

C2F0ANNVD1

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

4
5 SANDY ANNABI and
6 ZEHY JEREIS,

7 Defendant.

8 -----x

9
9 New York, N.Y.
10 February 15, 2012
10 9:30 A.M.
11
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12
12

13 Before:

13
14 HON. COLLEEN MCMAHON,

14
15 District Judge
15
16

16 APPEARANCES

17 PREET BHARARA
18 United States Attorney for the
18 Southern District of New York
19 JASON P.W. HALPERIN
19 PERRY A. CARBONE
20 Assistant United States Attorneys
20

21 WILLIAM I. ARONWALD
21 Attorney for Defendant ANNABI

22 ANTHONY J. SIANO
23 Attorney for Defendant JEREIS
24
25

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1 (Case called; In open court)

2 THE COURT: Hello to my current favorite reporters. I
3 don't want anyone in the press to think that I don't love them,
4 people covering the current story are always my current
5 favorite reporters.

6 Now this, by the way, is Judge Allison Nathan, one of
7 the newest members of our court. Judge Nathan and a couple of
8 members of her staff are going to judge school today, they're
9 going to watch, okay, and see how we do it, administratively.

10 Okay, I have a letter from Mr. Aronwald. Thank you
11 very much. I have a letter from Mr. Siano, asking for an
12 adjournment.

13 The adjournment is denied.

14 As far as I'm concerned, we're ready to go.

15 MR. ARONWALD: Your Honor, I sent in two letters; one
16 in response to a --

17 THE COURT: I only got one.

18 MR. ARONWALD: Sorry, I handed one up --

19 THE COURT: I thought this letter was from Mr. Siano.
20 I apologize. You made a motion for an adjournment.

21 The adjournment is denied.

22 MR. ARONWALD: Yes, your Honor.

23 Can I ask that the letter application be docketed?

24 THE COURT: Absolutely will be docketed.

25 MR. ARONWALD: Thank you.

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1 THE COURT: As you may have figured out, there will be
2 things on the docket that would never otherwise have appeared
3 on the docket, as I overreact to the fact that too many things
4 were sealed on the docket, okay.

5 All right, I have taken to heart -- this is only three
6 pages. I have taken to heart Mr. Aronwald's request yesterday,
7 and I have included in the preliminary voir dire the first
8 question where I ask people about do they know individuals. I
9 have included a special question, or a couple of questions,
10 about I'm going to call them -- there are simply too many
11 people named Spano involved in Westchester politics. And
12 several of them are on this list. And, actually, I would like
13 for anybody who is named Spano to be identified by job title,
14 so that I can include that --

15 MR. HALPERIN: Michael Spano is the Mayor of the City
16 of Yonkers.

17 THE COURT: Mayor of the City of Yonkers. Not only
18 several people named Mike Spano --

19 MR. HALPERIN: Only two on the government's list.

20 THE COURT: Only two, great. Any other Spanos on your
21 list?

22 MR. ARONWALD: The only one I had on my list was
23 Senator Anthony Spano.

24 THE COURT: Okay.

25 MR. SIANO: You should be aware that the gentleman

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1 that the Court has identified now as the Mayor of Yonkers was
2 at one time a member of the New York State Assembly, so he had
3 two different --

4 THE COURT: Former member of New York State Assembly.

5 MR. SIANO: So we're not multiplying Michaels,
6 unnecessarily.

7 THE COURT: All right.

8 MR. HALPERIN: Judge, we also note one thing on
9 defense list. Janet DiFiori, District Attorney on the defense
10 list, we see no reason why that name needs to be asked.

11 THE COURT: Let's put it this way, I'm happy to say
12 Ms. DiFiore's name in the course of this. Whether her name
13 arises during the trial or not is not an issue I need to decide
14 now.

15 All right. I suspect that it will not. But if it
16 does, who knows. Anyway, she is a reasonably well-known person
17 in Westchester politics. I'm happy to ask the jurors if they
18 know who she is.

19 Okay, now what I intend to do, as is my want, is ask a
20 few preliminary questions, and then we'll do some screening at
21 the side here, at the sidebar, for people who say they don't
22 have time, which in this case, we're not naive, will be a
23 number of people, people who say that they are familiar with or
24 know any of the people whose names might arise during the
25 course of the trial, or who are familiar with the locations, or

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1 who have medical problems that they say would -- then we'll
2 take them one at a time. And then we'll have a first round of
3 challenges to see who remains after that with the
4 administrative -- for administrative reasons they know people
5 or they know people too well, or they know too much about the
6 case, or they're sick, or they're important investment bankers
7 who can't possibly be away from the office for more than five
8 hours, or whatever excuses people have about why they can't
9 serve as jurors on the trial. And then we'll have a panel --
10 I'm assuming that we're going to want to try to get 36, because
11 given the length of the trial, we're going to want four
12 alternates, would be my guess.

13 Okay. Let me just see if there are names I have a
14 difficulty pronouncing. Bicknese --

15 Okay. Anyway, because there is gonna be a special
16 question about the recent publicity, Anthony Spano will be the
17 last name, and he'll get his own little introduction, okay. So
18 we're gonna try to bring the jurors in in the order that they
19 have already been randomized by the computer downstairs. The
20 computer has obviated the need for the drum. Do we have --

21 THE CLERK: Making lists for you of the jurors in
22 randomized order. There will be seated 18 in the box, and the
23 next 20 or so we're going to try to get --

24 (Off the record)

25 THE COURT: In this old fashioned era, you would have
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1 received from the jury clerk a list of the jurors in
2 alphabetical order. We would have put their jury cards in a
3 drum, we would have rolled the drum around, we would have
4 played bingo with the cards. In the miraculous computer age,
5 the clerk has a computer downstairs which generates the names
6 in random order, serving the purpose and taking the place of
7 the drum, all right. So what you have here is a list of the
8 names of the jurors as spit out by the computer in random
9 order, not a list of alphabetical jurors. And these are their
10 jury numbers. And this is how they will sit.

11 The first 18 will be in the box.

12 Juror number 19 will be in the left-most, my
13 left-most, your right-most seat closest to window in the first
14 row over here. The jurors will fill my left, your right side.
15 They will then fill your left, my right side of the back of the
16 courtroom.

17 Okay. Do we have jurors?

18 THE CLERK: We do, Judge.

19 THE COURT: Let's bring them in.

20 THE DEPUTY CLERK: Bring in the prospective jurors,
21 Judge?

22 THE COURT: Please.

23 THE DEPUTY CLERK: Juror number one, Hillary Altman,
24 seat number, 1 this way, ma'am.

25 Rachel Cauvin, seat two.

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1 Jeffrey a. Ackerman, seat three.
2 Denise Randolph seat four.
3 Kim Small, seat five.
4 Seat six, Virginia Smythe-Parke.
5 Seat seven, Lynn Yang.
6 Seat eight, Laura Goodwin.
7 Seat nine, Lisa Haber.
8 Seat 10, Lilly Ling.
9 Seat 11, Euphemia Reid.
10 Seat 12, Susana Jantz.
11 Seat 13, Frederick Conn.
12 (Continued on next page)
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Jury Voir Dire

1 COURTROOM DEPUTY: Seat 14 Meri Verille.
2 15, Jacquelyn James.
3 16, Loretta Langhorne.
4 17, Adam Kantor.
5 18, George Franz.
6 19 Jacqueline McGowan.
7 THE COURT: Okay. Now the back.
8 COURTROOM DEPUTY: Seat 20, Susan Fields.
9 21, Carmelo Montalvo.
10 22, Georgia Henry.
11 23, Anthony Brand.
12 24, Wendy Silva.
13 25, Robin Alba.
14 26, Jannae Harris.
15 27, Erik Nevala-Lee.
16 28, William Carol.
17 29, Brian Wong.
18 30, John Grillo.
19 31, Meryl Chaparro.
20 32, Raphael Portnoy.
21 33, Lautaro Mosquera.
22 34, Karen Astorino.
23 35, Angela Benaissa.
24 36, Daniel Ferreira.
25 37, Socorro Santos.

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1 38, Erika Jusino.
2 THE COURT: Hang on a second. Who do I have in the
3 third row, please? Ms. Chaparro, Mr. Portnoy, Mr. Mosquera,
4 Ms. Astorino and Ms. Benaissa, okay. And then you are starting
5 a new row, Scott? Thank you.
6 COURTROOM DEPUTY: 38, Erica Jusino.
7 39, Jeffery Schulman.
8 40, Edith Adesuyi.
9 41, Kara Chau.
10 42, Melissa McDaniel.
11 43, Daniel Abrajan.
12 44, Meredith Brenner.
13 45, Lia Miller.
14 46, Nicholas Moyne.
15 THE COURT: At 46 can we start a new row down here.
16 No. Ms. Miller in the back. Mr. Moyne in the front.
17 COURTROOM DEPUTY: 47, Stephanie Baker.
18 48, Patricia Miller.
19 49, Anita Wolfgang.
20 50, Beth Nedow.
21 51, Justin Gignac.
22 52, Victoria Lawrence.
23 53, Agnes George.
24 54, Peter Timmins.
25 55, Craig Fisher.

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1 56, Glenda Beck.
2 57, Rosemarie Gomes.
3 58, Irinel Deleon.
4 59, Maria Pena.
5 60, Carl Andrews.
6 61, Rosa Calcano.
7 62, Ruben Mangual.
8 63, Ryan Mulcahy.
9 64, Ruth Barone.
10 65, Joey White.
11 66, Peter Wargo.
12 67, William Bettke.
13 68, Michael Graziosa.
14 69, Amy Horowitz.
15 70, Patricia Young.

16 THE COURT: Good morning, ladies and gentlemen. And
17 thank you so much for your patience while we got you seated in
18 the right place. One of the nice things about the computer age
19 is that we no longer use the drum up here to pull your cards.
20 We have had the computer spit out your names in random order
21 that allows us to seat you where you are going to be seated
22 throughout this process of voir dire or jury selection. This
23 is your seat. We're not going to move you, okay. So make
24 yourselves as comfortable as possible to do. People who have
25 coats on, feel free to take off your coats. If you get cold at

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Jury Voir Dire

1 any time during the day feel free to put them back on, whatever
2 it takes to make you feel comfortable here in Courtroom 14C.

3 My name is Colleen McMahon. I am the judge who
4 presides here and I welcome all of you here for the purpose of
5 selecting a jury in a case called United States versus Sandy
6 Annabi and Zehy Jereis. I am going to be asking all of you a
7 number of questions and it's important that you listen
8 carefully to my questions and keep them in mind cause I'll ask
9 the people in the box first but everyone is going to
10 participate in this process today. So everyone should be ready
11 to participate at all times. If at any time any of you cannot
12 hear me please raise your hands. My voice pretty much carries
13 in this courtroom but they're not the best acoustics in the
14 world. So if have you difficulty hearing me, let me know.
15 Don't feel shy about that.

16 The purpose of the questions I am going to ask you is
17 to enable us to select a jury that can be fair and impartial in
18 the case we're going to try. Now my questions and your answers
19 to my questions are in no sense evidence in this case and you
20 should not regard them or any thoughts that they may give rise
21 to your minds as having any bearing on the case.

22 The questions are not meant to embarrass you or to pry
23 unnecessarily into your lives but what they're meant to do is
24 to elicit the basic information that's necessary to help the
25 lawyers and myself select people who can sit on the jury in

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Jury Voir Dire

1 this case. If you need to answer a question but you feel that
2 the answer would cause you great embarrassment folks, for
3 example, I'll tell you a question I am going to ask later on
4 during the day will be about whether you are or any member of
5 your family has had any involvement with the criminal justice
6 system or perhaps your son has been arrested and prosecuted for
7 drug possession. I'm just making up a random example. Maybe
8 you don't want everybody in the courtroom to know that. That's
9 fine. That's why we have what are called sidebars and right
10 over here at the side of the bench. I don't know why we don't
11 call them side benches but we call them sidebars. Right over
12 here at the side of the bench we'll have you come up and we'll
13 have the lawyers come up and the court reporter come over and
14 you can tell us that without everybody in the room hearing
15 that.

16 Now, the first thing that is going to happen this
17 morning is that Mr. Jim O'Neil, who is sitting in front of me
18 who is my senior law clerk and who serves as my deputy clerk in
19 all criminal matters, is going to administer an oath or if
20 there are people here who for religious or other reasons do not
21 subscribe to oaths, he will ask you to affirm that you will
22 give truthful answers to the questions that we're going to ask
23 you.

24 It is your solemn duty, ladies and gentlemen, to serve
25 as a fair and impartial juror in this case if you are able to

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Jury Voir Dire

1 do so. It is equally your duty not to serve if there really is
2 a reason why you cannot be impartial in this case. So you need
3 to let us know if there is any reason why you cannot be
4 impartial in this case. And I need to underscore the
5 importance of the truthfulness of your answers that we ask you
6 to give them on oath or affirmation.

7 All right. Now, I want to caution you about one
8 thing. We don't want to you answer a question. We want you to
9 always answer it truthfully but your answer might tend to give
10 rise to some kind of prejudice or bias or preconception about
11 the people who are involved in the trial, then we would like
12 you to give it to us at sidebar and the example that I use is
13 this. Suppose you are my next door neighbor and suppose we
14 have been having a feud for many years over a tree that
15 straddles our property line and you don't like me and I don't
16 like you. Obviously, this needs to be disclosed to the
17 lawyers. It needs to be disclosed on the record. It does not
18 need to be disclosed to everyone in the room that you don't
19 like me or why. They don't need to hear the names that you
20 call me when we have our private conversations about the tree.
21 So that kind of information, something you think might
22 prejudice other people we ask you to hold and to give to us at
23 sidebar.

24 All right. Mr. O'Neil, would you please swear the
25 panel.

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Jury Voir Dire

1 COURTROOM DEPUTY: I'd ask the prospective jurors to
2 please rise. If you are swearing raise your right hand.

3 (Panel sworn)

4 THE COURT: Okay. Ladies and gentlemen, let me tell
5 you a little something about the case. I am going to be
6 hearing most of what we need to know about the case when you
7 are hearing it, while the evidence is coming in. But I am
8 going to give you a little description of what the case is
9 about. By the way, nothing I ever say to you is evidence in
10 the case. Just remember that.

11 This is a criminal case, as I said earlier. There are
12 two defendants in this case. One of them, Sandy Annabi, served
13 as a democratic councilwoman for the Second District of the
14 City of Yonkers up in Westchester County, just north of the
15 Bronx, from 2002 until 2009.

16 The other defendant, Mr. Zehy Jereis, was the Chairman
17 of the Republican Party in the City of Yonkers from about 2003
18 to 2007. So both of the defendants were involved in some
19 manner, shape or form with politics in the city of Yonkers. A
20 grand jury, a city in this district, has charged the defendants
21 with committing a number of offenses including conspiracy,
22 making and receiving corrupt payments, extortion of public
23 officials under color of official right. And defendant Annabi
24 is also charged with making false statements in connection with
25 student loan applications and on her tax returns. That's just

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Jury Voir Dire

1 a general overview of what the charges in the case are.

2 Now, the charges are laid out in a document that's
3 called an indictment. An indictment is not evidence. You are
4 never going to see it and if you don't see it it's not
5 evidence. An indictment is an announcement of what charges
6 have been brought against particular defendants. It's a way of
7 getting the defendant into court so that the charges can be
8 tried by a jury, all right. That's all an indictment is. I
9 analogize it to a newspaper announcement. It is merely an
10 accusation. It is proof of nothing. The fact that the
11 defendants have been indicted proves nothing, nothing, nothing,
12 at all about whether they are guilty or not guilty of the
13 crime.

14 You'll get more of an explanation of the law a little
15 later in the morning but I tell you right now that Ms. Annabi
16 and Mr. Jereis have pled not guilty to that indictment and as a
17 result all of you and I are presuming that they are innocent.
18 We are presuming that the indictment is wrong, that they are
19 not guilty of the crimes of which they are accused, okay.
20 That's where we are.

21 Now, this case has had some attention in the press
22 since it was brought in 2010. Are any of you familiar with
23 this case at all for any reason? What I am going to do is I am
24 going to take down your jury numbers. That's all I am going to
25 do. So if you are familiar with this case raise your hand.

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1 every trial personally. The conduct of this trial will be in
2 the immediate charge of two Assistant United States Attorneys
3 Jason P.W. Halperin and Perry Carbone. They will be assisted
4 by Special Agent Mike Mazzuca, Carolina Gilmore and Jillian
5 Garrera the FBI. John Scantinato of the Internal Revenue
6 Service and a paralegal whose name is Jake Terk.

7 At the front row, Mr. Halperin, who is at the front
8 row? Folks, do you want to stand up?

9 MR. HALPERIN: Myself, Mr. Carbone, Special Agent
10 Gilmore and Special Agent Mazzuca.

11 THE COURT: All FBI agents are special, okay.

12 Does anybody know any of these folks or do you
13 recognize any of those other names of the agents or of Jake
14 Terk who is the paralegal?

15 Yes, Juror No. 28, right.

16 Now let me introduce you to the people at the back
17 table. Seated at back table in the middle is attorney William
18 Aronwald of White Plains.

19 Mr. Aronwald, would you stand and introduce your
20 client.

21 MR. ARONWALD: Yes. My client is Sandy Annabi.

22 THE COURT: This is Ms. Annabi. Do either of you folk
23 know either Mr. Aronwald or Ms. Annabi?

24 Seated to Mr. Aronwald's left -- excuse me -- sorry.
25 Mr. Anthony J. Siano and at the end of table is his associate

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1 Ms. Jeanie Gallego and introduce your client.

2 MR. SIANO: Our client is Mr. Zehy Jereis. Thank you.

3 THE COURT: Does anyone know Mr. Siano or Ms. Gallego
4 and their client, Mr. Jereis?

5 Yes. And that is Juror No. 24, Ms. Silva. Okay.

6 All right. Now, I am going to read you a list first
7 of locations that are likely to be -- don't have to worry about
8 locations. Any of you familiar with the Ridgehill Development
9 in Yonkers, New York? A number of people are. Okay. That
10 will come up over the course of the morning. I am going to
11 read you a list of names that are going to come up during the
12 course of the trial or that might come up during the course of
13 the trial. Not all of these people are going to be witnesses
14 but you may at some point hear one or more of these names.

15 You've already heard the name of FBI Special Agent
16 Michael Mazzuca and Colleen Gilmore and we have two other
17 former FBI agents now retired, Rosemary Karaka and James
18 O'Connor. Does anybody know either of those two now retired
19 FBI agents? Okay.

20 If you know anybody of this name would you please
21 raise your hand. Okay.

22 First is John Murtagh, M-U-R-T-A-G-H, Juror No. 68.

23 Dee Barbato, B-A-R-B-A-T-O.

24 The reason we're doing this is to find out if you know
25 the one who is in the case or who may be mentioned and that's

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1 Juror No. 30, Mr. Grillo.

2 Dennis Robertson.

3 How about the gentleman who is the mayor of the City
4 of Yonkers and a former member of the State Assembly, Michael
5 Spano.

6 Okay. We have Juror No. 9, Juror No. 24, Juror No.
7 13, juror No. 24, Juror No. 27, Juror No. 30, and back here
8 this gentleman in the last row who I haven't dealt with before
9 just yet, Mr. Schulman, is that you, Juror No. 39?

10 On this side of the room nobody in the first row. In
11 the second row Juror No. 55, Mr. Fisher. Anybody else in that
12 row? Juror No. 58, Ms. Deleon. Okay. Juror No. 6 3,
13 Mr. Mulcahy.

14 THE JUROR: Your Honor, is it recognize the name or
15 know the person?

16 THE COURT: I appreciate there's a difference. If you
17 recognize the name well enough that it's going to have some
18 impact on your ability to be a juror, we'd like to know.
19 Personal knowledge, definitely. I mean a lot of people may
20 know -- some of you live in Yonkers. A lot of people may know
21 who the mayor of Yonkers is. I appreciate that. A number of
22 you are from Westchester and you may know that but if it's a
23 matter of no moment to you, frankly, it doesn't matter. Do you
24 know may Mayor Spano personally?

25 THE JUROR: No.

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1 THE COURT: Okay. Is there anything about your
2 recognizing his name that would make it hard for you to be a
3 fair and impartial juror?

4 THE JUROR: No.

5 THE COURT: Okay. Fine. Juror No. 78 is
6 Mr. Graziosa.

7 Okay. Fine. Thank you. Joseph Galimi, G-A-L-I-M-I,
8 Scott Cantone, Bruce Bender, Richard Pesin, John Swagerty,
9 Franco Milio, M-I-L-I-O, Antonio Milio, Debbie Kayal,
10 K-A-Y-A-L, Anthony Mangone, Joe Enright, Kenneth Bicknese, John
11 Bond, Odilon Mejia, Joseph Jenik, Carl Maniscalco, Peter
12 Tytell, Frank Rocco, Paul, Crowley, Walid Farhat, Maria Chousa,
13 C-H-O-U-S-A, Detective Shlomo Keonig over in Rockland County;
14 IRS agent John Dennehy, Angelo Martinelli, Kevin Cacace, Doug
15 Wells, Deidre Angelastro, Ramon Falon, F-A-L-O-N, Judy Delage,
16 Karen Pennington, David D'Amico, Tony Serrao, S-E-R-R-A-O,
17 Helen Henkel, H-E-N-K-E-L, Chuck Lesnick.

18 Juror No. 9.

19 Pat MacDow, Liam McLaughlin, Albert DelBello, Michael
20 Santangelo, Anthony Servino, Richard Hoffman, John Khader,
21 K-H-A-D-E-R, Naydeh Sayegh, David Madranda, Rosemary Karaka.

22 How many people know the name of the district attorney
23 of Westchester Janet Difiore? Okay.

24 Royale Frasier, Joseph McNally, Jack Bond, Sami
25 Hatter, Pat Stiso, Edward Wedra, Albert Pirro.

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1 I know Juror No. 9 and Juror No. 55.

2 MR. ARONWALD: There's one other name omitted from the
3 list by mistake. Michael Carliso.

4 THE COURT: Michael Carliso.

5 THE JUROR: Anthony Servidio and how did you pronounce
6 the last name?

7 THE COURT: Servino, S-E-R-V-I-N-O.

8 THE JUROR: Okay. Sorry.

9 THE COURT: She did the right thing. Okay. If you
10 have a question, if you are concerned that you may have
11 misheard something, please ask. Thank you.

12 Now there's one other name that will be mentioned
13 during the trial although this individual is not going to be a
14 witness and that's former State Senator Nick Spano. His name
15 is going to come up because a number of the people who are
16 involved in the case worked with or for Senator Spano when he
17 was in office.

18 Is there anyone here who knows former Senator Spano
19 personally? I specifically asked "personally" so let's start
20 with that. Apparently, nobody knows him personally.

21 Now I mentioned him separately because there's been a
22 great deal of publicity about former Senator Spano over the
23 last few days and some of you folks may have read or heard that
24 he pled guilty last week to some tax fraud charges. That plea
25 has nothing whatsoever to do with this case. The matters are

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1 not connected and I am going to repeatedly caution the jurors
2 about that during the course of the voir dire and during the
3 course of the trial because his name will inevitably come up
4 during the course of the trial. I need to ask how many of you
5 have read or heard anything about Senator Spano over the course
6 of the last week.

7 Nobody in the box. Juror No. 9, Juror No. 12, 13, 14.
8 That's in the box.

9 In the first row in the back? Juror No. 23,
10 Mr. Brand, Juror No. 27, Mr. Nevala-Lee.

11 By the way, don't let me mispronounce your name. If I
12 mispronounce your name please, please, correct me.

13 Farther in the back, Juror No -- who are you, sir?

14 THE JUROR: 36.

15 THE COURT: Juror No. 36, Mr. Ferreira.

16 THE JUROR: Yes.

17 THE COURT: Okay. And but in front of you Juror No.
18 34, Ms. Astorino, Juror No. 36, Mr. Ferreira or a farther down
19 the row there Juror No. 39, Mr. Schulman. Nobody else on that
20 side of the room.

21 Over on this side of the room, Juror No. 46 Mr. Moyne,
22 Juror No. 50, Ms. Nedow, Juror No. 55, Mr. Fisher. Nobody else
23 in that row.

24 In the next row Juror No. 64 Ms. Baron and it looks
25 like Juror No. 68, 69 and 70 in the last row, okay. You folks

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C2FAAANNV2

Jury Voir Dire

1 have seen something about Senator Spano in the last week. Is
2 there anybody else who is familiar maybe not for the last week
3 but who is familiar with Senator Nick Spano?

4 And that would be Juror No. 58, Ms. Deleon.

5 THE JUROR: Just recognize the name.

6 THE COURT: Juror No. 63 recognizes a name.

7 Juror No. 67, Mr. Bettke, okay.

8 THE JUROR: Excuse me, your Honor?

9 THE COURT: Yes, sir.

10 THE JUROR: I neglected to, earlier you mentioned
11 Albert Pirro and I have heard of him.

12 THE COURT: Okay. Fine. We'll add that. We're going
13 to talk to all you are folks but I add you. That's Juror No.
14 46, I believe.

15 Okay Juror No. 24 you are familiar Senator Spano?
16 Fine. Anybody else? Juror No. 45, Ms. Miller. Juror No. 42,
17 Ms. McDaniel.

18 All right. Now, do any of you folks have any kind of
19 medical problems that would prevent you from sitting here
20 during the day and focusing your attention on the evidence as
21 it's introduced in the case? Keep your hands up. Juror No.
22 10, Juror No. 13, Juror No. 18, Juror No. 20, Juror No. 32; is
23 that right? Juror No. 32. I told you I'd get better at this
24 as the morning moved on. Mr. Portnoy, Juror No. 67. I am
25 sorry. Juror No. 62.

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C2FAAANNV2

Jury Voir Dire

1 One reason I ask you to be as prompt as you can is I
2 am writing these down in order. When I get them out of order I
3 can screw up later. All right. Help me out here. Okay.
4 Thank you. Which is not to say if you think of something later
5 you shouldn't let us know. It's very important.

6 Is there anybody here who has difficulty either
7 understanding or reading or communicating in English? I don't
8 see any hands on that one. Okay.

9 Now, nobody can be really precise about how long a
10 trial is going to last. I can tell you that I have a
11 reputation for making them last less time than the lawyers
12 think that they're going to last, all right. The lawyers have
13 estimated that this trial is going to take anywhere where from
14 four to six weeks which means it's going to take from three to
15 five weeks but this is not a one week trial. We sit on Mondays
16 through Thursday except for next week when Monday is a legal
17 holiday. We don't sit on Fridays. And we sit for a full day.

18 By my definition of a full day which is 9:30 to 4:30
19 or 4:45 which is a break in the morning, a break for lunch and
20 in the afternoon. If there comes a point when a lawyer doesn't
21 have a witness that lawyer has to say "I rest". Those are my
22 rules because it is my goal to get you, the jurors, back to
23 your regular lives as quickly as possible.

24 As I said to all of you, it is your solemn duty to
25 serve as jurors on this case if you can do so by being fair and

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Jury Voir Dire

1 THE COURT: Thank you. In the next row, folks, down.
2 Let me do this one way row at a time.

3 The second row. In the second row, on the right side
4 Juror No. 55, Mr. Fisher, Juror No. 58 Ms. DeLeon. I am sorry
5 Juror No. 53, Ms. George.

6 Okay. In the next row Juror No. 61 Ms. Calcano,
7 Mr. Mangual, 62, Ms. Baron, 64, in the back row, all four of
8 you. Number 67, 68, 69 and 70.

9 Could I see counsel at bench please.
10 (Sidebar)

11 THE COURT: I am really not physically capable of
12 standing here and doing this at sidebar. I am happy to have
13 your clients come back in the robing room. It's appalling. It
14 really is.

15 MR. ARONWALD: Might there be more room in the jury
16 room. Your robing room is really going to get pretty tight.

17 THE COURT: I would much rather. I understand but
18 let Mr. O'Neil take care of it.

19 MR. ARONWALD: Sorry, judge.

20 THE COURT: I appreciate the sentiments. Of course
21 there's more room but --

22 MR. ARONWALD: We keep it tight.

23 (In open court)

24 THE COURT: Okay. Since practically everyone says
25 they can't sit on this case, here is what we are going to do to

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C2FAAANNV2

Jury Voir Dire

1 make it comfortable for you. We need to speak to you
2 individually. And also some of you who say that you know
3 people who answered some of the earlier questions. We need to
4 speak to you individually about the reasons why you can't sit
5 on a trial. In the form of administrative screening that we
6 have to do at the beginning of voir dire and so that you can
7 read your newspaper or a book if you have it or whatever, we're
8 going to go back to the robing room and we are going to call
9 you in one at a time. Otherwise I would have to stand here
10 leaning over this bar and, frankly, I must tell you for many
11 people, I am the physically capable of doing, that artificial
12 knees. I can't do it. You would all have to sit here and be
13 completely silent. It would probably take an hour or so. This
14 way we can do it. The lawyers would be able to hear and their
15 clients would be able to hear and we're going to find out why
16 all you people can't sit on the trial. Okay.

17 We will call you back one at time and I will see most
18 of you, though not all of you, in a few moments.

19 Counsel, Ms. Annabi, Mr. Jereis, would you please come
20 back.

21 (In the robing room)

22 THE COURT: Jim, can we get rid of the librarian from
23 the U.S. Attorney's Office first. Can we just let her go.

24 MR. ARONWALD: That is fine.

25 THE COURT: Great. Let him go.

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Jury Voir Dire

1 And number Juror No. 4 indicated that she knew
2 somebody.
3 MR. SIANO: Ms. Gallego.
4 MS. GALLEGO: I interned for her this summer.
5 THE COURT: Okay. Well, we're going to talk to her
6 then. All right. Get me number one.
7 (Juror present)
8 THE COURT: Hello. This is Juror No. 1, Ms. Altman.
9 Have a seat. Thank you. Sorry that we're so crowded
10 back here. Would you please tell us why you don't think you'll
11 be able to serve on this jury.
12 THE JUROR: I cannot commit to five weeks out of work.
13 I don't get compensated and literally cannot afford to live.
14 THE COURT: Where do you work?
15 THE JUROR: Duval Visual Solutions. I am a part of a
16 very large project right now but even besides that I just, I
17 literally cannot afford to be out of work for five weeks or six
18 or four or anything. I get three days.
19 THE COURT: What is your per diem compensation at
20 work?
21 THE JUROR: I just get three days. Oh, how much do I
22 make?
23 THE COURT: Yes.
24 THE JUROR: I am on commission as well as a \$60,000
25 base. My daily, I don't know the number offhand. It's like, I

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C2FAAANNV2

Jury Voir Dire

1 guess I would lose about -- oh, God. I don't know exactly my
2 number. I'd need a calculate in front of me to tell you.

3 THE COURT: OK. Thank you.

4 THE JUROR: But it's about six to, or eight thousand
5 dollars probably.

6 THE COURT: Okay. Thank you. Go back and take your
7 seat.

8 THE JUROR: Sure.

9 (Juror not present)

10 THE COURT: We're going to wait until the end.

11 Juror No. 2.

12 (Juror present)

13 THE JUROR: Ms. Cauvin.

14 THE COURT: Okay. Why can't you sit on this?

15 THE JUROR: I am a project manager for a furniture
16 manufacturer and I am on a project that I am the only one on
17 that project. So I run the project. So that will be a big
18 problem for my boss. If you want to call him. If it's okay
19 with him then I can stay.

20 THE COURT: Okay. Thank you.

21 (Juror not present)

22 THE COURT: Okay. This is Juror No. 3, Mr. Ackerman.

23 Have a seat.

24 (Juror present)

25 THE COURT: Tell us why you are not able to serve on
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C2f0ann3

Voir dire

1 THE COURT: Number 4. This is Ms. Randolph. Have a
2 seat. Good morning, Ms. Randolph, how are you.
3 PROSPECTIVE JUROR: Good morning, good.
4 THE COURT: And why are you unable to sit on a trial
5 of this length?
6 PROSPECTIVE JUROR: Because I'm actually seeking
7 employment right now. I'm an artist, but I am, again, looking
8 for work and called in like every other day.
9 THE COURT: Okay. Thank you very much. Have a seat
10 back in the jury box.
11 PROSPECTIVE JUROR: Uh-huh.
12 THE COURT: Thank you very much.
13 THE CLERK: Number 5.
14 PROSPECTIVE JUROR: Hello.
15 THE COURT: Okay. Juror number five, is Ms. Small.
16 Hi, Ms. Small.
17 PROSPECTIVE JUROR: Hello.
18 THE COURT: Why would you have a problem serving on
19 this trial?
20 PROSPECTIVE JUROR: I just happen to have travel plans
21 in mid March, just by chance, I didn't anticipate more than a
22 couple of weeks.
23 THE COURT: I understand. Where are you planning to
24 go?
25 PROSPECTIVE JUROR: To Morocco with my husband on a
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C2f0ann3

Voir dire

1 filming trip.

2 THE COURT: And I assume you have prepaid tickets?

3 PROSPECTIVE JUROR: Well, I didn't buy them, so I
4 don't have exact dates. It's through his company, that's why
5 I'm a little iffy on the date, but I can find out, sure.

6 THE COURT: If we give you access to a telephone, can
7 you call him and find out what the dates are?

8 PROSPECTIVE JUROR: Yes, sure.

9 THE COURT: We'll give you access to a telephone.
10 That's something that one of the law clerks can do, give you
11 access to a telephone on the bench or whatever, okay? Great.
12 Thank you. And let us know.

13 PROSPECTIVE JUROR: Thanks.

14 THE COURT: Juror number six.

15 PROSPECTIVE JUROR: Hello.

16 THE COURT: Hi. Hello, Ms. Smythe-Parke?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Why do you think you can't sit on a trial
19 of this length?

20 PROSPECTIVE JUROR: Because I have been unemployed for
21 over 18 months. If I'm not available for temp work, that's my
22 only source of income at the moment, and I live on my own, so
23 that's the only source of income.

24 THE COURT: Okay. Okay, and just -- to give me a
25 clue, how frequently do you get temp work? When was the last

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Voir dire

1 time you did temp work?

2 PROSPECTIVE JUROR: I did a five-month stretch right
3 before Christmas and, I'm currently up for a couple of jobs,
4 fingers crossed. Tough market.

5 THE COURT: Isn't it? Okay, thank you.

6 PROSPECTIVE JUROR: Okay, thank you. Thanks,
7 everybody.

8 THE COURT: The next is gonna be juror number eight.
9 Juror number eight -- I'm sorry, juror number --

10 PROSPECTIVE JUROR: Seven, I think.

11 THE COURT: You didn't say that you couldn't come.

12 PROSPECTIVE JUROR: They just called --

13 THE COURT: They shouldn't have, but thank you. We
14 appreciate your willingness to serve. Thank you, you can go
15 out.

16 PROSPECTIVE JUROR: Thank you.

17 THE COURT: Don't call in people who didn't answer a
18 question.

19 The next juror is juror number eight. Then nine, 10.

20 THE COURT: Eight, nine, 10.

21 This is juror number eight. Ms. Goodwin?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Good morning, ma'am. Why would you have
24 difficulty serving on this case?

25 PROSPECTIVE JUROR: I'm self-employed.

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Voir dire

1 THE COURT: What do you do?

2 PROSPECTIVE JUROR: I'm a consultant with
3 not-for-profit organizations; four of them.

4 THE COURT: And are you working on any project right
5 now?

6 PROSPECTIVE JUROR: Always, yeah. If I'm not working,
7 I'm not paying my mortgage.

8 THE COURT: Okay. You take seat back in the jury box.
9 Thank you.

10 PROSPECTIVE JUROR: Thank you, ma'am.

11 THE COURT: Next is juror number nine.

12 You can add to the on-deck circle juror number 13.

13 You can add that one to the on-deck circle.

14 Ten is on deck now.

15 This is juror number nine, Ms. Haber. You answered a
16 number of questions. First of all, Ms. Haber, why are you
17 unable to spend the time on trial?

18 PROSPECTIVE JUROR: I'm an independent realtor, okay.

19 THE COURT: And in Westchester County?

20 PROSPECTIVE JUROR: In Westchester.

21 THE COURT: Right, okay.

22 And you indicated also that you were familiar with the
23 both Messrs. Spano and you'd read something about --

24 PROSPECTIVE JUROR: I'm a former Democratic district
25 leader. Or I still am.

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C2f0ann3

Voir dire

1 THE COURT: You still are. You happen to know
2 Ms. Annabi?
3 PROSPECTIVE JUROR: Not personally.
4 THE COURT: Okay.
5 Do you know who she is, are you familiar with her
6 through your work in the Democratic party?
7 PROSPECTIVE JUROR: At my age, I forget usually. Like
8 all of the names sounded familiar, but I don't remember, so I'm
9 going to say I don't remember.
10 THE COURT: Okay. And is there anything about the
11 fact that you work in Democratic politics in the Westchester
12 area that you think would make it hard for you to be a fair and
13 impartial juror in this case?
14 PROSPECTIVE JUROR: Probably.
15 THE COURT: Okay, thank you. Have a seat.
16 PROSPECTIVE JUROR: That's truthful.
17 THE COURT: I expected that, I expect nothing less.
18 Ten, 13, 14.
19 Ms. Ling.
20 PROSPECTIVE JUROR: Hi.
21 THE COURT: Hi. Why do you think you can't do the
22 trial?
23 PROSPECTIVE JUROR: I'm 30 weeks pregnant.
24 THE COURT: I was going to say when are you due.
25 Goodbye, Ms. Ling, we're going to get you off this case.

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C2f0ann3

Voir dire

1 She might make it, but I think can we agree that Ms.
2 Ling --
3 MR. ARONWALD: Yes.
4 MR. CARBONE: Yeah.
5 THE COURT: We're now at juror number 13.
6 And then we'll be 14. And then we'll be 16, 17, 18.
7 So everyone in the box except 15, 13, 14 --
8 MR. SIANO: Number 12 had reference to Nick Spano; 12,
9 Judge.
10 THE COURT: Twelve. Thirteen, 14, 15, okay.
11 THE CLERK: You want 12?
12 THE COURT: Twelve, 13, 14, 15, 16, 17, everybody in
13 the box, okay.
14 THE CLERK: And the last juror number?
15 THE COURT: Juror number 10 was excused for cause.
16 PROSPECTIVE JUROR: Lilly Ling.
17 THE COURT: Juror number 11, should not come back.
18 Everybody else should come back in the box, starting with 12.
19 THE CLERK: Juror number 12, hi, please have a seat.
20 THE COURT: Ms. Jantz, good morning. You said you had
21 read something about the Senator Spano case?
22 PROSPECTIVE JUROR: Right.
23 THE COURT: Okay. Are you able to follow my
24 instruction that it has nothing to do with this case and you
25 should disregard it?

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Voir dire

1

PROSPECTIVE JUROR: Yes.

2

THE COURT: Okay, great. You can go back and sit

3

down.

4

PROSPECTIVE JUROR: Thank you.

5

THE COURT: Number 5 has the dates. We'll do this --

6

THE COURT: Juror number five has dates of her travel.

7

We'll do juror number 13.

8

THE COURT: Juror number 13, Mr. Conn. Hello, sir,

9

how are you?

10

PROSPECTIVE JUROR: Good evening, your Honor.

11

THE COURT: How are you.

12

Okay, first of all you said you had difficulty with

13

committing to the time?

14

PROSPECTIVE JUROR: Not so much the time, it's a

15

medical excuse.

16

THE COURT: You did mention medical. What was that?

17

PROSPECTIVE JUROR: I have a letter from my physician.

18

THE COURT: Yes. I'm going to share that with --

19

okay, so you are on a diuretic.

20

PROSPECTIVE JUROR: Yes, I am.

21

THE COURT: Okay. And I do apologize for asking, I --

22

if it makes you comfortable, I have a similar condition.

23

How frequently do you get up to use the bathroom.

24

PROSPECTIVE JUROR: Well, basically, almost every 15,

25

20 minutes, because I haven't taken my medication coming down

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Voir dire

1 here because, on the train, it's almost like 45 to 55 minutes
2 coming down and there is no bathroom. So I was waiting for a
3 chance to go and take my medication. But since then, I have
4 been going to the bathroom downstairs.

5 THE COURT: Okay. Why don't you go and have a seat
6 outside, thank you.

7 MR. ARONWALD: Before you bring in 14, Ms. Annabi
8 thinks that the juror that was just in here, number --

9 THE COURT: Thirteen.

10 DEFENDANT ANNABI: Thirteen.

11 MR. ARONWALD: Is someone that may have worked on a
12 political campaign against her. I was just letting you know
13 that.

14 THE COURT: Okay.

15 Juror number 14.

16 PROSPECTIVE JUROR: Good morning.

17 THE COURT: Good morning. This is juror number 14.

18 And this is Ms. Verille.

19 Ms. Verille, you indicated that you had some
20 familiarity with this case, you read something about
21 Ms. Annabi's and Mr. Jereis' case?

22 PROSPECTIVE JUROR: I try not to, it's in the Journal
23 News, New York Times.

24 THE COURT: Have you formulated an opinion about the
25 case that prohibits you from being a fair and impartial juror?

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Voir dire

1

PROSPECTIVE JUROR: No.

2

THE COURT: Can you follow my instructions that you
are not to read about this case?

4

PROSPECTIVE JUROR: Promise.

5

THE COURT: Promise, okay. Go back and take a seat
thank you.

7

THE CLERK: Juror number five.

8

THE COURT: Juror number five, yes. Dates?

9

PROSPECTIVE JUROR: March 22nd.

10

THE COURT: March 22nd, okay. We'll factor that in.
Have a seat out there.

12

PROSPECTIVE JUROR: Thanks.

13

THE COURT: Why do 15?

14

MR. SIANO: Duration of trial, Judge.

15

MR. ARONWALD: Duration of trial.

16

THE COURT: Fifteen?

17

MR. HALPERIN: I had had 16.

18

MR. SIANO: I have 15.

19

MR. CARBONE: You read 15 and changed it to 16.

20

THE COURT: This is juror number 16, Ms. Langhorne?

21

PROSPECTIVE JUROR: Yes.

22

THE COURT: Ms. Langhorne, okay.

23

Jim could somebody check with juror number 15 and see
if she raised her hands on duration of trial.

24

This is Ms. Langhorne?

25

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Voir dire

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Good morning, ma'am.

3 What is the problem with spending the time at the
4 trial?

5 PROSPECTIVE JUROR: Well, I made a commitment to --
6 I'm in a dance group. And I made a commitment with seniors
7 that that's what I would do, before the -- I was called for
8 jury duty. But if I have to do it, I will do it. The duty.

9 THE COURT: Thank you, Ms. Langhorne. Thank you very
10 much. You can go back and take a seat.

11 Okay, so, 17. Juror numbers 17, 18. And then we're
12 gonna go to -- juror number 17, Mr. Kantor. Good morning, sir.

13 PROSPECTIVE JUROR: Good morning, how are you.

14 THE COURT: Fine. Fine, thank you.

15 Why would you have some difficulty with the trial
16 time?

17 PROSPECTIVE JUROR: I have several reasons. My sister
18 is about to give birth, I have to go to the briss in a couple
19 of weeks. My wife is pregnant and having a lot of
20 complications. I have to take her to the hospital next week.
21 I'm closing on an apartment next month. If I don't show up, I
22 lose a hundred thousand dollars.

23 THE COURT: What is the date of the closing?

24 PROSPECTIVE JUROR: Last week of March.

25 THE COURT: We'll be done by then.

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Voir dire

1 PROSPECTIVE JUROR: I'm a tax lawyer, I need to be
2 around for March 15 deadlines for my job, or I can get in a lot
3 of trouble. I can go on, but is that enough?

4 THE COURT: No, not necessarily, not necessarily.
5 Okay, so no way of knowing when the briss is. For all we know,
6 it's gonna be on the Friday --

7 PROSPECTIVE JUROR: It's scheduled --

8 THE COURT: Eight days after the birth.

9 PROSPECTIVE JUROR: She's due on the -- supposed to be
10 due on March 4, I think.

11 THE COURT: That's nice. I have had three due dates.
12 They are meaningless.

13 PROSPECTIVE JUROR: It's a planned C-section.

14 THE COURT: Okay. So then we know. I'm glad she is
15 having a planned C Section on the fourth, it's a Sunday.

16 PROSPECTIVE JUROR: I'm estimating. It may be the
17 fifth, I don't remember.

18 THE COURT: Okay, fine. Around this time in March.
19 And I don't -- I don't really want to get into the details of
20 your wife's pregnancy.

21 How far along is she?

22 PROSPECTIVE JUROR: Only about for months, but we've
23 been in the hospital a couple of times already, complications.
24 I have to bring her in for a test in about 10 days to take her
25 home from the hospital.

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Voir dire

1 THE COURT: She's in the hospital now?

2 PROSPECTIVE JUROR: No, she has been in and out of the
3 hospital. She, as of right now, though, she is not in the
4 hospital, but I have to bring her back in about 10 days.

5 THE COURT: For a test. Do you know what the date of
6 that appointment is?

7 PROSPECTIVE JUROR: Off the top -- I don't have my
8 calendar with me, it's in my phone which they took it away from
9 me.

10 THE COURT: I know, big problem. I'm not the person
11 responsible for that decision.

12 Okay, go have a seat.

13 Juror number 18 -- juror number 17, come back for one
14 minute.

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Just wanted to ask, you had said that you
17 had read something or had some familiarity with the case
18 against Ms. Annabi.

19 PROSPECTIVE JUROR: Little bit. My wife's a
20 journalist. I get all of the news. And we talk about the big
21 stories she is working on.

22 THE COURT: For whom does your wife work?

23 PROSPECTIVE JUROR: CBS.

24 THE COURT: Is she working on this case?

25 PROSPECTIVE JUROR: She is -- she is the editor for

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C2f0ann3

Voir dire

1 CBS Radio News and works on every big story that they report
2 on.

3 THE COURT: All right, have a seat. Thank you.
4 Okay.

5 PROSPECTIVE JUROR: Good morning, your Honor.

6 THE COURT: Good morning. This is juror number 18,
7 Mr. Franz?

8 PROSPECTIVE JUROR: Correct.

9 THE COURT: What is the problem that you have, Mr.
10 Franz. You said there was a medical problem, and you had a
11 problem with the length of the trial.

12 PROSPECTIVE JUROR: I may not look it, people often
13 say, but I'm 65 years old.

14 THE COURT: You do not look it.

15 PROSPECTIVE JUROR: Thank you. I suffer from a benign
16 prostatic hyperplasia. In fact, I went to see a talk on it to
17 evaluate surgical alternatives exactly a week ago. What
18 happens is, I have to urinate very, very frequently. So I
19 think -- and sometimes I urinate at 9:00, and I have to urinate
20 again at 9:10 or 9:15, and then again at 10:00. And if I don't
21 urinate, it gets extremely painful and I loose all my focus,
22 that's one thing.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR: And I'm considered -- I brought a
25 whole bunch of articles.

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C2f0ann3

Voir dire

1 THE COURT: Don't worry about that.

2 PROSPECTIVE JUROR: Another thing, I have a partner
3 who had -- he is a teacher, he had two part-time jobs, he just
4 quit one. He is under the care of a psychiatrist, takes
5 various medications. Without me being there to get him up and
6 get him going, he is helpless. For example yesterday I was
7 here all day, he slept the whole day through. So I kind of
8 have to get him going in life. So it's basically those two
9 things.

10 THE COURT: Okay. Thank you. Have a -- go have a
11 seat.

12 Do we have someone in the courtroom who can let people
13 go back in the courtroom and use the facilities.

14 THE CLERK: They're using the other bathrooms on the
15 floor, they're fine.

16 THE COURT: Okay, great.

17 Now the next juror who said anything about anything,
18 is juror number 23.

19 MR. SIANO: We have juror 20 with a medical.

20 MR. HALPERIN: Yeah.

21 THE COURT: You're right, juror 20 has a medical.

22 This is juror number 20, Ms. Fields.

23 PROSPECTIVE JUROR: Hi.

24 THE COURT: Hi, Ms. Field, have a seat.

25 Ma'am, what is the medical problem?

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Voir dire

1 PROSPECTIVE JUROR: Okay. This is very hard for me to
2 talk about.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR: And before I --

5 THE COURT: It's all under seal, you don't have to
6 worry about it.

7 PROSPECTIVE JUROR: It's embarrassing, it's personal.

8 When I was called for jury duty, I was originally
9 going to get a medical note. But I decided that I wanted to do
10 this, and I thought I could. It's an emotional problem. And
11 it doesn't affect me anywhere but in situations where I'm put
12 behind closed doors and I can't leave, okay. At will. So
13 doesn't affect me very often. Even -- I'm retired. I have had
14 a successful career and a normal life. I raised two children.
15 So I want to be normal in every way. But due to a -- an
16 experience that I had in school where I was not allowed out of
17 the classroom, I have this problem. And it happens on
18 airplanes sometimes if they don't let you get up. And that is
19 I end up having to go to the bathroom. And when I -- you know
20 it's going to happen, it doesn't matter if I drink liquids or
21 not. It's just all this liquid is coming, not just like a
22 feeling. So it started happening in the courtroom, okay. And
23 I don't think that I can sit through five weeks of this anxiety
24 and pay attention.

25 THE COURT: Okay. And that's very honest.

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Voir dire

1 PROSPECTIVE JUROR: To be honest with you, I would
2 think it very interesting. And I would like to do it. But I
3 just don't think -- if I knew I could leave any time I wanted,
4 and the door was opened, then it would stop. It's just this
5 feeling of being enclosed in an authority situation. That --
6 that makes me have very anxious feelings.

7 THE COURT: Okay, thank you.

8 PROSPECTIVE JUROR: Okay.

9 THE COURT: Juror number 23. This is Mr. Brand, how
10 are you.

11 PROSPECTIVE JUROR: Good morning, your Honor,
12 everybody.

13 THE COURT: Okay, Mr. Brand, what's the problem with
14 the length of the trial other than it is longer than one would
15 like?

16 PROSPECTIVE JUROR: I'm going to India to be in a
17 wedding, so.

18 THE COURT: When are you leaving?

19 PROSPECTIVE JUROR: I don't know if I need it, but I
20 brought a copy of the airplane ticket.

21 THE COURT: When are you leaving?

22 PROSPECTIVE JUROR: On the 25th, ma'am.

23 THE COURT: Of this month?

24 PROSPECTIVE JUROR: Yes, ma'am.

25 THE COURT: Go have a seat, please.

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Voir dire

1 PROSPECTIVE JUROR: Do you need this, ma'am?

2 THE COURT: I don't.

3 MR. HALPERIN: Just cross him out.

4 THE COURT: We'll -- okay, juror number 24, who may
5 know, who knows, Ms. Gallego. Also, this is juror number 24,
6 Ms. Silva. Hello, Ms. Silva, how are you.

7 First of all, we understand that you know Ms. Gallego.

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: And she worked for you?

10 PROSPECTIVE JUROR: Yes. She was my legal intern.

11 THE COURT: Is there anything about that fact that
12 would make you unable to be fair and impartial in the case?

13 PROSPECTIVE JUROR: When I prefer not to, I'm --

14 THE COURT: Preferences aside, can you -- I appreciate
15 that she worked for you. Can you put that to one side and be
16 fair and impartial and decide the case on the basis of the
17 evidence and the law, like all good lawyers should?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: I knew the answer to that question. Now,
20 you indicated there was a problem you had with the length of
21 the trial?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR: Well, I'm an attorney, and I will
25 be -- I don't have anyone else to cover. I work for a

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Voir dire

1 nonprofit organization, and I train and mentor other attorneys,
2 so they rely on me.

3 THE COURT: Where do you work?

4 PROSPECTIVE JUROR: Organization is called In Motion.

5 THE COURT: Can you tell me about the organization?

6 PROSPECTIVE JUROR: Yeah. What we do, is we train and
7 mentor attorneys on pro bono cases specific to family, divorce,
8 orders of protection, some aspects of criminal cases, in the
9 integrated domestic violence court and on immigration cases.

10 THE COURT: So what you do is you help to train and
11 mentor.

12 PROSPECTIVE JUROR: Pro bono attorneys.

13 THE COURT: Attorneys like Ms. Gallego.

14 PROSPECTIVE JUROR: Correct.

15 THE COURT: Fine.

16 PROSPECTIVE JUROR: For pro bono.

17 THE COURT: And tell me about the organization, how
18 large is it, how many people work there?

19 PROSPECTIVE JUROR: We have a staff of about 40
20 people. We have a small staff of attorneys, eight to 10
21 attorneys. And, collectively, we supervise over 800 cases that
22 are being handled pro bono throughout the year.

23 THE COURT: Okay. All right. And you also indicated
24 that you were, I guess, familiar with Mayor Spano?

25 PROSPECTIVE JUROR: Yes. I worked in White Plains
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Voir dire

1 while I was at Legal Services of Hudson Valley, Westchester
2 Legal Services before then. So I am very familiar with White
3 Plains. I worked there for about five years. And in the
4 context, I worked alongside, on some cases with Jeanine Pirro,
5 who was district attorney at the time, just at meetings, not
6 actually on cases, but --

7 THE COURT: Is there anything about your acquaintance
8 with any of the political people in Westchester whom you came
9 into contact with during that era that would cause you to not
10 be able to be fair and impartial in this case?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Okay, thank you. You may have a seat
13 outside.

14 The next is juror number 25, and then 27.

15 MR. HALPERIN: Judge, I just want to mention about the
16 previous juror that --

17 THE COURT: Wait a minute.

18 MR. HALPERIN: She may well -- she may well know my
19 wife. I don't know if that matters. My wife works in that
20 field, does training of attorneys.

21 THE COURT: Bring 24 back.

22 What's your wife's name?

23 MR. HALPERIN: Rachel Chazin Halperin.

24 THE COURT: Hi, just wanted to know, did you ever know
25 anyone named Rachel Chazin Halperin?

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Voir dire

1 PROSPECTIVE JUROR: The name sounds familiar, but I
2 can't be sure that I have had any dealings with her.

3 THE COURT: Okay, thank you.

4 Now juror number 25.

5 PROSPECTIVE JUROR: Twenty-five, yes.

6 THE COURT: Thank you.

7 Hello, this is juror number 25.

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: This is Ms. Alba.

10 What is the problem with the time commitment?

11 PROSPECTIVE JUROR: It's just really tough to leave
12 subplans for art, you know, like when it comes to painting --

13 THE COURT: You're a teacher?

14 PROSPECTIVE JUROR: Yes, I teach art, eighth grade.

15 And it's a long stretch to leave plans for a sub, because a lot
16 of things can't be explained on paper. I have to be able to
17 demonstrate it. And my students are heading into some painting
18 and clay projects. And I just feel that it would be very
19 disappointing for them, if I had to leave just, you know -- you
20 know.

21 THE COURT: As the mother of an art teacher, I
22 appreciate what you are saying. Have a seat. Thanks.

23 Juror number 27 I think is next. Have a seat.

24 This is juror number 27.

25 Mr. Nevala-Lee.

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Voir dire

1 PROSPECTIVE JUROR: Correct.

2 THE COURT: Sir, what is the problem with the length
3 of the trial.

4 PROSPECTIVE JUROR: It's a work thing. So I'm a free
5 lancer. So if I don't work, I don't get paid. And sort of a
6 fundamental thing. I'm an illustrator, so I work mostly for
7 architectural projects. So if I miss -- I have sort of taken
8 two weeks off already for this. Even me missing five weeks
9 doesn't necessarily mean I miss five weeks of work. It can
10 extend further than that, because I'll miss the beginning of
11 projects, and I can't sort of pick up right away.

12 THE COURT: Are you up for any projects right away?

13 PROSPECTIVE JUROR: So I actually have something
14 booked -- depending on if I was going to be called, I have
15 something booked starting Friday, which would go into next
16 week, but I told them I have two weeks I'm supposed to commit
17 to this. But I'm, again, booked starting the 27th, I believe
18 whatever the Monday following is.

19 THE COURT: And you indicated that you knew the name
20 of Mayor Spano.

21 PROSPECTIVE JUROR: Yes. And also the state senator,
22 just from the news.

23 THE COURT: Anything about your knowledge of those
24 people's names, who they are, that would -- the fact that they
25 are involved in politics in Yonkers -- and we're going to be

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Voir dire

1 talking about politics in Westchester County, that would make
2 it hard for you to be a fair and impartial juror?

