anything about Ms. Annabi's

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1 interests during your meeting with Ms. Annabi in her presence?

2 MR. HALPERIN: Objection. Hearsay.

3 THE COURT: How is "did you hear anything" hearsay?

4 MR. SIANO: Before I ask what he heard, Judge --

5 THE COURT: I understand. I said how is that question
6 calling for the content of any conversation?

7 MR. HALPERIN: It's calling for what Ms. Annabi said
8 to him, your Honor.

9 THE COURT: "Did you hear anything about"?

10 Did you hear anything about? You can answer that
11 question yes or no.

12 A. Yes.

13 Q. What subject matter did you hear about?

14 MR. HALPERIN: Objection. Hearsay.

15 THE COURT: The objection is sustained.

16 Q. After that conversation, did you have any further
17 activities with Ms. Annabi in the summer of 2001?

18 A. Yes.

19 Q. What were you working on?

20 A. I was working on her campaign.

21 Q. What did you do?

22 A. I was doing everything from petitions, direct mail, voter
23 ID. We spent a lot of time defining Sandy. This was her first
24 run in office. Defining her. We were in a primary that year.
25 We were having a fall election, so we began to work extremely

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1 hard, just from the nuts and bolts of politics.

2 Q. Why were you doing all these things?

3 A. Because I wanted her.

4 Q. What do you mean you wanted her?

5 A. I was in love with her, and I wanted to do anything I could
6 possibly do to be with her.

7 Q. Now, in the year 2001, did you have occasion to expend
8 money on behalf of Ms. Annabi before she was nominated?

9 A. Yes.

10 Q. And did you continue to spend money on her after she was
11 nominated but before she was elected?

12 A. Yes.

13 Q. Let me show you what I previously marked as Defendant's
14 Exhibits 84, 85 and 86 for identification. Do you recognize
15 those three items, sir?

16 A. Yes.

17 Q. What do you recognize them to be?

18 A. Printing from stuff involving the campaign.

19 Q. Were these monies, sir, that you expended on behalf of
20 Ms. Annabi in the year 2001 prior to the general election?

21 A. Yes.

22 MR SIANO: I offer into evidence the three exhibits.

23 MR. HALPERIN: No objection, Judge.

24 THE COURT: Admitted.

25 (Defendant's Exhibits 84, 85 and 86 received in

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1 evidence)

2 Q. Did Ms. Annabi participate in the general election in 2001?

3 A. Yes.

4 Q. Did she have an opponent?

5 A. Yes.

6 Q. Describe the opponent for the jury, please.

7 A. The year of 2001, the seat became vacant. There was a
8 present city councilman named Lorraine Lopez. And the
9 republican mayor at the time offered her a job, so the seat
10 became vacant. The republican mayor at the time appointed a
11 counsel member by the name of Wilson Soto, whose family was
12 prominent in district two. They owned a restaurant there for
13 many years. He was a lawyer and was the actual incumbent
14 council member that year.

15 Q. How long had the Soto family been embedded in the Yonkers
16 community prior to Mr. Soto being appointed by the then city
17 mayor?

18 A. Over 30 years.

19 Q. What party was Mr. Soto in at the general election in 2001?

20 A. He was a Republican.

21 Q. What party was Ms. Annabi in?

22 A. She was Democrat.

23 Q. Did you hold the position of the Yonkers City chairman in
24 2001?

25 A. No.

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C3fQann1 Jereis - Direct

1 Q. What happened in the general election? Strike that. I
2 want to go back to the primary, excuse me.

3 Did Ms. Annabi run in a primary in the Democratic
4 Party?

5 A. Yes.

6 Q. When was that primary scheduled for?

7 A. It was initially scheduled for 9/11/01.

8 Q. September 11 of 2001?

9 A. Yes.

10 Q. Did the primary election take place that day in its
11 entirety?

12 A. Unfortunately not, due to the tragedy of 9/11. So that
13 morning the governor had postponed the primary election to
14 September 25.

15 Q. What, if anything, did you do from the morning of
16 September 11 until the rescheduled primary date, particularly
17 with respect to Ms. Annabi and her running in the Democratic
18 primary in the second council district in Yonkers?

19 A. We were frantic that day due to the fact of the whole of
20 the whole, you know, Arab an the stigma, and Sandy was Middle
21 Eastern. So we began to, you know, shift the campaign. We had
22 about ten days, and we were more focused on patriotism,
23 supporting our troops, standing united with our president. And
24 from that day on, that's what we kept -- that was our clear
25 message, and, of course, we were victorious on September 25.

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C3fQann1 Jereis - Direct

1 Q. What happened in the general election in opposition to
2 Mr. Soto?

3 A. We were also victorious in both elections. It was over
4 60 percent -- we one two-to-one in both elections.

5 Q. After the election, was there a celebration?

6 A. Yes.

7 Q. Who paid for it?

8 A. I did.

9 Q. Let me show you what I've marked as Defendant's Exhibit 87.
10 Do you recognize Defendant's Exhibit 87 for identification?

11 A. Yes.

12 Q. Can you tell by looking at the front and back of the check
13 what that check was used for?

14 A. Yes, it was paid for the catering hall.

15 Q. Who paid for it?

16 A. I did.

17 Q. Approximately when was the party?

18 A. I would say about a few weeks after the election.

19 Q. Is it in close proximity to the date on the check itself?

20 A. Yes.

21 MR. SIANO: I offer into evidence Government's 87 for
22 identification -- Defendant's Exhibit 87 for identification.

23 MR. HALPERIN: No objection.

24 THE COURT: Did you say objection or no objection?

25 MR. HALPERIN: No objection, your Honor.

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1 THE COURT: Admitted.

2 (Defendant's Exhibit 87 received in evidence)

3 Q. I placed in front of you another photograph, Mr. Jereis.

4 Do you recognize what's depicted in that photograph?

5 A. Yes.

6 Q. What is that photograph of?

7 A. Me and Sandy at the victory party.

8 MR SIANO: I offer in evidence Defendant's Exhibit 89.

9 MR. HALPERIN: No objection.

10 THE COURT: Admitted.

11 (Defendant's Exhibit 89 received in evidence)

12 Q. Mr. Turk, if you'd be so kind. Do you recognize the
13 individuals depicted in the photograph, Mr. Jereis?

14 A. Yes.

15 Q. Who is that?

16 A. That's me.

17 Q. And who are you with?

18 A. Sandy.

19 Q. Now, were there any physical changes between the photograph
20 of you I put into evidence with regard to May and this party in
21 late fall of 2001?

22 A. When I first met Sandy, I began trying to lose weight, so,
23 yes, I probably lost about 30 pounds, maybe 20 pounds.

24 Q. In total, how much weight did you lose from the period 2001
25 forward through the next four years?

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C3fQann1 Jereis - Direct

1 A. 150 pounds.

2 Q. Why did you lose that weight, sir?

3 A. Because I was trying to do whatever I can to win Sandy
4 over.

5 Q. Did you do anything else with regard to your person in an
6 effort to, in your words, win Sandy over?

7 A. I tried to impress her in every way: Fix my teeth, hair, I
8 would dress up the way she would like me to, I would try to --

9 Q. Did you have any surgical procedure done, sir?

10 A. Yes.

11 Q. What did you have done?

12 A. Had to remove a lot of loose skin.

13 Q. Now, did there come a point in time, sir, after Ms. Annabi
14 was elected where you bought her a present for the first time?

15 A. Yes.

16 Q. Describe the circumstances of that, sir.

17 A. Yeah. I had called her up, and I said I wanted to take her
18 out to dinner. Her dad came along, and we went to Central
19 Square Cafe on Central Avenue. It was approximately, I would
20 say, just maybe around the victory party, maybe thereafter, not
21 too sure. It was around December time. And I bought her a
22 diamond necklace, and I bought her diamond earrings, and I
23 presented it to her in front of her dad.

24 Q. Can you describe for the jury why it was you presented that
25 present to her in front of her father?

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C3fQann1 Jereis - Direct

1 A. Because I felt that if I gave her those gifts in front of
2 her dad and if she accepted those in front of her dad, I felt
3 that I was accepted.

4 Q. Why were you concerned about that?

5 A. First of all, I was married and I had two kids. And,
6 secondly, you know, from our culture of being both Middle
7 Eastern Arab American, it was something where, you know, she
8 was not married at the time. She was living at home. So it
9 was a very sensitive situation.

10 Q. What happened when you gave Ms. Annabi the present?

11 A. She accepted it.

12 Q. Now, from time to time thereafter, did you have occasion to
13 give gifts to Ms. Annabi?

14 A. Yes.

15 Q. Describe the relationship you had with Ms. Annabi in 2002
16 after the two election victories, the party, and when you gave
17 her and she accepted the necklace and earrings?

18 A. Through that year of '01, I would probably spend 10 to 12
19 hours a day, whether it's in person or on the phone with Sandy
20 Annabi, and we became very close. I cared for her deeply, and
21 whatever I was able to do to help her, there was no question
22 about it, I would do it. The years 2002, 2003, 2004, anything
23 that I could do to help her, I would do it.

24 Q. Did you come to learn about Ms. Annabi during that
25 relationship?

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C3fQann1 Jereis - Direct

1 A. Yes.

2 Q. Now, I want to show you what's been marked as Defendant's
3 Exhibits 90, 91, 92, 93, 94, and 95, sir. Do you recognize
4 these items?

5 A. Yes.

6 Q. What do you recognize them to be?

7 A. Jewelry.

8 Q. Well, let's go check by check. First of all, are these
9 expenditures you made on behalf of Ms. Annabi at or about the
10 time of the checks?

11 A. Yes.

12 MR. SIANO: I offer them into evidence, your Honor.

13 MR. HALPERIN: I'm sorry, which numbers, your Honor?

14 A. 90 to 94.

15 Q. Thank you, Mr. Jereis.

16 A. 95. 90 to 95.

17 THE COURT: It's OK, Mr. Jereis, you don't have to be
18 your own lawyer.

19 MR. SIANO: 90 to 95, your Honor.

20 MR. HALPERIN: No objection, your Honor.

21 MR SIANO: Thank you.

22 THE COURT: Admitted -- Mr. Aronwald, do you have any
23 objection?

24 MR. ARONWALD: No.

25 THE COURT: Somehow I didn't think so.

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C3fQann1 Jereis - Direct

1 (Defendant's Exhibits 90 to 95 received in evidence)

2 Q. Can we go item by item, Mr. Jereis?

3 A. Yes.

4 Q. What's defendant's 90 in evidence?

5 A. Mosiello & Sons Jewelers.

6 Q. Do you recall what you were purchasing for Ms. Annabi?

7 A. Piece of jewelry.

8 Q. 91.

9 A. Julio's Restaurant, Park Hill.

10 Q. What was that?

11 A. That was a fundraiser we threw for her.

12 Q. And this is a fundraiser in March of 2002?

13 A. Yes.

14 Q. What is 92?

15 A. Mercedes Benz.

16 Q. What was that?

17 A. It was a down payment on a lease.

18 Q. How about 93?

19 A. I helped her brother out with his tuition at Sacred Heart
20 High School.

21 Q. What was the occasion of you helping her brother out?

22 A. I was very close to the Annabis. He needed his tuition
23 paid, and I paid for it.

24 Q. Now, how about 94?

25 A. Mosiello & Sons Jewelry.

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C3fQann1 Jereis - Direct

1 Q. And 95?

2 A. Mosiello & Sons Jewelry.

3 Q. Are those expenditures you made on behalf of Ms. Annabi?

4 A. Yes.

5 Q. Now why did you make all these expenditures, sir, described
6 in Exhibits 90 to 95?

7 A. Like I said, I loved, cared deeply for Sandy. I was very
8 close to her. She is everything that I always wanted, and
9 whatever I had to do to impress her, to win her over, I would
10 do. I mean --

11 Q. Did you have occasion to make other types of expenditures
12 on behalf of Ms. Annabi?

13 A. Yes.

14 Q. Before I go back to the expenditures you made -- thank you,
15 Ms. Gallego -- did you have any occasion to make any payments
16 on behalf Ms. Annabi with respect to a student loan?

17 A. Yes.

18 Q. Describe why you did that.

19 A. Back around December time, the election is over. We would
20 just talk, go have a bite, have dinner, hang out, and she would
21 explain, you know, it got more into her personal life, you
22 know, how she was supporting her parents. She was supporting
23 her brothers, and how, you know, she had a tough time, you
24 know, she --

25 MR. HALPERIN: Objection. Hearsay. Move to strike.

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C3fQann1 Jereis - Direct

1 THE COURT: Overruled.

2 A. She would say, you know, she had --

3 MR. HALPERIN: Objection to Ms. Annabi's statements.

4 THE COURT: Why he did something. Tell me why you did
5 it. Not hearsay. Not offered for the truth of the matter
6 asserted. Read the rule.

7 Q. You may continue, Mr. Jereis.

8 A. As I was saying, back in December, the election was over --

9 THE COURT: Just -- just --re-ask your question I want
10 you to answer the question. He asked you why you did
11 something.

12 Q. Why did you pay her student loan?

13 A. I wanted to help out Sandy financially. She was supporting
14 her parents. She was supporting her brothers. I saw their
15 living condition, and I wanted to help her out. She was having
16 a tough time, and I took it upon myself to help her out.

17 THE COURT: Now, understand, folks, that's offered for
18 the purpose of why he did it. It doesn't prove that Ms. Annabi
19 was supporting her parents. It doesn't prove anything about
20 the truth of what he says. The only reason that you can
21 consider that statement is because he says he was helping her
22 out financially because she needed help, all right? That's it.
23 Period. No other reason.

24 Go on.

25 Q. Did you have occasion to make a down payment on a Mercedes

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C3fQann1 Jereis - Direct

1 Benz?

2 A. Yes.

3 Q. Why did you do that?

4 A. Because at the time her lease had to be returned, she
5 didn't have a car, and she needed a car, and we went to
6 Mercedes, and I put the down payment on a lease.

7 Q. Now, what is it you, sir, if anything, were expecting from
8 Ms. Annabi in return for the items we've talked about?

9 A. I wanted her. I wanted to be with her is what I wanted,
10 nothing else.

11 Q. Now, describe your relationship with Ms. Annabi throughout
12 the year 2002 and 2003 up into before she decided to run for
13 re-election.

14 A. Things were great. We had a great time. We had a great
15 relationship. I was very close to her. I mean, first call in
16 the morning would be her. The last call at night would be her.
17 We were very close. I was close to her parents. I was close
18 to her brothers. Most of my time was being spent with her and
19 her family.

20 Q. Now, did there come a point in time where Ms. Annabi
21 decided to run for re-election?

22 A. Yes.

23 Q. Now, did you decide to have Ms. Annabi run for re-election?

24 A. No.

25 Q. What year did she first run for re-election?

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C3fQann1 Jereis - Direct

- 1 A. She first ran in 2001.
2 Q. When did she first run for re-election?
3 A. 2003.
4 Q. So it was still a two-year term for the council members?
5 A. Yes.
6 Q. Did you assist Ms. Annabi in 2003?
7 A. Yes.
8 Q. Did you assist her with her primary?
9 A. Yes.
10 Q. Now, in 2003 describe to the jury the initial activity you
11 undertook with regard to Ms. Annabi getting on the ballot in
12 2003.
13 A. The fact that she was a city council member of that
14 district, she has -- she gets the party backing. There was no
15 challenge among the parties, so the Democratic Party was going
16 to endorse Sandy Annabi. But, you know, we took everything
17 from, like I would normally do: We start from the beginning to
18 find the candidate, we print up her petitions, we get the
19 voters list, and the first important part of getting somebody
20 elected is ensuring them ballot status.
21 Q. Mr. Jereis, as you understood the election laws and rules
22 of the State of New York, did the mere fact that Ms. Annabi was
23 an incumbent and was the choice, if you will, of the Democratic
24 Party, get her on the ballot, those actions alone?
25 A. No.

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C3fQann1 Jereis - Direct

1 MR. HALPERIN: Objection. Leading.

2 THE COURT: The objection is overruled. It's a
3 lead-in question.

4 A. Regardless of whether you're the nominee or not, it's
5 required for you to get a certain amount of ballot signatures
6 so that your name could be placed on the ballot.

7 Q. Is that the petition process?

8 A. That's called the petition process. It's the most
9 important process in running for office is making sure that
10 you're on the ballot.

11 Q. Now, did you participate with Ms. Annabi's petition
12 solicitation?

13 A. Yes.

14 Q. What, if anything, did you come to learn with regard to
15 whether or not anyone else was soliciting petitions?

16 A. In district two, there was a gentleman who chose to
17 challenge Ms. Annabi, but he was actually not enrolled in the
18 party. So just merely the fact that unless he receives an
19 authorization from the respective party chair, he can't be
20 placed on the ballot if his signatures are valid.

21 Q. Did Ms. Annabi submit petitions?

22 A. Yes.

23 Q. Were they approved?

24 A. Yes.

25 Q. And did an opposing candidate solicit petitions in 2003?

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C3fQann1 Jereis - Direct

- 1 A. Yes.
2 Q. What happened?
3 A. They were invalidated.
4 Q. By whom?
5 A. By the board of elections.
6 Q. And who ran as a Democrat in 2003?
7 A. Ms. Annabi.
8 Q. Now, did there come a point in time in or about
9 September 2003 when you attended the Republican city convention
10 in the city of Yonkers?
11 A. Yes, that was in late September of '03.
12 Q. Was that before or after the Democratic primary?
13 A. After.
14 Q. Now, what happened at the Republican city convention, sir?
15 A. I was nominated by John Murtagh. I was seconded by Rich
16 Barbato. I got unanimous vote of, republican district which is
17 about over 350 district leaders.
18 Q. For what position?
19 A. For party chairman.
20 Q. Was there a Republican candidate against Ms. Annabi in the
21 year 2003 in the general election for the second counsel
22 district in the city of Yonkers?
23 A. I don't believe so.
24 Q. Were you at any time ever aware of anyone attempting to run
25 in that district as a Republican?

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C3fQann1 Jereis - Direct

1 A. No, I was not.

2 Q. Did anyone ever come to you and ask to run as a Republican?

3 A. No, there wasn't. Just, I --

4 Q. Just answer the questions, sir, please.

5 Now, can you explain the demographics of the second
6 council district as you knew them to be in 2001, 2003, 2005?

7 A. I've lived in that district all my life, so I know that
8 district very well. It's a predominantly Democratic district.
9 The enrollment there is four-to-one. Literally impossible for
10 a Republican to win there. If any Republican I believe ran, it
11 was just -- the numbers were lopsided. It's in the south
12 quadrant portion of the city where it borders the Bronx. They
13 have a good number of Hispanics, African Americans, Arab
14 Americans, Indian Americans. It's a very diverse ethnic
15 community there.

16 Q. Now, what happened to Ms. Annabi in the general election of
17 2003?

18 A. Won handedly.

19 Q. Now in 2004, describe your relationship with Ms. Annabi?

20 A. It was a very good relationship.

21 Q. How frequently did you see Ms. Annabi?

22 A. Every day.

23 Q. Describe the sorts of places you would go with Ms. Annabi.

24 A. Go to her parents' house, we'd go have coffee, go have
25 dinner, see her at events, see her at parties.

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C3fQann1 Jereis - Direct

1 Q. Now, directing your attention, sir, to the year 2004, did
2 you have occasion to loan Ms. Annabi a sum of money?

3 A. Yes.

4 Q. Previously here in this court, did you see the \$60,000
5 demand note Mr. Bond put into evidence?

6 A. Yes.

7 Q. Describe the circumstances of that note, sir, as you
8 observed them.

9 A. The note was drafted by Jack Bond. I had went to his
10 office one day, and he told me that he prepared this note for
11 the loan that I loaned Sandy so that she would pay me back.

12 Q. How much money did you loan Sandy Annabi?

13 A. I loaned her \$60,000.

14 Q. What form -- how did the money come together, sir, please?

15 A. The first 50 I had to borrow because I didn't have, so I
16 borrowed the \$50,000, deposited it in my account, and I cut her
17 a check. Then the other \$10,000 was from a credit line.

18 Q. Now, why, sir, were you loaning Ms. Annabi \$60,000 in June
19 of 2004?

20 A. For the purchase of Patton Drive.

21 Q. Did you become aware, sir, of the Annabi family looking for
22 a new residence in 2004?

23 A. Yes.

24 Q. Were you aware of their existing residence as of the
25 beginning of the year 2004?

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C3fQann1 Jereis - Direct

1 A. Yes.

2 Q. Where did they live?

3 A. 51 Linden Street.

4 Q. Did you go to 51 Linden Street?

5 A. Practically every day.

6 Q. Describe the situation at 51 Linden Street with specific
7 reference to where the Annabi family lived, their apartment.
8 Start with the apartment.

9 A. They were just -- they were the second house on the hill to
10 the left. It was the war zone. Nodine Hill is known to be one
11 of the worst neighborhoods in the city. Where they happened to
12 be was near a corner, drug infested, violence. It was a very,
13 very bad area. They actually lived street level, so if you
14 walked into their house, their windows actually faced the
15 street, and there were times when her mom would be sitting on
16 the floor, and we would point out that they were afraid a
17 bullet would come through the window.

18 Q. Now, did you become aware that the Annabis in general, and
19 Ms. Annabi in particular, were looking for a new place to live?

20 A. Yes.

21 Q. What did you -- what did you hear?

22 A. It was always her mom's dream --

23 MR. HALPERIN: Objection. Hearsay.

24 THE COURT: The objection is sustained.

25 Q. Did you observe with your own eyes the Annabis doing

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C3fQann1 Jereis - Direct

1 anything?

2 A. Yes.

3 Q. What did you observe?

4 A. They began to search for homes, looked for homes for the
5 mom and the dad.

6 Q. Did you go on these hunts?

7 A. No, I did not.

8 Q. Now, with specific reference to the \$60,000 loan, why did
9 you loan Ms. Annabi \$60,000?

10 A. The situation at the time when she explained to me, I had
11 met her that day when I -- when she asked me to loan her the
12 money, and she was in tears. She was very sad because she was
13 locked into Patton where she could not get out of it, and if
14 she did not purchase the house, she would lose her down
15 payment.

16 MR. SKWRAO: Objection. Hearsay, what Ms. Annabi --

17 THE COURT: Correct. Just tell us what she did.

18 Q. After you talked to Ms. Annabi, what did you decide to do?

19 A. I decided to loan her the money.

20 Q. Was the \$60,000 paid back?

21 A. Yes.

22 Q. When approximately was it paid back?

23 A. The first check was about less than a month, maybe, I'm not
24 sure exactly, but in total, the total \$60,000 was paid back
25 within three months? It was one check for \$23,000, and I got a

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1 latter check for 37,000, which totals \$60,000.

2 MR. SIANO: May I have a moment with Mr. Aronwald?

3 (Pause)

4 Q. Mr. Jereis, let me show you what I've marked as Defendant's
5 Exhibits 100 for identification. Do you recognize Defendant's
6 Exhibits 100 for identification?

7 A. Yes.

8 Q. What do you recognize it to be?

9 A. It's a check from Forest City Ratner.

10 Q. Wrong check. After you got the \$23,000 check -- and I
11 apologize, Mr. Jereis, for giving you Exhibit 100, we'll get to
12 that -- did you get a second payment?

13 A. Yes.

14 Q. How much after the first payment was the second payment?

15 A. The second payment was \$37,000.

16 Q. What did you do with the money when you got the two checks?

17 A. I had to repay back the money that I borrowed to loan Sandy
18 the money.

19 Q. Did you do that?

20 A. Yes.

21 Q. When did this happen?

22 A. Once I got the money, I quickly paid it back.

23 Q. What general duration of time did this all take place?

24 A. I'm going to say June of '04, and I was paid in full by
25 October.

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C3fQann1 Jereis - Direct

- 1 Q. Thank you. Who did you see move out of 51 Linden Street of
2 the Annabi family in -- let's start with the parents.
3 A. The parents and the brothers moved.
4 Q. Where?
5 A. 45 Bacon.
6 Q. Did you ever see anybody from the Annabi family living in
7 the Patton Drive house?
8 A. No.
9 Q. Now, approximately when did Ms. Annabi's parents and
10 siblings move to Bacon?
11 A. Approximately -- July/August.
12 Q. Where did Ms. Annabi go?
13 A. Ms. Annabi moved to 53 Linden.
14 Q. Where in relation to 51 Linden Street is 53?
15 A. 53 Linden is next door.
16 Q. Approximately how long did you observe Ms. Annabi residing
17 at 53 Linden Street?
18 A. She resided there just after her parents moved. She
19 went -- moved next door, and she was there till '05.
20 Q. Did you with your own eyes see her move into that
21 apartment?
22 A. Yes, I helped her.
23 Q. Describe your dealings with Ms. Annabi when she was living
24 at 53 Linden Street.
25 A. It was a nightmare.

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C3fQann1 Jereis - Direct

1 Q. What were the circumstances of Ms. Annabi as you saw them?

2 A. Every time I would talk to Ms. Annabi, she would be crying.

3 MR. HALPERIN: Objection. Hearsay.

4 THE COURT: As you saw them, sir. What did you see?

5 What did you observe? You're not to tell us what Ms. Annabi
6 said to you, OK.

7 THE WITNESS: She was terrified.

8 THE COURT: No. No. That's what you're not allowed
9 to do.

10 OK. Maybe, Mr. Siano, you can come up with a better
11 way of asking a question.

12 MR. SIANO: I will try harder.

13 Q. Did you observe events in the neighborhood during the
14 period of time Ms. Annabi was residing at 53 Linden Street?

15 A. Yes.

16 Q. What did you see?

17 THE COURT: In the neighborhood.

18 Q. In the neighborhood.

19 A. Violence, shootings, drug dealing. Every time you'd -- you
20 just -- the area was very, very bad. She was afraid.

21 Q. Now, what did you do with respect to Ms. Annabi staying at
22 53 Linden Street?

23 A. I would try to comfort her as much as I could, by coming
24 around the neighborhood. I would stay parked outside her
25 place, you know, stood in front of her apartment there, made

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C3fQann1 Jereis - Direct

1 sure that nobody was hanging out by her windows. It was a bad
2 six, seven months.

3 Q. Why did you lend Ms. Annabi the \$60,000 Mr. Jereis?

4 A. I could not say no to Sandy. I loved her very much. I
5 cared for her deeply. And you know when she had asked me at
6 the time, I just couldn't say no, and I wanted to help her.

7 Q. Now, did you do it in order to control her politically,
8 sir?

9 A. Absolutely not.

10 Q. Now, as you observed Ms. Annabi's situation at 53 Linden
11 Street, what, if anything, did you decide to do?

12 A. We decided to begin to try to find another residency for
13 her in the district which was safer and also a better location.

14 Q. Why did you say in the district, sir?

15 A. Because it's required by law that you have to reside in the
16 district you serve.

17 Q. Where did you look?

18 A. Looked at a few different pockets in the second district,
19 and one of those pockets was the Park Hill section.

20 Q. Describe the Park Hill section of the second council
21 district for the jury, please, as they existed 2004/2005.

22 A. Homes are -- they're private homes there and tree-lined
23 streets. There happens to be one cooperative apartment
24 building that's on the outskirts of the district which is
25 overlooking the Saw Mill Parkway, Rumsey Road, right across the

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C3fQann1 Jereis - Direct

1 street from the temple. It was one of the places where, you
2 know, I began to locate.

3 Q. What was the address?

4 A. 245 Rumsey Road.

5 Q. What, if anything, did you do with respect to 245 Rumsey
6 Road, sir?

7 A. We located the unit. I talked to Sandy about it, and we
8 actually visited the unit, and she had liked it. There were
9 some changes we made to the apartment, so -- it was actually an
10 estate, so the apartment was actually vacant when we looked at
11 it. And she looked at it, and at the point where she liked it
12 and the changes we had to make for her, and we did.

13 Q. Describe the things that you did prior to Ms. Annabi moving
14 into 245 Rumsey Road.

15 A. Painted the apartment, carpeted it up for her, put track
16 lights, fixed up the kitchen, redid the bathroom, put window
17 guards for her. It was actually a first floor apartment,
18 pretty much made the apartment the way she would like it.

19 Q. What, if anything, did you do with the cost of purchasing
20 the apartment, sir?

21 A. The cost was out of my credit line. The credit line
22 that -- I paid for it, yes.

23 Q. What did you pay for?

24 A. I paid for the down payment, which was ten percent, \$7,200,
25 and I paid the closing costs at the closing.

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C3fQann1 Jereis - Direct

1 Q. Why did you do that, sir?

2 A. Because I viewed it as a place for us, a place that I could
3 go to, and I just -- it was a way for me to be with Sandy where
4 there would be nobody else around.

5 Q. Now, what is the last thing you did with respect to the
6 apartment before Ms. Annabi moved in?

7 A. The last thing is that she wanted double-bolt locks on the
8 doors, so I put the locks on the door; and at that point in
9 time the apartment was all set. I put locks on the door, and
10 then I had both sets of keys with me.

11 Q. How many sets of keys did you make?

12 A. Two.

13 Q. How many did you initially give Ms. Annabi?

14 A. I gave her one.

15 Q. What happened?

16 A. She wanted the other key back.

17 Q. What did you do?

18 A. I didn't first know if she was serious or not. Just
19 wanted -- she didn't want me to have keys to the apartment.

20 Q. What did you do, sir?

21 A. Of course I gave her back the keys, and I was really upset.

22 Q. What do you mean you were really upset?

23 A. Because I went through a lot to make this place what she
23 wanted and I was under the assumption that it was going to be a
24 place for us, and it didn't turn out to be that way.

25

C3FUANN2

Jereis - direct

- 1 Q. Now, can you describe the nature of your relationship to
2 Ms. Annabi prior to this exchange with respect to the keys to
3 245 Rumsey Road?
4 A. Things were great, you know, prior to the key situation.
5 Q. And after?
6 A. After, I was upset. It was hot and cold. We had some
7 great days. We would fight. We had some good days. I cared
8 for her a lot. I see that smile and those eyes, I would just
9 come right back.
10 Q. Now, at that time, sir, as of the time that you found,
11 located and acquired for Ms. Annabi, 245 Rumsey Road, had you
12 had sexual intercourse with her?
13 A. No.
14 Q. Have you ever had sexual intercourse with her?
15 A. No.
16 Q. Have you had sexual contact with her?
17 A. Yes.
18 Q. Did there come a point in time during the summer of 2005,
19 sir, where you assisted Ms. Annabi in connection with an
20 incident with her brother?
21 A. Her brother had got into a situation. I was helping her
22 brother out and I had -- I had got a private call from
23 Ms. Annabi. I called her back as soon as she was in the
24 apartment and a gentleman picked up the phone.
25 Q. What happened when a gentleman picked up the phone?

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C3FUANN2 Jereis - direct

1 A. I hung up the phone.

2 Q. What happened after that?

3 A. At that point in time, I just didn't want -- I didn't
4 believe it. I had called up Sandy. She said, you called the
5 wrong number.

6 Q. What happened between the two of you at that point?

7 A. It was hot and cold.

8 Q. How did you react?

9 A. I was very upset.

10 Q. Did you communicate with Ms. Annabi any other way other
11 than by telephone?

12 A. By email.

13 Q. Let me show you what's been marked for identification as
14 Defendant's Exhibit 101.

15 A. Yes.

16 Q. Do you recognize Defense Exhibit 101?

17 A. Yes.

18 Q. Did you send Ms. Annabi an email at or about the date
19 reflected on Defendant's Exhibit 101?

20 A. Yes.

21 Q. What did you say to Ms. Annabi?

22 A. I was very upset about --

23 MR. HALPERIN: Objection to reading the email.

24 THE COURT: The email is not in evidence yet.

25 Q. Does that email fairly and accurately reflect what you said

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C3FUANN2

Jereis - direct

1 to Ms. Annabi via email at the date and the time reflected on
2 Defendant's 101?

3 A. Yes.

4 MR. SIANO: Offer into evidence.

5 MR. HALPERIN: Objection. Hearsay and authenticity
6 per the Court's pretrial ruling.

7 THE COURT: Come on over.

8

9 (Continued on next page)

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C3FUANN2 Jereis - direct

1 (At the sidebar)

2 THE COURT: I require --

3 MR. SIANO: There is nothing else there, Judge, but
4 his words.

5 THE COURT: Mr. Halperin, either the email comes in or
6 he testifies about what he said. I made no ruling on
7 authenticity. The government suggested that these were fakes
8 and the government has not proven that they were fakes.

9 MR. HALPERIN: Because the emails didn't come in so
10 they haven't been an issue.

11 THE COURT: Excuse me. The government did not
12 establish, apparently to its own satisfaction, that these were
13 fake. If you want to put on a rebuttal witness to challenge
14 the authenticity of the email, you are free to do so. You have
15 not established that the email was not authentic. I was
16 waiting for that and waiting for that before the trial. I have
17 made no such ruling. You find that ruling and you show it to
18 me. This man has gotten on the stand. The game has changed,
19 Mr. Halperin.

20 MR. HALPERIN: I understand.

21 THE COURT: He is taking a calculated risk when he
22 testifies that he said something to Ms. Annabi. If the email
23 doesn't come in, he would testify to what he said.

24 MR. CARBONE: The record should reflect that we are
25 giving Mr. Jereis, serving his counsel, with an if as and when

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C3FUANN2

Jereis - direct

1 subpoena for the hard drive that was used to generate these
2 emails.

3 THE COURT: I thought you had it.

4 MR. CARBONE: He refused --

5 MR. SIANO: No, no.

6 Time out.

7 These are not anything he has. These are what you
8 gave me.

9 MR. CARBONE: These were provided to us by defense
10 counsel.

11 THE COURT: Wait a minute. I am not having this
12 conversation at sidebar. I have just given you a ruling on the
13 testimony. If you want to duke it out over a hard drive and
14 whether you already have it, we will duke it out when the jury
15 is not in the room.

16 (Discussion off the record between counsel)

17 THE COURT: Come on, guys. You were seeking a
18 pretrial ruling on the assumption that he was going to try to
19 keep the guy off the stand. Guess what? The guy is on stand.

20

21 (Continued on next page)

22

23

24

25

C3FUANN2 Jereis - direct

1 (In open court)

2 MR. SIANO: I offer in evidence Defendant's Exhibit
3 101.

4 THE COURT: Put a mark there and remind me that I need
5 to add something to that colloquy a little later. Put a mark
6 there.

7 MR. SIANO: Excuse me, your Honor?

8 THE COURT: I will say something else on the subject
9 of our colloquy and my pretrial ruling at a later point. You
10 will continue to ask questions now.

11 MR. SIANO: Yes, your Honor.

12 May Mr. Jereis read his email?

13 THE COURT: Mr. Jereis may read.

14 BY MR. SIANO:

15 Q. Please, if you would, Mr. Jereis, the body of the email."I
16 leave my friends at a Queens club rushing down to Yonkers,
17 knowing your brother is in a backseat of a cop car handcuffed.
18 He can't get ahold of you. You call me from a private
19 number???? I call your home 751-2441 some guy picks up the
20 phone and tells me it's the wrong number. You weren't right on
21 the phone, I thought you were having dinner with the girls!!!
22 I fuckin wonder!!!. When it comes to your family you go crazy
23 and I wonder what was up with you last nite!!!!. We just got
24 his car 15 minutes ago from court to the first precinct to
25 transit towing. Thanks a lot.

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C3FUANN2

Jereis - direct

1 "Please do me a favor don't hide stuff, lie or
2 bullshit me. I don't deserve that."

3 Q. Mr. Jereis, at or about the time you called 245 and a man
4 answered, did you have any indication prior to that that
5 Ms. Annabi was entertaining a gentleman in her apartment?

6 A. No.

7 Q. Now, what if anything happened to your relationship with
8 Ms. Annabi after the exchange which included Defendant's
9 Exhibit 101?

10 A. We had talked, and I believe that there was not a person in
11 the apartment at the time. She had told me that I had called
12 the wrong number and I believed her.

13 Q. Now, when you were reacting to Ms. Annabi with regard to
14 the man answering the phone, were you interested in
15 Ms. Annabi's political alliances at that time?

16 MR. HALPERIN: Objection. Leading.

17 MR. SIANO: Withdrawn, your Honor.

18 Q. What was your concern at that time, Mr. Jereis?

19 A. It was not her politics. It was her. I was not interested
20 in her politics. I was interested in her.

21 Q. I want to show you Government Exhibits, in evidence, 388
22 and 388A. And I ask you, sir, do you recall, generally,
23 hearing Mr. Cantone testify about these exhibits?

24 A. Yes.

25 Q. I place in front of you Defendant's Exhibit 102 for

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C3FUANN2 Jereis - direct

1 identification. Do you recall, sir, responding in any way to
2 388 or 388A?

3 You can compare the two of the exhibits to 102.

4 A. Yes.

5 MR. SIANO: Now, Mr. Turk, if you could bring up 388.
6 I don't know if that is scanned or not scanned.

7 Q. Now, does Defendant's Exhibit 102 for identification fairly
8 and accurately --

9 THE COURT: Mr. Turk, I'm an old woman. Could you do
10 me a favor and make that bigger or clearer -- a little smaller.
11 Thank you.

12 Q. Does Defendant's Exhibit 102 for identification fairly and
13 accurately reflect your response to the email which is listed
14 as 388 where you are a CC?

15 A. Yes.

16 MR. SIANO: Offer into evidence 102.

17 (Discussion off the record between counsel)

18 MR. HALPERIN: Aside from our standing objection, no
19 objection to this document.

20 THE COURT: The standing objection is overruled. It
21 is admitted.

22 (Defendant Exhibit 102 received in evidence)

23 MR. SIANO: If you would, Mr. Turk, use your Ernie or
24 Elmo to blow up the top third.

25 BY MR. SIANO:

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C3FUANN2

Jereis - direct

1 Q. Mr. Jereis, did you write this text to Ms. Annabi?

2 A. Yes.

3 Q. When you got the message from Ms. Annabi in her discussions
4 with Mr. Cantone about \$10.8 million, what were you talking
5 about?

6 A. I was talking about us.

7 Q. What specifically were you talking to Ms. Annabi about?

8 A. In that particular --

9 Q. In this email.

10 A. When I received the email with regards to the Forest City
11 Ratner email, I didn't care about that. What I did respond was
12 that she was leaving for Jordan and I was more concerned about
13 that than the whole original situation.

14 Q. What were you concerned about on June 14th at 11:20 p.m.?

15 A. I was worried about her going to Jordan and getting
16 married.

17 Q. In addition to this email, at the time were you having oral
18 communications with Ms. Annabi about this subject?

19 A. Yes.

20 Q. What were you saying to her?

21 A. I didn't want her to go to Jordan at the time because I was
22 worried that her going there, she is not married, she is
23 single -- her going to Jordan, I was just worried that guys
24 were going to hit on her in Jordan.

25 MR. SIANO: Thank you, Mr. Turk. You can take that

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C3FUANN2 Jereis - direct

1 down.

2 Q. Now, in addition to these two particular emails I have
3 placed into evidence, Mr. Jereis, did you have occasion
4 throughout your relationship with Ms. Annabi to communicate to
5 her by electronic correspondence?

6 A. Email, text, phone.

7 Q. That SMS business?

8 A. Yes.

9 Q. What subjects would you cover?

10 A. We would talk about, you know, the current events that may
11 be, what we are doing tonight, going to her parents having
12 dinner. We just talk about family events, talk about current
13 events, her political career in the sense of what was the
14 issues going on, if there was anything of importance, any way I
15 could help her out in any way.

16 Q. Now, why were you helping her out in politics? Why were
17 you doing that?

18 A. Because I care for her a lot. I loved her very much. If
19 she pursued to be in political office, I wanted to help her.

20 Q. Now, did Ms. Annabi run for office in 2005?

21 A. Yes.

22 Q. Did you tell Ms. Annabi to run for re-election?

23 A. No, I did not.

24 Q. Did you control Ms. Annabi and force her to run?

25 MR. HALPERIN: Objection. Leading.

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C3FUANN2

Jereis - direct

1 A. No, I did not.

2 THE COURT: Remember, I have a role to play.

3 Overruled.

4 A. No, I did not.

5 Q. Now, I believe you told us previously that notwithstanding
6 the fact that Ms. Annabi was an incumbent, she would have to
7 stand for a primary, file petitions?

8 A. Yes.

9 Q. Was there an effort to gather petitions in 2005?

10 A. Yes.

11 Q. Did you assist?

12 A. Yes.

13 Q. Did you come to learn anything about other political
14 activity in the second council district in 2005 relative to the
15 Democratic primary?

16 A. Yes.

17 Q. What did you learn?

18 A. Her opponent in 2005 petition had a dead person's signature
19 on it.

20 Q. How did you come to learn that?

21 A. Because one of the properties that I do own, the neighbor
22 that signed that petition was deceased.

23 Q. So it was somebody that lived next to one of your
24 properties and you knew the woman was dead?

25 A. Correct.

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C3FUANN2

Jereis - direct

1 Q. First of all, could you describe the process of how
2 petitions in 2005, from your own knowledge and information,
3 passed from the candidate to the board of elections and
4 possibly to the court system?

5 A. What initially happens is, a petition is designed and it
6 has a candidate's name and address on the top part of the
7 petition. It also states the office that they are running for.

8 Just below that, there is a committee to fill vacancy
9 just in case the candidate decides to decline, something should
10 happen, there is a committee to fill the vacancy.

11 Just below that, where the signers sign their name,
12 they date, sign, there is a witness statement on the bottom.

13 So 2005 we had a primary challenge that year from a
14 gentleman named Julio Santiago. As we are out there in the
15 street getting signatures, so was he. So when the petitions --
16 there is a timeline. It is usually the first Tuesday in June.
17 And usually the filing dates is about the middle of July. At
18 that point in time, the petitions are filed for the respective
19 candidates. The respective parties file their petitions and
20 there is a window period where you are able to FOIL, review
21 your opposition --

22 Q. What do you mean by FOIL?

23 A. FOIL is what they call the Freedom of Information.

24 Q. -- Law, is that right?

25 A. Yes.

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C3FUANN2

Jereis - direct

1 Q. And what does the Freedom of Information Law allow a
2 citizen to get with respect to the petition?

3 A. It allows them -- actually, anybody could actually put the
4 FOIL in and get copies of anybody's petitions. Anybody can go
5 in there and get the petitions. There was a time period. We
6 went, of course. It was natural. We look at who is running
7 against us, the opposition. She was an incumbent and we got
8 his petitions and we began going line by line and just by
9 looking at his bundle of petitions, they were clearly permeated
10 with fraud because all of the signers had the same signature.

11 Q. What did you yourself do with respect to Ms. Annabi's
12 potential opponent's petitions?

13 A. There was a procedure at that point in time is just a
14 normal procedure is, you file a general objection and one of
15 her campaign supporters and friends filed a general objection
16 to that petition. And at that point, I, people from her
17 campaign we began to go line by line and we produced specific
18 objections to the petitions of Santiago.

19 Q. Now, you said a friend and supporter of Ms. Annabi filed an
20 objection?

21 A. Yes.

22 Q. At the time, I could describe you as a friend and supporter
23 of Ms. Annabi, couldn't I, Mr. Jereis?

24 A. Yes.

25 Q. Why didn't you file the objection?

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C3FUANN2

Jereis - direct

1 A. You have to be in that party and being able to constitutely
2 vote for that person in that primary -- is the only person who
3 could validly file a general objection.

4 Q. Is it political rule or the law of New York State?

5 A. Law of New York State.

6 Q. In other words, I have to be a registered Democrat in the
7 second council distinct in order to file an objection?

8 A. Correct.

9 Q. What did you physically do after one of Ms. Annabi's
10 supporters who was a registered Democrat in the second council
11 district filed her objection, what did you do?

12 A. We began to go line by line in the petition. We saw that
13 these were all bad signatures, so we requested the registration
14 card from the board of elections.

15 Q. Is there a shorthand way to refer to registration cards?

16 A. They are called buff cards. What it is, on the buff cards,
17 you get to see the actual signer's signature. At that point in
18 time, what we are doing is matching the signer's signature on
19 the buff card to what was on the opposition petition and we saw
20 that that did not match at all. And that was the whole
21 petition. The witness statements were bad. It was just a bad
22 petition, completely.

23 Q. What did you observe Ms. Annabi's campaign do at that point
24 prior to any court action?

25 A. What happens is that the board of elections is like a

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C3FUANN2 Jereis - direct

1 recording agency. They necessarily -- they can't rule on
2 fraud. It is up to the courts to decide. So when the matter
3 went before the court, he withdrew his petition.

4 Q. Ms. Annabi run in the primary?

5 A. Yes. We had no primary at that point because he withdrew
6 his petition.

7 Q. Ms. Annabi run in the given election in 2005?

8 A. Yes.

9 Q. Was she victorious?

10 A. Yes.

11 Q. Did there come a point in time, sir, when you first heard
12 of a project called Ridge Hill being proposed for Yonkers?

13 A. Yes.

14 Q. When, approximately, was that?

15 A. In '05, 2005.

16 Q. What were you hearing?

17 A. I mean, there was a lot of advertising, but it was in
18 Business Week, in the press. It was always a campaign issue in
19 '05. Whoever was running for office, whether they supported
20 it, didn't support it. It was a hot topic issue in 2005.

21 Q. Where were you working at the beginning of the year 2006?

22 A. I was working for the New York State Senate.

23 Q. In what office were you working?

24 A. I was working for Nicholas Spano.

25 Q. Physically where?

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C3FUANN2 Jereis - direct

1 A. One Executive Boulevard.

2 Q. Did you observe a gathering at One Executive Boulevard with
3 respect to Ms. Annabi?

4 A. Yes.

5 Q. Who did you see gathering?

6 A. I saw Senator Spano. I saw Eddie Doyle, who was a Teamster
7 456 president, Ross Pepe who was building trades council --
8 they were heavy hitters in labor -- and Senator Spano.

9 Q. Did Ms. Annabi come to that meeting?

10 A. No, she did not.

11 Q. Did you see the gathering of the individuals you called
12 heavy hitters start to break up at some point during the day?

13 A. It was a roomful of sharks.

14 Q. No. Did you see them --

15 MR. HALPERIN: Objection.

16 Q. Did you see them --

17 THE COURT: Forgive me for a moment.

18 I am offline since you took over.

19 (Computer transcript realtime feed begins again)

20 THE COURT: Now it is all coming up.

21 Go ahead, Mr. Siano.

22 MR. SIANO: I would ask the court reporter to repeat
23 my verbose question.

24 (Record read)

25 THE WITNESS: Yes.

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C3FUANN2 Jereis - direct

1 BY MR. SIANO:

2 Q. Where were you at that point?

3 A. I was actually in the office.

4 Q. What happened with Mr. Spano?

5 A. He was very upset, very angry.

6 Q. What did you say to him about the topic of the meeting with
7 Ms. Annabi?

8 A. He had called me up and he wanted me to call Ms. Annabi up
9 and I refused to do so.

10 Q. What did you say to him?

11 A. I told him that I called her and that she didn't get back
12 to me.

13 Q. Was that the truth?

14 A. Yeah -- no, it wasn't the truth. I didn't call her at all.

15 Q. Why didn't you call Ms. Annabi on behalf of your employer?

16 A. Because I didn't want to expose her to that. I knew what
17 that meeting was about. I saw the people in that room there
18 and I knew that they were a roomful of sharks and they were
19 going to bully her and I didn't want her to be exposed to that.
20 And she was uncomfortable going there in the first place, if
21 she would have went with or without me.

22 Q. Did Ms. Annabi ever go to such a meeting to your knowledge?

23 A. No, she did not.

24 Q. Did you have occasion to discuss the Ridge Hill project
25 with Ms. Annabi prior to June of 2006?

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C3FUANN2 Jereis - direct

1 A. Maybe just in conversation, nothing concrete at all. I
2 knew what her positions were with the project.

3 Q. We don't want to hear what she said. We want to know if
4 you talked to her about it?

5 A. No, I didn't.

6 Q. Did you have any political discussions about this situation
7 with her?

8 A. Very little.

9 Q. What did you say to her about the topic and the politics of
10 the situation at Ridge Hill?

11 A. It was a dangerous situation because everybody from the
12 governor down was very supportive of this project. It was a
13 lot of invested in this project. Forest City Ratner had owned
14 the land. And I knew where Ms. Annabi publicly stood on her
15 position there. That was also very worrying -- made sure she
16 was not bullied or pressured in that sense, whatsoever.

17 Q. Did there come a point in time where you received a phone
18 call from Assemblyman Lentol?

19 A. No, I did not.

20 Q. Did there come a time where a gentleman by the name of
21 Galimi contacted you?

22 A. Yes.

23 Q. When approximately was that?

24 A. Galimi was a regular. He would call me constantly and he
25 had -- we would meet down at Manhattan. We would have dinner

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C3FUANN2 Jereis - direct

1 maybe every couple of months and Assemblyman Lentol would be
2 there. And one occasion there --

3 MR. HALPERIN: Objection. Nonresponsive.

4 Q. Did you just get a call from Mr. Galimi sometime around May
5 or June of --

6 A. Yes.

7 Q. As a result of that conversation, did you go anywhere?

8 A. Yes.

9 Q. Where did you go?

10 A. Tagura Segundo.

11 Q. Did there come a point in time after Tagura Segundo where
12 you went someplace in Brooklyn?

13 A. Yes.

14 Q. Why did you go do Brooklyn?

15 A. Joe Galimi invited me to come to a meeting with Joseph
16 Lentol and the members of Forest City Ratner.

17 Q. Had you met anybody from Forest City Ratner prior to going
18 to Brooklyn?

19 A. No, I did not.

20 Q. Had you called Forest City Ratner at any time prior to that
21 meeting?

22 A. No, I did not.

23 Q. Why did you go to Brooklyn?

24 A. Joe asked me to come and he said that the assemblyman would
25 appreciate it --

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C3FUANN2 Jereis - direct

1 MR. HALPERIN: Objection. Hearsay.

2 THE COURT: Joe asked you to come. Boom. That's why
3 you went, because Joe asked you to come.

4 Next question.

5 Q. Did you go to Brooklyn?

6 A. Yes.

7 Q. Approximately when?

8 A. June 2nd.

9 Q. Where did you go?

10 A. Marco Polo restaurant.

11 Q. What happened at Marco Polo?

12 A. We got to the restaurant. We were actually there late. Me
13 and Joe walked in the restaurant. We sat in the dining room
14 there. There were three members from Forest City Ratner --
15 Bruce Bender, Scott Cantone and Rich Pesin -- and so was
16 Assemblyman Lentol.

17 Q. What happened at the meeting?

18 A. We sat down and the assemblyman introduced us to the
19 members of Forest City Ratner. That was my first time meeting
20 them. We were pretty much discussing politics in general,
21 state politics, local politics. And we were just kind of -- it
22 was a very cordial relationship. It was a cordial conversation
23 at that point in time in the beginning of the meeting.

24 Q. Who raised the subject of Sandy Annabi?

25 A. Bruce Bender.

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C3FUANN2 Jereis - direct

1 Q. What did he say to you?

2 MR. HALPERIN: Objection. Hearsay.

3 THE COURT: Objection sustained.

4 MR. SIANO: If I might, your Honor, I would like to be
5 heard.

6 THE COURT: Then I guess it is time for our morning
7 break.

8 Don't discuss the case. Keep an open mind.

9

10 (Continued on next page)

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C3FUANN2 Jereis - direct

1 (Jury not present)

2 THE COURT: Mr. Siano, I don't know what the answer is
3 going to be, therefore, I can't tell whether it was being
4 offered for the fact that it was said or the truth of the
5 matter.

6 MR. SIANO: I am offering it for the fact that it was
7 said.

8 THE COURT: Tell me what the answer is going to be.

9 MR. SIANO: Why won't Sandy Annabi meet with us?

10 It is exactly what Mr. Bender said when he was here.
11 The other half of this conversation has already been put in
12 evidence by the government. I am putting in the opposite end
13 of the conversation.

14 THE COURT: Why won't Sandy Annabi meet with us cannot
15 possibly be offered for the truth of the matter asserted.

16 MR. SIANO: That's what Mr. Bender said happened. I
17 am asking my client if it happened.

18 MR. HALPERIN: That's fine. Now that we have had
19 that, we will withdraw our objection.

20 THE COURT: I don't want to run to the sidebar every
21 15 seconds so that Mr. Siano can explain. Mr. Siano appears to
22 understand the difference between offering something for the
23 truth of the matter asserted, and that is possibly because he
24 was an Assistant United States Attorney for many years, as I
25 understand it. So far I don't think he has really run afoul of

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C3FUANN2 Jereis - direct

1 that rule.

2 I am listening very carefully to what Mr. Jereis is
3 saying. If I think he is trying to cross the line, I will jump
4 in.

5 MR. SIANO: Judge, I will also say that the fact that
6 these are speech as conduct -- your Honor has heard the
7 conversations.

8 THE COURT: That is part of the problem. I have
9 indeed heard about these conversations from other participants
10 in the conversation.

11 MR. SIANO: Frankly, while I may differ with your
12 Honor's rulings, when the government had their witnesses on the
13 stand and Mr. Aronwald and others were attempting to find out
14 what Ms. Annabi said, I respect the rulings. But now that I am
15 questioning the witness, my view of these conversations is,
16 what anybody else says is not being offered for the truth, but
17 basically it is being offered that it was said to my client.
18 It was said in his presence. If Ms. Annabi said, I want a \$100
19 million and then Mr. Jereis says after that, she is crazy, it
20 is impossible for the jury to understand what it is he is
21 saying without hearing what Ms. Annabi said.

22 THE COURT: When we come to what Ms. Annabi said, we
23 are going to be very, very careful because much that Ms. Annabi
24 said cannot be gotten in through her cavalier.

25 MR. SIANO: That wouldn't have been my choice of

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C3FUANN2 Jereis - direct

1 words, but I understand your Honor's point.

2 THE COURT: I thought that was your point.

3 MR. SIANO: I have made an effort to not get
4 Ms. Annabi's statements in these circumstances. I just want to
5 say on a general topic -- again, he is an observer and
6 participant in the conversation. People are talking to him.
7 And the government has gotten the other half of the
8 conversation. What are they afraid of?

9 THE COURT: I am not concerned about getting a
10 statement from Mr. Ratner, and Mr. Halperin is not concerned
11 about it either -- now that he knows what it is.

12 MR. HALPERIN: To avoid a sidebar in the future,
13 because I know the Court did not want to do that, we are going
14 to be asking the Court to adjourn Mr. Jereis' testimony after
15 direct because all of these exhibits we were just handed today.
16 The Court has made very clear that any defense exhibits needed
17 to be provided to the government in advance. While Mr.
18 Aronwald has said repeatedly that he might call Mr. Jereis, Mr.
19 Siano --

20 MR. ARONWALD: I never said I was going to --

21 THE COURT: Mr. Aronwald could not very well call Mr.
22 Jereis.

23 MR. HALPERIN: I misspoke.

24 While Mr. Aronwald has said that he may call Ms.
25 Annabi, Mr. Siano has never made such a similar representation.

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C3FUANN2 Jereis - direct

1 THE COURT: Excuse me, Mr. Halperin. The defendant
2 always, until he rests, has the right -- if you didn't think it
3 was possible that the defendant might take the stand, then you
4 are not really thinking clearly and I know you better than
5 that, Mr. Halperin.

6 MR. CARBONE: Judge, we were provided with a list of
7 witnesses for this morning. None of those witnesses are here
8 or called. Mr. Jereis got on the stand.

9 THE COURT: Surely you knew that the defendant might
10 take the stand.

11 MR. CARBONE: Judge, I have heard you say many times
12 in the past months and years, for that matter, what is good for
13 the goose is good for the gander. The government provided 3500
14 premarked exhibits way, way in advance. We provided a list of
15 witnesses.

16 THE COURT: Are you telling me that you are not ready
17 to cross-examine Mr. Jereis?

18 MR. CARBONE: We are telling you that, based on the
19 defense representations yesterday, as of last night, we were
20 expecting different witnesses today.

21 THE COURT: That wasn't my question. I understand
22 that you were expecting different people to be called. I was
23 expecting Agent Mazzuca to be called first and by Mr. Aronwald.

24 Are you ready? If you are not ready to cross-examine
25 Mr. Jereis because you were prepared instead to cross-examine

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C3FUANN2 Jereis - direct

1 all of these other witnesses, then I will have to think about
2 that.

3 MR. HALPERIN: Your Honor, that is a big part of it as
4 well as the fact in direct contravention of the Court's order
5 telling the defense to provide us with exhibits, we just got
6 these checks this morning during Mr. Jereis' direct examination
7 that we have never seen before from the defense. We have no
8 idea if they are authentic. All we have is Mr. Jereis' word
9 that a check to Getty Square Printing, that all of these
10 different checks relate to Ms. Annabi.

11 So in fairness, the government deserves an
12 opportunity, particularly because we have also served this if
13 as and when subpoena for Mr. Jereis' hard drive, we think a
14 short recess until Monday morning for the rest of Mr. Jereis'
15 examination is fair, and we would respectfully request that we
16 take any other defense witnesses this afternoon.

17 MR. CARBONE: Judge, one more thing. In your pretrial
18 order relating to the love emails, your Honor did say at page 4
19 of the order that you ruled that they can't come in through
20 Ms. Annabi. And then you said, that said, should Jereis choose
21 to testify and do so consistent with the emails, he could
22 introduce the emails --

23 THE COURT: That is what I wanted to put on the
24 record.

25 MR. CARBONE: I didn't finish.

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C3FUANN2 Jereis - direct

1 -- to rebut an insinuation by the government,
2 however --

3 THE COURT: That it was a recent fabrication.

4 MR. CARBONE: Judge, there was a "however."

5 Admission for this purpose would be contingent on the
6 defense establishing the authenticity of the email --

7 THE COURT: He did. Excuse me. He did. He doesn't
8 have to do it by putting a computer tech on the stand. He has
9 to do it by saying, "I sent these."

10 MR. CARBONE: Judge, authenticity is a preliminary
11 ruling for the Court.

12 THE COURT: I have now ruled that Mr. Jereis'
13 testimony that he sent the email is sufficient to authenticate
14 it.

15 MR. CARBONE: Judge, that's fine.

16 THE COURT: If the government wants to de-authenticate
17 it, then the government has to do that.

18 The "love emails," as we call them, the government has
19 had, raised with me a year ago concerns about their
20 authenticity and, apparently, the government has not been able
21 to establish to its satisfaction that they are not in fact
22 authentic. I flat out asked that question at one point, and I
23 was told, we have not been able to establish that they are not
24 in fact authentic.

25 MR. HALPERIN: I think, actually, Judge, what we

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C3FUANN2

Jereis - direct

1 represented the expert would say is that he had serious doubts
2 about their authenticity, but you are correct that he could not
3 say at the time that they were not authentic.

4 THE COURT: And that's why the government has a
5 rebuttal case.

6 MR. HALPERIN: That's fine --

7 THE COURT: Can we get back to this whole issue of
8 Mr. Jereis' hard drive.

9 Mr. Siano, what were you saying over there?

10 MR. SIANO: Judge, we don't have a hard drive. These
11 emails come into my possession during the crossfire between the
12 government and Ms. Annabi. These are all coming to me during
13 the course of disclosure. I don't have a hard drive. My
14 client has never had a hard drive. These are all Ms. Annabi's
15 sad --

16 THE COURT: If he had a computer, he had a hard drive.
17 I have a hard drive.

18 MR. SIANO: But he doesn't have this computer. There
19 is no computer with love emails on them. We have no such
20 computer.

21 These are in the crossfire between Mr. Aronwald and
22 the government. These are harvested off of Ms. Annabi's
23 computer. In fact, I didn't see these until we were well deep
24 into this case. The indictment comes down. There is a flurry
25 of emails. Things start coming back. I start getting copies

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C3FUANN2 Jereis - direct

1 of it. I start getting copies of it. They are all bearing
2 other people's tags on them. And I think in fact virtually
3 everything that I have come from the government. Both of them
4 are harvesting off the same instrument in some manner, shape or
5 form.

6 Sorry. I asked my client. Did you actually say this?
7 I get a yes answer.

8 I read your Honor's decision. It is a pretrial
9 ruling. I accept it and I move forward.

10 MR. CARBONE: Judge, on the question of the hard
11 drive, if Mr. Jereis is saying he didn't have a computer during
12 the course of the years between 2000 and 2010 --

13 THE COURT: That is not what he said, Mr. Carbone.

14 MR. CARBONE: If in fact he opens the files the AOL
15 email folders and saves these emails, they would likely be on
16 the hard drive like Ms. Annabi's was in 2005.

17 MR. SIANO: Judge, I am going to go back we are going
18 to go into Mr. Jereis' basement and --

19 MR. CARBONE: I wasn't finished, sir.

20 Beyond that, Judge, we have also subpoenaed records
21 relating to these 2001 checks that Mr. Siano produced. They
22 didn't come from the government and Mr. Siano knows that.

23 THE COURT: Those plainly did not.

24 MR. CARBONE: We don't have those. We have subpoenaed
25 now with an if as and when subpoena all of the documents

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C3FUANN2 Jereis - direct

1 relating to his 2001 checking account. As your Honor said the
2 other day, we are not entitled to argue that there were no
3 payments before her 2001 campaign, and I haven't heard any
4 testimony that says there were, but now we are entitled to
5 those records.

6 THE COURT: I have now heard testimony that there were
7 payments prior to the 2002 payments that you claim were the
8 first payments that were made. So I have heard that testimony,
9 and I have heard that he lost 150 pounds and had surgery so --

10 MR. CARBONE: Judge, there were no payments, according
11 to this witness's testimony, prior to the time that Ms. Annabi
12 began to run for office.

13 THE COURT: There were no payments prior to the time
14 that he saw Sandy with the blue dress on.

15 MR. CARBONE: So that is consistent with our theory.

16 We don't think it is funny. We don't think it is a
17 laughing matter.

18 THE COURT: I know you don't.

19 MR. CARBONE: And we have subpoenaed records to ZJ
20 Enterprises.

21 THE COURT: Mr. Carbone, you are free to subpoena
22 whatever you want.

23 MR. CARBONE: Judge, that is what we are doing. We
24 are trying to convince the Court that a reasonable adjournment
25 to Monday morning to cross-examine Mr. Jereis would be

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C3FUANN2 Jereis - direct

1 appropriate, given our request.

2 THE COURT: What did you say you wanted to do in the
3 basement, Mr. Siano?

4 MR. SIANO: Judge, I am going to go back again and
5 look and see, again if there are dead computers --

6 THE COURT: If he kept old computers?

7 MR. SIANO: We are going to go back and look again.

8 THE COURT: I believe what you are suggesting -- what
9 was the date of that email?

10 MR. SIANO: I believe it is August 5.

11 THE COURT: August 5 of 2000 --

12 MR. HALPERIN: August 26 of 2005.

13 THE COURT: I believe what you are suggesting is that
14 Mr. Jereis has changed computers since then and may not have
15 kept his old computer.

16 Is that what you are suggesting to me, so that you
17 would not be able to produce a computer in response to an if as
18 and when subpoena served on you in 2012?

19 MR. SIANO: That's correct.

20 THE COURT: The government not having subpoenaed
21 Mr. Jereis' computers during the course of its grand jury
22 investigation.

23 MR. SIANO: That is correct.

24 MR. HALPERIN: There wasn't any subpoena when this
25 fire fight started either, Judge.

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C3FUANN2 Jereis - direct

1 MR. ARONWALD: Judge, we turned those emails over a
2 long time ago as we --

3 THE COURT: Mr. Aronwald, please don't get into this.

4 MR. CARBONE: That is just not the case. We did ask
5 Mr. Siano for the hard drive. We even asked Mr. Aronwald who
6 said he would ask Mr. Siano. He had an active production
7 privilege during the grand jury investigation. He asserted
8 that privilege with respect to a subpoena to ZJ Enterprises.
9 Now we are subpoenaing the hard drive.

10 MR. SIANO: If I might, your Honor, I received a
11 subpoena for ZJ Enterprises, Inc., a duly incorporated
12 corporation for the State of New York that had no connection to
13 my client.

14 I very politely called Mr. Carbone, explained to him
15 that we were a d/b/a and that Mr. Jereis was an individual and
16 it was not a corporation and, therefore, the subpoena that was
17 served on me was not valid on me and there was no further
18 subpoena.

19 We did get a subpoenas for ZJ Enterprises. There is a
20 gentleman on Long Island who had such a corporation, who
21 undoubtedly has been caught in the crosswinds of this
22 investigation for seven years.

23 I will also tell your Honor, your Honor knows that I
24 was extraordinarily upset about the amendment of the indictment
25 in this case and the superseder. In this particular instance,

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C3FUANN2

Jereis - direct

1 your Honor, I voluntarily gave the government not only the
2 educational certificates because there was an allegation that
3 my client was incompetent to perform the mythical appraisal
4 that Anthony Mangone alleges he performed -- I gave them those
5 documents. And I gave him checks for the two years prior to
6 the indicted period of time. The indictment started in '04. I
7 gave him checks for 2002 and 2003 to engage in a rational
8 dialog about whether or not the government's allegations were
9 correct and the response I got was a superseder.

10 I did not understand the government's position to be
11 that they could argue to this jury there were no payments in
12 2001 because they didn't put them in evidence until we stood
13 and talked about this on a Rule 29 and related conversations
14 with your Honor. These conversations become particularly
15 germane at that moment.

16 And they also said to your Honor that they had bank
17 records for 2001. The incompleteness of their bank records
18 doesn't limit my proof.

19 Again, Judge, they may be able to conduct just the
20 merest soupcon of cross-examination today so as to limit
21 whatever happens on Monday to something other than a
22 fear-driven attempt at late preparation.

23 And I am sorry for that gratuitous remark.

24 THE COURT: That was a gratuitous remark, Mr. Siano.

25 MR. HALPERIN: It was, your Honor. And we consider

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C3FUANN2 Jereis - direct

1 what happened here a real unfair sandbag.

2 THE COURT: I have to tell you, I don't consider it an
3 unfair sandbag; I consider it pretty good defense work, but
4 fine. The one thing I will not allow is for the government to
5 do a soupcon of cross-examination today and the rest on Monday.
6 So let's finish Mr. Jereis' direct. Go on to something else.
7 Let's give the government the weekend.

8 May I take a five-minute break?

9 MR. SIANO: Certainly.

10 (Recess)

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12 (Continued on next page)

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C3fQann3

Jereis - Direct

1 (Jury present)

2 THE COURT: The reason that we had a longer break than
3 usual was to try and avoid some side bars. Whether that will
4 turn out to be successful or not remains to be seen.

5 You are still under oath, Mr. Jereis.

6 Mr. Siano, would you continue please. Where were we
7 25 minutes ago?8 MR. SIANO: I think we were at Marco Polo on June 2,
9 2006.10 THE COURT: You were at Marco Polo, yes, and the
11 question was and what did Mr. Ratner say.

12 MR. SIANO: No, Mr. Bender.

13 THE COURT: Mr. Bender.

14 MR. SIANO: Mr. Ratner send his acolytes.

15 THE COURT: What did Mr. Bender say? Yes. And there
16 was an objection. And that objection is overruled.

17 You may answer.

18 MR. HALPERIN: Actually, it was withdrawn.

19 THE COURT: The objection is withdrawn, that's
20 correct. I'm so sorry.

21 MR. HALPERIN: No problem.

22 Q. After the pleasantries and exchange of political views,
23 what, if anything, did Mr. Bender say?

24 A. He had stated that he would like to meet with Ms. Annabi.

25 At that point in time my response was trying to get her a buyer

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C3fQann3 Jereis - Direct

1 not a way to meet with her.

2 Q. What did you mean when you said that?

3 A. They would try to get -- they went to her boss at the
4 hospital, the president of the hospital. The president of the
5 hospital had told Sandy that they wanted Forest City Ratner's
6 project approved, and that they support the project, and they
7 called her in on the project.

8 Q. When you said this to Mr. Bender, what did he say in
9 response?

10 A. He said that it wasn't him. It was Spencer.

11 Q. Now, when he said Spencer, did you understand who he was
12 referring to?

13 A. Yeah, he was referring to Mayor John Spencer.

14 Q. That was ex-mayor John Spencer?

15 A. Ex-mayor John Spencer.

16 Q. What happened in the conversation after that exchange
17 between you and Mr. Bender?

18 A. Like I said, he was trying to pretty much pitch the project
19 to me, and I told him, "You really don't have to be pitching me
20 the project." I sat there, I listened to them. We were
21 talking generally politics, talking who's who in Yonkers, and,
22 you know, the climate that they had was a very difficult
23 climate. They were afraid to offend this one, they were afraid
24 to offend that one, and they didn't know who to talk to, and it
25 was pretty much -- they've seen all types of politics, but the

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C3fQann3 Jereis - Direct

1 experience they had in Yonkers to them was crazy and amazing.

2 Q. What, if anything, happened -- first of all, have you told
3 us everything that happened at the meeting or was there more
4 conversation?

5 A. It was just -- the only thing is Joe Galimi at that
6 meeting, you know, was also trying to boost himself up with
7 Assemblyman Lentol. He was having side conversations with
8 Scott Cantone. And that was pretty much it. It was pretty
9 much left that I would -- I would call Sandy, and I would talk
10 to her.

11 Q. Did you promise Forest City Ratner Sandy Annabi's vote on
12 June 2?

13 A. Absolutely not.

14 Q. Did you ask for anything of value as a quid pro quo for
15 anything else in the meeting of June 2?

16 MR. HALPERIN: Objection. Leading.

17 THE COURT: Overruled.

18 A. Absolutely not.

19 Q. Did at any time Forest City Ratner offer you anything in
20 exchange for Ms. Annabi's vote?

21 A. Absolutely not.

22 Q. Now, at any time did you demand anything from Forest City
23 Ratner for arranging a meeting?

24 A. Absolutely not.

25 Q. Did you promise them a meeting on June 2?

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C3fQann3

Jereis - Direct

- 1 A. No, I didn't.
- 2 Q. After you left the meeting, sir, what did you do? The
- 3 June 2 Marco Polo meeting.
- 4 A. I left the meeting, I called Sandy up, and I told her that
- 5 I had met with the members of Forest City Ratner. I said they
- 6 seemed like real decent guys. This project was likely going --
- 7 Q. I want you to tell the jury what you said to Ms. Annabi;
- 8 not what Ms. Annabi said to you.
- 9 A. No, that's what I'm saying. I was telling -- we got to the
- 10 car. I called Ms. Annabi, and I had told her that the
- 11 gentlemen from Forest City Ratner are decent guys. I said,
- 12 "Sit down with them. Hear them out. They're not going to
- 13 pressure you. You're not going to be bullied, you know, don't
- 14 have Dee Barbato and John Murtagh try to do anything to avert
- 15 you from speaking what you felt without them in their
- 16 presence." I said, "Just sit down with them. Talk to them."
- 17 I said, "They will work with you."
- 18 Q. OK. Now, did there come a point in time thereafter where
- 19 you arranged a meeting?
- 20 A. Yes.
- 21 Q. Now, prior to your arranging the meeting, did Ms. Annabi
- 22 agree to come to the meeting?
- 23 A. Repeat that again?
- 24 Q. Prior to you -- you arranged a meeting?
- 25 A. Yes. Yes.

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C3fQann3 Jereis - Direct

- 1 Q. When and where did you arrange the meeting for?
2 A. It was back and forth phone calls with Forest City Ratner
3 and Sandy, and we arranged the meeting a week afterwards.
4 Q. All right.
5 A. Working out our schedules.
6 Q. Did Ms. Annabi agree to come to the meeting?
7 A. Yes.
8 Q. Now, where was this meeting?
9 A. It was at Jake's Restaurant.
10 Q. Where is Jake's?
11 A. It's on Broadway in the Bronx.
12 Q. What time of day was it?
13 A. It was in the afternoon, lunchtime.
14 Q. Now, was it a weekday?
15 A. No, it was during the week.
16 Q. I'm sorry, I'm not making myself clear. So it was during
17 the week?
18 A. Yes.
19 Q. To your own knowledge, was Ms. Annabi employed on the day
20 of the Jake's Steakhouse meeting?
21 A. Yes.
22 Q. To your own knowledge, where was she working?
23 A. St. Joseph's Hospital.
24 Q. And the Jake's meeting was at what point during her
25 workday?

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C3fQann3

Jereis - Direct

- 1 A. Her lunchtime.
- 2 Q. Now, did such a meeting take place in June at Jake's?
- 3 A. Yes.
- 4 Q. Do you recall the date specifically?
- 5 A. June 9.
- 6 Q. Who was there?
- 7 A. I, Sandy, Richard Pesin, Scott Cantone, and Bruce Bender.
- 8 Q. Did you and Ms. Annabi come in the same car?
- 9 A. No.
- 10 Q. By the way, what kind of car were you driving in the middle
- 11 of 2006?
- 12 A. I was driving a blue Mercedes.
- 13 Q. Now, you came in your car?
- 14 A. Yes.
- 15 Q. Did Ms. Annabi come in her car?
- 16 A. Yes.
- 17 Q. What was Ms. Annabi driving?
- 18 A. I'm not sure. Possibly a Mercedes -- I don't know if she
- 19 was driving a Mercedes, her family's car, I'm not too sure
- 20 which car she came in.
- 21 Q. What happened at the meeting?
- 22 A. The meeting started off, they were discussing, you know --
- 23 it began chummy. They started talking about their project and,
- 24 you know, all the miles that they went to trying to get this
- 25 project approved and all the things they were trying to do and

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C3fQann3 Jereis - Direct

1 that they were taking the lead from the administration, and
2 they didn't want to upset the administration; and Sandy
3 mentioned her concerns that she had about the size of the
4 project. She made her concerns about --

5 MR. HALPERIN: Objection. Hearsay, what Sandy said.

6 THE COURT: Objection sustained.

7 Q. Let's leave out what Ms. Annabi said.

8 A. The conversation --

9 Q. Just leave out Ms. Annabi's side of the conversation. What
10 was the subject matter of the conversation?

11 A. The subject of the matter was funding for education,
12 increase in tax revenue, and traffic and the size of the
13 project.

14 Q. Now, after the preliminaries, who spoke on behalf of Forest
15 City Ratner?

16 A. When it came to the size of the project, Richard Pesin
17 spoke.

18 Q. Describe what happened in the conversation as the
19 conversation turned towards the topic of the size of the
20 project.

21 A. The theory is is that if the project was scaled back, it
22 would alleviate some of the traffic.

23 Q. What was Pesin's reaction?

24 A. He was very upset at that. He was very angry. He didn't
25 like that.

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C3fQann3 Jereis - Direct

- 1 Q. What was Ms. Annabi's emotional reaction as you observed
2 it?
3 A. She was upset also.
4 Q. Now, did there come a point in time where somebody left the
5 meeting first?
6 A. Yes. Pesin left.
7 Q. Who left next?
8 A. Sandy.
9 Q. At the time that Ms. Annabi left the meeting, did you see
10 her in any way agree to vote for the Forest City Ratner
11 project?
12 A. Absolutely not.
13 Q. Now, after Ms. Annabi and Mr. Pesin left, what happened in
14 the meeting?
15 A. I had told both members who were there, Scott and Bruce,
16 that they'll have to make concessions, is the only way possible
17 if they want to seek Sandy's support.
18 Q. What did they say?
19 A. They were going to check back with the higher-ups with
20 Bruce Ratner in regards to money, and they were working along
21 with Chuck Lesnick on the traffic issue.
22 Q. When you left the meeting, where did you go?
23 A. We walked out. I had walked to my car. They were walking
24 to their car.
25 Q. Did you have a conversation with Mr. Cantone in the parking

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C3fQann3 Jereis - Direct

1 lot?

2 A. Yes, I did.

3 Q. What did you say to Mr. Cantone, and what did he say to
4 you?

5 A. I had told Mr. Cantone that if there is an opportunity in
6 your company, I would like to be given an opportunity.

7 Q. At any point on June 9, did you say in words or actions
8 that a job with Forest City Ratner was a quid pro quo in
9 exchange for the meeting they had with Sandy Annabi?

10 MR. HALPERIN: Objection. Calls for a legal
11 conclusion.

12 THE COURT: Overruled.

13 A. Absolutely not.

14 Q. Did at any point in time did Forest City Ratner offer you
15 anything in return for the meeting with Sandy Annabi?

16 A. Absolutely not.

17 Q. At any time did you say in words or actions to Forest City
18 Ratner that Sandy Annabi's vote was a quid pro quo, the quid
19 pro quo was you getting a job?

20 MR. HALPERIN: Objection. Leading. Asked and
21 answered.

22 THE COURT: The objection is overruled.

23 A. Absolutely not.

24 Q. At any point in time did Forest City Ratner offer anything
25 in exchange for Ms. Annabi's vote?

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Jereis - Direct

1 A. Absolutely not.

2 Q. Now, did you receive communications from Ms. Annabi or the
3 Forest City Ratner people after June 9 but before the next
4 meeting you attended?

5 A. I would talk to Sandy on a daily basis, whatever the
6 current event was. The gentlemen from Forest City Ratner, they
7 were calling me, you know, five, six times. They were calling
8 me constantly.

9 Q. Did you attend another meeting?

10 A. Yes, I did.

11 Q. When approximately was it?

12 A. I believe it was the meeting at -- I believe the meeting
13 was on the 14th.

14 Q. Do you recall as you sit there now where it was?

15 A. Madison's.

16 Q. Who attended?

17 A. I, Sandy, Bruce Bender and Scott Cantone.

18 Q. What was discussion at the meeting of June 14, the subject
19 matter?

20 A. Discussing the project about what concessions were going to
21 be made, what they finalized on in regards to tax revenue, in
22 regards to traffic mitigation, in regards to setting up an
23 educational fund, and that these -- these precipitated
24 previously of that meeting, they weren't just discussed at that
25 meeting. From the time we left the last meeting, there was

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1 constantly calls between Sandy, Sandy's staff and other members
2 of the city council with Forest City Ratner in regards to the
3 whole traffic situation, but the discussion predominantly was
4 about the revenue that her and them were discussing. The
5 increase in tax revenue is what I mean.

6 Q. Did there come a point in time when that meeting ended?

7 A. Yes.

8 Q. Now, at any point to the end of that meeting, did you
9 solicit or ask Forest City Ratner for anything as a quid pro
10 quo in return for the meeting on June 14?

11 A. Absolutely not.

12 Q. Did you solicit or ask in any manner, shape or form from
13 Forest City Ratner for anything as a quid pro quo for
14 Ms. Annabi's decision to favor the Ridge Hill project?

15 A. Absolutely not.

16 Q. At any time did Forest City Ratner offer you anything in
17 return for the meeting?

18 A. Absolutely not.

19 Q. At any point in time did Forest City Ratner give you
20 anything in return for your setting up the meeting?

21 A. Absolutely not.

22 Q. Did they offer you anything in return for Ms. Annabi's
23 vote?

24 A. Absolutely not.

25 Q. Did you, sir, after that meeting send your rsum to Forest

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1 City Ratner?