3 PROSPECTIVE JUROR: No, I don't think so. I think
4 it's removed enough from me.

5 THE COURT: Thank you. Thank you very much.

6 PROSPECTIVE JUROR: Thank you.

7 THE COURT: Juror number 28.

8 MR. HALPERIN: I think we excused --

9 THE COURT: That's right. Juror number 28, excused
10 because he worked for U.S. Attorney.

11 Juror number 30 indicated familiarity with some names.

12 THE COURT: Juror number 30 is Mr. Grillo.

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Mr. Grillo, you live in Yonkers and you
15 have heard of your mayor?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Is there anything about the fact that this
18 case is going to involve Yonkers, Yonkers politics, that is
19 going to make it hard for you to be fair and impartial in this
20 case?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Do you have a reason that you could think
23 of right this minute why you couldn't sit on the case?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Have a seat.

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Voir dire

1 MR. ARONWALD: He also indicated that he knew Barbato,
2 a witness in the case.

3 THE COURT: One second, one more question. Just one.
4 You said you knew somebody named Barbato?

5 PROSPECTIVE JUROR: I used to live in a district that
6 she was a counselwoman, and --

7 THE COURT: You don't I think that will have an
8 impact?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Fine. Go on back.

11 Juror number 32.

12 Hello, this is juror number 32. Mr. Portnoy. How are
13 you?

14 PROSPECTIVE JUROR: I'm well, how are you.

15 THE COURT: Fine, thank you. Tell me what the problem
16 is with the length of the trial.

17 PROSPECTIVE JUROR: We have two little kids, my wife
18 travels. We have to -- you know, I occasionally -- well, not
19 occasionally, I make arrangements to go get the kids, pick them
20 up from school, right, take care of the stuff at night.

21 THE COURT: Okay. And did your wife have any trips
22 planned for the next four, five weeks?

23 PROSPECTIVE JUROR: She does.

24 THE COURT: Can you tell us when?

25 PROSPECTIVE JUROR: I have to go check with her. She

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Voir dire

1 typically travels every couple of weeks or so.

2 THE COURT: If we give you a phone, can you give your
3 wife a call and find out what her travel schedule is?

4 PROSPECTIVE JUROR: I probably could.

5 THE COURT: I would like that, and appreciate it.
6 Thank you so much.

7 PROSPECTIVE JUROR: Not a problem, sorry.

8 THE COURT: You also said there was a medical problem?

9 PROSPECTIVE JUROR: Yes. I can't sit for more than an
10 hour, hour and a half. I have severe lower back problems.

11 THE COURT: We have that problem with jurors all of
12 the time. We let them stand up.

13 PROSPECTIVE JUROR: Okay.

14 THE COURT: All right.

15 Juror number 34. This is Ms. Astorino.

16 PROSPECTIVE JUROR: Hello.

17 THE COURT: Juror number 34. Any relationship to the
18 Westchester County Executive by any chance?

19 PROSPECTIVE JUROR: Yes, Rob? My cousin.

20 THE COURT: He's your cousin, okay. Which may be why
21 you have heard of some of these people.

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Okay. You indicated that you had a
24 problem with the length of the trial.

25 PROSPECTIVE JUROR: I was recently promoted to a new
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Voir dire

1 position in my job, coordinator for client care. And I'm
2 responsible for reporting reports to our funders and training
3 of all new staff.

4 THE COURT: And where do you work?

5 PROSPECTIVE JUROR: I work for NADAP.

6 THE COURT: What?

7 PROSPECTIVE JUROR: National Association for Drug
8 Abuse Problems, funded by HRA, Oasis, and the Office of the
9 Department of Mental Health and Hygiene. We do all of the
10 substance abuse assessments on 16th Street for the whole
11 tri-state area. And I just got promoted to a new position.

12 THE COURT: Congratulations.

13 PROSPECTIVE JUROR: And four days out of the week,
14 four, three weeks, I am responsible for training all new staff,
15 and reporting, and it would be a burden right now to my job --

16

17 THE COURT: I appreciate that it would be a burden.

18 PROSPECTIVE JUROR: -- to them.

19 THE COURT: Is there anything about the fact that you
20 are going to be familiar with a lot of these people, because of
21 your family connection, that you think would make it hard for
22 you to be a fair and impartial juror in the case?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Okay. Okay, all right, thank you.

25 PROSPECTIVE JUROR: Thank you.

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Voir dire

1 THE COURT: Thirty-five.

2 Okay, juror number 35, Benaissa?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Good. Okay, what is the problem you have
5 with the length of the trial?

6 PROSPECTIVE JUROR: Basically it's just my job, I --
7 right now, my husband is unemployed. So I just didn't want to
8 jeopardize my job. I have recently been transferred to another
9 department --

10 THE COURT: It is illegal for them to fire you for
11 jury duty.

12 PROSPECTIVE JUROR: Well, then, there is no problem
13 then, I guess that's -- we're very busy at work, I've moved to
14 another department --

15 THE COURT: Where do you work?

16 PROSPECTIVE JUROR: Mastercard Worldwide, in
17 Purchase --

18 THE COURT: Okay, great. Have a seat, thank you.

19 PROSPECTIVE JUROR: That's it?

20 THE COURT: You know, I will -- I will tell you that
21 if an employer ever tried to fire somebody for jury duty, that
22 employer would get hauled in front of me. All you have to do
23 is call.

24 PROSPECTIVE JUROR: That's it? Thank you.

25 THE COURT: Yeah.

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Voir dire

1 Juror number 36. This is juror number 36, Mr.
2 Ferreira?
3 PROSPECTIVE JUROR: Yes.
4 THE COURT: How are you?
5 PROSPECTIVE JUROR: Doing well. Yourself?
6 THE COURT: I'm doing okay.
7 I'm trying to find you on my list, of which there are
8 many. And it says you have read something about Senator
9 Spano's case?
10 PROSPECTIVE JUROR: Just in the newspaper. It was tax
11 evasion or tax fraud or something like that.
12 THE COURT: Right, okay.
13 As I said it has nothing to do with this case.
14 Because his name is going to come up, I need to mention it.
15 PROSPECTIVE JUROR: Sure.
16 THE COURT: Is there anything about the fact his name
17 is going to come up, anything that you would bring into this
18 case?
19 PROSPECTIVE JUROR: Nope. It's just something that --
20 THE COURT: Just that, okay. Fine, thanks. Go back.
21 PROSPECTIVE JUROR: Thank you.
22 THE COURT: Juror 37.
23 This is Santos.
24 PROSPECTIVE JUROR: Yes.
25 THE COURT: Ms. Santos, you have a problem with the
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Voir dire

1 THE COURT: Juror number 38. Ms. Jusino. Thank you.
2 Ma'am, what's your -- you have a problem with the
3 length of the case, what's the problem.

4 PROSPECTIVE JUROR: Good morning, your Honor. This
5 trial is supposed to run from three to five weeks. I'm
6 supposed to be starting a new position in the beginning of
7 March.

8 THE COURT: New job?

9 PROSPECTIVE JUROR: A new job, a new clinic they are
10 starting.

11 THE COURT: When do you start?

12 PROSPECTIVE JUROR: Beginning of March.

13 THE COURT: What day?

14 PROSPECTIVE JUROR: They want to start the first, the
15 first of March.

16 THE COURT: March 1.

17 Where are you going to be working?

18 PROSPECTIVE JUROR: In the same place, a new clinic
19 opening up.

20 THE COURT: Who do you work for now?

21 PROSPECTIVE JUROR: ICD. It's a rehab center.

22 THE COURT: Okay. And are they affiliated with
23 anyone. Are they an independent -- are they affiliated with
24 one of the hospitals?

25 PROSPECTIVE JUROR: No, they are independent.

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Voir dire

1 THE COURT: Yes. So you have been promoted, or you
2 have gotten a new position with --
3 PROSPECTIVE JUROR: They want to start a new clinic,
4 and they want me to be there. It's a new position.
5 THE COURT: What do you do?
6 PROSPECTIVE JUROR: I work for finance department in a
7 rehab center.
8 THE COURT: Okay. All right, thank you. Have a seat.
9 PROSPECTIVE JUROR: Thank you.
10 THE COURT: Juror number 39.
11 Juror number 39 is Schulman?
12 PROSPECTIVE JUROR: Yes, your Honor.
13 THE COURT: Hello, how are you, Mr. Schulman. You
14 indicated you have difficulty with the length of the trial.
15 PROSPECTIVE JUROR: Yes, I'm an associate attorney at
16 a small firm. I put in a lot --
17 THE COURT: What firm?
18 PROSPECTIVE JUROR: Stein Riso Mantel.
19 THE COURT: I'm sure you put in a lot of time.
20 PROSPECTIVE JUROR: And just because I'm here, doesn't
21 mean I won't be working. I was in at 6:30 this morning, I'm
22 going to go back later this afternoon. And if it was a week or
23 two, I could understand and deal with it. But five weeks might
24 be difficult. I have court appearances in early March.
25 THE COURT: Okay. And you also indicated that you had
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Voir dire

1 read something about the recent guilty plea of Senator Spano.

2 PROSPECTIVE JUROR: Yes, I know he pled guilty to
3 something about tax fraud, and I know he was charged with more
4 serious crimes, I think. I believe involving corruption, but
5 I'm not sure.

6 THE COURT: And is there anything about -- as I said,
7 Senator Spano's case has nothing to do with the case. It's
8 unfortunate that his name is going to come up and has been in
9 the paper recently. Is there anything about the fact that his
10 name has appeared in the paper, anything you have read about
11 him, so that you think you could not follow my instructions,
12 that that matter has to be disregarded?

13 PROSPECTIVE JUROR: With respect to Senator Spano?

14 THE COURT: Yeah.

15 PROSPECTIVE JUROR: No. I probably -- I mean I don't
16 know how it would impact his case.

17 THE COURT: I will tell you, you are not allowed to
18 let it impact, it can't have any impact. Can you follow that
19 instruction?

20 PROSPECTIVE JUROR: I believe I could, your Honor.

21 THE COURT: Okay, thank you. Have a seat.

22 Juror number 40. This is juror number 40, Ms.

23 Adesuyi?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Ms. Adesuyi, you have some problems with
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Voir dire

1 the length of the trial. What is the problem?

2 PROSPECTIVE JUROR: I'm thinking about my employer, I
3 don't know if they're going to give me that period of time.

4 THE COURT: Who is your employer?

5 PROSPECTIVE JUROR: Montefiore Medical Center.

6 THE COURT: Yes, they will. They know about these
7 things. They have to, by law, okay. And they can't let you go
8 or anything like that. Okay?

9 PROSPECTIVE JUROR: All right.

10 THE COURT: Okay, thank you.

11 PROSPECTIVE JUROR: Thank you.

12 THE COURT: The next juror is juror 42. Ms. McDaniel.
13 Have a seat. How are you?

14 PROSPECTIVE JUROR: I'm good.

15 THE COURT: Okay, ma'am, you said you had some
16 problems with the length of a trial.

17 PROSPECTIVE JUROR: Yes. I work in the Bronx at the
18 Montefiore Hospital. I'm also on the Jobs Committee and Labor
19 Management Committee. They have had a lot of displacements in
20 our hospital and, right now, that's what we're doing. There is
21 a second rash of displacements in our hospital and we are
22 responsible for placing our members.

23 THE COURT: Okay. So you're a union rep you work at
24 Montefiore Hospital which is an employer that supports its
25 people during jury service.

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Voir dire

1 Now, you also indicated that you had recognized Nick
2 Spano's name.
3 PROSPECTIVE JUROR: Just in the papers.
4 THE COURT: Anything about that that would make it
5 hard for you to be a fair and impartial juror?
6 PROSPECTIVE JUROR: No.
7 THE COURT: Okay, go have a seat.
8 PROSPECTIVE JUROR: Okay, thanks.
9 THE COURT: Forty-three. Forty-three, 44, 45, 46, 47,
10 5 in a row.
11 Here, this is juror number 43.
12 PROSPECTIVE JUROR: Hello, your Honor.
13 THE COURT: Mr. Abrajan?
14 PROSPECTIVE JUROR: Yes.
15 THE COURT: Sir, you indicated that you had some
16 issues with the length of the trial. Could you tell us what
17 the problem is?
18 PROSPECTIVE JUROR: Well, not really the problem is --
19 is hard for me. When you say does anybody have to read and
20 write and to communicate, it's a little bit hard for me to read
21 and understand.
22 THE COURT: A little bit hard for you to read and
23 understand in English?
24 PROSPECTIVE JUROR: Yeah, right. I mean some -- in
25 many cases, they using -- I don't understand many unusual

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Voir dire

1 words.

2 THE COURT: You don't understand unusual words? What
3 do you do for a living, sir?

4 PROSPECTIVE JUROR: Huh?

5 THE COURT: What do you do for a living, what is your
6 job?7 PROSPECTIVE JUROR: I'm driving a small bus in
8 airport.9 THE COURT: You drive a bus.
10 And how long have you been in the United States? Were
11 you born here? Did you come here from somewhere else?

12 PROSPECTIVE JUROR: I got 18 years.

13 THE COURT: 18 years, okay.

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: What language do you speak in your home?

16 PROSPECTIVE JUROR: Spanish, with my wife.

17 THE COURT: Okay. And on the job?

18 PROSPECTIVE JUROR: I -- English.

19 THE COURT: English, okay.

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Okay, fine.

22 Now, I'm not having any difficulty communicating with
23 you, but you say this is an issue of --24 PROSPECTIVE JUROR: Not really really difficult, a
25 little bit, just a little bit. I do understand.

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Voir dire

1 THE COURT: Okay. All right, thank you.

2 PROSPECTIVE JUROR: Uh-huh.

3 THE COURT: But that's the problem. There is no
4 problem with the fact that the trial is going to run for some
5 weeks.

6 PROSPECTIVE JUROR: No. No, I don't think so.

7 THE COURT: Okay, thank you. Have a seat, okay?
8 Thank you.

9 Juror number 44. Juror number 44 is Ms. Brenner.
10 Hello, what's the problem with the length of the trial?

11 PROSPECTIVE JUROR: My job right now. It's the height
12 of our season, and my boss --

13 THE COURT: Where do you work?

14 PROSPECTIVE JUROR: Tommy Bahama swimwear. My boss is
15 travelling majority of the month of March. And I'm the only
16 point person that the buyers have to give orders in, and I'm
17 the only point person between our warehouse and shipping the
18 orders. And if we don't get the orders out, there is no
19 product that is in. And if I'm not there, then nothing is
20 going to be able to go through.

21 THE COURT: Are you compensated during jury service?

22 PROSPECTIVE JUROR: I am.

23 THE COURT: Okay, thank you. Have a seat.

24 Okay, juror number 45.

25 PROSPECTIVE JUROR: Hi.

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Voir dire

1 THE COURT: Juror number 45. Ms. Miller.

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Hello, Ms. Miller. What's the problem you
4 have with the length of the trial?

5 PROSPECTIVE JUROR: Well, my mother has Alzheimer's,
6 and we're trying to move her out of her house on April 1. So I
7 was going to take March off from work and like help her get her
8 house ready and stuff like that. That's the biggest one.
9 There is some other smaller things.

10 THE COURT: Well, keep going.

11 PROSPECTIVE JUROR: Okay. I work at New York Times.
12 I'm a writer, so working on some projects.

13 THE COURT: All right, next?

14 PROSPECTIVE JUROR: And I have a son in school who
15 gets out at 3:30. Those are the three main reasons.

16 THE COURT: And what happens to him between 3:30 and
17 4:30, 5:30. How old is he?

18 PROSPECTIVE JUROR: Third grade. So half the time
19 usually I pick him up from school.

20 THE COURT: And when you don't?

21 PROSPECTIVE JUROR: He has a babysitter.

22 THE COURT: Okay. And can arrangements be made to
23 have him picked up four days a week?

24 PROSPECTIVE JUROR: Yup.

25 THE COURT: Okay, thank you.

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C2f0ann3

Voir dire

1 PROSPECTIVE JUROR: Thank you.
2 THE COURT: Okay. Juror number 46.
3 Hello, this Mr. Moyne?
4 PROSPECTIVE JUROR: Yes.
5 THE COURT: Mr. Moyne, you indicated that you had some
6 difficulty with the length of the trial.
7 PROSPECTIVE JUROR: Yes, your Honor. I'm an attorney,
8 I had been working for the State of New York for a judge for 10
9 years. But for the last year, I'm now in private practice.
10 And I'm relatively new at the firm.
11 THE COURT: What firm are you working at?
12 PROSPECTIVE JUROR: The name of the firm is Faruk &
13 Faruk. My practice is securities litigation and consumer class
14 action. And it would just be a --
15 THE COURT: Burden to the firm, if you were not there.
16 PROSPECTIVE JUROR: And it would also be a burden to
17 me, given that I'm relatively new and still trying to, you
18 know --
19 THE COURT: Okay.
20 PROSPECTIVE JUROR: For the length of time you are
21 talking about, it would --
22 THE COURT: And you were a law secretary for 10 years?
23 PROSPECTIVE JUROR: Correct.
24 THE COURT: To which judge?
25 PROSPECTIVE JUROR: Judge Marilyn Diamond.

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Voir dire

1 THE COURT: Okay. And you indicated that you were
2 familiar with Senator Spano's recent legal troubles?

3 PROSPECTIVE JUROR: Yes. I read about it in the
4 newspaper.

5 THE COURT: Okay.

6 My instruction to the jurors is that it's of no
7 relevance here. The only reason I mentioned it is because his
8 name is going to come up inevitably at the trial, but it's to
9 be entirely disregarded, has nothing to do with the case.

10 Can you follow that instruction?

11 PROSPECTIVE JUROR: I could follow that instruction
12 yes.

13 THE COURT: Thank you, sir.

14 PROSPECTIVE JUROR: May I just very briefly mention
15 one thing. I know this may be dealt with later. But if you
16 don't mind my mentioning it now, just so everybody knows. My
17 sister, Parvin Moyne is an Assistant United States Attorney in
18 the Southern District in the Criminal Division. I don't
19 believe she -- I mean I actually don't know if she is works on
20 cases of this type or not --

21 THE COURT: She doesn't work on this case.

22 Would you assure us that you would not be discussing
23 this case with anyone, including your sister, if you were
24 chosen for this jury?

25 PROSPECTIVE JUROR: I certainly would not do that, but

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Voir dire

1 Anybody see one before that?

2 MR. ARONWALD: 50 is the next one.

3 THE COURT: Juror number 50?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Nedow. Ms. Nedow, you said you have some
6 problems with the length of the trial?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: What is the problem?

9 PROSPECTIVE JUROR: I may answer some of your other
10 questions, as well, in the course of it. Like criminal justice
11 system. I'm an attorney with the New York City Law Department.
12 I have been so for about 15 years. And while I tried to keep
13 this week light, and next week, hoping for maybe two weeks --

14 THE COURT: Ms. Nedow, you're not getting out of the
15 jury because you work for Corporation Counsel, okay, so that's
16 a nonstarter.

17 Now, let's talk about anything else.

18 PROSPECTIVE JUROR: Right. So I'm taking an annual
19 vacation beginning the first week of April and I can't
20 fathom --

21 THE COURT: Trial will be over.

22 PROSPECTIVE JUROR: -- working at least five or seven
23 hours a night after jury duty every night.

24 THE COURT: I'll call Mr. Cardoza, personally.

25 PROSPECTIVE JUROR: I understand.

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Voir dire

1 THE COURT: He's a friend.

2 Next? Next issue. You indicated that you had read
3 something about --

4 PROSPECTIVE JUROR: I just read the papers. I
5 didn't -- just from reading newspapers.

6 THE COURT: I'm obviously going to tell the jurors
7 that Senator Spano's situation has nothing at all to do with
8 the case.

9 Can you follow that instruction?

10 PROSPECTIVE JUROR: Of course.

11 THE COURT: And can you follow my instruction that you
12 not read about this case in the newspapers?

13 PROSPECTIVE JUROR: Sure.

14 THE COURT: Okay, terrific.

15 Thank you. You can have a seat outside.

16 PROSPECTIVE JUROR: Thank you.

17 Juror number 51. This is Mr. Gignac?

18 PROSPECTIVE JUROR: Yeah, you're like one of the first
19 people to ever get it right. Nice job.

20 THE COURT: I'm thrilled. My name is mispronounced
21 enough that I'm really sensitive to that issue, so I'm glad I
22 got it right.

23 Tell me what the problem is with the length of the
24 case.

25 PROSPECTIVE JUROR: So I'm self-employed free-lance

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C2f0ann3

Voir dire

1 advertising art director and entrepreneur. I put my.
2 freelancing on hold since October to launch a new business,
3 launching this week and next week, just myself and a partner.
4 So if I don't -- I'm working 14 to 16 hour days already, trying
5 to get it off the ground.

6 THE COURT: What is it?

7 PROSPECTIVE JUROR: Website for freelancers. And free
8 lancers go to the site, they make a profile with current
9 availability, and agencies follow them and get a notification
10 the second they are available to work, so bringing everybody
11 together. So if I'm not involved in it, then it's not gonna
12 happen. And I'm running out of savings, so I kind of need to
13 see this through and have it start making money in the next
14 couple of weeks, so.

15 THE COURT: Okay. All right. Have a seat.

16 I'm sorry, you had a seat. Have a different seat.

17 Yes.

18 Juror number 53. This is Ms. George. Hello,

19 Ms. George, how are you?

20 PROSPECTIVE JUROR: Okay, thanks.

21 THE COURT: Okay.

22 Ma'am, you need to speak up so this lady can take down
23 what you are saying, all right?

24 PROSPECTIVE JUROR: All right.

25 THE COURT: Thank you. You had some difficulty with

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C2f0ann3

Voir dire

1 the fact that the trial is going to take a number of weeks.
2 What is the problem?

3 PROSPECTIVE JUROR: Yes. When you initially asked if
4 there was anyone with medical issues, to raise their hands, I
5 didn't, because I thought, you know, if this was going to be a
6 short stint, I might be able to get through it.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR: But I do have some --

9 THE COURT: What's the medical issue?

10 PROSPECTIVE JUROR: Problems with my legs. And I
11 think it's called venous insufficiency, where I get discomfort
12 and burning sensations in my legs, especially if I'm sitting
13 for a prolonged period of time.

14 THE COURT: And if you stand up for a while, does that
15 relieve the problem?

16 PROSPECTIVE JUROR: If I stand up and stretch and, you
17 know, go for a walk, that might -- might help it.

18 I also have a -- sometimes I have -- I don't sleep
19 very well sometimes. And so I question whether I can
20 consistently be alert and, you know, throughout a prolonged
21 trial.

22 THE COURT: Okay. Is there anything else?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Any other issue?

25 What do you do for a living?

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Voir dire

1 PROSPECTIVE JUROR: I'm a nurse.
2 THE COURT: Okay. And you work, where?
3 PROSPECTIVE JUROR: Americare is the name of my
4 company.
5 THE COURT: All right, thank you very much, ma'am.
6 PROSPECTIVE JUROR: Thank you.
7 THE COURT: Have a seat outside.
8 PROSPECTIVE JUROR: Okay.
9 THE COURT: Feel free to stand up and stretch whenever
10 it suits.
11 PROSPECTIVE JUROR: Okay, thank you.
12 THE COURT: Could I see Ms. George for one more
13 minute?
14 Ms. George, I don't want to make you sit down.
15 Do you tend to miss days of work because of the lack
16 of sleep at night? I mean do you call in sick for that reason,
17 that you don't go to work.
18 PROSPECTIVE JUROR: I have called in sick, not quite
19 often. I don't call in sick.
20 THE COURT: Not that often?
21 PROSPECTIVE JUROR: No.
22 THE COURT: Okay. All right, I mean I'm talking about
23 specifically because you can't sleep, you're not alert.
24 Obviously, it would not be a good thing for a nurse not to be
25 alert.

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Voir dire

1 PROSPECTIVE JUROR: That's true.

2 THE COURT: Okay, thank you very much.

3 PROSPECTIVE JUROR: Thank you.

4 THE COURT: Fifty-five, I believe is next, is that
5 correct.

6 Have a seat, please. This is juror number 55, Mr.
7 Fisher. I think you answered every question, Mr. Fisher. So
8 this is easy. First of all, what's the problem that you have
9 with the length of the trial.

10 PROSPECTIVE JUROR: I'm in sales. I get paid for
11 selling. If I'm not there, I won't sell.

12 THE COURT: Where do you work?

13 PROSPECTIVE JUROR: Extensis, Woodbridge, New Jersey.
14 HR outsourcing company.

15 THE COURT: Okay. So you sell --

16 PROSPECTIVE JUROR: An HR service to small businesses.

17 THE COURT: To small businesses. Okay, fine.

18 All right, so that's one issue. And then you
19 indicated that you were familiar with this particular case, the
20 case against Ms. Annabi and Mr. Jereis?

21 PROSPECTIVE JUROR: That is correct.

22 THE COURT: How are you familiar with it?

23 PROSPECTIVE JUROR: Through the news and,
24 unfortunately, as of this morning, with The Wall Street
25 Journal.

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Voir dire

1 THE COURT: Okay. And is it -- have you formed any
2 opinions about the case that would prevent you from being a
3 fair and impartial juror?
4 PROSPECTIVE JUROR: I had -- yes.
5 THE COURT: And would you be able to follow my
6 instruction that you are to disregard matters that have been
7 seen outside of the courtroom and to not to follow this case in
8 the press during the course of the trial?
9 PROSPECTIVE JUROR: I don't believe so.
10 THE COURT: Okay, thank you very much. Have a seat
11 outside.
12 Next, juror is 58. This is Deleon?
13 PROSPECTIVE JUROR: Yes.
14 THE COURT: I'm going to guess that you live in
15 Yonkers, right?
16 PROSPECTIVE JUROR: Yes, I do.
17 THE COURT: Okay. So you know who your mayor is?
18 PROSPECTIVE JUROR: Yes.
19 THE COURT: Is there anything about the fact that you
20 are a Yonkers resident, that this case involves Yonkers
21 politics, development in Yonkers, that you will hear names
22 about local political people that would make it hard for you to
23 be a fair and impartial juror?
24 PROSPECTIVE JUROR: I don't think so, no.
25 THE COURT: Okay. You do have a problem with the
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Voir dire

1 had an issue with the length of the trial. You recognize a
2 number of the names. Is there anything about what you have
3 read --

4 PROSPECTIVE JUROR: Recognize the names from the past,
5 I don't read the newspapers, I don't trust the newspapers.

6 THE COURT: Oh, okay.

7 PROSPECTIVE JUROR: But I just know the names from --

8 THE COURT: Is there anything -- have you formed any
9 impression --

10 PROSPECTIVE JUROR: No.

11 THE COURT: -- of any of these people that would
12 prevent you from giving these folks a fair and impartial trial?

13 PROSPECTIVE JUROR: No, I --

14 MR. ARONWALD: Judge, I thought he was going to say
15 something, I don't know.

16 PROSPECTIVE JUROR: Huh?

17 MR. ARONWALD: Were you going to say --

18 PROSPECTIVE JUROR: I was going to say I believe
19 everybody has a right to a fair and impartial trial.

20 MR. ARONWALD: I knew he was going to say something,
21 and I --

22 THE COURT: Okay. Sixty-one and 62 are on the list.
23 Sixty-four, Ms. Barone, have a seat, please.
24 Hi, Ms. Barone.

25 PROSPECTIVE JUROR: Hello, how are you.

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Voir dire

1 THE COURT: Good, thank you.

2 You said you had some issues with the length of the
3 trial?

4 PROSPECTIVE JUROR: Yeah, I have a meeting
5 at 5:30 this evening to finalize I'll take a job I have been
6 courting for the last few weeks.

7 THE COURT: So possibly going to have a new job.

8 PROSPECTIVE JUROR: Yeah, I'll take all of your good
9 vibes at 5:30. I'm in real estate, and it's been a tough
10 4 years to say the least. So I have met with them many times
11 and had lunch and discussions, so this, hopefully, is the final
12 discussion.

13 THE COURT: Not that you have the offer, but you're
14 hoping to land the fish tonight.

15 PROSPECTIVE JUROR: We have had enough discussions
16 and, you know, to finalize the terms, is what I --

17 THE COURT: You have been out of work for a while?

18 PROSPECTIVE JUROR: Marginally for the last 4 years.
19 I had my own company, but I do commercial real estate finance.
20 So we boomed and busted.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR: This position is really hitting
23 the real estate debt platform for a company, so certainly one
24 that --

25 THE COURT: You would be starting, when?

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Voir dire

1 PROSPECTIVE JUROR: I suppose I mistakenly said the
2 week after next, assuming that I had that two weeks, when I
3 realized that if you called, things could go longer.
4 THE COURT: Okay, thank you.
5 PROSPECTIVE JUROR: Thank you.
6 THE COURT: And, by the way, where do I to have make
7 sure you are at 5:30?
8 PROSPECTIVE JUROR: Glacial Global.
9 THE COURT: Which is in Manhattan?
10 PROSPECTIVE JUROR: 801, Second avenue.
11 THE COURT: Okay. As long as it is in Manhattan.
12 Okay, great. I will make sure that you are there by 5:30, with
13 time to spare.
14 PROSPECTIVE JUROR: Yes, thank you.
15 THE COURT: Okay.
16 (Continued on next page)

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C2FAAANNV4

Jury Voir Dire

1 THE COURT: This is Ms. Calcano.
2 Hello, ma'am. How are you? You said you had an issue
3 with the length of the trial.

4 THE JUROR: My problem is my faith. I'm very
5 Catholic. There is no way I can judge people. There's no way.
6 I mean on my heart. But my second one is I am the only hair
7 dresser for the shop. If I don't work I don't get paid but
8 that doesn't matter to me. The most issue matter to me is my
9 faith. It's hard for me, very hard.

10 THE COURT: Okay. Thank you.

11 THE JUROR: I just -- there was happened to me about
12 four years ago. I cannot do it.

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

14 (Juror not present)

15 THE COURT: 62.

16 (Juror present)

17 THE COURT: This is Juror No. 62 Mr. Mangual.

18 You said you had a medical issue.

19 THE JUROR: Oh, yes. This is my Medic Alert card.

20 THE COURT: Yes, sir. Okay. Just tell me what the
21 problem is. I believe you.

22 THE JUROR: Well, I have a stint in my artery.

23 THE COURT: Yes.

24 THE JUROR: And I am under a lot of medications and I
25 am, also I have appointments with my doctor, Dr. Gurman.

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Jury Voir Dire

1 THE COURT: Well, okay. What kind of medication are
2 you on.
3 THE JUROR: Well, they're all here.
4 THE COURT: OK. Well, then, I'll look at the card if
5 you prefer.
6 (Pause)
7 THE COURT: Okay. So aspirin, trisolic, exporge,
8 symicort, omeprazole, which thanks to a case, I know that
9 that's Prilosec, metformin. Do any of those medications cause
10 you to nod out or to lose your focus or to lose your ability to
11 pay attention?
12 THE JUROR: Yes, ma'am.
13 THE COURT: They do. Okay. And when do you have
14 medical appointments?
15 THE JUROR: Next Wednesday.
16 THE COURT: And what time?
17 THE JUROR: I believe it's ten o'clock in the morning.
18 THE COURT: Okay. Have a seat back in the jury room.
19 Thank you. In the courtroom.
20 (Juror not present)
21 THE COURT: Does anyone see anybody before 67 and then
22 it's all the last four?
23 MR. ARONWALD: I have 64.
24 THE COURT: That was -- she was the lady who has got
25 to be out today at 5:30, 67, 68, 69 and 70.

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Jury Voir Dire

1 (Juror present)

2 THE COURT: This is Juror No. 67.

3 Hello. Good afternoon, sir. This is Mr. Bettke.

4 THE JUROR: Correct.

5 THE COURT: Okay. Mr. Bettke, you indicated that you
6 have some difficulty with the length of the case and that you
7 have a medical issue and that you recognize some of the names
8 of people. So why don't you just talk to us.

9 THE JUROR: Okay. I have been on 20 percent reduced
10 salary for the last three years and my company only pays for
11 ten days of jury duty and if I go any longer than that I am not
12 going to get paid. So it's going to be a financial hardship.

13 THE COURT: Where do you work?

14 THE JUROR: I work in Rye in a software development
15 company. My oldest daughter is in college for the first year,
16 a four year old in preK. My other daughter is in private
17 school too. So a lot of bill I've got to cover. I think if I
18 miss, I might be missing some payments.

19 THE COURT: Okay. And the medical problem?

20 THE JUROR: I had, I was diagnosed with OCD a while
21 ago and I was on medication. And I get very nervous in
22 situations sometimes and I tend to pass out. I was on an air
23 flight to Aruba and I had passed out mid flight cause I was
24 getting nervous about the flight being so long. It's under
25 control now but I just want to put it out there.

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Jury Voir Dire

1 THE COURT: Does the medication cause you to nod out,
2 to not be able to focus?

3 THE JUROR: I am not on medication as of now but it
4 did make me sleepy if that's what you are talking about. But
5 some of the relaxation techniques I use, sing a song in my
6 head, so I may not hear everything that somebody might say.

7 THE COURT: You indicated that you had some
8 familiarity with some of the names.

9 THE JUROR: Yeah, Nick Spano. I live in Pelham so
10 it's close to Yonkers and Westchester and all that, some
11 headlines.

12 THE COURT: Any reason why you would have any bias or
13 partiality in this case?

14 THE JUROR: No. I mean over the years you hear
15 stories. You hear things happening in Yonkers and politicians
16 and certain projects being developed and how suddenly
17 everybody's against it but yet it gets pushed through somehow.
18 I don't know anything factual but I hear rumors and things,
19 perhaps.

20 THE COURT: Could you put rumors and these things to
21 one side and listen to the evidence and the decide case on the
22 basis of the evidence.

23 THE JUROR: I could do that but it's there. You
24 wanted us to let you know if there was anything that prejudiced
25 you.

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Jury Voir Dire

1 THE COURT: Great. All right. Thank you, sir.
2 THE JUROR: That all?
3 THE COURT: That's it.
4 THE JUROR: Thank you.
5 (Juror not present)
6 THE COURT: Mr. Graziosa, Juror No. 68.
7 THE JUROR: Yes, ma'am.
8 THE COURT: I think you get the prize for having
9 answered the most questions. You live in Yonkers. You've
10 heard of everybody.
11 THE JUROR: Right.
12 THE COURT: What do you do?
13 THE JUROR: I work for 32B Apartment Building on Park
14 Avenue. I am this 25 years.
15 THE COURT: Are you familiar with this case? You said
16 you've had some familiarity with this case?
17 THE JUROR: Well, to be honest with you, I saw it on
18 the news last night on Channel 7 and Channel 12 and I saw it in
19 the paper.
20 THE COURT: That's fine. Have you formed any opinion
21 about the case?
22 THE JUROR: It's gonna be too long.
23 THE COURT: Tell me why.
24 THE JUROR: They only pay me for ten days and to be
25 honest with you, I have a guy on my job he got to go out on

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C2FAAANNV4 Jury Voir Dire

1 sick leave next week.

2 THE COURT: Okay.

3 THE JUROR: Okay. I am just being honest with you.

4 THE COURT: I want you to be honest. I do need you to
5 answer my questions. Have you formed any opinions based on
6 what you've seen or heard in the news about the Ms. Annabi or
7 Mr. Jereis?

8 THE JUROR: I don't think I could give them a fair
9 trial.

10 THE COURT: Because?

11 THE JUROR: Because I am in Yonkers. There's things I
12 see that I can't agree with. Okay?

13 THE COURT: Okay. Have a seat.

14 THE JUROR: Okay.

15 THE COURT: Thank you. Have a seat outside.

16 THE JUROR: Thank you.

17 (Juror not present)

18 THE COURT: OK. Juror No. 69.

19 (Juror present)

20 THE COURT: This is Juror No. 69, Ms. Horowitz.

21 Hello, Ms. Horowitz.

22 THE JUROR: Hello.

23 THE COURT: You indicated that you have some problems
24 with the length of the trial.

25 THE JUROR: Right.

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Jury Voir Dire

1 THE COURT: Tell me what the problem is.

2 THE JUROR: I am self-employed. So I need to --

3 THE COURT: What do you do?

4 THE JUROR: I am a visual artist, graphic artist. I
5 have a card. I make greetings cards and I show my paintings in
6 galleries and I can't do any work while I am here and I need to
7 fill, my clients connect with me over the Internet so.

8 THE COURT: Do you have any particular projects over
9 the course of the next few weeks, any shows that you'd
10 committed to doing?

11 THE JUROR: Yes.

12 THE COURT: Tell me.

13 THE JUROR: I have a gallery in Chelsea called the
14 Andre Zarre Gallery. And I have a show coming up in June and
15 if I don't work now it would hinder my progress. I work very
16 slowly. If you want to see a sample of my work --

17 THE COURT: I believe you. I am a lousy artist so I
18 stand in awe of people who work in art. Okay. All right.
19 Thank you. Have a seat out in the courtroom.

20 (Juror not present)

21 THE COURT: Juror No. 70.

22 (Juror present)

23 THE COURT: Ms. Young.

24 Hello, Ms. Young. How are you? Tell us what the
25 problem is with the length of the trial.

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Jury Voir Dire

1 THE JUROR: I teach high risk students and there a no
2 substitute for me.

3 THE COURT: Where do you teach?

4 THE JUROR: Dobbs Ferry schools.

5 THE COURT: Thank you. Now you indicated that you had
6 heard or read something about this case.

7 THE JUROR: Yes.

8 THE COURT: Have you developed any opinions about the
9 case that would prevent you from being a fair and impartial
10 juror?

11 THE JUROR: I think I might. You know I know about
12 Ridgehill. I heard about the vote that allowed the development
13 to move ahead. Disturbing to me. I am not a pro development
14 person to begin with. I want to serve but I am not sure that I
15 am completely impartial.

16 THE COURT: Okay. Thank you. Have a seat out in the
17 courtroom.

18 THE JUROR: Thank you.

19 (Juror not present)

20 THE COURT: All right. The jurors can be sent to
21 lunch and they should -- let us go back out. We'll send the
22 jurors to lunch and then we'll do this outside. We'll take a
23 two-minute bathroom break.

24 (In Open Court)

25 THE COURT: OK. Folks. We need to send you to lunch.

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C2FAAANNV4

Jury Voir Dire

1 I am going to ask you to be back outside the courtroom at two
2 o'clock. Don't come into the courtroom until you are told to
3 come into the courtroom. But when we bring you in you know
4 where to sit because have you your assigned seat.
5 Don't discuss the case over lunch. Now let me explain
6 how I define the word "discuss". I define the word as broadly
7 as it is humanly possible to define it covering any and every
8 form of communication with any and every form of being which
9 means you don't talk about it. You don't write about it. You
10 don't e-mail about it. You don't tweet about it. You don't
11 blog about it. You don't do anything about it. You don't post
12 about it. I can't think of enough ways to say it, enough
13 words. You do not communicate about this case with anyone.
14 Anyone, that includes your family, your friends, your employer,
15 the guy on the street who sits next to you at the lunch
16 counter, anybody. Don't even tell them, I am in the jury panel
17 for thus and such a case. Don't discuss the case. Keep an
18 open mind. That should be easy to do. We haven't heard any
19 evidence yet.
20 All right. I will see you folks at two o'clock.
21 (Panel not present)
22 THE COURT: Okay. Let's just go down the list.
23 Two minute bathroom break.
24 (Recess)
25 THE COURT: Okay. Let's go through this list of
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1 stalwart citizens and see -- do you want to wait for
2 Ms. Gallego?

3 MR. SIANO: Yes.

4 THE COURT: There she is. All right. And see we'll
5 just go through it. Go down it. We have Juror No. 1 Ms.
6 Altman who is worried about missing work because she has a
7 \$60,000 base salary and works on commission otherwise and she
8 is working on a number of large projects.

9 MR. ARONWALD: I think she also indicated, judge, that
10 she wasn't sure how much pay she would lose from her base pay
11 because she couldn't figure that out without a calculator.

12 THE COURT: I think she said probably about \$8,000.

13 MR. SIANO: Judge, I think people that are essentially
14 commission workers are problematic.

15 THE COURT: Nobody who has a \$60,00 base salary is
16 essentially a commission worker. I've got nurses, teachers,
17 union people. They all make less and I never let them go. I
18 am not prepared to let her go just yet.

19 Juror No. 2, Ms. Cauvin who is on a project and it
20 would be big problem for her boss.

21 MR. HALPERIN: But she did say, judge, that if her
22 boss says, yes, then she is fine with it.

23 THE COURT: It's not the boss's call. It's my call.

24 MR. HALPERIN: Right.

25 THE COURT: And yes, let me put my view on the record.

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1 This is a problem for anybody to sit on a long trial. It's a
2 problem for anybody. It's a problem for anybody's employer.
3 That's the problem for people who work at IBM which is the most
4 generous employer of any corporation that I am aware of. Where
5 they actively encourage their people to go and do their jury
6 duty. It's a problem. But without more than that, that's not
7 an excuse for getting out of jury duty. Yes, that's a problem.
8 So I don't see if I reason to excuse Juror No. 2 at the present
9 time.

10 Juror No. 3 is our investment banker from Houlihan
11 Lokey. Right, as a rule investment bankers over rate their own
12 importance.

13 Juror No. 4 is presently unemployed and seeking
14 employment.

15 MR. ARONWALD: Judge, if she's unemployed and is going
16 to be unemployed for the next three to a five weeks I think
17 that would be a hardship. It might cause her not to be able to
18 concentrate. She's got no money coming in.

19 THE COURT: She's got no money coming in any way.
20 She'll get \$40 a day.

21 MR. ARONWALD: I don't know if she's going to
22 unemployment. I don't know if her unemployment ran out. I'm
23 just saying from my perspective, if she's unemployed and can't
24 seek work that just adds to the pressure that she would be
25 under and therefore I think that she has got a legitimate

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1 reason to be excused.

2 MR. HALPERIN: We don't really see it as a strike,
3 judge.

4 THE COURT: I don't see it as strike either at this
5 point.

6 Juror No. 5 has travel plans to Morocco leaving March
7 22.

8 MR. HALPERIN: Should not be a problem.

9 THE COURT: I should not think that that would be a
10 problem. Anybody think that that would be a problem? Okay.

11 Juror No. 6, is Ms. Smythe-Park who does temp work and
12 I think said she had a temp job coming up, was that she who had
13 a temp job coming up?

14 MR. SIANO: Unemployed for 18 months. She finished a
15 temporary job five months duration and she's looking for work.
16 That's what I have. A project I have.

17 MR. HALPERIN: I guess the only -- we don't have any
18 strong feelings, judge. The only difference there is that this
19 may be someone who is unemployed but occasionally does have
20 temp work as opposed to number 4 who didn't seem to have
21 anything in the near future. But, again, we have no strong
22 feelings.

23 MR. SIANO: Judge, I think that this individual made a
24 clearer case than --

25 THE COURT: For some I remember her kind of vividly

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1 because I asked her how to pronounce her name.

2 MR. SIANO: English accent. She seemed to have a
3 clearer indication.

4 THE COURT: I thought she said that she was -- that
5 she was actually up for specific jobs in the near future meant
6 up for jobs immediately.

7 MR. SIANO: Yes, judge.

8 THE COURT: I think she can go.

9 MR. HALPERIN: No objection.

10 COURTROOM DEPUTY: That's?

11 THE COURT: Juror No. 6.

12 MR. SIANO: Yeah.

13 THE COURT: Juror No. 8, Ms. Goodwin is self-employed
14 as a consultant.

15 MR. HALPERIN: Judge, I think this one does fall into
16 a hardship category. She says she is not employed. She can't
17 pay the rent. She is self-employed. She is a consultant and
18 not-for-profit. So it does seem to present a hardship.

19 THE COURT: Ordinarily, self-employed people are in a
20 slightly different situation for a long term absence. Okay.
21 Juror No. 8 is excused.

22 Juror No. 9.

23 MR. HALPERIN: Number one was the one who said she
24 probably couldn't be fair so.

25 THE COURT: Juror No. 9 is involved in democratic
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1 politics in Westchester County. Juror No. 9 is excused.

2 Juror No. 10 was the very pregnant lady whom we've
3 already told to go.

4 Juror No. 13 is the first of our several individuals
5 who are on diuretics or who have issues that require bathroom
6 breaks.

7 MR. SIANO: What about Juror No. 12, your Honor?

8 THE COURT: Was Jantz in? I don't even have a note on
9 Jantz.

10 MR. SIANO: Just familiarity with Mr. Spano.

11 THE COURT: She said she could follow the judge's
12 instruction.

13 MR. SIANO: Just following the list.

14 THE COURT: I am sorry. She had such an insignificant
15 issue that I didn't even write her down. I apologize. But she
16 certainly indicated that she'd heard of Mr. Spano and she had
17 no difficulty following my instruction to forget anything she'd
18 ever heard that had nothing to do with the case.

19 So let's turn to Juror No. 13 Mr. Conn who is the
20 first of our individuals who may require frequent bathroom
21 breaks.

22 MR. HALPERIN: Judge, his case seemed to be,
23 particularly, severe medically cause he talked about needing
24 possibly facilities every 15 minutes. If that's the case that
25 would, obviously, be a disruption to the flow of the trial.

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1 THE COURT: You had to put it that way.

2 MR. ARONWALD: I think he's right, judge.

3 THE COURT: Mr. Conn we'll excuse for medical
4 hardship.

5 Juror No. 14, the lady who said she'd read about the
6 case in the Journal News and she could absolutely be fair and
7 follow instructions not to follow the case in the press. So I
8 don't think there is any issue with her. Anybody see that
9 differently?

10 MR. HALPERIN: Agreed.

11 THE COURT: Okay. Juror No. 16 was the lady,
12 Ms. Langhorn who said she was in the dance group but she would
13 put that to one side to do her civic duty. God bless her. So
14 I don't think we need to worry about her.

15 Then we have the first of our attorneys, Juror No. 17,
16 Mr. Kantor. Whose got many pregnancies in his family, will be
17 attending his sister's brisk, his wife's pregnancy
18 complications. His wife follows this story for CBS radio.

19 Mr. Siano, you are on your feet.

20 MR. SIANO: Mr. Kantor is the first individual who I
21 saw who manifested -- clearly antithetical to participating in
22 the process. He seems more hostile to the entire process. I
23 don't want to give credit to an attorney for doing this. Maybe
24 there is a civil case he can be put on. But in this particular
25 case, I think the stakes are pretty high and I think that the

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1 juror who had the worst attitude of anybody who came in the
2 room.

3 MR. HALPERIN: We agree.

4 THE COURT: I'll excuse Mr. Kantor. I do that with
5 great reluctance and it's actually because of a combination of
6 his wife and it's actually because of his wife more than
7 anything else. But I just, I am so offended by people who take
8 the same oath that we have taken who try to weasel their way
9 out of jury service. It is so offensive to me. I would,
10 certainly, not want him working as my tax lawyer. Juror No. 17
11 is excused for idiocy.

12 Juror No. 18 is the gentleman whose partner is -- he
13 is incontinent of his partner is incompetent, I think is the
14 short and way of, perhaps, putting all of the TMI that he gave
15 us.

16 MR. HALPERIN: We suggest it's a cause strike too.

17 MR. SIANO: I think that's right.

18 THE COURT: Okay. Fine. Juror No. 18 we're excusing.
19 He did seem to want to tell his story.

20 Juror No. 20, Ms. Field, a person who lives a
21 perfectly normal life except when she's in a room where she
22 doesn't want to be in which case she develops Hitchcockian
23 levels of anxiety.

24 MR. HALPERIN: Judge, she seemed pretty troubled by
25 the prospect of having to serve.

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1 THE COURT: I'm sure she was deeply troubled.

2 MR. SIANO: Judge, I am more concerned about the other
3 17 or however many that we have with this individual in the
4 same room. Maybe a short trial is probably the sentence your
5 Honor can impose some place downstairs in a civil trial.

6 THE COURT: Ms. Fields is excused from this trial for
7 really for our own sanity's sake.

8 Juror No. 23 is the gentleman who is going to India in
9 like eight days to be in a wedding. That's a life time
10 experience. I am not prepared to deprive him of that, so
11 Mr. Brand is excused.

12 MR. HALPERIN: No objection.

13 THE COURT: For cause. Okay.

14 Ms. Silva. Ms. Silva doesn't have any problems with
15 the thumb on the scales for Ms. Gallego, nor will I have
16 expected her to. And I must say, I see no reason to excuse
17 her.

18 MR. HALPERIN: Well, judge, obviously Ms. Gallego
19 worked for her. She said at first when the Court asked she
20 preferred not to serve.

21 THE COURT: Of course she'd prefer not to serve.
22 Everybody would prefer not to serve. Mr. Halperin, this is why
23 you have preemptory challenges.

24 MR. HALPERIN: Judge she did also say in terms of her
25 work that she's got no one else to cover.

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1 THE COURT: She works in a place with eight attorneys.
2 She is one of them. Okay. So I am not inclined to exclude
3 Ms. Silva.

4 Something from the back table I should know?

5 MR. ARONWALD: Yes, judge. Could we you just have one
6 minute?

7 (Pause)

8 MR. SIANO: Judge, I think we should take the
9 potential jurors' statements at face value.

10 THE COURT: Her potential statement, her statements
11 were that she could be a fair and impartial juror.

12 MR. SIANO: I am agreeing with those statements,
13 judge. I don't have any personal knowledge myself.

14 THE COURT: Juror No. 25.

15 MR. CARBONE: Judge, one thing we didn't ask Ms. Silva
16 is there some other personal relationship out of work.

17 THE COURT: I know you are desperate to get rid of
18 her. That's why you have preemptory challenges.

19 Ms. Gallego, do you have a personal relationship with
20 Ms. Silva outside of the office?

21 MS. GALLEGO: I have contacted her a few times after I
22 stopped interning with her but as for friendship I haven't met
23 with her since.

24 THE COURT: For what, like a reference or something?

25 MS. GALLEGO: Exactly.

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1 THE COURT: Thank you. Juror No. 25, Ms. Alba. I
2 can't even read my writing.

3 MR. SIANO: Teaches eight grade art.

4 THE COURT: Oh, teacher. She stays. That's right.
5 She is the art teacher.

6 Juror No. 27, Mr. Nevala-Lee is the freelancer who
7 actually has a booking for work on the 27th of this month. I
8 am inclined to let him go. Does anyone disagree?

9 MR. HALPERIN: No objection.

10 MR. SIANO: I think that's right, your Honor.

11 THE COURT: Okay. Juror No. 27 is excused, financial
12 hardship.

13 The next juror is a problem. Mr. Grillo presents no
14 problem. He said that he could be a fair and impartial juror.
15 Certainly, we don't let people off just because they live in
16 Yonkers.

17 So Juror No. 32 is Mr. Portnoy whose wife travels.

18 MR. ARONWALD: Your Honor had asked him to call his
19 wife and get back and I don't know whether he was able to make
20 that call but he indicated that when his wife travels he has to
21 pick up his two children from school.

22 COURTROOM DEPUTY: He couldn't get through.

23 THE COURT: He was unable to get through but let's see
24 if he was able to reach her over the lunch hour.

25 MR. CARBONE: I think he also had some back problems.

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1 THE COURT: I have back problems.

2 Okay. The next juror is Juror No. 34 who is
3 Ms. Astorino's cousin. To me that was that's why I remember
4 her.

5 MR. ARONWALD: We don't see any issue for cause,
6 judge.

7 THE COURT: But what she said was she had recently
8 received a promotion but I didn't understand that so I am sure
9 that that's a wonderful thing but I didn't understand that to
10 create hardship.

11 Juror No. 35 is a lady who works at Master Card which
12 again is one of our very fine Westchester County employers who
13 are supportive of their jurors, so I don't see a problem there.
14 Does anybody see a problem there?

15 MR. HALPERIN: No.

16 MR. ARONWALD: No.

17 THE COURT: Juror No. 37 is the lady who does physical
18 therapy on Tuesday and Thursdays as long as she can get there
19 by five o'clock and who has transportation problems although
20 see lives on both a bus and a subway route that will get her
21 from her home close to Mount Sinai Hospital down here without
22 even changing trains.

23 MS. GALLEG0: I think she had a money issue.

24 MR. ARONWALD: She was unemployed.

25 THE COURT: Yes.

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1 MR. HALPERIN: Our biggest problem is the physical
2 therapy Tuesday and Thursday that has to be done from ten to
3 five.

4 MR. SIANO: She said the window for the physical
5 therapy was ten to five. She didn't say, get there at five.
6 Just so that what she reported in the robing room is being
7 discussed accurately.

8 THE COURT: All right, guys. I'll let her go. We are
9 going to have to call more jurors any way.

10 Juror No. 38 is somebody else who has a new position
11 with the same employer. she is the lady who works in the finance
12 department of a rehab center that's setting up a new facility.

13 MR. ARONWALD: I don't see a strike.

14 THE COURT: I don't see a strike either.

15 MR. HALPERIN: Agreed.

16 THE COURT: Okay. Juror No. 39, Mr. Schulman. He is
17 the associate at the firm who believes he will have to work
18 nights and weekends if he is here doing the day.

19 MR. SIANO: In small defense of an associate --

20 THE COURT: I was one.

21 MR. SIANO: We all at one time. He did say he had his
22 own court appearance that he had to handle.

23 THE COURT: He is an associate. That's means he is at
24 a firm with other people.

25 MR. SIANO: True, judge.

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1 THE COURT: Did you never call for cover for an
2 associate?
3 MR. SIANO: More times than I care to count.
4 MR. ARONWALD: The last I heard if you are on --
5 THE COURT: I have done that at request of my
6 colleagues and they've done it at my request .
7 Juror No. 40 is friend that works at Montefiore. That
8 was of concern Montefiore is the Court's juror. Also Juror No.
9 42, Ms. Mac Daniel, in addition she is a union rep. I don't
10 see a strike there.
11 MR. HALPERIN: 42? We don't either.
12 THE COURT: You guys --
13 MR. ARONWALD: We don't see anything for 42.
14 THE COURT: 43 was Mr. Abrajan, the gentleman who
15 drives the bus who has difficulty with unfamiliar words or big
16 words.
17 MR. ARONWALD: Unusual words.
18 MR. HALPERIN: That's really our concern is heavy
19 document intensive case, we're just concerned.
20 THE COURT: Anybody --
21 MR. SIANO: Cause agreed, judge.
22 THE COURT: So Mr. Abrajan, number 43, language.
23 Then Juror No. 44 Ms. Brenner is the lady who is
24 compensated for her jury service by Tommy Bahama but there will
25 be no baiting suits if she is not at work.

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1 MR. HALPERIN: We don't see any issues.

2 THE COURT: Neither do I. Okay. Juror No. 45
3 actually presents kind of an interesting case. Number 45 is
4 the lady whose mother has Alzheimers who is being moved out of
5 the house. And as a result Juror No. 45 is going to have
6 plenty of time cause she's taking March off so she could get
7 her house in order, so the mother could be moved. I am not
8 sure I see an issue here.

9 MR. ARONWALD: Your Honor, we went through a similar
10 situation. My wife's mother has dementia. My wife had to help
11 her mother sell her house, then move.

12 THE COURT: Then you know more about it --

13 MR. ARONWALD: It's a full-time job. I can sympathize
14 with the woman if she wanted to take off the month of March to
15 help her mother make the move, so I would respectfully that
16 suggest that she should -- strike.

17 THE COURT: Does the government have a problem with
18 that?

19 MR. HALPERIN: No problem.

20 THE COURT: All right. We'll let her go. Hardship.

21 Juror No. 46, perhaps, my favorite juror of all. A
22 man who spent ten years as a law secretary to a justice of the
23 New York State Supreme Court who probably heard people make
24 these excuses more times than can be counted and the best he
25 could come up with is that he is Parvin Moyne's brother.

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1 MR. ARONWALD: Our concern is that his sister is an
2 Assistant U.S. Attorney in the Criminal Division of Southern
3 District now.

4 THE COURT: Yes.

5 MR. ARONWALD: Unlike the situation with the woman
6 that Ms. Gallego clerked for, he does have a deeply personal
7 relationship with his sister and even though they may not
8 discuss the case he may have some sense that he is sitting on a
9 case that's being prosecuted by her office and so for those
10 reasons I think there is a difference between --

11 THE COURT: If he expresses some bias toward the U.S.
12 Attorney's Office in further questioning I, of course, have to
13 let him go. But either otherwise he has assured me that he
14 would not discuss the case with his sister and his sister who
15 appears before me with not great regularity but she has had
16 several cases before me, is an assistant who I have no reason
17 to believe would flout a directive of this Court.