2 A. Mr. Cantone gave me his card with his email address --

3 MR. HALPERIN: Objection. Non-responsive.

4 Q. Let's start with did you send the rsum?

5 A. Yes.

6 Q. Why did you send it?

7 A. Pes -- Scott Cantone said send us your rsum. Through my
8 conversation with him --

9 MR. HALPERIN: Objection. Hearsay.

10 THE COURT: No. No. You sent it because he said send
11 me your rsum. Next question.

12 Q. Why did you want to work for Forest City Ratner?

13 A. They were an \$11 billion company. They had projects all
14 throughout the State of New York. They were telling me about
15 projects in other parts of the state. And each meeting we had
16 was the first -- it was an \$11 billion company. So I said if
17 there was an opportunity there, I would like it.

18 Q. All right. Now, did you see a series of emails the
19 government showed Mr. Bender and Mr. Cantone about discussions
20 after you sent your resume to Mr. Cantone?

21 A. Yes.

22 Q. Were those resumes an attempt by you to communicate about
23 the rsum?

24 A. No.

25 Q. Now, did you have conversations with Mr. Cantone from June

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1 until August about working with Forest City Ratner?

2 A. Yes.

3 Q. What else did you discuss with Forest City Ratner?

4 A. Talked about Westchester politics, talked about who were
5 their friends and who were not their friends, talked about
6 seeing this project continue on and seeing certain people in
7 office to help their project go forward, talked about who was
8 being a resistance to them, talked about political landscaping,
9 the boundaries in Greenburgh, who were not supporting of the
10 project, different election results that would occur, when was
11 somebody up for office, was there any organization with respect
12 to districts, was there possibly challengers; and pretty much
13 it was a lot of, you know, Westchester politics, government, a
14 lot of discussion about the county board, whether the county
15 board was supportive.

16 Q. What's the county board? This is a phrase we haven't heard
17 so much?

18 A. There's two levels. There's city, which is the mayor and
19 city councilmen. You have county government, which is the
20 county executive, the county board of legislators. And you
21 also have the state, which is the governor. You have an
22 assembly, and you have a senate.

23 Q. So the county executive is what Mr. DelBello became after
24 he was mayor?

25 A. Correct.

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1 Q. You might call it being kicked upstairs, but that would be
2 my phrase.

3 Was there a discussion with Bender and Cantone on the
4 subject of the dynamics of the county ligature?

5 A. Yes, there's was issue of the whole possibility of park
6 land. There was also the issue that Forest City had in its
7 back pocket of removing the supermajority.

8 So there were issues that were there that they wanted
9 to know exactly who's who. They were overwhelmed. They were
10 into this project, and they would call me on a regular basis.

11 Q. Now, did there come a point in time sometime in the summer
12 and fall of 2006 where somebody from Forest City Ratner told
13 you you had a job?

14 A. Yes.

15 Q. Approximately when did that take place?

16 A. I'm going to say it happened around August, late July,
17 August.

18 Q. Do you have a specific recollection of who you were talking
19 to?

20 A. It was Bruce Bender, Scott Cantone and Richard Pesin are
21 the ones I was speaking to.

22 Q. What did they tell you?

23 A. They told me that they would like me to come on board for
24 government affairs, and they believe I have the credentials and
25 the merits with my experience in government to be part of their

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1 government affairs team.

2 Q. Did you subsequently get a written contract?

3 A. Yes.

4 Q. Approximately when?

5 A. About three to four months later after that conversation.

6 Q. Now, prior to the written contract, what was your
7 understanding as to what the scope of your work with Forest
8 City Ratner was going to be?

9 A. It was going to be government affairs.

10 Q. Did you read the contract?

11 A. Yes.

12 Q. Did you see this concept of retail hunting?

13 A. Yes.

14 Q. Did you talk to anybody about it?

15 A. At the time when I got the contract, yes.

16 Q. Who did you talk to?

17 A. I talked to Pesin and Cantone.

18 Q. What were you told?

19 A. I was told that despite doing all the government affairs
20 stuff, every time they call me about anything that's going on,
21 they wanted me to keep my eyes and ears on the ground at
22 Westchester, anything that involved development, anything they
23 think I should know. They were in Brooklyn. If something was
24 happening they wanted to know about, they wanted eyes and ears
25 on the ground in Westchester.

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1 Also, that they knew a contingent, I believe, a
2 Dominican, who wanted to open up supermarkets, and that if I
3 knew any pieces of land, nothing big, where they wanted to
4 build these supermarkets, and that if I can locate these
5 supermarkets for them.

6 MR. HALPERIN: Objection. Hearsay. Move to strike
7 the whole answer.

8 THE COURT: The objection is sustained.

9 MR. HALPERIN: Move to strike the whole answer.

10 THE COURT: The objection is -- yes, strike the
11 answer.

12 Q. Now, did there come a point in time where you sent bills to
13 Forest City Ratner?

14 A. At the request of Scott Cantone.

15 Q. Who asked you to send the bills?

16 A. Scott Cantone.

17 Q. What bills did you send?

18 A. He asked me to send invoices for August, September and
19 October.

20 Q. Did you do that?

21 A. Yes.

22 Q. What happened after you sent the bills? At first what
23 happened? Did you get paid right away?

24 A. No, I did not.

25 Q. About how long did you wait to get paid?

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C3fQann3 Jereis - Direct

- 1 A. In December I got my first check.
2 Q. How much was it for?
3 A. \$15,000.
4 Q. Did you ever get any money from Forest City Ratner after
5 that \$15,000 check?
6 A. No, I did not.
7 Q. When is the first time anybody from Forest City Ratner
8 expressly asked you for written reports?
9 A. March of 2007.
10 Q. After they asked you for written reports, what did you do,
11 sir?
12 A. I began to try my best to put these reports together once
13 they asked for them.
14 Q. What did you do?
15 A. I put the reports together.
16 Q. How did you do that?
17 A. I did it with a friend of mine who assisted me typing them
18 up.
19 Q. Who was that?
20 A. Richard Hoffman.
21 Q. What information, if any, did you include in your reports?
22 A. I included the sites that I located for them, any
23 development that was going on at the time. I tried to the best
24 of my ability to go back from August and pretty much try to
25 find any notes that I had or any material that could -- to

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C3fQann3 Jereis - Direct

- 1 recollect to the best of my ability because throughout that
2 whole period of time the reports were never made an issue.
3 Q. Now, did you submit those reports to Forest City Ratner?
4 A. Yes.
5 Q. Why did you give them to Forest City Ratner?
6 A. They asked for them.
7 Q. Thank you. Now, do you know an individual by the name of
8 Anthony Mangone?
9 A. Yes.
10 Q. How did you come to meet Anthony Mangone?
11 A. We campaigned together in the mid Nineties.
12 Q. In whose campaigns did you work in the mid Nineties?
13 A. We worked for county clerk, Ray Spano. We worked for
14 Senator Nick Spano, Assemblyman Mike Spano, particularly on
15 judicial campaigns.
16 Q. Did you, sir, ever receive referral fees from Anthony
17 Mangone?
18 A. No, I did not.
19 Q. Did there come a point in time in 2006 where you went to
20 Mr. Mangone's office?
21 A. Yes.
22 Q. Now, on what interval would you go to Mr. Mangone's office?
23 A. Under what interval?
24 Q. Yes. How often did you go there in 2006?
25 A. Once a week, a couple -- yeah.

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C3fQann3 Jereis - Direct

1 Q. Weekly?

2 A. I went weekly.

3 Q. Now, we're going to ask you to focus some individuals named
4 Milio. Do you recall going to Mr. Mangone's office sometime in
5 the spring of 2006?

6 A. Yes.

7 Q. Did you go there knowing you were going to meet the Milios?

8 A. No, I did not.

9 Q. What were you going there for? Do you remember why you
10 went?

11 A. Anthony Mangone had called me and asked me to pass by. I
12 said when I get a chance, I'll pass by.

13 Q. Did you go?

14 A. Yes, I did.

15 Q. What happened when you went in?

16 A. I went into the office, I looked and I asked Jill, "Where's
17 Anthony?" She said he's upstairs. I went up the flight of
18 stairs, passed by the conference room. It's a glass door there
19 and I saw him, and there were two individuals.

20 Q. What, if anything, did Mr. Mangone -- first of all, did
21 Mr. Mangone manifest that he saw you through the glass door?

22 A. Yes.

23 Q. What did he do?

24 A. He saw me standing outside the glass door, and he waved me
25 to come in.

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Jereis - Direct

1 Q. Did you go in?

2 A. Yes.

3 Q. What happened?

4 A. I went in there, sat down. There were two gentlemen there,
5 and he introduced them as the Milio brothers. Said this is
6 Franco Milio -- I don't --

7 MR. HALPERIN: Objection. Hearsay what Mangone said.

8 THE COURT: There were two gentlemen there. He
9 introduced them as the Milio brothers. Objection overruled.
10 Ask the next question.

11 Q. Thank you.

12 Now, what is the subject matter that was discussed?

13 A. They were discussing their project with Anthony Mangone. I
14 was sitting there listening to their conversation.

15 Q. About how long were you in the room?

16 A. No more than ten minutes.

17 Q. What, if anything, did you say during that meeting?

18 A. I really didn't say much because I left -- as I was about
19 to leave the meeting, I told Anthony Mangone, "Let me know what
20 you want me to do."

21 Q. At any point in that meeting, did anyone in your presence
22 discuss the concept of a cash payment to Ms. Annabi?

23 A. Absolutely not.

24 Q. Anybody discuss the concept of a bribe to Ms. Annabi?

25 A. Absolutely not.

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C3fQann3 Jereis - Direct

1 Q. At any point did anybody discuss cash payment to you?

2 A. Absolutely not.

3 Q. Now, thereafter, did you have a conversation with
4 Mr. Mangone in which you asked him for a hundred thousand
5 dollars?

6 A. Absolutely not. That never happened.

7 Q. Now, at any point did you meet Mr. Mangone outside of
8 Trotter's in July 2006?

9 A. No, I did not.

10 Q. In fact, I already asked you this. Were you driving a
11 white Mercedes in July of 2006?

12 A. I was not.

13 Q. Did you take money from Mr. Mangone at or near the sum of
14 \$10,000 in or about July of 2006?

15 A. No, I did not.

16 Q. Did you take money from Mr. Mangone in or about the end of
17 September, the 26th, the 27th, 28th, 29th of September 2006?

18 A. No, I did not.

19 Q. At any point in time did you participate in any way in an
20 effort to pass a bribe directly or indirectly to Ms. Annabi?

21 A. Never.

22 Q. Now, did there come a point in 2006 when you became aware
23 that Ms. Annabi was going to Jordan?

24 A. Yes.

25 Q. Did you understand the timing of the trip with respect to

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1 the Forest City Ratner project?

2 A. Yes.

3 Q. Did you ask Forest City Ratner anything on behalf of

4 Ms. Annabi with respect to that trip?

5 A. The fact that the trip -- the fact that the scheduled
6 meeting was July 11. At that point in time Sandy had an air
7 fare ticket that was already cut for her to be out of the
8 country, so for her there was a rescheduling fee, and I asked
9 them if they were willing to -- whatever her penalty was, the
10 fact that she was canceling her trip in the summertime to be
11 there for the vote.

12 Q. What did you ask them?

13 A. If they could pay the penalty.

14 Q. Did you demand the penalty?

15 A. No, I did not.

16 Q. Did you say paying the penalties was in any way a quid pro
17 quo for Ms. Annabi supporting the project?

18 A. No, I did not.

19 Q. What did they say to you?

20 MR. HALPERIN: Objection. Hearsay.

21 THE COURT: The objection is overruled.

22 A. They said that they would look into it.

23 Q. Did they get back to you?

24 A. Yes.

25 Q. What did they say when they got back to you?

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1 A. They said that they couldn't do it.

2 Q. Now, did there come a point in time where you became aware
3 that Ms. Annabi or anybody connected with Ms. Annabi was
4 considering upgrading the ticket?

5 A. Yes.

6 Q. Without regard to the truth of the matter, what were you
7 told on that subject?

8 MR. HALPERIN: Objection. Hearsay. It is offered for
9 the truth.

10 THE COURT: The objection is sustained.

11 Q. Did you contribute in any way to Ms. Annabi's ticket
12 upgrade?

13 A. Yes.

14 Q. Approximately when did you do that?

15 A. I would say it happened around her birthday, around June,
16 late June, around the June time period.

17 Q. What did you physically do? Tell the jury.

18 A. I had went to Sandy's parents' house, and her family and
19 her aunts and uncles were all pitching in to upgrade her ticket
20 to a business class. Her father had gave me the money they put
21 together and whatever was short on that amount I had to put in.

22 Q. Approximately, how much did you have to put in?

23 A. I put in about \$1,500.

24 Q. What did you do with the envelope with all the prior money
25 from the family and with the \$1,500 that you contributed?

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C3fQann3 Jereis - Direct

- 1 A. Put it all together and picked up her ticket.
2 Q. Who physically went to pick up the ticket?
3 A. I picked up her ticket.
4 Q. Now, was any of that money that you put in that envelope
5 money that you had received from Mr. Mangone?
6 A. Absolutely not.
7 Q. Did you pay for the whole ticket?
8 A. No, I did not.
9 Q. Did you buy Ms. Annabi the Rolex watch that's been talked
10 about in this case for four weeks?
11 A. No, I did not.
12 Q. Did you buy Ms. Annabi the necklace that's been talked
13 about for four weeks in this case?
14 A. No, I did not.
15 Q. Did you pass any money that you received from Anthony --
16 according to Anthony Mangone, did you pass any such money to
17 Ms. Annabi?
18 A. I passed no money to Ms. Annabi.
19 Q. Now, from time to time, did Ms. Annabi buy you presents?
20 A. Yes, she did.
21 Q. Now, what sorts of presents did she buy?
22 A. She bought me a watch. She bought me cologne. She bought
23 me suits. She bought me clothing.
24 Q. Now, did you continue after you answered the phone -- you
25 called her apartment at 245 Rumsey Road and a man answered, did

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C3fQann3 Jereis - Direct

- 1 you continue to pay Ms. Annabi's expenses in connection with
2 245 Rumsey Road?
3 A. Yes.
4 Q. Why did you do that?
5 A. I had a vested interest in the apartment. I didn't want to
6 see the apartment belly up. So I continued to pay. I paid the
7 down payment, so I continued to make the payments because I
8 didn't want to see the apartment go on the wayside.
9 Q. Mr. Jereis, did you expect to be repaid for the tuition you
10 paid for the Annabis' son that I showed you the original check
11 here? Did you expect him to repay that money?
12 A. No.
13 Q. Did you receive any consideration from Ms. Annabi for that
14 money?
15 A. No.
16 Q. Did you expect, sir, to be repaid for the loan of \$60,000?
17 Other than the principal, did you expect any interest from
18 Ms. Annabi on that loan from 2004?
19 A. No.
20 Q. Now, the Mercedes Benz payment, sir, did you expect to be
21 repaid those payments?
22 A. No.
23 Q. At the time you made them, did you expect to be repaid for
24 the student loan payments?
25 A. No.

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C3fQann3 Jereis - Direct

1 Q. Now, the ConEdison bills at 245 Rumsey Road, did you expect
2 to be repaid those sums?

3 A. No.

4 Q. How about the cable bills?

5 A. No.

6 Q. What was your understanding as to whether or not you were
7 going to be repaid the maintenance at 245 Rumsey Road?

8 A. I would be paid the maintenance and the mortgage payments.

9 Q. When?

10 A. It was really no timetable on it; whenever she was able to
11 put the funds together or pay me that amount that I put into
12 the apartment or she would revert it back to me.

13 Q. Now, I want to show you a couple of exhibits I marked for
14 identification. Defendant's Exhibits 97 for identification and
15 99 for identification. Do you recognize those two checks?
16 Look at the top check. Mr. Jereis, do you recognize those
17 checks?

18 A. Yes.

19 Q. What do you recognize those checks to be?

20 A. Exhibit 97 is a check made payable to me for \$37,000.

21 MR. HALPERIN: Objection. These aren't in evidence.

22 THE COURT: That's true. It's a check.

23 Q. It's a check. What check do you recognize it to be?

24 A. It's an Emigrant Savings Bank made payable to me for
25 37,000 --

C3fQann3 Jereis - Direct

1 MR. HALPERIN: Objection, your Honor.

2 THE COURT: It's a check.

3 Q. Is it the check that you received in partial repayment for
4 the 60,000 you lent Ms. Annabi in 2004?

5 A. Yes.

6 Q. What's the other check? Just is it a check?

7 A. Yes, there's two checks.

8 THE COURT: Do you want to introduce the checks,
9 Mr. Siano?

10 MR SIANO: I am, Judge. I am nodding a little, but I
11 want to introduce the two checks. 97 and 99 are offered in
12 evidence.

13 MR. HALPERIN: Can we see them, please?

14 No objection, your Honor.

15 THE COURT: Admitted.

16 (Defendant's Exhibit 97 and 99 received in evidence)

17 Q. Mr. Jereis, is Defense Exhibits 97 and 99, are they in fact
18 the repayment of the \$60,000 you lent Ms. Annabi in June of
19 2004?

20 A. Yes, they are.

21 Q. The \$23,000, when did you get that? What's the date on the
22 check?

23 A. I got that check on July 30, 2004.

24 Q. And the \$37,000 check?

25 A. I got that check on October 14, 2004.

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C3fQann3 Jereis - Direct

1 Q. You made the loan in June; all paid back by October?

2 A. Correct.

3 Q. Did you get any interest?

4 A. No.

5 Q. Did you ask for any interest?

6 A. No.

7 Q. Now, Mr. Turk, would you be kind enough to put up
8 Government Exhibit 811?

9 MR. CARBONE: It's not in evidence.

10 MR. SIANO: It's not in evidence?

11 MR. CARBONE: No.

12 MR. SIANO: How about 813?

13 Q. Let me show the witness 811 and 813. Mr. Jereis, let me
14 show you two Government Exhibits which were identified
15 yesterday. Do you recall talking to Ms. Annabi about -- you
16 look at those, Mr. Jereis, and when you're finished, let me
17 know, please.

18 A. Yes.

19 Q. Did you have conversations with Ms. Annabi about the topic
20 of auxiliary generators?

21 A. Yes.

22 Q. Can you tell me what it was you said to Ms. Annabi on this
23 subject?

24 A. What happens is --

25 THE COURT: No. What did you say?

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C3fQann3 Jereis - Direct

1 THE WITNESS: I'm sorry.

2 THE COURT: What did you say to Ms. Annabi?

3 Q. Not in the emails. Generally what did you say?

4 A. During the summertime, there were these outages that were
5 occurring, and there was a particular senior citizen building
6 called Martinelli Manor that lost power. The people that lived
7 there were on respirators and oxygen, and the unit -- the
8 senior citizen building didn't have a generator.

9 So what I had proposed to Sandy was you should look to
10 see if there's any generators in senior citizen buildings that
11 were in your district. Her district had predominantly a lot of
12 seniors, and the lion's share of senior citizens building were
13 in her district. So I told her it was a good issue, and I told
14 her to find out if there's generators in these buildings, God
15 forbid, there should be some sort of an outage, that these
16 people have backup generators if they were on oxygen or
17 respirators.

18 Q. Now, why were you concerned?

19 A. First of all, it was sad to see the people at Martinelli
20 Manor, what they were going through. And, secondly, it was
21 legislation. It was a good issue. It was looking out and
22 serving her constituents, serving people she represented and
23 the fact that her interest was them, it was a good idea.

24 Q. Did you send an email through Mr. Medranda in which I
25 believe you said hush hush?

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C3fQann3

Jereis - Direct

1 A. Yes.

2 Q. Why did you do that?

3 A. I said it because it was a good issue, and I don't want
4 anybody to take it. The city council office there, they all
5 sit next to each other, and if there's ever a good issue where
6 you can get free earned media, they jump on it. So I wanted
7 Sandy to get this issue. It was a good issue, and I wanted her
8 to get the free earned media on it.

9 Q. What do you mean free earned media?

10 A. As legislators, any opportunity they can get to be on News
11 12, Journal News, any of the blogs, Yonkers Tribune, you want
12 to maximize your exposure as much as possible. It doesn't
13 matter what time of year, whether you're running or not, you
14 always want to be perceived as an active legislator. So any
15 time there's a good issue, I would look for these issues, and I
16 would give them to Sandy, enhance her career, to get the free
17 media coverage she can get without having to send a mailer to
18 the residents in her district.

19 Q. Now, let me show you what was shown to some witnesses --
20 excuse me -- one witness with regard to Government Exhibit 816
21 and 815. Just read them to yourself, please.

22 Mr. Jereis, after having looked at those emails, do
23 you recall to speaking to Ms. Annabi about the topic of metal
24 detectors in schools in the Yonkers?

25 A. Yes.

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C3fQann3 Jereis - Direct

1 Q. What did you say to Ms. Annabi on the subject matter?

2 A. I said with the latest strings of shootings and there was a
3 big shooting in --

4 MR. HALPERIN: Objection. I'm sorry. Withdrawn.

5 THE COURT: Keep going.

6 A. With the latest strings of stabbings and shootings that
7 were occurring in the schools and a lot of the residents in her
8 district used the public school system, I had told her that a
9 real good idea is to put metal detectors in the schools.
10 75 percent of the children in her district attend the Yonkers
11 public schools, and I thought it would be a great idea after
12 there was a school shooting that occurred in Florida to put
13 these metal detectors in; it would prevent guns and knives in
14 the schools. That's what the metal detectors issue was about.

15 Q. More free earned media?

16 A. Free earned media, good issue, and this is what voters,
17 taxpayers wanted to see with their legislators is doing work
18 for them. I felt this was a good issue, and I gave her the
19 issue to run with.

20 Q. Now, I'm going to place in front of you what I've marked as
21 Defense Exhibit 103. Take your time, Mr. Jereis, and go
22 through the documents I placed in front of you collectively as
23 Defense Exhibit 103 for identification. If you would, with
24 respect to each of these, generally speaking, they're
25 representatives of electronic mail communications, is that fair

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1 to say?

2 A. Yes.

3 Q. Can you identify in each one of these where you recognize
4 actual emails you sent to Ms. Annabi? Go through them one at a
5 time. I don't want you to do anything except identify the ones
6 you do and pull out the ones you don't recognize.

7 A. Yes, they're all my emails that I sent to Sandy.

8 Q. Do they fairly and accurately represent those particular
9 electronic communications you had with Ms. Annabi at or about
10 the dates and times indicated for your communication?

11 A. Yes.

12 MR SIANO: I offer in evidence Defendant's Exhibit 103
13 for identification.

14 MR. HALPERIN: Can we see the packet, your Honor?

15 THE COURT: Yes.

16 MR SIANO: I will state, your Honor, for the record
17 anything that isn't my client's words, I'm happy to redact
18 before they go to the jury.

19 (Pause)

20 MR. HALPERIN: Judge, no objection, and the government
21 doesn't see the need for any redactions.

22 THE COURT: In that case, don't bother. Admitted.

23 MR SIANO: Thank you, your Honor.

24 (Defendant's Exhibit 103 received in evidence)

25 Q. Mr. Jereis, you told us at length about your experience in

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1 assembling petitions as political activity.

2 A. Yes.

3 Q. Did there come a time in the mid 1990s where you had a
4 little problem with soliciting petitions for, I believe, a
5 conservative party candidate?

6 A. Yes.

7 Q. What happened?

8 A. In 1995 -- what happens is the respective political parties
9 every two years what they do is they reorganize, they elect a
10 chairman, but below the chairman are what they call county
11 committee members, and every representative party has county
12 committee members -- Republican, Democratic, Conservative.

13 But the minor party lines, to obtain their signatures
14 is a lot more difficult because there's very few of that
15 prospective party, whether it's conservative, working families,
16 liberal. So that year we were helping in the reorganization of
17 the Conservative Party in 1995. It was a bitter challenge
18 between two factions.

19 Q. What were you doing in the summer of 1995?

20 A. I was getting nominated petitions for the Conservative
21 county committee candidates.

22 Q. Was anybody helping you?

23 A. My cousin was.

24 Q. What happened?

25 A. We were walking up and down Midland Avenue, which are all

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1 apartment buildings. Getting these signatures was like needles
2 in a haystack. All we needed was one or two to qualify the
3 candidate. The rule is if there's 20 people who live in that
4 district, all you need is five percent. So five percent of 20
5 is all you're required to get those names as candidates on the
6 ballot.

7 Q. Let me stop you for a second. Is it five percent of the
8 total population or five percent of the registered conservative
9 voters in a particular area?

10 A. Five percent of the registered enrolled voters. For any
11 office that's what's required to be put on the ballot.

12 So in that particular district, there were maybe
13 seven, eight. So all we really needed was one. So we were
14 hunting down up and down the building, me and my cousin. I was
15 commissioner of deeds at the time which allows me the power to
16 witness signatures. I was on one floor. My niece was on the
17 other floor. She ended up getting the signatures. And I
18 wasn't there to witness them. She was jumping to joy. She was
19 ecstatic about it, that she got the signatures. It was a
20 mother who signed for her husband and her son. And I had
21 witnessed that petition.

22 Q. Now was that correctly done or incorrectly?

23 A. It was incorrectly done.

24 Q. Why?

25 A. Because I should have been at the door there viewing the

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1 person sign the petition.

2 Q. Did you subsequently plead guilty to a crime?

3 A. Yes, I did.

4 Q. What did you plead guilty to?

5 A. Misconduct in petitions.

6 Q. And what was it for?

7 A. It was for nominating petition of a Conservative candidate.

8 Q. At any time did you come to learn that anyone other than
9 the wife in that household had signed the names of the husband
10 and the child?

11 A. No.

12 Q. But you in fact did not witness the signatures?

13 A. No, I didn't.

14 Q. Then when you put your witness stamp your signature on it
15 as a witness, that was the misconduct?

16 A. Yes.

17 MR SIANO: No further questions, your Honor.

18 THE COURT: OK. Folks, we are not going to break for
19 lunch just yet, but, Mr. Jereis, would you go and rejoin
20 Mr. Siano? We have to take some witnesses out of turn, so the
21 cross-examination of Mr. Jereis is not going to occur right
22 this minute. We have to get some other witnesses on and off.
23 That's one of the scheduling things we were discussing while
24 you were in the back room.

25 Mr. Siano, you're raising your hand. Don't tell them

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C3fQann3 Jereis - Direct

1 we have to have another side bar.

2 MR SIANO: En route, Judge, from 57th and 7th -- 59th
3 and 7th.

4 THE COURT: You mean I have to take an early lunch
5 today?

6 MR SIANO: It is your Honor's decision, but en route
7 from --

8 THE COURT: We're not going to sit her while the
9 witness is at 57th and 7th.

10 MR SIANO: He was on his way a half hour ago. He had
11 transportation. I'm just saying en route, Judge. I've
12 identified the witness to the government. He's just not here
13 as of this moment.

14 THE COURT: Well, in that case, we're going to take
15 lunch because we're not going to waste any jury time.

16 MR SIANO: Thank you, Judge.

17 THE COURT: We will be back here at 1:20, 1:25.

18 For those of you will who were thinking that you would
19 be spending the hour from 1:00 to 2:00 in a local restaurant
20 watching the first round of March Madness and seeing the buzzer
21 beater at the end of the game which was going to come at ten of
22 2:00, I apologize. That is certainly what I thought I was
23 going to be doing.

24 MR. ARONWALD: Your Honor, could we just take a very
25 brief stipulation before I forget? It would only take 30

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1 seconds. I've discussed it with the government. There's no
2 disagreement about it.

3 THE COURT: You've rested, Mr. Aronwald. Sure, you
4 want to give me the stipulation?

5 MR. ARONWALD: This is not a written stipulation; it's
6 verbal stipulation.

7 THE COURT: In that case I can't read it.

8 MR. ARONWALD: Yesterday, your Honor, we introduced
9 Defense Exhibit 76 through David Medranda, which was the call
10 list which had a reference to a call that came in from Special
11 Agent Rosemary Karaka of the FBI. There is a phone number
12 associated with that entry (914) 989-6056. We are stipulating,
13 the government and I, that that is the phone number that was
14 assigned to Special Agent Karaka on the date of the call
15 December 12, 2005. Thank you.

16 MR. CARBONE: So stipulated, your Honor.

17 THE COURT: So stipulated. That's Agent Karaka's
18 phone number. Now you know in case you ever want to call her.
19 All right.

20 I will see you all in a little more than an hour.

21 (Luncheon recess taken)

22 (Continued on next page)

23

24

25

C3fQann3

Jereis - Direct

AFTERNOON SESSION

1:30 p.m.

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(In open court)

THE DEPUTY CLERK: Case on trial continued.
Government and defendants are present. Jurors are not present.

THE COURT: When you get the charge, you will see there are questions in it. I put in a bracket "counsel, do we really need this? Is there any evidence to support this permutation?" because it's a very long charge, and I think not all of it is necessary.

Why are you standing?

MR. ARONWALD: Because you came in. It's customary.

THE COURT: When I sit, you can sit.

MR. ARONWALD: OK.

THE COURT: Thank you, Mr. Aronwald.

Mr. Siano, of course you're up

MR. SIANO: I am up, I have a witness.

THE COURT: In that case we need a jury.

MR. CARBONE: Who would that witness be?

MR. SIANO: Mr. Darcy.

(Continued on next page)

C3fQann3 Jereis - Direct

1 (Jury present)

2 THE COURT: Sorry I'm a few minutes late, folks. But
3 just to keep rooting interest going, I've been working on the
4 jury charge which means I'm seeing the light at the end of the
5 tunnel. So I got wrapped up in that.

6 Call your next witness.

7 MR. SIANO: The defense calls Mr. James Darcy.

8 JAMES B. DARCY, JR.,

9 called as a witness by the Defendant Jereis,
10 having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. SIANO:

13 THE DEPUTY CLERK: Please state and spell your name
14 for the record.

15 THE WITNESS: James B. Darcy, Jr. D-A-R-C-Y.

16 THE COURT: You may inquire.

17 BY MR. SIANO:

18 Q. Mr. Darcy, if could you bring that microphone a little
19 closer to your chair for me, I'd appreciate it.

20 Mr. Darcy, can you tell us, sir, your employment
21 history commencing with your service in the military.

22 A. I graduated from Boston College 1970. Was commissioned as
23 an officer in the Marine Corps where I served for approximately
24 seven and a half years, joined the FBI as a special agent in
25 December of 1977, served in the Pittsburgh field office, the --

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C3fQann3

Darcy - Direct

- 1 in Atlantic City office for about 17 years where I retired in
2 1998 as a supervisor. After that I was in the casino business.
3 I joined a company at the time called Hilton Gaming
4 Corporation -- which was a combination of the Hilton casinos
5 and Bally's -- and stayed there for seven -- approximately
6 seven and a half years, the last five of which I was the chief
7 compliance officer. And after leaving the casino industry, I
8 started a small consulting business.
- 9 Q. How long have you been in that consulting business?
10 A. Since 2005.
- 11 Q. Sir, did I have occasion to engage your services through a
12 company called Argus Protective Services in New York?
13 A. Yes, sir.
- 14 Q. Did I provide you with Defendant's Exhibits 52 through 62?
15 A. Yes, sir.
- 16 Q. Did I ask you, sir, to examine the gaming records of
17 Mr. Anthony Mangone for the purposes of identifying his gaming
18 activity during various periods of time?
19 A. Yes, sir.
- 20 Q. Let me show you what I've marked as Defendant's Exhibit 104
21 for identification. I ask you, sir, is this familiar to you?
22 A. Yes, sir.
- 23 Q. Did you prepare that summary?
24 A. Yes, sir.
- 25 Q. What is that a summary of?

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C3fQann3 Darcy - Direct

1 A. It's a summary of Mr. Mangone's gaming activity at I guess
2 five -- six casinos during 2006.

3 Q. That list also includes casino in the Bahamas, is that
4 right?

5 A. The Atlantis Casino.

6 Q. And also one in Connecticut, isn't that correct?

7 A. The Mohegan Sun Casino, yes, sir.

8 Q. What is the information contained thereon? Without telling
9 us the substance, what are the columns and what do they
10 include?

11 A. Basically, it reflects his cash buyin, any credit that he
12 obtained in addition to the cash, and then the win/loss for the
13 trip.

14 MR. SIANO: I offer into evidence Government Exhibits
15 104 as a summary of voluminous records.

16 MR. CARBONE: Your Honor, we object to the entry of
17 this document as a summary of voluminous records. We have no
18 objection to it being used as 611(a) pedagogical device, but
19 there are no exhibit numbers tied to the line items as with the
20 Government's Exhibits, and as indicated in the Court's proposed
21 charge and as the rules require.

22 THE COURT: That is the problem, Mr. Siano.

23 MR. SIANO: I will have the witness identify the
24 particular lines to which we refer, Judge, as we go along.

25 THE COURT: No. No. I think he's saying that when

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C3fQann3

Darcy - Direct

1 one does a summary of volume documents, one must have the
2 voluminous documents.

3 MR. SIANO: He has them in front of him, Judge.

4 THE COURT: The voluminous documents?

5 MR. SIANO: Yes.

6 THE COURT: Can we mark those as an exhibit?

7 MR. SIANO: They are already in evidence 52 through
8 62.

9 MR. CARBONE: Judge, again, we don't have any
10 objection to the use of this --

11 THE COURT: I'm going to accept Mr. Siano's
12 representation that this is a summary of Government Exhibits 52
13 through 62.

14 MR. SIANO: Defendant's Exhibits.

15 THE COURT: Defendant's Exhibits 52 through 62. My
16 bad. I'm going to accept it and admit it as a summary of
17 voluminous records.

18 (Defendant's Exhibit 104 received in evidence)

19 Q. Mr. Darcy, is all the information on Defendant's Exhibit
20 104 contained within the records that are Defense Exhibits 52
21 through 62?

22 A. Yes.

23 THE COURT: Here's the deal. I said this when Agent
24 Dennehy was on the stand, and I'm going to say it again. It's
25 the underlying documents themselves that are the evidence.

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C3fQann3 Darcy - Direct

1 Agent Dennehy's pretty charts were a summary of underlying
2 evidence, and if you all were to decide that Agent Dennehy's
3 pretty chart did not accurately reflect the underlying
4 evidence, they wouldn't be worth the paper they were written
5 on.

6 Similarly, this document is a summary, or purports to
7 be a summary, of the underlying evidence, and if it doesn't
8 accurately reflect what is in Defendant's Exhibits 52 through
9 62, it's not worth the paper that it's written on. OK?

10 Mr. Siano.

11 MR. SIANO: Thank you, Judge.

12 Q. Mr. Darcy, I've placed on -- actually, Mr. Turk has placed
13 on the screen Defendant's Exhibits 104 in evidence.

14 Can you tell us, sir, what the headings reflect?
15 Start going across the top.

16 A. 2006 gaming summary, there's the date, the casino and the
17 letter code, cash buyin, credit buyin and then the win/loss for
18 that trip.

19 Q. What are the dates that run down the first vertical column
20 on the left-hand side of Defendant's Exhibit 104?

21 A. What are the dates?

22 Q. Yes, the actual dates that are listed under the heading
23 date? Where did you get those dates?

24 A. I got those from the casino reports that are included in
25 these exhibits here in front of me.

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C3fQann3 Darcy - Direct

- 1 Q. The column, that's casino. What is CAC short for?
2 A. Caesars Atlantic.
3 Q. HAC?
4 A. Harrah's Atlantic City.
5 Q. Trop?
6 A. Tropicana Atlantic City.
7 Q. ATL?
8 A. Atlantis Casino in Bahamas.
9 Q. We see BORG?
10 A. That's the Borgota Casino in Atlantic City.
11 Q. Then we see Moheg?
12 A. That's the Mohegan Sun casino up in Connecticut.
13 Q. Now, the column that is listed as cash buyin?
14 A. Yes, sir.
15 Q. What is that information?
16 A. That reflects on that date the customer walked into the
17 casino with that amount of cash and bought chips.
18 Q. And credit buyin?
19 A. That would be additional credit that he would establish
20 with the casino wherein they would give him gaming chips or
21 cash if it was a slot transaction in return for his agreement
22 to pay the money back over a period of time.
23 Q. And the W/L?
24 A. That's the win/loss column for each trip.
25 Q. Now, at the bottom of the page there is a horizontal row

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C3fQann3 Darcy - Direct

1 with the word total. What does that represent?

2 A. That's the total under each category of the vertical
3 column.

4 Q. Now, if we could, could you describe for the jury what you
5 did in order to acquire and isolate the information from
6 Defendant's Exhibits 52 through 62 in order to prepare Defense
7 Exhibit 104?

8 A. Yes, sir. The documents that I was given were customer
9 accounts for Mr. Anthony Mangone, and they reflect -- the way
10 these documents work, they reflect a trip. So if you go to
11 Atlantic City on a Friday, they consider that a trip. If you
12 stay, for instance, for the weekend, it could be a two-day or a
13 three-day trip. They will show over that period of that trip
14 the amount of money he gambled through either cash buyin at the
15 tables or at the cage, or if he drew down on his line of credit
16 which he has previously established. There is a procedure for
17 that, excuse me. Then it shows a summary for the trip on his
18 win/loss. And also there's other factors that shows if it's
19 what they call a theoretical win/loss, which is really how the
20 casino puts a value on you as a customer, which they then use
21 in determining how many comps, meals, entertainment, limo
22 rides, whatever they'll give you.

23 Q. So each casino has a way of evaluating a patron's gaming
24 activity?

25 A. That's correct.

C3fQann3

Darcy - Direct

1 Q. Now, did you do the takeoff for the dates reflected in the
2 date column at the casinos reflected in the casino column?

3 A. Yes, sir.

4 Q. Is this the information you found relative to Mr. Mangone's
5 buyins and cash and credit for 2006?

6 A. Yes, sir.

7 Q. Thank you. I would like to spend a moment, if I could,
8 Mr. Darcy, and ask you, did I ask you to make a particular
9 examination of any gaming activity by Mr. Mangone in July 2006
10 commencing on or about July 11 and continuing to the end of the
11 month?

12 A. Yes, you asked me to look at that period.

13 Q. I asked you to look particularly as to what it showed in
14 the records which are in Defense Exhibits 52 through 62?

15 A. That's correct.

16 Q. Now, is that activity reflected on the chart?

17 A. Yes, sir.

18 Q. Now, would the chart facilitate and assist you in
19 explaining to the jury what you saw in the records?

20 A. Yes, sir.

21 Q. Could you tell us what you saw from Mr. Mangone's actual
22 gaming activity in the period July 11 through the 31st of
23 July 2006?

24 A. Yes, sir. He was in Atlantic City on July 21, 2006, and he
25 was at the Caesars Atlantic City where he did a cash buyin of

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C3fQann3 Darcy - Direct

1 \$7,200. He drew down on his credit line for \$4,000.

2 Q. Did the casino reflect for his time at Caesars what the net
3 effect was of his gaming activity?

4 A. He had a \$9,300 loss.

5 Q. Now, there is a second line, is there not, on the chart
6 down about three lines -- thank you, Mr. Turk. Is there a
7 second line through Caesars about three lines down?

8 A. Yes, sir.

9 Q. What activity is reflected on that line in the records that
10 you summarized?

11 A. He drew down a \$6,000 -- he drew down \$6,000 off of his
12 line of credit and it shows up in the slot portion of the
13 documents. No indication that he played or won or lost, for
14 that matter.

15 Q. Now, in the intervening two lines, there are two line
16 entries on 7/21 for something called Trop. Is that the
17 Tropicana?

18 A. That's the Tropicana Casino in Atlantic City, yes, sir.

19 Q. What do the records reflect for Mr. Mangone's gaming
20 activity on the 21st of July, 2006 at the Tropicana?

21 A. He bought in on two occasions during that trip at the Trop.
22 The first buyin was for \$3,000, which he lost \$1,500. And then
23 he bought in again for \$2,400 which -- and during that period
24 he was being monitored, he lost \$3,450.

25 Q. So, if you added up the math, it would appear from the

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C3fQann3 Darcy - Direct

1 records of the casino that they reflect, leaving aside the slot
2 line, which is the fourth line --

3 A. Right.

4 Q. -- it appears that he purchased in excess of \$12,000 in
5 cash and \$4,000 in credit that day?

6 A. That's correct.

7 Q. And that the casino reflected that he lost somewhere in
8 excess of \$14,000?

9 A. Right. All three casinos, that's right -- two casinos.

10 Q. In total?

11 A. Total, right.

12 Q. Now, the slot line.

13 A. Right.

14 Q. Can you explain what that appears to indicate in the
15 documents?

16 A. Well, the slot credit is a little bit different because you
17 can draw -- you draw cash because you put cash, for the most
18 part, into the slot machines. There's a bill intake meter.
19 You can slip up to a hundred dollar bill in there and gamble.
20 There are more expensive slot machines, the higher dollar ones,
21 where you can buy tokens for \$500 a pop if you have that kind
22 of money; but for the most part when you draw down on a credit
23 line, you're given cash, you go play your cash, and then you're
24 given a ticket in/ticket out, what they call when you cash out.

25 MR. CARBONE: Counsel, may I ask what line you're

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C3fQann3 Darcy - Direct

1 referring to?

2 MR. SIANO: Certainly. May I approach Mr. Carbone?

3 Q. Mr. Darcy, is it fair to say we're on the last of the
4 7/21/06 line with CAC and then a zero, a 6,000 and a zero?

5 A. Yes, sir.

6 Q. So the record reflects that there was a \$6,000 draw against
7 the marker only, the slot records?

8 A. Right.

9 Q. Which indicates to you that he was given cash for slot
10 activity, but there's no reflection of any wins or losses?

11 A. Right.

12 Q. All right. Thank you.

13 Mr. Turk, if you could just slide the document so we
14 get to September 29. Did I also ask you, Mr. Darcy, to make a
15 particular examination of whether or not Mr. Mangone engaged in
16 any gaming activity in the second half of the month of
17 September 2006?

18 A. Yes, sir.

19 Q. What did your examination of the records reveal for the
20 second half of the month of September 2006?

21 A. He was in Atlantic City at Caesars, and he drew down or
22 he -- he drew down on his markers for a total -- for \$5,000 --
23 not on his markers -- on his credit line. He drew markers on
24 his credit line for \$5,000 and then another one for \$6,000 for
25 a total of 11. And he won \$4,700.

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C3fQann3 Darcy - Direct

1 Q. Now, is it fair to say, sir, that your examination of the
2 records of Anthony Mangone's gaming activity, Defendant's
3 Exhibits 52 through 62, there is nothing to reflect Mr. Mangone
4 gambling with cash in Atlantic City at the end of September,
5 2006?

6 A. That's correct.

7 Q. It does reflect that he went to Atlantic City on the 29th,
8 but that he gambled on markers?

9 A. Yes, sir.

10 MR. SIANO: No further questions.

11 THE COURT: Mr. Carbone.

12 MR. CARBONE: Thank you.

13 CROSS-EXAMINATION

14 BY MR. CARBONE:

15 Q. Good afternoon, Mr. Darcy. Nice to meet you, sir.

16 A. Yes, sir.

17 Q. Now, Mr. Darcy, you mentioned the process through which a
18 casino comps someone. Is it fair to say that that process is
19 much like use of frequent flier miles? You get points --

20 A. It's not unlike it, that's right.

21 Q. The customer gets points, and they can cash them in any
22 time they like?

23 A. Right.

24 Q. So if I use my card -- and it's all dependent on the use of
25 the card, right?

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C3fQann3

Darcy - Cross

1 A. That's correct.

2 Q. If I use my card, and I've accumulated points, I can use
3 them for a room, for a limo, for a meal, for a show, whatever I
4 feel like using them for regardless of whether I'm broke,
5 right?

6 A. That's correct, as long as you have the points in your
7 bank, that's right.

8 Q. It doesn't matter whether you use the points whether you're
9 winning or losing, you can use it any time you like?

10 A. Right. And the points are awarded to the customer based on
11 that theoretical -- it's basically an arithmetic problem that
12 they use to evaluate the customer over a period of time.

13 Q. Now, in your many years in law enforcement, have you had
14 occasion to subpoena records from a casino?

15 A. Yes, sir.

16 Q. And you've received them on countless occasions either
17 through grand jury or trial subpoena and you get back the
18 documents?

19 A. Yes, sir.

20 Q. When you get a gaming report that the casino provides in
21 response to the subpoena, is it true that there is an
22 automatically generated letter that reflects that the customer
23 made a request?

24 A. No. That the customer has made the request?

25 Q. Yes. Let me show you some of the documents that are

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C3fQann3 Darcy - Cross

1 evidence.

2 A. Right.

3 Q. Have you seen Defendant's Exhibit 56?

4 THE COURT: He has a copy of it.

5 Q. Do you have 56 there?

6 THE COURT: He has the original. He has the
7 voluminous records.

8 A. Yep. Do you know what casino it is?

9 Q. Well, it's a letter from Kerzner.

10 A. OK, so it's the Atlantis. The Atlantis. I have it here.

11 Q. Now, can you look at the letter, the cover letter?

12 Mr. Turk, would you mind putting that up? The cover letter
13 with Defense Exhibit 56, do you see that?

14 A. To whom is the letter to?

15 Q. It says Kerzner. Mr. Turk is put willing it on the screen
16 for us.

17 THE COURT: We are going to put the letter on the
18 screen, then you'll know which of the voluminous documents it
19 is.

20 A. I'm looking at it, yes, sir.

21 Q. Do you see that letter from the casino responding to

22 Mr. Siano?

23 A. Yes, sir.

24 Q. Now, do you see attached to that letter there's a trial
25 subpoena?

C3fQann3 Darcy - Cross

1 A. No, I have the Atlantis Casino attached to it.

2 Q. I'm sorry, you have what?

3 A. I have the letter to Mr. Siano from Kerzner, and it's a
4 subpoena for the Atlantis Casino, the Kerzner International
5 Marketing Group.

6 Q. Let me show you Defense Exhibit 52 and see if we can
7 short-circuit this. Are you familiar with this kind of
8 automatic generated letter from the casino when they respond to
9 a subpoena?

10 A. No, not the way you described it. I'm familiar with this
11 letter.

12 THE COURT: Not this particular letter. He's asking
13 you if you're familiar with this as a type of letter, a kind of
14 letter that I think you said is automatically generated when a
15 casino gets a subpoena?

16 Q. Let me see if I can clarify this. Sir, is it fair to say
17 when the casino generates a gaming report and responds to a
18 subpoena, they'll generate a formatted letter like this
19 indicating that they were responding to a request from the
20 customer?

21 A. No, I'm not aware of that.

22 Q. You're not aware of that?

23 A. No. So basically --

24 THE COURT: No. No. No. You've answered the
24 question. You're not aware of the question that Mr. Carbone
25 posited. Let him ask his next question.

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C3FUANN4 Darcy - cross

1 Q. So do you have any personal knowledge of whether
2 Mr. Mangone ever made a request from the casino for his records
3 on or about the same day as Mr. Siano?

4 A. From which casino, this one?

5 Q. Yes.

6 A. Because I could explain -- I don't know if this will help
7 you but when we --

8 THE COURT: No. No. Please. Please. Formerly
9 Special Agent, would you just answer the question that is put
10 to you.

11 THE WITNESS: Yes, your Honor.

12 Q. My question is: Do you have any personal knowledge whether
13 Anthony Mangone actually ever submitted a request for a gaming
14 report on or about the same day that Mr. Siano served the
15 subpoena?

16 A. Do I have any personal knowledge of that, no?

17 Q. Now, you talked about markers. Is it fair to say that
18 markers are much like an interest-free loan -- or can be for
19 the customer?

20 A. They could be, that's right, yes -- except that is not the
21 intent of the casino.

22 Q. But, typically, the intent, it is fair to say, of the
23 gambler, right?

24 MR. SIANO: Objection.

25 MR. CARBONE: There --

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C3FUANN4

Darcy - cross

1 THE COURT: More than one voice.

2 Objection what?

3 MR. SIANO: No personal knowledge as to the intent of
4 the gambler.

5 THE COURT: Correct. Objection sustained.

6 Q. Mr. Darcy, is it fair to say that the casino charges no
7 interest on markers for a 30- or 45-day period depending on the
8 length of the marker, correct?

9 A. Yes. That's correct.

10 MR. CARBONE: Would you please, Mr. Turk, put Defense
11 Exhibit 104 up.

12 Q. So that we are clear, the chart which you did, you took all
13 of the voluminous records that you testified you had
14 received -- is it fair to say that you received those records
15 from Mr. Siano?

16 A. That's correct.

17 Q. So you summarized what Mr. Siano gave you for the year
18 2006?

19 A. That's correct.

20 Q. That is a complete and accurate summary of the records that
21 Mr. Siano gave you, true?

22 A. Of the play, yes, sir, of the play and the buy-in.

23 Q. Is it a complete and accurate summary of the play -- and
24 when you say "play," you summarized all of Mr. Mangone's cash
25 buy-ins for that year, correct?

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C3FUANN4

Darcy - cross

- 1 A. Right.
2 Q. And you totaled them up, 169,100?
3 A. Right.
4 Q. And you also summarized all of his credit buy-ins and you
5 totaled them up there at 243,000?
6 A. Right.
7 Q. You also totaled up his net winnings and losses, and you
8 concluded that, based upon your analysis of these records, that
9 he lost \$126,154, correct?
10 A. Correct.
11 Q. This is an accurate summary based upon the records that you
12 were provided?
13 A. Right.
14 Q. It is a complete summary, right?
15 A. Yes.
16 Q. Is it true, Mr. Darcy, that casinos actually have more
17 detailed information than just the cash buy-ins and the
18 markers, correct?
19 A. Yes.
20 Q. There actually is a report that you can get that will show
21 the actual individual transactions?
22 A. Each casino is different, but yes.
23 Q. There are reports that would reflect, for instance, what
24 the average play was per hour at a particular table?
25 A. Right.

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C3FUANN4 Darcy - cross

- 1 Q. And that kind of report provides far more detail than these
2 buy-ins?
3 A. Right.
4 Q. This is just a net activity, correct?
5 A. That's correct.
6 Q. Now, let me show you Government Exhibit 781 which is the
7 report from Showboat.
8 (Discussion off the record between counsel)
9 Q. Mr. Darcy, have you ever seen Government Exhibit 781? Was
10 that provided to you?
11 A. No, sir.
12 Q. Are you sure of that?
13 A. Yes, sir.
14 Q. So Mr. Siano did not provide you with Government Exhibit
15 781?
16 A. That's correct.
17 Q. Do you recognize it?
18 A. No, other than what it says.
19 Q. You don't recognize Government Exhibit 781 to be a casino
20 record?
21 A. No, no -- I agree, yes, sir. I just haven't seen it
22 before.
23 Q. Does it reflect gambling activity at Showboat Atlantic City
24 during the year 2006?
25 A. 6 and 7.

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C3FUANN4 Darcy - cross

1 Q. What does HAC activity mean?

2 A. Excuse me?

3 Q. What does HAC mean?

4 A. I don't know. I would think it would be Harrah's Atlantic
5 City.

6 Q. Sir, did you look at any Harrah's activity?

7 A. Yes.

8 Q. You did. Mr. Siano provided you with documents relating to
9 Harrah's?

10 A. Yes, sir.

11 MR. CARBONE: Your Honor, we offer Government Exhibit
12 781 in evidence. It was provided to defense --

13 THE COURT: Excuse me. Where is my copy?

14 MR. ARONWALD: Your Honor, the exhibit does not have
15 the yellow highlighting that I put on it.

16 THE COURT: It is OK, Mr. Aronwald. I will ignore
17 your yellow highlighting.

18 Mr. Aronwald, I assume that you are indifferent?

19 MR. ARONWALD: Yes.

20 THE COURT: Mr. Siano?

21 MR. SIANO: Objection.

22 THE COURT: Ground?

23 MR. SIANO: No foundation. No authenticity. I also
24 have something that I am prepared to say at sidebar, your
25 Honor, but I don't want to say it in front of the jury with

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C3FUANN4 Darcy - cross

1 regard to the substance of the document.

2 THE COURT: I just can't take whispering anymore. Go

3 back.

4 Don't discuss the case.

5 Keep an open mind.

6

7 (Continued on next page)

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C3FUANN4

Darcy - cross

1 (Jury not present)

2 THE COURT: Do you want the witness excused also?

3 MR. SIANO: I don't think Mr. Darcy is going to
4 change --

5 THE COURT: I tend to doubt it.

6 MR. CARBONE: We have a number of these issues that
7 are going to come up. We would ask that the witness be
8 excused.

9 THE COURT: Would you mind taking Mr. Darcy back to my
10 robing room. He can make himself comfortable.

11 (Witness excused)

12 MR. SIANO: Judge, it appears to be activity at
13 Harrah's.

14 THE COURT: Yes, and so?

15 MR. SIANO: First of all, Mr. Mangone did not identify
16 a casino named Showboat in Atlantic City.

17 THE COURT: No, he did not.

18 MR. SIANO: He didn't do that.

19 This document, other than being numbered with a
20 government number has no provenance whatsoever --

21 THE COURT: Yes. There is no indication that it was
22 produced by anyone in response to a subpoena.

23 MR. SIANO: Furthermore, if you take the time to
24 actually make the comparison with Mr. Darcy's summary, it
25 appears to be mirroring the activity at Harrah's Atlantic City,

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C3FUANN4

Darcy - cross

1 HAC.

2 MR. CARBONE: May I?

3 THE COURT: You may.

4 MR. CARBONE: Judge, this is a document, as indicated
5 on the Bates number down on the right-hand corner, that was
6 turned over in discovery as Mr. Siano said --7 THE COURT: I couldn't care less about whether it was
8 turned over in discovery. It has nothing to do --

9 MR. CARBONE: You cared a second go when Mr. Siano --

10 THE COURT: Mr. Carbone.

11 MR. CARBONE: Judge, just a second. This was a
12 document that we turned over in discovery that we got from the
13 casinos. Mr. Siano said when he asked the government to
14 stipulate to authenticity and your Honor turned to the
15 government and said, I assume you have no objection. Mr. Siano
16 said, this is a composite of documents we got from the
17 government in discovery, and additional --18 THE COURT: Mr. Carbone, will you talk to me about
19 this discovery. What is it? What does it show. Why are you
20 offering it? What is it about? Does it show that he didn't
21 gamble at Showboat in Atlantic City --22 MR. CARBONE: Judge, I can't answer the question if
23 you won't let me.24 THE COURT: Because whenever I let you talk, you talk
25 about what you want to talk about instead of answering the

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C3FUANN4 Darcy - cross

1 question.

2 MR. CARBONE: Judge, how would you know if you
3 wouldn't let me answer it?

4 THE COURT: Mr. Carbone, tell me about this document.

5 MR. CARBONE: I am trying to, Judge.

6 Mr. Darcy reflects that there is a loss on his chart.
7 He characterizes it as a loss on 8/11.

8 THE COURT: I am looking at the 29th. Is that --

9 MR. CARBONE: 8/11/06.

10 THE COURT: 8/11/06.

11 MR. CARBONE: He shows it is a loss. This is a report
12 from the casino.

13 THE COURT: Yes.

14 MR. CARBONE: That says that casino wins are shown as
15 a positive, so the brackets are a loss to the casino, so this
16 was a win for Mr. Mangone. So that throws off his bottom line
17 by \$27,000.

18 THE COURT: OK. Fine. Great. Somehow I don't think
19 that the import of Mr. Darcy's testimony is about the bottom
20 line. I think that the import of Mr. Darcy's testimony is
21 about when Mr. Mangone was gambling with cash and when
22 Mr. Mangone was gambling with markers. And I am not guessing
23 that because I believe that Mr. Siano stood up last week and
24 said that he would bring in a witness to show that on the day
25 that Mr. Mangone testified he took \$10,000 from the Milios and

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C3FUANN4 Darcy - cross

1 went to Atlantic City and gambled with cash, that he was in
2 fact not gambling with cash, he was gambling with markers.
3 Now, if it is somehow important to this case to demonstrate
4 that Mr. Darcy is wrong about the fact that the \$13,000 dollars
5 is a loss, then fine, I am prepared to let you go through this
6 exercise.

7 MR. CARBONE: Judge, this witness just testified about
8 totals of gambling activities. The jury is left with the
9 impression that Mr. Mangone had \$126,000 in losses.

10 THE COURT: And what is the government's proffer? If
11 you do the exercise that you are going to do, will Mr. Mangone
12 have made money gambling or will Mr. Mangone have lost a
13 smaller or larger amount gambling?

14 MR. CARBONE: A smaller amount.

15 THE COURT: And how does that advance the ball in this
16 case?

17 MR. CARBONE: This is why we objected to this document
18 coming in evidence. There are no exhibits indicated on the
19 right-hand side, and it has numerous mistakes on it. One of
20 those mistakes relates to the activity that Mr. Siano just
21 questioned the witness about on July 21 of 2006. The witness
22 said --

23 THE COURT: Fine. I am prepared to let you do what
24 you want to do. I am prepared to let you show that this
25 document contains mistakes. I am prepared to let Mr. Siano do

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C3FUANN4

Darcy - cross

1 what I know he will end up doing, which is get the underlying
2 documents for the only two dates that matter to him and talk to
3 the witness about them. Would that he had just done that in
4 the first place, but OK.

5 I am only trying to get us to keep our eye on the
6 ball. And at least Mr. Siano announced well in advance to the
7 Court what he was going to use Mr. Darcy to establish.

8 MR. CARBONE: Then why is all the gambling activity
9 for 2006 summarized here?

10 THE COURT: That you should ask Mr. Siano.

11 Bring in Mr. Darcy and bring in the jury.

12 Wait a minute.

13 Mr. Mangone, is there anything else you want to say --
14 did I call you Mr. Mangone, Mr. Siano?

15 MR. ARONWALD: Bite your tongue, Judge.

16 MR. SIANO: It doesn't make the document inadmissible.
17 He can use it to cross-examine. The provenance of this
18 document as an abstract is still not admissible.

19 Again, there were a pile of records from the casinos.
20 That's why we did subpoenas.

21 MR. CARBONE: Just so that I am clear, Mr. Siano is
22 saying that he is objecting to authenticity?

23 THE COURT: What he is objecting to is authenticity,
24 so I am sure that we can do it subject to connection and I am
25 sure that the government can, on its rebuttal case, bring in

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C3FUANN4

Darcy - cross

1 (Jury present)

2 THE COURT: Ladies and gentlemen, the government is
3 going to introduce some documents that are simply going to be
4 admitted subject to connection. That means that the government
5 is going to have to establish the authenticity of these
6 documents on its rebuttal case.

7 Mr. Carbone, you may proceed.

8 MR. CARBONE: Mr. Turk, would you please put
9 Government Exhibit 781 on the Elmo.
10 BY MR. CARBONE:

11 Q. Sir, you indicated that you had never seen this before and
12 that Mr. Siano had not provided this to you, is that right?

13 A. That's correct.

14 Q. Can you tell us what it says there after it says "note"?

15 A. "Note that casino win is shown as a positive."

16 Q. Directing your attention your down there, see the entry
17 that says arrived 8/11 and depart 8/12/06?

18 A. Yes.

19 Q. Does that indicate a casino win or a casino loss?

20 A. For the customer or for the casino?

21 Q. For the casino?

22 A. That, would indicate, based on what it says above, if I am
23 reading it correctly, that the customer won.

24 Q. Let's go back to your summary chart 104. Do you have an
25 entry of gambling activity on that day?

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C3FUANN4

Darcy - cross

1 A. That's correct.

2 Q. What does your chart indicate?

3 A. My chart indicates that at Harrah's casino -- we are
4 talking about 8/11, right.

5 Q. What does it indicate in terms of whether he had a net win
6 or loss that day?

7 A. He lost 13,650.

8 Q. Can you show us the document that you relied on for that
9 entry, please?

10 A. Yes, sir. It is right here, sir.

11 MR. CARBONE: May I approach, your Honor?

12 THE COURT: You may.

13 And if there is a Bates number or some other
14 identifying number on it that you could give, would you please
15 so indicate.

16 A. Actually this is wrong. He won.

17 Q. I'm sorry. I didn't hear you?

18 THE COURT: Would read his answer back, please.

19 (Record read)

20 Q. So that's an entry where your chart is incorrect, right?

21 A. That's correct.

22 Q. And let's go down, Mr. Turk, if you would go down to the
23 bottom right there, please. Do you see where it says 126, now,
24 if you take out, you would have to not only subtract that
25 number, you would have to double it, wouldn't you?

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C3FUANN4

Darcy - cross

1 A. Have to do what?

2 Q. You would have to double it. Your total is going to drop
3 below 100,000, right?

4 A. Right. That's correct.

5 Q. Now, if you would, let's go to your summary chart. If you
6 could slide that up a little bit, Mr. Turk, to 104, a little
7 bit further, I want to go back to February.

8 Now, you have an entry there on February 15th that
9 says credit buy-in, 16,500, do you see that?

10 A. Yes, sir.

11 Q. What records did you rely on for that entry?

12 A. That is on the Caesars Atlantic City credit marker history
13 report.

14 Q. Can you show that to us, please?

15 Now, let's slide down to Tropicana.

16 A. I am still checking on this other one, if you wouldn't
17 mind.

18 THE COURT: Is there a question?

19 MR. CARBONE: That was the chart that was turned over.

20 Let me withdraw the question, and I will rephrase it.

21 Q. Did the chart that you prepared yesterday omit that marker
22 and you fixed it last night?

23 A. We corrected it yesterday, yes, sir.

24 Q. The March 25 of '06?

25 A. Do you want me to show you where it came from?

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C3FUANN4 Darcy - cross

1 THE COURT: No. He wants you to go on to something
2 else.

3 Q. We will move on to March 25 of '06.

4 Did you make any other corrections from yesterday?

5 A. No. Other than we made the typo errors on these codes for
6 the casinos, but no.

7 Q. How about on March 25 of '06, do you see that at the --

8 A. -- Tropicana? There's two of them.

9 Q. HAC --

10 A. -- is Harrah's.

11 Q. That's Harrah's?

12 A. Yes, sir.

13 Q. Let's talk about the Tropicana. You have Tropicana,
14 \$1,000, right?

15 A. Right.

16 Q. Do you have that marker report in front of you?

17 A. I don't have a marker report from the Tropicana.

18 Q. Where did you get that number from?

19 A. The cash report. The cash number, sir, for March 25 is on
20 Exhibit 50 -- Defendant Exhibit 53.

21 MR. CARBONE: Your Honor, may I approach?

22 THE COURT: Please.

23 A. That's the date here, and you work your way from here.

24 Q. That is Defendant Exhibit 53, you said?

25 A. Yes, sir, first page.

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C3FUANN4 Darcy - cross

1 Q. Did you review a marker report for that day?

2 A. I don't believe we got marker reports.

3 Q. Let me show you what's been marked as Government Exhibit
4 783. Is that a marker report?

5 A. This is a credit activity report -- right.

6 Q. I'm sorry. It is a credit activity report?

7 A. Right.

8 Q. For what casino?

9 A. Well, it's -- it doesn't say. It has a player ID number
10 that maybe I can back check that if you would like.

11 Q. Does it reflect marker activity on that day?

12 A. It does reflect two markers on 3/25/06, one for 3 and one
13 for 6,000.

14 Q. Is that \$6,000 marker reflected on your summary?

15 A. No. Because it is -- the Tropicana report reflected a
16 \$1,000 -- a \$4,000 marker.

17 Q. Is that the same customer number as on the Tropicana report
18 that you have?

19 A. Is it the same what, sir?

20 Q. Customer number?

21 THE COURT: Customer number.

22 A. It is the same customer number, but the summary report that
23 we received, I think, from discovery, from you, I guess, shows
24 4,000. That's where my number came from.

25 Q. But the document I just showed you, do you see it has a

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C3FUANN4 Darcy - cross

1 Bates number on the right-hand side corner?

2 A. Right.

3 THE COURT: Ladies and gentlemen, just so that you
4 know, Bates numbers are numbers that lawyers put on the
5 documents so that they can prove later that they produced the
6 document.

7 Q. Is that the same customer number as the Tropicana?

8 A. That is the same number, yes, sir.

9 MR. CARBONE: Your Honor, we offer that exhibit in
10 evidence.

11 MR. SIANO: Same objection.

12 THE COURT: Same ruling, subject to connection.

13 (Government Exhibit 783 received in evidence)

14 MR. CARBONE: Can you broadcast that, Mr. Turk.

15 BY MR. CARBONE:

16 Q. Is it fair to say that that credit summary reflects marker
17 activity, the \$6,000 item that is not reflected on your summary
18 chart?

19 A. That's correct. It may be, and I --

20 Q. Is it on your chart?

21 A. It is not on my chart. As I explained, the chart I took it
22 from, there's a summary report for the customer, so anyway.

23 THE COURT: I am puzzled. You took it from whose
24 summary report?

25 THE WITNESS: Tropicana's.

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C3FUANN4

Darcy - cross

1 THE COURT: Are you saying that there are two
2 different Tropicana documents for that date and that they have
3 two different things on them?

4 THE WITNESS: Yes, your Honor. The report I used is a
5 history report, year over year. So it is approximately four
6 years of gaming play of Mr. Mangone's at Tropicana, and it
7 gives you a summary by date for each year.

8 So the way this works, if there is a marker on a
9 specific date, then there is another screen that reflects the
10 detail on the markers. So if you go to the cage, if you have a
11 \$10,000 line of credit, you go to the cage, you draw the \$2,000
12 you give them a check, they give you \$2,000. You go back five
13 hours later, you draw a second 2,000, you give them another
14 check, the put the detail --

15 THE COURT: We have gone way beyond my question. My
16 question is: There are two documents from Tropicana and they
17 say different things about that particular date.

18 THE WITNESS: Yes.

19 THE COURT: OK.

20 Thank you.

21 Q. Do you have any reason to doubt that there was a marker
22 activity on that date?

23 A. No.

24 Q. Directing your attention to June 13 of 2006, and let's go
25 back to Defense Exhibit 104. What is the total amount of

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C3FUANN4 Darcy - cross

1 marker activity on June 13 at Harrah's?

2 A. \$10,000.

3 Q. And which line is that on your chart?

4 A. It is June -- it is two entries on 6/13.

5 Q. I see that.

6 Would you please turn to Defense Exhibit 60, sir? Do
7 you have that?

8 A. Which one, sir?

9 Q. Defense Exhibit 60.

10 A. 60?

11 Q. Yes.

12 A. No.

13 Q. You don't have that?

14 A. I'm sorry. 60, yes, I do. OK.

15 Q. Let me direct your attention down to the line that says
16 6/13.

17 A. Yes, sir.

18 Q. Now, can you tell us what that says right above?

19 A. 5/25/06.

20 Q. No. Line number 16.

21 A. I am not sure I am looking at the same document.

22 THE COURT: Could you come up here, Mr. Carbone, and
23 make sure you guys are on the same page?

24 MR. CARBONE: Yes.

25 THE COURT: Thank you.

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C3FUANN4 Darcy - cross

1 Q. This is Defense Exhibit 60, referring to line 15,
2 indicating a \$6,000 marker. What day is that marker?

3 A. 6,000.

4 THE COURT: Do me a favor. Point him to the line you
5 want him to look at.

6 A. Well, this is 8/11.

7 THE COURT: This is what? 8/11, is that what you
8 said?

9 THE WITNESS: I am not sure. You said 6/13.

10 MR. ARONWALD: We can't hear back here.

11 THE COURT: A. You need to speak up, Mr. Darcy.

12 B. I don't care what he said.

13 The question was: What does that document show the
14 date was of that marker?

15 THE WITNESS: Yes, your Honor. He showed me the wrong
16 line.

17 The 6/13, there's a \$5,000 marker. Below it, there is
18 a \$10,000 marker, same date -- I'm sorry. This is a \$10,000
19 marker on 6/13 and there's a 5.

20 BY MR. CARBONE:

21 Q. Is that reflected on your chart?

22 It is right there to the right of you.

23 THE COURT: What does your chart show for 6/13/2006?

24 THE WITNESS: Yes. That is Caesars and Harrah's that
25 y'all are looking at, so the two of them together are 6/13 --

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C3FUANN4

Darcy - cross

1 no. Wait a minute. I am going to have to look at the -- I
2 can't tell, sir. There was one for 10, one for 5 and the one
3 for 10, half of it was redeemed for \$5,000 cash. So that may
4 be the discrepancy.

5 Q. I'm sorry. What is the discrepancy?

6 A. The fact that he cashed out, in other words, when he --
7 what you will see here is, on the \$10,000 marker, at the end of
8 the day, he cashed out -- at some point he paid down the marker
9 with chips, so he owed \$10,000 but he had 5,000 in gaming
10 chips, so he cut it in half. And then the check would have
11 been redeemed -- there would have been a new check issued for
12 \$5,000. That's the only explanation.

13 Q. So is there or is there not only a \$10,000 credit buy-in
14 that day?

15 A. I can do that through the --

16 Q. Sir, we just want to know --

17 A. Sir, can I take a look at this?

18 Q. Let me see if I can short circuit this.

19 MR. SIANO: Objection, your Honor. Can the witness
20 answer the question, one question at a time?

21 THE COURT: The witness can answer one question at a
22 time, so I am going to ask him a question.

23 Is there a mistake on your chart, sir, for the 13th of
24 June based on the records that you are looking at now? Is
25 there a mistake on the chart, yes or no, your summary chart?

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C3FUANN4

Darcy - cross

1 THE WITNESS: Just give me one second.

2 There were two for that day. There was a \$10,000
3 credit buy-in on slots and a \$5,000 at table games. So my
4 chart says it was 10 on -- there is a mistake on the chart.

5 BY MR. CARBONE:

6 Q. Thank you.

7 Now, is it fair to say that your summary of the
8 win/losses over here didn't consider activity from slot
9 machines?

10 A. That's correct.

11 Q. You didn't include activity from slot machines on this
12 righthand column?

13 A. I don't think so. No, sir.

14 Q. Let me show you Government Exhibit 786. Did Mr. Siano
15 provide you with Government Exhibit 786?

16 A. I haven't seen this, no, sir.

17 Q. What is Government Exhibit 786?

18 A. Showboat Atlantic City subpoena report SAC activity.

19 Q. Does it reflect gambling activity from slot machines for
20 Mr. Mangone?

21 A. Yes, sir.

22 MR. CARBONE: Offer Government Exhibit 786.

23 MR. SIANO: Same objection.

24 THE COURT: Admitted, subject to connection.

25 (Government Exhibit 786 received in evidence)

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C3FUANN4 Darcy - cross

1 MR. ARONWALD: Just for the record, I join in
2 Mr. Siano's objection -- just for the record.

3 THE COURT: Noted, Mr. Aronwald.

4 BY MR. CARBONE:

5 Q. Mr. Darcy, to the extent that there were wins on gambling
6 activity from slot machines, that would affect your chart here,
7 wouldn't it?

8 A. Yes, but I didn't have this document.

9 Q. I understand.

10 Do you see any marker buy-ins there?

11 A. It doesn't reflect any.

12 MR. CARBONE: Mr. Turk, if you could slide 104 up.

13 Q. You were asked a series of questions about activity by Mr.
14 Mangone on the September 29th trip?

15 A. Yes, sir.

16 Q. Now, is it fair to say that you were not shown by Mr. Siano
17 any bank records for Mr. Mangone, correct?

18 A. That's correct.

19 Q. And if you don't have the gambling activity reflected on
20 here, he didn't give you that either, did he?

21 I'm sorry. If it is not on your report, you didn't
22 have it?

23 A. That's correct.

24 Q. Let me show you Government Exhibit 787.

25 MR. SIANO: Do you have a copy?

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C3FUANN4 Darcy - cross

1 (Discussion off the record between counsel)

2 Q. Have you ever seen 787 before?

3 A. I may have, sir. It looks familiar.

4 Is this from Borgata?

5 Q. I'm sorry. Borgata?

6 A. This is from the Borgata, do you know?

7 Q. Yes.

8 A. OK.

9 Q. Does that document reflect a buy-in on October 4 --
10 pay-off?

11 A. I'm sorry. On October 4?

12 Q. Of 2006?

13 A. I'm not finding that date, sir. What column are you on?

14 MR. CARBONE: May I approach, your Honor?

15 THE COURT: Yes.

16 A. Your question, sir?

17 Q. Does that record reflect that there was a pay-off or a
18 clearing of a marker on October 4, 2006?

19 A. It indicates that the marker -- yeah, that's what it
20 appears to be, yes, sir, from 8/11/06, a \$4500 redemption, yes.

21 Q. Were you asked to review any of the gambling records for
22 Michael Santangelo?

23 A. No.

24 Q. Don Mangone?

25 A. No.

C3FUANN4 Darcy - cross

1 Q. Is it fair to say then that your chart which reflects the
2 net wins and losses is not accurate?

3 A. There's a couple of mistakes.

4 Q. Not mistakes -- agreed there are mistakes, but it also
5 doesn't include other gambling activities like slot wins and
6 losses?

7 A. I would have to go through it. I had the Tropicana
8 included there and Borgata -- it does include Borgata wins and
9 losses and Tropicana.

10 THE COURT: Are you saying it includes slot wins and
11 losses at some casinos but not all? Is that what you are
12 saying?

13 THE WITNESS: Yes, your Honor. For certain Borgata he
14 had wins or wins and losses and Tropicana. And I don't recall
15 any others.

16 BY MR. CARBONE:

17 Q. But the slot activity report that we just reviewed, that is
18 not on your chart, right?

19 A. Showboat.

20 Q. Right.

21 A. For sure I didn't see the Showboat.

22 Q. So to the extent that your report --

23 A. There is some missing, yes, sir.

24 Q. Yeah, there is some missing.

25 Could we agree that Mr. Siano didn't show you any

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C3FUANN4 Darcy - cross

1 checks to cash that Mr. Mangone wrote?

2 A. Right.

3 Q. And your report doesn't take into account whether

4 Mr. Mangone had other sources of cash, correct?

5 A. Correct.

6 Q. To use as gambling activity?

7 A. I don't know anything about it.

8 Q. Did he show you Mr. Mangone's testimony?

9 A. No.

10 Q. Is it fair to say you don't know what Mr. Mangone's annual
11 income was?

12 A. Correct.

13 MR. CARBONE: Thank you.

14 No further questions.

15 THE COURT: Mr. Siano.

16 MR. SIANO: Mr. Turk, could you put 787 up on the
17 screen, please. If you would highlight the line that involved
18 the clearance of the marker on October 4, '06, line item 44996.

19 Thank you.

20 Is this one of the documents that you can make larger,
21 Mr. Turk?

22 REDIRECT EXAMINATION

23 BY MR. SIANO:

24 Q. Now, Mr. Darcy, when you prepared the chart which was 104,
25 did I ask you to track redemptions or payoffs of markers?

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C3FUANN4

Darcy- redirect

1 A. No.

2 Q. And can you, by looking at this line tell the jury what the
3 document indicates as to when the obligation that appears to
4 have been paid off on October 4, 2006 was incurred?

5 A. 8/11/06.

6 Q. August 11, '06?

7 A. August 11, '06.

8 Q. And this was at the Borgata?

9 A. Yes, sir.

10 Q. Is there gaming activity reflected on your chart for any
11 day approximating 8/11/06 on 104?

12 A. No, sir.

13 Q. How about on 8/10?

14 A. I'm sorry. 8/11 there was gaming activity at Harrah's
15 casino.

16 Q. Was there gaming activity at Borgata the day before?

17 A. Yes, sir.

18 Q. Could you look at the original records that you have in
19 front of you as to Borgata and tell the jury how it was that
20 Mr. Mangone brought in at the Borgata on 8/10?

21 THE COURT: Did you say 8/10?

22 MR. SIANO: August 10, 2006.

23 A. He bought in with \$15,200 cash and \$8,000 credit.

24 Q. And the net result of his activity at the Borgata that day?

25 A. He lost \$21,168 -- I'm sorry -- he lost \$20 at the slot

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C3FUANN4 Darcy- redirect

1 machines. He lost 21,188.

2 Q. He lost \$20 at the slot machines and over \$20,000 at the
3 tables?

4 A. Correct.

5 Q. It would appear from the examination of Borgata's records,
6 does it show in the records a clearance of a portion of a
7 marker on or about October 4, 2006 as reflected in the
8 Government's Exhibit 787?

9 A. No.

10 Q. It is a different record?

11 A. A different record, right.

12 Q. If we could, sir, did I ask you explicitly with regard to
13 the period at the end of September to look for slot activity?

14 A. I don't recall that, no, sir.

15 Q. Can you look at the records for the Caesars in Atlantic
16 City for 9/29/2006?

17 (Pause)

18 A. Just bear with me. I'm getting there.

19 (Pause)

20 A. 9/29/06, I have that he won \$4700 at table games and had no
21 play at the slots -- and do you want the buy-ins?

22 Q. Yes. I want the buy-ins for 9/29.

23 (Pause)

24 A. For some reason I am not locating that, that screen. What
25 I gave you the 4700 was off the combined screens. I am looking

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C3FUANN4 Darcy- redirect

1 for the --

2 (Pause)

3 A. He had a \$6,000 and a marker and a \$5,000 marker.

4 Q. Now, 104 indicates on your chart a win for Mr. Mangone on
5 that day?

6 A. Correct.

7 Q. And on Government Exhibit 786, what does it indicate that
8 day?

9 A. A win.

10 Q. Same amount of money?

11 A. Right.

12 Q. Could you take the pink highlighter and highlight in the
13 original records pursuant to which you prepared your chart, the
14 buy-ins by marker for 9/29, the 6,000 and the 5,000, please?

15 I want you to make a similar highlight on the original
16 records produced pursuant to the subpoena wherein this
17 information is provided.

18 A. All right.

19 Q. Thank you, sir.

20 THE COURT: Are we done with that?

21 MR. SIANO: Excuse me?

22 THE COURT: I wondered if we were done and we can move
23 on.

24 Q. Did you do that?

25 A. Yes.

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C3FUANN4 Darcy- redirect

1 Q. You can put it back.

2 Did Government Exhibits 781 and 786 or 783 on their
3 face reflect Mr. Mangone's buy-ins?

4 A. No.

5 Q. Thank you.

6 I would have to look elsewhere then for that, is that
7 correct?

8 A. Yes.

9

10 (Continued on next page)

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C3fQann5 Darcy - Redirect

1 BY MR. SIANO: (Continued)

2 Q. Could you, sir, take the original records with regard to
3 July 21. Could you highlight on 104, please, the four lines
4 reflective of activity on July 21 on the chart that is 104:
5 Could you take the time, sir, to go into the original records
6 from which you prepared the chart and highlight the lines in
7 the original records for the Caesars Atlantic City and the
8 Tropicana reflective of the information which led to your
9 inclusion of that on the chart.

10 THE COURT: You mean highlight in that pink
11 highlighter?

12 MR. SIANO: In the pink highlighter.

13 THE COURT: Thank you. I just like to have a clear
14 record, please.

15 MR. SIANO: Thank you, Judge.

16 MR. CARBONE: Mr. Siano, what date are we talking
17 about?

18 MR. SIANO: 7/21/2006.

19 (Pause)

20 A. All right, sir.

21 Q. Two for the Tropicana and two for Caesars?

22 A. Right.

23 MR. SIANO: No further questions, your Honor.

24 THE COURT: Mr. Carbone?
25

C3fQann5 Darcy - Redirect

1 RECROSS EXAMINATION

2 BY MR. CARBONE:

3 Q. Mr. Darcy, referring to Government Exhibit 784, do you have
4 that in front of you? Mr. Turk, if you'd broadcast that.