18 MR. HALPERIN: She, certainly, would not, judge.

19 THE COURT: That she not discuss the case with her
20 brother. So I don't really see any reason to let Mr. Moyne go.
21 Again, that's why you have preemptory challenges unless he
22 demonstrates some bias in favor of the U.S. Attorney's Office
23 which he hasn't done yet.

24 Okay. Juror No. 47 is our lady who takes care of her
25 children and arranges her schedule as a massage therapist

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1 around that fact so the she does not have to arrange child
2 care.

3 MR. ARONWALD: I would strike.

4 THE COURT: Any problem?

5 MR. HALPERIN: No objection.

6 THE COURT: Juror No. 47, economic hardship.

7 Juror No. 50 is the lady with whom I promised to
8 intercede personally with Mr. Cardozo if life became difficult
9 for her in the New York City Law Department if she should serve
10 on the jury.

11 Anyone see any reason why this lady shouldn't be
12 allowed to --

13 MR. HALPERIN: No.

14 THE COURT: Neither do I.

15 Juror No. 51 is the gentleman who is in the process,
16 even in this week and the week of launching a new free-lance
17 business.

18 MR. HALPERIN: This strikes as a hardship strike. He
19 said he's invested most of his money and is running out of
20 savings.

21 MR. ARONWALD: We agree.

22 THE COURT: Okay. I think I'd like as I said to Judge
23 Nathan, I think I'd like to know the name of his new website so
24 I can tell my future son-in-law to avail himself of it.

25 Okay. Juror No. 53 is our nurse who has leg cramps

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1 appropriate.

2 MR. HALPERIN: No objection.

3 THE COURT: Economic hardship and she wins the prize
4 for economic hardship issues.

5 Okay. Juror No. 61 is the lady who says,
6 notwithstanding, anything in Roman Catholic doctrine to the
7 contrary that she cannot sit in judgment, so I think that she
8 has to go.

9 Okay. Juror No. 62 is the gentleman who is on all of
10 those medications who handed me his cards.

11 MR. ARONWALD: I think you skipped 63 and 64.

12 THE COURT: We are on 62. They came out of order. I
13 am now working off this list. I appreciate where you are,
14 Mr. Aronwald. Juror No. 62 is the gentleman who had all the
15 medications that he handed me the card and he is seeing his
16 doctor on a regular basis and he is seeing the doctor next
17 Wednesday at 10 a.m.

18 MR. HALPERIN: Move for cause.

19 MR. ARONWALD: We join.

20 THE COURT: Medical excuse for that juror, Juror No.
21 62.

22 Now Juror No. 63 was Mr. Mulcahy who indicated he
23 would be perfectly fair so.

24 Juror No. 64, so here is what I propose to do with
25 Juror No. 64. I propose that she will, indeed, we will all be

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1 out of here by 4:45 today so that she can make her 5:30
2 appointment and please, God, she gets her new job and I will
3 ask her to ask whether the start date of that job can be
4 adjusted. And if it can't be adjusted, then we'll have to let
5 her go and if she doesn't get the job we don't have to let her
6 go. I would rather she got the job for her sake but I don't
7 think we excuse her right this minute.

8 Anybody have a problem with that?

9 MR. SIANO: We agreed.

10 THE COURT: That's it' for Ms. Barone. Then we.
11 Have Juror No. 67, the gentleman who gets paid for ten
12 days of service and he is OCD and he had heard and you hear
13 rumors.

14 MR. SIANO: I am a little more concerned at the way I
15 he maintains himself by singing songs in his head during the
16 stressful situations.

17 THE COURT: That's one.

18 MR. SIANO: I am a little more concerned about that.

19 THE COURT: Yeah, we can't have people singing songs
20 in their head while you are seeking.

21 MR. SIANO: I was more concerned that he might while
22 Mr. Carbone was speaking.

23 THE COURT: Okay. Juror No. 67 was a medical issue
24 that requires his being excused.

25 Does everyone agree that Juror No. 68 who can't give

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1 any fair trial should be excused?

2 MR. SIANO: Yes.

3 THE COURT: Great Juror No. 66 excused for cause.

4 Juror No. 69, okay. This is one of ones that for me
5 present -- this is I mean, yes, she is self-employed. She's
6 got a show in June. She works slowly. She'd rather be
7 painting or graphicing or whatever it is that she's doing.
8 I'll go either way on this, folks.

9 MR. ARONWALD: I think that she also indicated that
10 she basically gets her clients' contacts through the Internet.
11 So if she were going to be here all day I don't know how that
12 would affect her.

13 THE COURT: She would pick up her e-mail when you pick
14 up yours and I pick up mines.

15 MR. ARONWALD: As your Honor indicated, she's
16 self-employed so if she's out of work for five weeks that --

17 MR. HALPERIN: We agree.

18 THE COURT: All right. I'll let her go.

19 Ms. Young however teaches at the Dobbs Ferry Public
20 Schools. There is no such thing as a teacher for whom a
21 substitute cannot be procured.

22 MR. SIANO: She commented that she was
23 antidevelopment.

24 THE COURT: Oh, that's right. She is antidevelopment.

25 MR. SIANO: Judge, that is really not the case for --

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1 THE COURT: You are right. You are absolutely right.
2 Not the case for her.

3 MR. HALPERIN: Judge, I don't know.

4 THE COURT: Yeah, she said she was antidevelopment.

5 MR. HALPERIN: She did say that.

6 THE COURT: Antidevelopment. Knew about Ridgehill.

7 MR. HALPERIN: Fine. People may know about
8 Ridgehill --

9 THE COURT: Mr. Halperin, she's going.

10 Okay. Let's just, I want to go back to the beginning.
11 How many do we have?

12 COURTROOM DEPUTY: Right around 45. Let's go back to
13 the beginning group and the issue is like we were talking about
14 the first three or four. Well, not the Houlihan Lokey guy.
15 Would be the, Ms. Randolph, the lady who is the artist who is
16 looking for work having let every other unemployed person out I
17 have a hard time distinguishing in my own mind why she should
18 not go as well.

19 MR. HALPERIN: No objection.

20 THE COURT: Number four, is there anybody else who
21 anybody wants to make an alternative pitch?

22 Okay. Why don't --

23 MR. ARONWALD: Your Honor, did number 1, Ms. Altman,
24 say that she, that's the one on base pay and commission?

25 THE COURT: She's got the sixty thousand base and

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1 commission above that which is why she would lose money because
2 if she wasn't working on a project she would --

3 MR. HALPERIN: Judge, can I just ask is the Court
4 going to read the people.

5 THE COURT: Well I was actually, yes, I was going to
6 read them.

7 MR. SIANO: The survivors or who is struck.

8 THE COURT: Who was struck. That way Mr. O'Neil can
9 check the cards because he has to get the cards back
10 downstairs.

11 MR. SIANO: Thank you.

12 THE COURT: I believe we have struck the following
13 jurors.

14 Juror No. 4, Denise Randolph; Juror No. 6, Virginia
15 Smythe-Park; Juror No. 8, Laura Goodwin; Juror No. 9, Lisa
16 Haber; Juror No. 10, Lilly LIng; Juror No. 13, Frederick Conn;
17 Juror No. 17, Adam Kantor; Juror No. 18, George Franz; Juror
18 No. 20, Susan Fields; Juror No. 23, Anthony Brand; Juror No.
19 27, Eric Nevala-Lee; Juror No. 37, Socorro.

20 MR. SIANO: 28, judge.

21 THE COURT: 28, William Carroll. He does work for the
22 U.S. Attorney. Juror No. 37 Socorro Santos; Juror No. 43
23 Daniel Abraham; Juror No. 45, Lia Miller; Juror No. 47,
24 Stephanie Baker; Juror No. 51, Justin Gignac; Juror No. 53,
25 Agnes George; Juror No. 55, Craig Fisher; Juror No. 58 Irinel

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1 Deleon; Juror No. 61, Rosa Calcano; Juror No. 62 Ruben Mangual;
2 Juror No. 67, William Bettke; Juror No. 68 Michael Graziosa;
3 Juror No. 69 Amy Horowitz; Juror No. 70, Patricia Young.

4 Did. I get it right?

5 MR. SIANO: Right.

6 MR. HALPERIN: Thank you.

7 THE COURT: Okay. So here is what I propose to do.

8 Go and get a quick lunch, folks. We will go through the rest
9 of the voir dire with this group this afternoon because,
10 frankly, they don't have anybody to send up to us that we can
11 prescreen so we can get a full group which means, sadly, we'll
12 probably have to do the rest of the voir dire twice. I hate
13 that. It wastes your time. It wastes my time. I apologize.
14 That's the way it's going to be. So --

15 MR. HALPERIN: If I'm doing the math right we have
16 about --

17 THE COURT: We might make it. I doubt it. If I am
18 that close -- we need 36 clean jurors to pick four alternates.
19 I am not going in with three alternates on a trial. That's not
20 fair. If only because we all know that somebody's going to
21 come in tomorrow morning and say, I didn't think you'd pick me.
22 Oh, my God. I called my boss. He is going to scream. My
23 husband is going to divorce me. I mean it happens in every
24 case. I tried to prevent it. I have not yet found a way to
25 prevent it. Happened in our last case, Mr. Halperin, four

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1 alternates.

2 So, yes, if we should be so lucky we won't have to do
3 it but if we shouldn't be so lucky we are going to have to go
4 through that process again tomorrow morning, albeit with a
5 smaller number of jurors, okay.

6 So, go get some lunch

7 MR. ARONWALD: What time do you want us back?

8 THE COURT: I understand. You know, get back as fast
9 as you can.

10 (Luncheon Recess)

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Voir Dire

1 THE DEPUTY CLERK: Trial continues. Government now
2 present, and the prospective jurors.

3 THE COURT: And now you've figured out who the real
4 star of the show is. And it's not me. It's the amazing,
5 astonishing, Southern District court reporters, without whom I
6 am not free to open my mouth in your presence. She controls
7 all. They really are -- they are the best.

8 And, folks, I should introduce someone else. Sitting
9 next to me is the Honorable Alison Nathan. And Judge Nathan is
10 one of the newest members of our Court. And we have a
11 mentoring program for our new judges. So she's here today to
12 observe. And that's why she is sitting up here.

13 Okay, thank you folks for your patience during that
14 prescreening this morning.

15 Mr. O'Neill would you excuse those jurors who are
16 returning to the jury room.

17 THE DEPUTY CLERK: Yes.

18 As the judge said, the following jurors are excused.
19 Take all your belongings and report to the jury clerk.

20 Number 4, Denise Randolph, number 6, Virginia
21 Smythe-Parke. Eight, Laura Goodwin. Nine, Lisa Haber. Ten,
22 Lilly Ling. Thirteen, Frederick Conn. Seventeen, Adam
23 Kantor. Eighteen, George Franz. Twenty, Susan Fields. Twenty
24 three, Anthony Brand. Twenty-seven, Eric Nevala-Lee. Twenty
25 eight, William Carroll. Thirty seven, Socorro Santos. Forty

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Voir Dire

1 that undergird our criminal justice system. And that everybody
2 who sits on a jury in a criminal case has to be willing to
3 abide by in order to give the government and the defendants a
4 completely fair trial, okay, so I'm going to start with those.

5 Nothing that I say during this trial will be more
6 important than what I am about to say. Nothing.

7 Under our system of law, the cornerstone of our system
8 of criminal law is that every person who is accused of a crime
9 is presumed innocent. Presumed innocent. What that means, as
10 I told you this morning is that, you, the jurors, and I, the
11 judge, are presuming that the indictment is not correct, that
12 the charges cannot be proved, that the defendants are in fact
13 not guilty.

14 Jurors get younger and younger as I sit up here longer
15 and longer. And people become more and more computer literate.
16 And for those of you who are into computers and other
17 electronic devices, that's our default mode, our default
18 position, as we sit here today. Those of you who are in the
19 venire panel, and I, are presuming that the charges are wrong,
20 and that the defendants are in fact not guilty of the crimes
21 with which they have been charged. And anyone who is not
22 willing to accord Ms. Annabi and Mr. Jereis the full benefits
23 of that presumption, can't sit on a jury.

24 Is there anybody here would, for whatever reason,
25 cannot give to these defendants the benefit of the presumption

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1 they didn't testify. If you were to draw an adverse inference
2 against them, you would be shifting the burden of proof to
3 them. And you must never do that. Because the burden of proof
4 rests at all times on the government. It is the government's
5 job to prove to you that the presumption of innocence is wrong,
6 okay. That's the reason why you cannot draw any adverse
7 inference from anything the defense does or doesn't do with
8 respect to putting in a case.

9 Now, what does the government have to do to overcome
10 the presumption? The government has to convince 12 jurors
11 beyond a reasonable doubt that the presumption is wrong.
12 That's what the government has to do at this trial. The
13 government has to convince 12 people, beyond a reasonable
14 doubt, that the presumption is wrong.

15 Is there anybody who thinks that's not fair, that the
16 government should to have do that? Okay. The law provides
17 that the question of what happens to the defendants or a
18 defendant, if a jury concludes that the government has met its
19 burden, is for me. If there is gonna be a punishment in this
20 case, I decide what it is. You decide whether the government
21 has met its burden of proof, you decide whether the government
22 has overcome the presumption of innocence, you decide whether
23 the defendants have been proven guilty, although, we are
24 presuming them to be innocent. And if you decide that, the
25 question of punishment is for me and me alone. And you're not

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1 to consider it, worry about it. You're not going to hear any
2 evidence about it, there is going to be no allusion to it
3 during the trial.

4 Is there anybody here who can't follow my instruction
5 that you won't consider what the consequences of a verdict
6 might be, you will simply do your job and decide the question
7 of whether the government has proven beyond a reasonable doubt
8 that the presumption of innocence is wrong.

9 Okay. Criminal Law 101. You have just taken it.

10 I would love to know something about you folks. So
11 what we're going to do is we're going to pass out a little
12 questionnaire, which you don't have to fill out, we want you to
13 use it as a guidepost to telling us a little bit about
14 yourselves; where you live, what kind of work you do, what
15 level of education, what you do in your spare time, how you get
16 your news. The question that I have not adequately asked on
17 this questionnaire, but that I want you to answer, is about
18 your use of the internet and social media; Blogging, Facebook,
19 Twitter. And the reason for that is that we have learned over
20 the last couple of years that jurors have not taken wholly to
21 heart sometimes our instructions not to discuss the case, or
22 have been too literal when we said, you know, don't read the
23 newspaper. So I need to know where people get their news and
24 what people do with respect to the internet so I can fashion an
25 appropriate instruction for all of you. But the questions are

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Voir Dire

1 Facebook, no. But I suppose all of my friends are. And I -- I
2 guess more I'm on the internet all day at work, so when I go
3 home, I try not to be as much, I suppose. I like to get lost
4 in some kind of nonsensical television.

5 THE COURT: What do you like to watch on television?

6 PROSPECTIVE JUROR: Actually, I guess a lot of crime
7 scene investigation and this type of thing, serial killers, or
8 the news, or this type of thing as well. But I -- really, I'm
9 at work all of the time. That's just kind of what's happening,
10 I would say.

11 THE COURT: All right. The unprofessional story.

12 PROSPECTIVE JUROR: Yeah.

13 THE COURT: Fine. Thank you.

14 Ms. Cauvin.

15 PROSPECTIVE JUROR: I'm a project manager. I work for
16 a furniture corporation.

17 THE COURT: I'm sorry?

18 PROSPECTIVE JUROR: I work for a furniture
19 manufacturer, I'm a project manager, interior designer. I
20 graduated with a BFA from Parsons. Not married. No children.
21 My spare time, I do photography. And I do have a blog. And I
22 do a lot of photography at parades, which I have a blog about
23 that.

24 THE COURT: Of what?

25 PROSPECTIVE JUROR: Parades. I have a blog about

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1 PROSPECTIVE JUROR: My husband is a painter, is the
2 supervisor for painting.

3 I watch news on Channel 2, 7, CNN, 5, 11. And I watch
4 Law and Order on USA. I don't -- I don't belong to any
5 organization. And in my spare time, I do my baby-sitting with
6 my grandkids. Okay.

7 THE COURT: Great. Juror number, 12 Ms. Jantz.

8 PROSPECTIVE JUROR: Susan Jantz. I was born in New
9 York, live in Westchester. My occupation is I'm an insurance
10 broker, property and casualty. I'm a window. I have three
11 adult children. One works for an insurance company. One works
12 for Con Ed. And one works for Westchester County. I have
13 three grandsons.

14 THE COURT: Doing what for Westchester County?

15 PROSPECTIVE JUROR: Department of Social Services.

16 THE COURT: DSS, okay.

17 PROSPECTIVE JUROR: Three grandsons. One who started
18 his first year at the Citadel, in South Carolina; very proud of
19 that.

20 I like to read. In my spare time, I like to go to the
21 movies. I like to play tennis. I get my news basically from
22 Fox, the major channels 2 and 4. The Journal News, I read a
23 lot. Television. I like to read. I like to see The Biggest
24 Loser, 48 Hours. I like detective stories, cold cases. I do
25 not belong to any organizations or clubs. And I hate anything

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Voir Dire

1 Jacqueline James. I have been living in the Bronx for the past
2 46 years. Originally, from --

3 My occupation is retired medical secretary. I am
4 married and I have four kids. My husband is retired carpenter.
5 Four adult children, one attorney, one junior scientist, one
6 accountant, and the other one, she does just about anything.
7 My high schooling is one year on completed college. My spare
8 time, I do things around the house. I'm always busy cleaning,
9 cooking, washing. That's my spare time. I watch the news at
10 night when I am winding down.

11 THE COURT: Do you have a favorite channel for that?

12 PROSPECTIVE JUROR: I surf.

13 THE COURT: You surf. Okay.

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR: I do not use a computer, so that's
17 out.

18 THE COURT: Do you belong to any clubs or
19 organizations.

20 PROSPECTIVE JUROR: Just my church.

21 THE COURT: Your church, okay. Thank you very much.

22 PROSPECTIVE JUROR: You're welcome.

23 THE COURT: Ms. Langhorne, juror number 16.

24 PROSPECTIVE JUROR: Hello, my name is Loretta

25 Langhorne. I live in Manhattan. I'm a retired special needs

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Voir Dire

1 teacher, assistant teacher. Yes, I was married. My husband
2 deceased. I have no partners, thank goodness -- sorry.

3 THE COURT: Whatever makes you happy.

4 PROSPECTIVE JUROR: Two years of college. I do yoga,
5 meditate, and I'm a jazz dancer for the senior center. I
6 have -- where I get my news from, the newspaper.

7 THE COURT: Which papers do you read?

8 PROSPECTIVE JUROR: I do The Daily --

9 THE COURT: Uh-huh.

10 PROSPECTIVE JUROR: -- News paper. And channel ABC,
11 that's Channel 7. And I like Jeopardy. I like Wheel Of
12 Fortune. I like all of those comedies, especially Stevie
13 Hobbie. I have no -- I just deal with the church. I don't
14 have no nightclubs. And no --

15 THE COURT: No life on the computer?

16 PROSPECTIVE JUROR: No. Nope. No cell phone. Thank
17 you.

18 THE COURT: Great.

19 Jim, can we get this back into the back?

20 THE DEPUTY CLERK: Yeah.

21 THE COURT: You are quickly seeing why this is my
22 favorite part of the whole process.

23 Okay. Juror number 21, Mr. Montalvo, hi.

24 PROSPECTIVE JUROR: Did you say my name?

25 THE COURT: It's your turn.

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Voir Dire

1 PROSPECTIVE JUROR: I live in New York.

2 THE COURT: Oh, I goofed. Ms. McGowan, I'm sorry, I'm
3 sorry, I skipped you, I apologize. But you're there. Yes.
4 Ms. McGowan, juror number 19. My bad, okay.

5 PROSPECTIVE JUROR: I live in New York City for
6 15 years. My occupation is a tower operator for New York City
7 Transit. No, I'm not married. No children. Bachelor of Labor
8 Studies. Spare time, summertime golf, wintertime work. News,
9 Metro. And if I have time, the newspaper.

10 THE COURT: Which newspaper?

11 PROSPECTIVE JUROR: The Daily News. Once in a blue
12 moon, Times. Once in a blue moon, not all of the time when I
13 can watch TV, The Young and The Restless, and then it's bed
14 time. Clubs, no. No blogging, no following nothing else.

15 THE COURT: Mr. Montalvo.

16 PROSPECTIVE JUROR: Carnelo Montalvo. I live in the
17 Bronx for last 25 years. I am a part-time hairdresser. And,
18 I -- I'm single, no children. I went to 12 grade, and had
19 to construction drawing back in high school, vocational school.

20 My spare time I, you know, I do computers, and I watch
21 the news on Channel 7. Watch television, I do. I watch court
22 shows, I watch some reality shows. I don't participate in any
23 organizations. And I am on Facebook.

24 THE COURT: Okay, thank you. Ms. Henry.

25 PROSPECTIVE JUROR: I'm Georgia Henry. And I'm from
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Voir Dire

1 the Bronx. I live in the Bronx for the past 10 years. I'm
2 originally from Jamaica. I'm married. And my husband, he is a
3 porter at a nursing home. And I have one child, a three-year
4 old daughter. And my highest level of school in high school is
5 11th grade. And in my spare time, I spend time with my
6 daughter. And I don't have much time, because I have to spend
7 more time with her. And I love to read The Daily News once in
8 a while. I love to watch Channel 7 news. And Sundays, I watch
9 BBC World News. Or sometime I watch Channel 25. And I love to
10 watch Channel 3, Criminal Minds, Law and Order. Once in a
11 while on weekends, when I'm off, I watch Lifetime. And I'm
12 certified CNA.

13 THE COURT: And, ma'am, did you say what you did?

14 PROSPECTIVE JUROR: Certified CNA, Nursing Assistant.

15 THE COURT: You're a nursing assistant. Thank you.

16 Thank you very much.

17 And do you do anything on a computer?

18 PROSPECTIVE JUROR: Yes, I'm on Facebook once in a
19 while.

20 THE COURT: Okay. Thank you.

21 Ms. Silva.

22 PROSPECTIVE JUROR: Wendy Silva. Born and raised in
23 New York. I live in Chelsea now. I am an attorney for the
24 last 11 years. I do public interest work and I have a
25 nonprofit organization that represents women. I have an

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Voir Dire

1 undergraduate degree in criminal justice. I'm not married. I
2 do have an partner that I live with. And he is an IT regional
3 coordinator at a law firm. I have no children. In my spare
4 time I do yoga and training for a half marathon. I get my news
5 mostly from the public radio, WBAI, NYC, NPR. I read the
6 Huffington Post on line. I'm a member of Facebook, but I
7 hardly use it. Not on any blogs. In terms of television
8 programs, I watch HGTV home improvement channel. And but I
9 generally don't watch a lot of television. I'm a member of New
10 the York City Bar Association and New York Counsel Lawyers
11 Association. And I'm not regularly following any blogs,
12 although I do belong to some lists for lawyers.

13 THE COURT: Thank you. Pass it back to juror 25, Ms.
14 Alba.

15 PROSPECTIVE JUROR: I'm Robin Alba. I live in
16 Rockland County, New York. I'm a teacher, art teacher in North
17 Rockland School District. I have been doing that for 17 years.
18 I have been married twice. I have a son who is in college. In
19 my spare time, I like to walk, ride my bike, paint, going to
20 the beach. News, I mostly just look for weather on the news,
21 or you know usually I'm so tired by the time I watch TV, I
22 don't really -- kind of like background noise. Television like
23 I said, I kind of just fall asleep while I'm watching TV.
24 Clubs, I'm involved with my church. I have blogged, but I
25 haven't done so in a long time. And I was on Facebook, but I

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Voir Dire

1 I have a bachelors in comparative literature and did some
2 graduate school, but I dropped out. I go to a lot of concerts
3 in my spare time, hang out with friends, go out to dinner. For
4 news, I watch a lot of New York 1, sometimes CNN. I get a lot
5 of my news on line. Watch a lot of TV, because of my work.
6 Also like a lot of reality TV. No clubs. I don't blog, but
7 do -- I am on Twitter and Facebook a lot, just because of work.

8 THE COURT: Okay, thank you.

9 Mr. Grillo, juror number 30.

10 PROSPECTIVE JUROR: How you doin'. My name is John
11 Grillo, live in Yonkers, New York. Lived there for the past 20
12 years. Computer technician for Yonkers Public School System.
13 Never married, don't have any kids. My highest level of
14 schooling, I have a bachelors degree in computer science. In
15 spare time, usually like playing sports, movies, travel; things
16 like that. As far as news, I read The Daily News, but nothing
17 really too regularly. I watch television, but mostly sports
18 and investigative shows, stuff like that. I am not in any
19 clubs or organizations. I have Facebook, but I don't blog or
20 Twitter or anything like that.

21 THE COURT: Great. Let's pass it back to Ms.
22 Chaparro.

23 PROSPECTIVE JUROR: Good afternoon, my name is Meryl
24 Chapparo. And I have been living in New York City for most of
25 my life. Currently, I am moving to the Bronx. I have an

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Voir Dire

1 associates degree in occupational therapy. I have been
2 married. I was married for 10 years. I have two sons. And my
3 oldest son works at Frick Corporation in the security
4 department. And I have a younger son who is going to school
5 majoring in applied math, mathematics. I like to go, right
6 after work, I usually go to Lucille Roberts and try to do a
7 little workout there for about two hours. And then I come
8 home, watch the news. I usually put on either Channel 7, CNN,
9 sometimes CNBC. Sometimes I'll watch the reality shows, E
10 Entertainment, Access Hollywood. I am in no clubs,
11 organizations. I have an account on Facebook, but rarely go
12 on. My family is in it, but I rarely.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR: That's it.

15 THE COURT: Mr. Portnoy, you're number juror number
16 32.

17 PROSPECTIVE JUROR: Good afternoon. My name is Rafail
18 Portnoy. I am originally from Russia. I live in Rockland
19 County, New York with my wife and two kids. I work for
20 organization called Safe Horizons, which is a domestic violence
21 agency within City of New York, helping victims of child abuse,
22 women abuse. I am a vice president of informations systems and
23 technology for them, so I run all of the operations for IT,
24 call center in Brooklyn 24/7. I live a fully connected digital
25 life, because of my background. I have masters in

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Voir Dire

1 live in the Bronx for last 33 years, originally from Ecuador.
2 I am a supervisor at the Department of Motor vehicle in hiring
3 office. And I not married, I live with somebody, I have two
4 kids; a baby, and -- 2 year old baby and 12 year old son. I
5 went to school got a BA in business management. And spare
6 time, spend time with my family, my kids. Play indoor soccer
7 during the summer and during the winter. Watch the news, you
8 know, English and Spanish, any particular channel, don't have.
9 I use whatever is available. And I like to watch a lot of
10 television, especially sports and cartoons with my kids. And
11 like I say I play indoor soccer club. And computer, only when
12 I pay my bills, or when I want to see the sports.

13 THE COURT: Thank you. Ms. Astorino.

14 PROSPECTIVE JUROR: Hi, my name is Karen Astorino. I
15 was born, and still live, in the Bronx, all my life. Presently
16 working for an agency, nonprofit, MADAP, where I am the
17 coordinator for client care. Not married. I do not have
18 children. I have three and a half years of college. And have
19 my CSAAC, Certified Substance Abuse Alcohol Counselor.

20 THE COURT: Thank you.

21 PROSPECTIVE JUROR: And in my sparetime, I hang out
22 with friends, and go to the movies, go to dinner. I get my
23 news from The Post and the Bronx 12 Channel. FOX 5 TV, that
24 sort of thing. I cannot live with without television, the TV
25 goes on the minute I go in. And my job is so stressful that I

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Voir Dire

1 don't -- I go on sometimes because my friends are on, if they
2 tell me they put some photos up. That's about it.

3 THE COURT: Okay, great.

4 Juror number 36. Mr. Ferreira.

5 PROSPECTIVE JUROR: My name is Dan Ferreira. I live
6 in Carmel New York in Putnam County. I have been there for
7 24 years. I'm not married, I live with my girlfriend. She's a
8 nurse in Danbury. I don't have any kids or children. I went
9 to two years of school, I went for criminal justice. I play
10 sports in my spare time. I read the Journal News and The Post.
11 I watch television, but only ESPN. I don't participate in any
12 clubs or organizations. I have Facebook, but my girlfriend
13 runs it for me.

14 THE COURT: I'm sorry, I -- I missed it. What do you
15 do?

16 PROSPECTIVE JUROR: I work for a bank, supervisor at a
17 bank.

18 THE COURT: Thank you.

19 PROSPECTIVE JUROR: You're welcome.

20 THE COURT: Juror number 38. Ms. Jusino.

21 PROSPECTIVE JUROR: Hi, my name is Erika Jusino. I
22 live in the Bronx, I lived there all my life. Occupation, is
23 work for Rehab Center. I'm single. No children. I have a
24 BBA. In my spare time, I like to spend time with my family, my
25 friends, go to dinner. I pray. And I like to travel. As for

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Voir Dire

1 Mr. Moyne.

2 PROSPECTIVE JUROR: I'm Nicholas Moyne. I am an
3 attorney. I have been an attorney for 14 years. Currently,
4 I'm practicing in the area of securities litigation and
5 consumer class action litigation. Part of that, I worked for
6 the New York State court system for 10 years. I am married.
7 My wife works in finance. We have no children. In my spare
8 time I like to go to films, read, go out to eat, travel, watch
9 sports. Both for work and for entertainment, I read many
10 newspapers including The New York Times, Wall Street Journal,
11 Financial Times, Barons. I watch all of the TV news, but I
12 would say mostly MSNBC, New York 1, and FOX, and C-Span. I
13 watch a lot of sports. Like a lot of people right now I'm
14 suffering from insanity. And --

15 THE COURT: But you are the first person to have
16 mentioned that word in my courtroom.

17 PROSPECTIVE JUROR: Someone had to mention it, your
18 Honor, right?

19 THE COURT: Yes.

20 PROSPECTIVE JUROR: So I have been following it.

21 I am a member, in addition to bar associations and my
22 church, I am a member and I am on the executive committee of
23 the Lexington Democratic Club. And I am on Facebook. And I
24 read many, many blogs involving politics, sports, and
25 securities litigation, but I don't blog myself.

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Voir Dire

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25

THE COURT: Thank you.

Juror number 48, Ms. Miller.

PROSPECTIVE JUROR: Hello, my name is Patricia Miller. And I live in Harlem. And I have been employed with the Internal Revenue Service for the past 31 years. I have no significant other right now. And I have one adult child and she's in medical school, undergrad. And right now she is working as a project manager for Montefiore Hospital.

THE COURT: Now, what do you do at the IRS?

PROSPECTIVE JUROR: Well, the last 10 years I have been a secretary, last 10 years; presently I'm a secretary.

THE COURT: Okay.

PROSPECTIVE JUROR: Before that, I was an examiner for many years. And as far as my spare time, very little spare time. I have a side business as a pastry chef. And what news? Okay, Channel 7. CNN is my favorite. And I, too, I am hooked on investigation report. I love to bowl. I am involved in a church. And I'm also supportive of the New York Urban League. Do I watch television? Oh, yeah, I'm hooked on those, too. I love the game shows. What else do I do. I love AMC. And I also, as far as education, I have two years of college. And do I participate in any clubs? Well, I'm, like I said, I'm a big supporter of New York Urban League. I don't blog, I don't Tweet.

THE COURT: Let me ask you, specifically, a question.

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1 THE COURT: Ms. Nedow.

2 THE JUROR: My name is Beth Nedow. I've lived in
3 Manhattan for 25 years except for a brief two year stint in
4 Washington D.C. in the early '90s. I'm an attorney with the
5 New York City Law Department for the last 15 years. The first
6 dozen years I was a prosecutor in family court and tried and
7 supervised and trained other attorneys in three out of five
8 boroughs.

9 I have never been married except to work,
10 unfortunately and have that same problem with working too much.

11 No adult children. In my spare time I like to read
12 and travel, not enough.

13 I get my news, I listen to New York One. I mean, 1010
14 Wins in the morning and watch the New York One and CBS
15 sometimes. Read The New York Times. For television, again,
16 it's background noise. I think people have said that. Mainly,
17 it's background noise and I surf channels, the hour long dramas
18 including the crime ones. I belong to a synagogue. I'm not
19 involved in any social media at all. I thought I was the only
20 person who was not on Facebook until today. I do follow one
21 blog but it's my nephew's blog and he is 12 and he started it
22 when he was ten, so I don't think you've heard of it. He posts
23 his art.

24 THE COURT: Okay. You are a good catch.

25 Juror No. 52, Ms. Lawrence.

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1 THE JUROR: Victoria Lawrence. I lived in the Bronx
2 my entire life. I have a seasonal position as a wild life
3 technician for the New York State Department of Environmental
4 conservation. I am single, no children. I have about three
5 and a half years of college. In my spare time I'm probably
6 either reading or playing video games. I don't really follow
7 the news. When I watch television it's usually old sci-fi
8 reruns. I don't belong to any clubs or organizations. I don't
9 blog but I have a Facebook account.

10 THE COURT: Okay. Thank you. Pass it back to Juror
11 No. 54, Mr. Timmins.

12 THE JUROR: My name is Peter Timmins. I've lived in
13 Manhattan all my life. Previously been a financial advisor
14 with UBS. I was appliance officer for several years.

15 THE COURT: What's the firm?

16 THE JUROR: UBS. I am recently married. My wife was
17 a fashion designer before going back to school. No children.
18 I have a bachelor of sciences degree.

19 Spare time is spread from volunteering in my
20 neighborhood in several different areas and watching the New
21 York Nicks. My news is gotten from many various ways. I have
22 several newspapers subscriptions and I watch Bloomberg News in
23 the mornings. Most of it business related to catch up on the
24 daily business activity. I review all of the papers,
25 newspapers online as well. Television is mostly to tune out.

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1 The news is the Channel 13 news mostly.

2 THE COURT: I take it by "all the papers" you mean The
3 Times.

4 THE JUROR: Wall Street Journal, New York Times,
5 Barons Financial Times, New York Observers, several magazine
6 subscriptions as well. Club organizations that are, the opera,
7 lots of different spots in New York. I am a member of those
8 types of clubs, no blogs. Facebook just to make fun of my
9 friends. Nothing else really online.

10 THE COURT: Okay. Thank you.

11 Juror No. 56, Ms. Beck.

12 THE JUROR: Glenda Beck. I am an upper west sider.
13 My occupation I am in business for myself doing costumes for
14 theatre, music schools, Columbia. I am divorced. I have no
15 children. I have a bachelor's in theatre. And I took about 20
16 credits at FIT. The things I do in my spare time, I go to the
17 theatre, movies, pilates classes. Most of the news I get
18 locally from I like in-depth news, Bill Moyer, Bob Shafer,
19 CSpan, television. My favorite would be The Good Wife. And I
20 also in my spare time I take an acting class. I usually mainly
21 use television to put me to sleep. I don't belong to any
22 organization. I'm on the computer maybe ten minutes a day and
23 that's for business and to get theater tickets.

24 THE COURT: Okay. Juror No. 57, which is either
25 Ms. "Gomez" or "Gomes"?

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1 THE JUROR: "Gomes". I'm Rosemarie Gomes. I am
2 currently a Mount Vernon resident. Prior to that the Bronx. I
3 was born in Brooklyn. I am a television communications
4 technical associate for Verizon. I test cell sites that are
5 going up for all the companies that are requesting cell sites,
6 very stressful job. Anxiously, awaiting my divorce decree so
7 that I can frame it. I do not have any children.

8 THE COURT: What does the soon to be ex do?

9 THE JUROR: He is a lab optician and a truck driver.

10 I have a couple degrees. My latest one in masters of
11 technology. I go to a variety of dance classes Afro-Cuban
12 anything from Alvin Ailey to where ever. It's my favorite
13 sport. I also travel a lot on my spare time and I gather with
14 my friends and have little soirees and game nights.

15 My news comes from watching Fox 5, Channel 7 and New
16 York One and MSNBC. I love old sci-fi movies, the X Files is
17 the best out and Fringe and a lot of HBO shows -- and True
18 Blood.

19 I am a member of Communication Workers of America CWA
20 and I am also Local 1101 union steward. Thankless job. And I
21 do not blog. I don't follow blogs. I am not on any Twitter,
22 Facebook, nothing. I don't want anybody to find me.

23 THE COURT: Juror No. 59.

24 THE JUROR: Maria Pena. I am a home attendant and I
25 live in New York City for at least 27 years. My occupation is

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1 a home attendant. I am a widow. My husband passed away. I
2 got two children, grown children. They are accountant and
3 security guard.

4 I don't understand that number six.

5 THE COURT: I'm sorry. I didn't hear that. I
6 apologize.

7 THE JUROR: Okay. I read the Spanish news, Diablo La
8 Provincia. I watch New York One, Channel 47, Channel 41. I
9 have no -- I never be online. I do watch TV when I have the
10 time.

11 THE COURT: What do you like to watch on TV?

12 THE JUROR: Yeah.

13 THE COURT: What do you like? What show?

14 THE JUROR: I like to watch different show. The news,
15 six o' clock news. I don't have internet.

16 THE COURT: Okay. Thank you.

17 Mr. Andrews, Juror No. 60.

18 THE JUROR: My name is Carl. I live in the Bronx.
19 I've been living thee for the last 15 years. I am a librarian
20 with the City University of New York and the Yonkers Public
21 Library. I'm not married. I don't have kids. I have Masters
22 in information and library science and another masters in
23 adolescent education.

24 When I have time I like to go to the gym. I like to
25 eat out. If time and money permit I like to travel. I got my

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1 news from New York Times both print and electronic, CNN 101
2 Wins, WABC.

3 Television, yeah, that's background noise, primarily,
4 but if I am watching I like to watch the reality TV shows.

5 I am a member of the American Library Association, the
6 New York Library Association and the Westchester Library
7 Association and I follow blogs that are professional and I am
8 on Facebook.

9 THE COURT: Thank you. Juror No. 63, Mr. Mulcahy.

10 THE JUROR: Brian Mulcahy. I am 38. I've lived in
11 Westchester, New York for most of my life. And eighth grade
12 social studies teacher in White Plains been doing that for most
13 of my adult life. I am married to my beautiful wife Nicole for
14 1 years. We have two children. One is eight. One is four.

15 My wife works for a non-profit organization helping
16 the disabled find jobs. She works for, of course, she just got
17 the job so I can't remember. She was home for the last seven
18 years with our kids. She just went back to work in October.

19 THE COURT: Okay.

20 THE JUROR: I have a bachelor's degree in secondary
21 social studies education. I have a master's degree in
22 secondary social studies education. I teach, primarily,
23 history. Also taught economics. Civil law, civics that kind
24 of thing geography.

25 In my spare time I spend time with my family, my kids.

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1 I play with them whenever I get a chance. Go to the gym,
2 running, work out in the yard, love to do that, gardening.
3 Flowers and all that kind of stuff.

4 News, I do not read newspapers. I do not watch
5 network news. All of my news is cable news, predominantly,
6 Fox, CNN.

7 As far as television goes, I am kind of all over the
8 place. Heavily involved in sports, love watching ESPN. Sports
9 during the weekends. As far as other television kind of little
10 bit all over the place. When I get home I watch Scooby Doo,
11 Olivia, you know that kind of tough. But then at night when
12 the kids go to sleep I just kind of suffer a little bit here
13 and there. I do watch some of the genres. My wife makes me
14 watch Gray's Anatomy an Private Practice. Last night she made
15 me watch Oprah.

16 I'm heavily involved in my church. I was a deacon for
17 three years. I work at a food pantry. I was in charge of
18 running the blood bank, Toys for Tots, that kind of thing. I
19 do not do blogs. I have never Tweeted. As far as Facebook
20 goes I only Facebook with family, friends, share pictures of
21 the kids, that kind of thing

22 THE COURT: Okay. Thank you.

23 Ms. Barone.

24 THE JUROR: I live in the East Village. I've lived
25 there about 30 years. My occupation has always been in real

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1 estate, finance and development. Never married. No kids.
2 High school education.

3 Spare time, I have a house upstate so I lake, kayak,
4 fish, love the outdoors. Play a lot of sport. I like to read.

5 News would be New York Times, public radio. I
6 subscribe to the New Yorker. I don't watch television news.
7 Web sites would be more real estate web sites or industry web
8 sites. Turn own the television probably later in the evening.
9 I like to catch The Daily Show or Colber. Watch a lot of
10 sports. Professional organizations, real estate board,
11 mortgage bankers association, boxing club upstate.

12 Don't blog, Tweet or Facebook or anything. The only
13 site I belong is Lake Din which is a business network site

14 THE COURT: Right. Thank you very much.

15 Mr. White.

16 THE JUROR: Hi. Joe White. I've lived in New York
17 for 31 years. Currently in Hells Kitchen for about the last
18 ten years. I am a flight attendant for Jet Blue Airways for
19 the last eight years. I have not been married. I have a
20 significant life partner for thirteen years. Marriage was not
21 a legal option then. No children. I finished high school. I
22 have had some college, some continuing ed, adult ed, things
23 like that.

24 Spare time, I like to spend time with friends, workout
25 at the gym, go to dinner. Like I said with friends, movies,

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1 stuff like that. My news I get, well, if I am on a plane and
2 somebody leaves a New York times I read it but I won't read The
3 Post. Let's see I'll read Newsweek. Television pretty much
4 exclusively I'm MSNBC, New York One. Radio I like to listen to
5 MPR, BBC World News.

6 Online, not so much. I don't have a computer.
7 Although I am planning on buying one this month. Watching
8 television I like Criminal Minds is kind of like got me. Just
9 addicted to it. And Doubt and Abby and True Blood, Amazing
10 Race, stuff like that.

11 Clubs, organizations. I am a member of the Screen
12 Actors Guild, Actors Equity. I am a member of the 12 step
13 group up, in for 23 years. So also in my spare time so that
14 means I go to a lot of meetings, so. Blogging, I don't know
15 what blogs are really. I guess that's somebody's web page or
16 something but I don't follow.

17 THE COURT: You don't know, you don't need to know.
18 Juror No. 66, Mr. Wargo.

19 THE JUROR: Peter Wargo. I've lived in New York City
20 for 28 years. I work for a non-profit organization BRC. I am
21 a program director. I am married. I have a son. My wife is a
22 massage therapist. I have a master degree in social work. In
23 my spare time I have a home in Vermont so I do a lot of
24 gardening and cutting of wood, sugar in the early or late
25 winter.

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1 The news pretty much from the New York Times, the New
2 Yorker. Television shows we don't watch much TV but I watch
3 the Antiques Road Show.

4 I don't participate in any clubs, just Hell Club, that
5 is I don't belong or follow blogs.

6 THE COURT: Okay. Great. We're going to pick up the
7 microphone.

8 Thank you. All.

9 (Pause)

10 THE COURT: A couple of you told me this morning you
11 had back or leg or problems that require you to stand from time
12 to time. Don't be shy. Don't be shy if you need to do that.

13 We're going to take a five minute break. Then the
14 five minute break will turn into a ten minute break but I don't
15 want it to be a 15 minute break. What I want to ask is for any
16 of you who need to use the facilities do that and then come
17 back in. Otherwise, don't go far. Don't discuss the case.
18 "Discuss" in the broadest sense of the word. Keep an open
19 mind. I am not going to leave right here, okay. So I'll be
20 here.

21 (Recess)

22 COURTROOM DEPUTY: Come to order, please.

23 THE COURT: Let me tell you what the schedule is.
24 We're going to go for another half hour, 15 minutes and then
25 we're going to break for today and come back tomorrow and

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1 finish up in the morning, so let me charge on.

2 All right. Now, you heard my description of the case.
3 So you know that you are going to hear evidence about charges
4 of public corruption including like stuff about alleged bribing
5 of a public official. That's what the case is going to be
6 about.

7 Is there anybody here --

8 JUROR NO. 1: Can you read me what the charge is?
9 Would that be okay?

10 THE COURT: The charges include you charges of
11 conspiracy, making and receiving corrupt payments, extortion of
12 a public official and those charges lie against essentially
13 both defendants. It's a little complicated to explain them
14 number by number. And then there are several charges against
15 Ms. Annabi only that involve making alleged false statements on
16 loan applications and on tax returns.

17 Now, do any of you folks have a strong opinion?
18 Whether it's a positive opinion or a negative opinion I don't
19 care but a strong opinion about public officials and their
20 honesty or their trustworthiness that would prevent you from
21 being a fair and impartial juror in a case where the issues
22 involve alleged giving and receiving of corrupt payments by
23 public officials? OK. Hang on and let me write your numbers
24 down and let me find my pieces of paper. Hands up. Juror No.
25 1, number 3. Row by row in the back please it's just easier

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1 for me to see. First row on the left? Nobody. Second row on
2 the left? Okay. Hang on. Juror No. 25 and Juror No. 29 in
3 the second row. In the third row Juror No. 32, Juror No. 34,
4 Juror No. 35. In the very -- I am sorry. Is that
5 Mr. Schulman? Juror No. 39 and then the behind we have Juror
6 No. 42 and Juror No. 44. Okay. On this side of the room, all
7 right. Thank you.

8 Now, I did tell you earlier this morning and I think
9 it was because of some recent publicity that we had there was a
10 politician, former politician in the State of New York in
11 Westchester County who a few days ago pled guilty to charges
12 that are not related to the charges in this case and you must
13 understand, they are not related to this the charges in this
14 case.

15 No person's plea of guilty in Case A has anything to
16 do with whether the government is able to overcome the
17 presumption of the innocence in Case B, all right. But is
18 there anybody here whose verdict is likely to be affected by
19 the fact that the politician who is known to these defendants,
20 politicians that they knew entered a plea of guilty on
21 unrelated charges? Okay. I see Juror No. 32.

22 Before I go on. I want to tell you what I mean by
23 being a fair and I partial juror because from now on until the
24 end of the voir dire I am going to use that phrase. I'm going
25 to say, is there anything about that, is there anything about

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1 that that would prevent you from being a fair and impartial
2 juror in this case?

3 Here is what I mean by that term. A fair and
4 impartial juror is a juror who can decide the case on the basis
5 of the law as I tell you the law is, the evidence that you hear
6 in this courtroom and nothing else. No preconceptions, no
7 prejudices that would put their thumb on one side of the scale
8 or the other. None of that. You have to be able to listen to
9 the law and listen to the evidence and put everything else out
10 of your head and decide the case on the basis of the law and
11 the evidence as you hear it in this courtroom. Bringing no
12 partiality in favor of either the government, the accusing
13 party or the defendants other than, of course, you're presuming
14 that the defendants are innocent, okay. That's what I mean by
15 a fair and impartial juror.

16 So, let me ask you a series of questions. Is there
17 anyone here who could not be a fair and impartial juror in this
18 case because Ms. Annabi and Mr. Jereis were involved in
19 politics? I don't see any hands on that.

20 Both Ms. Annabi and Mr. Jereis have advised me that
21 they were Jordanian descent. Is there any reason why you could
22 not be a fair and impartial juror in this case because of their
23 ethnicity? I don't see any hands.

24 How many of you -- I've had one juror, I mentioned
25 this I think -- how many of you are involved in political

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1 activity? Juror No. 46, Mr. Moyne. Anybody else?

2 Are any of you involved with groups or organizations
3 that try to influence political activity? Juror No. 32 and
4 Juror No. 42 you're with your union. Juror No. 46 you are with
5 your union. That's Juror No -- Ms. Gomes, I forget your
6 number.

7 THE JUROR: 57.

8 THE COURT: Juror No. 57 with the union. And Juror
9 No. 65, Mr. White.

10 THE JUROR: Your Honor, I couldn't hear the question.

11 THE COURT: Well, you must be able to hear the
12 question. Okay. The question was, who in the room is a part
13 of a group that seeks to influence the political process?

14 THE JUROR: Can I ask?

15 THE COURT: Yes, Mr. Mulcahy, Juror No. 63.

16 THE JUROR: The union does but I have nothing to do
17 with it.

18 THE COURT: Look, some of are you members of your
19 union. Two of you are shop stewards or have official
20 semiofficial whatever positions in the union but, look, this
21 doesn't disqualify you. I am going to ask you follow-up
22 question.

23 Yes, Juror No -- I've got a very inquisitive jury
24 here. Number 21, Mr. Montalvo.

25 THE JUROR: I wanted to know if that includes working

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1 the elections work?

2 THE COURT: Do you work with the Board of Elections on
3 Election day?

4 THE JUROR: Right.

5 THE COURT: On Election day you sit in the polling
6 place?

7 THE JUROR: Right.

8 THE COURT: Okay. Anybody else do that besides
9 Mr. Montalvo? Yes. We have a juror who does that. Civic
10 activity, Ms. Beck, Juror No. 56.

11 THE JUROR: Yes.

12 THE COURT: Okay.

13 THE JUROR: At the polling place.

14 THE COURT: And we have Juror No. 16, Ms. Langhorne
15 works at the polling place on Election day.

16 Yes, ma'am, Juror No. 64.

17 THE JUROR: I am not sure. Part of some real estate
18 groups that meet with the city council members.

19 THE COURT: I just put you down. Now let me ask those
20 of you whose numbers I have put down is there anything about --
21 tell us what the group is -- please, Mr. Portnoy, put your hand
22 down. I will speak to you in a moment. Thank you.

23 Tell us what the group is and is there anything about
24 your involvement with that group that would prevent you from
25 giving these defendant's a fair trial that would prevent you

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1 from being a fair and impartial juror? In other words, the
2 fact that you were involved with a group that tries to
3 influence the political process does not disqualify you from
4 being a juror but if what you do means that your thumb is on
5 one side of the scale or the other you cannot be a fair and
6 impartial juror because of that that's what we want to know,
7 okay.

8 So let me start with the lowest number that I had
9 there was indeed Mr. Portnoy. What group were you involved
10 with?

11 THE JUROR: As part of my job at Safe Verizon I
12 actively worked with our lobbyists --

13 THE COURT: Okay. Fine. Thank you. More detail than
14 that we don't need to know. What we need to know is there
15 anybody about your involvement with Safe Horizon which lobbies
16 legislators that would prevent you from being a fair and
17 impartial juror in this case?

18 THE JUROR: I'd like to speak with you in private
19 later.

20 THE COURT: Okay. Next, Juror No. 42. Juror No. 42
21 is Ms. McDaniel and I believe you are an 1199 representative;
22 is that correct, ma'am?

23 THE JUROR: There is nothing that would cause me to be
24 unfair.

25 THE COURT: About that issue you wouldn't have

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1 problems because of that issue, because of that issue.

2 THE JUROR: No.

3 THE COURT: Juror No. 46, Mr. Moyne.

4 THE JUROR: Yes. As I mentioned earlier, I am on the
5 executive committee of Lexington Democratic Club which is an
6 organization on the Upper Eastside that seeks to --

7 THE COURT: Right. Is there anything about your
8 membership in that organization that would prevent you from
9 being a fair and impartial juror in this case?

10 THE JUROR: Based on what I know so far, no.

11 THE COURT: Juror No. 57, Ms. Gomes.

12 THE JUROR: CWA 1101 Local Union Steward, no.

13 THE COURT: Thank you. Juror No. 64, Ms. Barone, you
14 are involved with the RAB and some realty groups that do, in
15 fact, seek to influence politics. Is there anything about that
16 that would prevent you from being a fair and impartial juror in
17 this case?

18 THE JUROR: Possibly that I've heard industry talk
19 over the years.

20 THE COURT: Industry gossip about this case.

21 THE JUROR: No, not about this case.

22 THE COURT: Okay. All right.

23 THE JUROR: Would not influence any -- about
24 influencing decisions but not this case, no.

25 THE COURT: And Juror No. 65, Mr. White.

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1 THE JUROR: Besides the unions that I belong to and
2 just donations to certain campaign funds and things like that,
3 no, I don't think it would.

4 THE COURT: Would not have any influence on your
5 ability to be a fair impartial juror?

6 THE JUROR: No.

7 THE COURT: Good. Okay. All right. Have any of you
8 folks ever held political office? Do any members of your
9 family or have any members of your family held political
10 office?

11 Ms. Astorino, Juror No. 34, you have a cousin who is
12 in political office. Any others?

13 THE JUROR: Do you need to know where?

14 THE COURT: No. No. Anybody else besides
15 Ms. Astorino?

16 THE JUROR: No.

17 THE COURT: Juror No. 1, are you raising your hand?

18 THE JUROR: I am sorry. I don't like politics. So
19 does political office?

20 MR. ARONWALD: We can't hear her.

21 THE COURT: You need to speak up.

22 THE JUROR: I was just asking does that also
23 constitute CIA or this type of thing?

24 THE COURT: I didn't say work for the government. I
25 said political office, the mayor, the city council, the
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1 President of the United States, member of Congress, a member of
2 a local legislature, a judge, the district attorney, anything
3 like that?

4 THE JUROR: No. Okay.

5 THE COURT: And somebody else had a hand raised. Yes,
6 Juror No. 46, Mr. Moyne.

7 THE JUROR: My mother was the Mayor of Sea Cliff which
8 is on the north shore of Long Island.

9 THE COURT: OK. Is there anything about that that
10 would make it hard for you to be a fair and impartial juror in
11 this case?

12 THE JUROR: No.

13 THE COURT: Okay. Are any of you folks familiar with
14 the bidding process for work that requires government approval?
15 Juror No. 32, Mr. Portnoy, Juror No. 50 Ms. Nedow. Anybody
16 else?

17 Let me ask Ms. Nedow, first, explain how you are
18 familiar with that process.

19 THE JUROR: I work in a division for the Law
20 Department. It's called litigation support and we work with
21 vendors who have to compete to provide services for the city.

22 THE COURT: By submitting bids. They submit bids?

23 THE JUROR: Yes.

24 THE COURT: Okay. And, Mr. Portnoy, how are you
25 familiar with that process?

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Jury Voir Dire

1 THE JUROR: During my tenure at IBM I was involved
2 with the bidding against a public contactor for multiple
3 agencies. In my current capacity the role is reversed. I am
4 actually responsible for awarding those contracts, so we follow
5 the process very, very strictly.

6 THE COURT: Okay. Great. Ms. Nedow. First of all,
7 you should all know this case is going to involve some
8 testimony about the bidding process for certain real estate
9 development projects in Yonkers, New York. That's part of what
10 that case is about.

11 Ms. Nedow, is there anything about your familiarity
12 with the Law Department's bidding process that you think would
13 prevent you from being a fair and impartial juror in this case?

14 THE JUROR: No, judge.

15 THE COURT: Mr. Portnoy? Yes, you do. Okay.

16 There are, as we know, some charges against Ms. Annabi
17 about making fraudulent statements on tax returns. Just
18 knowing what the charge is is there anything about that that
19 you think would make it hard for you to be a fair and impartial
20 juror in judging whether the government has overcome the
21 presumption of innocence in such a case? I don't see any hands
22 on that.

23 Have you or has anybody in your immediate family ever
24 had any kind of a dispute with the Internal Revenue Service?

25 Ms. Gomes, Juror No. 57.

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Jury Voir Dire

1 THE JUROR: Yes.

2 THE COURT: Okay. If you can tell us without doing
3 prejudice to any of the other jurors what was the issue.

4 THE JUROR: My identification was stolen at some point
5 in the early 80s and so somewhere along the line in the '90s I
6 got a letter indicating that I still owed some taxes and I had
7 to go through about a one year process to prove that that
8 wasn't me.

9 THE COURT: I see. Okay. And is there bad blood
10 still that you have against the IRS that would prevent you from
11 being a fair and impartial juror in a case involving tax
12 charges?

13 THE JUROR: No, your Honor.

14 THE COURT: Ms. Nedow.

15 THE JUROR: For the specifics I'd rather do that at
16 sidebar. However to answer the second question, it involves no
17 bad blood and I don't think it would affect my impartiality.

18 THE COURT: Okay. That's fine. We'll bring you up
19 for the specifics.

20 Anybody else? Mr. Moyne, Juror No. 46.

21 THE JUROR: They claimed I owed money and after some
22 time I proved to them that I did not. It would not affect my
23 ability to be an impartial juror.