5 A. I'm sorry.

6 Q. It will be right up on the monitor, sir.

7 A. What number, sir?

8 Q. That's 784, it should be right on your monitor. Referring
9 to entry 13 --

10 MR. CARBONE: No further questions. Thank you.

11 THE COURT: Never mind.

12 MR. CARBONE: Never mind.

13 THE COURT: I have to ask Mr. Aronwald, do you have
14 any questions?

15 MR. ARONWALD: No.

16 THE COURT: Thank you, Mr. Darcy. You may leave.

17 (Witness excused)

18 THE COURT: Mr. Siano, would you be so good as to
19 retrieve the exhibits?

20 MR. SIANO: Yes.

21 MS. GALLEGO: Your Honor, I will get the next witness.

22 THE COURT: Ms. Gallego.

23 Do you want to take a break now or do we want to take
24 the next one? We do not want to take a break. Let's get that
25 witness.

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C3fQann5 Darcy - Recross

1 MS. GALLEGO: Your Honor, the defense calls Richard
2 Hoffman.

3 RICHARD HOFFMAN,
4 called as a witness by the Defendant Jereis,
5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. GALLEGO:

8 THE DEPUTY CLERK: Please state and spell your name
9 for the record.

10 THE WITNESS: Richard Hoffman, H-O-F-F-M-A-N.

11 THE COURT: Have a seat, sir.

12 You may inquire, Ms. Gallego.

13 MS. GALLEGO: Thank you, your Honor.

14 Q. Good afternoon, Mr. Hoffman.

15 A. Good afternoon.

16 Q. Where do you live?

17 A. I live in Bronxville.

18 Q. How long have you lived there?

19 A. I've lived in Bronxville in that particular area for 12
20 years.

21 Q. How far did you go in school?

22 THE COURT: Just to make clear, Bronxville is in what
23 county?

24 THE WITNESS: Westchester County.

25 MR. SIANO: Thank you, your Honor.

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C3fQann5 Hoffman - Direct

- 1 Q. How far did you go in school?
2 A. Graduate level.
3 Q. In what?
4 A. I have a master's degree in theology.
5 Q. Are you presently employed?
6 A. Yes.
7 Q. Where?
8 A. The Organic Church Assemblies of God.
9 Q. What is your title there?
10 A. I'm the pastor.
11 Q. How long have you had that job?
12 A. Two years.
13 Q. Before this position, was there a time when you became
14 involved in politics?
15 A. Yes.
16 Q. When did you first get involved in politics?
17 A. In Westchester, I first got involved in politics in
18 about -- end of 2002, beginning of 2003.
19 Q. Before this, were you involved in politics elsewhere?
20 A. In very small ways really since I was young, so wherever I
21 lived.
22 Q. So let's just concentrate on Westchester then. How were
23 you involved or how did you first become involved?
24 A. I was involved in helping a lot of local candidates with
25 various races throughout the county because I had intended on

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C3fQann5 Hoffman - Direct

1 running for Congress in 2004, so I was building a network and,
2 you know, getting involved in the various parts of the district
3 that I was hoping to run for.

4 Q. Did you end up running?

5 A. Yes.

6 Q. Why did you decide to run?

7 A. Well, it was something I had interest in doing. I thought
8 it would be a great way to make a difference, and so I decided
9 to do it.

10 Q. Who did you run against?

11 A. I ran against Nita Lowey.

12 Q. What was the outcome of that?

13 A. I lost.

14 THE COURT: And not by a small margin, if I recall
15 correctly.

16 THE WITNESS: It wasn't that small of a margin. Thank
17 you for reminding me.

18 Q. Mr. Hoffman, did you ever hold political office in Yonkers?

19 A. Political office; elected office, no.

20 Q. Appointed?

21 A. I was appointed as a part of the Yonkers City Committee,
22 which is not an elected -- it's a party position.

23 Q. So what position exactly was it?

24 A. I worked as the executive director.

25 Q. Of what party was it?

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C3fQann5 Hoffman - Direct

- 1 A. The Republican Party in Yonkers.
2 Q. When did you start?
3 A. It would have been about 2005.
4 Q. How long were you the director?
5 A. Sometime until the end of 2007, for a little over two
6 years.
7 Q. Who was the chairman of the party at that time?
8 A. Zehy Jereis.
9 Q. Who appointed you to your position?
10 A. He did; Zehy did; Zehy Jereis.
11 Q. Was this your first encounter with Mr. Zehy Jereis?
12 A. No. I had met him in 2003.
13 Q. Since Mr. Jereis appointed you, was there a period where
14 your time in political office and his time coincided?
15 A. Yes.
16 Q. Which period was this?
17 A. It was the whole time that I was the executive director.
18 He was the chairman at the time.
19 Q. What were your job responsibilities when Mr. Jereis was
20 chairman?
21 A. Oh, as executive director, it was sort of party operations,
22 we scheduled our various meetings and helped to recruit
23 candidates and work on fundraisers, setting up party events.
24 Q. And you mentioned meetings. What kind of meetings did you
25 have?

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C3fQann5

Hoffman - Direct

1 A. We had regular meetings of the various ward leaders in
2 Yonkers. The city is divided into wards where there's a ward
3 leader for each -- there's 12 different sections, and, you
4 know, that makes up the whole city; and the ward leaders sort
5 of represent the party in those areas, and we would meet on a
6 regular basis to discuss whatever the issues of the day were --
7 upcoming elections, the work that needed to be done for the
8 elections, any candidates that were being recruited, you know,
9 dealing with the existing elected officials, that sort of
10 thing.

11 Q. Did you give a name to these meetings? What were these
12 meetings called?

13 A. Those particular meetings I don't know if there was a
14 formal name for them. We called them the ward meetings.

15 Q. What did you observe at these meetings?

16 A. Well, there was 12 ward leaders, and some wards have
17 assistant ward leaders and oftentimes the elected officials
18 from the party would come to these meetings as well as the
19 chairman and I would be there, and, you know, that was pretty
20 much standard.

21 Q. So did you observe John Murtagh and Dee Barbato at these
22 meetings?

23 A. Yes.

24 Q. In the period where you were executive director, how many
25 times were there meetings with these two councilmen?

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C3fQann5

Hoffman - Direct

1 A. You mean in the context of a ward meeting or --

2 Q. Yes, sorry.

3 A. Yeah, they were regular, but they weren't, you know,
4 necessarily every single month. So I don't know the exact
5 number, but we had, you know, many of them. Over the course of
6 that time period, probably had 10 or 15.

7 Q. From your recollection, what are some of the
8 responsibilities of the chairman of the party?

9 A. The chairman of the party is, his responsibilities were
10 somewhat similar: To recruit candidates, to raise money, both
11 for the party and for candidates, to meet with the current
12 elected officials, to discuss, you know, some of the things
13 that were before whatever the particular body was, and to, you
14 know, try to maintain some cohesion so that everybody could
15 sort of be working together on a fairly regular basis to kind
16 of move a particular agenda forward.

17 Q. Do you recall Mr. Jereis speaking with Ms. Barbato during
18 these meetings?

19 A. At various times they spoke, yeah.

20 Q. You mentioned part of his responsibility was to raise
21 money?

22 A. Right.

23 Q. How did he raise money?

24 A. Usually by holding fundraisers or maybe personal outreach
25 to known givers, but primarily the way that it was done was

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1 through holding a fundraiser either directly for a candidate or
2 for the party in general.

3 Q. Did you see Mr. Jereis hold these fundraisers and organize
4 these fundraisers?

5 A. Yes.

6 Q. Do you recall seeing Mr. Jereis hold a fundraiser for John
7 Murtagh?

8 A. Yes.

9 MS. GALLEGO: Your Honor, may the record reflect that
10 I am showing what has previously been marked as Defendant's
11 Exhibit 7 for identification. I believe counsel has a copy. I
12 also have a copy for the Court.

13 THE COURT: Let the record reflect Ms. Gallego has
14 just done it the way they teach it in law school. She handed a
15 copy of the exhibit to her opponent on her way to the stand and
16 she has provided a copy for the Court.

17 Q. Mr. Hoffman, I'm showing you what's been previously marked
18 as Defendant's Exhibits number 7. Do you know what this
19 exhibit is?

20 A. This was one of the newsletters that was distributed on a,
21 once again, fairly regular basis to anybody, actually, but to
22 the ward leaders, the district leaders, the elected officials,
23 prospective candidates.

24 Q. How often was it put out?

25 A. Again, I think it was initially intended to be a monthly

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1 type of publication, but it was sporadic, but it was regular,
2 once again. I don't know, you know, how many times or how
3 often. I didn't put this together, but I know the person that
4 did.

5 Q. And who was that person?

6 A. Jim Faulkner, he was one of the ward leaders.

7 Q. I want to direct your attention to the piece on page 6,
8 which I believe you have there, on the fundraiser of March 9.
9 Please let me know when you've found the page.

10 A. Page 6, OK.

11 Q. If you go to the middle of the page March 9.

12 A. Right.

13 Q. You can read that section to yourself.

14 (Pause)

15 A. OK.

16 Q. What can you tell us about that fundraiser?

17 A. In regard to what you were just talking about, March 9 was
18 a fundraiser for councilman John Murtagh.

19 MR. HALPERIN: Your Honor, we are going to object.

20 The document is not in evidence.

21 THE COURT: That objection is sustained because you
22 can't read from the document. What is the question you want to
23 ask, Ms. Gallego?

24 Q. Did Mr. Jereis provide support for Mr. Murtagh in the form
25 of a fundraiser on March 9?

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1 A. Yes.

2 Q. Do you remember this fundraiser?

3 A. I do.

4 Q. How do you remember it?

5 A. I remember it for two reasons: I remember the location,
6 which wasn't one of our normal locations, and I remember it was
7 when Mr. Murtagh was contemplating running for mayor.

8 Q. Thank you. I'll take it back now. From your observation,
9 what was Mr. Murtagh's relationship with the Republican Party
10 in the city of Yonkers?

11 MR. HALPERIN: Objection. Relevance.

12 THE COURT: Overruled.

13 A. In what time frame?

14 Q. I apologize. In his time as councilman.

15 A. When I was involved in my position within the party, I saw
16 the relationship change within the party itself. He was an
17 elected councilman that entire time, but there was a lot of
18 internal party politics that were going on at the time between,
19 I guess you would call them, different factions, and there was
20 a shift at that time. Mr. Murtagh went from one side to the
21 other, if that makes any sense.

22 Q. From one side to the other, do you mean he switched
23 parties?

24 A. Not parties, within the party; two different factions
25 within the same party. One group works together, and then all

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1 of a sudden that group no longer works together, and people
2 shift allegiances, I suppose, would be a good way to put it.

3 Q. From your observations, what was Mr. Murtagh's relation
4 with Mr. Jereis at that time?

5 A. In the beginning they worked together on various things and
6 planning his political future and sort of what was going on in
7 the council, to the change of tide, like I mentioned, and there
8 was a rift between the current mayor who was a Republican and
9 the party itself, and there became some tension there, and
10 that's when John Murtagh kind of moved the other direction.

11 Q. During the time when they were on good terms or when they
12 were speaking, did you ever see Mr. Jereis and Mr. Murtagh
13 speaking at these meetings?

14 A. Sure. Yes.

15 Q. Without telling us what was said, what kind of issues or
16 topics were discussed?

17 A. Generally, it was upcoming campaigns and issues that were
18 before the council.

19 Q. So would it be fair to characterize them as policy issues
20 that were discussed?

21 A. Some of it was, yes.

22 Q. Can you tell me also a bit more from your observations what
23 was Dee Barbato's relationship with the Republican Party and
24 the city of Yonkers?

25 A. Yeah. Dee Barbato was also an elected councilwoman, and

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1 her husband was a ward leader, so they were very, very active
2 in the inner workings of what was going on on a regular basis,
3 whether it was the party in general or campaigns or recruiting
4 candidates as well as, you know, the policy-type issues that
5 come up from time to time.

6 Q. From what you saw, what was her relationship with
7 Mr. Jereis?

8 A. It was the same. When he was the chairman, she would speak
9 to him about various things, you know, whether campaign help,
10 organizing the required things that needed to take place when
11 you run for office, like getting signatures to get your name on
12 the ballot, dealing with the minor parties. In the State of
13 New York you can be cross-endorsed by other parties, and that
14 was something that would take place at that level, in addition
15 to, you know, relationship between the different branches of
16 government.

17 Q. Specifically with the campaign help, can you elaborate a
18 bit more on that?

19 A. Her request for campaign help were similar --

20 MR. HALPERIN: Objection. Hearsay. Not the question;
21 the answer, Judge.

22 THE COURT: Overruled.

23 Q. You can proceed.

24 A. OK. Her request for campaign help was about things, like I
25 said, organizing enough people to get signatures that are

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1 required, fundraising, endorsements, those kind of things.

2 THE COURT: You're saying she made such a request?

3 THE WITNESS: Correct.

4 THE COURT: Thank you.

5 Q. Did you witness Mr. Jereis and Ms. Barbato speak at these
6 meetings?

7 A. Yes, I did.

8 Q. Mr. Hoffman, during your time as director, executive
9 director, do you recall Mr. Jereis enlisting your help with a
10 non Republican-related subject?

11 A. Yes.

12 Q. After he asked for help, what did you do?

13 A. I helped him.

14 Q. What did you help him with?

15 A. He asked me to help him to create some reports that he
16 needed for his personal business, and I assisted him in doing
17 so.

18 Q. How long did it take for you to help him?

19 A. I don't know, probably an hour at the most, probably less.

20 Q. Do you remember what company these reports pertained to or,
21 rather, who was requesting these reports?

22 A. I know it was one of two. It was either Forest City Ratner
23 or Yonkers Chamber of Commerce.

24 Q. Did you help him with both reports?

25 A. From what I can recall, I believe there's -- at some point

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1 there was reports that were for each.

2 Q. Tell us a bit about the first time he came to you for help
3 with the Forest City Ratner reports.

4 A. Well, he had some handwritten notes and some documentation
5 that he had made, and he asked me if I could help him create
6 reports that he could submit to his boss --

7 MR. HALPERIN: Objection. Hearsay. He asked --

8 THE COURT: The objection is sustained.

9 Q. Tell me what is the assistance you provided him.

10 A. I created for him reports about the activities that he had
11 done through his job duties, and I helped him because he's --
12 Mr. Jereis is not so good with using computers, which is why he
13 asked me in the first place. So I simply took the information
14 that he had written down and created and -- you know, I had
15 lots of experience in creating reports for my professional
16 career. I knew exactly what it should look like, so I simply
17 put it into a very straightforward outline and gave it to him.

18 Q. When was this?

19 A. It was sometime during 2006.

20 Q. Where were you when he came to you for help?

21 A. At my house.

22 Q. Did you consider his request to be an odd request?

23 A. Not really.

24 Q. Why not?

25 A. Well, it was -- the thing that I found odd about it was

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1 that he, you know, wasn't necessarily able to put a word
2 document together that basically outlined it, but other than
3 that, I didn't think it was really unusual knowing him.

4 Q. So would you say you were familiar with these type of
5 reports?

6 A. With putting together reports that track your progress in a
7 professional environment, yes, I've done plenty of those in my
8 life as well.

9 Q. Did he pay you for this?

10 A. No.

11 Q. You mentioned he brought some notes with him when he came
12 to you for help. Can you describe the notes?

13 A. They were really just handwritten notes with things that he
14 had done on a particular date, and I remember for one of the
15 said reports there were some real estate properties that had
16 dates and times that he had seen them or inquired about them.
17 That was all.

18 Q. Did he discuss these reports with you?

19 A. Simply what they needed to say and be about, that was all.

20 Q. You mentioned you also helped him with other reports?

21 A. Yes.

22 Q. Tell me what he needed then.

23 A. They were quite similar to the others. There were the ones
24 for Forest City, and there were the ones for the Yonkers
25 Chamber of Commerce. They were very similar the way he

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1 described them to me as, you know, I need to reflect what I had
2 done over the course of this time period, and it was the same
3 scenario.

4 Q. Did you find it strange that he came to you and asked you
5 to help him compile reports that dated for a few months' time?

6 A. At the time I didn't think it was unusual because, again,
7 I'd done reports in the past and fallen behind schedule, and
8 you usually don't hand in reports until somebody asks you for
9 them, so it didn't seem unusual to me.

10 Q. Did you ever suggest he try it himself and type up the
11 reports?

12 A. Yes, actually, I did, but -- I knew that that was -- you
13 know, that just wasn't something that was one of his skill
14 sets.

15 MS. GALLEGO: I'd like to have Government Exhibit 381,
16 please. Your Honor, I'd also like to show the witness a copy
17 which I will show counsel.

18 THE COURT: Can you identify for the record what you
19 are showing the witness a copy of? What the document is dated
20 or something?

21 MS. GALLEGO: May I approach?

22 THE COURT: You may.

23 MS. GALLEGO: I also have a copy for you, your Honor.

24 THE COURT: OK.

25 Q. Mr. Hoffman, I'm showing you Government Exhibits 381. If

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1 you go on, please skip the first page and look at the rest of
2 the document. I'll give you a moment to look at it. Do you
3 recognize this exhibit?

4 A. Yes.

5 Q. What do you recognize it to be?

6 A. This is the document that I helped him to create.

7 Q. For Forest City Ratner?

8 A. Yes.

9 Q. Do these reports appear to be in the same format and
10 condition as when you first generated them?

11 A. From what I recall.

12 Q. That's all. Did you help Mr. Jereis with anything else
13 besides the report?

14 A. The reports for the two places and the invoices to
15 accompany them.

16 Q. Mr. Hoffman, you mentioned you had experience in typing or
17 drafting reports. Do you have any special computer skills?

18 A. Nothing I would consider necessarily special, pretty
19 standard ready-to-use software packages and things like that.

20 Q. Why did he come to you for assistance?

21 A. He just never really had those kind of skills, those
22 computer skills.

23 Q. Thank you. I'll take it.

24 Mr. Hoffman, was there a time when the government
25 reached out to you and spoke with you?

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1 A. Yes.

2 Q. When was it?

3 A. It was May of last year.

4 Q. Tell me about the meeting.

5 A. Two agents --

6 MR. HALPERIN: Objection. Hearsay.

7 THE COURT: The objection is sustained.

8 Q. Can you describe what the outcome of the meeting was?

9 A. I don't know if I understand.

10 THE COURT: That makes two of us.

11 Q. What happened at the meeting?

12 A. I was asked questions about the same reports you just asked
13 me about.

14 Q. Were you interviewed by the FBI?

15 A. Yes.

16 Q. Did they show you some reports?

17 A. Yes.

18 Q. What answer did you give to the FBI regarding those
19 reports?

20 A. That I created them.

21 Q. Did you remember it then?

22 A. I didn't remember doing the reports initially when they
23 mentioned it to me, and then they showed me a copy of it, and I
24 did remember it.

25 Q. So it came back to you then?

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1 A. Yes.

2 Q. After Mr. Jereis asked you for help, did you have any
3 contact with him about the reports after the agents showed up?

4 A. After the agents showed up, I mentioned to him that they
5 did and asked me about the reports.

6 Q. And that was the extent of your conversation?

7 A. Pretty much, yeah.

8 MS. GALLEGO: Thank you. No further questions.

9 MR. HALPERIN: Very briefly, your Honor.

10 THE COURT: Mr. Halperin.

11 CROSS-EXAMINATION

12 BY MR. HALPERIN:

13 Q. Good afternoon, Mr. Hoffman.

14 A. Hello.

15 Q. My name is Jason Halperin. You said you were interviewed
16 by the FBI in this case, correct?

17 A. That's right.

18 Q. That was approximately May of last year?

19 A. Right, that's what I believe to be the date, yeah.

20 Q. And you said you ran for Congress in 2004, correct?

21 A. That's right.

22 Q. And you're a Republican, correct?

23 A. Yes.

24 Q. It's true, sir, that Mr. Jereis was a big help to you in
25 politics, is that fair?

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C3fQann5

Hoffman - Cross

1 A. Mmm-hmm. Yes.

2 Q. And you consider him a good friend, correct?

3 A. Yes, Zehy's a friend.

4 Q. The two of you have socialized in the past, correct?

5 A. Sure.

6 Q. You don't want to see him get in trouble, correct, sir?

7 A. Well, I don't think --

8 Q. Yes or no.

9 A. No.

10 Q. Now, aside from helping Mr. Jereis with his reports for
11 Forest City Ratner and the chamber of commerce, you have no
12 direct firsthand factual knowledge of any of the facts of this
13 case. That's correct, sir, right?

14 A. Could you be --

15 Q. Aside from the work you did helping Mr. Jereis with the
16 reports in the two instances that you testified about, you have
17 no other firsthand factual knowledge about this case, correct?

18 A. That's right.

19 Q. Now, you just testified a moment ago on direct that you
20 said you helped Mr. Jereis sometime in 2006, correct?

21 A. That's what I recall.

22 Q. I am going to show you Government Exhibit 381. Do you
23 still have that in front of you?

24 A. No.

25 MR. HALPERIN: Your Honor, may I approach? Thank you.

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C3fQann5 Hoffman - Cross

1 Q. Mr. Turk, can we have 381 up on the screen, please:

2 Mr. Hoffman, what's the date on the first email at the
3 bottom of that chain, sir?

4 A. I see that it's 2007.

5 Q. March 12, 2007?

6 A. Right.

7 Q. Does that refresh your recollection that it was actually
8 approximately March 2007 that you helped Mr. Jereis with the
9 reports?

10 A. Based on this, I would make that assumption. If I --

11 Q. Do you recall that that's what you told the FBI when you
12 met with them last year?

13 A. I don't recall the --

14 Q. I'm going to show you something. You tell me if it
15 refreshes your recollection about that, OK?

16 MR. HALPERIN: Your Honor, may I just ask a question
17 or two from here?

18 THE COURT: Yes, that's fine, Mr. Halperin.

19 MR. HALPERIN: Thank you, your Honor.

20 Q. Sir, I'm going to show you what's been marked for
21 identification as Hoffman-1, and I will direct you to page 3,
22 the bottom paragraph, and ask you to read that paragraph and
23 the top of the paragraph on page 4. Read that to yourself,
24 please.

25 A. OK.

C3fQann5

Hoffman - Cross

1 Q. Sir, does that refresh your recollection that approximately
2 a year ago when you were interviewed by the FBI, you said that
3 you would have worked on these reports a couple of days before
4 March 12, 2007?

5 A. Based on the dates that they showed me at the time, yes.

6 MR. HALPERIN: Nothing further, your Honor.

7 MS. GALLEGO: Nothing further.

8 THE COURT: Thank you, sir. You may step down. Let's
9 take a five minute break. Don't discuss the case. Keep an
10 open mind.

11 (Witness excused)

12 (Jury not present)

13 THE COURT: What else do we have, Mr. Mangone -- why
14 do I keep doing this? Mr. Siano.

15 MR. SIANO: There is a point at which that will become
16 a concern to me.

17 THE COURT: It should be a concern to you now,
18 Mr. Siano. I can't make anything sort of ethnic excuses. You
19 all know my husband is a proud Italian, so --

20 MR. SIANO: We have called the two witnesses we had on
21 hold yesterday and put them through. I've managed to obtain
22 another witness. His name is J. Robert Lunney, and I know the
23 government is quite agitated about him. He is here.

24 THE COURT: Perhaps we should chat about the
25 government's agitation.

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C3fQann5 Hoffman - Cross

1 MR. HALPERIN: Your Honor, we submitted a letter.

2 THE COURT: Give me another copy. No, wait, this may
3 be it. Yes, this is the letter. OK.

4 MR. HALPERIN: If the Court needs five minutes to read
5 it, then --

6 THE COURT: No, this was, I believe, the witness whose
7 testimony I wanted to hear out of the hearing of the jury
8 before I made my ruling.

9 MR. HALPERIN: Correct.

10 MR. SIANO: He's here.

11 THE COURT: I'm here.

12 Mr. Aronwald, you want to take a break?

13 MR. ARONWALD: Whenever it's appropriate, your Honor.

14 THE COURT: Let's take a very short break because I
15 want to hear very quickly what this witness has to say.

16 MR. ARONWALD: Thank you.

17 (Recess)

18 (Continued on next page)

19

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21

22

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24

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C3fQann5

Hoffman - Cross

1 (Jury not present)

2 THE COURT: Case on trial continued. The parties and
3 government present. The jurors are not present.

4 We are going to hear some testimony outside the
5 presence of the jury so I can decide it's admissibility

6 Mr. Siano, call your next witness.

7 MR. SIANO: The defense calls J. Robert Lunney.

8 J. ROBERT LUNNEY,

9 called as a witness by the Defendant,

10 having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. SIANO:

13 THE DEPUTY CLERK: Please state and spell your name
14 for the record.

15 THE WITNESS: J. Robert Lunney. J period Robert
16 Lunney, L-U-N-N-E-Y.

17 Q. Good afternoon, Mr. Lunney.

18 A. Yes, sir.

19 Q. You can pull the microphone up or sit close to the mike.

20 A. Yes, sir.

21 Q. Mr. Lunney, what trade or occupation are you engaged in?

22 A. Well, I'm retired now, but I graduated from the Cornell Law
23 School in 1954 with a Doctor of Law degree and practiced law
24 until I retired about three years ago.

25 Q. Three years ago would be 2009?

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1 A. Approximately, yes, sir.

2 Q. Was there a period of time in which you practiced law with
3 an individual by the name of John Murtagh?

4 A. I certainly did. We formed a partnership about 1994, and
5 it was dissolved in 2003.

6 Q. On what frequency did you interact with Mr. Murtagh from
7 1994 to 2003?

8 A. We had daily contact. He was in the office pretty much
9 every day unless we were in the court. We specialized in
10 litigation, so I had constant contact with him almost on a
11 daily basis.

12 Q. During that period of time, sir, did you form an opinion as
13 to Mr. Murtagh's character for truthfulness?

14 A. Yes, sir.

15 Q. And what is that opinion?

16 A. Totally unreliable, a man untrustworthy and lacking in
17 credibility.

18 MR. SIANO: No further questions, your Honor.

19 MR. HALPERIN: Based on that, I don't even think I
20 need to inquire, Judge. I'm ready to make my argument.

21 THE COURT: Go right ahead.

22 MR. HALPERIN: Well, I'd rather do it without the
23 witness present.

24 THE COURT: Ben, would you mind taking Mr. Murtagh
25 back into the robing room?

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C3fQann5 Lunney - Direct

1 (Witness recessed)

2 MR. HALPERIN: Judge, based on that proffer of
3 Mr. Lunney's testimony, we object strenuously. It's completely
4 improper Rule 608(b) testimony about specific instances of
5 conduct. He's not saying he's polled 500 people in the
6 community and has an impression --

7 THE COURT: Wait a minute. Wait.

8 MR. HALPERIN: I'm sorry. As our letters --

9 THE COURT: I think Mr. Siano was -- I, of course,
10 have always understood the rule to be familiarity for
11 reputation for truthfulness in the community.

12 MR. HALPERIN: Correct, and, your Honor --

13 THE COURT: Wait. Wait. Mr. Siano, it's not your
14 turn yet.

15 OK, that's what I had recalled the rule to be.

16 MR. HALPERIN: You're correct, your Honor.

17 THE COURT: But I must say that Mr. Siano asked
18 whether over the course of a lengthy association, professional
19 association, he had developed an opinion about the witness'
20 reputation and --

21 MR. HALPERIN: And your Honor --

22 MR. SIANO: -- character for truthfulness.

23 THE COURT: Wait. His character for truthfulness.

24 And he said yes -- you heard what he said; that he had
25 developed such an opinion. One wonders why they remained in

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1 practice for as long as they did if he developed that opinion,
2 but that's neither here nor there.

3 So I think what Mr. Siano is going to say is that
4 under 608(a) the credibility of a witness may be attacked in
5 the form of opinion or reputation: Reputational evidence
6 applying to the community; opinion evidence being something
7 other than reputation in the community. And Mr. Siano did not
8 ask of any particular incident.

9 MR. HALPERIN: No, but, your Honor --

10 THE COURT: Now you might have some wonderful cross on
11 that.

12 MR. HALPERIN: Your Honor, the objection is that this
13 is essentially 608(b) improper testimony masking as 608(a)
14 because Mr. Lunney's testimony is founded on and based firmly
15 on his associations with Mr. Murtagh, their bitter breakup,
16 their three years of litigation, and this is why the Second
17 Circuit in the case that we cited in United States v. Aguello,
18 452 F.2d 1135 strongly frowns on this type of testimony and
19 says such evidence should be viewed by the trial Judge with
20 caution.

21 The Circuit instructed, Judge, that such evidence
22 should be viewed by the trial judge with caution, and that
23 except in the rare case where the testimony appears to be well
24 supported, it should be rejected being, at best, in the nature
25 of unsubstantiated community gossip the probative value of such

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1 evidence.

2 THE COURT: It's clearly not unsubstantiated community
3 gossip. He's offering his opinion based on his years of
4 association with this man for truthfulness.

5 Now, it may be that -- you know, you obviously do know
6 a lot more about the relationship with Mr. Murtagh than I know.
7 And you may well know that he has -- that they had a perfectly
8 fine relationship for a long period of time, and then something
9 happened and it went sour, and that was when his opinion
10 changed, and it was through the years of litigation that
11 accompanied the breakup of the law firm, and maybe if you
12 examined him here, I might come to agree with you that that is
13 the case.

14 MR. HALPERIN: Your Honor, our position is that we
15 strenuously object to this testimony because we think it is
16 predicated entirely on his own personal experience.

17 THE COURT: Then cross-examine him and establish that
18 to me. The difference between opinion and reputation, as I
19 understand it, can be predicated entirely on one's own
20 experience. It is reputation testimony that can be predicated
21 on community gossip.

22 MR. HALPERIN: Then I take it, first of all, Judge,
23 the second prong of our objections Rule 403 because the
24 probative value of this evidence as to one of the government's
25 40 witnesses is so greatly --

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C3fQann5 Lunney - Direct

1 THE COURT: The probative value -- are you willing to
2 strike Mr. Murtagh's testimony? The probative value of
3 Mr. Murtagh is such that it's entirely possible you shouldn't
4 have called him in the first place.

5 MR. HALPERIN: Judge, we obviously disagree with that
6 characterization. And if the Court is going to allow this
7 testimony, I take it that the Court will strongly confine
8 Mr. Siano's questions not to anything about his law practice
9 and --

10 THE COURT: I think Mr. Siano just asked all his
11 questions.

12 MR. SIANO: I think you heard my direct, Judge.

13 THE COURT: He says I heard the direct.

14 MR. HALPERIN: We object, but it seems clear the Court
15 is overruling it.

16 THE COURT: I just wanted to be clear that I'm giving
17 the government an opportunity to prove by cross-examining the
18 witness right now that my ruling is not well founded.

19 MR. HALPERIN: OK. Then, your Honor, we'll take that
20 opportunity. If I could ask Mr. Lunney back.

21 MR. SIANO: Judge, for the record, Augello is actually
22 a case on reputation, not on opinion.

23 THE COURT: I'm aware of that.

24 MR. SIANO: So the other prong you don't need to hear
25 an argument from me yet. Since your Honor ruled in my favor, I

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C3fQann5 Lunney - Direct

1 know enough to shut up, but ...

2 (Witness present)

3 THE COURT: Come on back, Mr. Lunney. You are still
4 under oath. Mr. Halperin is going to ask you a few questions.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Then I am going to decide whether you have
7 to do this all over again.

8 CROSS-EXAMINATION

9 BY MR. HALPERIN:

10 Q. Good afternoon, Mr. Lunney. My name is Jason Halperin.
11 We've never met before. Is that correct, sir?

12 A. Yes, sir.

13 Q. How long were you law partners with John Murtagh?

14 A. As I related earlier, from about 1994 through 2003.

15 Q. So for about nine years?

16 A. Well, whatever that arithmetic is.

17 THE COURT: It works out to nine years.

18 Q. There was a third law partner at some point, correct, sir?

19 A. There was a -- another fellow brought in by John Murtagh to
20 come within the province of our liability insurance, yes, sir.

21 Q. And his name was Phil Landrigan?

22 A. Phil Landrigan, that's correct.

23 Q. Landrigan. In 2003, you testified that your firm
24 dissolved, correct?

25 A. I brought on an order to show cause in Supreme Court

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C3fQann5 Lunney - Cross

1 Westchester County to dissolve the firm because of what John
2 Murtagh had been doing and dipping into our client funds
3 account and drawing checks on his own account.

4 Q. And you were upset about what Mr. Murtagh had been doing as
5 part of your law practice, correct?

6 A. I'm not sure I would term it upset. I'm not sure what you
7 mean by that, but certainly it was untoward. It was
8 unprofessional and improper.

9 Q. And you filed a lawsuit against Mr. Murtagh and
10 Mr. Landrigan, correct?

11 A. I brought on an order to show cause in the Supreme Court
12 Westchester County, State of New York, yes, sir.

13 Q. And you had three years of litigation with them, correct?

14 A. I'm not sure exactly how many years it went on, but I
15 initiated the order to show cause in the year 2003.

16 Q. Based on Mr. Murtagh's conduct when you were law partners
17 together, is it fair to say that there's a lot of bad blood
18 between you and Mr. Murtagh?

19 A. I would not describe it that way. I recognize Mr. Murtagh
20 as a man that was untrustworthy and lacking in credibility.

21 Q. Sir, is it fair to say that there's a lot of bad blood
22 between you and Mr. Murtagh? Yes or no.

23 A. I don't understand what you mean by that.

24 THE COURT: You don't like him and he doesn't like
25 you. Is that fair to say?

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C3fQann5 Lunney - Cross

1 THE WITNESS: I'm not sure it comes down to like or
2 not like, bad blood or otherwise. He did what he did, and I
3 chose to dissolve the firm.

4 Q. I understand that, and the Judge just asked you a question.
5 Is it fair to say that you don't like him and he doesn't like
6 you. Is that fair? Yes or no.

7 A. I recognize him for what he did. It doesn't --

8 THE COURT: Mr. Lunney, I think -- you could certainly
9 make an argument to a trier of fact that they don't like each
10 other. OK, let's move on.

11 Q. When Mr. Murtagh ran for mayor last year, you supported his
12 opponent Mike Spano, correct?

13 A. I did not support any candidate at any time. When there
14 was a primary campaign, the opponent for Mr. Murtagh approached
15 me --

16 Q. Sir, I'm not asking for a long answer.

17 MR. SIANO: Judge, could the witness be allowed to
18 finish the answer?

19 MR. HALPERIN: I'm asking questions, Judge.

20 MR. SIANO: No.

21 MR. HALPERIN: This is cross.

22 THE COURT: I understand.

23 Sir, you need to answer his questions yes or no
24 because they can be answered yes or no.

25 Q. Sir, isn't it true that you went out on the campaign trail

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C3fQann5 Lunney - Cross

1 last year when Mr. Murtagh ran for mayor, and you publicly
2 criticized him, isn't that true?

3 A. No, I did not go out on a campaign trail. No.

4 Q. Did you publicly criticize Mr. Murtagh last year? Yes or
5 no, sir.

6 A. I certainly brought forward the fact that he was
7 untrustworthy, and I did not believe in his credibility, and
8 that the people of Yonkers who were going to vote in that
9 campaign should be aware of that, and I felt it was very
10 important.

11 (Continued on next page)

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C3FUANN6

Lunney - cross

1 THE COURT: So the answer is yes.

2 Q. And the basis for your opinion that he is untrustworthy is
3 what he did to you, his conduct when you were law partners,
4 correct?

5 A. Not what he --

6 Q. Yes or no?

7 A. No.

8 Q. No?

9 A. It is not what he did to me, it is what he did in regard to
10 the firm.

11 Q. So while you were at the firm, it is what he did with
12 regard to the firm, correct?

13 A. That's correct. It was untrustworthy and irregular.

14 THE COURT: Now, step out again, sir.

15 Ben, would you please take the witness out again.

16 Don't go far.

17 (Witness excused)

18 THE COURT: Mr. Siano, I should let you argue.

19 MR. SIANO: I would point out that the advisory
20 committee notes, right from the beginning, 1974, state quite
21 clearly that the Supreme Court and the legislative body decided
22 not go solely with reputation. They decided to go both with an
23 outwardly attack on truthfulness, reputation and an inward
24 looking attack on character for truthfulness. It is only the
25 character trait of truthfulness and that is all that this

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C3FUANN6 Lunney - cross

1 witness speaks to. And he speaks to it from opinion. He is
2 subject to cross-examination, just as any other witness.

3 And that is my argument.

4 THE COURT: As far as 608(b) goes, yes, it is
5 absolutely true that specific instances of the conduct of
6 Mr. Murtagh, for example, the fact that he took client funds,
7 if indeed he took client funds -- I don't know if he took
8 client funds -- that could not be introduced, that specific
9 instance.

10 MR. SIANO: I did not ask those questions.

11 THE COURT: And you did not ask those questions. You
12 asked if this witness had an opinion about the gentleman's
13 character for truthfulness, and he said that he had such an
14 opinion and that his opinion was that the witness was truthful.

15 I fail to see why that is not admissible.

16 MR. HALPERIN: Judge, this Court obviously has the
17 discretion to control what type of evidence comes before the
18 jury. And we submit that this testimony from this witness
19 which is based on years of bad blood, personal litigation based
20 on the law firm, has no place --

21 THE COURT: Mr. Halperin, that's the province of
22 cross-examination.

23 Now, I am going to caution the witness. I am actually
24 going to instruct the witness before we bring the jury in that
25 he is not to volunteer in response to any questions anything

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C3FUANN6

Lunney - cross

1 about the specific instances that caused him to bring on an
2 order to show cause, that he is to confine himself to the very
3 broad issue of does he have an opinion whether the man is
4 truthful or not.

5 You are free to ask yes and no questions. And I will
6 also, before the jury comes in, explain to him again that the
7 words "yes" and "no" are three letters and two letters
8 respectively and require no elaboration at all.

9 If you can bring out that he dissolved the firm and
10 that he was engaged in litigation with Mr. Murtagh for some
11 years, and you can then argue to the jury the question that the
12 witness refuses to answer which is that there is bad blood
13 between them. I think that is a fair inference. I'll bet
14 Mr. Siano doesn't even disagree with you.

15 All right. Bring in the witness, please.

16 MR. SIANO: If you could give the witness a clear
17 indication that you are speaking about cross-examination
18 because I don't want him to think that my direct is somehow
19 problematic.

20 THE COURT: Relax, Mr. Siano, please.

21 (Witness present)

22 THE COURT: Sir, I am going to ask you to resume the
23 stand.

24 THE WITNESS: Thank you.

25 THE COURT: Make yourself comfortable.

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C3FUANN6 Lunney - cross

1 THE WITNESS: Yes, ma'am.

2 THE COURT: We will reswear you in front of the jury
3 and Mr. Siano will ask you, I believe, the very questions that
4 he asked you out of the hearing of the jury which you will
5 respond to.

6 And then you will be subjected to cross-examination
7 from Mr. Halperin. Mr. Halperin is going to ask you questions,
8 and every question he asks you can be answered with one word,
9 "yes" or "no." You must answer them with one word and one word
10 only -- no elaboration, no explanation, no caveats, no ifs, no
11 ands, no buts -- yes or no, because if you start saying
12 something else, I am going to cut you off. Yes or no. All
13 right.