24 THE COURT: Okay. Thank you. Anybody else?
25 Juror No. 39, Mr. Schulman.

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Jury Voir Dire

1 THE JUROR: I don't know if you'd call it a dispute
2 but when I was in college my parents having paid my taxes ended
3 up getting frozen but it wouldn't affect my impartiality.

4 THE COURT: Okay. You're a tax lawyer?

5 THE JUROR: No.

6 THE COURT: Somebody was a tax lawyer today. Okay.
7 All right. That's right. You are a litigant. I apologize.
8 Anybody else?

9 Okay. Just out of curiosity has anybody ever been
10 audited? Ms. Astorino, Juror No. 14; Juror No. 15, Juror No.
11 34, Juror No. 57.

12 Let me just ask those few of you who have been
13 audited, is there anybody among you who had a really, really
14 bad experience with the IRS in the course of the audits such
15 that you could not be a completely fair and impartial juror in
16 this case? Anybody? Nobody? Okay. Great. Thank you.

17 Just curious. Parties want to know how many of you
18 folks prepare your own tax returns or returns for the members
19 of your family? And when I say "prepare" I mean you fill out
20 the forms. I do not mean you gather up the documents and take
21 them to H & R Block or your accountant. I mean you do it.
22 Okay. Just so we know. How many people have somebody else
23 filling out your tax form for you? Okay. Thank you very much.

24 Does any juror have strong opinions about the tax
25 laws?

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Jury Voir Dire

1 I haven't finished the question. Let me finish the
2 question. Of course we do. But the question is, do you have
3 strong opinions about the tax laws -- and I don't care what
4 they are -- that would prevent you from being a fair and
5 impartial juror in a case involving alleged violations of the
6 tax laws? And to that I don't see any hands.

7 Does anybody here work in the mortgage lending
8 business? Right, Juror No. 64. Okay. Anybody else? Just out
9 of curiosity, how many of you have ever applied for a mortgage?
10 Fair number of people.

11 All right. The last charge in the case involves a
12 alleged false statements made in connection with a mortgage
13 loan application. Is there anybody here who would find it
14 difficult to be a fair and impartial juror in a case that
15 involved that kind of a charge? Juror No. of 4, okay. All
16 right.

17 Now the witnesses in this case will likely include law
18 enforcement personnel like agents from the FBI or agents from
19 the IRS. Those witnesses are supposed to be treated by jurors
20 just like any other witness. What do I mean by that? I mean
21 you listen to what the witness has to say and you sit back and
22 think do I believe that person or do I not believe that person?
23 And you think about all the things you would think about when
24 you are evaluating a witness' credibility but do you not
25 automatically believe the person just because the person works

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1 for law enforcement. And you do not automatically disbelieve
2 the person just because the person works for law enforcement.

3 In other words, if you are a person who for whatever
4 reason has an attitude about law enforcement that causes you
5 automatically to believe what a law enforcement officer says or
6 automatically not to believe what a law enforcement officer
7 says, you shouldn't sit on a jury where a law enforcement
8 officer is testifying because the mere fact that a person is a
9 law enforcement officer is not enough of a reason to believe or
10 disbelieve the testimony, right.

11 Is there anybody here whose feelings about law
12 enforcement officers are such that you would either
13 automatically believe or automatically disbelieve the testimony
14 of a law enforcement officer? Juror No. 1. Anybody else?
15 Okay.

16 You are going to hear testimony in this case from one
17 or more persons who have pled guilty to crimes. They were at
18 one time involved in illegal activity of some sort and they've
19 pled guilty to crimes and they're going to testify in this case
20 on behalf of the government pursuant to what's called a
21 cooperation agreement.

22 Now, it's perfectly lawful for the government to call
23 witnesses who are testifying pursuant to a cooperation
24 agreement. There's nothing wrong with it. Do any of you folks
25 have any experience with or feelings about the use of

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1 cooperating witnesses, generally, or evidence or information
2 that's obtained from cooperating witnesses that would cause you
3 either to automatically believe the witness' testimony or
4 automatically disbelieve the witness' testimony because of his
5 or her status as a cooperating witness? Juror No. 5, Juror No.
6 42 and Juror No. 44.

7 JUROR NO. 1: Does the waiving of it either way sort
8 of count? Does that make sense, how I am phrasing it?

9 THE COURT: No.

10 JUROR NO. 1: I guess because of being a cooperative
11 witness questioning whether that's true.

12 THE COURT: Let me make this clear that the fact a
13 cooperating witness is a cooperating witness is something that
14 you are allowed to take into account in assessing the witness'
15 credibility. Indeed, I'll tell the jurors that at the
16 beginning of the case. I'll tell them that at the end of the
17 case. What we're looking for is somebody who is a cooperating
18 witness. Don't even bother to listen to the testimony. I
19 don't believe that person or cooperating witnesses? Yeah,
20 absolutely. Don't even need to listen to the testimony. I
21 believe that person. In other words, the status makes it
22 automatic that you're either going to believe or not believe
23 the person, all right. That's what I am looking for. Not that
24 you would take it into account because you are allowed to take
25 it into account.

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1 Anybody else? Okay. So jurors number 5, 42 and 44.

2 You may hear some testimony in this case about persons
3 who have engaged in activity of which many people disapprove
4 like gambling, being involved in extra marital sexual activity,
5 things that of nature. Would knowing that a person had engaged
6 in such behavior, is there anyone here who just would not
7 believe the testimony of a witness simply and solely because
8 that witness had engaged in that kind of behavior? Don't see
9 any hands.

10 I have here two people, two defendants, Ms. Annabi an
11 Mr. Jereis. The jurors in this case are going to be trying two
12 cases at the same time, two separate cases. The government has
13 to overcome the presumption of innocence as to Ms. Annabi. The
14 government has to overcome the presumption of innocence as to
15 Mr. Jereis and you have to think about them separately,
16 separately. The verdict for one doesn't dictate the verdict
17 for the other. We're asking you really to try two cases here
18 and to give a fair an impartial verdict as to both of these
19 individuals. Each one of whom is entitled separately and
20 independently to the presumption of innocence and to your
21 entire attention and care as you deliberate.

22 Is there anybody here who can't make me a promise that
23 you will consider the evidence against Ms. Annabi and consider
24 the evidence against Mr. Jereis separately, independently and
25 make separate and independent decisions about each of these

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1 defendants and whether the government has met its burden of
2 proof as to each defendant separately? Good. Everybody can
3 make me that promise.

4 If you will give me about three minutes with the
5 lawyers at sidebar and don't move.

6 (Sidebar)

7 THE COURT: Okay. First of all, I have by my count
8 one, two, three, four, five, six, seven, eight, nine, ten
9 jurors who said they can't be fair and impartial to the very
10 first question that I asked and then we add Ms. Barone, our
11 real estate lady, who can't be fair and impartial on the
12 mortgage fraud charges.

13 The jurors I have on those are numbers 1, Ms. Altman;
14 Number 3, Mr. Ackerman, who is lying through his teeth; Number
15 25, Ms. Alba; Number 29, Mr. Wong; Number 32, Mr. Portnoy;
16 Number 4, Ms. Astorino; Number 35, Ms. Benaissa; Number 39
17 Mr. Schulman, who is also lying through his teeth; Ms.
18 McDaniel, our union representative, Number 42 and Ms. Brenner,
19 Number 44. And as I said, Ms. Barone number 64 who has
20 difficulty with being fair on the mortgage charges.

21 Does anyone disagree that these people have to go?

22 MR. SIANO: 64.

23 THE COURT: I don't want to follow-up on anybody if I
24 don't have to and, Mr. Carbone, I am not in the business of
25 rehabilitating people who walk into the courtroom and announce

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1 that politicians are --

2 MR. SIANO: Regrettably, I think that's right. I
3 think there are some others that, there seems to be sort of
4 gravitational mass of new issues that have come up that didn't
5 come up in the back even though people came into the back and
6 talked to us.

7 THE COURT: We didn't ask them this question.

8 MR. SIANO: There were questions that would have led
9 to a response, I think.

10 THE COURT: The questions in the back were completely
11 about whether you have medical issues whether you had time
12 issues.

13 MR. HALPERIN: I think a lot of the ten people that
14 your Honor just mentioned fell into some of the other
15 categories so.

16 THE COURT: They were people who tried to get out of
17 it.

18 MR. ARONWALD: There was one juror who has some
19 obvious language difficulties and she said she didn't
20 understand one of the questions on the questionnaire.

21 THE COURT: I would also say the court reporter, God
22 bless her, came up to me and said -- and this is Juror No. 59,
23 Ms. Pena. The court reporter could not understand her and
24 believes that she was not able to take down accurately what was
25 said. I think that's a big language problem.

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Jury Voir Dire

1 coverage of this case. This is one of the rare cases where I,
2 sometimes I have to guess. Sometimes I guess right. Sometime
3 I guess wrong. There is no guessing in this case. There is
4 going to be press coverage, so I am going to give you an
5 instruction that I expect you to obey.

6 Do not read, listen to or otherwise and watch anything
7 about this case. If you should be watching the evening news
8 and they start to talk about this case, turn the channel. If
9 you should be reading the New York Times and you should come
10 across either online or in print and you should come across a
11 story about this case, turn the page. If you should be
12 listening to 1010 Wins which some of you have said you get your
13 news from or watching Channel One or Channel 12 Westchester
14 people, Channel 12 and Bronx people and you should hear someone
15 start to talk about there case, turn it off. All right.
16 Please. If something comes to your attention, Jim is the
17 person that you should notify about that, okay, because he is
18 the boss and he really runs this whole ship. He is the captain
19 of the ship.

20 But I ask you and, indeed, I charge you, that you are
21 not on the Internet, not on the any site. You can't Google any
22 of the names that you've heard today. Don't go out and do any
23 research. I am charging you that you are not allowed to do
24 that. And it's very important that you abide by my
25 instructions. All right. Don't discuss the case. Don't

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1 Tweet. Don't put a posting on Facebook. Don't tell your best
2 friend that you are still on the jury panel in this case.
3 Don't mention this case in any manner, shape or form to anyone.

4 Mr. Halperin?

5 MR. HALPERIN: I was going to ask if the Court could
6 instruct them about attorney contact.

7 THE COURT: Yes. It's a beautiful courthouse. They
8 built it just before they changed the design standards. In new
9 court houses now that are being built, they have a separate
10 entrance for the jurors and a separate elevator for the jurors
11 and the purpose of that is to keep the jurors away from me and
12 the lawyers and the witnesses and the defendants and the
13 members of the press. But in this courthouse we don't have
14 that. So all of us are going to be in the elevators together.
15 You are not going to know who the witnesses are. You are not
16 going to know who the members of the press are. You will know
17 who I am and you'll know who the lawyers are and you may you
18 know who Ms. Annabi and Mr. Jereis is. We aren't going to talk
19 to you. We aren't going to look at you. We are going to treat
20 you rudely.

21 We aren't being rude. We're actually being
22 professional. We are, the lawyers and I are under professional
23 obligation to have absolutely no contact with you unless we
24 are all in this room and she is here taking it down. Do please
25 help us do our jobs. Don't expect us to smile at you. Don't

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1 expect us to say "hello" and don't hold it against us that we
2 do. And, in fact, I would suggest that you not talk to
3 strangers because you never know who you might be talking to.
4 Okay.

5 Have a pleasant evening. Safe home. I'll see you
6 late tomorrow morning.

7 (Jury not present)

8 (Continued on next page)

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C2F0ANN7

Voir Dire

1 (Jury not present)

2 THE COURT: Juror number five. My bad, Ms. Small, but
3 I had you on a separate list and I forgot to come back to you.
4 You had indicated to us that you had some issue with
5 cooperating witnesses. And I wonder if you could explain it
6 more closely.

7 PROSPECTIVE JUROR: Just to make sure I understood
8 what you meant. Is this someone who is testifying against
9 them, and they are getting their charges reduced because of
10 that or -- is that what it is, specifically?

11 THE COURT: The details kind of aren't relevant at
12 this point. There is going to be what we call accomplice
13 testimony pursuant to a cooperation agreement, cooperating
14 witness. And the issue is whether that is something that would
15 cause you not to believe the witness, to discount the witness'
16 testimony entirely.

17 PROSPECTIVE JUROR: No. I just feel, my gut feeling
18 is that someone whose charge is going to be reduced or
19 something along those lines, might say anything to save
20 themselves. If that's what is going on, I don't know at this
21 point.

22 THE COURT: Okay. I'll see in you the morning.

23 PROSPECTIVE JUROR: Okay.

24 THE COURT: 11:30.

25 Sleep in, sleep in.

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Voir Dire

1 PROSPECTIVE JUROR: Okay. Isn't there a travel issue?
2 No, I don't think so.
3 THE CLERK: Thank you.
4 MR. ARONWALD: I think there was a gentleman who had
5 to call his wife.
6 THE COURT: Let's let Ms. Small go first.
7 MR. ARONWALD: Yeah.
8 (Juror excused)
9 THE COURT: A travel issue.
10 MR. ARONWALD: There was a gentleman who said his
11 wife, he takes care of his kids, his wife travels?
12 THE COURT: No, Mr. Portnoy --
13 MR. ARONWALD: Is gone, I think, isn't he?
14 THE COURT: So gone.
15 MR. ARONWALD: Okay.
16 THE COURT: No, Mr. Halperin, not now.
17 MR. HALPERIN: There was one housekeeping issue.
18 THE COURT: Good.
19 MR. HALPERIN: I think, just so the record is clear,
20 when we were at sidebar your Honor mentioned 11 names at first.
21 The Government had no objection. And defense had no objection
22 to those 11 names being struck. I think that Mr. Aronwald
23 raised number 59, because of the language issue. So when your
24 Honor dismissed people today --
25 THE COURT: Oh, you had an objection to --
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C2F0ANN7

Voir Dire

1 MR. HALPERIN: No, we did not. I just wanted to make
2 it clear there were actually 12.

3 THE COURT: Twelve names. And both of them were for
4 an inability to be fair and impartial jurors, for one of two
5 reasons. And the 12, juror number 59, just so the record is
6 clear, juror number 59 speaks some English. She was not able
7 to understand, from reading the questions, all of the
8 questions, there was one in particular, she needed help from
9 another juror to understand. The court reporter had come to me
10 independently and said, I am sorry, I had a great deal of
11 difficulty, you need to bring her back up to ask questions
12 again, because I could not understand most of her answers. By
13 that time it was clear that we had a serious language problem,
14 everybody consents, that juror is gone.

15 All right. And now it's time for me to start the rest
16 of my day. So I will -- unless, Mr. Aronwald, do you have
17 anything? Or Mr. Siano, do you have anything? I don't know,
18 we'll bring up, I think, I'll bring up 15 or 16 additional. We
19 need to have -- they're going to have challenges, you see. We
20 need to have 36 clean jurors in order for you to pick to
21 exercise your peremptory challenges, okay. So there may be
22 some more challenges coming. So we'll bring up a number of
23 jurors tomorrow morning and we'll do this whole thing again.
24 Much more quickly.

25 MR. SIANO: Start with number 1 again, Judge,

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C2F0ANN7

Voir Dire

1 tomorrow?

2 THE COURT: No, actually, it starts with number 71,
3 72, 73 yes.

4 MR. SIANO: Not sitting back there?

5 THE COURT: No.

6 MR. SIANO: Thank you, Judge.

7 THE COURT: I appreciate that you have had to crane
8 your neck all day. And thank you, Mr. Siano.

9 MR. SIANO: I just want to know the system.

10 THE COURT: The system, after all of these years, I
11 have it in my head, if I am looking over here, I'm looking at
12 juror number 21. If I look over here, I'm looking at juror 50,
13 and --14 MR. SIANO: Going pretty well so far, Judge. That
15 wasn't really my question, I just wanted to know where we were
16 going to be tomorrow.

17 THE COURT: Jurors in the box, probably fill the box.

18 MR. SIANO: 9:30.

19 THE COURT: Be here at 9:30.

20 MR. SIANO: Thank you, Judge.

21 MR. HALPERIN: Thank you, Judge.

22 (Adjourned until Wednesday, February 16, at 9:30 a.m.)
23
24
25

C2GAAANN1 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

4
5 SANDY ANNABI and ZEHY JEREIS,

5
6 Defendant.

6
7 -----x

7
8 New York, N.Y.
8 February 16, 2012
9 9:40 A.M.
9

10
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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

C2GAAANN1 Trial

1 (Trial resumed; jury not present)

2 COURTROOM DEPUTY: Case on trial continued. The
3 government and defendant are present. The prospective panel of
4 jurors, a new panel of 25 prospective jurors are in the hall,
5 judge.

6 THE COURT: Good morning.

7 We took the precaution of bringing up 25 people but I
8 am going to question 18 and then if we lose a bunch, if 15
9 people tell us that they think all politicians are corrupt and
10 they can't do a long trial, we'll still have some reserve.

11 Okay. Who wants to say what?

12 MR. HALPERIN: Your Honor, the government did have one
13 application which was we would move to strike Juror No. 5.
14 Yesterday afternoon the Court asked whether the issue --

15 THE COURT: I said, Mr. Halperin, don't. I said it
16 because I am not doing cause challenges now.

17 MR. HALPERIN: Oh, I am sorry.

18 THE COURT: You'll have an opportunity to deal with
19 Juror No. 5 and your objections to Juror No. 5 and the fact
20 that she essentially recited the accomplice witness instruction
21 to the jury verbatim. I know why you want her off. You'll
22 have a chance to make your point when cause challenges are done
23 at the end of the entirety of the voir dire but I would note
24 that she didn't say anything that that's much different than
25 what I am going to tell all the jurors about accomplice

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C2GAAANN1 Trial

1 testimony.

2 Mr. Aronwald, you look like you are getting up.

3 MR. ARONWALD: I am, judge, just to remind you that I
4 forget the juror's number but Ms. Madow did indicate that she
5 had something she wanted to discuss.

6 THE COURT: I believe Ms. Madow is gone. Ms. "Nedow".

7 MR. ARONWALD: She is still with you us.

8 THE COURT: Yes.

9 MR. ARONWALD: She did indicate she wanted to discuss
10 something with us privately in response to a question. We
11 never did that.

12 THE COURT: She said it wouldn't make a difference but
13 she wanted to give us the facts. She wanted to tell us what
14 was privately. She's answered the only part of the question
15 that I consider to be relevant for cause challenges. But, yes,
16 certainly, for pre-emptories you are entitled to know what it
17 is that Ms. Nedow thought we should talk about, so let me write
18 myself a note.

19 (Pause)

20 (Panel present)

21 THE COURT: Good morning, ladies and gentlemen.
22 Welcome to Courtroom 14C. My name is Colleen McMahon. I am
23 the judge who presides here and I welcome you here for jury
24 selection. We are in the process of selecting a jury in a
25 criminal case. It's called United States of America versus

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C2GAAANN1 Trial

1 Sandy Annabi and Zehy Jereis.

2 I am going to be asking a number of you questions over
3 the course of the next hour or hour and a half. It's important
4 that everyone listen carefully to the questions even if you are
5 not in the jury box because we may have to ask you the same
6 questions at a later point in time. If anyone can't hear me
7 please raise your hand and I will try to re-modulate my voice.

8 The purpose of my questions is to enable us to select
9 a jury that will be fair and impartial in this case. Now, my
10 questions to you and your answers to the questions are in no
11 sense evidence in the case, so you should not regard any
12 thoughts that they might bring up in your mind as having any
13 particular bearing on the case.

14 The questions are not meant to embarrass you in any
15 way or unduly to invade your privacy. We're trying to elicit
16 the basic information that's necessary so that we can make an
17 informed choice of jurors for this case. If you feel that
18 answering any of my questions would embarrass you or cause you
19 great discomfort we can discuss the matter privately with
20 counsel and the court reporter over here at what we call the
21 sidebar which is actually at the side of the bench, not the
22 side of the bar but we can have a discussion without the other
23 folks in the room hearing.

24 The person sitting in front of me is Jim O'Neil. Jim
25 is my senior law clerk and he serves as my courtroom deputy and

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C2GAAANN1 Trial

1 the chief administrative officer in all of my criminal trials.
2 He is the interface between me and the members of the jury in
3 these cases. And his first task is to administer to you an
4 oath or an affirmation if you for religious or other reasons do
5 not subscribe to oath. The oath or affirmation obligates you
6 to give fair and truthful answers to all of my questions.

7 Ladies and gentlemen, it's your solemn duty to serve
8 as a fair and impartial juror in this case if you are able to
9 do so. But it is equally your solemn duty not to serve if for
10 any reason you cannot be fair or impartial. It's accordingly
11 your duty to disclose any fact or belief that would prevent you
12 from serving as a fair and impartial juror in this case. And
13 by fair and impartial juror, I mean a juror who will decide the
14 case on the basis of the law as I tell you the law is and the
15 evidence that you hear in this courtroom without bringing to
16 bear any prejudice or bias you may have about any one or any
17 thing or any information other than the information that you
18 learned here in the court during the course of the trial.

19 When I say the words "fair and impartial juror" that's
20 is what I'm talking about. I am not going to say that over and
21 over and over again. Just understand that "fair and impartial
22 juror" is shorthand for what I just said.

23 Okay. Now, it's important that if you have something
24 to disclose that you think might prejudice other people in the
25 room who may not know what you know, that you do that at the

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C2GAAANN1 Trial

1 sidebar. And to be completely neutral and not use any of
2 parties or their counsel the example I always use is, suppose
3 you are my next door neighbor and we have been having a feud
4 for many, many years and we don't call each other "Colleen" and
5 "Joe" or "Mary". We call each other terrible names because
6 it's been a bitter feud and you really think that I am a
7 horrible person, obviously, you should not sit on a case in my
8 courtroom. It would be best if everybody else did not know
9 what you thought of me. It's important for the lawyers to know
10 what you think of me and that we can discuss over at the
11 sidebar.

12 Jim, would you please administer the oath.

13 COURTROOM DEPUTY: Yes, judge.

14 I'd ask the prospective jurors to please rise. If you
15 are wearing please raise your right hand.

16 (Panel sworn)

17 THE COURT: Okay. We're going to reseal you. The
18 Clerk of the Court down in the jury office has spit your names
19 out in random order from a computer and so we're going to put
20 18 of you up here in the jury box, seven in the front row,
21 seven in the second row and four in the last row. And by the
22 way, this is our second day of jury selection so the first
23 juror's number is 71.

24 COURTROOM DEPUTY: That juror is Carol Barkin.

25 72, Lee Sherman Hart.

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1 73, Todd Johnson.
2 74, Rita DeCassia.
3 75, Marianna Bellizzi.
4 76, Judith Benson.
5 77, Kenneth Greenfield.
6 78, Steven Cole.
7 79, Sharon Castaldo.
8 80, Valerie Boster.
9 THE COURT: Is it "Boster" or "Boster", ma'am?
10 THE JUROR: "Boster".
11 THE COURT: If I mispronounce your name, please,
12 correct me.
13 COURTROOM DEPUTY: 81, Cathy Thornton.
14 82, Lorraine Hacknewman.
15 83, Ritu Dhalwala.
16 84, Maura Heslin-Petriccione.
17 THE JUROR: There is an "E" at the end.
18 THE COURT: There is a vowel on the end, not on my
19 copy.
20 COURTROOM DEPUTY: 85, Dennis Edward Martin.
21 86, Jeffery Wilson.
22 87, David Gruenstein.
23 88, Jolene Pollutro.
24 THE COURT: Okay. Now these folks have been seated
25 but the first few questions I am going to ask I am going to ask
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1 of everybody in the room. All right. So we're going to give
2 the rest of you your jury numbers and seat you over here on
3 this side in the first couple of rows.

4 COURTROOM DEPUTY: 89, Angelina Goater.

5 90, Sejdi Husenaj.

6 91, Frank Ninivaggi.

7 THE JUROR: "Ninivaggi".

8 COURTROOM DEPUTY: 92, John Masserano.

9 93, John Joyce.

10 95, Ellen --

11 THE COURT: Mr. Sands 94, Brian Sands is in the

12 middle. Are you Mr. Sands?

13 Ma'am, can you sit to Mr. Sands' left? Thank you.

14 Okay. All right. Folks, let me tell you a little
15 something about the case. If the folks who are coming in could
16 please sit in the back row. Thank you very much. That back
17 row there or this back row along the wall here. Thank you.

18 As I told you, it's a criminal case. There are two
19 defendants in the case. One of them is named Sandy Annabi.
20 Ms. Annabi served as a Democratic Councilwoman on the City
21 Council in the Second District of City of Yonkers from 2002
22 until 2009.

23 The other defendant is a gentleman named Zehy Jereis.
24 Mr. Jereis was the Chairman of the Republican Party in the City
25 of Yonkers from 2003 through 2007.

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1 A grand jury sitting in this district has charged the
2 defendants with committing several offenses including
3 conspiracy, making and receiving corrupt payments and extortion
4 of a public official under color of official right. And
5 defendant Annabi is also charged with making false statements
6 in connection with certain loan applications and on tax
7 returns. That is a general outline of what the charges are in
8 the case.

9 Now the charges are set down in a document called an
10 indictment. An indictment is something you will never see
11 because it is proof of nothing. All it is is a list of charges
12 that the government has to prove in this case, a list of the
13 charges. It's like an announcement. It's nothing more. It's
14 proof of nothing and the fact that the defendants have been
15 indicted, have been charged with crimes is not evidence that
16 they've committed any and you have to keep that in mind.

17 Now, does anybody have any personal knowledge about
18 the charges in this case? Okay.

19 Mr. Ninivaggi, I am betting that you live in Yonkers;
20 is that correct?

21 THE JUROR: That's correct.

22 THE COURT: Okay. Now, that was personal knowledge.
23 This case has received some press coverage, really since its
24 inception which was a couple of years ago. And in the last
25 week or so it has gotten a pretty fair amount of publicity in

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1 the newspapers and on, if you listen to the local stations,
2 particularly, the local Westchester station RNN Channel 12,
3 it's gotten some attention and I don't know about the other
4 media outlets.

5 Has anybody seen or heard anything about the case
6 against Ms. Annabi and Mr. Jereis in the press? Great. I just
7 want to -- hang on. When I ask that kind of question I need
8 you to keep your hands up until I take your juror number down.

9 You are Juror No. 71. You, and that is -- hang on a
10 second -- Ms. Barkin.

11 THE JUROR: Correct.

12 THE COURT: And the next juror, the lady in the middle
13 there is Ms. Thornton who is Juror No. 81.

14 Anybody else in the second row?

15 And in the third row Mr. Martin, Juror No. 85.

16 And in the back Juror No. 91, Mr. Ninivaggi and Juror
17 No. 93, Mr. Joyce.

18 Okay. Let me ask right off the bat, the jurors who
19 have some familiarity with the matter, either one of you is a
20 resident of the City of Yonkers and some of you have heard
21 about this case in the press. Is there anything that you have
22 seen or heard about this case that has caused you to make up
23 your mind already such that you would not be able to be a fair
24 and impartial juror in the case? Juror No. 71 Ms. Barkin.

25 THE JUROR: It's hard for me to answer that question.

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1 I hope not.

2 THE COURT: Okay. Juror No. 81, Ms. Thornton?

3 THE JUROR: No.

4 THE COURT: Juror No. 85, Mr. Martin?

5 THE JUROR: No, your Honor.

6 THE COURT: Juror No. 91, Mr. Ninivaggi?

7 THE JUROR: Yes, your Honor.

8 THE COURT: Juror No. 93, Mr. Joyce?

9 THE JUROR: It's hard to answer that but I will try my
10 best to.

11 THE COURT: Okay. Fine. All right. Now, the
12 government, let me introduce to you the folks who are here in
13 the well of the courtroom. The government is represented here
14 as it is in all cases where it's a party before this Court by
15 the United States Attorney for the Southern District of New
16 York who is Mr. Preet Bharara. Mr. Bharara has many things to
17 do so the trial is going to be conducted by two of his
18 assistant United States attorneys and they are Jason Halperin
19 and Perry Carbone and they're going to be assisted by several
20 law enforcement officers, Special Agents Mike Mazzuca, Carolina
21 Gilmore and Jillian Garrera of the FBI. Agent John Scatanato
22 of the Internal Revenue Service and a paralegal in their office
23 Jake Terk.

24 And I am going to ask the folks at the front table to
25 stand and, Mr. Halperin, do you want to explain who is here.

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1 MR. HALPERIN: Jason Halperin, Perry Carbone, FBI
2 special agents Carolina Gilmore and Michael Mazzuca.

3 THE COURT: As I always tell people, all FBI agents
4 are special. That's why they are called "special agent".
5 That's their title. Nothing to be inferred from that. That
6 just happens to be what their title is.

7 Do any of you know any of those folks or do you
8 recognize any of the names that I have just mentioned? Okay.

9 Now, seated at the back table in the center directly
10 across from me is Attorney William Aronwald of White Plains.

11 Mr. Aronwald, would you stand and introduce your
12 client to the jurors

13 MR. ARONWALD: Ladies and gentlemen, my client is a
14 Sandy Annabi.

15 THE COURT: Does anybody know Ms. Annabi or
16 Mr. Aronwald? Juror No. 84, Ms. Heslin-Petriccione and you
17 know whom?

18 THE JUROR: I believe that I worked for a few years
19 with your wife, Mrs.~Aronwald.

20 THE COURT: With Mrs.~Aronwald. Okay.

21 And then Juror No. 85, sir.

22 THE JUROR: Judge, I believe I know Mr. Aronwald from
23 when he was with the Manhattan DA's office many years ago.

24 THE COURT: Okay. He was indeed with the Manhattan
25 DA's office many years ago, right, Mr. Aronwald?

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1 MR. ARONWALD: You don't have to emphasize that part
2 your Honor.

3 THE COURT: And Juror No. 91, Mr. Ninivaggi.

4 THE JUROR: Yes. I don't know Ms. Annabi but I do
5 recognize her from attending Yonkers City Council meetings.

6 THE COURT: Okay. Great. Thank you.

7 Seated next to Mr. Aronwald is Mr. Anthony Siano.
8 Seated at the far end of table is his associate Gina Gallego.
9 Could you introduce your client, Mr. Siano.

10 MR. SIANO: Good morning, ladies and gentlemen. My
11 associate Jeanie Gallego and this is Mr. Zehy Jereis.

12 THE COURT: Does anybody know any of those folks?

13 MR. SIANO: Thank you, judge.

14 THE COURT: Thank you. All right. Let me read you a
15 list of names. Don't be totally terrified by this list. It's
16 a long list, a list of names that may be heard during the
17 course of the trial. A number of these people will be
18 testifying. Not nearly all of them will be testifying but I
19 have been asked to alert you to the possibility so that we can
20 see if you know any of these people. Okay.

21 The agents I already mentioned. There are a couple of
22 now retired FBI agents who worked on this case, Rosemary Karaka
23 and James O'Connor. Anybody ever hear of either of those two
24 agents FBI agents? All right.

25 John Murtagh, Dee Barbato, Dennis Robertson, the

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1 current mayor of Yonkers and former State Assembly Michael
2 Spano, Joseph Galimi, Scott Cantone, Bruce Bender, Richard
3 Pesin, P-E-S-I-N, John Swagerty, Franco Milio, M-I-L-I-O,
4 Antonio Milio, Debbie Kayal, K-A-Y-A-L, Anthony Mangone, Joe
5 Enright, Kenneth Bicknese, B-I-C-K-N-E-S-E, John Bond, Odilon
6 Mejia, Joseph Jenik, Carl Maniscalco, Peter Tytell, Frank
7 Rocco, Paul Crowley, Walid Farhat, Maria Chousa, Detective
8 Shlomo Keonig, who is over in Rockland County, IRS agent John
9 Dennehy, Angelo Martinelli, Kevin Cacace, Doug Wells, Deirdre
10 Angelastro, Ramon Falon, F-A-L-O-N, Judy Delage, D-E-L-A-G-E,
11 Karen Pennington, David D'Amico, Tony Serrao, Helen Henkel.

12 How many people have heard of the district attorney of
13 Westchester County, Janet DiFiore? Anybody know Ms. DiFiore?
14 Fine. Okay.

15 Chuck Lesnick, Pat MacDow, Liam McLaughlin, Albert
16 DelBello? Juror No. 85, you know him how? How do you know
17 Mr. DelBello?

18 THE JUROR: He was the lieutenant governor.

19 THE COURT: That would be correct. Very good. You
20 win the civics prize. Also I believe the mayor of White
21 Plains, if I am correct.

22 And Mr. Ninivaggi?

23 THE JUROR: Mr. DelBello is the mayor of Yonkers. I
24 have heard a lot of these names. I didn't know if I was
25 supposed to raise my hand.

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1 THE COURT: Do you know any of them?

2 THE JUROR: Several of them that you mentioned I've
3 heard of them. I mean I know they are work. I don't know them
4 personally.

5 THE COURT: OK. Thank you.

6 Who else do I have? Michael Santangelo, Anthony
7 Servino, Richard Hoffman, John Khader, K-H-A-D-E-R, Naydeh
8 Sayegh, David Madranda, Royale Frasier, Joseph McNally, Jack
9 Bond, Sami Hatter, Pat Stiso, Edward Wedra, Albert Pirro.
10 Okay. There's one other name that --

11 MR. ARONWALD: Judge, there was one other one, Michael
12 Carlista.

13 THE COURT: No. No. I left it off again yesterday
14 and today. Thank you very much, Mr. Aronwald.

15 Michael Carlista.

16 Okay. And there's one other name that I am mentioning
17 and, certainly, highlighting more than I otherwise would
18 because this person is not on trial here and what I am about to
19 tell you has nothing, whatsoever, to do with this case but it's
20 been in the news in the last week. The name of former State
21 Senator Nick Spano will come up during the course of the trial.
22 Some of the people who are involved in this case worked at one
23 time or another for former State Senator Nick Spano. And
24 Mr. Spano, apparently, entered a guilty plea to some tax
25 charges last week and that's been all over the press for the

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1 last four or five days.

2 Is there anybody here who knows Mr. Spano personally?

3 No one knows him personally.

4 Is there anyone here who has seen any of the press
5 coverage over the last five or six days about his recent legal
6 troubles? Juror No. 71, Juror No -- I know it's Ms. Thornton
7 but I don't know your number. I am really sorry about that.
8 Juror No. 81, number 82, Ms. Hacknewman. Anybody else in that
9 row in the back row? No.

10 And in the back here it would be Juror No. 91,
11 Mr. Ninivaggi, Juror No. 92, Mr. Masserano and Juror No. 93,
12 Mr. Joyce and Juror No. 94, Mr. Sands.

13 Now, as I said, Mr. Spano's guilty plea has nothing at
14 all nothing to do with this case as I will repeatedly instruct
15 people. It is just because he happens to have had a lot of
16 publicity recently and he is involved in politics and this case
17 is going to be about politics and his name is going to come up
18 during the trial from time to time that I wanted to figure out
19 who had seen anything or heard anything about the case. Is
20 there anybody who is otherwise familiar with Senator Spano
21 other than because of the publicity from the last week or so?
22 You are Juror No. 71. I have you. But anybody else? No.

23 All right. Do any of you have problems with your
24 hearing or your vision or medical problems that would prevent
25 you from focusing on the evidence as it comes in from absorbing

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1 what's being said in the courtroom from paying attention during
2 the trial? Okay. I don't see any hands.

3 Is there anybody here who has any difficulty speaking
4 understanding or reading English? Again, I don't see any
5 hands.

6 Now, this is neither going to be the longest or the
7 shortest trial that's ever taken place in that courthouse. The
8 trial, as the lawyers estimate will last between four and six
9 weeks. In my courtroom that means it will be between three and
10 five weeks because I make them work rapidly and crack the whip,
11 my goal being to get my jurors through their work and back to
12 their regular pursuits as quickly as possible.

13 Is there anybody here who doesn't think that you would
14 be able to sit on a trial of that length? Now of course that's
15 what they all say. I get to choose. I get to decide what you
16 can do or can't do. It's not a preference. This is an
17 inability, okay. So keep your hands up please.

18 All right. Juror No. 71, Ms. Barkin; Number 73,
19 Mr. Johnson; Number 74, Mr. Decassia. That's it for the front
20 row.

21 Juror No. 78, Mr. Cole; Juror No. 81, Ms. Thornton;
22 Number 82, Ms. Hacknewman; Number 83, Ms. Dhalwala; Number 84,
23 Ms. Heslin-Petriccione; Number 85, Mr. Martin; Number 87,
24 Mr. Gruenstein.

25 And then back in the back Juror No. 89, Ms. Goater;

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1 Number 90, Mr. Husenaj; Number 93, Mr. Joyce; Number 94,
2 Mr. Sands and 95 Ms. Socolon. Okay.

3 So here is what we're going to do. We're going to
4 talk to everybody who has just raised their hands. And let me
5 see. In addition is there anybody else? I don't think there
6 is anybody else who shows up separately. I think that's the
7 list. Okay. So what we are going to do to make it more
8 comfortable for you and, frankly, easier for me is we are going
9 to bring each of those jurors who just raised your hand back
10 into the back. You'll be there for about a minute. So you can
11 explain to us what the problem is with your temporal
12 availability, shall we say, okay. And the rest of you if you
13 have a book or a newspaper or something like that, feel free to
14 relax and read the paper.

15 Don't talk about this case. Not that you really have
16 anything to talk about but don't talk about this case, okay

17 (Continued on next page)

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20
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Voir Dire

1 PROSPECTIVE JUROR: I think so. But I have to say
2 that I have been, certainly, aware of it.

3 THE COURT: You have been aware of the case and had
4 discussions about the case?

5 PROSPECTIVE JUROR: And Mr. Spano used to be my state
6 senator. I know he is not involved in the case, but he is
7 involved in the publicity about it.

8 THE COURT: He certainly is involved in the publicity
9 about it.

10 Is there anything about that, that Senator Spano used
11 to represent you, any feelings you have about him, or his own
12 travails, that you think would prevent you from giving these
13 two individuals a fair and impartial trial?

14 PROSPECTIVE JUROR: No, I was happy when he was no
15 longer my state senator, but I don't think that necessarily
16 affects anything else.

17 THE COURT: Okay, thank you.

18 You could have a seat back in the jury box.

19 PROSPECTIVE JUROR: Okay, thanks.

20 THE COURT: Hello, this is Mr. Johnson. How are you
21 this morning?

22 PROSPECTIVE JUROR: I'm good.

23 THE COURT: Sir, what is the problem, timewise?

24 PROSPECTIVE JUROR: I'm a self-employed/unemployed
25 person and seeking work. And I have several -- actually, I

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Voir Dire

1 also work as stage actor. And I have several opportunities
2 coming up for me to try to get some work, which is also I am a
3 union actor, also impacts insurance. If I don't go to
4 auditions and go to these interviews it affects my ability to
5 be an insured person. And I'm just very concerned. This is
6 the time of the year when they are hiring for the summer for
7 the rest of the year, so --

8 THE COURT: Okay, thank you. Have a seat out in the
9 jury box.

10 PROSPECTIVE JUROR: Thank you very much.

11 THE COURT: Next on list is 74.
12 And good morning, Miss Decassia.

13 PROSPECTIVE JUROR: Good morning, how are you, ma'am.

14 THE COURT: Good, thank you. What is the time problem
15 for you, time constraints.

16 PROSPECTIVE JUROR: I'm one in one department in the
17 company I work for, so I'm --

18 THE COURT: Where do you work?

19 PROSPECTIVE JUROR: For Abreu Tours.

20 THE COURT: And do you know what, how long your
21 employer pays for your salary while you are on jury service?

22 PROSPECTIVE JUROR: No idea.

23 THE COURT: You should give a call. We'll give you a
24 phone so you can find that out.

25 Okay, have a seat back in the courtroom. And Jim, she
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Voir Dire

1 needs to make a call.
2 THE COURT: Juror number 78, Mr. Cole.
3 PROSPECTIVE JUROR: Hello.
4 THE COURT: Hello, Mr. Cole, how are you this morning.
5 PROSPECTIVE JUROR: Fine, thank you. Fine, thank you.
6 THE COURT: Good to see you, sir. What is the problem
7 with time.
8 PROSPECTIVE JUROR: I'm a professional opera singer.
9 On March the 8th, I am due in Toronto to begin rehearsals for
10 Les contes d'Hoffmann, de Offenbach. Et voil?. So almost
11 three weeks, I could do two weeks.
12 THE COURT: How splendid. And what role will you be
13 covering?
14 PROSPECTIVE JUROR: We call it, "les quatre dr?les,"
15 the four funny parts. And I also -- I always call my roles hit
16 it and quit it; come on, steal the show, and go back to my
17 dressing room.
18 THE COURT: It's great opera.
19 PROSPECTIVE JUROR: I love that opera, too.
20 THE COURT: Have a lot of fun.
21 PROSPECTIVE JUROR: Thank you.
22 THE COURT: Have a seat back in the room.
23 Okay. Juror number 81.
24 This is Ms. Thornton.
25 PROSPECTIVE JUROR: I am, good morning.

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Voir Dire

1 THE COURT: How are you?

2 PROSPECTIVE JUROR: Well, thank you.

3 THE COURT: What is the temporal problem, what's the
4 problem with the time?

5 PROSPECTIVE JUROR: Work.

6 THE COURT: Where do you work?

7 PROSPECTIVE JUROR: I work at Four Winds Hospital in
8 Westchester. My boss starts vacation on Monday, she'll kill
9 me.

10 THE COURT: I know she'll kill you, but she can't fire
11 you. Do they cover your salary while you are on jury duty?

12 PROSPECTIVE JUROR: Oh, absolutely.

13 THE COURT: Right, okay. Have a seat.

14 Oh, I wanted to ask you, you had said you had seen
15 some of the publicity recently about the Spano matter.

16 PROSPECTIVE JUROR: Just on Channel 12.

17 THE COURT: Anything about that that would bring any
18 thoughts to your mind that might cause you not to be able to be
19 fair to these folks?

20 PROSPECTIVE JUROR: No, I'm a fair person.

21 THE COURT: Thank you, thank you.

22 PROSPECTIVE JUROR: Okay.

23 THE COURT: Juror number 82. Juror number 82 is Ms.
24 Hacknewman. Ma'am.

25 PROSPECTIVE JUROR: Yes.

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Voir Dire

1 THE COURT: Why can't you do the trial?

2 PROSPECTIVE JUROR: So a couple of things. I'm an
3 executive recruiter. While I'm paid a base salary, a lot of it
4 is in kind of commission, as you call it. We have had layoffs.
5 I'm at Heidrick & Struggles, big public firm. We have had
6 layoffs every year. I would really like to not be in that 2012
7 number.

8 THE COURT: All right, they can't lay you off for jury
9 service, cannot do it.

10 PROSPECTIVE JUROR: I understand. You have to make
11 certain numbers per year in terms of a money. I'm a partner,
12 you bring into the firm. I feel vulnerable. They can't
13 necessarily tie the two events together. But we're on calendar
14 fiscal, that's part of it.

15 The other part is I have a plane ticket. It's on the
16 25th or 26th of February to go to Florida. It is a personal
17 trip. I am joining my husband on business, but I -- so I paid
18 out of pocket. But I think it will help me on business, a lot
19 of high profile clients will be there, so it could help me,
20 personally, on business.

21 THE COURT: You would be gone how long?

22 PROSPECTIVE JUROR: One week; six days, actually, less
23 than a week.

24 THE COURT: Okay. Have a seat outside.

25 Eighty-three. And this is juror number 83, Ms.

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Voir Dire

1 PROSPECTIVE JUROR: Regarding the question about Mr.
2 Spano, my boss worked with him in the legislature for many,
3 many years. And so I have her her talk about him.
4 THE COURT: Your boss, being?
5 PROSPECTIVE JUROR: Monica Broderick.
6 THE COURT: I said the case is not about --
7 PROSPECTIVE JUROR: I wanted you to know.
8 THE COURT: I appreciate that.
9 PROSPECTIVE JUROR: All right.
10 THE COURT: Thank you. Juror number 84. This is
11 Heslin-Petriccion. What is the time issue?
12 PROSPECTIVE JUROR: I'm a fifth grade teacher in
13 Westchester, and we are rapidly approaching the New York State
14 assessment in math and reading.
15 Q. And where do you teach?
16 A. In lakeland, in Yorktown Heights.
17 THE COURT: Have a seat out in the courtroom.
18 PROSPECTIVE JUROR: May I also say that in addition to
19 coming here, I'm still responsible to return in the evening to
20 do my lesson plans for the substitute teacher that's supposed
21 to be covering my class, which is quite taxing.
22 THE COURT: I understand.
23 PROSPECTIVE JUROR: Okay.
24 THE COURT: Juror number 85.
25 Mr. Martin, hi, how are you?

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Voir Dire

1 PROSPECTIVE JUROR: Hello, your Honor.

2 THE COURT: Okay. Time. You have a time problem?

3 PROSPECTIVE JUROR: I do, your Honor, to some extent.

4 I -- I lost my position with New York State in 2011, January,
5 due to the political transition and State government.

6 THE COURT: Right.

7 PROSPECTIVE JUROR: And I have recently been offered a
8 position with State government. I have not been working since.
9 And the offer is -- the paperwork is supposedly at the
10 Governor's office awaiting approval. So I think if I was -- if
11 I did get the call, when I -- when I get home and get to my
12 phone, I don't know if they would wait six weeks, or four
13 weeks.

14 THE COURT: What's the job?

15 PROSPECTIVE JUROR: Its doing investigative work for.
16 OPWDD, which is the Office for Persons with Developmental
17 Disabilities. I had been with the New York State Inspector
18 General's office till Mr. Cuomo became Governor.

19 THE COURT: Right, okay. All right, you said that
20 you -- you thought that you and Mr. Aronwald --

21 PROSPECTIVE JUROR: In the late 60's you were an ADA.
22 And I was with the NYPD as a tactical patrol force.

23 MR. ARONWALD: '67 to '71.

24 PROSPECTIVE JUROR: Yeah. And I had -- I was quite
25 active and spent a lot of time in criminal court.

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Voir Dire

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THE COURT: Okay.

PROSPECTIVE JUROR: On the right side.

THE COURT: Is there -- is there anything about
your acquaintance with Mr. Aronwald in the --PROSPECTIVE JUROR: No, I don't even know if he
remembers me, but we did --

THE COURT: You crossed.

PROSPECTIVE JUROR: Two ships crossing. Many nights,
though, there were -- it was three or four years that we would
see each other frequently. But we didn't socialize, I don't
know him that well.THE COURT: Okay, great. Thank you. You can take a
seat back out in the courtroom.

PROSPECTIVE JUROR: Thank you.

THE COURT: I forgot to ask -- but hang on one second,
Jim. Not the juror, just don't bring in the next one.The fifth grade teacher who said she worked with your
wife.MR. ARONWALD: Oh, my wife was a school teacher, now
retired. But I don't -- she never met this woman, so I
don't --THE COURT: Sure. Great. Eighty seven, juror number
87.

Good morning, sir, this is Mr. Gruenstein.

PROSPECTIVE JUROR: Yes.

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1 THE COURT: And what is that problem?
2 PROSPECTIVE JUROR: I represent a client in an
3 investigation where it would be difficult if I was gone for
4 that that period of time.
5 THE COURT: Your an attorney.
6 PROSPECTIVE JUROR: Yes.
7 THE COURT: Where do you work?
8 PROSPECTIVE JUROR: Wachtell Lipton.
9 THE COURT: Have a seat please in the courtroom.
10 Please.
11 PROSPECTIVE JUROR: Thank you.
12 THE COURT: This is Ms. Goater. Hello. How are you?
13 PROSPECTIVE JUROR: Good.
14 THE COURT: So tell me what's the problem?
15 PROSPECTIVE JUROR: March 15, my husband and I are
16 planning to go the Ireland for two weeks.
17 We recently got married and we're having a wedding
18 celebration in Ireland, because he is from Ireland, for all
19 friends and family that could make it.
20 THE COURT: Congratulations, how lovely.
21 PROSPECTIVE JUROR: All right.
22 THE COURT: Have a seat.
23 PROSPECTIVE JUROR: Thank you.
24 THE COURT: Juror number 90. Good morning,
25 Mr. Husenaj.

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1 PROSPECTIVE JUROR: Yes, ma'am.
2 THE COURT: I want to pronounce it correctly.
3 PROSPECTIVE JUROR: Yes, indeed.
4 THE COURT: What is the problem, sir?
5 PROSPECTIVE JUROR: If the case lasts more than six
6 weeks, I have a problem, because I booked tickets to go to
7 Europe.
8 THE COURT: And when are you supposed to leave?
9 PROSPECTIVE JUROR: April 6th -- 4th, I'm sorry.
10 THE COURT: I think you're okay.
11 PROSPECTIVE JUROR: I'm okay. Thank you.
12 THE COURT: Juror number 93. Ninety-three, 94, 95.
13 THE CLERK: Seventy-seven, Judge, has something.
14 THE COURT: I'm sorry, is this about the length of the
15 trial, sir?
16 PROSPECTIVE JUROR: Yes, it is.
17 THE COURT: Okay, tell me what the problem is.
18 You're number 77, not on the list originally.
19 PROSPECTIVE JUROR: Yes. No, I gave some thought to
20 it.
21 I think it would be a harsh inconvenience to be
22 encumbered with jury duty for six weeks.
23 THE COURT: It certainly is, for everyone.
24 Where do you work?
25 PROSPECTIVE JUROR: I don't work.

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1 THE COURT: Okay, so what is the harsh inconvenience.

2 PROSPECTIVE JUROR: It's just a harsh inconvenience.

3 I'm a, quote, house husband.

4 THE COURT: Okay, thank you, sir. You may have a
5 seat.

6 PROSPECTIVE JUROR: All right.

7 THE COURT: Small room. Juror number 93. Mr. Joyce.

8 PROSPECTIVE JUROR: That's all right.

9 THE COURT: What is the problem?

10 Well, the issue is I'm -- March is a big month. I'm
11 looking for an opportunity out there. Employment out there.
12 And March is a big month.

13 THE COURT: You're looking for work.

14 PROSPECTIVE JUROR: Yes. And I do not want to be in a
15 position where I -- I mean I want to help people in terms of my
16 providing my civil -- my civic duty and all that and help you
17 out. But that has to be -- it's been a very difficult time,
18 and --

19 THE COURT: Are you currently not employed?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Okay. You mentioned that -- you said that
22 because you had seen some press coverage about Ms. Annabi and
23 Mr. Jereis, that it was hard to say whether you could give them
24 a fair trial or not?

25 PROSPECTIVE JUROR: No, no, I didn't mean it like

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1 THE COURT: This is juror number 94, Mr. Sands.
2 Good morning, sir, how are you?
3 PROSPECTIVE JUROR: I am well, thank you, how are you?
4 THE COURT: I'm fine, thank you.
5 What is the difficulty that you have with the length
6 of the trial?
7 PROSPECTIVE JUROR: I am a psychiatrist. And I am the
8 medical director and only psychiatrist in a very small,
9 recently licensed mental health clinic serving poor people in
10 Brooklyn. We have approximately 200 patients now. And the
11 organization that created this clinic services for the
12 underserved, has no -- you know, not yet gotten a, sort of a
13 second row of providers. So if I am not there, they simply do
14 not have a medical provider.
15 THE COURT: Okay. Thank you. You can have a seat.
16 PROSPECTIVE JUROR: Thank you.
17 THE COURT: And juror 95.
18 Hi, juror number 95. Ms. Socolon, can you tell us
19 what the problem is with the length of the trial?
20 PROSPECTIVE JUROR: I have three major reasons, your
21 Honor. I have a small child, I'm a single mom, I have very
22 limited child care. Plus, winter break and spring breaks are
23 coming up. Next week is winter break and I have all doctors
24 appointments scheduled. I have to be there. I also just put
25 an offer to buy an apartment and if I don't react quickly to

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1 e-mails, which I am not connected to right now, I might lose it
2 to other bidders. I'm also taking a course towards a
3 certification, so if I don't attend it weekly I will not be
4 able to --

5 THE COURT: When does it meet?

6 PROSPECTIVE JUROR: Every week, different days of the
7 week.

8 THE COURT: At what time?

9 PROSPECTIVE JUROR: It's all day.

10 THE COURT: Okay. Thank you. Have a seat.

11 Ninety-one. Must have been out, we didn't do him. He
12 is circled.

13 I don't think we really need to see juror 91, does
14 anybody?

15 MR. SIANO: No, Judge.

16 MR. HALPERIN: No.

17 THE COURT: Juror number 91.

18 THE CLERK: Now, I have a woman back reporting on her
19 employment.

20 THE COURT: Okay, great.

21 Hi, yes.

22 PROSPECTIVE JUROR: Yeah, I don't have definite
23 answer.

24 THE COURT: Don't have a definite answer.

25 PROSPECTIVE JUROR: Because the company has gone

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1 through changes?
2 THE COURT: This is Ms. Decassia, juror number 74.
3 PROSPECTIVE JUROR: Sorry. And it used to be, and it
4 may still be, but I have to call again, in about 35 minutes --
5 THE COURT: Okay.
6 PROSPECTIVE JUROR: -- the company would deduct
7 whatever I receive from jury duty.
8 THE COURT: They often do that, yes.
9 THE COURT: Okay.
10 PROSPECTIVE JUROR: Up to now, this is what I have.
11 THE COURT: Great. We'll let you call back. Thank
12 you.
13 PROSPECTIVE JUROR: Okay, sure.
14 THE COURT: All right. Let's go through this.
15 THE CLERK: Ms. Benson, 76. She knows she didn't
16 raise her hand, but she wants to say something.
17 THE COURT: Now everybody wants to see us.
18 THE CLERK: She is the last one up.
19 THE COURT: Juror number 76, Ms. Benson, hello. Have
20 a seat.
21 What is the problem?
22 PROSPECTIVE JUROR: Well, I can make the time. But,
23 when you listed that number of people and that length of time,
24 I -- I don't know if I could be as astute and sharp as I was
25 awhile ago. I mean I have -- I could probably do it, but I

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1 PROSPECTIVE JUROR: I'm good, sorry.

2 THE COURT: Don't apologize.

3 So 17 out of 25. Okay, let's go through the list.

4 Juror number 71, Ms. Barkin, certainly doesn't have a
5 time problem.

6 MR. SIANO: Judge, I do believe that her hesitation
7 with regard to the question of fairness sort of says that this
8 overhangs her thought process with respect to this.

9 THE COURT: I'm going to keep her around for now,
10 we'll see what happens at the end of the voir dire.

11 Juror number 73, is our unemployed actor.

12 MR. CARBONE: Judge, the government thinks it probably
13 be a hardship for him, based on -- a stage actor, this is the
14 time of year when he gets his parts, and he has been
15 unemployed.

16 MR. SIANO: Unemployed, really, you can't --

17 THE COURT: He is not going to turn down work. It
18 does affect their union status, if Equity is your union, it
19 does affect.

20 MR. ARONWALD: Can't go on auditions.

21 MR. SIANO: It's the insurance, Judge. I think it's
22 cause.

23 THE COURT: I think so, too. Okay.

24 THE CLERK: Seventy-three.

25 THE COURT: Mr. Johnson.

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1 Seventy-four, Ms. Decassia, I think we'll keep her
2 around until she gets a firmer answer. But if the answer is
3 they take the \$40, deduct it from her pay, then there is no
4 hardship.
5 Juror number 78, everybody's favorite juror, Mr. Cole.
6 MR. HALPERIN: He can go, if he gets us good seats.
7 MR. SIANO: I think that's right.
8 THE COURT: I'm not going to Toronto to see Les contes
9 d'Hoffmann.
10 MR. CARBONE: Maybe he could give us a little preview.
11 MR. HALPERIN: No objection.
12 MR. ARONWALD: No objection.
13 THE CLERK: Did you want to do 76, the one that just
14 came in at the end?
15 THE COURT: You're right.
16 Juror number 78, Mr. Cole, is stricken for cause.
17 Juror number 76, Ms. Benson.
18 MR. CARBONE: We didn't see a problem with her, Judge.
19 Sounds like she was being honest and --
20 MR. ARONWALD: Well, I mean she's saying memory and
21 concentration problems in a case where there are over 700
22 government exhibits and 40 witnesses. And I think
23 she's telling you that she's not sure she'll be able to focus
24 and concentrate.
25 That could be to the detriment of either side, so I'm

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1 Senator Spano and is going to be -- and I don't think, I am not
2 sure what we know what kind of work her boss does. And so I
3 think we keep her around, but maybe pursue that.
4 THE COURT: I don't think that's relevant, frankly.
5 MR. ARONWALD: Okay, well.
6 THE COURT: Okay. She's not going anywhere.
7 Then we have the art dealer, 82.
8 MR. CARBONE: We think she should probably be excused.
9 THE COURT: Eighty-two is the lady going to Florida.
10 She is the executive recruiter. She has her ticket for next
11 week.
12 THE CLERK: Number 82, Lorraine Hacknewman is
13 stricken.
14 THE COURT: Yes.
15 Eighty three is art dealer, whose wife is having a
16 baby and she was supposed to make a call.
17 THE COURT: We all know what the answer is, that he
18 does not cover jury.
19 MR. HALPERIN: Seems --
20 THE COURT: A one-man art dealer.
21 MR. ARONWALD: I know.
22 THE COURT: You know that, I know that, we all know
23 that. As a juror, I'm sure, but --
24 MR. SIANO: Let her go.
25 MR. ARONWALD: Okay, let her go.