14 Have I made myself clear?

15 THE WITNESS: I understand, your Honor.

16 THE COURT: Good. Let's see how well we do.

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18 (Continued on next page)

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C3FUANN6 Lunney - cross

1 (Jury present)

2 THE COURT: Mr. Siano, will you please call your next
3 witness.

4 MR. SIANO: Yes, your Honor.

5 The defendant calls J. Robert Lunney.

6 J. ROBERT LUNNEY,

7 called as a witness by the defendant Jereis,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. SIANO:

11 THE COURT: Sir, would you please be seated.

12 Mr. Siano, would you examine your witness.

13 MR. SIANO: Yes, your Honor.

14 Q. Mr. Lunney, what trade or occupation were you engaged in?

15 A. I am now retired, but I practiced law for over 40 years,
16 almost 50 years in the state of New York.

17 Q. When did you graduate law school?

18 A. I was originally in a class of 1953 but was recalled by the
19 Navy and served a year in Korea and graduated in 1954 from the
20 Cornell Law School where I received a doctor of law degree.

21 Q. After so graduating, did you get a law license?

22 A. Yes, sir. I was admitted to the bar soon after graduation.

23 Q. And for how long did you practice, sir?

24 A. I practiced until I retired, just about three years ago.

25 Q. That would be 2009?

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C3FUANN6 Lunney - direct

1 A. Approximately, yes, sir.

2 Q. Are you familiar with an individual by the name of John
3 Murtagh?

4 A. Yes, sir.

5 Q. How did you come to know Mr. Murtagh?

6 A. Mr. Murtagh was a partner of mine when I established a law
7 firm in 1994.

8 Q. And Mr. Murtagh was a partner of yours until when, sir?

9 A. Until approximately 2003.

10 Q. By way of identification, this is the John Murtagh who
11 served for a period of time as councilman in the City of
12 Yonkers?

13 A. That's correct.

14 Q. On what basis or frequency, sir, did you see Mr. Murtagh
15 during the period 1994 to the year 2003?

16 A. We formed a firm in White Plains specializing in
17 litigation, and I would see him on a normal basis, daily, and
18 on a regular basis throughout the year, unless either one of us
19 were in court, but I saw him on a regular daily basis.

20 Q. Did you interact with him on professional matters?

21 A. Exactly. That's exactly what we were doing at all times.

22 Q. Did you, sir, form an opinion as to Mr. Murtagh's character
23 for truthfulness?

24 A. Yes, I did.

25 Q. What is that opinion?

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C3FUANN6 Lunney - direct

1 A. I found that John Murtagh was untrustworthy and lacking in
2 credibility.

3 MR. SIANO: Thank you.

4 No further questions, your Honor.

5 THE COURT: Mr. Halperin.

6 MR. HALPERIN: Thank you, your Honor.

7 CROSS-EXAMINATION

8 BY MR. HALPERIN:

9 Q. Mr. Lunney, good afternoon.

10 My name is a Jason Halperin.

11 We have never met, correct?

12 A. That's correct.

13 Q. You used to be law partners with Mr. Murtagh, correct?

14 A. Yes, sir. I have already testified to that.

15 Q. And there was a third lawyer who joined the firm at some
16 point, correct?

17 A. That's correct.

18 Q. His name was Phil Landrigan, correct?

19 A. Yes.

20 Q. And in 2003, your firm dissolved, correct?

21 A. Yes.

22 Q. And at the time you filed an order to show cause against
23 Mr. Murtagh and Mr. Landrigan, correct? Yes or no, sir?

24 A. Well, I filed the order to show cause before the firm was
25 dissolved. I filed an order to show cause --

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C3FUANN6 Lunney - cross

1 THE COURT: Did you in fact initiate litigation
2 against Mr. Landrigan and Mr. Murtagh?

3 THE WITNESS: Yes, your Honor.

4 Q. And that was in 2003, sir?

5 A. Yes, sir.

6 Q. And you had three years of litigation against Mr. Murtagh,
7 correct?

8 A. Yes.

9 Q. Is it fair to say that there is a lot of bad blood between
10 you and Mr. Murtagh, correct?

11 A. No.

12 Q. And when Mr. Murtagh ran for mayor of Yonkers last year,
13 you went out on the campaign trail and criticized him publicly?

14 A. No.

15 Q. And you attended a press conference where you spoke out
16 publicly against him, correct?

17 A. Yes.

18 MR. HALPERIN: Nothing further, Judge.

19 MR. SIANO: No further questions, your Honor.

20 THE COURT: Thank you, sir.

21 THE WITNESS: Thank you, your Honor.

22 (Witness excused)

23 THE COURT: Mr. Siano.

24 All right. So time to start the weekend. The
25 cross-examination of Mr. Jereis will occupy us on Monday as

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C3FUANN6 Lunney - cross

1 will -- do you have any other witnesses?

2 MR. SIANO: I believe I do, your Honor. But as I said
3 to you yesterday, we have a particular order in mind. We have
4 gone one beyond what we had planned in order to accommodate the
5 Court and fill the day --

6 THE COURT: All of the rest of the testimony is going
7 to come in on Monday -- It is my hope and expectation.

8 The reason that I have been crazed and repeatedly
9 called Mr. Siano by someone else's name and done some other odd
10 things today is that Ben and I are working hard on the jury
11 charge so that I can get this case to you, the people who need
12 to decide it.

13 Don't discuss the case over the weekend. Keep an open
14 mind over the weekend.

15 Remember do not expose yourself in any manner, shape
16 or form to the press, to the Internet, to anything about this
17 case. I am expecting that there will be some coverage of at
18 least of this morning's activities. Please help us out here.
19 Do not, do not, do not, do not read the newspaper, listen to
20 the radio, look at television, go on the Internet or otherwise
21 have any conversations of expose yourselves to anything having
22 to do with this case. I am sure there are many other
23 interesting things that you can occupy your time with over the
24 weekend, including Juror Number 7.

25 I can report that Murray State beat Colorado State and
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C3FUANN6

Lunney - cross

1 there should be one other completed game -- and Louisville won
2 and Syracuse is losing.

3 Goodbye.

4 Have a good weekend.

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6 (Continued on next page)

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C3FUANN6

1 (Jury not present)

2 THE COURT: Mr. Siano, before you caution your client
3 or do whatever you are doing, how long is the rest of your
4 witness list?

5 MR. SIANO: Detective Montero will not be quite as
6 short as Mr. Lunney, but he will be of the same order.

7 THE COURT: He is going to tell us that Nodine Hill is
8 a terrible place.

9 MR. SIANO: Nodine Hill is a shooting gallery.

10 THE COURT: Well do I know it. I have had Nodine Hill
11 cases before in my days in White Plains.

12 MR. SIANO: The blessed 12 plus 4 may be less
13 familiar.

14 THE COURT: Undoubtedly so. I vividly remember my
15 Nodine Hill cases from my days in White Plains.

16 MR. HALPERIN: Judge, in one of our letters, the March
17 11 letter, we objected on relevance grounds to Detective
18 Montero's testimony.

19 THE COURT: I don't think it is irrelevant.

20 MR. HALPERIN: OK.

21 THE COURT: I don't think it is irrelevant. Actually,
22 I don't. The case isn't going to stand or fall on it, but I
23 see what argument Mr. Siano is setting up.

24 Yes, Mr. Aronwald.

25 MR. ARONWALD: Your Honor, does the government intend

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C3FUANN6

1 to put on a rebuttal case at this point?

2 MR. HALPERIN: We do at this point, Judge, and we are
3 going to caucus about it tonight and we will send an email out
4 or inform counsel tomorrow morning.

5 THE COURT: Everyone should be ready with everyone's
6 witnesses on Monday.

7 MR. HALPERIN: We are still on for 9:30 tomorrow?

8 THE COURT: We are. We are kind of frantically making
9 some last-minute changes. Maybe I should just email it to you
10 all because I told you, I have specifically put in here and
11 there, do we need this, is that what this case is about, what
12 evidence is there that would support this kind -- these charges
13 grow like Topsy, and every time there is a new factual
14 development, a sentence gets added to a charge and pretty soon
15 the charge gets 8 billion pages long.

16 My conspiracy charge -- Mr. Halperin has been through
17 this before -- has taken an axe to the conspiracy charge that
18 is usually used by the government in these cases. There is no
19 proffer by the government in these cases, and there is an
20 effort to slim it down.

21 And usually I charge the substantive counts before
22 conspiracy. We couldn't figure out a way to do that in this
23 case but, for example, the scheme to defraud, the honest
24 services scheme to defraud, there is no need to talk about
25 other kinds of fraud. We can eliminate all of those words and

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C3FUANN6

1 talk about honest services.

2 My questions are in all caps and brackets.

3 MR. HALPERIN: We know that the Court appreciates
4 concision and brevity.

5 THE COURT: You certainly know it.

6 MR. SIANO: Might I inquire as to whether or your
7 Honor's calendar tomorrow would permit another time period
8 rather than 9:30 to allow a reading of your Honor's proposed
9 charge?

10 THE COURT: My calendar would. Indeed, United States
11 v. Boykin has just come off my calendar for tomorrow -- not
12 forever, but for tomorrow.

13 And when was United States v. Boykin on?

14 THE LAW CLERK: It was on for 12.

15 THE COURT: Noon.

16 MR. SIANO: Thank you, your Honor.

17 (Proceedings adjourned until 12 noon, March 16, 2012)

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GOVERNMENT EXHIBITS

Exhibit No.	Received
7833029
7863034

DEFENDANT EXHIBITS

Exhibit No.	Received
81, 82 and 83 . . . . .	.2893
88 . . . . .	.2897
84, 85 and 86 . . . . .	.2900
87 . . . . .	.2904
89 . . . . .	.2904
90 to 95 . . . . .	.2908
102 . . . . .	.2932
97 and 992985
1032990
1043000

1	GOVERNMENT EXHIBITS	
2	Exhibit No.	Received
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10	872904
11	892904
12	90 to 952908
13	1022932
14	97 and 992985
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Trial

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----x

3 UNITED STATES OF AMERICA,

4 v.

10 CR 007 (CM)

5 SANDY ANNABI and ZEHY JEREIS,

6 Defendants.

7 -----x

8 New York, N.Y.
9 March 16, 2012
12:00 p.m.

10

11

Before:

12

HON. COLLEEN MCMAHON

13

District Judge

14

15

APPEARANCES

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C3gQann1

Charge Conference

1 (In open court; jury not present)

2 THE COURT: Case on trial continued. The parties are
3 present. The jurors are not present.

4 This is the charge and
5 any-other-issues-anybody-wants-to-raise conference. Off the
6 record.

7 (Discussion off the record)

8 THE COURT: Good afternoon.

9 Mr. Siano.

10 MR. SIANO: Your Honor, I have received a forthwith
11 subpoena yesterday from the government. I have downstairs,
12 Mr. Jack McCann, who is a private investigator working under my
13 direct supervision. He is sitting in a car outside the
14 courthouse, and he is too old and too wise to try to bring a
15 computer tower into the building. I have his name and cell
16 phone number, which I'm happy to give to the government or one
17 of the people working on this case to meet him outside. As
18 long as they identify themselves and sign a receipt, they can
19 have the tower. I have a piece of paper right here with his
20 name on it.

21 THE COURT: I think that's fine. I'm watching you
22 hand it to Mr. Carbone.

23 MR. CARBONE: We also had subpoenaed some documents.

24 MR. SIANO: There are no records for ZJ Enterprises
25 which was a d/b/a. It was a bank account my client had for one

C3gQann1

Charge Conference

1 year. He's seen the records of his bank account in the
2 government's disclosure to us for the year of its existence,
3 2006/2007. We have started, but not finished, a search for my
4 client's bank account and checks and such for the years 2000
5 and 2001, and, Judge, my client moved out of his home during
6 the course of the case. You will recall there was some back
7 and forth about the security.

8 THE COURT: Yes.

9 MR. SIANO: And the costs of this litigation were such
10 that he moved back to his family residence. He lives in an
11 apartment now as opposed to a separate single-family dwelling.
12 We located the computer in the basement amid some storage
13 boxes. We had a limited amount of time to look for 2001, 2000.

14 THE COURT: You may find them. You may not.

15 MR. SIANO: Judge, we are endeavoring -- we had only
16 very late hours last night, and I will say that my client's
17 situation at home is somewhat stressed this day.

18 THE COURT: I can imagine.

19 MR. SIANO: Well, I just want to say that effort was
20 made. The computer is there. I would also suggest that
21 Mr. Carbone may wish to speak with an attorney by the name of
22 Michael Romano. His office number is (914) 946-1881 is his
23 office number. His cell number is (914) 384-9199. This tower
24 is rather old. I am informed that Mr. Romano's client Hani
25 Jereis, my client's brother, made a repair -- first a

C3gQann1

Charge Conference

1 diagnostic attempt, an attempt to rid this thing of viruses
2 somewhere around 2006, 2007. When he failed, he swapped out
3 the hard drive so there is a "newer" -- sort of a misnomer -- a
4 different hard drive was installed around 2007-2008, and I'm
5 informed the old one was thrown away. But I didn't do it. My
6 client didn't do it. But there is a witness. He has an
7 attorney. I believe the government has been in touch with this
8 attorney already.

9 In this context, in light of the timing, I've spoken
10 to Mr. Romano he is anticipating a phone call from the
11 government, and he has been made aware of the fact that time is
12 of the essence in this regard. I'm informed by Mr. Romano that
13 the client will be available all weekend long, and subject to
14 the normal vicissitudes of life -- he works he is a therapist
15 of some kind, respiratory or -- you know, and that provides my
16 response with regards to client's computer. I'm sure
17 Mr. McCann and agents will work out the transfer among
18 themselves. I wasn't going to try to get past the guards.

19 THE COURT: Especially with immigration on Friday.

20 MR. SIANO: I'm seeing it's citizenship day, Judge.
21 It's wonderful.

22 MR. CARBONE: Obviously, Mr. Siano can't produce that
23 which he doesn't have. May I just get some clarification on
24 who Mr. Romano represents?

25 MR. SIANO: Hani Jereis. He's represented a number of

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1 witnesses in this case. With respect to this issue, i.e., the
2 subpoena that was served on me yesterday, you know, we've
3 located the particular hard drive, and we're not going to play
4 step-by-step here. He want to try to facilitate this as much
5 as we can in light of the shortness of time and the lateness
6 with which this was served on me.

7 We got it we pulled it out of the basement. I sent my
8 private investigators to get it this morning. They got it.
9 They brought it down here. It's here. It will be in the
10 government's hands, and they probably want to talk to
11 Mr. Romano. I can only sort of use good offices to alert
12 everybody to everything.

13 THE COURT: Thank you, Mr. Siano.

14 MR. SIANO: You're welcome, your Honor.

15 THE COURT: Mr. Aronwald.

16 MR. ARONWALD: Yes, your Honor. There was some
17 discussion at the end of the proceedings yesterday and also the
18 day before as to the government's intent with respect to
19 rebuttal case. Simply for planning purposes, both for the
20 Court and for us in terms of closing arguments, jury
21 instructions and the like, it was my understanding that the
22 government was going to send us an email last night with the
23 names of any rebuttal witnesses.

24 That may have been a misunderstanding on my part; but,
25 in any event, I am advised by Mr. Carbone that at this point

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1 the government is anticipating calling several rebuttal
2 witnesses, at least two of whom will be casino witnesses, one
3 of whom will be a records custodian relating to the Chase Bank
4 concerning Mr. Mangone's bank account, a woman by the name of
5 Jeannette LaGravinese, which Mr. Siano can address, Shlomo
6 Koenig. There may be more, but that's when the chat between us
7 stopped.

8 So, it is my understanding that when the government
9 wants to put on a rebuttal case, they should make some offer of
10 proof.

11 THE COURT: Oh, they definitely need to.

12 MR. ARONWALD: I don't know whether that is the
13 exhaustive list of witnesses or whether they intend to call
14 more, but I just wanted to bring it to your attention.

15 THE COURT: Well, Mr. Siano hasn't put all of his
16 witnesses on yet.

17 MR. ARONWALD: Yes, your Honor, but Mr. Siano has
18 advised Mr. Carbone that he only has one other witness to call
19 after Mr. Jereis, and that is Detective Montero with respect
20 to --

21 THE COURT: We know what he is going to say.

22 MR. ARONWALD: That's it.

23 THE COURT: All right. So, yes, the government should
24 be in a position to tell us what it wishes to do.

25 Mr. Carbone.

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1 MR. CARBONE: Just for the record, Judge, I just found
2 out about Mr. Montero, so the defense is done as far as --

3 THE COURT: No, no. You just found out that
4 Mr. Montero is the only other witness Mr. Siano wishes to call.

5 MR. CARBONE: Thank you for clarifying that.

6 THE COURT: We don't need to get into a fight about
7 that because we've all known about Detective Montero for a long
8 time. He's going to tell us all about Nodine Hill.

9 MR. CARBONE: Yes, we do intend to call at this
10 point -- we may intend to call, I should say Jeannette
11 LaGravinese, who is Mr. Jereis's actual girlfriend during the
12 time period charged in the indictment, who we expect to say
13 told the agents that Mr. Jereis never gave her as much as a
14 pair of gloves.

15 We expect as well to call Detective Koenig, who will
16 talk about the condition of the hard drive that the emails that
17 were introduced yesterday came from, and how he believes that
18 that hard drive has been tampered with.

19 THE COURT: No. Excuse me, but that was manifestly
20 not what I was told in a letter was his belief. It was my
21 understanding from a letter I saw some months ago -- and I
22 could be misremembering -- that Detective Koenig -- who is not
23 unfamiliar to me; he testified at my last trial -- was not able
24 to ascertain whether the hard drive had been tampered with.

25 There were some indications that it might have been

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1 and there were some that it might not have been, and he was not
2 able to reach a conclusion one way or another as to the
3 authenticity of the emails.

4 Am I misremembering?

5 MR. CARBONE: It's, actually, Judge, a little more
6 nuanced than that.

7 THE COURT: More nuanced. Why don't you tell me in a
8 nuanced way, Mr. Carbone.

9 MR. CARBONE: Your Honor's recollection is correct
10 that Detective Koenig will testify that he cannot authenticate
11 the emails, but Detective Koenig will cast serious doubt on the
12 authenticity of the emails. He will talk about -- and this was
13 all provided in discovery in our expert notice.

14 THE COURT: Forget about discovery. Forget about
15 what's going on between you guys. Just pretend you're making
16 an argument to me -- not a procedural argument; a substantive
17 argument. It's hard for me to -- you all do it -- you go off
18 on a frolic in a detour to justify yourself to indicate that
19 you've done nothing wrong. I'm not suggesting anyone has done
20 anything wrong. I want to know what he's going to say. What's
21 he going to say?

22 MR. CARBONE: Judge, as indicated in our letter to
23 defense counsel, he is going to say that he has serious base
24 doubts based on the his analysis of this hard drive --

25 THE COURT: I don't have the letter to defense

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1 counsel. How am I supposed to know what it says?

2 MR. CARBONE: Judge, you asked me to tell you what he
3 is going to say.

4 THE COURT: Give me the letter to defense counsel.

5 MR. CARBONE: Judge, I thought we were going coming
6 here today to discuss the charge.

7 THE COURT: We are going to discuss everything because
8 I'm telling you, we are going to move fast. The jurors are
9 starting to get annoyed.

10 MR. CARBONE: Judge, we are prepared today to address
11 the charge.

12 THE COURT: Call your office and tell them to get the
13 letter to defense counsel. We are going to address any and
14 every procedural issue.

15 MR. CARBONE: I can tell you, Judge, what the letter
16 says on a high level.

17 THE COURT: Tell me what he is going to say in great
18 detailed. I want a very detailed proffer.

19 MR. CARBONE: I need his expert report to tell you in
20 great detail what he is going to say, but he will say he
21 analyzed this hard drive and it has evidence of being accessed
22 after it was used.

23 THE COURT: Accessed after it was used. Does it have
24 evidence that these particular emails were added to the hard
25 drive after it was used?

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1 MR. CARBONE: Judge, he will testify that, number one,
2 there were no responses to any of these emails on the hard
3 drive.

4 THE COURT: I have a very specific question that I
5 asked.

6 MR. CARBONE: And I'm trying to give you a very
7 specific answer what the substance of his testimony will be.

8 He has doubts about the authenticity of these emails
9 because of the way they were stored and that the registries on
10 this hard drive were backdated, certain registries were
11 backdated. To him that is an indicia that someone tampered
12 with the hard drive, intentionally tampered with the hard
13 drive. That's what he is going to say. He is going to say
14 that he looked and looked, and there were no responses to these
15 emails. He is going to --

16 THE COURT: Mr. Carbone, you know and I know not that
17 everyone responds to everybody's emails. You have not
18 responded to emails. I have not responded to emails. That
19 doesn't indicate that a hard drive was tampered with.

20 MR. CARBONE: Well, Judge, forget about whether the
21 hard drive -- there were 20 something emails that were put into
22 evidence yesterday, all from Mr. Jereis to Ms. Annabi --

23 THE COURT: Right.

24 MR. CARBONE: -- professing his profound love for her,
25 and it is certainly relevant that there are no responses.

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1 Whether you believe that those responses are not there because
2 the initial emails were fabricated or you believe that she
3 never responded because she knew there was no relationship.
4 That's relevant.

5 Now that Mr. Jereis has gotten up and talked about his
6 profound love for Ms. Annabi, the fact that there are no emails
7 responding is relevant either way, and the condition of the
8 hard drive and what appears to be the intentional backdating of
9 the logs is also relevant.

10 THE COURT: Of the logs relating to these emails?

11 MR. CARBONE: Of the logs relating to access to the
12 computer. The computer was accessed.

13 THE COURT: This is what I am trying to get you to
14 explain because I don't want to be surprised on Monday. Is he
15 going to testify that there was backdating to the date -- these
16 emails have dates on them. Is there evidence that the hard
17 drive was accessed on a later date, and then it was backdated
18 to make it look like the hard drive was accessed on the dates
19 that appear on the emails that were introduced yesterday?

20 MR. CARBONE: No, judge. I think what Detective
21 Koenig will say -- the answer to that question is no. He will
22 not --

23 THE COURT: The answer is no. OK. The answer to that
24 question is no.

25 MR. CARBONE: He will not be able to say that he has

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1 examined the individual emails and is able to determine
2 definitively that these emails are fake or backdated, but he
3 will also explain the process by which one would backdate or
4 create or fabricate the body of an email, and he will
5 explain --

6 THE COURT: Wait. If he is not prepared to say that
7 there is evidence from which you can fairly argue that these
8 were backdated, then it is of no relevance that there is a
9 process by which one could do that.

10 MR. CARBONE: I didn't say he was not prepared to give
11 any evidence that one could logically infer that these emails
12 were backdated. What I said is, he will not be able to say
13 that he has analyzed the files of these particular emails and
14 can determine definitively these particular emails were
15 backdated because that's very difficult to do, because it
16 appears that these emails were not created on this hard drive.
17 That's what it appears.

18 He is going to explain his analysis of the hard drive.
19 He is going to explain that there is at least an indicia that
20 this hard drive was tampered with, and that files or indexes
21 relating to user access on this hard drive were backdated. He
22 will tell the jury that it is very easy to take an email that
23 was created, tamper with the text, and save it with different
24 text. He'll explain that process. So I think his testimony is
25 highly relevant. Judge, we intended initially to call

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1 Detective Koenig on our direct case.

2 THE COURT: But you didn't.

3 MR. CARBONE: But we didn't because the emails didn't
4 come in. And now that the emails came in, we're prepared to
5 call him in rebuttal and explain his analysis of the hard
6 drive. We think it's very relevant, and if after hearing
7 Detective Koenig's testimony your Honor thinks it's not, you
8 can strike it, but we certainly think it is.

9 MR. ARONWALD: Your Honor, moving to strike is not an
10 appropriate remedy. I would commend to the Court, please, to
11 look at the actual letter and the report that Detective Koenig
12 prepared because my recollection is that Mr. Carbone has
13 overstated substantially --

14 THE COURT: Well, I don't have it.

15 MR. ARONWALD: I know, and I don't have it with me,
16 but what I'm saying is the government certainly has it. The
17 government can produce it to you. I think your Honor can look
18 at the report and see the difference between what Mr. Koenig
19 says and what Mr. Carbone characterizes.

20 To me the bottom line here is that if the government
21 is permitted to call Mr. Koenig, then we would need to call
22 Royal Frasier, who is the person who actually took the emails
23 off the hard drive. And, incidentally, Mr. Koenig was
24 interviewed at length by Mr. Carbone and other representatives
25 of the government and Shlomo --

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1 THE COURT: You told me Mr. Frasier was.

2 MR. ARONWALD: Mr. Frasier was. And when Mr. Frasier
3 was interviewed under the guise of a grand jury subpoena,
4 Detective Koenig was also there and also participated in the
5 interview. So, suffice it to say that Mr. Frasier disagrees
6 with the report of the Detective Koenig which raises any
7 doubts.

8 First of all, the reason why there may be no responses
9 is because each computer is designed so as to certain things
10 are saved and certain things aren't; certain things are
11 deleted, and certain things are not. So not every computer is
12 a permanent record of --

13 THE COURT: Suffice it to say that you have someone
14 who would dispute what Detective Koenig would say.

15 MR. ARONWALD: Yes.

16 THE COURT: Who would call in to question his expert
17 opinion.

18 MR. ARONWALD: Well, yes and no, because the
19 interesting thing here is, as your Honor indicated, you hit the
20 nail on the head, nowhere in Detective Koenig's report does he
21 express the opinion that these emails are not authentic.
22 Nowhere does he say in his report that he has any evidence or
23 that he has come to the conclusion that these emails have been
24 tampered with, edited, backdated or are in any other respect
25 other than what they are represented to be on their face.

1 It seems to me that by allowing the government to put
2 somebody in who is going to say that he has some doubts, he has
3 some speculation, falls far short of evidence that these emails
4 are in fact not what they purport to be -- authentic emails
5 sent by the sender, Zehy Jereis to Sandy Annabi on the dates
6 indicated; and I don't think that the rebuttal evidence allows
7 the government to come in and say, "Well, I can't say they're
8 not authentic, I can't say they are authentic, I have my
9 suspicions." That's not evidence that I think the jury should
10 here. It's not definitive of anything.

11 MR. CARBONE: Judge, at side bar when Mr. Siano
12 offered the emails, your Honor indicated, over the government's
13 objection, that the government is free to call its expert in
14 its rebuttal case and testify at length about why he believes
15 these emails are not authentic.

16 THE COURT: But he doesn't believe that.

17 MR. CARBONE: But, Judge, while we're talking about
18 this issue, we had no notice, and certainly if we thought this
19 was going to be an issue, we would have brought the letter to
20 the Court and shown your Honor the letter, and we could get a
21 little better detail.

22 THE COURT: Then come in tomorrow morning.

23 MR. CARBONE: Absolutely, Judge. And we'll bring --

24 THE COURT: I won't be here, but come in prepared to
25 talk about it. I mean, honestly, how clear can I have made it

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1 that I want these issues disposed of and dispensed with so that
2 the jury can get this case?

3 MR. CARBONE: Judge, we want the same thing. What we
4 raised yesterday the issue at the sidebar about calling
5 Detective Koenig, no one said, "But, Judge, you can't call
6 him." We're going to call him --

7 THE COURT: Excuse me, we were at a sidebar. We were
8 not discussing your rebuttal case. Mr. Carbone, fine, you are
9 not prepared to discuss this. I'm not prepared to discuss it
10 until I've read his report.

11 MR. CARBONE: All right. Judge, we can also --

12 THE COURT: Call your office now. Have them fax it to
13 me so that it's in my office in an hour.

14 MR. CARBONE: Judge, the agent went downstairs to get
15 it. We can deal with it today. That's fine.

16 THE COURT: Mr. Aronwald, what else do you want to
17 talk about?

18 MR. ARONWALD: I was just going to say, Judge, that at
19 the sidebar when the issue was raised, your Honor said again --
20 I won't say it. We will wait until the report arrives.

21 There is another issue with respect to one of the
22 other rebuttal witnesses that really is in Mr. Siano's camp and
23 not mine.

24 MR. SIANO: Your Honor, Ms. LaGravinese is Mr. Jereis'
25 -- another girlfriend. The relationship doesn't begin until

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1 2006. They've known about this witness. They've spoken to
2 her. She doesn't have anything to do with this case. She is a
3 successor individual. She is of very substantial means. This
4 is just another attempt to embarrass Mr. Jereis.

5 Your Honor actually addressed this at some point along
6 the line in some passing reference to this in some document
7 somewhere, but this woman has nothing to do with the facts in
8 this case, absolutely nothing. He didn't meet this woman until
9 2006. It isn't that he had a girlfriend in 2003, 4 and 5 that
10 he had an intimate relationship with, wasn't buying her things
11 and had relationship with Ms. Annabi. This is a successor
12 girlfriend.

13 MR. CARBONE: Judge, that's not our information.
14 Number one, it's not our information that he didn't have
15 another girlfriend in 2002 through 2005, but the fact that he
16 had a girlfriend --

17 THE COURT: And calling her too?

18 MR. HALPERIN: No, we're not.

19 MR. SIANO: Because there is no such person.

20 MR. CARBONE: This particular girlfriend, Judge, has
21 advised the agents, and it's smack in the middle of the time
22 period charged in the indictment, that she was Mr. Jereis's
23 girlfriend, and that he never provided her as much as a pair of
24 gloves. We think that's relevant. We haven't finally decided
25 whether we're going to call her. Defense counsel asked for a

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1 list of prospective witnesses, possible witnesses, and she is
2 on that possible list.

3 As I indicated, we also intend to call Detective
4 Koenig. We intend to call some casino custodians. We intend
5 to call a custodian from the U.S. Attorney's office.

6 THE COURT: The casino custodian is to testify to?

7 MR. CARBONE: The records that Mr. Siano wouldn't
8 stipulate to and to testify that that letter that's generated
9 on the same date in the file that makes it appear like
10 Mr. Mangone requested his gambling records, and as Mr. Siano --

11 THE COURT: Actually, it doesn't. I was reading it
12 yesterday.

13 MR. CARBONE: Judge, Mr. Siano used that to ask
14 Mr. Mangone on cross-examination whether he --

15 THE COURT: It may well be. You can argue whatever
16 you want. It didn't seem like it was --

17 MR. CARBONE: It had Mr. Mangone's name on it.

18 THE COURT: I understand that. I understand that.

19 MR. CARBONE: Those records are generated
20 automatically when a subpoena is issued.

21 THE COURT: Fine. What's the probative value of that
22 for this case?

23 MR. CARBONE: The probative value is Mr. Siano left
24 the impression -- first of all, he offered it into evidence and
25 he cross-examined Mr. Mangone about --

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1 THE COURT: What's the probative value of the evidence
2 that it's something that a casino generates for its customer
3 every time the government serves a subpoena on it?

4 MR. CARBONE: It's not just the government.

5 THE COURT: Or someone serves a subpoena. Every time
6 some third party tries to look at someone's records with a
7 subpoena, the casino notifies its customer as a courtesy. I'm
8 sure it does. What's the relevance of that fact for this case?

9 MR. CARBONE: I'm happy to answer that question, but I
10 need to clarify that it is not a letter that notifies the
11 customer. It is a letter that makes it appear as though it was
12 the customer that requested the gambling report -- the gaming
13 report. That's the problem.

14 THE COURT: It's a fraudulent letter that's issued by
15 the casinos.

16 MR. CARBONE: Judge, I didn't say that. I have never
17 said that. It's an unfair statement.

18 THE COURT: Why is it an unfair statement?

19 MR. CARBONE: It's an unfair statement because I
20 didn't call it fraudulent. It's a letter that is --

21 THE COURT: I'm sorry, it is a misleading letter that
22 was generated by the casino.

23 MR. CARBONE: It's only misleading because Mr. Siano
24 crossed Mr. Mangone about the fact that he was looking for
25 gambling records in February of 2012.

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1 MR. SIANO: He said no.

2 MR. CARBONE: -- right before the trial started.

3 MR. SIANO: I think he said no. I think he said no.

4 I think it's the answer that controls; not the question.

5 THE COURT: Correct.

6 MR. SIANO: I think he said no to my question. There
7 is document I'm handed by the casino in response to a duly
8 issued subpoena from this court comes to me and there's a cover
9 letter with Mr. Mangone's name on it. If Mr. Carbone puts me
10 in touch with the person who is going to make this
11 representation, I'm happy to black out the name on the letters
12 before the documents go to the jury and save somebody a trip
13 from Atlantic City.

14 MR. CARBONE: If Mr. Siano wants to stipulate that
15 Mr. Mangone did not request gambling records in 2012 --

16 THE COURT: No. Mr. Mangone has testified that he did
17 not do so.

18 MR. SIANO: Right.

19 MR. CARBONE: And if Mr. Siano wants to stipulate to
20 that, then we have no need to call that witness, but, Judge, we
21 do still have to authentic a couple of those marker reports
22 that Mr. Siano refused to stipulate to.

23 MR. SIANO: And if he puts me in touch with a witness,
24 Judge, I'll do my best to come to a stipulation, come to terms
25 with a stipulation. The document on its face identified a

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1 casino that the witness, Anthony Mangone, did not say he
2 gambled at.

3 THE COURT: Correct.

4 MR. SIANO: I cannot be compelled during the testimony
5 of a witness to stipulate to something where I have an
6 evidentiary-based problem with what it is. It may or may not
7 be a marker report for Harrah's Atlantic City. It may or may
8 not be that.

9 I'm more than happy to take the four marked documents,
10 engage in a conversation with somebody from Atlantic City, if
11 Mr. Carbone reciprocates in identifying somebody, speak to
12 Mr. Darcy and work out a reasonable stipulation and eliminate
13 two witnesses for those documents. I'm more than happy to do
14 that.

15 Since I've already identify Mr. Romano on the issue of
16 the computer, if Mr. Carbone would be kind enough to act in
17 similar fashion, I will do my best to stipulate. I've not
18 impeded any stipulations in this case, but the document on its
19 face, Judge, raises some questions.

20 THE COURT: It raises some questions because in fact
21 Mr. Mangone was very specific about where he gambled, and the
22 name of the casino on that document is different from any of
23 those casinos. I don't know, it may be a subsidiary of one of
24 the casinos where he gambled. I have no idea, not being a
25 gambling person myself, being indeed violently allergic to

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1 casinos. I don't go to them.

2 MR. SIANO: Judge, I'm informed -- you know, your
3 Honor must have observed I stepped to the back of the
4 courtroom. My investigator informs me the government has taken
5 possession of Mr. Jereis's tower.

6 THE COURT: Great.

7 MR. SIANO: Judge, we seem to have gotten a little bit
8 astray from Ms. LaGravinese. As I said, my client didn't meet
9 Ms. LaGravinese until November of 2006 --

10 THE COURT: Is this of LaGravinese jewelry family?

11 MR. SIANO: Yes, indeed of Pelham. She is in fact a
12 woman of some means.

13 THE COURT: Pelham and Bronxville.

14 MR. SIANO: He doesn't even meet her until November of
15 2006. Since we don't have an interview report, we don't even
16 have the benefit of whatever the FBI took down by way of notes
17 and chose to type or not chose to type in this particular
18 matter, but those are in fact the facts in this matter.

19 And, Judge, again, this is not appropriate rebuttal
20 proof in this particular case. The mere fact that a different
21 relationship exists with a different woman at a different time
22 under different circumstances does not impeach the testimony of
23 my witness.

24 THE COURT: OK. I'll think about it. Certainly your
25 argument is obvious, which is that it may not be necessary to

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1 give gifts when one is successful whereas one was not
2 successful with Ms. Annabi, gifts to the contrary
3 notwithstanding, I don't know.

4 MR. SIANO: Judge, I didn't move to that side of the
5 relationship, and -- I haven't even moved to that. This is a
6 person of means. And these are not -- they're not at the same
7 time, and they're not congruent in any manner, shape or form.
8 That's my objection to this. The government sends me a Brady
9 and Giglio disclosure on January 24 of this year and
10 gratuitously indicates that Ms. LaGravinese, Mr. Jereis's
11 long-time girlfriend -- in fact, when Mr. Carbone stands up
12 here and says it was at the same time as Mr. Annabi, if in fact
13 they spoke to Ms. LaGravinese, if in fact she identified the
14 time period, they have a basis to know that is not the case. I
15 haven't seen the 302.

16 MR. CARBONE: Judge, it is in the fall of 2006 when
17 they met. Mr. Jereis continued to give financial benefits --

18 THE COURT: Both the summer of 2006.

19 MR. CARBONE: I'm sorry, he continued to give her
20 financial benefits up through and including 2008. It's
21 relevant if we intend to call her. Your Honor has pressed the
22 government to provide a summary of its rebuttal case before the
23 defense even rests, and I'm giving you our best estimate. We
24 haven't even cross-examined Mr. Jereis yet, so we don't know.

25 THE COURT: Whose fault is that? I would have been

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1 very happy to have that happen the other day.

2 MR. CARBONE: Well, Judge, contrary to Mr. Jereis's
3 suggestion, love is a two-way street; and when we give the
4 defense all of our exhibits, all of our 3500, and we accurately
5 tell them who our witnesses are going to be, and they come in
6 here and they instead of calling those witnesses, take
7 Mr. Jereis and put him on the stand, when we have been
8 preparing to cross-examine other witnesses, we disagree, that's
9 not good lawyering, that's sandbagging. So we don't see it as
10 our fault.

11 THE COURT: Let's turn to the charge.

12 I will hear from the government.

13 MR. CARBONE: Judge, do you want to go page by page?

14 THE COURT: I always want to go page by page. As you
15 know, Mr. Carbone there is very little at the beginning that I
16 will change a word of.

17 MR. CARBONE: I can tell you that our first comment
18 would be on page 9 use of recordings which suggests that this
19 charge not necessary.

20 THE COURT: I don't think this is necessary. It can
21 go out.

22 MR. CARBONE: On the next page, page 10, we suggest
23 that after the second word, the government --

24 THE COURT: And Mr. Jereis?

25 MR. CARBONE: Yes.

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1 MR. ARONWALD: I'm sorry?

2 THE COURT: The government and Mr. Jereis had
3 presented summary charts.

4 MR. CARBONE: On page 14, the expert should the court
5 permit his testimony will be Detective Koenig.

6 THE COURT: Expert testimony page 14, I said "Counsel:
7 Who?" because I had a request for expert testimony, and I
8 hadn't heard from any expert witnesses. If Detective Koenig
9 testifies, he's obviously going to testify as an expert.

10 MR. ARONWALD: The same with respect to Mr. Frasier, I
11 guess.

12 MR. CARBONE: Well, Judge how do -- the defense
13 doesn't get to surrebut.

14 THE COURT: Well, I might just let them.

15 MR. CARBONE: Judge, if you just give me a minute, I
16 have Mr. Halperin's comments as well. I'm sorry, back on page
17 13 there were law enforcement witnesses should be pleural.

18 THE COURT: The a before law enforcement witnesses
19 should disappear. The article a is misplaced; it should not be
20 there.

21 MR. CARBONE: Page 23 the evidentiary in limine
22 instructions charge, it says, During Anthony Mangone's
23 testimony, I told you that you could consider two areas of
24 evidence for specified-limited purposes. It should read one of
25 these issues also arose.

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Charge Conference

1 THE COURT: During some of the testimony.

2 MR. CARBONE: Fine.

3 MR. SIANO: What line, your Honor?

4 MR. ARONWALD: What line?

5 THE COURT: The first line, cross out During Anthony
6 Mangone's testimony; It will be during some of the testimony
7 because Mr. Chamber of Commerce.

8 MR. SIANO: Yes.

9 THE COURT: Mr. Cacace.

10 MR. SIANO: MBA, yes.

11 THE COURT: Mr. Cacace.

12 MR. CARBONE: Judge, on the top of page 26, it should
13 be Count One.

14 THE COURT: Strike the S.

15 MR. CARBONE: We would ask that consistent with the
16 rest of the charge beginning in the third paragraph where it
17 says conspiracy is an agreement; it is an agreement or
18 understanding to violate the law.

19 THE COURT: That's correct.

20 MR. CARBONE: On page 38 --

21 THE COURT: Just so you know, on pages 32 to 38, I had
22 not planned to read all of those overt acts. I planned to say:
23 I will provide you with a list of the overt acts which you will
24 take with you into the jury room.

25 MR. CARBONE: That's fine.

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1 MR. ARONWALD: We have no objection to that, your
2 Honor.

3 MR. SIANO: No objection.

4 MR. ARONWALD: So your Honor is not going to read any
5 of the overt acts?

6 THE COURT: No. I will provide you with a list of the
7 overt acts that are alleged in the indictment.

8 MR. ARONWALD: That's fine, your Honor.

9 THE COURT: Hang on one second.

10 Semicolon. You will have a list with you in the jury
11 room period. OK good. Page 38.

12 MR. CARBONE: On page 38, we would ask for a slightly
13 more detailed definition of official action as indicated in our
14 letter of this morning.

15 THE COURT: I think I am not going to do anything. I
16 am going to let you all argue.

17 MR. CARBONE: Well, Judge, if I can, the Second
18 Circuit has clearly said that attending meetings or arranging
19 meetings is official action.

20 THE COURT: I understand. The Second Circuit hasn't
21 said that I marshal the evidence, you marshal the evidence.

22 MR. CARBONE: But, Judge, the way the charge is worded
23 now, it doesn't really give the jury any guidance on what
24 official action is. It just broadly says --

25 THE COURT: Any acts of any nature whatsoever. Any

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1 acts of any nature whatsoever.

2 MR. CARBONE: OK.

3 THE COURT: I am not going to single out any specific
4 act.

5 MR. CARBONE: Can we add in there includes any acts of
6 any nature whatsoever?

7 THE COURT: Yes.

8 MR. CARBONE: Any acts of any nature whatsoever.

9 THE COURT: That are taken by a public official under
10 color of his or her office.

11 MR. CARBONE: Further down on the page in the second
12 full paragraph, where it says it is sufficient if the defendant
13 understood that she was expected, as a result of the payment,
14 to exercise. Instead of influence to say official action.

15 MR. ARONWALD: What page, please?

16 MR. CARBONE: Page 38.

17 THE COURT: In the next following paragraph, the third
18 line, the phrase to exercise influence should be to take some
19 official action.

20 MR. ARONWALD: To take some official action.

21 MR. CARBONE: To exercise official action.

22 THE COURT: You don't exercise action. To take some
23 official action.

24 MR. CARBONE: That's fine.

25 And the next paragraph, the improper benefit may

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1 consist of money and other financial benefits, we would ask
2 that it say including loans.

3 THE COURT: And any other financial benefit.

4 MR. CARBONE: Is that a no?

5 THE COURT: Yes. No. You're going to argue.

6 MR. CARBONE: Judge, on the next page 39, the second
7 element, the Court pared down quite a bit --

8 THE COURT: Quite a bit.

9 MR. CARBONE: -- of the government's proposed charge,
10 and the problem as it stands now as we see it is that by
11 eliminating the language we had in the middle of that
12 paragraph, now basically all it does is it's an unbalanced
13 charge. It just talks about good faith. So we would --

14 THE COURT: This is my standard mail fraud charge.
15 It's not like I singled you out for different treatment.
16 What's the page of your proposed charge?

17 MR. CARBONE: Page 24.

18 THE COURT: I think that most of this appears
19 elsewhere. For example -- I'm on the wrong page.

20 MR. CARBONE: You know what, Judge? I think the rest
21 of that language appears elsewhere.

22 THE COURT: It does it appears on like page 41 of the
23 charge under use of the mails.

24 MR. CARBONE: That's fine.

25 THE COURT: After all, the second element is intent to

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1 defraud, why should we talk about anything other than intent?

2 MR. CARBONE: Good. Let's move on.

3 THE COURT: OK.

4 MR. CARBONE: Page 41, you had asked for a definition
5 of the phrase wire transmission. I looked at Sand's, it
6 doesn't have wire transmission defined.

7 THE COURT: I know. That's the problem.

8 MR. CARBONE: We could suggest that we say something
9 like the term wire transmission includes writings, signals or
10 sounds including emails because the next paragraph talks about
11 cross state lines.

12 THE COURT: Yes, I understand.

13 MR. CARBONE: All right.

14 MR. SIANO: Shouldn't somewhere in there, your Honor,
15 be in whole or in part by wire.

16 THE COURT: Yes, that move over -- of course, this is
17 why I am always mystified because we are in an increasingly
18 wireless society. You shake your head, but there's going to be
19 somebody on that jury -- trust me on this -- there is going to
20 be some geek on that jury who is going to say, well, my email
21 goes out over a wireless system.

22 MR. SIANO: Somewhere there's a wire, Judge.

23 THE COURT: Then I'm going to just do it Mr. Carbone's
24 way. The only reason I ask for the definition is that I
25 started thinking about this wireless business. I think Sand's

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1 needs to be updated in this regard. I mean, it's the same
2 problem as the Federal Express problem. The mails have been
3 expanded to include Federal Express even though Federal Express
4 is not the mail. It's better than the mail. It actually
5 works. So eventually someone will rewrite the wire fraud
6 statute, but for right now, writing, signals or sounds,
7 including emails, period.

8 Thank you. That's very helpful, Mr. Carbone.

9 MR. CARBONE: Judge, on page 43, there is an extra the
10 in the first sentence of the second paragraph.

11 THE COURT: Yes, there is.

12 MR. CARBONE: As to the last sentence, we would ask
13 that it be worded to say that these counts relate to instead of
14 the various gifts, the financial benefits because gifts has--

15 THE COURT: You're right. The various financial
16 benefits. You're right.

17 MR. CARBONE: As to the time frame, I think it should
18 be '02 through '08.

19 THE COURT: OK.

20 MR. CARBONE: On page 44, I don't know that defense
21 counsel is stipulating to that. If they are, they are.

22 THE COURT: My question, is it stipulated that
23 Ms. Annabi is an agent --

24 MR. ARONWALD: Yes.

25 THE COURT: OK. So counsel have stipulated to --

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1 MR. SIANO: For the record, Mr. Siano said yes too.

2 THE COURT: And it has been proved.

3 MR. CARBONE: As to the next charge, I don't know
4 whether they've stipulated to the \$10,000 element.

5 THE COURT: That was my point. Are we stipulating to
6 the \$10,000 so I don't have to charge these two pages or not?
7 Otherwise, I'll do this.

8 MR. ARONWALD: We are not going to stipulate to that,
9 your Honor.

10 THE COURT: OK. In that case, the charge is what the
11 charge is.

12 MR. CARBONE: Judge, you asked a question on page 47
13 which is Counts Three through Five, corrupt payments. The
14 question was: Is this necessary? Is there any view of the
15 evidence that any payment at issue here was made otherwise than
16 to or on behalf of Ms. Annabi?

17 I mean, I think there's certainly evidence to that
18 effect. There were payments made for a car loan for her
19 father, and there was some testimony from Mr. Jereis. So, I
20 mean, I -- that's fine I think on behalf of covers that but
21 it's not technically -- I suppose conceptually it's on her
22 behalf, but technically the payment is made to a third party.

23 THE COURT: Well, that was why I put in the first
24 paragraph something of value to Ms. Annabi, or to a third party
25 on her behalf, as alleged in the indictment.

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1 MR. CARBONE: Then that's fine.

2 THE COURT: But I will just keep it. This is a short
3 page. It's not a long page.

4 MR. ARONWALD: That's page 47, correct, your Honor?

5 THE COURT: Page 47, yes.

6 MR. CARBONE: On page 48, Count Three.

7 THE COURT: Page 48 I was having a real problem.

8 MR. CARBONE: Judge, why don't we just -- after
9 reading this, I suppose it is somewhat incomprehensible.

10 THE COURT: I found it really hard to make it
11 comprehensible.

12 MR. CARBONE: Why don't we just take out the sentence
13 beginning with This is because an unlawful gratuity up to if
14 you find, the sentence ending with had an interest. Just take
15 that out. I don't really think it adds anything other than
16 confusion.

17 I think initially our proposed draft is intended to
18 convey this concept of bribe versus gratuity, and I just don't
19 think it really -- it doesn't help here.

20 THE COURT: I couldn't agree with you more,
21 Mr. Carbone.

22 MR. ARONWALD: I just want to be clear, we're taking
23 out everything from?

24 THE COURT: Yes, the proposal is we take out the
25 following: This is because an unlawful gratuity is not a

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1 bribe. Instead, the government need only prove that there was
2 a licensing between a thing of value conferred on the defendant
3 and a specific official act for or because of which she
4 solicited or accepted the payment. Indeed, it is not even
5 necessary that Sandy Annabi -- the Sandy Annabi had the
6 authority to perform the act sought. It is not sufficient that
7 the unlawful gratuity was given because the defendant had
8 authority over matters in which the payor had an interest.

9 I would love to take out those four sentences.

10 MR. ARONWALD: Judge, I have no problem except I think
11 that the sentence Instead, the government need prove only that
12 there was a link between a thing of value conferred on the
13 defendant and a specific official act for or because of which
14 she solicited or accepted the payment or benefit needs to stay
15 in because that is what's necessary, and there is nothing
16 confusing about that.

17 MR. CARBONE: Well, I mean, actually that same concept
18 is in the following sentence. If you find that Sandy Annabi
19 accepted --

20 THE COURT: Well, no, because the sentence has it does
21 not matter that. It's timing. The next sentence is about
22 timing. Mr. Aronwald I think may be correct; that that one
23 sentence has to stay in.

24 MR. CARBONE: Actually, Judge, the problem with that
25 one sentence is that although that probably applies to Count

1 Three and then Count Six, the Hobbs Act, Counts Four and Five
2 relate to the specific opportunities.

3 THE COURT: Then they have to be charged separately.
4 Then I am going to have to charge them separately which was not
5 what I intended because the more I look at this, the more I
6 think Mr. Aronwald is correct.

7 The paragraph should read: Thus, the government does
8 not have to prove that -- why do we keep saying the Sandy
9 Annabi?

10 The government does not have to prove that Sandy
11 Annabi received the corrupt payment, or that the corrupt
12 payments actually influenced her in any way.

13 MR. ARONWALD: Yes.

14 THE COURT: Instead, the government need prove only
15 that there was a link between a thing of value conferred on the
16 defendant and a specific official act for or because of which
17 she solicited or accepted the payment.

18 (Continued on next page)

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1 THE COURT: And then the next paragraph would say, if
2 you find that Sandy Annabi accepted some payment with the
3 intent to be rewarded or that Jereis made a payment with the
4 intent to reward for a decision that had already been made, it
5 does not matter that the payment was not accepted or
6 solicited -- or made or offered -- until after the transaction
7 occurred.

8 And my question was, are there any facts that would
9 call for this instruction and Mr. Carbone indicates that there
10 were gifts -- I have no memory since I was focused on the
11 earlier ones that were conferred after the votes.

12 MR. CARBONE: Yes.

13 THE COURT: But that is a different concept.

14 MR. CARBONE: Judge, that sentence that Mr. Aronwald
15 wants in relates only to Count 3 on the 666.

16 THE COURT: In that case, this is going to be directed
17 to Count 3 and I need a separate charge for Counts 4 and 5. I
18 need a separate charge. Sorry. Because he is correct as to
19 Count 3 and none of the sentences that we have cut make it
20 appropriate for Counts 4 and 5. If there is a different
21 standard, then let's have different charges.

22 MR. CARBONE: Why can't we just say with respect to
23 Count 3 only the government need prove that there was a link
24 between a thing of value conferred and a specific official act,
25 i.e., the Longfellow project?

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1 THE COURT: Here is what I am going to do. The second
2 paragraph will read: To act corruptly means to act voluntarily
3 and intentionally with an improper motive or purpose to be
4 rewarded. Corruption involves conscious wrongdoing, sometimes
5 express a bad or evil state of mind. It is the defendant's
6 intent to be influenced or rewarded or to influence or reward
7 that is important, not his or her subsequent actions.

8 End of paragraph.

9 The next paragraph will be in connection with Count 3:

10 The government does not have to prove that Sandy
11 Annabi received the corrupt payments or that the corrupt
12 payments actually influenced her in any way. Instead the
13 government need only prove that there was a link between a
14 thing of value, yada, yada, yada to the end of that sentence.

15 New paragraph: In connection with Counts 4 and 5 --
16 now, what is it that the government needs to prove there?

17 As I say, there appears to be an inconsistency between
18 the first and the second sentences that relate to Count 3. The
19 government doesn't have to prove that Sandy Annabi received the
20 corrupt payments, but the government needs to prove that there
21 was a link between a thing of value conferred on the
22 defendant -- well, that sounds like she needs to receive
23 something. It occurs to me, if I were sitting in the jury box,
24 I would see an inconsistency between those two sentences.

25 MR. CARBONE: Because the statute --

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1 THE COURT: -- is drafted by Congress.

2 MR. CARBONE: It is demanded, received, solicited. So
3 you don't have to find --

4 THE COURT: Well, the problem is with the phrase a
5 thing of value conferred. It should say a thing of value
6 demanded, solicited or conferred, right?

7 MR. CARBONE: Judge, can I just look at Count 3 again
8 here? It is solicited and demanded for the benefit of person
9 and accepted and agreed to accept something of value intending
10 to be influenced and rewarded in connection with a business
11 transaction or series of transactions.

12 I think that we have to say that the thing -- it is
13 not necessary.

14 THE COURT: By the way, she doesn't need to have
15 received a corrupt payment.

16 MR. CARBONE: We could say prove that Sandy Annabi
17 actually received corrupt payments or that the corrupt payments
18 actually influenced her.

19 THE COURT: I have no problem with that, but we still
20 have to make the changes for the following sentence.

21 Instead the government need prove only that there was
22 a link between a thing of value that was offered --

23 MR. CARBONE: -- or actually --

24 THE COURT: -- to or solicited by Sandy Annabi and
25 which she accepted or agreed to accept, and a specific official

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1 action for or because of which she solicited or kept the
2 payment which in the case of Count 3 relates only to the
3 Longfellow project.

4 Now, that doesn't solve the problem of what we are
5 going to say about in connection with Counts 4 and 5 because
6 the standard is different and we need a separate paragraph to
7 break them out.

8 MR. CARBONE: Judge, I think what happened here --

9 THE COURT: I don't care what happened.

10 MR. CARBONE: We had given, I think, a little more
11 fulsome charge, and the Court was rightfully cutting down this
12 very lengthy, verbose charge. And that statement in the
13 bracketed paragraph that we are discussing where it says the
14 government has to prove there was a link --

15 THE COURT: Yes.

16 MR. CARBONE: That was made in the context of whether
17 it is a gratuity, and our original proposed charge said,
18 because defendants are also charged with having given or
19 accepted unlawful gratuities -- see we tried to conflate both
20 giving and receiving into one charge that I think was a little
21 unwieldy.

22 Giving or receiving payments, intending to reward or
23 be rewarded for actions -- there is no requirement that the
24 corrupt payment have influenced her.

25 The next sentence is because it was an unlawful

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1 gratuity, it was not a bribe. The government need only prove
2 that there was a link between a thing of value conferred on the
3 defendant -- a specific official act for or which she solicited
4 or accepted the payment. And that is in connection with an
5 after the fact payment.

6 THE COURT: This has to be simplified because you are
7 talking about a hypertechnical legal distinction between an
8 unlawful gratuity and a bribe which apparently has to precede
9 official action. That is going to go right over the heads of
10 the jury.

11 I am dealing with lay people here and, frankly, I am
12 not a layperson and it just leaped out at me, what do you mean
13 an unlawful gratuity is not a bribe? Of course it is a bribe.
14 I can't tar you with the drafting of the statute.

15 MR. CARBONE: Judge, that's why I think that that
16 whole section that I read should come out because it interjects
17 a concept.

18 THE COURT: I think I would take out the first
19 sentence about the government does not have to prove that Sandy
20 Annabi actually received any payment. It is the defendant's
21 intent to be influenced or rewarded that is important, not his
22 or her subsequent actions. Boom. That's the end of proving
23 intent.

24 MR. CARBONE: Thus, the government does not have to
25 prove -- yeah.

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1 THE COURT: If you find --

2 MR. CARBONE: And then take out, this is because an
3 unlawful gratuity, forward.

4 THE COURT: I would take out the sentence before that
5 too. I would have a three-sentence paragraph that ends with
6 the words, not to his or her subsequent actions. End of
7 paragraph.

8 I would then skip to the bottom -- look, I am just
9 going to rewrite this whole thing. I am going to give it to
10 you Monday morning. This is not right.

11 MR. ARONWALD: Would the language regarding there had
12 to be proof --

13 THE COURT: I don't know what words would appear on
14 the page. There will be a paragraph about Count 3. There will
15 be a paragraph about Count 4 -- that I can promise you. I
16 don't know what they are going to say.

17 MR. ARONWALD: That's fine, Judge.

18 THE COURT: I think the problem is going to conflate
19 the 666.

20 MR. CARBONE: Giving and receiving is where it gets
21 complicated because they are two different sections of the
22 statute.

23 Judge, at the bottom of the page, this was a separate
24 charge and for the Court, where it begins with on page 48, it
25 is no defense if the payment was made.

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1 THE COURT: Yes.

2 MR. CARBONE: That was a separate charge.

3 THE COURT: That relates to what element of what
4 charge?

5 MR. CARBONE: It was a separate sort of stand alone
6 charge that covered all of the corrupt payments charges from
7 Count 1 through Count 6. I have a suggestion that might work
8 for everyone, if we could, if you jump ahead to Count 57.

9 THE COURT: Page 57.

10 MR. CARBONE: I'm sorry. Page 57, your Honor.

11 The Court noted this seems to be in the wrong place.

12 THE COURT: Yeah.

13 MR. CARBONE: If we could create a separate charge
14 that precedes all of the corruption charges and says, in words
15 or substance, instruction specific to the corruption counts.
16 Counts 1 through 6, and just had three charges within one
17 charge. And it would cover circumstantial proof of a bribe,
18 dual intent is no defense and the concept on the bottom of page
19 48, which is that, it is not a defense if the payment was made
20 or received, that it was desirable or beneficial to the public.
21 So you could have three separate subparagraphs or paragraphs
22 within one charge that goes ahead of all --

23 THE COURT: It is not going to go ahead because I have
24 not talked about corrupt agreements yet.

25 MR. CARBONE: Then it should be here with those three

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1 concepts in one charge because all three of those relate to all
2 six counts.

3 THE COURT: OK. I have a question. Is the one
4 sentence that has been separately paragraphed for some reason
5 at the top of page 49, the top of a preceding paragraph and
6 therefore the government would move it to page 57?

7 MR. CARBONE: Yes. All three -- in addition, is
8 immaterial, 1, 2, 3. That would be part of that sort of stand
9 alone.

10 THE COURT: OK.

11 MR. CARBONE: I don't know if the value of the
12 transaction is stipulated on page 50.

13 THE COURT: Apparently not.

14 MR. SIANO: Shouldn't the language there be, may still
15 have been committed?

16 MR. ARONWALD: What page?

17 MR. SIANO: 49.

18 THE COURT: Actually, I am going to rephrase that.
19 The fact that the official act she normally would have does not
20 mean no crime has been committed.

21 MR. SIANO: That is fine.

22 THE COURT: There is no stipulation on value, so we
23 will charge that.

24 MR. CARBONE: On page 53, I think there was a
25 stipulation that she was a public official. This is the Hobbs

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1 Act.

2 THE COURT: Right. She was a public official. Say,
3 you will recall that fact is stipulated.

4 MR. CARBONE: On page 54 --

5 THE COURT: Yes.

6 MR. CARBONE: -- I think we could take out the last
7 sentence. The government does not have to prove that they
8 benefitted Ms. Annabi because we are certainly arguing that
9 they benefited her. But I do think that the due or owing
10 language, that's language --

11 THE COURT: It is statutory language. What does it
12 mean?

13 MR. CARBONE: It means that the public official wasn't
14 entitled to the money because of her office. And I know it
15 doesn't really seem to fit here, but that's the statutory
16 language, I think.

17 THE COURT: Which is to say that the public official
18 is not entitled to receive the goods or services
19 as compensation or beneficence of her office.

20 MR. CARBONE: Page 55.

21 MR. ARONWALD: With respect to page 54, the last
22 sentence --

23 THE COURT: The last sentence is out.

24 MR. CARBONE: On page 55, Judge, third paragraph.

25 THE COURT: You guys get to do this whole exercise

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1 again. You get to. You get to.

2 Yes.

3 MR. CARBONE: On the page 55, the third paragraph, it
4 should be whether she actually had a duty to do so.

5 MR. ARONWALD: I didn't hear.

6 THE COURT: Ms. Annabi should be referred to as she,
7 not he.

8 MR. CARBONE: Then last sentence should say because
9 Count 6 relates to the payment allegedly made to or on behalf
10 of Ms. Annabi, that should be in connection with the Longfellow
11 project.

12 MR. SIANO: That was going to be my question.

13 THE COURT: Then that is exactly wrong. It should say
14 because Count 6 relates solely to the Longfellow project.

15 MR. SIANO: I was going to suggest that at page 51, as
16 soon as we turn our energies, perhaps we could tell the jury
17 that Count 6 relates only to the Longfellow project.

18 THE COURT: That's a very good idea.

19 Count 6, like Count 3, relates only to the Longfellow
20 project.

21 MR. CARBONE: Next page 56.

22 THE COURT: So then on page 55, that whole last
23 sentence goes out.

24 MR. CARBONE: Yes. And since it is already -- the
25 concept is set forth right at the beginning of the section,

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1 probably don't need to say it again.

2 THE COURT: I don't think that we need to say it
3 again.

4 MR. ARONWALD: Page 56?

5 THE COURT: Page 55, the last sentence is just gone,
6 out.

7 MR. ARONWALD: The entire --

8 THE COURT: Yes. It is wrong. It is just wrong.

9 MR. ARONWALD: OK.

10 MR. CARBONE: On page 56, the paragraph beginning
11 however, we can take that out.

12 THE COURT: Any problem taking out that third
13 paragraph?

14 MR. ARONWALD: No, your Honor.

15 MR. CARBONE: And the circumstantial proof charge,
16 this is the one I think.

17 THE COURT: What do you have to say.

18 MR. CARBONE: This would be one of three that applies
19 to all --

20 THE COURT: No, I understand that.

21 MR. CARBONE: Other than that, I am fine with the
22 language.

23 THE COURT: You have no problem with the language on
24 page 58?

25 MR. CARBONE: Right.

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1 THE COURT: The dual intent language.

2 MR. CARBONE: A little watered down, but we can live
3 with it.

4 THE COURT: It just doesn't say it three times in
5 three different ways. That is my problem with these charges
6 that grow like Topsy. Once is enough.

7 MR. CARBONE: 59, 60, I think that -- I think this is
8 one of the elements of the offense.

9 THE COURT: I think it was -- no. I think that got
10 put on the wrong page. My comment, my question, I believe, got
11 put on the wrong page by accident. I don't know where I
12 intended it to go, but I can't say that I intended it to go on
13 this page.

14 MR. CARBONE: On page 63, the government's proposed
15 charge -- I am just not sure. I think that is a fact that we
16 have to prove, and I -- I think that we have proven it, but
17 unless Mr. Aronwald wants to stipulate to it, I think that the
18 charge should read that --

19 THE COURT: I will take the last sentence out. Every
20 time I have had an FDIC case everyone stipulated to it. But if
21 no one is stipulating to it, then take the last sentence out.

22 MR. ARONWALD: May I have a moment, Judge?

23 THE COURT: Yes.

24 MR. ARONWALD: Your Honor, I will stipulate to the
25 last sentence -- wait a minute. Let me talk to my client a

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1 moment.

2 THE COURT: Yes, talk to your client.

3 MR. ARONWALD: We will leave it in, Judge.

4 THE COURT: Leave the sentence in. It is stipulated.

5 MR. CARBONE: Judge, on the aiding and abetting
6 charge, I know this was confusing and I think --

7 THE COURT: I gave up. That's why I gave up.

8 Mr. Siano, you wanted to say something?

9 MR. SIANO: My client, it says 3 through 9. I don't
10 think that we are named in any of these last six -- I am not in
11 7, 8 and 9.

12 THE COURT: I understand that.

13 MR. CARBONE: Where does it --

14 THE COURT: It says one or both defendants. It says
15 Counts 3 through 9, one or both defendants. I said, wait a
16 minute. Jereis is not in some of these. What is going on
17 here? Where is he being charged as an aider or abettor or
18 principal? Where is Sandy being charged as an aider, abettor
19 at all?

20 MR. CARBONE: I think I can explain and short circuit.

21 THE COURT: A real short circuit would be to get rid
22 of it entirely, but what is it that you can explain?

23 MR. CARBONE: In Counts 3 and 5, Sandy Annabi is
24 charged as principal that received the alleged payments in
25 connection with the Longfellow project.

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1 Zehy Jereis is charged with aiding and abetting her
2 alleged receipt of the payments in connection with Longfellow.

3 I think that that sentence replaces the sentence that
4 is there. And I think all of the rest flows from it.

5 And the only other question that the government has is
6 whether Mr. Aronwald intends to argue on summation that with
7 respect to the false loan application counts, that someone else
8 at the bank made the false statements, because if that's the
9 case, then Ms. Annabi could be charged or convicted on an aider
10 and abettor theory, and in fact that's why we put the language,
11 the 2A --

12 THE COURT: I can forget about Counts 4 and 6 on
13 aiding and abetting. And I can forget about Counts 7, 8 and 9
14 as to Mr. Jereis as an aider or abettor.

15 MR. CARBONE: Yes.

16 THE COURT: Great. So the only issue is as to whether
17 Counts 7, 8 and 9, Ms. Annabi is being charged both as a
18 principal and as an aider and abettor.

19 I am trying to think of a view of the evidence on
20 which she could qualify as an aider and abettor.

21 MR. CARBONE: Judge, when we wrote this, we didn't
22 know what the evidence would be as far as --

23 THE COURT: Of course, you didn't know what the
24 evidence would be -- all of the evidence has come from you.

25 MR. CARBONE: If I could finish. We didn't know what

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1 the evidence would be from the defense side and whether someone
2 else was involved in making the false statement. If that's the
3 case then our argument -- whether somebody else created the
4 phony documents --

5 THE COURT: Fine. I don't recall Mr. Aronwald
6 introducing any evidence that somebody else -- I take it back.

7 Mr. Aronwald in his cross-examination of your
8 witnesses, asked a number of questions, the import of which was
9 that Ms. Annabi father provided the information that appeared
10 on the mortgage loan document.

11 I can't claim to remember every witnesses' answer to
12 every one of those questions. I think for the most part the
13 answer was no, I got the information from Sandy Annabi.

14 Mr. Aronwald.

15 MR. ARONWALD: Your Honor, it's been a number of weeks
16 and thousands of pages of testimony. I think that the
17 questions as to whether information had been provided by her
18 father were questions that were addressed to Mr. Farhat with
19 respect to his preparation of the 2005 tax return.

20 THE COURT: You may be correct.

21 MR. ARONWALD: I think what I did was, I asked the
22 custodial witnesses -- because the loan officers did not
23 testify -- whether or not they could testify that the document
24 that were imaged into the system were in fact unaltered copies
25 of the original documents. And they indicated that they did

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1 not know because they were originally made --

2 THE COURT: All of the banks.

3 MR. ARONWALD: I don't believe I asked them whether or
4 not the information was provided by Sandy Annabi because they
5 had no firsthand knowledge about the loans in any event.

6 THE COURT: I don't see any evidentiary basis for
7 charging her as an aider and abettor in connection with 7, 8
8 and 9.

9 MR. CARBONE: Our argument in rebuttal, if Mr.
10 Aronwald argues in summation that these were created or
11 fabricated by someone in the lending institution, that may or
12 may not be true, but what is true is that she signed these
13 documents knowing that they were false.

14 THE COURT: That doesn't make her an aider and
15 abettor. That is primary liability.

16 MR. CARBONE: Judge, if you want to take that out, it
17 is just two sentences. In Counts 3 and 5, Sandy Annabi is
18 charged as a principal who received alleged payments in
19 connection with the Longfellow project. Zehy Jereis is charged
20 with aiding and abetting her alleged receipt of payments in
21 connection with Longfellow. Then I will just move this ahead
22 of the long counts.

23 THE COURT: No. I am not going to move aiding and
24 abetting ahead of the loan counts.

25 MR. CARBONE: That's fine. It can stay where it is.

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1 THE COURT: The first sentence will be: In Counts 3
2 and 5, Ms. Annabi is charged -- you are right. It should go
3 ahead of the loan count. It should go in connection with 1
4 through 6. In Counts 3 and 5, Ms. Annabi is charged as a
5 principal and Mr. Jereis is charged as an aider and abettor.
6 You are correct. I apologize. It will actually go before
7 Count 6. I think Count 6 begins on page 51, so it will go
8 between page 50 and page 51.

9 MR. CARBONE: And the only other question about what
10 is actually here is page 75, the venue charge.

11 MR. ARONWALD: What charge?

12 THE COURT: Venue.

13 I got your letter and I thought it was a bit of an
14 overreaction since the location of Mr. Farhat's office --

15 MR. CARBONE: Sorry. Mr. Siano needs some time to
16 compose himself.

17 THE COURT: I thought that you were overreacting since
18 I don't think it would be fair argument to say that because
19 Mr. Farhat did his work in Bethel, Connecticut and then by his
20 own testimony mailed the fruits of his labor to Ms. Annabi so
21 that she could review and sign it, and there is no evidence
22 Ms. Annabi lived anywhere other than any one of a number of
23 residences in Yonkers, New York, I am hard-pressed to see why
24 we are having an issue with the venue.

25 MR. CARBONE: If Mr. Aronwald doesn't contend --

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1 MR. ARONWALD: Judge, your venue instruction, I am not
2 going to argue to the Mr. Farhat's was in Connecticut, there is
3 no venue in the Southern District of New York.

4 MR. CARBONE: Then I overreacted.

5 THE COURT: We all do at the end of a trial.

6 MR. CARBONE: There are just two additional charges,
7 Judge. We would ask for a conscious avoidance charge.

8 THE COURT: I never give it. I don't believe in it.

9 MR. CARBONE: OK.

10 THE COURT: There is no conscious avoidance here.

11 MR. CARBONE: Judge, can I just try to persuade you?

12 THE COURT: You can certainly make your pitch.

13 MR. CARBONE: As the Rule 29 argument, Mr. Aronwald
14 argued that there is no evidence that Sandy Annabi was aware
15 that Zehy Jereis was seeking a job or had a financial interest
16 for that matter in her presence at the June 9 meetings at
17 Jake's Steakhouse. We think that there is testimony from a
18 number of witnesses that shows --

19 THE COURT: She consciously avoided acquiring that
20 knowledge?

21 MR. CARBONE: Well, Judge, the circumstances suggest
22 that she was certainly aware that he had been seeking a job
23 Forest City Ratner.

24 THE COURT: Then there is evidence. There is no
25 conscious avoidance.

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1 MR. CARBONE: There is testimony of David Medranda who
2 was their witness that shows that he was required as part of
3 his official duties to provide detailed circumstances about
4 City of Yonkers business to Mr. Jereis.

5 THE COURT: No conscious avoidance charge.

6 MR. CARBONE: False exculpatories. Our proposed
7 charge 47, there were a number of false statements made and
8 introduced on the record.

9 First, she denied that Mr. Jereis had paid for the
10 diamond bezel Rolex watch. And she admitted subsequently that
11 he may have helped. She said that she didn't report these
12 payments on her financial disclosure forms because she didn't
13 see it as a benefit to her because her father was going to pay
14 back Mr. Jereis, among others.

15 So we think that is an appropriate charge in these
16 circumstances, and it is the government's proposed charge, 47
17 and we would ask that the Court give it. It is straight out of
18 Sand.

19 THE COURT: I see it.

20 At this point I can't even remember why it is not
21 there. Usually I give it in these types of case.

22 Do you want to take a break, Mr. Aronwald?

23 MR. ARONWALD: No. I am ready to go, Judge.

24 THE COURT: I am not.

25 MR. ARONWALD: Anytime you want to take a break, I

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1 will.

2 THE COURT: I will be right back.

3 (Recess)

4 MR. ARONWALD: Judge, I will try to be brief.

5 THE COURT: Be as fulsome as you need to be.

6 MR. ARONWALD: The first page I have any comment about
7 is page 21.

8 THE COURT: Yes.

9 MR. ARONWALD: With respect to the improper
10 consideration from the testimony that has been presented, your
11 Honor, the jury could certainly find that Ms. Annabi may have
12 taken unfair advantage of Mr. Jereis' affection by permitting
13 him to provide these benefits knowing that he was married and,
14 etc. So I think that what that would be an improper
15 consideration by the jury in terms of whether she is guilty of
16 the charges. And so I am simply suggesting that, in addition
17 to race, religion, national origin, sex or age, that lifestyles
18 variables also be added.

19 THE COURT: Don't even bother to get up, Mr. Carbone.

20 No.

21 MR. ARONWALD: Just consulting.

22 Your Honor, with respect to page 57 --

23 THE COURT: Page 57.

24 MR. ARONWALD: -- the sentence begins, you may infer
25 that a corrupt agreement, etc. I believe that the wording

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1 should be changed to make it very clear that it is the corrupt
2 agreement that is specified in the indictment in Count 6,
3 because that's what the government's theory is.

4 THE COURT: No. There are two different corrupt
5 agreements that are specified in the indictment. If there is
6 one issue I have spent a lot of time thinking about during this
7 trial, it is the corrupt agreements that are alleged. There
8 are two of them.

9 MR. ARONWALD: That's correct.

10 THE COURT: One of them is a corrupt agreement in
11 connection with the Longfellow project --

12 MR. ARONWALD: -- which involves a bribery --

13 THE COURT: It is a specific classic garden variety we
14 all know what it is bribery case. Money for a vote.

15 And then there is this other corrupt agreement. It is
16 the one that allegedly began in 2002 and that continued until
17 2009 --

18 MR. SIANO: -- 8.

19 THE COURT: 8. Sorry.

20 And it was the Don Corleone agreement. It was the
21 some day and that day may never come, I will ask you to do me a
22 favor in exchange for all of these wonderful things I am doing
23 for you and you will do it. That's what I understand. I
24 understand that there are two agreements here.

25 MR. ARONWALD: Count 1 basically deals with two

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1 separate corrupt agreements. So the way the count is worded,
2 it is not worded in the disjunctive; it is worded in the
3 conjunctive. So from the way that the indictment is worded,
4 the jury concluded, for example, they were satisfied beyond a
5 reasonable doubt as to the Milio or the Longfellow project
6 language but not as to the Ridge Hill language, then the charge
7 would permit them to convict on that even though the count
8 basically makes specific reference to two specific separate
9 projects and two specific separate schemes in terms of the
10 payment.

11 THE COURT: Two specific separate schemes.

12 MR. ARONWALD: But it seems to me, when we talk about
13 Count 1, in order for the jury to find the defendants guilty,
14 they would have to be satisfied beyond a reasonable doubt that
15 both schemes existed, not just one, because the government
16 chose not to charge the two schemes in two separate counts.
17 They have combined two separate conspiracies that are unrelated
18 to each other in one count. The Milios certainly had nothing
19 at all to do with Ridge Hill and Forest City Ratner had nothing
20 to do with Longfellow.

21 THE COURT: When this case came to me I was told that
22 it was all about Ridge Hill and all of the press was about
23 Ridge Hill, but there's a Milio scheme and then there is a Big
24 Kahuna scheme. The only time that it ever came to fruition, as
25 far as I can tell is alleged to be Ridge Hill. But it is not a

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1 Ridge Hill specific scheme, whereas the Milio scheme is a
2 Longfellow specific scheme. You can see that in the difference
3 between what is charged in Counts 3 and 6 and what is charged
4 in Counts 4 and 5. Which is why I so much prefer substantive
5 counts to conspiracy counts.

6 But what you are saying is, because the government
7 took the scheme that is charged in 3 and 6 which is the
8 Longfellow scheme and the scheme that is charged in Counts 4
9 and 5 which is the Big Kahuna scheme, the Don Corleone scheme,
10 the day may never come scheme which had its magic moment in
11 Ridge Hill and put them in both Counts 1 and 2, you are arguing
12 that it is necessary for the jury to buy both of those schemes
13 in order to convict on the conspiracy counts?

14 MR. ARONWALD: Yes, because that's what the conspiracy
15 count reads. It would have been easy for the government to
16 charge a separate conspiracy on Longfellow and a separate
17 conspiracy as to Ridge Hill and they chose not to. And,
18 therefore, to say to the jury, you can find Ridge Hill and that
19 is sufficient to convict even if you don't find Longfellow
20 because the count specifically alleges both. And it also
21 invites the jury if half the jury finds yes on Ridge Hill and
22 some Longfellow --

23 THE COURT: That is easily solved. If there is not a
24 charging problem, that little problem is easily solved, but I
25 have already solved that problem in several other places.

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1 MR. ARONWALD: I do have a charging problem with
2 respect to the way the government chose to word these counts
3 and incorporate both schemes in the body in the framework of
4 the same count.

5 MR. CARBONE: Are you finished?

6 Judge, I just want to make clear that there are not
7 two schemes in Counts 1 and 2. There is one scheme charged and
8 that is the specific opportunities --

9 THE COURT: That is the Big Kahuna, Don Corleone.

10 MR. CARBONE: When you said Big Kahuna, I thought you
11 meant Ridge Hill. That is the Big Kahuna Don Corleone scheme,
12 that day may never come which means --

13 THE COURT: You are charging that it came not once but
14 twice.

15 MR. CARBONE: We charge that, even if that day never
16 came in 2002, 3, 4, 5 and beginning of 6 --

17 THE COURT: I understand.

18 MR. CARBONE: -- it wouldn't matter because the
19 agreement or understanding is already made and the crime is
20 complete.

21 What we did here is, in Counts 1 and 2 is say, this is
22 a conspiracy to make and receive corrupt payments as specific
23 opportunities arose. And we gave and laid out two examples of
24 specific opportunities in 1 and 2. And those example are that
25 she agreed to take some official action. It doesn't

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1 necessarily mean, as the charges indicate, that we have to
2 prove that she actually flipped her vote for or because of the
3 payment, even in Counts 3 and 5 or 3 and 6, because suppose she
4 took that money knowing that they were somehow connected to the
5 Longfellow project and would have voted that way anyway, then
6 that is still a bribe.

7 I want to make it clear. Hopefully, we are in the
8 Second Circuit on this some day and look at this, the
9 government charged two schemes in Count 1 or Count 2. It is
10 not. It is really only one scheme and we gave examples of two
11 opportunities that arose. And even as to those two
12 opportunities, they are kind of different species and I know we
13 went around and around on this. Forest City Ratner, they are
14 not charged as a victim, but it was Mr. Jereis who was the sort
15 of, quote, bribe payor, the person who was giving them
16 benefits. In the Longfellow scheme, it is broke out and
17 charged separately only because it is its own stand-alone Hobbs
18 Act and 666 violation.

19 MR. ARONWALD: Your Honor, the problem I have with
20 that is that the proof adduced by the government basically
21 underscores the fact that there are two separate theories here.

22 Your Honor indicated earlier, Longfellow is a standard
23 bribe allegation. This is not part of the stream of financial
24 benefits that Mr. Jereis was providing to Ms. Annabi which
25 forms the basis for the Ridge Hill issue.

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1 In this instance, there has been testimony presented
2 by the government and, indeed, the government has argued to the
3 jury in their opening, that this was a straight bribe where
4 Jereis was simply the go-between -- the Milios gave Mangone the
5 money, Mangone gave it to Jereis, Jereis gave it to Annabi and
6 it was all part of the bribe.