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1 THE COURT: All right. Juror number 83, Ritu
2 Dhalwala, stricken.
3 Okay juror number 84 is our fifth grade teacher. And
4 like all teachers, my answer to her is, you know, if you're so
5 concerned about the kids, postpone your jury duty into the
6 summer. That's my standard answer to public school teachers,
7 if not private school teachers, you guys have 3 months off, you
8 can come and do your jury duty then. They never want to do
9 that, they always want to do their jury duty now and not get on
10 the jury because it is so important they be in the classroom.
11 Okay, so 84 is not going anywhere.
12 MR. ARONWALD: Eighty-four is --
13 THE COURT: Not going anywhere.
14 Eighty-five is the gentleman who was with the IG.
15 MR. SIANO: With the PD, too. Described himself as
16 being on the right side.
17 MR. ARONWALD: I --
18 MR. CARBONE: I guess our view was it sounds like it
19 could be a hardship for him. His papers are on the
20 governor's desk, he has been out of work.
21 MR. SIANO: Cause.
22 MR. ARONWALD: No objection.
23 MR. CARBONE: Strike him.
24 MR. HALPERIN: You're not going to --
25 THE COURT: I think you guys are all nuts, I would
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1 THE COURT: I'll deal with that later.

2 MR. CARBONE: Thank you.

3 THE COURT: He certainly doesn't --

4 MR. SIANO: It's an SEC investigation.

5 THE COURT: Probably SEC investigation.

6 MR. ARONWALD: Be my --

7 THE COURT: Be my guess.

8 MR. HALPERIN: Could be criminal angle, too, we don't
9 know.

10 THE COURT: Maybe. But that wouldn't disqualify him
11 from jury service. Might mean you would want to strike him,
12 but certainly isn't a disqualification.

13 MR. SIANO: But it's a good question.

14 THE COURT: Okay.

15 Juror number 89, young lady going for her wedding
16 celebration in the middle of March to Ireland.

17 MR. SIANO: Too close, Judge.

18 THE COURT: Too close.

19 MR. CARBONE: Agreed.

20 THE COURT: Juror number 89, Goater. Now,
21 interesting. Ms. Goater is actually listed as living in
22 Yonkers, and she's heard of no one and nothing. That just
23 tells you something.

24 MR. ARONWALD: She may have just -- she just got
25 married, maybe she just moved to Yonkers.

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1 THE COURT: Mr. Husenaj turns out has no problem,
2 because his tickets are in April.

3 Juror number 91, Mr. Ninivaggi, I think we are all
4 agreed, Mr. Ninivaggi will not be sitting on this jury.

5 THE CLERK: Stricken.

6 MR. ARONWALD: Yes.

7 THE COURT: Juror number 93, Mr. Joyce. I must tell
8 you, I'm not inclined to let Mr. Joyce go. Mr. Joyce is
9 sitting around with nothing better to do. If Mr. Joyce gets
10 picked for this jury, he is likely to be an alternate and you
11 know what, if the bell rings, we can deal with it then.

12 MR. CARBONE: We agree with that.

13 MR. SIANO: Didn't seem like it was a hard look for
14 work.

15 THE COURT: Well, I'm sure it's a hard look for work,
16 I'm sure his resume is out there everywhere. Having a daughter
17 who is a teacher -- but I can also tell you a daughter who was
18 looking for work last year, March is not a big time. They
19 don't know what their budgets are until May. They don't know
20 who they are going to hire.

21 Okay, so he's gonna stay.

22 Juror number 94, Dr. Sands.

23 MR. CARBONE: It did sound like a hardship.

24 MR. ARONWALD: He did or did not.

25 MR. CARBONE: Did sound.

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1 THE COURT: Did.
2 MR. ARONWALD: I agree with you.
3 THE COURT: Doctor Sands is stricken.
4 Poor Ms. Socolon.
5 MR. ARONWALD: Let her go. All day, single mom, goes
6 to school.
7 THE COURT: Okay, she's gone.
8 THE CLERK: Ninety five out.
9 THE COURT: Okay, we are striking juror number 73,
10 Mr. Johnson; juror number 76, Ms. Benson; juror number 78; Mr.
11 Cole 78; juror number 82, Ms. Hacknewman; juror number 83; Ms.
12 Dhalwala; juror number 86, Mr. Martin.
13 MR. ARONWALD: Eighty-five is Mr. Martin.
14 THE COURT: I'm sorry, juror number 85, Mr. Martin;
15 juror number 89, Ms. Goater; juror number 91, Mr. Ninivaggi;
16 juror number 94, Mr. Sands; and juror number 95, Mrs. Socolon.
17 Right?
18 MR. ARONWALD: Yes.
19 THE COURT: Striking 10.
20 For Mr. Siano's sake, we're going to put everybody in
21 the jury box.
22 THE CLERK: Excuse them and then shuffle them down.
23 THE COURT: Correct.
24 THE CLERK: We've the other jurors coming in in 20
25 minutes.

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1 (In open court)

2 THE COURT: Okay so few of you are going to be
3 excused. And then we're going to fill seats. And then we're
4 gonna have a few minutes of questioning.

5 The following jurors have been excused, report to the
6 jury room. Seventy-three, Todd Johnson; 76, Judith Benson; 78,
7 Steven Cole; 82, Lorraine Hacknewman; 83, Ritu Dhalwala; 85,
8 Dennis Edward Martin; 89, Angelina Goater; and 91, Frank
9 Ninivaggi; 94, Brian Sands; and, 95, Ellen Socolon.

10 THE COURT: Okay. Now, while they are leaving, what I
11 want you to do, the three of you, would you move down. No, no,
12 don't -- don't move until I tell you. The three folks in the
13 front row, please move down and fill in these seats. Then I
14 have two seats, would you two jurors please take those two
15 seats in the front row.

16 Not you, sir.

17 PROSPECTIVE JUROR: Sorry.

18 THE COURT: Don't -- yes. Ma'am and ma'am. Okay.
19 Please take the two seats in the front row. In order. Right.
20 Ma'am, would you move down to this seat closest to me in the
21 second row. Ma'am, would you move down and sit next to Ms.
22 Thornton. And then the three of you, in the order in which you
23 are seated, move down. Thank you.

24 And, then, gentlemen would the three of you please
25 come up and take, in the order in which you are seated, the two

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1 THE COURT: Juror number 81, 84, 74, you three jurors
2 should go down to the jury room, please. You're excused
3 Jimmies going to give you your cards in just a moment.
4 As for the rest of you, we would like to hear a little
5 something about you. Nobody needs to change seats. We would
6 like to hear a little something about you, so we're going to
7 pass out a questionnaire which is not to be filled out. You're
8 to use it. Has some questions on it. And you're to use it as
9 a guide, way of telling us a little something about you; who
10 you are, and what your family situation is; what you do; what
11 you would like to do with your spare time; where you get your
12 news, all of the sources from which you get your news. And,
13 the last question is the wrong question, I need to change it.
14 It says do you blog and do you follow blogs. What we want to
15 know is about your life on the internet. We want to know about
16 your life on the web. Do you have a Facebook page, do you
17 Tweet, do you blog, do you follow blogs. There are other
18 things. Do you have a life on the internet. Do you have a
19 computer at all. Some people don't, actually. But that's the
20 information that we're looking for there. And the reason for
21 that, and I'll be much more fulsome a little later in the
22 morning, is that we judges are finding out that we're a little
23 bit behind the times in that some jurors have actually not
24 understood that when we say don't discuss the case, there is no
25 exemption for, you know, blogging about the case during the

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1 won't bore you with because I didn't go on with it. And then I
2 became an editor in a publishing house, and that's what I have
3 done ever since.

4 What do I do in my spare time. My husband and I
5 travel a good deal. I read. Go for walks. Fairly ordinary
6 life for a person who was an English major.

7 Where do I get my news. I read The Times every day.
8 I read the Westchester Journal News, not every day but
9 sometimes. I watch the evening news on NBC. And I watch
10 the -- whatever it's called now, used to be the MacNeil/Lehrer
11 show on PBS. I don't get much news from the internet, although
12 I use the internet a good deal in my work and to keep in touch
13 with friends and so on.

14 I am a member of the Friends of the Hastings Library,
15 been involved in a lot of other civic organizations, although
16 not an elected office. I read to the blind in Westchester.
17 And, no, I do not blog. And I don't read blogs, either.

18 THE COURT: Have a Facebook page?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Involved in Twitter?

21 PROSPECTIVE JUROR: No Facebook, no nothing.

22 THE COURT: Okay. Thank you.

23 Mr. Hart.

24 PROSPECTIVE JUROR: Thank you.

25 I am -- well, I grew up in the New York area. I grew

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1 up in Peekskill. I spent many years away going to school and
2 doing other things, but I returned not too long ago to pursue a
3 career in teaching. So my official title is a teacher. I now
4 live in Purchase, New York but, actually, I have not been
5 teaching. For the past couple of years -- I'm a science
6 teacher. But for the past couple of years I am a house father
7 or -- I don't know what you would call it, supervisor in a
8 dormitory at the high school where I had also been teaching.
9 So that's my main occupation now. I am a supervisor in the
10 dormitory where the students live.

11 I am married. My wife has a law degree. And since
12 the birth of our child two years ago, she hasn't been working.
13 But she did work as a paralegal in a Westchester County law
14 firm.

15 We have no adult children. I do have a masters degree
16 in my field, in physics. We like hiking, and reading, and
17 travel. My wife is from overseas, so most of the news we pay
18 attention to, I guess I feel I've failed my civics lesson, but
19 most of the news we pay attention to is international news,
20 because we do travel back to her home country frequently. And
21 we focus on international issues, for the most part.

22 On line, I go to The New York Times website, to the
23 BBC News website. And we did, used to watch the local news
24 some years ago. But in the dormitory, we don't have a
25 television. But they have cable for us. But it's not a big

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Jury Voir Dire

1 THE COURT: We're going to pass the microphone down to
2 Juror No. 75, Ms. Bellizzi.

3 THE JUROR: I've lived in New York in Manhattan for 40
4 years.

5 THE COURT: Can I ask you to hold that up.

6 THE JUROR: I've lived in Manhattan for 40 years. I
7 have been retired for more than five years. I am married. My
8 husband is a teacher. No children. I belong to a chess club.

9 Spare time things are also theatre, concerts, opera.

10 I read The Times, Leisure magazine. I don't watch
11 much television and I don't blog but I have a Facebook account
12 by mistake.

13 THE COURT: Okay. Thank you. Mr. Greenfield.

14 THE JUROR: Hi. I live on the Upper Eastside. I've
15 been living there for about ten years. I haven't worked in
16 about 15 years. I am married. My wife is a senior vice
17 president of the Macy's department store who retired two years
18 ago. We have children. We have two sons:

19 THE COURT: Are your sons adults?

20 THE JUROR: They're 41 and 42 so, yes, they are
21 adults. I hope they're adults. One is in gold refining
22 business. The other is attempting to go into the same
23 business. He also has to felony arrests, two drug related
24 situations.

25 I travel in my spare time. I do read The Daily News.

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Jury Voir Dire

1 News is exclusively online, CNN, New York Times, Wall
2 Street Journal, then various fashion blogs.

3 Television is also for entertainment purposes only.
4 HBO and ABC.

5 No clubs or organizations. And I have Facebook and
6 Twitter accounts and I follow fashion blogs.

7 THE COURT: Thank you. Okay. Next juror is
8 Mr. Wilson, I believe. Pass it down. Juror No. 86.

9 THE JUROR: My name is Jeffery Wilson. I was born
10 into a military family overseas. I am a United States citizen.
11 I live at the moment in Midtown. I've lived there for eight
12 years. I am not conventionally employed. I'm supported by my
13 family. Have never been married, not particularly interested.
14 I have no children. I completed college. College of Science
15 and Philosophy.

16 Spare time I am doing a lot of reading, also
17 developing art skills, interested in painting.

18 I don't follow the news or politics. I don't have a
19 television.

20 Clubs organizations, I like to spend time outdoors if
21 possible. No official groups. I have a Twitter account for my
22 art, opening that for my art skills. I am not on Facebook.

23 THE COURT: Thank you. Mr. Gruenstein.

24 THE JUROR: David Gruenstein. I live on the Upper
25 Eastside and have lived there for a very long time. I am an

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Jury Voir Dire

1 attorney. I am married. My wife since the birth of our first
2 child has not worked outside the home. Our kids are still
3 kids. I have a JD. In my spare time I like to read. I get my
4 news mostly from various newspapers, The New York Times, the
5 Wall Street Journal, FT and the New York Post. I do look at
6 some online news web sites but mostly from the newspapers.

7 I watch Glee, Dr. Who, the Big Bank Theory and Fox
8 News and Jim Kramer.

9 I am on a couple of not-for-profit boards. I don't do
10 anything personally with respect to social media but I have had
11 some professional dealings with them.

12 THE COURT: Thank you. Ms. Pollutro.

13 THE JUROR: I live in the Union Square area of
14 Manhattan. I've lived there for 40 years. My occupation for
15 about 37 years has been hair dressing and makeup. In the last
16 three years I have been acting. I've never been married. No
17 children. The highest level of schooling was trade school,
18 cosmetology school and now I am taking acting classes.

19 In my spare time I like to read. I travel some. I go
20 to the gym. I dance.

21 I get my news mostly from newspapers, the New York
22 Times, different news magazines. Also I watch a lot of news
23 programs on television, not online.

24 THE COURT: Any particular channels?

25 THE JUROR: CNN and Fox News. I do watch some

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1 television, American Idol, Dancing with the Stars and like I
2 say, a lot of news programs. I am a member of the Alzheimers
3 Association and I do not blog and I don't follow blogs.

4 THE COURT: Facebook, Twitter?

5 THE JUROR: I do have a Facebook account.

6 THE COURT: Thank you. Mr. Husenaj.

7 THE JUROR: Well, I live in the Upper Eastside for
8 past 20 years and my occupation is manage condominium and
9 co-ops. I've been married for 42 years. I have four children.
10 They are involved in real estate. They own a real estate
11 company, insurance company, construction company and my son
12 works for WBP Advertising Company.

13 Education, two years of college. Spare time children
14 and grandchildren and golf when ever I can squeeze in a round
15 of golf.

16 I get my news from CNN and Fox News once in a while.
17 I don't watch too much television. I do participate in couple
18 of real estate organizations Scandinavian/American and New York
19 building managers.

20 I do not blog. I do not have Facebook or anything.

21 THE COURT: Thank you, very much.

22 Mr. Masserano.

23 THE JUROR: I live in the Bronx all my life. I was in
24 accounts receivable collector. I am unemployed at the present
25 time. I am married. My spouse is a teacher's aid. I have

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1 three adult children, two in college. One works for our city
2 councilman. I have a BS degree. I do volunteer work, read. I
3 read The Daily News. Local TV, listen to the news Channel 5,
4 Channel 7. I watch talk shows, sports, no clubs. I don't
5 blog, no Facebook, no Twitter.

6 THE COURT: Could I ask what your child does for the
7 city councilman or woman?

8 THE JUROR: Scheduler.

9 THE COURT: Scheduler.

10 THE JUROR: Yes.

11 THE COURT: Okay. Thank you. Pass it back to
12 Mr. Joyce.

13 THE JUROR: Hi, there. Most of my life I lived in
14 Putnam County. I did live a little bit in New York State on
15 the Upper Eastside of Manhattan and most I would say about
16 three quarters of my life in Putnam County in Patterson, New
17 York. 15 years of teaching experience, history teacher,
18 history buff. Always enjoyed reading history and political
19 science and economics.

20 I am not married. I don't have children.

21 Master's degree in history and social studies.

22 Spare time, go to the gym, mostly athletic activities,
23 museums. I've always been a news buff over, I guess you could
24 say the lastly our four years I have been so disenfranchised
25 with the political system. Democrats, republicans I think they

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1 are all the same now especially how they go after tenured
2 teachers.

3 Let's see. So television I would say programs, a good
4 sports event, sometimes a little bit of the international news.
5 The nightly news I'll watch that, the international. Try to
6 stay I way from the local stuff. Let's see just a few shows,
7 CSI from time to time.

8 Okay. Clubs, the social studies council, New York
9 State Social Studies council. From time to time I help out
10 with the homeless shelter on the Upper Eastside. I use to at
11 least do more of that.

12 I don't blog. Sometimes I have some Republican Wall
13 Street friends that send me some blogs. I usually delete them
14 though.

15 And certainly do not do anything on Facebook.

16 THE COURT: Okay.

17 THE JUROR: That's it.

18 THE COURT: Okay. I have a few questions that I want
19 to ask all of you and if you have an answer to the question
20 raise your hand and give me a chance to write down your juror
21 number, all right. You could tell from my description of the
22 charges in the case that during the trial you are going to hear
23 evidence concerning allegations, charges of public corruption
24 including the alleged bribing of a public official.

25 Now, do any of you folks have a strong opinion whether

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1 positive or negative -- I don't care what it is -- about public
2 officials and their honesty or their trustworthiness that would
3 prevent you from judging the case on the basis of the evidence
4 that you hear here in court as opposed to some preexisting
5 prejudice that you may have about people in the political
6 spectrum? Anybody?

7 Okay. Now I am going to be really bad about this
8 because the numbers are all mixed up now that I've reseated
9 everyone. So this is Juror No --

10 THE JUROR: 80.

11 THE COURT: Number 80, Ms. Boster.

12 Is there anything about the fact that Ms. Annabi and
13 Mr. Jereis are involved in local politics that would prevent
14 any of you from giving them a completely fair trial acting as a
15 fair and impartial juror which I defined for you as someone who
16 decides the case on the basis of the law as I give it to you
17 and the evidence that you hear in the court and not on the
18 basis of information that you've gotten on the outside or
19 prejudice or bias of any sort? I don't see any hands on that.

20 Both Ms. Annabi and Mr. Jereis are of Jordanian
21 descent. Is there anyone who could not be a fair and impartial
22 juror in this trial because of their ethnicity? I don't see
23 any hands.

24 Have any of you folks or a member of your family ever
25 been either appointed or elected to a public office like a

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1 if anybody is familiar with the process by which public
2 contracts are awarded, bids are submitted, those kinds of
3 things. Okay. Nobody here.

4 THE JUROR: Your Honor?

5 THE COURT: Mr. Gruenstein.

6 THE JUROR: In response to a previous question, I am a
7 member of a board of an organization where the organization
8 does as one of its activities lobbying.

9 THE COURT: The organization?

10 THE JUROR: The National Center for Law and Economic
11 Justice.

12 THE COURT: Thank you. Okay. Now, I want to move on.
13 As I told you, there is a charge in this case that Ms. Annabi
14 made fraudulent statements on tax returns. Just knowing what
15 that charge is, is there anything about the nature of that
16 charge that would prevent you from serving as a fair and
17 impartial juror in this case? I don't see any hands. How many
18 of you folks have been audited? Two. All right. Maybe three,
19 maybe four.

20 Have any of you ever been involved whether you have
21 been audited or not have any of you ever been involved with any
22 kind of a dispute or an unpleasant encounter with the Internal
23 Revenue Service? Mr. Greenfield, Juror No. 77.

24 THE JUROR: In a professional capacity.

25 THE COURT: Mr. Gruenstein, as counsel for clients, I

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1 take it?

2 THE JUROR: Yes.

3 THE COURT: Anybody else or how about any other taxing
4 authority, New York State taxing authority or a local taxing
5 authority. Also Juror No. 77, okay.6 I am not going to ask you, Mr. Gruenstein, because you
7 are talking about a professional relationship, but
8 Mr. Greenfield, do you harbor any ill will, bad feelings,
9 lingering bad blood with the IRS that would --

10 THE JUROR: New York State, yes. Oh, yes.

11 THE COURT: Could that --

12 THE JUROR: And New York City.

13 THE COURT: And could that possibly spillover into the
14 IRS which is the agency that's involved here such as that you
15 would have difficulty being a fair and impartial juror in a
16 case where there was a government taxing authority involved as
17 a complaining party, as it were?

18 THE JUROR: I hope not.

19 THE COURT: Okay. Now I am going to try to think of a
20 different way to ask this than I asked it yesterday cause it
21 came out wrong yesterday.22 Is there anything about the tax laws as they currently
23 exist that would prevent you from being a fair and impartial
24 juror at a trial that involved charges about not reporting
25 things properly on one's tax return? What I said yesterday,

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1 in law enforcement means you would automatically believe
2 anything that person had to say, you shouldn't sit on a jury in
3 a case like this.

4 If the fact that the person is a law enforcement
5 officer means that you would automatically not believe anything
6 that the person had to say, you should not sit on a case like
7 this. We want people who can be open-minded and listen to the
8 law enforcement testimony without some preconceived notion that
9 it's either a lie or that it's the absolute truth, okay.

10 Is there anybody here who has feelings about law
11 enforcement, whether they be positive or neglective that would
12 impact your ability to be he completely fair and open-minded in
13 listening to law enforcement testimony? Juror No. 80,
14 Ms. Boster. Okay. Anybody else?

15 Now, you are going to hear testimony in this case from
16 one or more persons who at one time were involved in criminal
17 activity and they've now pled guilty to crimes and they're
18 going to be testifying on behalf of the government pursuant to
19 what are called cooperation agreements and those of you who are
20 chosen for the jury will hear more about them during the course
21 of the witness' testimony. The use of cooperating witnesses,
22 as they're called, is perfectly legal. There's nothing wrong
23 with it at all. There are some special rules for evaluating
24 the testimony of a cooperating witness that I will tell the
25 jurors, you get to scrutinize their testimony with extra care

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1 or you are encouraged to do so but there is nothing inherently
2 wrong or bad or anything else like that with the government's
3 calling a witness who is a cooperating witness, even sometimes
4 a witness who allegedly participated in the same crimes that
5 the defendants are accused of perpetrating what we call an
6 accomplice witness.

7 Is there anybody here who has feelings about the use
8 of witnesses who are testifying pursuant to cooperation
9 agreements that would prevent you from being open-minded and
10 fairly evaluating the testimony of such a witness? And that is
11 Juror No. 80, Ms. Boster and Juror No. 75, Ms. Bellizzi.

12 You may hear some testimony in this case about people
13 or from people who have engaged in activity of which some
14 people disapprove on moral grounds, sex outside of marriage,
15 gambling. Would knowing that a person had engaged in behavior
16 of that sort of behavior that some people consider to be
17 immoral behavior cause you for that reason alone to disbelieve
18 that person's testimony? Juror No. 79, Ms. Castaldo. Anybody
19 else?

20 I have in this courtroom two defendants. They're
21 joined here for trial but the jury in this case is going to be
22 trying two cases at the same time and you have to be willing
23 and able to evaluate the evidence against each defendant
24 separately and independently and make an independent decision
25 about whether the defendant has overcome the presumption of

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1 innocence in Ms. Annabi's case and totally separately has
2 overcome the presumption of innocence in Mr. Jereis' case. The
3 verdict that you would render with respect to one does not
4 dictate the verdict that you would render with respect to the
5 other, okay.

6 Is there anybody who can't promise me that you will
7 consider the evidence against the two defendants independently
8 and reach separate and independent decisions on the issue of
9 whether the government's overcome the presumption of innocence?
10 Okay. I don't see any hands.

11 If I could see counsel at the sidebar.

12 (Sidebar)

13 THE COURT: Okay. We have a few more, right? You can
14 start.

15 MR. HALPERIN: Judge, the government would move to
16 strike 75 and 80. They said they could not be fair where a
17 cooperating witness was involved. We move to strike 79 who
18 said -- I forget if it's a he or she. She could not be fair in
19 the issue of infidelity.

20 MR. SIANO: I think she said, and morality included
21 the gambling, she did raise her hand.

22 THE COURT: She did.

23 MR. HALPERIN: And on the last one I think it's a
24 little bit of a grayer area but we'd move to strike 77. The
25 Court asked about bad blood with the New York State Taxation

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1 and Finance. He did not give an unequivocal answer when the
2 Court followed up and said, do you think you could be fair with
3 the IRS, he said, I hope so which leaves a little bit of room.
4 So that's a concern with the government but that was four.

5 THE COURT: Mr. Siano, Mr. Aronwald?

6 MR. SIANO: Judge, I think that on 80, 79 and 75 I
7 think I concur. I don't think I agree about 77, judge.

8 THE COURT: I'll tell you this about Juror No. 77. I
9 have always said that the judge should get one strike and Juror
10 No -- got all the way to 77 -- who I find a juror on the juror
11 factor if I had to and that's from the moment he came in and
12 told us that was a harsh inconvenience but that's okay if you
13 want to keep him on the panel, Mr. Siano.

14 MR. SIANO: Judge, I didn't say that.

15 THE COURT: That's what you have peremptory challenge
16 for. I'll let him stay.

17 MR. SIANO: You didn't hear from Mr. Aronwald, judge.

18 MR. ARONWALD: I concur with 75, 79 and 80. I
19 disagree with 77 unless we were also going to consider the fact
20 that Mr. Joyce said he thinks he could be fair which is not an
21 unequivocal he could be fair. And 71 said that she had
22 negative views towards the defendants and thinks or hopes that
23 she could be fair.

24 THE COURT: I am not ready to deal with that yet cause
25 I promise you we'll deal with that. Can we just deal with 77?

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1 MR. ARONWALD: 77 I'll strike him, okay. Yes.

2 MR. SIANO: Two out of three, judge.

3 THE COURT: Three out of four, I think.

4 MR. ARONWALD: Judge, one question. I've discussed
5 this with the government. We don't believe that you asked any
6 of these jurors if they knew anybody or had any issues with the
7 criminal justice system.

8 THE COURT: I haven't finished asking them questions,
9 the entire panel there are like five or six questions I've got
10 to ask everybody.

11 (In Open Court)

12 COURTROOM DEPUTY: The following jurors have been
13 excused. Report to the jury clerk.

14 Juror No. 75, Marrianna Bellizzi; 77, Kenneth
15 Greenfield; 79, Sharon Castaldo and 80, Valerie Boster.

16 THE COURT: I would like it if you folks would take a
17 five minute stretch break. Don't discuss the case and I
18 haven't given you all the big speech yet but "discuss" means
19 communicate in any way in the broadest sense of the term using
20 any means of communication yet devised by mankind, okay. And
21 keep an open mind. We haven't heard anything really about the
22 case yet but we're going to do is, obviously, I spoke to some
23 jurors yesterday afternoon. I've spoken to some jurors this
24 morning. We going to put you together and we're going to
25 finish out the voir dire, all right. So I'll see you in five

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1 33, Lautaro Mosquera.

2 36, Daniel Ferreira.

3 38, Erica Jusino.

4 THE COURT: Okay. That's the jury box. The next
5 juror is going to sit. You don't have to use the side chairs.

6 You are going to sit over there on the side.

7 COURTROOM DEPUTY: 40, Edith Adusyi.

8 41, Kara Chau.

9 46, Nicholas Moyne.

10 48, Patricia Miller.

11 49, Anita Wolfgang.

12 THE COURT: Ms. Wolfgang, you can start a new row.

13 COURTROOM DEPUTY: 50 Beth Nedow.

14 52, Victoria Lawrence.

15 54, Peter Timmins.

16 56, Glenda Beck.

17 57, Rosemary Gomes.

18 60, Carl Andrews.

19 63, Ryan Mulcahy.

20 65, Joey White.

21 66, Peter Wargo.

22 Bring in the next group.

23 THE COURT: Okay. You are going to be joined by a few
24 more people from this morning.

25 (Pause)

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1 COURTROOM DEPUTY: Juror 71 Carol Barkin in the back
2 row.

3 72, Lee Sherman Hart.

4 86, Jeffery Wilson.

5 87, David Gruenstein.

6 88, Jolene Pollutro.

7 90, Sejdi Husenaj.

8 92, John Masserano.

9 93, John Joyce.

10 THE COURT: Welcome back, for those of you who I
11 haven't seen for a few hours.

12 And welcome back to those of you who I haven't seen
13 for a half hour.

14 Okay. Let's finish up this voir dire.

15 I am going to ask you all some questions as to which
16 you may have a response or you may not have a response and you
17 know the rules. If you have a response, raise your hand and
18 keep it up until I've ticked off your jury number.

19 Now I will tell you and the folks from yesterday know
20 because I have been in this courtroom for a long time I have a
21 real sense of where particular numbers should sit. I am
22 repeatedly going to call you Juror No. 1 because I think you
23 should be. I know you are Juror No. 2 but I am going to call
24 you Juror No. 1 because that's who I think should be in that
25 chair. So correct me and I'll may have to resort to this list

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1 a lot.

2 How many of you folks have ever served on a jury
3 before? Keep those hands high. Juror No. 2, Ms. Cauvin; Juror
4 No. 12, Ms. Jantz; Juror No. 15, Ms. James.

5 In the second row is that Ms. Harris? Is that you,
6 Juror No. 26, Ms. Harris?

7 In the third row, Juror No. 33, Mr. Mosquera and Juror
8 No. 38, Ms. Jusino.

9 Okay. Back in the back.

10 THE JUROR: You forgot me.

11 THE COURT: That's why I am skipping lines. Okay.
12 Because I know I am going to forget. Okay. Is that
13 Ms. Langhorne?

14 THE JUROR: Yes.

15 THE COURT: Juror No. 18, Ms. Langhorne.

16 MR. HALPERIN: 16, your Honor.

17 THE COURT: I've got so many markings on this page I
18 can't even read the numbers properly. I am really sorry about
19 this.

20 THE JUROR: Over here, your Honor.

21 THE COURT: Someone else. Who is that?

22 THE JUROR: Henry.

23 THE COURT: That's Ms. Henry. Juror No. 22,
24 Ms. Henry.

25 THE JUROR: May I ask a question?

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1 case, a contract case or was it a criminal case? Did the jury
2 reach a verdict? Yes or no? Or we never got to deliberate.
3 They settled the case. There are three possible answers to
4 that question, "yes", "no", or "we didn't deliberate", all
5 right.

6 And the fourth question is, did anything happen during
7 your last jury service, your prior jury service that would make
8 it difficult for you to be a fair and impartial juror in this
9 case? And, of course, ultimately, that's the important
10 question. It will always be the last part of every question.
11 Is there anything that happened that would cause it to be
12 difficult for you to be fair and impartial in this case?

13 And we are going to start with Ms. Cauvin, Juror No.
14 2.

15 THE JUROR: I think it was 2003 in the Bronx.

16 THE COURT: What kind of case, civil or criminal?

17 THE JUROR: A drug case.

18 THE COURT: Criminal case?

19 THE JUROR: Yes.

20 THE COURT: Okay. We are going to use the Oprah mic.

21 THE JUROR: A drug case and they didn't settle.

22 THE COURT: You never deliberated?

23 THE JUROR: No, we deliberated but --

24 THE COURT: No. No. Was there a verdict, yes or no?

25 THE JUROR: No verdict.

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1 THE COURT: OK. Thank you. Juror No. 12, Ms. Jantz.

2 THE JUROR: I am not quite sure of the year. I think
3 was about 2000.

4 THE COURT: Okay.

5 THE JUROR: I served in White Plains. It was a civil,
6 damages, for money.

7 THE COURT: Right.

8 THE JUROR: We did reach a conclusion.

9 THE COURT: Okay I forgot to ask you, did anything
10 happen while you are on jury service that would cause you not
11 to be fair and impartial here?

12 JUROR NO. 2: No.

13 THE COURT: Same question.

14 THE JUROR: No.

15 THE COURT: Juror No. 15.

16 (Continued on next page)

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Voir Dire

1 (In open court)
2 THE COURT: Fifteen. That's Ms. James.
3 PROSPECTIVE JUROR: I served. It was the government
4 versus --
5 THE COURT: A criminal case?
6 PROSPECTIVE JUROR: Yes.
7 THE COURT: Okay. And how long ago.
8 PROSPECTIVE JUROR: 2006.
9 THE COURT: 6 years ago. Did the jury reach a
10 verdict?
11 PROSPECTIVE JUROR: Yes.
12 THE COURT: All right. And is there anything that
13 happened to you during your jury service that would make it
14 hard for you to be fair and impartial in this case?
15 PROSPECTIVE JUROR: No.
16 THE COURT: Pass the microphone back to Ms. Langhorne.
17 Juror number 16.
18 PROSPECTIVE JUROR: It was around 2007. And it was a
19 civil case. And --
20 THE COURT: Verdict, or settled, or no verdict.
21 PROSPECTIVE JUROR: A verdict.
22 THE COURT: Okay. And did anything happen that would
23 cause you to not be able to be fair in this case?
24 PROSPECTIVE JUROR: No.
25 THE COURT: All right. Okay, juror number 22,
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1 PROSPECTIVE JUROR: And it wouldn't affect me in any
2 away.

3 THE COURT: Do you understand that in this case, the
4 level of proof is gonna be considerably higher than it was at
5 the Grand Jury?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Okay, fine. Great.

8 Juror number 41, Ms. Chau.

9 PROSPECTIVE JUROR: I was on grand jury duty about 10
10 years ago in New Jersey. It was criminal court. I did that
11 for a couple of months. And I don't think it would affect my
12 impartiality.

13 THE COURT: And you understand that the level of proof
14 is higher here at the trial level, than it was at the Grand
15 Jury?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Okay, great.

18 Juror number 48, Ms. Miller. End of the front row
19 here.

20 PROSPECTIVE JUROR: 1999, civil case. And I think I
21 could be impartial.

22 THE COURT: Okay, great. Juror number 56. Ms. Beck.

23 PROSPECTIVE JUROR: 2003, it was a criminal case.
24 There was a verdict. And nothing happened that would cloud my
25 thinking.

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1 THE COURT: Okay, excellent.

2 Ms. Gomes, juror number 57.

3 THE COURT: Hi, I served two times. The first one was
4 about '92, '93. Both civil cases. The first one I was an
5 alternate juror, there was a verdict. And the second one, I
6 deliberated, and there was a verdict. And, no, I would not be
7 partial.

8 THE COURT: Okay, great. Juror number 60, Mr.
9 Andrews.

10 PROSPECTIVE JUROR: 2007, Bronx. It was a civil case.
11 There was a verdict. And there was -- nothing occurred that
12 would make it -- force me to be impartial.

13 THE COURT: Okay, great.

14 Mr. White, back in the next row.

15 PROSPECTIVE JUROR: I served on three trials between
16 19 -- I believe it is between 1988, and '99. I was coming in
17 every two years, it seemed.

18 THE COURT: You were, if it was in State Court.

19 PROSPECTIVE JUROR: Yeah. And let's see. Two of them
20 we reached a -- they were all criminal cases, like chain
21 snatching, drug bust. And I don't think we reached a verdict
22 on the drug bust, but the other two we did and nothing happened
23 that would cause me to be impartial, I believe.

24 THE COURT: Okay, great. Juror number 66 Mr. Wargo.

25 PROSPECTIVE JUROR: Hi, I served on four juries over

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Voir Dire

1 the past 28 years or so. And we -- the last case was a civil
2 case. And we did reach a verdict. And I would have no
3 problem.

4 THE COURT: In terms of the other juries, were the
5 other, the earlier juries, were they civil or criminal?

6 PROSPECTIVE JUROR: One was criminal, two others were
7 civil.

8 THE COURT: Did the civil cases settle or go to
9 verdict?

10 PROSPECTIVE JUROR: It was settled.

11 THE COURT: Okay. And the criminal case, did it go to
12 verdict?

13 PROSPECTIVE JUROR: We get a verdict, yeah.

14 THE COURT: Okay, thank you.

15 THE COURT: And I was wondering if I could talk to you
16 about serving on this a little bit later, this trial.

17 THE COURT: Yes, you may. Let me make a little note
18 to myself.

19 THE COURT: Okay. Juror number 71. Ms. Barkin.

20 PROSPECTIVE JUROR: I was on a civil court jury in
21 White Plains about 10 years ago. It was a personal injury
22 case. We did reach a verdict. I don't think it would affect
23 my impartiality in this case.

24 THE COURT: Thank you very much.

25 Juror number 88. Ms. Pollutro.

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1 PROSPECTIVE JUROR: I served on grand jury. It was a
2 criminal case. They did reach a verdict.
3 THE COURT: Well, Grand Jury. And you were on a trial
4 of a criminal case, or were you just on the grand jury.
5 PROSPECTIVE JUROR: I'm not sure.
6 THE COURT: Okay.
7 PROSPECTIVE JUROR: I don't really remember that well,
8 it was --
9 THE COURT: Grand Juries are bodies of 23 people that
10 hand down indictments and there isn't, you know, there are not
11 lawyers for the other side there.
12 PROSPECTIVE JUROR: So it was criminal.
13 THE COURT: It was a criminal case?
14 PROSPECTIVE JUROR: Sorry.
15 THE COURT: There was a judge sitting in the room?
16 PROSPECTIVE JUROR: Yes.
17 THE COURT: That's a trial.
18 PROSPECTIVE JUROR: Okay. And nothing happened there
19 that would cause me to be impartial.
20 THE COURT: Okay, great, thank you.
21 Juror number 90, Mr. Husenaj.
22 PROSPECTIVE JUROR: About 6 years ago, I served as
23 a -- was a civil case, I was alternate juror.
24 THE COURT: Therefore, you did nothing --
25 PROSPECTIVE JUROR: No.

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Voir Dire

1 THE COURT: -- except listen to the evidence.

2 PROSPECTIVE JUROR: After six days. They sent me
3 home.

4 THE COURT: All right. All right, was there anything
5 about the experience that would make it hard for you to be a
6 fair and impartial juror?

7 PROSPECTIVE JUROR: No, your Honor.

8 THE COURT: Mr. Masserano, juror number 92.

9 PROSPECTIVE JUROR: About 6 years ago, a civil case.
10 We reached a verdict and nothing happened.

11 THE COURT: Okay, thank you. All right.

12 Now, let's go on to the next question, which is how
13 many of you have ever been involved in a lawsuit. Now, the
14 first thing I want to do is ask all of the lawyers in the room
15 to not raise your hands if the only reason you have been in a
16 lawsuit is as a lawyer, okay. We know you are a lawyer. But
17 if have you been in a lawsuit as a plaintiff, person who brings
18 a lawsuit, we're talking about civil lawsuit, lawsuit for money
19 damages as a plaintiff, as a defendant. Somebody who got sued.
20 As a witness. Somebody who had to give testimony. All right.
21 And to -- just to jar people's memories, if you were ever in an
22 automobile accident, you may have been in a lawsuit, all right.
23 Not necessarily, but you may have been.

24 How many people have been involved in a civil lawsuit?

25 THE COURT: Juror number, see my mine says juror

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Voir Dire

1 I sued R&S Strauss.
2 MR. ARONWALD: Can't hear.
3 THE COURT: She was in a personal injury lawsuit,
4 automobile accident. And she sued the person who defectively
5 repaired her sister's car.
6 What happened in the lawsuit?
7 PROSPECTIVE JUROR: It never went to trial.
8 THE COURT: Got settled.
9 PROSPECTIVE JUROR: It got settled. And R&S Strauss
10 had filed for bankruptcy, so it took a few years for me to get
11 something.
12 THE COURT: Okay. Is there anything that happened in
13 the course of that --
14 PROSPECTIVE JUROR: No.
15 THE COURT: -- that would cause you not to be able to
16 be fair here?
17 PROSPECTIVE JUROR: No.
18 THE COURT: Great.
19 Juror number 26. Ms. Harris.
20 PROSPECTIVE JUROR: Is it possible that I can speak to
21 you in private about that?
22 THE COURT: Absolutely. We'll go through the rest of
23 the group.
24 PROSPECTIVE JUROR: Thank you.
25 THE COURT: And juror number 26 wants to speak at
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1 (At the side bar)

2 THE COURT: This is juror 26, Ms. Harris. And
3 Ms. Harris told us that she had some involvement in a civil
4 lawsuit that she wanted to discuss at sidebar.

5 PROSPECTIVE JUROR: In 1992, my son was killed in a
6 group home. And I sued the group home. And so it was in
7 litigation for almost 20 years.

8 THE COURT: Oh, God.

9 PROSPECTIVE JUROR: And it was just settled about a
10 year ago.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR: I got a -- a -- a cash settlement.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR: But, it --

15 THE COURT: Very long time to -- did not go to trial?

16 PROSPECTIVE JUROR: Yes, it did. Because someone
17 challenged -- the boys' -- my son's father, his wife. The
18 father is deceased, but the wife was still alive. And she
19 challenged me in court to get some of the money.

20 THE COURT: Oh, as to who was entitled to the money?

21 PROSPECTIVE JUROR: Exactly.

22 THE COURT: So you had both a lawsuit against the --

23 PROSPECTIVE JUROR: Group home.

24 THE COURT: -- and then that settled. And then there
25 was a challenge.

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1 PROSPECTIVE JUROR: About the --

2 THE COURT: To who was going to get the money as
3 between you and the child's father's second wife.

4 PROSPECTIVE JUROR: Exactly.

5 THE COURT: Okay, I got that. All right.

6 First of all, I'm very sorry --

7 PROSPECTIVE JUROR: Yes, ma'am.

8 THE COURT: -- you had to go through any of that.

9 Is there anything about that experience that would
10 make it hard for you to be fair and impartial as a juror in the
11 case?

12 PROSPECTIVE JUROR: No, ma'am.

13 THE COURT: Okay. Thank you.

14 PROSPECTIVE JUROR: You're welcome.

15 THE COURT: Appreciate it.

16 Now, juror number five, Ms. Small, come on over.

17 Hello, Ms. Small.

18 PROSPECTIVE JUROR: Hi.

19 THE COURT: Okay. We know it's not you. We know it's
20 a relative.

21 PROSPECTIVE JUROR: My father's car was stolen
22 recently. I have actually had my apartment burglarized at some
23 point, I had my wallet stolen another time, so --

24 THE COURT: I have a rubric for those. I call them
25 cost of living in New York City crimes, or --

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Voir Dire

1 PROSPECTIVE JUROR: The funny thing is, my apartment
2 was burglarized in college in Pittsburgh, and the wallet was
3 stolen in Stamford, Connecticut.
4 THE COURT: Okay. Did you -- did you report, or your
5 dad report, any of these things?
6 PROSPECTIVE JUROR: All of those things were reported.
7 THE COURT: Okay. And did anything -- were they ever
8 able to find anybody?
9 PROSPECTIVE JUROR: No.
10 THE COURT: Of course. These crimes, they never do.
11 Do you have any bad blood against law enforcement
12 people because they were unable to solve the crimes?
13 PROSPECTIVE JUROR: No.
14 THE COURT: Is there anything that would make it hard
15 for you to be a fair and impartial juror?
16 PROSPECTIVE JUROR: No.
17 THE COURT: Okay, juror number 36. Mr. Ferreira.
18 Hey, Mr. Ferreira, how are you doing.
19 PROSPECTIVE JUROR: Good. How are you doing?
20 THE COURT: Talk to me.
21 PROSPECTIVE JUROR: I'm not sure if this counts. I
22 got a DWI. I'm pretty sure it counts. And that's it.
23 THE COURT: Anything about it that would --
24 PROSPECTIVE JUROR: No.
25 THE COURT: -- give you any problems in this case at

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all?

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1
2 PROSPECTIVE JUROR: No.
3 THE COURT: Okay, thanks.
4 PROSPECTIVE JUROR: Thank you.
5 THE COURT: Juror number 48, Ms. Miller.
6 THE COURT: Hello, ma'am.
7 PROSPECTIVE JUROR: Hi.
8 Okay. My daughter was home for Christmas break,
9 coming in to work, and got robbed. But she didn't get hurt.
10 THE COURT: This was this year?
11 PROSPECTIVE JUROR: No, this is going back several
12 years ago, coming home from college.
13 THE COURT: Okay.
14 PROSPECTIVE JUROR: I got robbed and I got injured
15 going to work early in the morning. Never caught the person.
16 But I was okay.
17 THE COURT: Okay.
18 THE COURT: Do you have any -- you both reported these
19 crimes, I take it?
20 PROSPECTIVE JUROR: Yeah.
21 THE COURT: And they were not solved.
22 Do you have any bad blood or bad feelings about law
23 enforcement because they were unable to apprehend the person
24 who did it?
25 PROSPECTIVE JUROR: No.

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1 THE COURT: Even though I gave them a description, but
2 they brought somebody in at the hospital, but I couldn't truly
3 identify the person.

4 THE COURT: Couldn't identify.

5 Okay, is there anything about your experience, your
6 own or as a mom, that would make it hard for to you be a fair
7 and impartial juror in this case?

8 PROSPECTIVE JUROR: No. Not at all.

9 THE COURT: Okay. Thank you, ma'am. Okay.
10 And juror number 50, Ms. Nedow. We'll ask the
11 question.

12 THE COURT: Good morning. Okay, talk to us here.

13 PROSPECTIVE JUROR: I have been a witness on several
14 criminal matters through my job, but I have had to give -- I
15 have given testimony in several cases in State court and family
16 court on several different types of hearings.

17 Do you want me to go into more detail?

18 THE COURT: Is there anything about -- this is
19 professional, this is what you do for a living.

20 PROSPECTIVE JUROR: Yeah.

21 THE COURT: And is there any reason why that's going
22 to interfere, in any way, with your ability to be a juror in
23 this case?

24 PROSPECTIVE JUROR: I believe I can be impartial.
25 Obviously, it affects my thinking, my years of being a

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Voir Dire

1 THE COURT: And, again, yesterday, you said this is
2 not something that would affect your thinking in this case. Is
3 that still the case?

4 PROSPECTIVE JUROR: Oh, absolutely.

5 THE COURT: Okay, good, thank you.

6 Juror number 71 had wanted to say.

7 Mr. Mulcahy, you of something apparently you wanted to
8 say.

9 Now, juror number 66, Mr. Wargo.

10 THE COURT: Okay, Mr. Wargo, what --

11 PROSPECTIVE JUROR: Yeah, when -- when -- yesterday,
12 when I went home and talked to my wife about the length of the
13 trial and stuff, my wife has a sciatic problem. And she is
14 pretty much laid up now. And the real situation is that I
15 normally would take days off to help her because we home school
16 our son. So I usually would have to bring him to appointments
17 and such. Because home schooling doesn't mean you are at home,
18 it means that you bring your child to the different classes
19 involved to educate him.

20 THE COURT: Okay. Have a seat. Thank you.

21 PROSPECTIVE JUROR: Thank you.

22 THE COURT: Okay. That takes care of that.

23 Mr. Mulcahy, you thought of something. Juror number

24 63.

25 PROSPECTIVE JUROR: Yes, your Honor.

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Voir Dire

1 THE COURT: Hi.

2 PROSPECTIVE JUROR: I have been a teacher, as I told
3 you, since '96, with one exception. In 2001 after 9/11, I took
4 a temporary leave of absence and joined the United States Army.
5 I was in the Army from 2002 -- February 2002 until May of 2004.
6 I never had the honor or privilege of going oversees. I ended
7 up in Puerto Rico, which is Fort Buchanan, it's a very tiny
8 base. Nothing would have to do with this. I take pride and
9 great responsibility in carrying out the Constitution and
10 defending my nation, which is why I went, and which is
11 something I didn't say yesterday.

12 THE COURT: Okay. It didn't have anything to do with
13 the criminal justice system.

14 PROSPECTIVE JUROR: No, it was something from
15 yesterday, as being a teacher. And I just wanted to, because
16 it was just a --

17 THE COURT: Thank you very much.

18 PROSPECTIVE JUROR: That's all.

19 THE COURT: Thank you.

20 THE COURT: Okay let's keep going, let's keep going.

21 (Continued on next page)

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Voir Dire

1 (In open court)

2 THE COURT: The case, as you know, ladies and
3 gentlemen, is being prosecuted by the Office of the United
4 States Attorney for the Southern District of New York. Any of
5 you ever had dealings with anybody at the U.S. Attorney's
6 Office in this district?

7 Mr. Gruenstein. Ms. Nedow. Okay, fine. Thank you.

8 Mr. Gruenstein, you had mentioned earlier this morning
9 a particular investigation. Is that involved with the U.S.
10 Attorney's Office for the Southern District of New York?

11 PROSPECTIVE JUROR: No, it isn't. Thank you, your
12 Honor.

13 THE COURT: Okay.

14 So at a trial like this, ladies and gentlemen, I am
15 the judge. The jurors are judges, too. We sit together as
16 judges. You are the judges of the facts. I am the judge of
17 the law. The judges of the facts get to decide all of the
18 factual issues in the case and, ultimately, the jurors, the
19 judges of the facts, will decide whether the government has met
20 its burden to overcome the presumption of innocence beyond a
21 reasonable doubt.

22 Everybody said they understood that the defendants are
23 presumed to be innocent, that the government bears the burden
24 of overcoming that presumption, proving that the presumption is
25 wrong, and that the only way the government can do that is by

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Voir Dire

1 it that way, but that's really what we're talking about here.
2 It's that we're operating on one system. And if you are
3 operating on a different system, the systems aren't working.
4 So I tell you what the law is, you agree that you will follow
5 my instructions on the law. Whether you think they are good or
6 stupid, you will follow my instructions of law.

7 And you will find the facts. And I won't interfere
8 with that. And it doesn't matter if I would have voted a
9 different way if I were picked for the jury. You'll never
10 know, because your verdict is my verdict.

11 Is there anybody here who can't abide by that very
12 clear division of labor between the judge and the jury in this
13 case.

14 All right, ladies and gentlemen. I have one more
15 question to ask you. And I will ask you no more important
16 question than this one. We've asked you, those of you who were
17 here yesterday, on that day, and those of you who came in this
18 morning, this morning, a lot of questions. We have tried to
19 think about questions that are pertinent to this case, or that
20 are pertinent to folks, generally, to see if we can elicit from
21 you any reason why you couldn't be a fair and impartial juror
22 in this case. We've done our best. We probably have not
23 thought of every question that we could ask. You have been
24 sitting here for some hours, all of you, whether yesterday or
25 today. And you have spoken. And you have heard other people

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Voir Dire

1 speak. You have undoubtedly thought about the case. Those of
2 you who were here yesterday, undoubtedly thought about the case
3 overnight. I need to know, now, if there is any reason, any
4 reason at all, why you cannot be a fair and impartial juror in
5 this case. Remember my definition. A fair and impartial juror
6 is one who can decide the case on the basis of the law as I
7 give it to you, and the evidence as you hear it in the
8 courtroom, and who will not be influenced in any way by
9 anything else; by any prior knowledge you may have acquired in
10 the press about the case, by any attitude or biases or
11 prejudices about people, or about issues that are involved in
12 the case. You'll decide the case on the basis of the law and
13 the evidence. That is all we ask. But we have to ask that. A
14 fair and impartial juror.

15 So I ask each of you to look into your conscience and
16 tell me.

17 Juror number two, Ms. Cauvin, is there any reason, why
18 you cannot be a fair and impartial juror in this case?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Juror number five, Ms. Small, is there any
21 reason why you can't be a fair and impartial juror in the case?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Juror number seven, Ms. Yang, is there any
24 reason why you can't be a fair and impartial in this case?

25 PROSPECTIVE JUROR: Can I have a sidebar?

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Voir Dire

1 THE COURT: Okay, yes.
2 Juror number 11, Ms. Reid, is there any reason why you
3 can't be a fair and impartial juror in this case?
4 PROSPECTIVE JUROR: No.
5 THE COURT: Juror number 12, Ms. Jantz, is there any
6 reason why you can't be a fair and impartial juror in this
7 case?
8 PROSPECTIVE JUROR: No.
9 THE COURT: Juror number 14, ms. Verille, is there any
10 reason why you can't be a fair and impartial juror in this
11 case?
12 PROSPECTIVE JUROR: No, your Honor.
13 THE COURT: Juror number 15, Ms. James, is there any
14 reason why you can't be a fair and impartial juror in this
15 case?
16 PROSPECTIVE JUROR: No, your Honor.
17 THE COURT: Juror number 16, Ms. Langhorne, is there
18 any reason why you can't be a fair and impartial juror in this
19 case?
20 PROSPECTIVE JUROR: No.
21 THE COURT: Juror number 19, McGowan, is there any
22 reason why you can't be a fair and impartial juror in this
23 case?
24 PROSPECTIVE JUROR: No.
25 THE COURT: Juror number 21, Montalvo, is there any

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1 reason why you can't be a fair and impartial juror in this
2 case?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Juror number 22, Ms. Henry, is there any
5 reason why you can't be a fair and impartial juror in this
6 case?

7 PROSPECTIVE JUROR: No, your Honor.

8 THE COURT: Juror number 24, Ms. Silva, is there any
9 reason why you can't be a fair and impartial juror in this
10 case?

11 PROSPECTIVE JUROR: May I have a sidebar, your Honor?

12 THE COURT: Juror number 26, Ms. Harris, is there any
13 reason why you can't be a fair and impartial juror in this
14 case?

15 PROSPECTIVE JUROR: No, ma'am.

16 THE COURT: Juror number 30, Mr. Grillo, is there any
17 reason why you can't be a fair and impartial juror in this
18 case?

19 PROSPECTIVE JUROR: No, your Honor.

20 THE COURT: Juror number 31, Chaparro, is there any
21 reason why you can't be a fair and impartial juror in this
22 case?

23 PROSPECTIVE JUROR: No, your Honor.

24 THE COURT: Juror number 33, Mr. Mosquera, is there
25 any reason why you can't be a fair and impartial juror in this

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Voir Dire

1 case?

2 PROSPECTIVE JUROR: No, your Honor.

3 THE COURT: Juror number 36, Mr. Ferreira, is there
4 any reason why you can't be a fair and impartial juror in this
5 case?

6 PROSPECTIVE JUROR: No, your Honor.

7 THE COURT: Juror number 38, Ms. Jusino, is there any
8 reason why you can't be a fair and impartial juror in this
9 case?

10 PROSPECTIVE JUROR: No, your Honor.

11 THE COURT: Juror number 40, Ms. Adesuyi, is there any
12 reason why you can't be a fair and impartial juror in this
13 case?

14 PROSPECTIVE JUROR: No, your Honor.

15 THE COURT: Juror number 41, Ms. Chau, is there any
16 reason why you can't be a fair and impartial juror in this
17 case?

18 PROSPECTIVE JUROR: No, your Honor.

19 THE COURT: Juror number 46, Mr. Moyne, is there any
20 reason why you can't be a fair and impartial juror in this
21 case?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Juror number 48, Ms. Miller, is there any
24 reason why you can't be a fair and impartial juror in this
25 case?SOUTHERN DISTRICT REPORTERS, P.C.
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Voir Dire

1 PROSPECTIVE JUROR: No.

2 THE COURT: Juror number 49, Ms. Wolfgang, is there
3 any reason why you can't be a fair and impartial juror in this
4 case?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Juror number 50, Ms. Nedow, is there any
7 reason why you can't be a fair and impartial juror in this
8 case?

9 PROSPECTIVE JUROR: No, Judge.

10 THE COURT: Juror number 52, Ms. Lawrence, is there
11 any reason why you can't be a fair and impartial juror in this
12 case?

13 PROSPECTIVE JUROR: No, your Honor.

14 THE COURT: Juror number 54, Timmins, is there any
15 reason why you can't be a fair and impartial juror in this
16 case?