7 So the two schemes, Ridge Hill and Longfellow both are
8 subject to two different theories of proof. The fact is that
9 the government, in the substantive count, recognizes the
10 distinction between Longfellow and Ridge Hill because they have
11 basically charged it separately. Count 3 is limited to
12 Longfellow because it is a straight-out bribe allegation. And
13 Count 5 is receiving corrupt payments which is basically with
14 respect to Ridge Hill.

15 So the government's claim to the contrary
16 notwithstanding, I think that there is a charging issue here,
17 because I think that the government saw fit to charge both
18 schemes, even though they are supported by different theories,
19 in the same framework of one conspiracy happening. And that's
20 a problem.

21 THE COURT: Here is what I think. I think that the
22 government has charged one conspiracy. I think that the
23 government has charged one conspiracy, a conspiracy that
24 allegedly began in 2002, and it is the Don Corleone conspiracy.
25 And that Ridge Hill and Longfellow are indeed -- I am going to

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1 misuse the term overt acts. There are two different overt acts
2 that were allegedly undertaken in fulfillment of the
3 conspiracy. I think that's what the government charged.

4 And I've been a little loose in my language in calling
5 it two different conspiracies. There are definitely two
6 different schemes encompassed within this conspiracy. There
7 had been a third instance of Mr. Jereis coming to Ms. Annabi
8 and asking for a return of the favor, assuming that's what
9 happened. It would be a third subsidiary scheme.

10 The overall conspiracy that is charged is, I think, is
11 the reason that the government has a problem with the
12 conspiracy count that it doesn't maybe have with some of the
13 substantive counts -- I know that the government can never
14 resist charging conspiracy -- is that sometime in or around
15 2002, it contends that Ms. Annabi and Mr. Jereis came to this
16 understanding that when opportunities arose, she would vote his
17 way or she would do what he needed to have done and he would
18 take care of her along the way.

19 And I have already satisfied myself by doing some
20 legal research that the thing that bothers me most profoundly
21 about this is that there is really not a scintilla of evidence
22 that anybody came to any understanding to that effect in 2002.
23 It does not create a problem with a variance in the indictment
24 because, as you do get closer to the events that are really the
25 events that have us here, the events that underlie the

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1 substantive counts in the indictment. I haven't totally made
2 up my mind but I am pretty clear that there is enough evidence
3 to get you to the jury on a charge that a conspiracy existed at
4 about that time.

5 I do think Mr. Aronwald raises a very good point which
6 is how o conveys to the jury in the context of this unusually
7 pleaded indictment, though not, I think, defectively pleaded
8 indictment. It can't be that six of them think Longfellow
9 happened and six of them think that Ridge Hill happened as the
10 government contends it happened, and all 12 could convict of
11 conspiracy when in fact neither one of them has to have
12 happened for the government to convict on conspiracy.

13

14 (Continued on next page)

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Charge Conference

1 MR. CARBONE: And I think, Judge, that's just the
2 fundamental difference of the view of the law that we've had
3 between the government and defense counsel throughout the
4 entire case.

5 Our view, as I said repeatedly, is that, you know,
6 your Honor's correct, neither one of them had to have happened.
7 It's just not an element of the offense. The question is
8 whether the payments were made or received with the intent to
9 influence a reward; not whether there was an actual -- whether
10 any specific official action flowed from that. It was just
11 the, you know, agreement or understanding. So I think it's
12 clearly one scheme. And I understand why Mr. Aronwald and
13 Mr. Siano want to try to heighten the government's burden, but
14 that's just not the law.

15 MR. ARONWALD: Judge, during the government's opening,
16 they opened on the theory that basically Ridge Hill and
17 Longfellow were part of this conspiracy; and that that's what
18 they were going to prove, the flipping of the votes with
19 respect to both projects was part of this conspiracy. That's
20 the way they presented the evidence in this case. And I think
21 it is a legitimate concern that the jury -- there has to be
22 unanimity among the jury as to which of these two schemes is
23 the basis for finding that the government has sustained its
24 burden with respect to the conspiracy count; otherwise, we're
25 left with a situation where there could be a conviction, and we

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1 won't know whether or not the jury found one or the other; and
2 I think, at the very least, we would be entitled, if your Honor
3 is disinclined to not giving this charge, or adding what I've
4 asked, that the government issue a special verdict sheet so
5 that in the event the jury were to found in favor of the
6 government on Count One, that they specify whether they found
7 Ridge Hill or Longfellow.

8 MR. CARBONE: Again, we'll know whether they've agreed
9 that there was a bribe on Longfellow by a verdict on Counts
10 Three and Six, but they don't have to find either Longfellow or
11 Ridge Hill in connection with Counts One and Two. You could
12 have a conviction on Count One, you could have a conviction on
13 Count Two, acquittals on Counts Three, Four, Five and Six
14 because we don't have to show that there was actually a
15 separate quid pro quo bribe on either Ridge Hill or Longfellow.
16 The jury could conclude that there was an agreement in 2002, 3,
17 4, 5, 6, 7 and 8 and that one of those pieces of official
18 action wasn't even Ridge Hill or Longfellow. They could
19 conclude that there was just an agreement or understanding.
20 That's what conspiracy is all about.

21 THE COURT: Well, that's true. Of course all they
22 have to do is find one overt act, and you've charged 26. And
23 very few of those overt acts actually consist of any official
24 action by Ms. Annabi.

25 MR. CARBONE: Judge, I suppose we could lay out the

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1 overt acts in the charge.

2 THE COURT: No. No. They're going to be in the jury
3 room. You'd better lay them out in your argument.

4 MR. HALPERIN: No, no. I meant lay them out in the
5 proposed -- in our verdict sheet, the verdict sheet; not the
6 charge.

7 THE COURT: I've thought about that. I've thought
8 about listing the 26 charged overt acts and then printing a
9 line that says other because of course we always charge them
10 that they could find some other overt act.

11 MR. CARBONE: And as to Count Two, they don't have to
12 find an overt act.

13 THE COURT: Well, I think that's why Mr. Aronwald was
14 addressing his argument to Count One.

15 MR. ARONWALD: Yes, your Honor.

16 THE COURT: I think we may solve the problem by
17 actually including all 26 charged overt acts on the verdict
18 sheet and leaving a line for them to indicate if they find some
19 other overt act, telling them that they must be unanimous as to
20 at least one overt act. I did that in the Samaan case on a
21 conspiracy count. I think that might solve the problem.

22 MR. CARBONE: We'll draft a proposed verdict sheet.

23 THE COURT: That would be a miracle.

24 MR. ARONWALD: Your Honor, I guess there's also an
25 issue with respect to Count Two, only because Count Two

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1 includes Mangone as one of the co-conspirators, and Mangone had
2 nothing at all to do with Ridge Hill or Forest City Ratner. So
3 it would appear that Count Two --

4 THE COURT: Well, that is an interesting aspect of
5 Count Two. How can it be said that Mr. Mangone in 2006 joined
6 a conspiracy that had been ongoing for some years, the object
7 of which was to influence Sandy Annabi as -- the object of
8 which was to have Sandy Annabi vote as Zehy Jereis directed if,
9 as, and when the opportunity provided itself?

10 MR. CARBONE: Judge, just to clarify, Count One and
11 Count Two are identical. Mr. Mangone is described as a
12 co-conspirator in Count One and Count Two. All they do is take
13 the statutory language of the crime that they're conspiring to
14 commit, and instead of the 371 language, Count Two charges the
15 1349 mail and wire fraud conspiracy and uses the mail fraud
16 conspiracy language and incorporates by reference all the
17 language from Count One. So these are identical conspiracies
18 charged under a different statute.

19 Really, the only practical difference is a little bit
20 of a difference on the underlying mens rea for the underlying
21 offense and that Count Two doesn't require an overt act.

22 Maybe it would help if we went through this on the
23 Rule 29 argument, but Count Two is what's limited to the
24 receipt of unlawful payments, corrupt payments in connection
25 with the Longfellow project.

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1 Count Four charges all of the payments besides the
2 Longfellow payments by Mr. Jereis to Ms. Annabi.

3 And, similarly, Count Five is the same substantive
4 count, same theory except in reverse -- Ms. Annabi received all
5 the corrupt payments from Mr. Jereis.

6 Count Six, that's very similar to Count Three. It's
7 the Hobbs Act extortion which relates again specifically to the
8 Longfellow project and then it sort of mirrors Count Three.

9 THE COURT: This originally was addressed to page 57,
10 but I understand what the government is arguing. I am prepared
11 to charge what I am prepared to charge on conspiracy. I am
12 prepared to submit the overt acts to the jury on Count One
13 where they must be unanimous as to some overt act. I don't see
14 any need to change anything else.

15 MR. ARONWALD: Page 69, your Honor.

16 THE COURT: 69. Yes.

17 MR. ARONWALD: Your Honor, with respect to page 69,
18 and specifically Count Ten, which deals with 2005 tax return,
19 the indictment does not allege that Ms. Annabi falsely stated
20 she made a \$50,000 loan to her father and that he defaulted on
21 the loan and took an unlawful deduction for this item.

22 The indictment specifically alleges that she falsely
23 claimed a casualty loss based on a purported 2003 loan to her
24 father. It's not a subtle distinction.

25 THE COURT: It's not a subtle distinction. I'm going

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1 to change that because I was concerned about that.

2 That she falsely claimed a casualty loss based on a
3 \$50,000 loan made to her father in 2003.

4 MR. ARONWALD: Yes, your Honor.

5 THE COURT: OK?

6 MR. ARONWALD: Yes, your Honor.

7 THE COURT: Does that work?

8 MR. ARONWALD: Page 74, your Honor, you have an
9 exclusion for gifts and you define gross income I think you
10 need to add language that the loan is not considered income and
11 need not be reported.

12 THE COURT: That's also true.

13 MR. CARBONE: Well, Judge, it's true, but it's not
14 charged. That loan was in 2004, and it's not one of the
15 charged years, so there's no allegation relating to a loan.

16 MR. ARONWALD: I think that the jury need be
17 instructed that the loan is not part of Counts Ten or Eleven.

18 THE COURT: I'm happy to do that.

19 MR. CARBONE: Yes, the 2004 loan is not.

20 THE COURT: In fact, that should go back where we're
21 talking about -- which should go back on page 69, underneath
22 the paragraph we were just talking about.

23 MR. ARONWALD: Yes.

24 THE COURT: There will be a paragraph which says:
25 Please note that the alleged 2004 loan --

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1 MR. CARBONE: Judge, I just want to make sure we're
2 not confusing loans. There was the \$50,000 made to her father.

3 THE COURT: This has nothing to do with her father.
4 This is from Zehy to her. The alleged loan was \$60,000, wasn't
5 it?

6 MR. ARONWALD: Yes.

7 THE COURT: The alleged \$60,000 loan from -- the
8 \$60,000 payment from Mr. Jereis to Ms. Annabi which the
9 government contends was an illegal financial benefit, and the
10 defense contends was a loan, is not part of the tax counts.
11 Whether that payment was a loan - and so not income - or a
12 benefit - and so income - is something you may consider in
13 connection with Counts One, Two, Four and Five but not Counts
14 Ten and Eleven.

15 That's a fair point, Mr. Aronwald.

16 MR. ARONWALD: Lastly, your Honor -- and I know this
17 is something we have raised and we've discussed, and your Honor
18 had not ruled on it -- with respect to the disbarment issue
19 relating to Anthony Mangone, we did look at the case in the Law
20 Journal that your Honor brought to our attention, and it seems
21 to me that the holding in that case is that where a plea is to
22 a federal felony and there was a corresponding state felony for
23 the same conduct, that the disbarment is as of the date of the
24 plea. In this case at least some of the count charges to which
25 Mr. Mangone pled guilty, such as bribery, extortion and the

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Charge Conference

1 like, there are clearly corresponding state charges which make
2 the same conduct subject to felony prosecution under New York
3 State law.

4 So, even though there may not be -- with respect to
5 the tax charge, for example, he pled guilty to -- not before
6 Magistrate Yanthis, but before Judge Karas -- there is, to my
7 knowledge, no corresponding state felony for the tax evasion.
8 It's a failure to file over a period of years, but certainly
9 the pleas that he took as part of his plea agreement before
10 Magistrate Judge Yanthis are pleas to count in this indictment,
11 and those charges do correspond to state provisions which make
12 it the same conduct, a felony of New York State Law. So we
13 would ask that the jury be instructed, as we requested, that
14 Mr. Mangone was effectively disbarred on the date of his plea,
15 which meant that he was no longer permitted to engage in the
16 practice of law once he took his plea.

17 THE COURT: Yes, I'm looking at you, Mr. Carbone.

18 MR. CARBONE: OK. Judge, I think, as your Honor
19 indicated, the reason for not giving the charge is that it's
20 really irrelevant. Mr. Mangone testified on cross-examination
21 that on the advice of counsel advised the court that he had
22 retained subject matter expert counsel, he tendered his
23 resignation on or about the date of his plea, he wound up a
24 couple of affairs, and he did that on the advice of his
25 counsel. The resignation was not accepted.

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Charge Conference

1 THE COURT: Look, here's the deal, I'm not getting
2 into it. I appreciate Mr. Aronwald's point. It's a
3 hypertechnical point. I sit on the grievance committee of this
4 court, and we end up dealing with this particular
5 hypertechnicality from time to time -- it's the only reason
6 that I know about it -- and I've got enough to do without
7 getting into a determination of what the corresponding state
8 charges would be to the federal charges to which Mr. Mangone
9 pled guilty, either the ones I'm going to sentence him for or
10 the ones that Judge Karas is, if Judge Karas is going to
11 sentence him separately. No one should think, by the way, that
12 I'm not going to sentence Mr. Mangone on this indictment.

13 MR. CARBONE: Judge, I'm happy to have you sentence
14 him. I thought Judge Karas indictment was transferred to the
15 Court.

16 THE COURT: Judge Karas was transferred to me? It may
17 have been.

18 MR. CARBONE: Yes. I think I saw it a week or two ago
19 on ECF.

20 THE COURT: OK. Who knows? I don't know.

21 I just think that that's not necessary. I appreciate
22 that without that charge, there is maybe arguably one fewer
23 nail that you can put in the coffin of Mr. Mangone's
24 credibility.

25 MR. ARONWALD: Point well taken.

C3gQann3

Charge Conference

1 THE COURT: The number of nails in your tool belt,
2 Mr. Aronwald, it's like an entire Home Depot's worth of nails.
3 I deliberately am not using the F word, but I'll do carpentry
4 instead. You got a lot to work with.

5 MR. ARONWALD: Yes, indeed.

6 THE COURT: Mr. Siano.

7 MR. SIANO: I've gotten my back my given name.

8 THE COURT: I'll do my best never to make that mistake
9 again.

10 MR. SIANO: My principal concern on page 57 with
11 regard to question of the agreement has already been addressed.
12 I'm not going to be revisiting it.

13 Most of the other small changes I was concerned about
14 Mr. Aronwald covered.

15 The only -- and it's really a very tiny, little
16 remainder -- on page 82, I suspect this is the difference
17 between of the written word and your Honor's delivery, but the
18 last sentence --

19 THE COURT: Don't worry. My delivery -- and for the
20 last six pages of this charge, my delivery will be only loosely
21 correlated with the words that you see on the written page.

22 MR. SIANO: I was just going to say, you can ask, and
23 I will respond. I would add the verbs there rather than --
24 that's all. That's the only other thing I had.

25 THE COURT: No one has ever suggested that to me

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Charge Conference

1 Mr. Siano. That's a very good suggestion.

2 MR. SIANO: I got to the end, Judge. Notice, Judge, I
3 did not raise any questions about where the headings are, are
4 set up and lined and underlined in any fashion. I managed to
5 resist that exercise, but the rest of the issues I think have
6 been talked about as we went along. Thank you Judge.

7 THE COURT: Have been gone over, OK.

8 MR. SIANO: I'm sorry. I did want to comment that in
9 the earlier discussions, I think it was made clear yesterday
10 that I'm going to be doing prior inconsistent statements with
11 the agent --

12 THE COURT: Agent Mazzuca.

13 MR. SIANO: Right, with Agent Mazzuca Monday.

14 THE COURT: In addition to detective -- the detective
15 who is going to tell us about Nodine Hill.

16 MR. SIANO: Right.

17 MR. ARONWALD: Your Honor, just one other small
18 question or request, and, that is, that in connection with the
19 verdict sheet, given the fact that the Court has instructed the
20 jury assumes the presumption of innocence, I would ask the
21 verdict sheet have not guilty first and then guilty afterwards.

22 MR. CARBONE: That's fine.

23 THE COURT: Wherever you want to put it.

24 MR. CARBONE: That's fine. We can send it to defense
25 counsel. I'll draft it and send it.

C3gQann3

Charge Conference

1 MR. ARONWALD: I understand, and I think Detective
2 Koenig's report is available, and I've asked the government if
3 they have copies for us. I don't know whether your Honor wants
4 to take this up now. I know you're not feeling well. We can
5 do it Monday.

6 THE COURT: I have an appointment at 3:30 I would like
7 to go.

8 MR. ARONWALD: Would it be easier if you look at the
9 letter and consider it over the weekend?

10 THE COURT: I think I need to consider it over the
11 weekend. I think I need to see you all at 9:15 on Monday
12 morning. Mr. O'Neill will be back. You may not get the
13 revised charge until he's had a chance to take a whack at it.
14 Mr. O'Neill is my good right arm; he is also most of my left
15 arm in criminal matters.

16 I can already tell you I don't understand any of this.

17 I will say this: This is a singularly uninformative
18 expert report in a criminal matter, in a matter in which the
19 liberty of defendants is at stake. To say "I located some date
20 and time discrepancies on several files." Well, what date and
21 time discrepancies? On which files? And what is it about
22 those discrepancies that indicate that the files are not
23 authentic or have been tampered with?

24 MR. CARBONE: Judge --

25 THE COURT: Windows registry and control files

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1 compared to time indicate wrong dates and times which could
2 also be a sign or at least prevent the authentication of files.
3 You know, in civil cases, I have to do Daubert analysis all the
4 time. And if someone presented me with this report in a civil
5 case, that person would not be allowed to testify as an expert.

6 MR. CARBONE: Judge, if your Honor could reserve
7 judgment and pending review, if you have any additional --

8 THE COURT: My gut reaction is that this ain't much of
9 a report, Mr. Carbone. It doesn't say anything, which is
10 totally consistent with the government's policy and practice,
11 to which I have become accustomed, of playing everything close
12 to the vest until the moment when it absolutely must be
13 revealed, preferably in the courtroom, when the witness is on
14 the stand, which is why my motto is always: The Judge is the
15 last to know. But this is not a very informative report.

16 MR. CARBONE: Judge, I will tell you that I think
17 this -- you know, if there is some additional question that
18 defense counsel has and the Court has after reviewing the
19 report, we can certainly talk to Detective Koenig and try to
20 answer that question. We think this report is fairly thorough.
21 It summarizes and certainly complies with the rule. After we
22 provided this report, we haven't heard any complaints from
23 defense counsel about the accuracy of the report.

24 THE COURT: I'm seeing it for the first time. I'm
25 just telling you that my -- I've heard the detective testify.

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Charge Conference

1 He did indeed testify in the last trial, the last case I tried
2 in this courtroom last month. He was a fine witness. He was
3 very detailed, and he was very thorough, and he testified about
4 very specific things.

5 Now I didn't look at his expert report. I didn't look
6 at his expert report. I just listened to his testimony, but
7 this looks almost like, almost like it was made as general as
8 it possibly could have been for the purpose of conveying the
9 least possible information that would allow the Court to decide
10 whether or not he actually had any opinion that was worth
11 hearing.

12 I've never had occasion to think about whether Daubert
13 applies in criminal cases. Never had occasion to think about
14 it. But I'm not allowed in civil cases where the stakes are
15 far lower to let the jury hear junk science or opinions that
16 aren't really opinions, and that's what gives me pause in a
17 criminal case where the stakes are as high as they get.

18 MR. CARBONE: Judge, I will say, it's my understanding
19 of the law that Daubert does apply, but I think that expert
20 testimony is something of a -- sort of a term of art the way
21 it's defined. I don't think there's any question that
22 Detective Koenig is an expert. I don't think there's any
23 question --

24 THE COURT: I've already qualified him as an expert.
25 I would be hard-pressed not to qualify him as an expert. I've

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1 qualified him as an expert in another case.

2 MR. CARBONE: I also don't think there is any
3 question --

4 THE COURT: But what's his opinion? He doesn't have
5 an opinion here. Experts can testify as to their opinions
6 about matters which are in their ken, and his opinion is "I
7 can't form an opinion." Isn't that a fair summary of this
8 admittedly not very detailed report? It says, "My opinion is I
9 can't form an opinion." It's almost like listening to
10 creationists argue.

11 MR. HALPERIN: I think what he'll say --

12 THE COURT: We weren't there for the Big Bang, so I
13 suppose anything is possible, but --

14 MR. HALPERIN: Fair point. Judge, he will testify
15 about the way he conducts a forensic examination of a hard
16 drive and the process that he uses, the software that he uses
17 to evaluate a hard drive to determine whether it has been
18 accessed or manipulated after the date that the hard drive was
19 taken out of service.

20 He will tell you that in this particular instance he
21 was unable to take these individual emails and take the
22 electronic file which contain the email and determine from that
23 electronic file that those emails themselves had been backdated
24 or tampered with. That is true. So he will not be able to say
25 that these particular electronic files are fraudulent, but he

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1 will say there is other indicia on the hard drive as a whole
2 that would indicate that they may well be, and that there was
3 date manipulation as to certain files, and he will say that --

4 THE COURT: Which he can't tie to a particular person,
5 he can't tie to a time, he can't tie the particular emails that
6 are at issue in this case. You have a
7 beyond-a-reasonable-doubt burden.

8 MR. CARBONE: Judge, he will also say, and I don't
9 think that his testimony can be fairly challenged on this
10 point, that there are no responses to any of these emails. He
11 will say that it is very easy to manipulate the body of an
12 email.

13 THE COURT: I must tell you, I don't think -- I
14 concede Detective Koenig's expertise in the retrieval of
15 information from hard drives. I do not think though I have yet
16 qualified him in human communications.

17 MR. CARBONE: Judge, maybe we need Detective Koenig
18 here to kind of pull out --

19 THE COURT: I think we may just to go through the same
20 exercise with him as we went through with Mr. Murtagh's former
21 partner.

22 MR. CARBONE: That's fine.

23 THE COURT: Mr. Siano, you are standing up. You
24 rarely stand unless you have something to say.

25 MR. SIANO: Judge, the gap between what this detective

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1 says in terms of his verb usage and the verb usage here in
2 court, manipulation, again, it's the creation of a mini-trial
3 on a specter on top of a possibility. If your Honor looks at
4 the Bates number page 6808, which is attached --

5 THE COURT: Yes, I see it. It's the conclusion page.

6 MR. SIANO: It's the sentence four paragraphs up from
7 the bottom: "There were also indications of weak security, lack
8 of integrity, which make it impossible to verify file or mail
9 integrity on this computer." It means the argument goes both
10 ways with equal vigor.

11 THE COURT: And I would have to -- were this to come
12 in, I would have to tell the jury that if it is impossible to
13 verify something, the government has not proved anything. So
14 why do I want to do that?

15 MR. SIANO: So the government can use words like
16 manipulation, erasure, forgery where the report doesn't say
17 that.

18 THE COURT: And he won't say it. I suppose that if I
19 end up letting him testify, and the government goes beyond
20 saying we can't tell one way or the other whether these files
21 were or were not corrupted and actually suggest that they might
22 have been when the expert doesn't support that, then I will
23 have to slap the government down in front of the jury even
24 before you slap the government down in front of the jury.

25 MR. SIANO: I prefer that the bell not be rung in

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1 front of the jury, Judge. Again, I have watched carefully this
2 discussion back and forth between Mr. Aronwald and the
3 government. Your Honor issued an ex-parte in camera order that
4 gave the government access to this hard drive. I gathered
5 fruits of these hard drives as produced by the two combatants,
6 and in this situation I waited for somebody to tell me this is
7 a forgery, this is a forgery, this is real, this isn't real,
8 and nobody said that. Nobody said that to this point, and now
9 we're going to get somebody on the stand and say, "I can't say
10 that. I can't say for certain."

11 "Is there any manipulation?"

12 "I can't say for certain" as the organ music plays in
13 the background.

14 Frankly, I think your Honor has the right under 403 to
15 make this evaluation and stop this process. This might be a
16 case study under 403.

17 THE COURT: Yes, certainly the probative value of the
18 last four paragraphs on page 4 of this report is negligible, if
19 it exists at all, as compared to the prejudice of suggesting
20 that there might have been manipulation. The government can't
21 prove it, and it's the government's burden to prove it.

22 MR. SIANO: Judge, let me say this: There is no
23 confrontation cross-examination. This gentleman under the
24 aegis of working on this case could have and should have
25 written anything he wanted to write. He could have picked his

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Charge Conference

1 verbs. He could have made his suggestions. He could have done
2 anything prior to the last day of evidence in the trial, and
3 this is as far as he got. He didn't make that copse of trees
4 at Gettysburg. He didn't even get out of the trees on the
5 other side. He basically said, well, it might be out there
6 someplace. Call me when you need me.

7 MR. ARONWALD: Judge, the only thing I would say is
8 given the negligible probative value, if at the end of the day
9 what the jury will hear is Detective Koenig saying that he
10 cannot say that these emails are not authentic, and he can't
11 say that they are authentic, then that has such little
12 probative value that the jury should not have to hear it.
13 Because it just creates an unfair suggestion to the jury. An
14 expert is allowed to testify to express his opinion; and in
15 this case, as your Honor pointed out, he doesn't have an
16 opinion.

17 MR. CARBONE: Can I respond to both counsel?

18 THE COURT: Yes. Yes. Yes.

19 MR. CARBONE: If it were the case that an expert
20 always had to give a conclusive opinion, you would never have a
21 ballistics expert, you wouldn't have fingerprint experts, you
22 wouldn't have handwriting experts, you wouldn't have document
23 experts.

24 THE COURT: That is just not true. This is so, so
25 substantially different from listening to detective, what's his

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1 name, my favorite witness in the New York State Supreme Court.
2 He got up there every week and he testified about the specific
3 markings that were left by the barrel of the gun on the bullet
4 when it went through at a particular trajectory and it got to
5 the point where I could give his testimony for him, and there
6 was a great deal of science behind the opinion that he gave, as
7 indeed there would be a great deal of science behind the
8 opinion that Detective Koenig gave if he gave an opinion that:
9 "Look, I looked at these things, and there's been messing
10 around with these files here, and here is why I think that's
11 true."

12 But he doesn't say that. I will listen to him on
13 Monday, but it sounds to me like he says, "I've looked at the
14 files, and I can't tell whether there's messing around. Might
15 have been. Might not have been."

16 That's a huge difference. The science is there, and
17 if the science as applied by a guy who is concededly in my mind
18 an expert in the scientific field does not allow him to reach a
19 conclusion one way or the other, then I think the probative
20 value is negligible to nonexistent.

21 MR. CARBONE: Judge, as long as the Court is keeping
22 an open mind, you will hear him on Monday.

23 THE COURT: I'm keeping an open mind.

24 MR. CARBONE: Then we won't push the issue.

25 MR. ARONWALD: When will the Court hear from

1 Mr. Koenig? After the defense rests?

2 THE COURT: I assume so, since that's when the
3 governments usually puts on its rebuttal.

4 MR. ARONWALD: I just want to make arrangements to
5 have Mr. Frasier here during the testimony of Mr. Koenig.
6 Thank you, your Honor.

7 THE COURT: Thank you all. It's been fun.

8 MR. ARONWALD: Feel better, Judge.

9 THE COURT: Working on it.

10 (Trial continued March 19, 2012 at 9:15 a.m.)

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C3JUANN1 Trial
1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

2
3 UNITED STATES OF AMERICA,

3
4 v.

10 CR 007 (CM)

4
5 SANDY ANNABI and ZEHY JEREIS,

5
6 Defendants.

6
7 -----x

7
8 New York, N.Y.
8 March 19, 2012
9 9:25 a.m.
9

10
10
11
11 Before:

12
12 HON. COLLEEN MCMAHON

13
13 District Judge

14
14
15 APPEARANCES

15
16 PREET BHARARA
16 United States Attorney for the
17 Southern District of New York
17 JASON P.W. HALPERIN
18 PERRY A. CARBONE
18 Assistant United States Attorneys

19
19 WILLIAM I. ARONWALD
20 Attorney for Defendant ANNABI

20
21 ANTHONY J. SIANO
21 JEANNIE GALLEGO
22 Attorneys for Defendant JEREIS

C3JUANN1 Trial

1 (In open court; jury not present)

2 THE COURT: Case on trial continued. The parties are
3 present. The jury is not present. The judge is more present
4 than she was last week.

5 THE DEPUTY CLERK: Case on trial continued.
6 Government and defendants are present. Jurors are not present.

7 THE COURT: We are down a couple?

8 THE DEPUTY CLERK: We are. Four.

9 THE COURT: Maybe we should try to pull them off of
10 the Wilpon line, now that we are not the only game in town.

11 MR. BENJAMIN WEISER: The case on trial settled this
12 morning.

13 THE COURT: There are a lot of disappointed people
14 standing in the lobby downstairs. There you have it. The
15 latest news from The New York Times. It is probably not even
16 on the website.

17 The changes that we discussed on the charge were
18 incorporated by Ben. I need to read through them. I also need
19 to do that paragraph on Counts 3 and 6, on Counts 4 and 5, that
20 one place where we did not come up with language.

21 You were very kind to me, folks, on Friday. I
22 appreciate it. I was sicker than I knew.

23 We have that. There is stuff coming in over our fax.
24 What is coming in over our fax?

25 MR. HALPERIN: The government has not sent anything

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C3JUANN1 Trial

1 that I know.

2 THE DEPUTY CLERK: No. It was the exhibits, Judge,
3 and now we have a copy of one of their proposed witnesses.

4 THE COURT: This is 3500 material?

5 MR. CARBONE: These are just some exhibits that
6 Detective Koenig will talk about.

7 THE COURT: We are going to have a whole whoop-de-do
8 about whether he testifies at all because right now my
9 inclination is no. He has no opinion to offer.

10 MR. CARBONE: Judge, I think --

11 THE COURT: We are not going to deal with that now.

12 MR. CARBONE: He is here. The way we left it on
13 Friday was that --

14 THE COURT: I know.

15 Good morning, Mr. Siano.

16 MR. SIANO: Good morning.

17 There is a matter along the lines of the last robing
18 room conference we had. It came up Friday briefly. It is the
19 same sort of general subject matter. It was alluded to on
20 Friday, but I think it needs to be discussed in more detail. I
21 was about to make a 403 application with regard to a potential
22 rebuttal witness that was alluded to on Friday.

23 THE COURT: A potential rebuttal witness who is not
24 Detective Koenig?

25 MR. SIANO: Not Detective Koenig.

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1 THE COURT: When you rest, we will deal with it.

2 MR. SIANO: Judge, it has some implications for
3 potential cross-examination.

4 THE COURT: You are exactly right.

5 MR. SIANO: Regrettably so, Judge.

6 THE COURT: I didn't think of that. So what would you
7 like me to do?

8 MR. SIANO: I would like to have a robing room
9 conference basically and have your Honor address the same
10 findings that you addressed as to the issue the last time.

11 THE COURT: A robing room conference.

12 If only we had been able to make this request before
13 the Wilpon case settled, then I wouldn't have the press sitting
14 here.

15 Come on back.

16 (Pages 3180 through 3188 sealed)

17

18 (Continued on next page)

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C3JUANN1 Jereis - cross

1 (Pages 3180 through 3188 sealed)

2 THE COURT: I assume that we are going to start with
3 Mr. Jereis' cross-examination?

4 MR. HALPERIN: Yes.

5 THE COURT: Mr. Jereis, come on up.

6 Let's get the jury in.

7 (Jury present)

8 THE COURT: Good morning, everybody.

9 I hope everyone had a great weekend. I hope you all
10 did well in your basketball pools -- I did not, although I did
11 pick Ohio University to get into the Sweet 16. I am the only
12 one in my pool who did that.

13 We are in the middle of the testimony of Mr. Jereis.
14 He has resumed the stand.

15 Mr. Halperin, I believe this is your witness?

16 MR. HALPERIN: Yes, your Honor. Thank you.

17 THE COURT: Sir, you are still under oath.

18 ZEHY JEREIS,

19 called as a witness in his own behalf,

20 having been previously duly sworn, testified as follows:

21 CROSS-EXAMINATION

22 BY MR. HALPERIN:

23 Q. Good morning, Mr. Jereis.

24 A. Good morning.

25 Q. Sir, I am going to ask you some questions this morning and

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C3JUANN3

Jereis - cross

1 I ask you that you please answer the questions with a yes or no
2 answer if it is a yes or no question, OK, sir?

3 A. Yes.

4 Q. Mr. Jereis, it is fair to say that you have made a lot of
5 false statements in the past, correct?

6 A. No.

7 Q. Well, at the end of your direct testimony counsel asked
8 about your "little problem" with the nominating petitions, do
9 you recall that?

10 A. Yes.

11 Q. And you admitted that you made false statements on these
12 nominating petitions, correct?

13 A. One petition.

14 Q. You made a false statement on one petition, correct?

15 A. Yes.

16 Q. You said that you had seen people sign the petitions when
17 in fact you had not, correct?

18 A. I did not say that.

19 Q. You signed these nominating petition that contained a false
20 statement, correct?

21 A. I don't believe it was a false statement.

22 Q. Sir, do you view making false statements as a little
23 problem?

24 A. Once again I don't believe that was a false statement.

25 Q. I am asking for a yes or no answer, sir. Do you view

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C3JUANN3 Jereis - cross

1 making false statements as a little problem, yes or no?

2 A. I am misunderstanding you.

3 Q. Mr. Jereis, did you plead guilty to a crime, sir?

4 A. Yes.

5 Q. And that crime involved making false statements under
6 penalty of perjury, correct?

7 A. I don't believe so.

8 Q. Were you convicted of an election law crime, sir?

9 A. Yes.

10 Q. You were convicted on or about April 30, 1998, correct?

11 A. Correct.

12 Q. And when you had your guilty plea hearing that day, isn't
13 it true that you were asked about being a subscribing witness
14 to a 1996 conservative party committee designating petitions
15 for some candidates, correct?

16 A. I don't recall.

17 Q. Sir, let me show you what's been marked as Government
18 Exhibit 2021.

19 MR. HALPERIN: Mr. Turk, do we have copies?

20 Your Honor, may I approach?

21 THE COURT: You may.

22 Q. Mr. Jereis, take a moment, please, and review that
23 document.

24 Sir, is it fair to say that this is a transcript of
25 your guilty plea allocution on April 30, 1998 in Westchester

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Jereis - cross

1 County court?

2 A. I believe so.

3 Q. I will direct your attention to page 5. Isn't it true,
4 sir, that you were asked whether you had "made a false
5 statement or false affidavit in that petition," and you
6 answered yes.

7 I direct your attention to line 6.

8 A. Yes.

9 Q. And you were asked whether you had said that certain voters
10 had appeared before you and were sworn by you as commissioner
11 of deeds, correct?

12 A. Where is that at?

13 Q. Line 9 and line 10.

14 A. Yes.

15 Q. And you admitted that too, correct?

16 A. Yes.

17 Q. You signed that form saying that those voters had signed
18 the petition in your presence, correct?

19 A. Correct.

20 Q. And you admitted during this guilty plea allocution that
21 your statement was false, correct?

22 A. Correct.

23 Q. Those voters had never signed a form in your presence,
24 correct?

25 A. Correct.

C3JUANN3

Jereis - cross

1 Q. On that day the court accepted your guilty plea, correct?

2 A. Correct.

3 Q. This was an election misconduct crime, correct?

4 A. Misconduct in petition.

5 Q. And this was a crime that was similar to the one that
6 Anthony Mangone admitted he engaged in, in the Wedra case,
7 right?

8 A. I don't know.

9 Q. You can put that to the side, sir.

10 Now, Mr. Jereis, you have made or false statements in
11 the past, correct? Yes or no, sir?

12 A. Yes.

13 Q. Let me direct your attention to April 2, 2000. You applied
14 to be a notary public at the time, correct?

15 A. Yes.

16 Q. You were asked on this application if you had ever been
17 convicted of a crime, correct?

18 A. Correct.

19 Q. You checked no, correct?

20 A. Correct.

21 Q. And you signed this document under penalties of perjury,
22 correct?

23 A. Correct.

24 Q. And this lie was just another little problem, correct?

25 A. It was actually an oversight.

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C3JUANN3 Jereis - cross

1 Q. It was an oversight?

2 A. Yes.

3 Q. Let me now show you what's been marked as Government
4 Exhibit 2022.

5 MR. HALPERIN: Your Honor, blanket permission to
6 approach?

7 THE COURT: Yes, Mr. Halperin.

8 Q. Sir, please take a moment to view that document, Government
9 Exhibit 2022. Turn to page 2, please.

10 You recognize this as your notary public application,
11 correct?

12 A. Correct.

13 Q. It has your name on the top of the document as the
14 applicant, correct?

15 A. Correct.

16 Q. You signed this document on April 2, 2000?

17 A. Correct.

18 Q. You look on page 1, that is a certified copy from the State
19 of New York which has a raised seal, correct?

20 A. Correct.

21 MR. HALPERIN: Your Honor, the government offers
22 Government Exhibit 2022 into evidence.

23 MR. SIANO: No objection.

24 THE COURT: Admitted.

25 I'm sorry.

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C3JUANN3 Jereis - cross

1 Mr. Aronwald, do you care?

2 MR. ARONWALD: No objection.

3 (Government Exhibit 2022 received in evidence)

4 MR. HALPERIN: Mr. Turk, could we please display

5 Exhibit 2022.

6 BY MR. HALPERIN:

7 Q. This is the front page, sir, State of New York Department
8 of State, correct?

9 A. Correct.

10 Q. And signed there, and it says: "I hereby certify that the
11 foregoing is a true and correct copy of the original
12 application for notary public commission on file in my office."
13 Correct?

14 A. Correct.

15 MR. HALPERIN: Mr. Turk, page 2, please. Maximize
16 that.

17 Q. At the very top it says, "New York State Department of
18 State, Notary Public Application," correct?

19 A. Correct.

20 Q. Under applicant's name, it says your name, Zehy Jereis,
21 correct?

22 A. Correct.

23 Q. Your handwriting obviously, correct?

24 A. Yes.

25 Q. And your address?

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Jereis - cross

1 A. Yes.

2 MR. HALPERIN: Mr. Turk, can we maximize line 7 at the
3 bottom right there.

4 And you can go down to the bottom right there.

5 It is perfect.

6 Q. It is in small print, Mr. Jereis, but you can see that
7 question 7 says: "Have you ever been convicted of a crime,"
8 correct?

9 A. Correct.

10 Q. And you checked no, correct?

11 A. Yes.

12 Q. And in application affirmation it says, "I subscribe and
13 affirm under the penalties of perjury that these statements are
14 true and correct," correct, sir?

15 A. Correct.

16 Q. You signed that on April 2, 2000, correct?

17 A. Correct.

18 Q. That statement in box 7 was false, correct?

19 A. Like I said, it was an oversight. When I signed that --

20 Q. Mr. Jereis, I am asking for yes or no answers.

21 THE COURT: Mr. Jereis, this will actually go faster
22 if you answer yes or no questions, yes or no.

23 THE WITNESS: OK.

24 THE COURT: Mr. Siano will undoubtedly have some
25 clarifying questions to ask you on redirect. That is his job.

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