17 PROSPECTIVE JUROR: No, your Honor.

18 THE COURT: Juror number 56, Ms. Beck, is there think
19 any reason why you can't be a fair and impartial juror in this
20 case?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Juror number 57, Gomes, is there any
23 reason why you can't be a fair and impartial juror in this
24 case?

25 PROSPECTIVE JUROR: No.

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Voir Dire

1 THE COURT: Juror number 60, Mr. Andrews, is there any
2 reason why you can't be a fair and impartial juror in this
3 case?

4 PROSPECTIVE JUROR: No, your Honor.

5 THE COURT: Juror number 63, Mr. Mulcahy, is there any
6 reason why you can't be a fair and impartial juror in this
7 case?

8 PROSPECTIVE JUROR: Absolutely not, your Honor.

9 THE COURT: Juror number 65, Mr. White, is there any
10 reason why you can't be a fair and impartial juror in this
11 case?

12 PROSPECTIVE JUROR: No, your Honor.

13 THE COURT: Juror number 66, is there any reason why
14 you can't be a fair and impartial juror in this case?

15 PROSPECTIVE JUROR: No, your Honor.

16 THE COURT: Juror number 71, Ms. Barkin, is there any
17 reason why you can't be a fair and impartial juror in this
18 case?

19 PROSPECTIVE JUROR: No, your Honor.

20 THE COURT: Juror number 72, Mr. Hart, is there any
21 reason why you can't be a fair and impartial juror in this
22 case?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Juror number 66, Mr. Wilson, is there any
25 reason why you can't be a fair and impartial juror in this

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case?

PROSPECTIVE JUROR: No, your Honor.

THE COURT: Juror number 87, Mr. Gruenstein, is there any reason why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No, your Honor.

THE COURT: Juror number 88, Ms. Pollutro, is there any reason why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No, your Honor.

THE COURT: Juror number 90, Mr. Husenaj, is there any reason why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No, your Honor.

THE COURT: Juror number 92, Mr. Masserano, is there any reason why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No, your Honor.

THE COURT: Juror number 93, Mr. Joyce, is there any reason why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No, your Honor.

THE COURT: Counsel, could I see you at side bar.

(Continued on next page)

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Voir Dire

1 (At the side bar)

2 THE COURT: I need to talk to juror number seven and
3 juror number 24.

4 Is there anybody else you want me to talk to,
5 otherwise I'm going to send them to lunch.

6 MR. CARBONE: No.

7 MR. HALPERIN: No.

8 MR. ARONWALD: Juror number 7, is who, Judge.

9 THE COURT: First row. And juror number 24 is the
10 lady who knows Ms. Gellego.

11 MR. SIANO: Twenty-four or 22?

12 THE COURT: Twenty-four the. Lady who knows Ms.
13 Gellego. Okay.

14 All right, juror number seven and juror number 24, if
15 you will stick around. Everyone else goes to lunch for one
16 hour. At the end of one hour, we want you to be back outside
17 the courtroom. Follow whatever instructions Mr. O'Neill gives
18 you. Don't discuss the case discuss in the broadest sense of
19 the term. Keep an open mind. You haven't heard anything yet.

20 I'll see you this afternoon.

21 THE COURT: Come on up, ma'am. Thank you.

22 Okay, juror number 7, this is Miss Yang.

23 PROSPECTIVE JUROR: Hi.

24 THE COURT: Hi, what's up? What's up, what came up?

25 PROSPECTIVE JUROR: So, I know that I am eligible to

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1 serve as a juror with you. I am currently unemployed, so to
2 only have Friday available for viable searching for work
3 options is gonna be extremely hard for me, given the estimated
4 time of the trial, so --

5 THE COURT: All right, well, the question for you,
6 because we went through this yesterday. And the question that
7 I have for you is can you take a deep breath and put that to
8 one side and promise us that you will focus on the evidence if
9 you are chosen for the jury, or is it going to be too much of a
10 distraction and worry.

11 PROSPECTIVE JUROR: No, I can focus on it. It's just
12 that's my one thing, and when you asked in court yesterday who
13 was not comfortable with the three to five weeks, I saw
14 that 99 percent of the hands went up, so I figured, I mean, I
15 can remain impartial, it is just the main crux of my --

16 THE COURT: Well, obviously.

17 PROSPECTIVE JUROR: For everyone. But I can remain
18 impartial, but that's the main thing in my life that --

19 THE COURT: The issue is, are you gonna be able to
20 focus on the evidence without being worried and distracted
21 about that issue, and just looking for a job on Friday or in
22 the middle of Tuesday afternoon when somebody is on the witness
23 stand, are you going to be thinking, oh, my God, oh, my God, I
24 can't get to my computer, I have no idea whether there is
25 something on Craig's List that I will be wanting to look at.

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Voir Dire

1 PROSPECTIVE JUROR: It won't be on Craig's List. I
2 can take the deep breath, I can remain impartial. It's just
3 that.

4 THE COURT: Okay. Okay, thank you.
5 Why can't I remember this woman's name.
6 Silva.

7 Hi, Ms. Silva, good morning. You said you wanted a
8 sidebar. Here we are.

9 PROSPECTIVE JUROR: Simply because you asked me for
10 the name Rachel Halperin yesterday. I recall that I know her
11 from My Sister's Place, where she was a legal advocate. And I'm
12 on DV In The News, List Services, which I might have
13 correspondence with her on. And I just want to make sure it
14 was appropriate to correspond with her, if necessary. We
15 sometimes share clients and there are referrals coming through
16 my organization.

17 THE COURT: The short answer is, no, it would not be
18 appropriate during the course of the trial.

19 PROSPECTIVE JUROR: Well if she were to ask could we
20 represent a client of hers that she is referring to us.

21 THE COURT: Would it be possible for you to refer it
22 to someone else in your office. She's Mr. Halperin's wife.

23 PROSPECTIVE JUROR: I thought she was married to
24 someone else, so that was my first thought.

25 MR. HALPERIN: Not as far as I know.

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1 PROSPECTIVE JUROR: That was my first thought.
2 MR. CARBONE: But if you have any information.
3 PROSPECTIVE JUROR: Okay, so, I don't. I think she
4 does great work. But, no, I could refer it to someone else in
5 my office.
6 THE COURT: Okay, great. That's all we needed to
7 know.
8 PROSPECTIVE JUROR: Great. Thank you.
9 (Continued on next page)

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1 (In open court)

2 THE COURT: Okay. You all have been marvelous. Thank
3 you all. This has been rough. I mean the last case I had, I
4 brought up 90 jurors because it was a horrible, horrible sex
5 crime case. And I figured everyone would try to get off it
6 and, like that, I had the best jury panel I have of had in my
7 life. This has been extremely difficult.

8 Okay, from the government.

9 MR. HALPERIN: Judge, briefly, we only have two
10 proposed cause challenges. First, number 66, Mr. Wargo, who
11 just indicated that his wife has sciatica issues, home school
12 issues. So it sounds like this does present a hardship for
13 him.

14 THE COURT: Mr. Siano, you're looking as skeptical as
15 I am.

16 MR. SIANO: I'm sorry, Judge. Didn't sound that way
17 at the sidebar. It sounded as if he lifted as heavily as he
18 could. Didn't get very far off the ground with this one,
19 Judge.

20 THE COURT: Very badly trying not to be on this jury.
21 And that's what that is about.

22 THE COURT: Mr. Aronwald, do you a different view of
23 that.

24 MR. ARONWALD: I'm trying to look at my notes. Just
25 trying to find my notes. Your Honor, I didn't.

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1 THE COURT: Interestingly, Mr. Wargo is, I believe
2 the, person who has been on the most juries of anybody.

3 MR. ARONWALD: No, your Honor. I disagree with the
4 government. I don't think there is a basis for cause.

5 THE COURT: He is not a cause challenge for him.
6 Okay. Who else?

7 MR. HALPERIN: Judge number, number 5. The Court
8 yesterday was inquiring about her views on the testimony of a
9 cooperating witness. And the Court asked, and I'm quoting from
10 the transcript, "The issue is whether that was something that
11 would cause you not to believe a witness, to discount the
12 witness' testimony entirely.

13 And her answer was: No, I just feel -- my gut feeling
14 that is someone whose charge is going to be reduced or
15 something along those lines, might say anything to save
16 themselves.

17 THE COURT: Isn't that precisely what the defense is
18 going to argue. And am I not going to say to the jurors that
19 they should examine accomplice testimony with great care and
20 consider whether the fact that they are having to deal with the
21 government might influence their testimony, or whether it might
22 not? Don't I have to say that to them? Didn't she just do the
23 textbook example of what the jury instruction is.

24 MR. HALPERIN: The distinction is that it concerned
25 her so much that she wanted to raise it to the Court

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1 her answers in the robing room, I was struck by an interaction
2 Judge Keenan had with a retired police detective who gave all
3 of the right answers when judge Keenan asked him all of the
4 right questions. And he said he knows the right answers,
5 extremely well, nonetheless he is very closely aligned with one
6 party in the case, i.e. law enforcement. I think Ms. Miller
7 knew all of the right answers but, nonetheless, she was an
8 examiner for the IRS. And I think you under these
9 circumstances, this is not the right place for her. Also,
10 she's still employed by the IRS.

11 THE COURT: The fact that she was an examiner is of
12 far less relevance to me than the fact that she remains, at
13 this moment, employed by the IRS.

14 THE COURT: Yes.

15 MR. HALPERIN: Judge, we don't think that's a basis
16 for a cause challenge. That is precisely what the Court would
17 say is the use of peremptory challenge.

18 THE COURT: I agree. Challenge not allowed.

19 The Woman repeatedly said that she could be fair and
20 impartial.

21 MR. SIANO: I would expect no less, Judge.

22 Ms. Barkin --

23 THE COURT: Ms. Barkin is juror number 71.

24 MR. SIANO: Seventy-one. I made my comments in the
25 robing room, Judge, but I think that Ms. Barkin pretty much

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1 expressed the notion that she didn't -- that she could fairly
2 view this problem. She was happy to see that a particular
3 individual was out of office and she also expressed --

4 It's more the tenor and tone of the remarks. And,
5 clearly, she's described sort of her hostility toward the
6 particular project that is going to be 50 percent of this case.
7 So that's the reason why I wish to --

8 THE COURT: She's not the one who expressed hostility.

9 MR. HALPERIN: No, that woman was struck yesterday.

10 MR. ARONWALD: Seventy-one was the --

11 THE COURT: Is the lady came in this morning, member
12 of the Hastings Democratic Committee, follows Yonkers politics
13 closely, and did indeed express pleasure about the results of
14 the 2006 election, and who has read a great deal about this
15 case.

16 MR. ARONWALD: And said that she has negative --

17 THE COURT: Has conversations about it with her
18 friends.

19 MR. ARONWALD: And says she has negative feelings
20 about the defendants, and she hopes that she could be fair.

21 THE COURT: Not exactly what she said.

22 MR. ARONWALD: No, she did. She said based upon what
23 she saw in the papers and based upon her discussions, she had
24 negative views of the defendants. And then she said that
25 she hopes that she could be fair. And I think that any juror

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1 who is being asked whether they could be fair and says I hope,
2 I think, I'll try, that's not the same as an unequivocal I am
3 sure I can absolutely be fair. And I think in this case, she
4 has certainly articulated a bias against the defendants, a
5 preconceived notion against the defendants which warrants her
6 being excused for cause.

7 MR. HALPERIN: Judge, we strongly disagree. The Court
8 specifically asked her whether she could be fair. She said,
9 quote, I think so.

10 She did say most of her discussions about the case
11 have been negative. And she said she was not a fan of a
12 certain politician. But we're going to have Republicans on
13 this jury, Democrats on this jury. A person's political
14 affiliation, particularly since we have two defendants from two
15 political parties, should have no bearing. If defense wants to
16 use peremptory, to us, that is an appropriate use if they want
17 to, but this is not a cause challenge.

18 THE COURT: I'm going to allow this challenge. It's a
19 close case. It's a real close case. But in a close case, the
20 call goes to the defendant.

21 PROSPECTIVE JUROR: Barkin, juror number 71.

22 MR. ARONWALD: Your Honor, Mr. Moyne. He is the one
23 whose sister --

24 THE COURT: Juror number 46, Mr. Moyne.

25 MR. ARONWALD: Sister is Assistant U.S. Attorney.

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1 THE COURT: Sister is Parvin Moyne, Assistant United
2 States Attorney.

3 MR. ARONWALD: In the Criminal Division who is
4 prosecuting this case. I think we excused yesterday a
5 librarian who works in the U.S. Attorney's Office.

6 THE COURT: That's because the person works in the US
7 Attorney's Office.

8 MR. ARONWALD: I understand. But here you have
9 someone who has a blood relationship to someone in the criminal
10 division who may not be sitting at counsel table.

11 THE COURT: She doesn't even work in the same office
12 as Mr. Halperin and Mr. Carbone.

13 MR. ARONWALD: I understand that. But my concern is
14 that this juror may feel that because his sister is in the
15 office, and because everybody in the office will know that he
16 is on this jury, that he is going to have to defend a not
17 guilty verdict to his sister, who will have -- so I'm just
18 saying that I think that, under the circumstances, given his
19 blood relationship to someone in the same office that's
20 prosecuting this case, that should be a basis for cause.

21 THE COURT: Challenge is not allowed.

22 Juror quite clearly indicated, A, that he could be
23 impartial and, B, that he would not talk to his sister. And
24 I am trusting Mr. Carbone and Mr. Halperin, and if necessary I
25 would call Mr. Bharara to make sure Ms. Moyne does not talk to

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1 her brother.
2 MR. CARBONE: I don't think that would be necessary,
3 Judge, we'll handle that.
4 THE COURT: Certainly if she appears in this courtroom
5 on any matter, that's the first question I'll ask her.
6 Okay, now, anybody else?
7 MR. HALPERIN: Not from the government, Judge.
8 MR. SIANO: Nothing further, your Honor.
9 MR. ARONWALD: Nothing further, your Honor.
10 MR. SIANO: Could we review the court's list as to who
11 is still with us.
12 PROSPECTIVE JUROR: Two, Cauvin; 5, Small; 7, Yang;
13 11, Reid; 12, Jantz; 14, Verille; 15, James; 16, Langhorne, 19,
14 McGowan; 21, Montalvo; 22, Henry; 24, Silva; 26, Harris; 30,
15 Grillo; 31 Chaparro, 33, Mosquera; 36, Ferreira; 38 Jusino;
16 40, Adesuyi; Forty-one, Chau; 46, Moyne; 48 Miller; 49,
17 Wolfgang; 50, Nedwo; 52, Lawrence; 54 Timmins; 56, Beck; 57,
18 Gomes; 60, Andrews; 63, Mulcahy; 65, White; 66 Wargo; 72 Hart;
19 86, Wilson; 87, Gruenstein; 88 Pollutro, 90, Husenaj; 92
20 Messerano; and 93, Joyce.
21 Everybody?
22 THE COURT: Procedures are as follows. Mr. O'Neill --
23 MR. ARONWALD: Can I make one application, quickly?
24 THE COURT: Yes.
25 MR. ARONWALD: In reviewing my notes, juror number 41,
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1 had indicated that she had previously served on a grand jury.
2 Your Honor asked her whether or not she thinks that that would
3 have any effect on her, and she said she didn't think so. And
4 I wonder whether or not it would be --

5 THE COURT: No, she's fine. She's fine.

6 MR. ARONWALD: Can I finish? I was going to ask you
7 when the jury comes back if you would ask her, if you could
8 inquire further of her --

9 THE COURT: You are going to pick a jury. She's fine,
10 you're going to pick a jury, okay.

11 THE CLERK: We'll meet back -- what's that timing,
12 now?

13 THE COURT: Now, first of all, Mr. Siano has made a
14 request. He would like to review the procedures. Please
15 review the procedures.

16 THE CLERK: Jointly have 10 challenges, government has
17 six. First through fourth rounds, you'll you have two, they
18 will have one. Last round, you'll each have one. Once the
19 jurors are locked in at 12, that's the jury. Then you --

20 THE COURT: The lowest 12 cards on the board.

21 THE CLERK: As we discussed previously.

22 THE COURT: After all six rounds of challenges are
23 exhausted, the lowest 12 cars on the board are the jury.

24 Then, you will go on to exercise challenges for
25 alternates.

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1 THE CLERK: One per two seats. Each have essentially
2 two challenges for four alternates. And it'll go one, one;
3 one, one; two rounds.

4 THE COURT: Defense always gets to go first.

5 THE CLERK: Well, actually, the government goes first.

6 THE COURT: I'm sorry, the government always gets to
7 go first. I said it backwards.
8 Okay, here's what I would suggest. I would suggest
9 that you guys take a half hour for lunch, take your notes, talk
10 it over, figure it out, come back at 2:00.

11 Mr. O'Neill will be here with the board. You can pass
12 the board back and forth. Let me know when you have got a
13 jury.

14 THE CLERK: See you at 2:00.

15 (Luncheon recess)

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Trial

AFTERNOON SESSION

2:15 p.m.

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3 THE COURT: Will the Juror No. 87, Mr. Gruenstein
4 approach.

5 Mr. O'Neil, would you please bring in Mr. Gruenstein.

6 COURTROOM DEPUTY: Yes, judge.

7 (Pause)

8 THE COURT: Mr. Gruenstein, what did you tell
9 Mr. O'Neil?

10 THE JUROR: I just wanted to advise him that my little
11 brother had been a prosecutor in the Southern District of New
12 York until a few years ago.

13 THE COURT: Your little brother's name is?

14 THE JUROR: Benjamin Gruenstein.

15 THE COURT: Thank you. You may step out.

16 (Juror not present)

17 MR. HALPERIN: Judge, I think it's irrelevant but I'll
18 put it on the record. I worked with Mr. Benjamin Gruenstein.
19 He was in my unit. We were friendly. We have not stayed in
20 touch since he left the office which I think was,
21 approximately, two or three years ago.

22 THE COURT: I don't think it's relevant either. I
23 think it's a drowning man's desperate effort to get off a jury.

24 (Recess)

25 COURTROOM DEPUTY: The following challenges were

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1 exercised by the government.
2 Government, first round, Kim Small.
3 Defendant, John Grillo and Nicholas Moyne.
4 Round two, government Wendy Silva.
5 Defendant Jannae Harris and Patricia Miller.
6 Round three government, Rosemary Gomes.
7 Defendant, Susana Jantz and Beth Nedow.
8 Round four government, Erica Jusino.
9 Defendant, Meri Verille and Georgia Henry.
10 Round five, the government, Loretta Langhorne.
11 Defendant, Daniel Ferreira.
12 Government round six, Jacqueline McGowan.
13 Defendant Glenda Beck.
14 Alternate first round, government, David Gruenstein.
15 Defendant, Ryan Mulcahy.
16 Second alternate round, government challenge, Peter
17 Wargo.
18 Defendant Lee Sherman Hart.
19 (Jury present)
20 THE COURT: Ladies and gentlemen, first of all, thank
21 you so much for spending the last couple of days with me and
22 with the parties. Those of you who were here yesterday know
23 that somewhere in the middle of the day when we were passing
24 the microphone around I just sort of erupted and said now you
25 know why this is my favorite part of case. It really is

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1 wonderful for me to have an opportunity to talk to so many
2 fabulous people, so many different people, so many interesting
3 people who are my neighbors here in the Southern District of
4 New York and for me that is the wonderful thing about voir
5 dire.

6 In this case there's a particularly wonderful thing
7 about voir dire that I want to say to you folks because you all
8 have sat here for one or two days and watched as person after
9 person after person tried his or her level best to get out of
10 serving on the jury in case this for one reason or another and
11 you didn't. And you have done a great service to me personally
12 and to our court system and to our society simply by being here
13 and by completing this process with us and, ultimately, as I
14 went around the room by saying "yes, you could be a fair and
15 impartial juror in this case" and you are willing to give it
16 your best. I cannot tell you how that moves me and how much I
17 appreciate it. And I know I speak for everybody who is sitting
18 here in the well of the courtroom when I say how deeply
19 grateful we are to all of you. Thank you very much.

20 We have selected jurors and because I promised you and
21 really those jurors that I am going to push, push, push to get
22 this case done as quickly as possible I'd like to seat them and
23 swear them and get started.

24 So, Mr. O'Neil, would you please call the jurors.

25 COURTROOM DEPUTY: Yes. The following jurors have

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1 been selected. Please take the seat, your seat in the jury
2 box.
3 Juror No. 1 Rachel Cauvin.
4 Juror No. 2, Lynn Yang.
5 Juror No. 3 Euphemia Reid.
6 Juror No. 4 Jacqueline James.
7 Juror No. 5 Carmelo Montalvo.
8 Juror No. 6 Meryl Chaparro.
9 Juror No. 7 Lautaro Mosquera.
10 Juror No. 8 Edith Adesuyi.
11 Juror No. 9 Kara Chau.
12 Juror No. 10 Anita Wolfgang.
13 Juror No. 11 Victoria Lawrence.
14 Juror No. 12, Peter Timmins.
15 Alternate No. 1 Carl Andrews.
16 Alternate No. 2 Joey White.
17 Alternate No. 3 Jeffery Wilson.
18 Alternate No. 4 Jolene Pollutro.
19 THE COURT: Are the remaining jurors acceptable to the
20 government?
21 MR. HALPERIN: Yes, your Honor.
22 THE COURT: To defendant Sandy Annabi?
23 MR. ARONWALD: Yes, they are.
24 THE COURT: To defendant Zehy Jereis?
25 MR. SIANO: Yes, your Honor.

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1 THE COURT: Mr. O'Neil, would you swear the jurors
2 please.

3 COURTROOM DEPUTY: Yes, judge.

4 I'd ask the jurors to please rise and raise your right
5 hand.

6 (Jury panel of 12 jurors and four alternates sworn)

7 THE COURT: The rest of you are to report back to the
8 jury room.

9 COURTROOM DEPUTY: Yes, judge.

10 THE COURT: Back to the jury room on the first floor.
11 Thank you very much. It was nice getting to know you.

12 (Pause)

13 THE COURT: Okay. Ladies and gentlemen, now that you
14 have been sworn I am going to give you some preliminary
15 instructions that will guide you during your participation in
16 the trial. As I told you previously it's your function to
17 decide the issues of fact in the case and your decision on the
18 issues of fact is to be based solely on the evidence you hear
19 in this courtroom.

20 Now, what is in the evidence? Well, the easy way we
21 define evidence is by telling you what it's not. Nothing I say
22 is evidence. I am not a witness. I wasn't at any of the
23 events you are going to hear about. I don't have any capacity
24 to tell you anything about the facts, so nothing I say is
25 evidence.

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1 Nothing that any of the lawyers say is evidence. Even
2 though, as you might imagine, they'll be doing a lot of the
3 talking during this trial. Their questions in and of
4 themselves are not evidence. A question only becomes part of
5 the evidence when the answer to the question is given and the
6 answer together with its question become evidence. If a
7 witness says is something and I tell you to disregard it, to
8 forget that it was said, that's not evidence.

9 If an exhibit is entered into evidence and I strike it
10 and tell you to forget about it, that's not evidence.
11 Everything else that you'll see and hear in this courtroom is
12 evidence.

13 The testimony of the witnesses who will get on this
14 witness stand and they will swear or affirm to tell the truth,
15 what comes out of their mouths is evidence.

16 Exhibits, documents, things that are offered and
17 accepted by me are evidence.

18 And something called "stipulations", that is to say a
19 agreements among counsel for all the parties, the government,
20 Ms. Annabi and Mr. Jereis that a certain fact is true or that
21 if a particular person were called to the witness stand the
22 witness would testify in a particular manner, those
23 stipulations are also evidence.

24 Testimony, exhibits, that are admitted and
25 stipulations, those three things are evidence.

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1 There are two kinds of evidence, direct and
2 circumstantial. Direct evidence is proof of a fact told to you
3 because the fact was observed by virtue of the witness' five
4 senses. You saw the red Toyota run the stop light at the
5 intersection of First Avenue and 53rd Street. I heard the
6 squeal of brakes and the breaking of glass. I smelled burning
7 rubber as the brakes squealed. Seeing, hearing, smelling,
8 touching, tasting, what the witness perceives with his or her
9 five senses is direct evidence.

10 Circumstantial evidence is direct evidence of Fact A
11 from which you can draw the conclusion that Fact B either does
12 or does not exist. And the classic example of circumstantial
13 evidence is usually a good one for today. Let's assume it's
14 today and the weather is threatening but it's not raining yet.
15 And let's further assume that there are no windows in this
16 courtroom and that it's hermetically sealed off from the
17 outside world, so we can neither see, nor hear what is going
18 on. We've returned from lunch. It's cloudy. It's overcast.
19 It's not raining. And let's further assume that as we go about
20 our business this afternoon people arrive because I have some
21 cases that I have to hear after I let you go for the day and
22 they're shaking umbrellas and somebody has his hair plastered
23 down on his head and everybody's wearing a raincoat. You
24 couldn't see or hear outside so you would have no direct
25 evidence that it had begun to rain.

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1 You would have direct evidence that people were coming
2 through that door who looked like they'd just come in out of
3 the rain. And from that evidence you could draw the conclusion
4 that it had begun to rain outside. So your evidence of the
5 people walking through the door is circumstantial evidence that
6 there's been a change in the weather. That's all that we mean
7 by "circumstantial evidence". You are allowed to consider both
8 direct and circumstance evidence as you reach your verdict in
9 the case.

10 Now, your principle function, of course, is to find
11 the matters of fact. And one of the ways you will do that is
12 by listening to the testimony of witnesses and deciding whether
13 or not you believe the witnesses. How do you decide whether
14 you believe what someone is telling you? You do it every day a
15 dozen times a day. You just don't think about it. We're going
16 to ask you to think consciously about what goes through your
17 mind without your even being aware of it when someone tells you
18 something. Does that person sound like he knows what he is
19 talking about? Was that person in a position to observe the
20 matters that she is telling me about? Does that person have
21 some reason to falsify or shade his story a little bit? Does
22 what she is saying to me accord with what somebody else has
23 already said to me that I know I believe? You make those kinds
24 of assessments as you listen to the testimony of the witnesses
25 and then using your common sense and your good judgment you'll

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1 evaluate what's being said to you and decide whether you
2 believe it or not based on all of the circumstances of the
3 case.

4 Now, it is very important, very important that you
5 keep an open mind throughout this case. What do I mean by an
6 "open mind"? It's a mind that is capable of being persuaded
7 one way or the other, a mind that's not made up. If your mind
8 is not made up you have an open mind and we don't want you to
9 make up your minds about this case until you've heard all the
10 information that you need to hear in order to decide it. You
11 need to hear all of the evidence. And the evidence is going to
12 come in in kind of piecemeal fashion.

13 The government is going to call witnesses. It's going
14 to examine them and both defense lawyers will have an
15 opportunity to cross-examine and the government's going to
16 introduce exhibits and their lawyers will have an opportunity
17 to object. And there will come a time when the government will
18 rest its case and then I will ask the defense lawyers if they
19 want to put on a case. Why am I asking? You know why I am
20 asking. They don't have anything to prove because we're
21 presuming their clients to be innocent. But they may want to
22 bring something to your attention or they may want to get some
23 fact established, so they can if they wish call witnesses and
24 introduce exhibits too.

25 And then there are going to be arguments at the

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1 beginning of the case -- they're really not arguments. They
2 are opening statements. They're like roadmaps through the
3 evidence, then there will be arguments by the lawyers at the
4 end of case. And I'm not going to tell you what the law is
5 until the very end of the case and until you know all of these
6 things you cannot decide the case. You have to keep an open
7 mind and it's very important that you do that, that you not
8 make up your mind until I send you back to deliberate.

9 Now, because it's so important for you to keep an open
10 mind we ask you to do something that is totally weird when you
11 are on the jury. We ask you not to discuss the case with
12 anybody, with your spouse or significant other, with your best
13 friend, with your cubby mate at work, with your cousins that
14 you are having dinner with this weekend, with the person that
15 you sit next to on the subway train, with anybody in the world
16 including the people who you would most naturally converse with
17 about important things that are going on in your life.

18 Why do we do that? Why do we make this ridiculous
19 request of you? We trust you to abide by it because once you
20 start to talk about what you're hearing your tendency as human
21 beings is going to be to start drawing conclusions and make up
22 your mind. So this odd request that you not discuss the case
23 we ask of you because we are trying to get you to keep an open
24 mind.

25 "Discuss" as you all know has the broadest meaning

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1 that we can possibly assign to it and it covers every form of
2 communication that human beings have ever devised, sign
3 language, smoke signals, tweets and twits and anything else
4 that you can do over a computer, talking, e-mailing, mental
5 telepathy, you can't communicate about the case with anyone.
6 We really, really, really are counting on you and trusting you
7 to do that.

8 Now, I told you this morning that this is not the
9 moment in your life to act out any fantasies you may have
10 harbored about becoming a member of Congress because you have
11 to take the law as I give it to you. It is also not the moment
12 in time for you to act out your fantasy of being Sherlock
13 Holmes. It is not your job to solve the case. You are not a
14 detective. It is your job to listen to the evidence and to
15 decide whether the government has beyond a reasonable doubt
16 overcome the presumption of innocence. So don't do any
17 research about this case. Don't go on the Internet and start
18 Googling the names or the places that you hear in this
19 courtroom, very, very important.

20 Don't read the newspaper, don't read the Internet
21 news. Don't listen to news radio or television or anything
22 elsewhere that is being reported.

23 There will be reportage about this case. There will
24 be stories, I would guess, for those of you who are readers of
25 Journal News everyday during the course of this trial. I'd be

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1 very surprised if there were not. I expect there will be
2 stories in the New York Times. I expect there will be stories
3 in the New York Post. I understand there was a story about
4 this case yesterday in the Wall Street Journal of all places,
5 okay. So you never know where it's going to come.
6 up. And here's my rule. You see it, turn the page.
7 If you hear it, turn the dial, turn the channel. If you can't
8 get rid of it any other way, turn it off. Walk away. Nothing
9 you see or hear in the press has anything to do with what the
10 body of evidence is that you have to consider. You have to
11 decide the case based on what you hear in this courtroom, not
12 someone's interpretation of it, not someone's reporting about
13 it. So steer clear of press accounts of the case.

14 If something, if your eye should fall on something and
15 the person that you are next to on the train has The Post open
16 and there's a banner headline, just tell Jim when you get to
17 the courthouse and we'll figure out if there's a problem or not
18 a problem. Usually, it's not a problem because in my
19 experience and I've been doing this job now for about 16 years,
20 jurors are the most amazingly diligent people on the planet and
21 I've never been let down by a jury yet. So, you've now been
22 warned.

23 I told the folks yesterday and I told those of you who
24 joined us this morning, this courthouse is not designed in a
25 way that gives the jurors their own private entrance and

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1 elevators. Some of the newer courthouses are. This courthouse
2 was built just before that went into the design guide. So you
3 are going to be coming in the same doors as the lawyers,
4 parties, myself, and we can't talk to you. We can't look at
5 you. We can't smile at you. We can't say "good morning" or
6 "good afternoon". We can't ask after you. We are ethically
7 bound not to have any kind of interchange with you unless we're
8 in the courtroom, all of us together and our amazing,
9 wonderful, marvelous Southern District court reporters taking
10 down every word that we say. So, do not hold it against us if
11 we are rude to you if we run into you out in the halls, in the
12 restrooms, in the elevators, in the lobbies. We are not being
13 rude. We really are being professional. Help you to do our
14 jobs.

15 There are 16 of you. You now have an opportunity to
16 make 15 new friends. I would suggest that you confine your
17 conversation to your 15 new friends. Why? You don't know who
18 the reporters are. You don't know who the witnesses are. You
19 don't know who the people from the prosecutor's office are
20 other than the ones you see here at the table every day. You
21 don't know who might be working for the defendants' lawyers.
22 You don't know who all those people are, who you'll see in the
23 lobby and the elevator and the hallways and the restrooms
24 although you'll have your own restroom. I tell it you about
25 that in a minute. So don't talk to strangers, as your mother

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1 used to tell you. Talk to each other and nobody will get into
2 any trouble.

3 Now, underneath that clock back there is the jury
4 room. That room belongs to you for the duration of the trial.
5 There's a refrigerator. There's a microwave. You can bring in
6 anything you like. It is where your jury notebooks will be
7 locked up at the end of the day, so that nobody can look at
8 whatever notes you choose to take during the testimony. You
9 enter it by a separate entrance in the morning. There are
10 restrooms for both ladies and gentlemen. The room is yours.
11 It's got a nice view. It's spacious and commodious. Those of
12 you who have been in some of the state courthouses where that's
13 not quite true will be pleased to see that it's a very nice
14 looking, very comfortable jury room and it belongs to you for
15 the duration of the trial. At the end of the today Jim is
16 going to take you back and he is going to get some information
17 from each of you and give you information about how to contact
18 us if, for example, there is a huge blizzard and you can't get
19 out of your driveway.

20 Okay. Now, I've told you pretty much how the trial is
21 going to go. The first order of business is I am going to
22 direct the government to open. The government will give you an
23 opening statement which I've told you is a roadmap through the
24 evidence. It is not an argument. It's just a teaser. It is
25 kind of to orient you, so that as the evidence comes in and in

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1 a piecemeal fashion you have some frame of reference for it.

2 I will then ask Mr. Aronwald and Mr. Jereis if they
3 wish to open. They don't have to because they have nothing to
4 prove. But -- Mr. Siano, I am so sorry.

5 I will ask Mr. Aronwald and Mr. Siano on behalf of
6 Mr. Jereis.

7 You don't have to open Mr. Jereis.

8 If they want to open. And it's their choice. They
9 don't have to. Remember, you draw no conclusions at all from
10 anything the defense does or doesn't do about whether the
11 government has overcome the presumption of innocence because
12 there is no burden at that back table. That's the government's
13 burden to overcome the presumption that cloaks Ms. Annabi and
14 that cloaks Mr. Jereis and that will continue to cloak them in
15 unless the government is able to convince all of you beyond a
16 reasonable doubt that the presumption is wrong, okay.

17 Is the government ready?

18 MR. HALPERIN: Yes, your Honor.

19 THE COURT: Is the defendant Annabi ready?

20 MR. ARONWALD: Yes, your Honor.

21 THE COURT: Is the defendant Jereis ready?

22 MR. SIANO: Yes, your Honor.

23 THE COURT: The government may open.

24 MR. HALPERIN: Thank you, your Honor.

25 This case is about a flagrant and repeated betrayal of

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Opening Statement - Halperin

1 the public trust by the defendant Sandy Annabi, a former city
2 councilwoman in Yonkers. When Sandy Annabi got elected she
3 took an oath to faithfully and honestly represent the best
4 interests of the people of the Second District in Yonkers. But
5 what the people got instead was government that served the
6 financial interests of Sandy Annabi and Zehy Jereis.

7 The defendant Zehy Jereis paid off councilwoman Annabi
8 with secret payments of cash, payments for her houses, her
9 apartment, her car and many other payments. And what Sandy
10 Annabi paid off and in Jereis' pocket what the people of
11 Yonkers got instead from councilwoman Annabi was government of
12 Zehy Jereis, by Zehy Jereis and for Zehy Jereis. During this
13 trial ladies and gentlemen, you will hear that when it came to
14 getting to Councilwoman Annabi all roads led to Zehy Jereis.

15 You'll hear how that came to pass during this trial.
16 Since virtually the day Sandy Annabi was elected to the City
17 Council she received secret payments and other benefits from
18 Zehy Jereis. Annabi was Jereis' political creation. He helped
19 her get elected. He ran her campaigns. Then he bought and
20 paid for her official actions with payments totaling nearly
21 \$175,000. Jereis made these secret payments to Annabi to
22 influence and control her official conduct so that he could in
23 turn sell his control over Annabi to the highest bidder.

24 Good afternoon, ladies and gentlemen. My name is
25 Jason Halperin. I'm an Assistant United States Attorney here

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1 in the Southern District of New York. This is my colleague
2 AUSA Perry Carbone, Special Agents Caroline Gilmore and Michael
3 Mazzuca and Jake Terk, a paralegal from our office.

4 For the next several weeks it will be our
5 responsibility to present the evidence to you that the
6 defendant Sandy Annabi and Zehy Jereis are guilty of the
7 corruption crimes of conspiracy, bribery and extortion and that
8 Sandy Annabi also is guilty of making false statements on loan
9 applications and on her tax returns.

10 During this trial you will hear a great deal about two
11 land development projects, the massive Ridgehill project and
12 the Longfellow project both in Yonkers. In 2006 both were high
13 profile projects in the city of Yonkers.

14 Annabi had previously been a staunch opponent of both
15 projects. She'd spoken strongly against both projects. She
16 had denounced Ridgehill Developer and she had mocked the
17 Longfellow project. But suddenly about the same time in the
18 summer of 2006 Councilwoman Annabi publicly reversed her long
19 standing opposition to both projects and voted in favor of
20 them.

21 (Continued on next page)

22
23
24
25

C2g0ann6 Opening - Mr. Halperin

1 And a month later, Councilwoman Annabi made it official,
2 reversing her position and providing that critical fifth vote
3 to approve the zoning change needed to allow Ridge Hill to
4 proceed.

5 Ladies and gentlemen, there were two things the public
6 never knew at the time that Councilwoman Annabi reversed her
7 vote.

8 First, the public never knew, that the defendant, Zehy
9 Jereis, who at the time was chairman of the Yonkers Republican
10 party, secretly had been giving Annabi tens of thousands of
11 dollars in money and other benefits for years to ensure he
12 could control her actions.

13 Second, the public did not know at the time that
14 before Annabi voted in favor of the Ridge Hill project Zehy
15 Jereis had secretly cut a deal with the developer, by which
16 Jereis would get a consulting contract worth \$60,000 once
17 Councilwoman Annabi voted yes.

18 Let me tell you what the government's evidence at
19 trial will show. The evidence will establish the corrupt
20 relationship between Sandy Annabi and Zehy Jereis. Sandy
21 Annabi, a Democrat was first elected to Yonkers City Council in
22 November 2001. Zehy Jereis, a Republican, was her campaign
23 manager. Jereis helped Annabi get reelected twice.

24 Almost immediately after Councilwoman Annabi took
25 office in January 2002, Jereis started giving her money. First

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1 by paying Annabi's student loan bills. Although Jereis made
2 the monthly loan payments, Annabi never reported these payments
3 on her financial disclosure forms, as the law required.

4 You'll learn that as a City council member from 2002
5 through 2009, Annabi was required to file annual financial
6 disclosure forms that allowed the City of Yonkers and the
7 public to see where the public officials are getting their
8 money from. You'll learn that Sandy Annabi repeatedly lied on
9 these forms, concealing from the public payments and other
10 aspects of her corrupt dealings with Zehy Jereis.

11 The evidence will show that the hidden stream of
12 payments from Jereis to Annabi only increased in 2004, after
13 Jereis became chairman of the Yonkers Republican party.

14 Now, in May 2004, Jereis gave Annabi \$54,000 for a
15 down payment on a house she was buying in northeast Yonkers. A
16 month later, Jereis gave Annabi another \$10,000 so she could
17 put a down payment on another house in northeast Yonkers. So
18 Annabi closed on both houses within a few days of each other in
19 July of 2004, and she moved into the second house.

20 But there was now a problem. City council members are
21 required to live in their City council district. Both of these
22 two houses were in the 6th District in northeast Yonkers. But
23 Sandy Annabi represented the 2nd District in southern Yonkers.
24 Jereis and Annabi knew that Annabi had to have an official
25 residence in the 2nd District. So you'll learn that to make

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1 sure that Annabi could stay in office, Jereis once again came
2 to the rescue and secretly provided money to Annabi.

3 When Annabi found a cooperative apartment on Rumsey
4 Road, within her counsel district, that second counsel
5 district, Jereis made the down payment. And at the closing for
6 the Rumsey Road apartment in February 2005, Jereis made more
7 payments for Annabi.

8 Ladies and gentlemen, you'll see that Sandy Annabi
9 reported none of these nearly \$80,000 in payments, that Jereis
10 made, on her financial disclosure forms.

11 Now once Annabi had the Rumsey Road apartment in her
12 district, who do you think made most of the regular monthly
13 payments. Zehy Jereis. From 2005 to 2008, Jereis paid
14 Annabi's mortgage dozens of times, totaling more than \$14,000.
15 He paid her monthly maintenance charge dozens of times,
16 totaling more than \$20,000.

17 Jereis paid Annabi's cable bill dozens of times
18 totaling nearly \$5,000. He paid her Con Ed bill for the
19 apartment dozens of times. So Jereis was paying the costs of
20 Annabi's apartment, the apartment she had to have to continue
21 serving legally on the City counsel. And, again, Annabi
22 reported none of these payments from Jereis on her financial
23 disclosure forms. She concealed these payments from the
24 public.

25 In the fall of 2005, Jereis also made two payments to

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1 a Mercedes Benz dealer for Annabi. Jereis paid \$10,000 for
2 Annabi so she could lease a brand new Mercedes Benz. Zehy
3 Jereis put Sandy Annabi in a brand new Mercedes. Annabi never
4 reported the Mercedes payments by Jereis, as required by law.
5 The evidence will show that Jereis made these payments for and
6 to Annabi, so that he could be sure she would be willing to
7 take official action that benefited him when he needed her.

8 And you'll learn that, in 2006, two such opportunities
9 arose for Jereis and Annabi. They were the two real estate
10 development projects at the heart of this case; the ones I
11 mentioned. The Ridge Hill project and Longfello project. Both
12 cases, as I said, Annabi was publicly opposed to the projects.

13 The evidence will show, however, that once Jereis had
14 an interest in the outcome of these projects, Annabi reversed
15 her votes and supported each project.

16 Let's turn to Ridge Hill. Forest City Ratner wanted
17 to build an enormous \$600,000 development on 81 acres in
18 northeast Yonkers. As I said, there was strong opposition in
19 the community where the project was going to be built. Much of
20 the opposition concerned the increase in traffic, which was
21 already very clogged on the nearby roads. Community members
22 also were concerned about the environmental impact of such a
23 project, especially about potential flooding and drainage
24 issues. And many were concerned that the City of Yonkers would
25 not be getting its fair share of tax revenues from the project.

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1 In 2005 and 2006, the Ridge Hill project was the
2 highest profile issue facing the City of Yonkers. Now,
3 something important happened on July 7, 2005. The Westchester
4 County Planning Board gave the project a negative review.
5 You'll hear more about that during the trial. But what you
6 need to understand for now, is that once that happened, the law
7 required a super majority of the City council to pass the
8 project. Thus, instead of a simple majority of four out of
9 seven council members, the project needed a majority plus one
10 or a super majority, five votes to pass. So the problem for
11 Forest City Ratner, was that in fall of 2005, they had only
12 four votes. Three council members, including Sandy Annabi,
13 were strongly opposed.

14 Then in November 2005, the four-person majority
15 decided to get rid of the five-person super majority
16 requirement by a vote of four to three. Annabi voted against
17 the change. When she spoke at the council meeting, she said
18 that while she could possibly be a supporter of the project,
19 she would not support it until Forest City Ratner addressed
20 what she viewed as two major problems; traffic concerns and the
21 amount of taxes the developer would pay the City. Annabi said
22 that Forest City Ratner was, quote, probably richer than God,
23 that it didn't need tax breaks and that the developer was,
24 quote, robbing the City blind.

25 In December 2005, the City council took a vote on the

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1 you'll hear Jereis immediately delivered. You'll hear that one
2 week later Annabi and Jereis were meeting with three Forest
3 City Ratner officials. You'll hear that Annabi and one of
4 those officials actually got into an argument at that meeting
5 about the merits of the project. But, then, you'll also hear
6 that on the way out of that meeting, in the parking lot of the
7 restaurant, Zehy Jereis turned to one of the Forest City Ratner
8 officials and asked for a job for himself, to consult. Jereis
9 saw an opportunity for himself to make some easy money.

10 You'll hear that five days later Annabi and Jereis met
11 again with the developer but now, all of a sudden, Annabi's
12 strong opposition to the project had suddenly evaporated. They
13 met to finalize their deal. And Annabi would issue a press
14 release the next day on June 15, 2006. Who drafted the press
15 release? The developer and Zehy Jereis. Annabi claims she had
16 gotten \$10 million more for Yonkers from Forest City Ratner.

17 You will hear that a promise of \$10 million amounted
18 to a tiny concession from Forest City Ratner on the
19 600 million-dollar project. This was peanuts. You'll learn
20 that the community had wanted something many, many times more
21 in tax revenues from Forest City Ratner. Forest City Ratner
22 changed nothing in their proposal about traffic, they changed
23 nothing in their proposal to address the environmental
24 concerns.

25 You'll hear that this \$10 million amounted to a little

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1 more than what one witness described as a political parachute
2 or cover for Sandy Annabi.

3 So on June 15, 2006, Annabi issued her press release
4 saying she would now support the project. But what the
5 citizens of Yonkers never knew at the time, what Annabi's
6 fellow council members never knew at the time, is that the very
7 next day, Zehy Jereis started sending a flurry of e-mails to
8 Forest City Ratner asking for that job; that consulting job.

9 By late June 2006, the developer had an reached an
10 agreement with Jereis to give him a job. But they were nervous
11 about formally giving him the job until after Annabi officially
12 voted in favor of the project.

13 On July 11th, 2006, the City counsel held a special
14 meeting on the Ridge Hill project. Sandy Annabi voted yes.
15 The project passed five to two.

16 Couple months later, Forest City Ratner formally
17 signed a \$60,000 contract with Jereis agreeing to pay him
18 \$5,000 per month for 12 months. To consult. That agreement
19 was signed in October, but was backdated to August 1st.

20 You'll also hear that Jereis did virtually nothing for
21 Forest City Ratner under the contract. You'll hear that Jereis
22 treated the consulting contract as a no-show job. But one
23 thing he was supposed to do, file monthly reports with the
24 developer explaining what he was doing to help them, he never
25 did. You'll hear that not until there were press reports about

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1 an investigation in this matter in March 2007 then, suddenly,
2 Jereis created numerous backdated monthly reports with phony
3 descriptions of what he had supposedly been doing to justify
4 his consulting contract.

5 Ladies and gentlemen, that is how the Ridge Hill
6 project was approved. Without the public's knowledge, behind
7 closed doors.

8 Councilwoman Annabi fiercely opposed the project in
9 2004, 2005, and the first half of 2006, denouncing the
10 developer and filing lawsuits. But the evidence will show that
11 once Jereis had something to gain, financially, once he began
12 lining himself up for a job with the developer, all it took was
13 13 days, from June 2nd to June 15th, for Annabi to change her
14 vote, after years of vigorous opposition.

15 Now, the other development project you'll hear about
16 at this trial is the Longfellow project. This was a smaller
17 project. And it never actually happened.

18 Longfellow involved a land swap. The City of Yonkers
19 would still two vacant and dilapidated schools it owned to the
20 developer, Milio Management. And, in exchange, the Milios
21 would renovate those properties and transform the buildings
22 into market rate housing and a Walgreen's. The Milios would
23 also give some of the property they owned to the City, so the
24 City could widen a street.

25 Now unlike Forest City Ratner, which is a major

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1 corporation, Milio Management is a small family owned business
2 located in Yonkers. Antonio Milio and his son Franco were the
3 point people working on the Longfellow project.

4 Now, one of the two schools involved in the Longfellow
5 project was located in Councilwoman Annabi's district. So the
6 Milios knew they needed Annabi's support to win the council's
7 approval. They wanted to be named the project's developer.
8 But, once again, Councilwoman Annabi vigorously opposed the
9 Longfellow project. At a City council meeting in June 2005,
10 Annabi stated her strong opposition to the project. She said,
11 quote, even if the entire community supported the project, I
12 would be opposed. She criticized the project as, quote,
13 outrageous. And a, quote, slap in the face to the taxpayers of
14 Yonkers.

15 the Milios could not make any progress in winning
16 Annabi's support. And the project was stuck in the mud.

17 Then, in April 2006, the Milios hired an attorney,
18 Anthony Mangone to help them get Annabi's support. Mangone
19 knew just what to do. You'll hear that a short time later,
20 Mangone asked Franco Milio to come to his office. When what
21 Franco Milio arrived, guess who was there, Zehy Jereis.

22 Jereis and Mangone had worked together for years and
23 Jereis told Franco Milio he could help the Milios get Annabi's
24 support for the project.

25 In about June 2006 Franco Milio got a phone call from

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1 his attorney, Anthony Mangone. Mangone said that for the
2 Longfellow project to proceed, the Milios would have to make a
3 \$30,000 cash payment to Annabi in exchange for her support for
4 the project. Mangone told Franco Milio to get the money to
5 Mangone in cash, and that Mangone would get the money to
6 Annabi.

7 Mangone said Annabi would be happy to get the money,
8 since she could use it for an upcoming trip she was taking
9 overseas. And, indeed, you'll hear that on July 14, 2006
10 Annabi left for a trip to Jordan where she stayed for about
11 five weeks.

12 You'll hear that sometime after Franco's call of
13 Mangone, his father Antonio brought \$40,000 in cash to Mangone,
14 which included money for Mangone's legal fees and the money to
15 be passed on to Councilwoman Annabi.

16 During this trial, you will hear Mangone testify how
17 he then gave \$20,000 in cash to Zehy Jereis to give to Annabi
18 so she would reverse her position on the Longfello project. In
19 fact, on July 10, 2006, Mangone sent an e-mail to Franco Milio
20 saying the City council would now approve the Longfellow
21 project, but that Sandy Annabi would ask for three conditions
22 as a cover story for, quote, her own selfish political gain so
23 that, quote, she has cover.

24 You'll hear that Milio thought these conditions were
25 very minor and had little effect on the project.

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1 Then on September 26, 2006, Councilwoman Annabi
2 reversed herself, now voting in favor of the Longfellow
3 project. The project passed and Milio Management was named the
4 designated developer.

5 Around the same time that Jereis was receiving the
6 \$20,000 for Annabi's support of the Longfellow project -- this
7 is the summer of 2006, you will also hear that Annabi made a
8 number of very large cash and credit card purchases on luxury
9 items.

10 First, on or June 26, 2006, Annabi's previously
11 purchased coach class plane ticket to Jordan was refunded to
12 her credit card in the amount of about \$1,300. That same day,
13 Annabi upgraded her seat to business class seat 1A -- the
14 flight had no first class section -- using a cash payment of
15 nearly \$4,000.

16 Second, around the same time in late June or early
17 July 2006, Annabi went to a jewelry store in Westchester, a
18 store recommended by Zehy Jereis. And she special ordered a
19 woman's Rolex watch, with a mother of pearl diamond bezel.
20 Annabi picked up the watch from the jeweler after she returned
21 from Jordan and paid more than \$3,800 in cash.

22 Third, at or about August 22, 2006, Annabi went to the
23 same jeweler and bought an 18 karat white gold diamond cross
24 necklace for about \$3,250, which she charged on her credit
25 card. In less than two months, right around the time Jereis

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1 received cash from Mangone, from the Milios Annabi spent
2 \$11,000 on a luxury plane ticket and expensive jewelry,
3 spending more than \$7,700 in cash.

4 Guess what? You'll hear that Annabi's bank accounts
5 showed no large cash withdrawals at this time.

6 Finally, you'll see photos from the City council,
7 September 26, 2006, when Annabi reversed herself and voted in
8 favor of the Longfellow project. And in these photos, guess
9 what Annabi is wearing? Her brand new 18 karat, white gold
10 diamond cross necklace.

11 Ladies and gentlemen, let me talk for a moment about
12 the charges. There are 11 counts in the indictment, counts one
13 through six are the corruption counts against both defendants.
14 And that's the conduct I have outlined above.

15 Annabi and Jereis are charged with conspiracy,
16 receiving and giving bribes and extortion under color of
17 official right.

18 Now, Judge McMahon will instruct you on the law at the
19 end of the case, so I won't get into the details. And as you
20 will learn from Judge McMahon, a conspiracy simply involves an
21 agreement between two or more people to do something criminal.

22 The government charges that during the course of the
23 conspiracy, Jereis gave Annabi more than \$174,000 in secret,
24 concealed money and benefits.

25 Now, Annabi is also charged with three counts of

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1 making false statements in connection with her loan
2 applications. Those loan applications for the three properties
3 I talked about earlier; the two houses out of her district, and
4 the co-op apartment in her district.

5 You'll see that Annabi's loan applications are chock
6 full of not only lies, but also fake documents. Fake documents
7 designed to make her income seem much larger than it actually
8 was. Fake pay stubs. Fake bank statements. Fake W-2s.
9 You'll get to see the real documents, and then you'll get to
10 compare them with the fake ones that were submitted as part of
11 Annabi's mortgage applications.

12 Finally, counts 10 and 11 charge Annabi with making
13 false statements on her tax returns. This conduct centers on
14 the fact Annabi never reported any of the income she got from
15 Zehy Jereis. And in 2005, Annabi falsely claims a casualty
16 loss based on a phony 50,000-dollar loan to her father.

17 Now, ladies and gentlemen, let me tell you how the
18 government will prove its case at trial. And you should know
19 that over the next several weeks, the evidence won't always be
20 presented in neat, chronological order. At times, it will come
21 in in bits and pieces through different witnesses. But at the
22 end of the trial, Mr. Carbone and I will have an opportunity to
23 come before you again, and to review how it all fits together.
24 In short, the government will prove its case with documents,
25 with witnesses, and with other physical evidence.

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Opening - Mr. Halperin

1 For example, during the trial, you will hear from
2 witnesses, from banks, from Mercedes Benz, from a jewelry
3 store, from Royal Jordanian Airlines who will talk about the
4 documents that show all of the benefits Jereis gave to Annabi.

5 With Ridge Hill, you will hear from several City
6 council members, some of whom supported the Ridge Hill project,
7 and some of whom opposed the project.

8 And ladies and gentlemen, let me pause for a moment,
9 because it's important for you to remember what this trial is
10 not about. This trial is not about whether the Ridge Hill
11 project, or for that matter the Longfellow project, were good
12 things for the City of Yonkers. Rather, the trial is about
13 Annabi's and Jereis' conduct in relation to those projects. No
14 matter what the personal relationship was between Annabi and
15 Jereis, the evidence at this trial will show that Councilwoman
16 Annabi received payment from Jereis with the intent to be
17 influenced and rewarded. And, likewise, as to Jereis, the
18 evidence will show that when Jereis paid Councilwoman Annabi,
19 he did so, at least in part, based on her official position.

20 The issue is not the two projects' merits, the issue
21 is the two defendants' intentions. So with Ridge Hill, you'll
22 hear from former council members, and you'll also hear from
23 representatives of Forest City Ratner. They will describe how
24 persistent Jereis was in pushing for a job, how important
25 Jereis was in helping Forest City Ratner win Annabi's vote, and

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1 how Jereis did virtually no work for that consulting contract.

2 On the Longfellow project, you'll hear from both
3 Antonio Milio and his son, Franco Milio. And you'll hear from
4 Anthony Mangone. He'll tell you that when he first met with
5 Zehy Jereis about the Longfellow project, Jereis suggested
6 hitting the Milios up for a hundred thousand dollars. Mangone
7 pushed back and said, no way. And they agreed on \$20,000.

8 Mangone will testify that he gave Jereis \$20,000 in
9 cash. And that Jereis said he would give it to Annabi.

10 Mangone gave Jereis \$10,000 in July, right before
11 Councilwoman Annabi left for that trip to Jordan. And the
12 other 10,000 in September, right after Annabi officially voted
13 in favor of Longfellow.

14 Now, you should know that both Antonio Milio and
15 Franco Milio have pled guilty to one count of tax evasion for
16 conduct unrelated to this case.

17 And let me tell you about Anthony Mangone. Anthony
18 Mangone has plead guilty to conspiring with Annabi and Jereis
19 to making corrupt payments to Annabi and Jereis, and to
20 participating in extortion of the Milios in relation to the
21 Longfellow project. Mangone will be testifying before you
22 pursuant to a cooperation agreement. Anthony Mangone will have
23 firsthand knowledge about his dealings with Annabi and Jereis
24 in relation to the Longfellow project.

25 So let's be clear from the start, Anthony Mangone is a

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1 criminal. He is here trying to help himself get a lower
2 sentence. So we invite you to scrutinize his testimony with
3 great care. And when you do that, you should also consider all
4 of the other evidence; the documents, the credit card receipts,
5 the paper trail, the change in votes, the e-mails, the fake pay
6 stubs, the fake W-2s, Jereis's phony backdated monthly reports.
7 All of this evidence will help prove the corrupt relationship
8 between Annabi and Jereis.

9 You will also hear from witnesses relating to Annabi's
10 loan applications and tax returns. And you'll hear from bank
11 witnesses, and FBI agents who interviewed Annabi. They will
12 testify about how Annabi lied during those interviews. What
13 does she say when she was asked about her conduct? You'll hear
14 that she bobbed and weaved.

15 For example, first Annabi said she did not recall who
16 bought her the nearly \$4,000 Rolex watch. Then, a few moments
17 later, she said that maybe Jereis had bought it for her.

18 Now, I know you have heard a lot of names, dates, and
19 facts already. Do not worry about trying to memorize these
20 things. They will become more familiar to you over the course
21 of the next several weeks.

22 In closing, ladies and gentlemen, this case is
23 straightforward. And in short, the evidence at this trial will
24 show that Sandy Annabi sold her office for luxury cars, nice
25 houses, first-class flights, and expensive custom-made jewelry.

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1 The evidence will show take Zehy Jereis saw his
2 opportunities and he took them to line his own pockets through
3 Annabi's office.

4 Let me finish by asking you do to three things.

5 Listen carefully to all of the witnesses.

6 Pay very close attention to all of Judge McMahon's
7 instructions.

8 And use the same common sense that you use every
9 single day outside of the courtroom.

10 If you do that, both the government and the defendants
11 will get a fair trial. And if you do that, I submit you will
12 return the only verdict that is consistent with the evidence.

13 You will find the defendants guilty.

14 Thank you.

15 THE COURT: Mr. Aronwald, do you wish to open?

16 MR. ARONWALD: Yes. Thank you, your Honor.

17 Ladies and gentlemen of the jury, let me reintroduce
18 myself. My name is William Aronwald, I'm an attorney. My
19 client is Sandy Annabi. It is my privilege to represent Sandy
20 Annabi in this case.

21 Having listened to Mr. Halperin's opening statements,
22 I was fortified by what Judge McMahon said when she told you
23 that nothing that Mr. Halperin says, or any other lawyer in the
24 case says, is evidence. So I ask you to bear that in mind.

25 The evidence, will show you that Mr. Halperin's

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1 version of what the evidence is, is as far from the truth as
2 night is from day. That is not what the evidence is going to
3 show, that is not what you are going to hear.

4 With this case is about, is not about Sandy Annabi,
5 who betrayed her oath. What this case is about, is about Sandy
6 Annabi who was twice elected to serve the Yonkers City people
7 by serving on the City council representing the people of her
8 district, the 2nd District.

9 She took an oath. But the evidence that you will hear
10 from the witnesses who will testify with the most intimate
11 knowledge of what happened with respect to Ridge Hill and with
12 respect to what happened with Longfellow is that she faithfully
13 and honestly served the people of the City have Yonkers in
14 first opposing the project, and approving it only when both
15 developers made substantial concessions.

16 Mr. Halperin tells you that \$10 million is a tiny
17 concession. The fact of the matter is, the evidence will show,
18 that the project that Sandy Annabi opposed did not contain the
19 \$10 million that Forest City Ratner agreed to pay at her
20 insistence to the City of Yonkers. So when she voted for the
21 project, it might have been the same project in name, the Ridge
22 Hill project, but the meat and potatoes of that project was
23 totally different. Different to the tune of \$10 million that
24 went into the City of Yonkers to serve the people of the City
25 of yonkers. So the project had changed.

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1 Mr. Halperin told you that that was the only
2 concession. The evidence will show that that was not the only
3 concession. That Forest City Ratner also agreed to pay a half
4 million dollars for a traffic mitigation study. And so you
5 understand what the traffic problem was, the evidence will show
6 that Ridge Hill lies off of the New York State Thruway. And,
7 basically, what the people who oppose the project, the people
8 who were concerned about the impact on the environment, namely
9 traffic, also some other environmental concerns, they were
10 concerned that there were no direct access roads from the New
11 York State Thruway into the Ridge Hill development. The Ridge
12 Hill development project is not only a 630 million-dollar
13 project, it is an 81 acre project. It's a project that had in
14 its design retail and wholesale establishments, apartments,
15 entertainment, restaurants. Bringing a lot of money into the
16 city. But there were no direct access roads, causing
17 legitimate concerns as to how the traffic was gonna feed from
18 the Thruway into Ridge Hill and what impact that would have on
19 the neighboring community. So that was also a concession that
20 Forest City Ratner made.

21 The evidence in the case is gonna show that at no time
22 did Sandy Annabi file any false mortgage statements, and at no
23 time did she file any false income tax statements. You will
24 hear testimony from the government's own Internal Revenue
25 Service expert, as well as other tax people, that income is not

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1 gifts or loans.

2 The evidence in this case is not going to show you, to
3 any degree, that whatever payments were made by Zehy Jereis to
4 Sandy Annabi were intended as income, payoffs, bribes, or
5 payments to get her to vote one way or the other.

6 This is relatively a simple case. Even as
7 Mr. Halperin laid it out, it's really a simple case. The issue
8 is did Sandy Annabi vote no and then vote yes because she was
9 paid to vote yes, whether in the form of cash or other
10 benefits. Or is this a case about a woman who basically, in
11 discharging her sworn obligation to serve the City that she was
12 representing, insisted that the City get the full benefit that
13 it was entitled to in order for her to vote for these projects.

14 So let's discuss the projects. As I told you Ridge
15 Hill is an 81 acre development off the New York State Thruway.
16 It's a 630 million-dollar construction project. In order the
17 for Forest City Ratner to build the project, it was necessary
18 to get some zoning changes. That was the issue that was before
19 the City council. In order to get a zoning change, the City
20 council had to approve it.

21 Now, ordinarily, the City council operates by simple
22 majority. There are seven members. Each member is elected to
23 serve a particular district. Sandy Annabi's district was the
24 2nd District. The 2nd District is the district within which
25 Longfellow would have been built. The 2nd District is not a

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1 district within which Ridge Hill was going to be built.

2 Ridge Hill was in the district that was represented by
3 another city councilwoman. Her name I Dee Barbato. Dee
4 Barbato will testify in the case. Dee Barbato will tell you
5 that she as utterly opposed to the project, so much so that
6 Forest City Ratner, at one point, told her that they understood
7 she could not possibly vote for this project under any
8 circumstance, because letter constituents were opposed to it.
9 So they were going to, in her words, give her as pass. They
10 were not even looking to get her vote.

11 Now as I said, at the time, ordinarily, a four to
12 three vote would have been sufficient. But it wasn't in this
13 case.

14 The reason why the super majority was required, was
15 because Ridge Hill abuts county parkland. And because the
16 county owns the land that abuts the development area, the
17 Westchester County Planning Board, not the Yonkers City Real
18 Estate Committee or Yonkers City Council, but Westchester
19 County Planning Board had to approve the project, the zoning
20 change. They came out with a negative report. Because they
21 came out with a negative report, under the City charter of the
22 City of Yonkers, a five to two vote was required; the super
23 majority, as Mr. Halperin described it.

24 Well, the three opponents to the project remained
25 Sandy Annabi, Dee Barbato and John Murtagh.

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1 Now, when Mr. Halperin tells you that the majority of
2 the people at the City of Yonkers were opposed to the project,
3 bear in mind that there were four council people who were for
4 the project. There were three opposed to it. So the four
5 council people really represented the majority of the people
6 who live within the City of Yonkers. So that wasn't really
7 absolutely correct. But what is correct is that the four
8 people who were for the project, got together, and they decided
9 they were going to get this project through at no matter what
10 the cost. And the way they were going to do it, because they
11 needed the fifth vote was they were going to illegally --
12 illegally do away with the super majority requirement. And
13 they decided, well, we only need a simple majority to pass any
14 other bill, so let's put in a bill to do away with the super
15 majority. We only need four votes, we have the four votes,
16 let's do it. You will see the tape, the City council meeting
17 tape. And the City of Yonkers' government is transparent. All
18 City council meetings are recorded. They're videotaped. You
19 will see the videotape of the City council meetings as they
20 relate to Ridge Hill and Longfellow, both when Sandy Annabi was
21 opposed, and when Sandy Annabi changed her vote to the yes
22 vote. You will hear the tapes. You will hear her from her own
23 mouth, telling the developers why she was opposed to the
24 project and why she later decided that the project was worth
25 her vote.

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1 So what happens is these four people get together, and
2 they vote to do away with the super majority. At the meeting
3 that Mr. Halperin referred to, you will see from the videotape
4 that Sandy Annabi said to the developers who were present, that
5 while the project itself might be a good project, she was
6 opposed to the process that the majority, the simple majority,
7 were putting forth to get this project through. She was
8 opposed to the process of illegally changing and doing away
9 with the super majority requirement. And she also indicated
10 that she was opposed, because Forest City Ratner, the
11 developer, not only was not offering to pay \$10 million in tax
12 revenues, they were not offering to pay anything towards the
13 traffic mitigation impact study. They wanted tax abatements,
14 they wanted a pilot program -- which you will hear means
15 payment in lieu of taxes. They wanted all sorts of tax breaks.
16 And Sandy Annabi basically said, with all of the money you
17 have -- this is what you'll hear and from the evidence -- you
18 want tax abatements? You don't want to pay taxes to the City
19 of Yonkers with all of the money you are going to be making out
20 of this? I'm not going to vote for the project if that's what
21 you'll do.

22 Well, the simple majority of four to three did away
23 with the super majority requirement. And within a month, then
24 put Ridge Hill back on the table and approved the zoning
25 change, again four to three, with the opposition of Annabi,

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1 Murtagh, and Barbato.

2 I don't remember Mr. Halperin telling you, but what
3 the evidence will show you is this. Barbato, Murtagh, and the
4 lead plaintiff, Sandy Annabi, brought an action in Westchester
5 County State Supreme Court to have a State Supreme Court judge
6 overturn the vote to do away with the super majority. The
7 super majority. They also sought a temporary restraining order
8 to prevent the simple majority from ramrodding through the
9 zoning change for Ridge Hill.

10 They were not the only three in the lawsuit. You'll
11 hear Chuck Lesnick who was not, at the time, a City council
12 person, but who is now the President of the Yonkers City
13 Council, was also one of the people that joined in a lawsuit,
14 along with other people from the community. That vote to do
15 away with the simple majority occurred on November 22nd of
16 2005. On November 23rd, 2005, the very next day, it was the
17 day before Thanksgiving, Sandy Annabi, John Murtagh, Dee
18 Barbato and the others went into State Supreme Court and filed
19 that lawsuit.

20 On December 9th, 2005, the simple majority, who had
21 done away with the super majority requirement, pushed through
22 the zoning change by a vote of four to three. That effectively
23 meant that Forest City Ratner could go ahead with the project.

24 Dee Barbato will testify that once that happened, the
25 project was out of the City counsel's hands, because all they

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1 concerns, such as sewage and other things.

2 You'll hear testimony from Murtagh and Barbato that at
3 the meeting, the developers didn't offer any concessions. They
4 didn't offer to do anything to make the deal any better or any
5 different than it had been from the start.

6 Since the Forest City Ratner developer representatives
7 did not offer anything to meet these concerns, as far as
8 Murtagh and Barbato were concerned, the meeting was a waste of
9 their time. Sandy Annabi was not at the meeting that took
10 place between Bender, Pesin, Murtagh, and Barbato. You will
11 hear testimony that she was not at that meeting.

12 In June 2006, Sandy and Zehy Jereis, did meet with
13 representatives from Forest City Ratner to discuss the project
14 and to discuss the objections that she had to the project.
15 Bender, and Pesin, and the far City representatives did not
16 have an opportunity to ask her what her objections were,
17 because she was not at the Westchester Country Club meeting
18 that they attended. At that meeting, Sandy explained to the
19 Forest City representatives what her concerns and objections
20 were; namely, the same objections and concerns that she had
21 previously stated publicly on the record at the City council
22 meetings: If you want the project to succeed, you have got to
23 give money to the City of Yonkers, and you have got to do
24 something about traffic mitigation.

25 On June 14, 2006, only after Forest City Ratner agreed

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1 to give the City of Yonkers \$10 million, plus 500,000 for
2 traffic mitigation, did Sandy announce that she was voting for
3 the zoning change. Because as far as she was concerned, that
4 was the best that the City of Yonkers could get from the
5 developer.

6 On July 11, 2006, the zoning change was approved by a
7 vote of five to two, with Murtagh and Barbato still opposed.
8 And as I have told you before, the developer had already
9 written off Dee Barbato as a possible yes vote, because it was
10 in her district, and her constituent were opposed to it.

11 Both Murtagh and Barbato will tell you that they were
12 extremely upset and angry because Sandy had changed her vote.
13 So much so, that Dee Barbato did not speak to Sandy for quite
14 some time.

15 After you have heard all of the evidence, you will see
16 that the only reason Sandy changed her vote on the zoning
17 change was because of the additional concessions that the
18 developer agreed to make for the benefit of the City of
19 Yonkers.

20 Now, as to the payments from Zehy Jereis to Sandy.

21 There is no question that Sandy and Zehy Jereis had a
22 close relationship. You will hear testimony, from at least one
23 witness, that the consensus was that Zehy Jereis was infatuated
24 with Sandy. But the evidence will not prove that the payments
25 were at all intended to influence Sandy's vote. Whatever Zehy

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1 Jereis was hoping those payments would do, it had absolutely
2 nothing to do with her vote.

3 Forest City Ratner representatives will testify in
4 this case. They will tell you that at no time, at no time --
5 and no one else will ever testify differently -- did Sandy ever
6 ask them for any benefit, financial or otherwise, in exchange
7 for her vote for the zoning change. They will testify that
8 they understood that in order to obtain her vote, they would
9 have to accede to her insistence that they provide an
10 additional financial benefit, not to her, not to any
11 individual, but to the City of Yonkers. And they did so to the
12 tune of the \$10 million, plus the traffic mitigation money.

13 As to the consulting agreement, Mr. Halperin told you
14 that the consulting agreement was something that was discussed
15 between Forest City Ratner and Zehy Jereis in 2006, shortly
16 before Sandy flipped her vote. What the officials from Forest
17 City Ratner will tell you, is that as far as they were
18 concerned, there was absolutely no relationship, whatsoever,
19 between the consulting negotiations they were having with Zehy
20 Jereis, and getting Sandy's vote in favor of the Ridge Hill
21 project.

22 They will tell you that, at no time, did they view
23 that consulting agreement as anything but an arm's length
24 consulting agreement where what they were retaining Mr. Jereis
25 to do, was not to get Sandy Annabi to vote for the project, but

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1 to provide consulting services to Forest City Ratner, because
2 Zehy Jereis was from Westchester County and Forest City Ratner
3 was looking for developmental properties within the county.

4 The government will not present any evidence, credible
5 or otherwise, that Sandy, when she voted yes for the project,
6 had any knowledge, whatsoever, that at that time Zehy Jereis
7 was negotiating a consulting agreement with Forest City Ratner.

8 Now, as to Longfellow. Milio Management Company was
9 the developer of Longfellow. And Mr. Halperin described that
10 what Longfellow really started out as was a land swap.

11 The City of Yonkers wanted to widen Ashburton Avenue.
12 That property that they wanted to widen was owned by Milio
13 Management. There was a dilapidated, run-down school, the
14 Longfellow School that the City had no use for. It was not in
15 use. It was dilapidated, it was failing apart, it an eyesore.
16 It was an attractive nuisance, if you will, that could cause
17 injury if anybody got too close to it.

18 And so what happened, was the parties got together and
19 agreed, well -- Milio said, well, we'll swap our land that you
20 need to widen Ashburton Avenue. And what we want in return, is
21 we want the Longfellow School so that we can develop it. They
22 wanted to develop it into residential housing apartments.
23 Longfellow School, as I said, was situated within the 2nd
24 District, Sandy's district. They wanted to transform these
25 structures into what's called market rate housing. That will

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1 be explained to you when the witnesses testify.

2 On June 24, 2005 -- let me just backtrack.

3 In order to get the process started, Milio Management
4 had to be designated the developer by the City council. Now,
5 what designated developer means is that gives the individual,
6 in this case, Milio Management had they been designated the
7 developer, a one-year exclusive right to develop the property.
8 What that means is to put together whatever plans were
9 necessary, architectural drawings, blueprints, environmental
10 studies, because those things are expensive. And no reasonable
11 person, the evidence will show, is going to basically be
12 willing to expend that kind of money without knowing that at
13 the end of the day they have a shot at getting the development
14 approved. So that's what Milio Management was looking for,
15 they were looking to be designated the developer.

16 On June 14, 2005, you will hear the tape you will see
17 the video, Sandy announced that she was strongly opposed to the
18 project. In fact, at that meeting, she asked that the item be
19 moved up on the agenda. The reason being, that a number of her
20 constituents in her area, the constituents consisted of a large
21 number of seniors. She had the seniors bust in so they could
22 attend the meeting so they could make their opposition known.
23 She asked that the item be moved up on the agenda so that our
24 seniors could get home at a reasonable hour, have their dinner,
25 and get to bed.

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1 And at this meeting, Sandy Annabi told the developer,
2 that she thought that the project would be a great project if
3 it were anywhere else but in her district. And she told them
4 that the reason she was opposed to it was because if that
5 project succeeded, that ultimately her seniors would be forced
6 out of the district. And she didn't want that.

7 She also had concerns about what the developer was
8 paying for the property. There had been a rumor circulating --
9 and you'll hear this -- that Milio was only paying 1 dollar for
10 this property. And you will see at this meeting that Sandy is
11 appalled at the idea that they are paying 1 dollar. And she
12 holds up a bottle of Coca-Cola. And she said she paid more for
13 the bottle of Coca-Cola than Milio was paying for this
14 property. And she was not going to do anything until that
15 issue had been resolved.

16 She told the Milios that it would not be fair for her
17 to vote to designate them a developer because they were then
18 spending an enormous amount of money to put this project
19 together, to bring it back before the City council. And so
20 long as the project didn't include housing for her seniors, she
21 would not, could not, vote for the project, and that would not
22 be fair to them.

23 During this period, Milio Management was represented
24 by an attorney by the name of Albert DelBello. Mr. DelBello
25 was not only the former Lieutenant Governor of the State of New

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1 York and a former Mayor of the City of Yonkers, he was also the
2 Westchester County Executive for a good number of years. His
3 specialty basically was in municipal law, which this involved.

4 The evidence will show that at no time did Anthony
5 Mangone ever appear before the Yonkers City Council or the
6 Yonkers City Council Real Estate Committee meeting on behalf of
7 Milio Management in connection with the Longfellow project.

8 The only attorneys' fingerprints who are on this
9 project as a representative of Milio Management is Albert
10 DelBello. Mr. DelBello will testify in this case. You will
11 hear Mr. DelBello tell you, and you will hear the Real Estate
12 Committee meeting tape where Al DelBello announces that he had
13 had discussions with Councilwoman Annabi, and had worked out a
14 compromise on behalf of Milio Management which would provide
15 housing for the seniors.

16 Ultimately, what happened, Milio Management agreed to
17 the following. They agreed that they would provide a window, a
18 six-month window of exclusivity, meaning that during that
19 six-month period, only seniors would be able to apply for the
20 housing. And to make sure that there would be no games played,
21 Sandy insisted, and Milio agreed, that the formula for the
22 requirements, the standard criteria by which the seniors would
23 be able to qualify for the housing, would not be designed by
24 Milio Management. They would be the same criteria used by
25 Westchester County, across the entire county. So as long as

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1 these seniors met that criteria, they would guaranteed housing.
2 They were guaranteed the apartment.

3 At the end of the 6 months, anybody, including those
4 seniors who had decided, or did not apply during the six-month
5 window of exclusivity, could then put in their applications.

6 So concerned, the evidence will show, was Sandy about
7 this proposal being locked in so that it couldn't be changed
8 later on, you'll hear from the Milios that she insisted that
9 those changes be physically incorporated into, and made part
10 of, the resolution approving Milio Management as the designated
11 developer. Once that was done, and only when that was done,
12 did Sandy Annabi agree to vote for the project September 26,
13 2006. And, incidentally, the resolution passed by a vote of
14 seven to nothing.

15 Now, with respect to Anthony Mangone, unless I
16 misheard, Mr. Halperin said that the evidence will show that
17 Mangone went to Milio and said to Milio, if you give me
18 \$40,000, 30,000 of which I will give to Zehy Jereis to pass on
19 to Sandy Annabi, 10,000 of which will be my fee, we can get
20 Sandy Annabi's vote. But in the next breath, I think I heard
21 Mr. Halperin say you will hear testimony from the Milios that
22 they gave Anthony Mangone the \$40,000, that Mangone gave
23 \$20,000 of that to Zehy Jereis.

24 So when you hear the evidence, ask yourself what
25 happened to that other \$10,000. Because that's not what

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1 Mangone says he gave to Zehy Jereis. Once again, the Milios
2 will testify that at no time, and Franco Milio had a number of
3 discussions with Sandy Annabi, at no time did Sandy Annabi ever
4 ask for any benefit, financial or otherwise, to be paid to her,
5 directly or indirectly, in order to have her vote to designate
6 Milio Management as the developer.

7 (Continued on next page)

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Opening Statement - Aronwald

1 MR. ARONWALD: You will hear Al DelBello testify that
2 during his meetings and discussions with Sandy about the
3 Longfellow project. At no time did she ever intimate to him
4 that the only way that she could be persuaded to vote for the
5 project was if the developer agreed to pay her money. You will
6 hear Al DelBello tell you that he was not even made aware that
7 Anthony Mangone had been hired by the Milios to represent them
8 in connection with Longfellow and that, in fact, as far as he
9 was concerned he is the only one that negotiated the compromise
10 with Sandy Annabi on behalf of seniors for the Longfellow
11 Project.

12 Anthony Mangone will tell you, he will claim that he
13 gave money to Zehy Jereis. But Anthony Mangone will testify
14 that at no time did he ever have any discussions or meetings
15 with Sandy at which she asked for directly or indirectly the
16 payment of any money or other benefits, directly or indirectly,
17 in order to get her to vote to designate Milios the designated
18 developer.

19 Anthony Mangone will tell you that he never had those
20 discussions with Sandy and he will tell you that although he
21 gave this money to Zehy Jereis he doesn't know what, if
22 anything, Zehy Jereis did with the money.

23 More importantly, Milio management Franco and Antonio
24 Milio will tell you that while they gave money to Anthony
25 Mangone, they don't know what Antonio Mangone did with that

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1 money. And so when all is said and done you will hear from
2 only one witness in this case about any payment of money to
3 Zehy Jereis or to Sandy Annabi, none to Sandy Annabi and only
4 one as to Zehy Jereis and that's Anthony Mangone.

5 The evidence will show that Anthony Mangone was an
6 attorney, that he has pled guilty to crimes, tax crimes and
7 other crimes as part of his cooperation agreement. The
8 evidence will show that as part of his cooperation agreement in
9 order for him to obtain the benefit which would be a reduced
10 sentence when it comes time for him to be sentenced, the only
11 people that make the decision as to whether his persistence
12 amounted to substantial assistance which is the language in the
13 agreement, the government, the prosecutors in this case must be
14 satisfied that his testimony was truthful.

15 The evidence will show and he will admit that it
16 doesn't make any difference what the jurors think. It's what
17 the two prosecutors think that counts cause they're the only
18 ones who get to determine whether to made an application on his
19 behalf for a reduced sentence.

20 You'll hear testimony from Anthony Mangone some years
21 earlier had forged absentee election ballots, having nothing at
22 do to with an election in the City of Yonkers and that he did
23 that knowingly, willfully and intentionally knowing that what
24 he was doing was illegal.

25 Now, these payments from Mr. Jereis to Sandy Annabi.

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1 Sandy Annabi was elected to the city council in 2002. She was
2 term limited. She could only serve up to 2009. So, she was
3 elected twice in 2002 and then in 2005. At one point she was
4 the minority leader in the city council. The payments which
5 Jereis made to or for Sandy's benefit began in 2001 before she
6 was even elected to the city council. That's what the evidence
7 is going to show.

8 Now Mr. Halperin tells you that the charges are that
9 Jereis made these payments so that Sandy would vote when and as
10 opportunities arose. But as the evidence will show those
11 payments began before Sandy Annabi was in any position to cast
12 any vote on any project because she wasn't a member of the city
13 council at that time.

14 The evidence will show that despite being on the city
15 council from 2002 to 2009 there were only two occasions where,
16 according to the government, opportunities arose where Zehy
17 Jereis wanted Sandy Annabi to vote a certain way and that's
18 Ridgehill and Longfellow. The evidence will show that there
19 was no quid pro quo. There was no trade-off of the payments in
20 order for Sandy to vote for either one of these two projects.
21 In short, there will be no evidence linking any of these names
22 to any vote by Sandy on the Ridgehill or Longfellow projects.

23 With respect to the tax charges, as I've already
24 indicated, those charges basically claim that Sandy Annabi
25 filed false tax returns because she did not include as income

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Opening Statement - Aronwald

1 the payments that she had received from Zehy Jereis. The
2 witnesses that will testify in this case from the Internal
3 Revenue Service will tell you that unless those payments were
4 income, she was not required to report them. So there is a
5 relationship between the payments as they are alleged to have
6 been made in exchange for the Ridgehill and Longfellow projects
7 and tax charges which I ask you to bear in mind as you listen
8 to the evidence.

9 With respect to the mortgage fraud charges, there were
10 three properties. One of those properties was at 13 Patton
11 Drive. With respect to that property there were no supporting
12 financial document required. All that was required was the
13 mortgage loan applications to be filled out.

14 Now with respect to that loan application the original
15 loan application was available and will be available in this
16 case. A handwriting expert by the name of Joseph McNally will
17 testify that he compared the signature on the loan application
18 to Sandy Annabi's known handwriting specimens and concluded
19 that the signature on the loan application was not written by
20 Sandy Annabi.

21 With respect to the other two loan applications, 245
22 Rumsey Road which is where Sandy lives, 45 Bacon Place, as to
23 those two properties the original loan applications and the
24 original supporting documents, W-2 forms, 1099s, bank
25 statements, those were not available. You'll hear testimony

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1 that the banks destroy the original documents once the
2 documents are scanned into their system. Mr. McNally will tell
3 you that it is impossible for him as a handwriting, forensic
4 examiner of documents to be able to draw any conclusions unless
5 he has the original loan documents available. That would
6 include the supporting documents because only then would he be
7 able to tell whether the supporting loan documents were altered
8 after they had been submitted.

9 You will not hear any witness testify that the
10 supporting financial documents which the government claims were
11 submitted in this case were not actually tampered or altered by
12 bank personnel or loan officers to inflate her income or bank
13 account balances so that the loan would go through.

14 In summary, based upon the evidence and the lack of
15 evidence by the prosecution, when it comes time for your
16 deliberations I join Mr. Halperin. I ask you to do the three
17 things he asked you to do. But I submit to you that when you
18 apply the facts as you determine them to be to the legal
19 instructions that you will receive from her Honor including the
20 instruction on reasonable doubt, you will agree that this is
21 not a case about a dishonest public servant. This is a case
22 about an innocent woman wrongly accused of crimes she did not
23 commit, compelling a not guilty verdict as to each and every
24 charge. Thank you.

25 THE COURT: Mr. Siano, do you want to open?

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Opening Statement - Aronwald

1 MR. SIANO: Mr. Jereis insists that I open for him.

2 THE COURT: I think that would be good idea but what I
3 would want to do is take a five minute stretch break.

4 MR. SIANO: Thank you, judge. That would be a good
5 idea.

6 THE COURT: Don't discuss the case. Keep an open
7 mind.

8 (Jury not present)

9 (Recess)

10 (Jury present)

11 THE COURT: Okay. Have a seat.

12 Mr. Siano.

13 MR. SIANO: Thank you.

14 Judge McMahon, Mr. Halperin, Mr. Carbone,
15 Mr. Aronwald, clairvoyance. Clairvoyance. I think the
16 evidence in this case is going to be about the concept of
17 perceiving things beyond the reach of human senses, off in the
18 future, off beyond what you can see and hear and touch and
19 taste.

20 As I listened to the government's opening and as I
21 considered what the evidence will show in this case I was moved
22 to think they are going to show us how Mr. Jereis was
23 clairvoyant. And I submit to you the evidence will show that
24 if he is not clairvoyant he was acting pursuant to what he did
25 perceive and it's those motivations of his actions that I

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Opening Statement - Siano

1 submit the evidence will show you will prove that he is not
2 guilty of the charges brought against him by the government.

3 Good afternoon. At long last I get to speak directly
4 to you. My name is Anthony Siano. You've heard that a few
5 times. Ms. Gallego is my colleague. You will hear from her
6 during the trial as well.

7 And as you can tell from the way things are going, the
8 most important part about Mr. Siano and Ms. Gallego is we're
9 always last. We're always going to be last. So there are
10 going to be times when we're thinking about the train schedule
11 or the weather or the sunset. But as the judge told you,
12 evidence comes from the witnesses, not from what the lawyers
13 say. So I have to ask you to wait for the lawyers that come
14 last and listen to the answers we elicit from the witnesses.
15 And if you do that then the time we take from you will be time
16 that we will earn.

17 Now, Mr. Jereis is charged with conspiracies and
18 bribery and extortion, what the government calls corruption
19 counts and that's very important. You are going to hear that
20 word "corruption" a lot. They like that word and they're going
21 to say it as often as they can. And the evidence here is not
22 so much about the money Mr. Jereis spent. I will tell you the
23 government will labor long and hard to show you the amount of
24 money that my client, Mr. Jereis, spent on Ms. Annabi. And it
25 came in many forms only some of which Mr. Halperin told you

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Opening Statement - Siano

1 about.

2 But the central dispute in this case is not about the
3 "what" of what Mr. Jereis did but about the "why". The
4 evidence will show you that Mr. Jereis began to spend money on
5 Ms. Annabi before she was a public official and long before he
6 was the Republican city leader in Yonkers. And I will tell you
7 this, we are going to spend a lot of time in the next several
8 weeks in Yonkers.

9 The evidence will show that Mr. Jereis spent this
10 money practically from the moment he met Ms. Annabi and he
11 continued to spend money on her until their relationship
12 deteriorated into dust, and that that deterioration was
13 attributable not to public policy, not to the politicians you
14 will hear get on this witness stand and piously testify before
15 you about their high intentions and the low motives of these
16 two people. It deteriorated because somebody else entered
17 Ms. Annabi's life and it destroyed the relationship these two
18 people had.

19 The evidence will show that Mr. Jereis was readily and
20 repeatedly identified as being very close to Ms. Annabi.
21 Witnesses will sit on that witness stand and tell you they were
22 together early in the morning and late at night and in hand and
23 arm in arm and at social events and they were seen off
24 whispering together. And the witnesses will tell you that
25 Mr. Jereis appeared enthralled, infatuated, bewitched by

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1 Ms. Annabi. And that, in fact, Mr. Jereis who was a married
2 man at the time was, in fact, captured by Ms. Annabi's physical
3 beauty and you will see that at the time he met her and at the
4 time he first became infatuated with her, you will see that he
5 was a very much an unattractive human being and he fell under
6 Ms. Annabi's spell and he did everything he could for her. And
7 you will see as the government will show you all the many
8 expenditures he made, all the many efforts he made on her part.

9 And the evidence will show you it was not because of a
10 public policy reason or to influence Ms. Annabi in the Yonkers
11 City Council. Mr. Jereis did these things because he was
12 romantically attracted to Ms. Annabi.

13 And the public record in the city council of Yonkers
14 will show you that she acted as she did for public policy
15 reasons and you can see them. And you can see how there will
16 be politicians on the witness stand who will tell you they
17 violently disagreed with her. And some of them have carried
18 grudges from those days right through the door of the courtroom
19 and up into the witness stand and they will show you that what
20 Mr. Jereis did he did not for a corrupt purpose but because of
21 a very personal purpose.

22 And you heard Mr. Halperin try to hurry his way
23 through telling you about all these numbers and you are going
24 to see lots an lots of pieces of paper with lots and lots of
25 numbers on them and you should pay attention. But on behalf

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Opening Statement - Siano

1 plaintiff Jereis I am going to tell you, he spent a lot of
2 money pursuing Ms. Annabi, not for her vote but for her body.

3 Now, since I am trying to tell you here at the end of
4 the day what you will hear in this evidence and what the
5 evidence will show it's only fair that I tell you you will hear
6 the word "bribe", "bribe" directed towards Mr. Jereis. But you
7 will hear that word from one man, particularly, and that man is
8 Anthony Mangone. And because you are required as jurors to
9 judge proof and not just sit there and absorb evidence, I want
10 to tell you right now that Mr. Mangone is a man unlike anybody
11 any of you have met in your ordinary life experiences. He will
12 be shown by the proof from that witness stand to be a
13 comprehensibly corrupt and dishonest man. He is a man who's
14 already disregarded his oath to tell the truth in a courtroom.
15 He's already a man who's disregarded his oath to uphold the
16 laws of New York and the United States as an attorney. And
17 he's already lied to these gentlemen in this case. He's a
18 disgrace and disbarred lawyer who had his law license pulled.
19 He was a man who used that license to make himself a better and
20 more effective bagman. He cheated his law partners. He
21 misapplied client escrow funds. He was a messenger for other
22 criminals and I will put before you evidence which shows that
23 you Mr. Mangone is a person unworthy of your belief, you as
24 jurors.

25 Now, you've already heard the government tell you a

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Opening Statement - Siano

1 little bit about Mr. Mangone and sort of said, well, we've got
2 all these numbers and so Mr. Mangone he really is not all that
3 important. But listen carefully. They are going to try to
4 make one very bad man, Anthony Mangone, more credible by doing
5 something that is absolutely fascinating. They are going to
6 call two other bad men to tell you that they dealt with
7 Mr. Mangone.

8 Now, I heard Mr. Halperin tell you about a small
9 family owned business, the Milios. What he didn't tell you is
10 that small family owned business evaded \$2.1 million in income
11 taxes on \$7 million in cash that these small family businessmen
12 took from 400 tenants in residential buildings all over
13 Westchester. Some of them Section 8 and poor tenants. And
14 that they took this money and they used it. They used it very
15 efficiently to bribe building inspectors. They used it to try
16 to bring back somebody who had been thrown out of the United
17 States to bring him back illegally. They paid for that. They
18 acquired millions of dollars illicitly. And when they got
19 caught they started to get religion. They started to decide
20 they wanted to be good men and so they wired up and wore
21 consensual recording devices against the one bad man they knew,
22 Anthony Mangone. And you'll hear some of those conversations
23 between the government's witnesses and among themselves.

24 Now, without these bad men no one will sit on that
25 witness stand and say "bribe" about that man. And the

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Opening Statement - Siano

1 government will use math and they will use their experts, one
2 of which they didn't introduce, Mr. Dennehy, who is back here
3 in the third row, John, an IRS agent, whose specialty is
4 numbers. And I wanted to make sure in addition to introducing
5 all these other people, they introduce you to another magician
6 with numbers. But Mr. Dennehy and none of those agents were
7 present when any of these things happened.

8 MR. CARBONE: Objection.

9 THE COURT: Sit down.

10 MR. SIANO: Who was present and who is going to
11 testify is Anthony Mangone. And I submit to you that the
12 evidence will show you that without Anthony Mangone this is a
13 case about a married man trying to have a relationship with a
14 single woman.

15 Now I promised you I wouldn't waste your time and
16 every time I get up I am going to try my best not to waste your
17 time. And the other lawyers have already told to you use your
18 common sense and I am going to ask you, do not leave your life
19 experiences at the door and when all of the evidence comes in,
20 all of the answers come from the witnesses and from the
21 documents and you have had the chance to look at everything,
22 then and only then I will come before you and explain to you
23 what the evidence means and why I submit you should find
24 Mr. Jereis not guilty of every corruption count brought against
25 him in this case. Good night.

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C2GAAANN7 Opening Statement - Siano

1 THE COURT: Thank you, all.

2 Thank you, it's been a long day. And, Jim, did you
3 talk to them during the break?

4 COURTROOM DEPUTY: I did.

5 THE COURT: Okay. So I think I want to get you on
6 your way.

7 Now, we sit Mondays through Thursdays but as you might
8 know Monday of next week is a legal holiday and if you arrived
9 at the courthouse they will let you in but I won't have a court
10 reporter. I won't have lights. I won't have power. I won't
11 have a lot of things that we need to try this case. So we're
12 going to reassemble at 9:30 next Tuesday morning.

13 Until then don't discuss the case. Remember how broad
14 my definition of "discuss" is. Do not communicate about this
15 case to any person in the whole world using any means ever
16 devised. Be extra careful when you pick up your newspaper,
17 turn on the television or radio news or log on to
18 NewYorkTimes.com or whatever it is that strikes your fancy.
19 And if you see a headline or hear a lead about this case, turn
20 the page, turn the channel, turn away, turn it off.

21 I will see you on Tuesday.

22 Okay. A most entertaining afternoon. I'll see you on
23 Tuesday.

24 (Adjourned to Tuesday, February 21, 2012 at 9:30 a.m.)

25

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C210ann1

1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

3 UNITED STATES OF AMERICA,

4 v.

10 CR 007

5 SANDY ANNABI and ZEHY JEREIS,

6 Defendant.

7 -----x

8 New York, N.Y.
8 February 21, 2012
9 9:50 A.M.
9

11 Before:

12 HON. COLLEEN MCMAHON,

13 District Judge

14 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 Attorney for Defendant JEREIS

C210ann1

1 (Trial continuing)
2 (In open court; jury not present)
3 THE DEPUTY CLERK: Case on trial continuing.
4 THE COURT: Good morning.
5 THE CLERK: Case on trial continued.
6 THE COURT: The record should reflect that the court
7 congratulates Jesse Furman, who tried or handled a lot of cases
8 in front of me in White Plains, who is about to become my new
9 colleague.
10 So, okay. Good morning. Mr. Siano, I have missed
11 you, I've certainly missed you all.
12 MR. SIANO: Did I hear your Honor say at sidebar that
13 your son is in ranger school?
14 (Discussion off the record)
15 MR. SIANO: I have a preliminary issue.
16 THE COURT: Yes, sir.
17 MR. SIANO: And I have raised this with the
18 government.
19 The government intends to call an individual named
20 Serrao, I think I'm pronouncing it correctly. He is the
21 proprietor of a jewelry store from which, I believe the
22 government will attempt to prove, a Rolex watch and a cross
23 were procured.
24 THE COURT: The infamous cross, yes.
25 MR. SIANO: And in connection with that presentation
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1 of that evidence, we have been given certain 3500 material and
2 government exhibits. I'll hand these to Mr. O'Neill so he can
3 pass them up to the Court.

4 I asked Mr. Carbone over the weekend for some
5 supplemental discovery material. I believe under subdivision
6 (1) anything that is material to the defense preparation is
7 discoverable.

8 I asked for the original subpoena to this witness.
9 You'll notice, Judge, that there are handwritten notes 3526 C,
10 from Mr. Carbone and Mr. Halperin which reflect an interview
11 done by Agent Mazzuca on 4/17/09. if you could find --

12 THE COURT: They are right in front of me.

13 MR. SIANO: Handwritten notes.

14 THE COURT: They are handwritten notes.

15 MR. SIANO: And they are 4/17/09.

16 We were also given 3526 B, which is a FD302, FBI
17 Report of Interview which reflects, in its first words, on
18 4/20/09, at the top of on the first page. However --

19 THE COURT: My guess is that's a typo.

20 MR. SIANO: No, Judge, there was a meeting in the U.S.
21 Attorney's Office, apparently, separate and apart from Agent
22 Mazzuca -- again, this is all I can tell from the documents.
23 Whether or not it is a mistake is what leads to my inquiry from
24 the government.

25 You'll notice at the next to last page of 3526 B,

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1 Serrao provided copies of Annabi's jewelry purchase receipts.

2 It's at the bottom of the third page.

3 THE COURT: Yes.

4 MR. SIANO: Now, the two receipts are government
5 exhibits 213 and 214.

6 THE COURT: I see them.

7 MR. SIANO: I have asked the government to produce the
8 original subpoena by which means these documents came into the
9 possession of the government, and I would like to see the 1A
10 envelopes which is, I believe, based on some experience, the
11 methodology by which the FBI keeps track of items of tangible
12 evidence that come into their possession.

13 THE COURT: It does say in the report that these
14 copies of the receipts were placed in a 1A envelope.

15 MR. SIANO: It does, indeed, Judge, and I would expect
16 no less from the FBI in regard to custody.

17 Before I proceed further in this regard, Judge, I will
18 tell you that I do believe that if you read the FD 302 at the
19 bottom, it represents that this is an investigation on 4/17.

20 THE COURT: Oh, and at the top of the every other
21 page.

22 MR. SIANO: It says 4/17, as well.

23 THE COURT: Right. Which is why I think the first
24 line of the report is probably a typographical error, the
25 transcription having been made three days later on 4/20, but

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1 I'll let the government confirm that or tell me that I'm wrong.

2 Am I wrong?

3 MR. HALPERIN: I'd have to check with Mr. Mazzuca
4 about the dates, but you're correct, that's what happens
5 sometimes --

6 THE COURT: Check with Agent Mazzuca, okay. He's
7 special for a reason, supposed to remember.

8 MR. SIANO: Because what I'm concerned about is, if I
9 might, I realize your Honor provides what is a plausible
10 explanation.

11 What I'm concerned about is that there is two
12 investigative events, one on 4/17 and one on 4/20 --

13 THE COURT: I can understand --

14 MR. HALPERIN: Your Honor, the Court is correct,
15 Mr. Mazzuca is saying that --

16 THE COURT: Turns out there was one investigative
17 event, and one transcription with an error in the date.

18 MR. HALPERIN: Or 4/20 is the day that the 302 is
19 actually finalized, and 4/17 is the day that the interview took
20 place.

21 THE COURT: At the bottom of page 1 of the 302, at the
22 top of page 2, at the top of page 3, and at the top of page 4,
23 all of them indicate that the investigative event was on 4/17.
24 The only place where there is a suggestion that it was on 4/20
25 was in the first line of the report, which is right under the

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1 date of transcription.

2 MR. SIANO: Yes, Judge.

3 THE COURT: It's a common error.

4 MR. HALPERIN: In terms of the subpoena, the subpoena
5 is not Rule 16.

6 THE COURT: Correct.

7 MR. HALPERIN: Thank you.

8 MR. SIANO: Judge, the 1A envelopes are --

9 MR. HALPERIN: The 1A envelopes contain the original
10 exhibits which Mr. Siano has been produced, provided in
11 discovery, and are exhibits that will be presented through the
12 witness.

13 THE COURT: Did Mr. Siano have a chance to see the 1A
14 envelope at the time that he was given the discovery.

15 MR. HALPERIN: Not the 1A envelope, no.

16 THE COURT: He wants to see the 1A envelope. Perhaps
17 he has some chain of custody argument he wishes to make.

18 MR. HALPERIN: Okay, 1A envelopes are not something
19 usually produced in 3500. That's probably up in FBI's offices
20 up in White Plains. We just got this request --

21 THE COURT: It will take a while to get it. Okay.

22 MR. CARBONE: We have one other issue.

23 At some point this morning, we'd like to offer
24 government exhibit 1, which is a stipulation.

25 The parties were able to agree on the authenticity of

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1 a variety of documents.

2 THE COURT: Yes.

3 MR. CARBONE: They fall into three categories; records
4 relating to the City of Yonkers, bank and financial records,
5 and phone records. I think Mr. O'Neill has handed up a copy.

6 we understand it's your practice to read the
7 stipulation to the jury. We would prefer that the Court do
8 that sometime after our second witnesses, because we want to
9 show some of the documents to the witness.

10 THE COURT: After, or before your second witness?

11 MR. CARBONE: After. We intend to offer all of the
12 documents in the stipulation in evidence. And I can explain
13 why they are relevant.

14 The only exhibit --

15 THE COURT: You intend to offer them en masse; you
16 intend to offer them, now; you intend to offer them --

17 MR. CARBONE: We intend to offer them en masse, with
18 the exception of the Schedule A, the City of Yonkers exhibits.
19 And there are a few exceptions that we won't offer all of the
20 specifically-identified exhibits on Schedule A. But otherwise,
21 all of the financial records on the stip, both defendants'
22 personal financial records we'll offer en masse. And the phone
23 records we'll offer en masse. The relevancy of the phone
24 records is we'll have a phone summary witnesses talk about the
25 relationship of the parties and calls that were made on key

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1 dates.

2 THE COURT: Mr. Siano, what seems to be the problem
3 with this?

4 MR. SIANO: Well, Judge, we were very clear when we
5 signed the stipulation we were stipulating to authenticity.

6 THE COURT: Fine, in that case, we'll sit here with
7 the jury waiting, and we'll go through the exhibits right now,
8 one by one, and argue relevance, and argue anything else, and
9 they're going to be admitted or not admitted this minute.

10 Please give me the exhibits.

11 THE CLERK: Do you have to go through the exhibit
12 binders?

13 MR. CARBONE: I think one thing we could do to
14 expedite it --

15 THE COURT: No, one thing we can do, is we'll start
16 with the first one, and go through them one by one, and take
17 care of this problem right now. That is what we will do.

18 MR. ARONWALD: May I just say one thing. In terms of
19 the admissibility, oftentimes, as your Honor well knows, the
20 admissibility is determined through the testimony of the
21 witness --

22 THE COURT: Maybe if we get there, Mr. Aronwald, I'll
23 decide I have to wait. But, right now, we're going to go
24 through every document and see how many we can get in right
25 this minute, okay. Thank you very much.

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1 What's the first exhibit, please.

2 Mr. O'Neill, pull them one by one. I'm sure they are
3 in no particular order.

4 MR. CARBONE: Government exhibits 11 --

5 THE COURT: No. One at a time.

6 Government exhibit 11. Government exhibit 11 is what?

7 MR. CARBONE: Sandy Annabi's financial disclosure
8 statement for calendar year 2001.

9 THE COURT: Any objection?

10 MR. ARONWALD: No, your Honor.

11 THE COURT: Admitted.

12 (Government's Exhibit 11 received in evidence)

13 THE COURT: Next.

14 MR. CARBONE: Twelve, financial disclosure statement
15 for calendar year 2002.

16 THE COURT: Any objection?

17 MR. ARONWALD: No objection, up through exhibit 17.

18 THE COURT: No, no, one at a time, for the court
19 reporter, and for Mr. O'Neill.

20 Admitted.

21 (Government's Exhibit 12 received in evidence)

22 MR. CARBONE: Government exhibit 13, Sandy Annabi's
23 financial disclosure statement, calendar year 2003.

24 THE COURT: Any objection?

25 MR. ARONWALD: No objection.

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1 THE COURT: Admitted.
2 (Government's Exhibit 13 received in evidence)
3 MR. CARBONE: Government exhibit 14, Sandy Annabi's
4 financial disclosure statement, calendar year 2004.
5 MR. ARONWALD: No objection.
6 THE COURT: Admitted.
7 (Government's Exhibit 14 received in evidence)
8 THE COURT: I assume these are all being offered
9 against Ms. Annabi, and not Mr. Jereis.
10 MR. CARBONE: Well, your Honor, they're a part of the
11 concealment evidence identifying the conspiracy, so these
12 are --
13 THE COURT: Okay, fine.
14 MR. CARBONE: -- offered against both.
15 THE COURT: Next, 15?
16 MR. CARBONE: Financial disclosure statement for
17 calendar year 2005.
18 MR. ARONWALD: No objection.
19 THE COURT: Admitted.
20 (Government's Exhibit 15 received in evidence)
21 MR. CARBONE: Government exhibit 16, financial
22 disclosure statement 2006.
23 MR. ARONWALD: No objection.
24 THE COURT: Admitted.
25 (Government's Exhibit 16 received in evidence)
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1 MR. CARBONE: Government exhibit 17, financial
2 disclosure statement, calendar year 2007.
3 MR. ARONWALD: No objection.
4 THE COURT: Admitted.
5 (Government's Exhibit 17 received in evidence)
6 MR. CARBONE: Government exhibit 18, Yonkers Ethics
7 Code, in effect up through 2005.
8 MR. ARONWALD: No objection.
9 THE COURT: Admitted.
10 (Government's Exhibit 18 received in evidence)
11 MR. CARBONE: Government exhibit 25, Oath of Office
12 for Sandy Annabi dated 12/31/2001.
13 MR. ARONWALD: No objection.
14 THE COURT: Government exhibit 25. Fine, admitted.
15 (Government's Exhibit 25 received in evidence)
16 MR. CARBONE: 25A, Oath of Office, dated 12/03.
17 THE COURT: Exhibit 25A?
18 MR. ARONWALD: No objection.
19 THE COURT: Oh, okay. And 25B?
20 MR. CARBONE: And 25B.
21 THE COURT: Well, okay. Any objection, 25B.
22 MR. ARONWALD: No objection?
23 THE COURT: Admitted.
24 (Government's Exhibits 25A,25B received in evidence)
25 MR. CARBONE: Government exhibit 19, City of Yonkers
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1 Ethics Code, came into effect as of 1/1/06.
2 MR. ARONWALD: No objection.
3 THE COURT: Admitted.
4 (Government's Exhibit 19 received in evidence)
5 MR. CARBONE: Government exhibit 30, City of Yonkers
6 Grant Budgets for the year 2002.
7 MR. ARONWALD: I don't know what the relevance is, so
8 there is objection.
9 THE COURT: Relevance?
10 MR. CARBONE: Pursuant to the 666 corrupt payments
11 counts in the indictment, the government is obligated to prove
12 that the City of Yonkers received in excess of \$10,000 a year
13 in federal funding.
14 THE COURT: Admitted.
15 (Government's Exhibit 30 received in evidence)
16 MR. CARBONE: Government exhibit 30A, Board of
17 Education total revenues.
18 THE COURT: Same relevance, I assume?
19 MR. CARBONE: Yes.
20 THE COURT: Any objection?
21 MR. ARONWALD: No objection.
22 THE COURT: Admitted.
23 (Government's Exhibit 30A received in evidence)
24 MR. CARBONE: 30B, City of Yonkers estimated revenue
25 detail 2000 through 2002.

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1 THE COURT: Same relevance?
2 MR. CARBONE: Yes.
3 THE COURT: Any objection?
4 MR. ARONWALD: No objection.
5 THE COURT: Admitted.
6 (Government's Exhibit 30B received in evidence)
7 MR. CARBONE: Government exhibit 31, City of Yonkers
8 grant budgets, year 2003.
9 THE COURT: Same relevance, I assume?
10 MR. CARBONE: Yes.
11 THE COURT: This is just for a different year?
12 MR. CARBONE: Yup.
13 THE COURT: Any objection?
14 MR. ARONWALD: No, ma'am.
15 THE COURT: Admitted.
16 (Government's Exhibit 31 received in evidence)
17 MR. CARBONE: 31 A.
18 THE COURT: Any objection to 31 A and 31 B which are
19 the corresponding documents to 30 A and 30 B?
20 MR. ARONWALD: No objection.
21 THE COURT: Admitted.
22 (Government's Exhibits 31A, 31B received in evidence)
23 MR. CARBONE: And they actually go up through 36 B.
24 So 32, 32 A, 32 B, 33, 33 A, 33 B, 34, 34 A, 34 B, 35,
25 35 A, 35 B, 36, 36 A, and 36 B. They are all City of Yonkers
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1 financial documents reflecting federal funding.

2 THE COURT: Any objection?

3 MR. ARONWALD: No objection.

4 THE COURT: Admitted.

5 (Government's Exhibits 32, 32 A, 32 B received in
6 evidence)

7 (Government's Exhibits 33, 33 A, 33 B received in
8 evidence)

9 (Government's Exhibits 34, 34 A, 34 B received in
10 evidence)

11 (Government's Exhibits 35, 35 A, 35 B received in
12 evidence)

13 (Government's Exhibits 36, 36 A, and 36 B received in
14 evidence)

15 MR. CARBONE: Government exhibit 301.

16 THE COURT: I now have to move to a different binder.

17 MR. ARONWALD: Was your Honor given an exhibit list?

18 THE COURT: I have what is attached to the
19 stipulation, that's all I have got. And I have all of these
20 binders.

21 301, government exhibit 301.

22 MR. CARBONE: I think we did provide the Court and
23 defense counsel with exhibit list.

24 THE COURT: Mr. O'Neill keeps them. Don't give it to
25 me. I just want to work off this stipulation.

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1 MR. CARBONE: 301 is a blank financial disclosure
2 statement.

3 THE COURT: Any objection?

4 MR. ARONWALD: Blank financial disclosure -- I'm not
5 sure. What's the relevance of a blank financial disclosure
6 statement?

7 MR. CARBONE: We intend to show the blank financial
8 disclosure statement to certain Yonkers City Council members.

9 THE COURT: It is a perfectly admissible document it's
10 admitted.

11 MR. ARONWALD: Your Honor, the form that I have --

12 THE COURT: It's admitted.

13 (Government's Exhibit 301 received in evidence)

14 MR. ARONWALD: May I make a record, please.

15 THE COURT: Next exhibit, please.

16 MR. ARONWALD: It's a blank form which has a circle.
17 I would like to know who put the circles on it.

18 THE COURT: All of the lines and circles on the form
19 have to be whited out. A blank form has to be a blank form.
20 It is offered as blank form, it comes in as a blank form.

21 Next document.

22 MR. CARBONE: Government exhibit 355 is the.
23 County Planning Board's letter. During the course of the City
24 Council's review, the Westchester County Planning Board issued
25 a negative recommendation on the project which affected the

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1 way --

2 THE COURT: And that's what this is?

3 MR. CARBONE: Yes.

4 THE COURT: Is this the negative recommendation?

5 MR. CARBONE: Yes.

6 THE COURT: Any objection?

7 MR. ARONWALD: No objection.

8 THE COURT: Admitted, next.

9 (Government's Exhibit 355 received in evidence)

10 MR. CARBONE: Government exhibit 356, City council
11 resolution dated 11/23/05.

12 THE COURT: Any objection?

13 MR. ARONWALD: No objection.

14 THE COURT: Admitted. Next.

15 (Government's Exhibit 356 received in evidence)

16 MR. CARBONE: 357, is the general ordinance dated
17 1/29/05 which is the vote on Ridge Hill.

18 THE COURT: Any objection?

19 MR. ARONWALD: None.

20 THE COURT: Admitted. Next.

21 (Government's Exhibit 357 received in evidence)

22 MR. CARBONE: Your Honor, as to government exhibit 358
23 and 359, those are the audio and video of the City council
24 meetings. We're going to be redacting those. And we have
25 submitted copies of the redacted audio and video to defense

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1 counsel.

2 THE COURT: Well, and I understand that defense
3 counsel may want certain other portions to be shown to the
4 injury as well, right. Is there any argument that the CDs and
5 the transcripts thereof can be admitted, that they are not
6 relevant?

7 MR. CARBONE: Our position is we're offering 358 and
8 359 R.

9 THE COURT: What you offer, you offer. And under the
10 rule of completeness, if they want something else in they can
11 get it in.

12 MR. CARBONE: Assuming it is necessary to explain.

13 THE COURT: That's true. But they haven't done that
14 yet. Is there any objection to what the government wants to
15 offer, subject to the rule of completeness.

16 MR. ARONWALD: With respect to government exhibit 358,
17 no.

18 THE COURT: Okay. 358 is in. As is 358 T.

19 MR. ARONWALD: With respect to 358 T, I have advised
20 the government that we provided the government with our
21 transcripts. And I don't know to what extent this exhibit
22 reconciles the differences between the two. So unless I
23 determine that the two transcripts are in conjunction with each
24 other, then I would object to this transcript coming in.

25 MR. CARBONE: Judge, let me clarify. We're not even

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1 going to offer it. We'll take that issue out of the case.
2 We're not going to offer transcripts, because these audios,
3 they are very clear.

4 THE COURT: Right.

5 MR. CARBONE: We're going to offer only 358 R and 359
6 R, not the underlying --

7 THE COURT: Okay, the recordings. Any objection? No.
8 Okay, they can come in.

9 (Government's Exhibits 358 R, 359 R received in
10 evidence)

11 MR. CARBONE: Only 358 R and 359 R.

12 THE COURT: Right, I understand. Next. 360.

13 MR. CARBONE: We are offering 360, which is the
14 resolution -- if we could have a minute to check that, your
15 Honor.

16 THE COURT: Uh-huh.

17 MR. CARBONE: Can we come back to this one?

18 THE COURT: Check it.

19 MR. CARBONE: This is the resolution relating to the
20 July 11, 2006 Ridge Hill vote.

21 MR. ARONWALD: No objection.

22 THE COURT: Admitted.

23 (Government's Exhibit 360 received in evidence)

24 MR. CARBONE: We are not offering 361.

25 Government exhibit 362, is also another iteration of

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1 the 7/11/06 vote.

2 MR. ARONWALD: No objection.

3 THE COURT: Admitted. 362.

4 (Government's Exhibit 362 received in evidence)

5 MR. CARBONE: Government exhibit 386 is an outlook
6 calendar item for Sandy Annabi for a meeting held on July 11,
7 at a Starbucks with Bruce Bender from Forest City Ratner.

8 THE COURT: Any objection?

9 MR. ARONWALD: If I could just have a moment, your
10 Honor.

11 MR. SIANO: Judge. Judge, this document appears to
12 contain several layers, different layers of information from
13 different individuals and -- I don't -- again, I have questions
14 about this. Admissibility. With regard to both hearsay and
15 with regard to relevance.

16 THE COURT: Do you have an objection?

17 MR. SIANO: Yes, I object.

18 THE COURT: On the ground?

19 MR. SIANO: Hearsay and relevance.

20 THE COURT: This has been authenticated as having come
21 from Ms. Annabi's datebook? I'm asking a question of the
22 government, has this been authenticated?

23 MR. CARBONE: Yes, your Honor. It's stipulated that
24 it's authentic. It's admitted. Objection noted, next.

25 (Government's Exhibit 386 received in evidence)

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1 MR. CARBONE: We're not offering government
2 exhibit 361.

3 THE COURT: I know that.

4 MR. CARBONE: Government exhibit 362 --

5 THE COURT: It's admitted, 386 is admitted.
6 What's next?

7 MR. CARBONE: 363, we're not offering.

8 740 is a resolution related to Longfellow project
9 dated 6/14/05 we're offering that.

10 THE COURT: Any objection?

11 MR. ARONWALD: I'm going through the exhibit list.
12 One moment, please.

13 THE COURT: I don't have 740 here. I'll find it.

14 MR. ARONWALD: Different book.

15 THE COURT: I'll find it.

16 Yes, 740, annotated agenda, City Council of the City
17 of Yonkers, Tuesday June 14, 2005; is that correct?

18 MR. CARBONE: Yes, your Honor.

19 MR. ARONWALD: Only thing I noticed -- and I'm told
20 the original is the same thing. If you look at the exhibit,
21 part of it is illegible, on the left hand margin, there are
22 portions of it which you cannot read.

23 MR. CARBONE: We'll try to get a better copy. It's
24 admitted. Government should try to get a better copy. It is
25 admitted, whether they get a better copy or not.

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1 (Government's Exhibit 740 received in evidence)

2 MR. CARBONE: As to 741, 742, and 743, these are all
3 City council -- well, 741 is city council meeting relating to
4 that 6/14/05 resolution that was just admitted. We're offering
5 741 R, which is just the redacted form of --

6 THE COURT: Government's offering a redacted form of
7 the disk of the recording of the City council meeting of the
8 14th of June 2005. Any objection?

9 MR. CARBONE: 741 R 1, R 2, and R 3.

10 THE COURT: Always subject to the rule of completion
11 on the disks.

12 MR. ARONWALD: No objection as to 741 R 1 through R 3.

13 MR. CARBONE: We're not offering 742, we are offering
14 744 R, which is the redacted version of the 9/26/06 City
15 council meeting which was the vote on Longfellow project.

16 MR. ARONWALD: 743?

17 MR. CARBONE: 744 R.

18 MR. ARONWALD: No objection.

19 THE COURT: Admitted.

20 (Government's Exhibit 744 R received in evidence)

21 MR. CARBONE: 746, we're offering a short clip, which
22 is 746 R, just to show that Ms. Annabi was wearing the diamond
23 cross at City council meeting. It's a very short clip.

24 MR. ARONWALD: No objection.

25 THE COURT: Admitted.

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1 (Government's Exhibits 746, 746R received in evidence)

2 MR. CARBONE: 770 is an e-mail from Debbie Kayal to
3 Sandy Annabi, Re: Special Council Meeting.

4 While Ms. Annabi was in Jordan, she had sent Debbie
5 Kayal a directive advising her to contact Zehy Jereis regarding
6 the Longfellow project.

7 MR. ARONWALD: No objection.

8 MR. SIANO: No objection.

9 THE COURT: Admitted.

10 (Government's Exhibit 770 received in evidence)

11 THE COURT: Okay. That's it for the Yonkers
12 documents.

13 Is there a problem with the other documents, the
14 financial records, the bank records?

15 MR. SIANO: Not from Mr. Jereis.

16 MR. ARONWALD: No, your Honor.

17 THE COURT: They are all admitted.

18 The documents on Schedule B, Hudson Valley Bank, the
19 documents on Schedule C, JP Morgan Chase, the documents on
20 Schedule D, Captial One, the documents Schedule E, M, B, N,A,
21 Documents on Schedule F, Verizon Wireless, documents on
22 schedule G, AT&T, and the documents on Schedule H, Sprint.

23 MR. CARBONE: And your Honor, in the body of the
24 stipulation, there were a few records custodians who only had
25 one exhibit, so starting on page 3 of the stipulation, US Bank,

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1 government exhibit 175.
2 THE COURT: Admitted.
3 (Government's Exhibit 175 received in evidence)
4 MR. CARBONE: On page 5, government exhibit 177 from
5 Macy's.
6 THE COURT: Admitted.
7 (Government's Exhibit 177 received in evidence)
8 MR. CARBONE: Government exhibit 178, Washington
9 Mutual.
10 THE COURT: Admitted.
11 (Government's Exhibit 178 received in evidence)
12 MR. CARBONE: Government exhibit 180, on page 6, from
13 Sears.
14 THE COURT: Admitted.
15 (Government's Exhibit 180, received in evidence)
16 MR. CARBONE: On page 7 government exhibit 188, which
17 is a Discover Card records.
18 THE COURT: Admitted.
19 (Government's Exhibit 188 received in evidence)
20 MR. CARBONE: Government exhibit 200, North Fork Bank.
21 THE COURT: Admitted.
22 (Government's Exhibit 200 received in evidence)
23 MR. CARBONE: And T-Mobile, government exhibit 1503.
24 THE COURT: Admitted.
25 (Government's Exhibit 1503 received in evidence)

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1 MR. CARBONE: Thank you.
2 We have nothing further, your Honor.

3 THE COURT: Great.
4 Get your first witness in here.
5 (Jury present)

6 THE COURT: Good morning, everybody have a seat.
7 I hope everyone had a great weekend. We're ready to
8 go.

9 Call your first witness, please -- oh, nope. We're
10 going to pass out notebooks for you folks. You can take notes.
11 You can -- jurors. Great. Make sure everybody is in the right
12 seat, yes, that's correct. That's good, yes.

13 These notebooks are for your personal use. You can
14 take notes. You are the ones going to be making a decision in
15 the case, so if I can take notes, I can't see any reason why
16 you can't take notes.

17 That being the case, notebooks. The notebooks are not
18 the official record in the case. And we allow you to take
19 notes on the understanding that if, when you are deliberating,
20 folks, and you have a difference of opinion about what a
21 witness said, you can -- you tell me and we let the court
22 reporter get that testimony read back to you. You don't
23 resolve disputes by referring to your notebook. The notebook
24 is to jog your own personal memory.

25 All right. Call your first witness, please.

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1 MR. HALPERIN: Your Honor, the government calls Judy
2 Delage.

3 JUDY DELAGE,

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

6 THE COURT: You may inquire.

7 MR. HALPERIN: Thank you, your Honor.

8 DIRECT EXAMINATION

9 BY MR. HALPERIN:

10 Q. Good morning, Ms. Delage. Where are you employed?

11 A. Good morning, I work for CitiBank.

12 Q. What is your title at CitiBank?

13 A. My title is litigation analyst.

14 Q. How long have you been employed by CitiBank?

15 A. It's been about 17 years now.

16 THE COURT: Keep your voice up, Mr. Halperin.

17 Q. And what are your duties and responsibilities as litigation
18 analyst.

19 A. My responsibilities are to review the documents and records
20 that are available to me, usually in the form of credit card
21 debt, as well as student loans. I'm the custodian of records.

22 Q. Have you become familiar with the records of CitiBank?

23 A. Yes, I have.

24 Q. I'm now showing you what has been marked as government
25 exhibits 179, 187, 195, 206 A, 207, 207 A through BB and.

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1 207 CC, 207 DD1, 207 EE1, 207 FF through PP, 212 D and 212 E.

2 MR. HALPERIN: Your Honor may I approach?

3 THE COURT: You may. Take a few moments to review
4 those documents, please.

5 BY MR. HALPERIN:

6 Q. Ms. Delage, do you recognize these documents?

7 A. Yes, I do.

8 Q. Have you reviewed all of these exhibits before your
9 testimony here today?

10 A. Yes, I have.

11 Q. Are all of these records kept in the regular course of
12 CitiBank's business?

13 A. They are.

14 Q. Was it the regular practice of CitiBank to make and keep
15 such records?

16 A. Yes, it is.

17 Q. Are the entries on the records made, or are the documents
18 received, at or near the dates reflected on the documents?

19 A. Yes.

20 Q. And are the documents created by, or based on information
21 received from, someone with knowledge of the transaction.

22 A. Yes, they are.

23 MR. HALPERIN: Your Honor, the government offers into
24 evidence government exhibits 179, 187, 195, 206 A, 207, 207 A
25 through BB, 207 CC, 207 DD1, 207 EE1, 207 FF through PP, 212 D,

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C210ann1 Delage - direct
1 and 212 E.

2 THE COURT: Any objection?

3 MR. ARONWALD: No objection, your Honor.

4 MR. SIANO: No objection on behalf of Mr. Jereis.

5 THE COURT: Admitted.

6 (Government's Exhibits 179, 187, 195, 206A, 207,
7 207A-BB received in evidence)

8 (Government's Exhibits 207CC, 207DD1, 207EE1, 207
9 FF-PP, 212D, 212E received in evidence)

10 MR. HALPERIN: Mr. Turk, please broadcast government
11 exhibit 212 D.

12 Q. And, Ms. Delage, what type of account is this account for
13 212 B?

14 A. This is a Citi Platinum Select card, Mastercard.

15 Q. In the upper left corner, who is account holder on this
16 account?

17 A. Samir Annabi.

18 MR. CARBONE: Judge, I think we have we've a technical
19 issue. Jurors number one and two can't see their screen.

20 THE COURT: That's not good. Someone from the U.S.
21 Attorney's Office should step offer there and fix the
22 equipment.

23 A JUROR: There is no power.

24 MR. HALPERIN: There may be a short with that monitor.

25 THE COURT: Give them a copy of the exhibit to look

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1 at, and you need to station somebody over there so we don't
2 have a long time lag every time there is a new exhibit to show.

3 The issue is with jurors number one and two.

4 BY MR. HALPERIN:

5 Q. Ms. Delage, what is the address listed for Samir Annabi.

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

7 MR. HALPERIN: Mr. Turk, let's turn for a moment to
8 government exhibit 195.

9 Q. Ms. Delage, whose account does this pertain to?

10 A. Samir Annabi.

11 MR. HALPERIN: Mr. Turk, let's turn to page 2.

12 Q. Ms. Delage, were there any other users allowed to use this
13 account?

14 A. Yes, there was an authorized user.

15 Q. Who?

16 A. Sandy Annabi.

17 Q. Since what year was Sandy Annabi an authorized user on this
18 account?

19 A. Since the beginning when the account opened, which would be
20 in 1993.

21 MR. HALPERIN: Mr. Turk, go back to government
22 exhibit 212 D.

23 Q. Ms. Delage, is this document 212 D, for the same account
24 where Sandy Annabi was the authorized user?

25 A. Yes, it is.

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C210ann1 Delage - direct

1 Q. And what's the closing date for this statement?

2 A. The closing date is July 7, 2006.

3 Q. And what kind of credit card was it?

4 A. It's Platinum Select card, Mastercard.

5 Q. Let me direct your attention to the statement itself.

6 Look at the first line under standard purchases, about
7 half way down. This is 212 D, the one on the monitor.

8 And what's the sale date there in the left, on the
9 left column?

10 A. It's June 2nd, 2006.

11 Q. And what is the item listed?

12 A. Part of the item is cut off, but it's Royal Joe and the
13 rest of the word is cut off.

14 Q. What was the amount of the charge?

15 A. \$1,447.20.

16 Q. Let me direct your attention to three lines up, something
17 got posted on June 5. Was there a conditional credit for
18 dispute?

19 A. Yes.

20 Q. What does that mean?

21 A. It means that that particular item was in dispute, so
22 CitiBank gave a conditional credit while the item was
23 researched.

24 Q. And how much was that conditional credit for?

25 A. \$1,447.20.

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C210ann1 Delage - direct

1 Q. Let me direct your attention to, one line up, to June 26.

2 What is the item on the fourth line from the top?

3 A. Royal Joe. Again, it's cut off.

4 Q. Okay. And what's the amount there?

5 A. \$1,297.20.

6 Q. And is that a refund?

7 A. Yes.

8 MR. HALPERIN: Mr. Turk, please let's display 212 E.

9 Q. Ms. Delage, which account is this, same account?

10 A. This is the same account, yes.

11 Q. And what's the closing date of this statement?

12 A. September 7, 2006.

13 Q. Let me direct your attention to the left column.

14 MR. HALPERIN: Magnify it, please.

15 Q. The sale date, the fourth line from the bottom, the sale
16 date August 22, what is the item listed?

17 A. T&R Jewelers.

18 Q. Where is it located?

19 A. New Rochelle, New York.

20 Q. What was the amount charged?

21 A. \$3,251.25.

22 Q. And let me also direct your attention to the first line
23 under standard purchase.

24 What is that item?

25 A. That's reverse of the Royal Joe purchase.

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- 1 Q. And what's the amount there?
2 A. \$1,447.20.
3 Q. And what does this mean when it's a reverse?
4 A. Basically means that conditional credit that we reviewed on
5 the previous statement, that was reversed and now the charge is
6 legitimate and is back on the credit card.
7 Q. What was the posting date of that, in the second column?
8 A. Posting date is August 9th, 2006.
9 Q. What was the amount of the payment to the Citi card that
10 was made on this statement, top line?
11 A. \$87.14.
12 Q. How was that payment received by Citi card?
13 A. That was made via check, through the United States Post
14 Office.
15 Q. How do you know it was made through the U.S. Mails.
16 A. Because the payment was mailed in, as opposed to electronic
17 payment, or check by phone. If it was an electronic payment or
18 check by phone, something through the internet, it would
19 indicate as such by default. If it just says payment, thank
20 you, that was sent through the mail.
21 Q. And where was it sent to? What's the address at the top?
22 A. Can we --
23 MR. HALPERIN: Magnify it, Mr. Turk.
24 Sorry about that.
25 A. It was sent to P.O. Box 182564, in Columbus, Ohio. Zip
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1 Code 43218, I believe.

2 Q. Thank you.

3 MR. HALPERIN: Mr. Turk, let's display 206 A.

4 Q. What customer is this account for, Ms. Delage?

5 A. Zehy Jereis.

6 Q. What address?

7 A. Nineteen Woodbrooke Road, Scarsdale, New York, 10583.

8 Q. What type of credit card?

9 A. This is a Citi Diamond Preferred Rewards card, Mastercard.

10 Q. And what's the statement date?

11 A. October 25th, 2005.

12 Q. Let me direct your attention to the second line under
13 standard purchases.

14 Do you see the sale date of September 27?

15 A. Yes, I do.

16 Q. What category of item is that listed for?

17 A. That is a vehicle service.

18 Q. And what was the description of the item?

19 A. Ray Catena Motor Car, out of Edison, New Jersey.

20 Q. How much was the charge?

21 A. \$500.

22 Q. Was there a payment received this month?

23 A. Yes.

24 Q. On what date?

25 A. October 17th.

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1 Q. How much was it?

2 A. In the amount of \$100.

3 Q. And how was it received?

4 A. Again, that was made through the mail, through the U.S.
5 Post Office, via check.

6 MR. HALPERIN: Mr. Turk, let's display government
7 exhibit 179.

8 Q. I'm sorry that's the hard copy binder, Ms. Delage, in front
9 of you.

10 MR. HALPERIN: Just display the first, page, please,
11 Mr. Turk.

12 Q. Ms. Delage, you have the hard copy, you can look there.
13 And looking at this binder, generally, what are these, Ms.
14 Delage?

15 A. In this binder, there are copies of monthly bill statements
16 that were mailed to the address given, as well as they are
17 copies of checks made upon the account.

18 MR. HALPERIN: One moment, your Honor.

19 Q. Ms. Delage, let me borrow the binder from you, please. And
20 these were for which account, Ms. Delage?

21 A. For Samir Annabi's account.

22 Q. Who else was the authorized user on the account?

23 A. Sandy Annabi.

24 Q. What time do these monthly statements run from, generally.
25 I can give you the binder back.

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1 Generally, what years do these range from, Ms. Delage?

2 A. The beginning date is January 2002. And it ends
3 December 2009.

4 Q. Okay, thank you. You can put that aside.

5 Let me direct your attention to government
6 exhibit 187. And which account holder are these records for?

7 A. These are for Zehy Jereis.

8 Q. Is this the same account holder named Zehy Jereis that you
9 mentioned earlier?

10 A. Yes, it is.

11 Q. And, generally, what years do these records range from?

12 A. These begin in January 2001, and end in September 2007.

13 Q. Okay, thank you. You can put that to the side.

14 Ms. Delage, is CitiBank also a lender of student
15 loans?

16 A. Yes.

17 Q. Can we display 207.

18 Ms. Delage, what is shown on government exhibit 207,
19 at the top, first?

20 A. This is a copy of a check that was used as a payment on the
21 student loan account.

22 Q. And at the bottom of the page.

23 A. That is the actual stub that would go along with the
24 payment for Sandy Annabi's account.

25 MR. HALPERIN: Mr. Turk, can you magnify the bottom

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1 half, please. And who is the borrower on this account.

2 A. Sandy Annabi.

3 Q. What address?

4 A. 51 Linden Street, Yonkers, New York, 10701.

5 Q. And who are the coupon payments made to?

6 A. The Student Loan Corporation, CitiBank.

7 Q. And what's the Student Loan Corporation's relationship with
8 CitiBank?

9 A. CitiBank owns the company. And we're also the service
10 provider for the student loan.

11 Q. What was the account number on this account?

12 A. 4401950033004-20.

13 MR. HALPERIN: And Mr. Turk, can we zoom back out,
14 please.

15 Q. Now, directing your attention to the top part of the page,
16 whose name is listed on the top of the check and typed?

17 A. Zehy Jereis.

18 Q. What address?

19 A. Seventeen Robbins Place, Second Floor, Yonkers, New York
20 10705.

21 Q. Who's the check made out to?

22 A. Student Loan Corporation.

23 Q. Date?

24 A. January 5, 2004.

25 Q. The amount of the check?

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- 1 A. \$400.
2 Q. And what's the account number listed on the memo line of
3 the check?
4 A. Same as coupon. Would you like me to read it?
5 Q. No, you don't have to read that.
6 MR. HALPERIN: Zoom back out, Mr. Turk.
7 Q. Take a moment and look at 207 A through 207 BB. I think
8 you have that in front of you.
9 Do you have that, Ms. Delage?
10 A. I do.
11 Q. What are the rest of these documents?
12 A. These are more copies of checks made on the same student
13 loan account, as well as payment stubs.
14 Q. And whose name is written at the top of these checks?
15 A. Zehy Jereis.
16 Q. For which borrower were these payments being made?
17 A. Sandy Annabi.
18 Q. Let me now direct your attention to 207 FF through 207 PP.
19 A. Okay.
20 Q. Generally, what are these documents Ms. Delage?
21 A. These are also copies of checks made for the student loan
22 account, as well as the stubs that go along with the student
23 loan for Sandy Annabi's account.
24 Q. So for the same borrower?
25 A. Yes.

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1 Q. And whose name was at the top of the checks?

2 A. Zehy Jereis.

3 MR. HALPERIN: Let's just display 207 GG. Magnify
4 both. Thank you, Mr. Turk.

5 Q. Directing your attention to the top. Whose name is at the
6 top of the check?

7 A. Zehy Jereis.

8 Q. What's the date of the check?

9 A. The date is February 3, 2003.

10 Q. Payment is to whom?

11 A. Student Loan Corporation.

12 Q. How much?

13 A. \$400.

14 Q. And the payment coupon, at the bottom part of the page, who
15 is the borrower listed?

16 A. Sandy Annabi.

17 Q. Okay. Let's please review, Ms. Delage, 207 GG, HH
18 and II. And what was the date of those three checks?

19 A. 207 GG?

20 Q. Yes.

21 A. The date. The date is February 3, 2003.

22 Q. Okay. For 207H, the date?

23 A. Date is March 3, 2003.

24 Q. 207 II, the date?

25 A. April 5, 2003.

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C210ann1 Delage - direct

1 Q. Did you check how CitiBank received those payments?

2 A. Yes.

3 Q. How were they received?

4 A. Through the mail, by a check.

5 Q. United States Mail?

6 A. Yes, United States.

7 MR. HALPERIN: Nothing further, your Honor.

8 THE COURT: Mr. Aronwald.

9 CROSS-EXAMINATION

10 BY MR. ARONWALD:

11 Q. With respect to the account that's in 212 D, and in
12 government exhibit 195, that was the account in the name of
13 Samir Annabi, do you recall that?

14 A. Yes, I do.

15 Q. Do you have those exhibits in front of you?

16 A. I'm sorry, you said exhibit 195?

17 Q. I think you testified that 212 D and 195 both relate to the
18 same account?

19 A. Yes.

20 Q. And that was a credit card account, was it? Or was that a
21 checking account?

22 A. One moment. These are for credit card accounts.

23 Q. Okay. Do you know when that credit card account was
24 opened, the date and year it was opened?

25 A. Yes. It was opened in November of 1993.

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1 Q. Okay. And was it -- do you -- withdrawn.

2 At that time, was it -- did the bank require that,
3 since the account was in joint names, as you testified, that
4 the opening, or the application, or whatever documents were
5 required to open the account, be signed by both people in whose
6 name the account was?

7 A. No, the -- Sandy Annabi was not technically a joint
8 applicant. She was an authorized user.

9 Q. Okay. And what -- you know that, how?

10 A. By the way it's listed on the second screen in exhibit 195,
11 she's listed as a secondary, which is different than a joint
12 applicant. A joint applicant would be equally responsible,
13 whereas a secondary or authorized user simply can use the card.

14 Q. Okay. So when you say on the second screen of exhibit 195,
15 could we have the exhibit put back up on the monitor so that
16 the jurors could see it?

17 THE COURT: Thank you.

18 Q. Is that the screen that you are referring to?

19 A. Yes, it is.

20 Q. Okay. And you said that account was opened in November of
21 1993?

22 A. Yes.

23 Q. And at that time, what was the address that was listed for
24 Samir Annabi?

25 A. I don't have that information going back that far here in

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1 the court.

2 Q. So we have seen some documents which list 245 Rumsey Road
3 as the address on the account, namely, 212 D, and government
4 exhibit 195, correct?

5 A. Yes, I believe so.

6 Q. You don't know whether that was the same address that was
7 listed when the account was initially opened in 1993?

8 A. That is correct.

9 Q. You don't -- and there are no records that you have with
10 you today that would indicate what address was listed as the
11 account holder's address on that date?

12 A. Not with me today, that is correct.

13 Q. Okay. And there were no guarantors on that account?

14 A. Explain what that --

15 Q. When the account was opened, there was no third-party who
16 basically guaranteed that they would be responsible in the
17 event the account went into default?

18 A. That is correct.

19 Q. The only two people that would be responsible for paying
20 the bills would be either Samir Annabi or Sandy Annabi,
21 correct?

22 A. Actually, only Samir Annabi would be responsible.

23 Q. Okay. But Sandy Annabi was an authorized user?

24 A. Correct.

25 Q. And with respect to the 212 series of exhibits, which were

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1 the -- I'm sorry, government exhibit 212, D and E, that's on
2 the -- that relates to the same account, correct?

3 A. 212 E, yes.

4 Q. Okay. Directing your attention to government exhibit 207,
5 there were a series of documents which Mr. Halperin had you
6 describe, which each exhibit consists of two portions; one was
7 the check and the other one was the payment coupon?

8 A. That's correct.

9 Q. Do you -- do you know on what date the student loan was
10 taken out?

11 A. I don't know that information.

12 Q. Okay. But the student loan was made to Sandy Annabi,
13 correct?

14 A. That's correct.

15 Q. Okay. The address that is listed on the payment coupon in
16 each of these exhibits is 51 Linden Street, Yonkers, New York?

17 A. Yes.

18 Q. And that information is on there based upon the information
19 that was provided on the loan application itself?

20 A. That is correct.

21 Q. When CitiBank -- at some point, CitiBank was served with a
22 subpoena requiring the production of all of the records about
23 which you have testified this morning, correct?

24 A. I believe so, yes.

25 Q. Okay. And do you recall whether, in connection --

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1 withdrawn.

2 Were you responsible for gathering the records for
3 compliance with that subpoena?

4 A. No, I was not.

5 Q. Okay. The subpoena was served on the custodian of records
6 for CitiBank, is that correct?

7 A. I believe so. I believe the subpoena may have gone through
8 our Legal Department.

9 Q. Okay. Do you know whether or not the loan application, or
10 any other document or record which would indicate the date on
11 which the student loan was issued, do you have any knowledge as
12 to whether any document providing that information was included
13 within the total population of documents that CitiBank provided
14 to the government in response to the subpoena?

15 A. I don't have that information.

16 Q. In connection with a student loan, was it necessary that
17 the person applying for the loan make out a formal student loan
18 application?

19 A. I believe that's the procedure.

20 Q. Okay. Do you know whether or not the student loan
21 application in connection with this particular loan was among
22 the documents that were produced by CitiBank to the government
23 in response to the government subpoena?

24 A. Again, I don't have that information.

25 Q. Before appearing to testify today, did you meet with either

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1 Mr. Halperin or Mr. Carbone to prepare for your testimony?

2 A. Yes.

3 Q. And did you review a series of documents, some of which
4 include the documents about which you testified this morning?

5 A. Yes.

6 Q. Okay. Do you know whether the documents that you reviewed
7 comprise all of the documents that were produced by CitiBank in
8 connection with both the student loan and in connection with
9 the credit card account about which you have testified?

10 A. I believe I reviewed all of the documents that were
11 presented here today, if that's what you are asking.

12 Q. Do you recall whether you reviewed any other documents
13 other than the documents that were reviewed by you here today?

14 A. No, I don't believe so.

15 Q. Okay. Do you have any recollection of seeing either the
16 application for the student loan, or -- start with that.

17 Do you have any recollection of seeing the student
18 loan application when you reviewed the documents with the
19 government?

20 A. I have not seen the application.

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

22 THE COURT: Of course.

23 Q. The first series of payments in connection with the student
24 loan began in 2003; is that correct?

25 A. The series of payments that we have here in Court today

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1 begin with 2003.

2 Q. Okay. Do you know whether or not there were any payments
3 made by Mr. Jereis in connection with that student loan before
4 the year 2003?

5 A. I don't know.

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

7 THE COURT: Thank you.

8 Mr. Siano?

9 MR. SIANO: Briefly, your Honor.

10 CROSS-EXAMINATION

11 BY MR. SIANO:

12 Q. Ms. Delage, could you look at government exhibit 207 V,
13 please. Take your time.

14 THE COURT: Okay, 207V?

15 THE WITNESS: Okay, I have it.

16 MR. SIANO: May I consult with the government?

17 THE COURT: Of course.

18 Q. Do you have this, Ms. Delage?

19 A. I do, yes.

20 Q. In fact, that reflects student loan payments by Mr. Jereis
21 in 2002, isn't that correct?

22 A. Oh -- yes, it is.

23 Q. It does. So had you had the opportunity to see that
24 document before you answered the prior lawyer's question, I
25 believe the answer might be the payments started in 2002?

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1 A. You are correct.

2 Q. No, you are correct, you're the witness.

3 The question is, do they continue through 2005, ma'am?

4 Take a look at 207 M, just by way of example.

5 A. Yes, I see them in 2005.

6 Q. Okay. And then if you go to 207 S, appears to be a check
7 for a payment in December of 2005?

8 A. That's correct.

9 Q. And then if you look at 207 T, there appears to be one
10 several months later, September -- could be July --
11 handwritten -- of 2006; is that right?

12 A. Yes.

13 Q. No others after that, as far as you know, from your review
14 of the documents?

15 A. I don't believe so.

16 Q. So regular payments, it would be fair to say regular
17 payments 2002 through 2005, a single payment in 2006, to the
18 best of your recollection as you sit there now?

19 A. That's correct.

20 MR. SIANO: Have a nice day.

21 MR. HALPERIN: No redirect, your Honor.

22 THE COURT: Thank you, ma'am. You may step down.

23 THE WITNESS: Thank you.

24 (Witness excused)

25 THE COURT: Do you want to retrieve these exhibits?

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1 And call your next witness, please.

2 MR. CARBONE: Government calls Deirdre Angelastro.

3 THE CLERK: Step around onto the witness stand, remain
4 standing in front of the chair, raise your right hand.

5 DEIRDRE ANGELASTRO,

6 called as a witness by the Government,
7 having been duly sworn, testified as follows:

8 THE COURT: You may inquire.

9 DIRECT EXAMINATION

10 BY MR. CARBONE:

11 Q. Good morning.

12 A. Good morning.

13 Q. Where you employed?

14 A. Hudson North Management, in Ardsley, New York.

15 Q. And what is your title?

16 A. I am the controller.

17 Q. How long have been employed by Hudson North Management.

18 A. 17 years?

19 Q. What is the business of Hudson North Management?

20 A. Hudson North Management is a real estate management
21 company. We manage co-ops and condos in the Westchester area.

22 Q. And are you familiar with an entity known as Park View
23 Owners?

24 A. Yes.

25 Q. And what is Park View Owners?

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- 1 A. Park View Owners is a cooperative apartment located in
2 Yonkers, New York and they are a client of Hudson North
3 Management.
4 Q. Are you familiar with the building located at 245 Rumsey
5 Road in Yonkers?
6 A. Yes, I am.
7 Q. And is that a cooperative apartment building?
8 A. Yes.
9 Q. And is that one of the buildings that Hudson North
10 Management manages?
11 A. Yes, it is.
12 Q. What specifically do you do with respect to 45 Rumsey Road?
13 A. I do payables, receivables, payroll.
14 Q. Does Sandy Annabi own an apartment in that building?
15 A. Yes, she does.
16 Q. What apartment does she own?
17 A. I believe it is 1B.
18 Q. 1B. And as far as you aware, does Zehy Jereis own or rent
19 any apartments in that building?
20 A. No, sir, I'm not.
21 Q. Are you familiar with the business records maintained by
22 Park View Owners?
23 A. Yes.
24 Q. Would you please look at government exhibit 220.
25 Have you reviewed government exhibit 220?

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Angelastro

1 A. Yes.

2 Q. And can you explain what government exhibit 220 is?

3 A. This is a tenant profile that we, Hudson North would
4 provide to residents; banking information, it shows their
5 tenant history, how they pay their maintenance.

6 Q. And what apartment does government exhibit 220 relate to?

7 A. Apt. 1B.

8 Q. When a tenant applies to purchase a cooperative apartment,
9 are they required to submit letters of reference?

10 A. Yes, they are.

11 Q. Would you please look at government exhibit 535 for
12 identification.13 Was government exhibit 535 maintained in the file
14 relating to Sandy Annabi's application to purchase shares of
15 245 Rumsey Road?

16 A. Yes, it was.

17 Q. And are government exhibits 220 and 535 kept in the
18 ordinary course of Park View Owners business?

19 A. Yes.

20 Q. Is it the regular course of the business to make and keep
21 such records?

22 A. Yes.

23 Q. Are the records or entries on the records made at or near
24 the dates reflected on them?

25 A. Yes.

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1 Q. And are they made by someone, or received by someone, with
2 knowledge of the transactions?

3 A. Yes.

4 MR. CARBONE: Your Honor, government offers
5 exhibits 220 and 535 in evidence.

6 MR. ARONWALD: No objection.

7 MR. SIANO: No objection.

8 THE COURT: Admitted.

9 (Government's Exhibits 220, 535 received in evidence)

10 MR. CARBONE: Mr. Turk, would you please broadcast
11 government exhibit 220 and maximize the top portion of the
12 document.

13 Q. Now, does each tenant have AN account number assigned to
14 them?

15 A. Yes.

16 Q. And what is the number assigned to Defendant Sandy Annabi's
17 apartment?

18 A. That would be account number 810-002.

19 Q. And have you reviewed the canceled checks received in
20 evidence, government exhibits 209 through 209 LL, in front of
21 you in the binder?

22 A. Yes.

23 Q. And did they -- do those cancelled checks refer to account
24 number 810-002?

25 A. Yes.

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1 Q. And was Sandy Annabi's maintenance account credited for the
2 amounts reflected on those checks?

3 A. Yes.

4 Q. And were all of those checks drawn on an account in the
5 name of Zehy Jereis?

6 A. Yes.

7 MR. CARBONE: Mr. Turk, please broadcast exhibit 209.
8 And maximize the check portion.

9 Q. What is the date of this check?

10 A. April 5, 2005.

11 Q. And the amount?

12 A. \$870.76.

13 Q. What is the address reflected under the name Zehy Jereis?

14 A. 17 Robbins Place, Second Floor Yonkers, New York 10705.

15 MR. CARBONE: And would you please, Mr. Turk, maximize
16 the stamp on the back of the check?

17 Q. Are you familiar with that stamp?

18 A. Yes.

19 Q. And how are you familiar with it?

20 A. That's an endorsement statement for Park View Owners. That
21 endorsement stamp is placed on the back of the check when a
22 check is dropped off at our Hudson North for deposit.

23 Q. Who typically stamps that?

24 A. Yes.

25 Q. Is that you --

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1 A. Yes, it --

2 Q. -- or someone in your office?

3 A. Yes.

4 MR. CARBONE: Please broadcast government
5 exhibit 2090, maximize the top left of the check.

6 Q. Now, is 2090, is that a check that was received by Park
7 View Owners?

8 A. Oh, I'm sorry --

9 Q. Do you have 2090 in front of you, or you can look right on
10 the screen there if you like?

11 A. Okay, go ahead. Repeat that, please.

12 Q. Is that a check that was received by Park View Owners to
13 pay for Sandy Annabi's maintenance payment?

14 A. Yes.

15 Q. And are you familiar with an entity known as Zehy Jereis
16 Enterprises?

17 A. No.

18 Q. In the memo section, it says 810-002; whose account number
19 is that?

20 A. That would be Sandy Annabi's.

21 Q. Are you familiar with the handwriting on the top of the
22 check that says Sandy Annabi?

23 A. Yes, that's my handwriting.

24 MR. CARBONE: Please broadcast 209E.

25 Q. And is this a check received by Park View Owners in

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1 connection with Sandy Annabi's maintenance payments?

2 A. Yes, it is.

3 Q. And what is the date of the check?

4 A. October 10, 2006.

5 Q. And whose account does this check appear to be drawn on?

6 A. Zehy Jereis Enterprises.

7 Q. And whose handwriting is that on the top of the check where
8 it says 810-002.

9 A. That is mine.

10 MR. CARBONE: No further questions, thank you.

11 THE COURT: Mr. Aronwald.

12 MR. ARONWALD: Very briefly, your Honor.

13 CROSS-EXAMINATION

14 BY MR. ARONWALD:

15 Q. Directing your attention to government exhibit 535.

16 MR. ARONWALD: Could we have that put up on the
17 screen, please?

18 THE COURT: 535.

19 (Continued on next page)

20

21

22

23

24

25

C2LAAANN2

Angelastro - Cross

1 BY MR. ARONWALD:

2 Q. Were you at all involved in the production of the
3 documents -- well, withdrawn.4 Did you provide or your company provide documents to
5 the United States Attorney's Office and to the grand jury in
6 connection with a subpoena that was served requiring production
7 of documents relating to go Sandy Annabi's account?

8 A. Yes, sir.

9 Q. Okay. And did you produce -- withdrawn.

10 During the actual compilation of the documents for the
11 production

12 A. Yes.

13 Q. Okay. And the documents that the government has shown you
14 this morning, those are only a representative sampling of the
15 document; is that correct?

16 A. Yes.

17 Q. Government Exhibit 535 is a letter of reference?

18 A. Yes.

19 Q. I believe you testified that as part of the application
20 process Park View requires that letters of reference be
21 submitted so that they can determine whether or not they want
22 to approve or disapprove the application of the person looking
23 to buy the apartment?

24 A. Correct.

25 Q. And Park View is that a co-op or a condo?

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C2LAAANN2

Angelastro - Cross

- 1 A. Park View is a cooperative co-op.
2 Q. And does Hudson Management also, aside from co-ops and
3 condos, also represent home owners associations?
4 A. Yes.
5 Q. Okay. Now, the letters of reference that are submitted,
6 are those submitted to Hudson Management or are those submitted
7 directly to the co-op itself?
8 A. Well, we have a real estate management department so they
9 would be collecting the application. There is an application
10 process.
11 Q. And the letter of reference that is in Government Exhibit
12 535 that is not the only letter of reference that was submitted
13 on Ms. Annabi's behalf, correct?
14 A. Correct.
15 Q. Do you recall how many other letters of reference were
16 submitted on her behalf?
17 A. Three.
18 Q. Do you have those with you today?
19 A. No.
20 Q. Okay. Do you recall the names of the people who submitted
21 them?
22 A. There was "Maria" someone.
23 Q. Was Naydeh Sayegh one of the people who submitted a letter
24 of reference?
25 A. Yes.

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C2LAAANN2

Angelastro - Cross

1 Q. Was David Madranda someone who also submitted a letter of
2 reference on Ms. Annabi's behalf?

3 A. That name doesn't -- Say that again.

4 Q. David Madranda?

5 A. That doesn't sound familiar, no.

6 Q. Do you recall the name of the other person who submitted --

7 A. I believe it was a woman.

8 Q. A woman other than the woman that you just referred to
9 earlier?

10 A. Oh, no just that woman.

11 Q. Okay. So there were --

12 A. Three.

13 Q. Three including Government Exhibit 535 or in addition?

14 A. No, three.

15 THE COURT: A total of three references?

16 THE WITNESS: Yes.

17 MR. ARONWALD: No further questions. Thank you very
18 much.

19 THE COURT: Mr. Siano.

20 CROSS-EXAMINATION

21 BY MR. SIANO:

22 Q. Good morning, Ms. Angelastro.

23 A. "Mrs".~Angelastro. Good morning.

24 Q. Ms. Angelastro, do you have -- I'd like if we could to see
25 2090. Thank you.

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C2LAAANN2

Angelastro - Cross

1 Ms. Angelastro, 209-0 is a check for a somewhat larger
2 sum. In fact, it appears to be, approximately, double the
3 other monthly sums; is that correct?

4 A. Yes.

5 MR. SIANO: All right. And, Mr. Terk, 220 the second
6 page.

7 Q. If you would look about the, I think it's the 7th and 8th
8 or 8th and 9th lines of that exhibit. Appears that there was a
9 month where the payment wasn't made and then the following
10 month 2090 covers two months of maintenance is that correct?
11 Take your time.

12 A. You mean August 2006? Yes, yes. You are correct.

13 MR. SIANO: Thank you. No further questions.

14 THE COURT: Anything?

15 MR. CARBONE: No further questions.

16 THE COURT: Thank you, ma'am. You may step down.

17 MR. CARBONE: Your Honor, the government offers
18 Government Exhibit 1 which is a stipulation.

19 THE COURT: Okay. Ladies and gentlemen, I told you
20 that there were three types of evidences in a case, testimony
21 of witnesses, the exhibits, the documents that you've seen some
22 examples of this morning and stipulations or agreements that
23 are made by and between, "among", I should say, counsel.
24 Stipulations can relate to what is a witness would testify
25 about or they can relate to other matters. A stipulation is an

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Angelastro - Cross

1 agreement that a particular witness would testify in a
2 particular way or that a particular fact is true.

3 You are to regard the matters stipulated as having
4 been proved in accordance with the terms of the stipulation
5 whether you think it's important or not important whether it
6 enters into your calculations or not doesn't make any
7 difference. You use the information in any way you see fit.
8 But this information is deemed proved because the parties have
9 agreed to it, okay.

10 So because both sides agree I make it my practice to
11 read the stipulation myself since it represents the agreement
12 of both sides.

13 It is hereby stipulated and agreed by and amongst the
14 United States of America, by Preet Bharara, United States
15 Attorney for the Southern District of New York, Perry Carbone
16 and Jason C.W. Halperin, Assistant United States Attorneys of,
17 counsel and Sandy Annabi, the defendant, by and with the
18 consent of her attorney William I. Aronwald, Esquire and Zehy
19 Jereis, the defendant, by and with the consent of his attorney,
20 Anthony Siano, Esquire as follows:

21 I am going to wait until Mr. Aronwald can sit down and
22 then we'll go. Thank you.

23 Okay. The first part of this stipulation is labeled
24 City of Yonkers Schedule A.

25 One, that if a representative of the city of Yonkers

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C2LAAANN2

Angelastro - Cross

1 were to testify at trial he would testify under penalty of
2 perjury that he is the custodian of records or other qualified
3 person as those terms are used in Rule 8036 and 90211. That's
4 the Federal Rules of Evidence by the way. And that he has
5 examined the Government Exhibits listed on the attached
6 Schedule A and that those records are true and accurate
7 business records of the city of Yonkers that.

8 A, were made at or near the time of the occurrence of
9 the matters set forth by or from information transmitted by a
10 person with knowledge of those matters.

11 B, or kept in the ordinary course of the regularly
12 conducted activity of the business as a regular practice.

13 C, were paid by the regularly conducted activity as a
14 regular practice.

15 D, if not original records are accurate duplicates of
16 the originals of the records.

17 And there is attached to the stipulation a list of
18 documents that the parties have essentially agreed are
19 authentic and are business records and we have gone through
20 them this morning and I have admitted a number of them into
21 evidence. That's what we were doing when we kept you waiting
22 for a few minutes and you will see them over the course of the
23 trial.

24 The next section is Hudson Valley Bank Schedule B.

25 2, that if a representative of Hudson Valley bank were

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C2LAAANN2

Angelastro - Cross

1 to testify at trial he or she would testify under penalty of
2 perjury, that he or she, the custodian of records or other
3 qualified person as those terms are used in Rule 8036 and 90211
4 and this he or she has examined the Government Exhibits listed
5 on the attached Schedule B and that those records are true and
6 accurate business records of the Hudson Valley bank, that, A,
7 were made the or near the time of the occurrence of the matters
8 set forth by or from information transmitted by a person with
9 knowledge of those matters; B, were is kept in the course of
10 regularly conducted activity of the business as a regular
11 practice; C, were made by the regularly conducted activity as a
12 regular practice and; D, if not the original records are
13 accurate duplicates of originals of records.

14 And I have admitted all of the documents listed on
15 Schedule B into evidence.

16 Now, the rest of the stipulation goes on to say
17 exactly the same thing about a number of other entities who
18 have transmitted records and that the government wishes to
19 introduce in evidence. So I am going to represent that
20 Paragraph 3 makes the same exact representations in the same
21 words concerning JP Morgan Chase bank relating to the documents
22 on Schedule C which I have admitted into evidence.

23 same words as to U.S. bank and a document called
24 Government Exhibit 175 which I have admitted into evidence.

25 That paragraph 5 makes the same representations in the

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C2LAAANN2

Angelastro - Cross

1 same words relating to Capital One, and the documents that
2 listed on schedule D and that I have admitted the documents on
3 Schedule D into evidence.

4 6, that the stipulation on paragraph 6 makes reference
5 to Macy's and a document called Government Exhibit 177 and that
6 I have admitted exhibit 177 into evidence.

7 Paragraph 7 relates to Washington Mutual and
8 Government Exhibit 178 same representations and the same words
9 and I have admitted Government Exhibit 178 into evidence.

10 Paragraph 8 relates to Sears same representations,
11 same words and Government Exhibit 180 and I have admitted that
12 document into evidence, Paragraph 11 -- is there a paragraph --
13 Are there Paragraphs 9 and ten cause I go right to Paragraph
14 11.

15 MR. CARBONE: They're miss you numbered your Honor.

16 THE COURT: They're miss numbered. Okay.

17 Paragraph 11 relates to discover and Government
18 Exhibit 188 making the same representations in the same exact
19 words and I have admitted Government Exhibit 188 into evidence.
20 Paragraph 12 relates to Norfork Bank and Government Exhibit
21 200, same representations, same words and I have admitted
22 Government Exhibit 200 into evidence. Paragraph 13 relates to
23 MBNA and the documents listed on Schedule E same
24 representations, same words and I have admitted the documents
25 on Schedule E into evidence.

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C2LAAANN2

Angelastro - Cross

1 Paragraph -- it says "4" but I think you must mean
2 "14" except there's already a Paragraph 14, so I am going to
3 call this 13A.

4 We're going to renumber that on the various copies of
5 the stipulation.

6 Paragraph 13A relates to Verizon Wireless and
7 documents on Schedule F and same representations, same words
8 and I have admitted the documents listed on Schedule F into
9 evidence.

10 Paragraph 14, the real Paragraph 14, relates to AT&T
11 and Schedule G documents, same representations, same words and
12 I have admitted the documents listed on Schedule G into
13 evidence.

14 Paragraph 15 relates to Sprint and the documents at
15 Schedule H same representations, same words and I have admitted
16 the documents on Schedule H into evidence.

17 Paragraph 16 relates to T-Mobile USA and Government
18 Exhibit 1503 same representations, same words. I have admitted
19 Government Exhibit 1503 into evidence.

20 You will appreciate that that has just saved us on
21 immense amount of time for which I, and I know you, thank all
22 of all the lawyers.

23 Okay. Call your next witness please.

24 MR. CARBONE: The government calls Ramon Fullon.
25 called as a witness by the Government,

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C2LAAANN2

Angelastro - Cross

1 having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. CARBONE:

4 Q. Good morning, Mr. Fullon.

5 Sir, are you employed?

6 A. Yes.

7 Q. Where could you work?

8 A. Royale Jordanian Airlines.

9 Q. What is your title?

10 A. Reservations manager.

11 Q. How long have you been employed by Royale Jordanian
12 Airlines.

13 A. 34 years.

14 Q. And what do you do as a reservations manager?

15 A. We you, know work, in the reservations aspect of the
16 airline.17 Q. To what routes Royale Jordanian Airlines provide service
18 for New York?

19 A. We go from New York to Amman, Jordan.

20 Q. Is that nonstop?

21 A. Nonstop, yes.

22 Q. What airports in the New York area do you offer service?

23 A. JFK airport.

24 Q. Where is the main office located in the New York area?

25 A. It's on 43rd Street.

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C2LAAANN2

Fullon - Direct

- 1 Q. In Manhattan?
2 A. Manhattan, yes.
3 Q. What classes of service does Royale Jordanian provide from
4 New York to Jordan?
5 A. Either business class or economy class.
6 Q. Is there a first class?
7 A. No. Just business class.
8 Q. What are the differences between business and coach class?
9 A. Well, business you get a bigger seating. It's a wide seat
10 and you get different amenities. Like as far as food is
11 concerned you get better service on the food.
12 Q. Would you please take a look in front of you at Government
13 Exhibit 212, 212A, 212B and 212C which have been marked for
14 identification. Are those travel records relating to the
15 customers at Royale Jordanian Airlines?
16 A. 212A, yes, it is.
17 Q. Who is the passenger those records relate to?
18 A. These are the passengers that were onboard the flight.
19 Q. I'm sorry. Which passenger do those records relate to?
20 A. There's one here that's with an "Annabi".
21 Q. Is that -- take a look at 212A, 212B and 212C and tell us
22 if you can identify the passenger that the records relate to?
23 A. Yes. 212A is the passenger that took the flight.
24 Q. Okay. Well, before you read the documents tell us who is
25 the passenger that 212, say 212B who is the passenger

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C2LAAANN2 Fullon - Direct

1 identified on that document?

2 A. Sandy Annabi.

3 Q. And do all those documents relate to travel by Sandy
4 Annabi?

5 A. Right, uh-huh.

6 Q. Are Government Exhibits 212 through 212C kept in the
7 ordinary course of Royale Jordanian Air's business?

8 A. It is.

9 Q. And is the regular course of the business to make and keep
10 such records?

11 A. Right, um-hmm.

12 Q. Are the records or the entries on records made at or near
13 the dates reflected on them?

14 A. It does, yes. On 212B it gives the date of the transaction
15 which is 26 June, 2006.

16 Q. But, generally, the records are created at or near the
17 dates reflected on them?

18 A. Right.

19 Q. And are they created by someone with knowledge of the
20 transaction?

21 A. Whoever, you know, whoever uses like the ticket, you know,
22 they do. They do.

23 Q. I understand.

24 MR. CARBONE: Your Honor, the government offers
25 Government Exhibit 212, 212A, 212B and 212C in evidence.

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C2LAAANN2 Fullon - Direct

1 MR. ARONWALD: Your Honor, can we have a brief voir
2 dire as to 212C?

3 THE COURT: You may.

4 MR. ARONWALD: I can do it from here if that's okay
5 with the Court.

6 THE COURT: No problem.

7 VOIR DIRE EXAMINATION

8 BY MR. ARONWALD:

9 Q. Mr. Fullon, do you have 212C in front of you?

10 A. Yes.

11 Q. This is a computer generated document; is that correct?

12 A. Yeah, it is, yes.

13 Q. Okay. There is some handwriting on the document and you
14 see that handwriting?

15 A. Yes, it says.

16 Q. No, I don't want to read it. I am just asking you. Do you
17 see the handwriting?

18 A. Yes.

19 Q. Do you recognize whose handwriting that is?

20 A. It is probably one of the accountants in the office.

21 Q. "Probably" is not --

22 THE COURT: Do you happen to recognize the
23 handwriting? Do you know exactly whose it is?

24 THE WITNESS: No, I don't.

25 BY MR. ARONWALD:

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C2LAAANN2

Fullon - Direct

1 Q. Do you know when that handwriting was placed on this
2 document?

3 A. There's a date here, 6/25/2006.

4 Q. No. That's the date -- withdrawn.

5 That is the date --

6 THE COURT: Not the date of the document. Do you know
7 when that unknown person put the handwriting on the document?

8 THE WITNESS: No, I don't. There's no date here.

9 MR. ARONWALD: Your Honor, I would ask that the
10 handwritten portion be redacted. Once it's done I have no
11 objection to the document itself coming in.

12 MR. CARBONE: We'll, certainly, redact it.

13 THE COURT: OK. So since we don't know who did the
14 handwriting, we'll white it out. That's what redact means. We
15 are not keeping secrets from you. There times when we have to
16 take things off documents either because they're not relevant
17 or because we don't know who wrote them but the rest of the
18 document they want to get into evidence anyway.

19 So admitted, subject to redaction on 212C.

20 MR. SIANO: No objection.

21 THE COURT: I am so sorry, Mr. Siano.

22 MR. SIANO: Quite all right.

23 (Plaintiffs' Exhibits 212, 212A, 212B, 212C and 212D
24 received in evidence)

25 BY MR. CARBONE:

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C2LAAANN2

Fullon - Direct

- 1 Q. Mr. Fullon, can you tell us who is the passenger reflected
2 on 212C?
3 A. It's Sandy Annabi.
4 Q. And what is the dates of travel?
5 A. It says she was traveling the 11 of July and coming back on
6 the 2nd of August.
7 Q. What is the origination and destination of travel?
8 A. It's from New York Kennedy Airport to Amman, Jordan and
9 coming back from Amman, Jordan to JFK airport.
10 Q. How is this ticket paid for?
11 A. This ticket was paid for by --
12 Q. Can you look under where it says "form of payment". Is
13 that a credit card number?
14 A. I believe -- yeah, it's a credit card.
15 Q. What was the original price of the ticket?
16 A. It's \$1,447.20.
17 Q. Was this ticket ever used?
18 A. It was not used.
19 Q. Was that charge refunded?
20 A. Yeah, it was refunded.
21 Q. Can you take a look at Government Exhibit 212B please.
22 Mr. Terk, could you please broadcast 212B.
23 A. 212B is a copy of the ticket.
24 Q. Who is the passenger on this ticket?
25 A. Ms. Sandy Annabi.

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C2LAAANN2 Fullon - Direct

1 Q. And the outbound date of travel?

2 A. It's flight 262 on the 14 July.

3 Q. And what class of ticket is this?

4 A. It's on a business class ticket.

5 MR. CARBONE: Please maximize the bottom left corner.

6 (Pause)

7 Q. How much did the passenger, Sandy Annabi, pay for this
8 ticket?

9 A. \$3,864.20.

10 Q. And how was this ticket paid for?

11 A. It was paid for in cash.

12 Q. Sorry. Is that cash?

13 A. Yes.

14 Q. Where was the ticket purchased?

15 A. It was purchased in a ticket office in New York City.

16 Q. And was this ticket, in fact, used?

17 A. I believe so.

18 Q. Well, let's take a look at Government Exhibit 212.

19 MR. CARBONE: Please broadcast 212 and maximize lines
20 five and six.

21 Q. What is Government Exhibit 212?

22 A. The ticket was used cause she was on the plight.

23 Q. Sorry. Does 212 demonstrate that Sandy Annabi was on that
24 flight?

25 A. Yeah, because there's a seat number in there. It says 01A.

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C2LAAANN2

Fullon - Direct

1 MR. ARONWALD: No questions, your Honor.

2 THE COURT: Mr. Siano.

3 CROSS-EXAMINATION

4 BY MR. SIANO:

5 Q. Mr. Fullon, these documents relate to the June 14 flight;
6 is that correct? July 14. Excuse me.

7 A. July 14, yes.

8 Q. And if this passenger flew back would it be fair to say
9 Jordanian Airlines would have a similar set of records?

10 A. Yes.

11 MR. SIANO: Thank you.

12 MR. CARBONE: No further questions. Thank you sir.

13 THE COURT: Okay. You may step down. Let's take a
14 five minute break, a ten minute break, a morning stretch break.
15 Don't discuss the case. Keep an open mind. I'll see you in a
16 few minutes.

17 (Jury not present)

18 (Recess)

19 (Jury present)

20 THE COURT: Okay. Have a seat. Call your next
21 witness.

22 MR. HALPERIN: The government calls Karen Pennington.

23 KAREN PENNINGTON,

24 called as a witness by the Government,
25 having been duly sworn, testified as follows:

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C2LAAANN2

Fullon - Cross

- 1 DIRECT EXAMINATION
2 BY MR. CARBONE:
3 Q. Good morning, Ms. Pennington.
4 A. Good morning.
5 Q. Where are you employed?
6 A. Con Edison.
7 Q. What is your title?
8 A. Senior customer service rep.
9 Q. How long have you been employed by Con Edison?
10 THE COURT: Could we turn that off please.
11 A. 44 years of service at Con Edison and that is customer
12 operation, the department.
13 Q. How long have you been in customer operations?
14 A. 44 years.
15 Q. And does Con Edison provide utility services to the
16 residents of the city of Yonkers?
17 A. Yes, we do.
18 Q. Are you familiar with the books and records of Con Edison?
19 A. Yes, I am.
20 Q. Are you also familiar with how payments Con Edison's
21 customers make are processed?
22 A. Yes, I am.
23 Q. Does Con Edison keep records relating to the amount and
24 dates that its customers pay their bills?
25 A. Yes, we do.

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C2LAAANN2 Pennington - Direct

1 Q. Would you please look at Government Exhibit 260, 261 and
2 262 in front of you. Have you reviewed those records?

3 A. Yes, I have.

4 Q. What is the name of the customer that those records relate
5 to?

6 A. It's under Sandy --

7 Q. Just spell the last name.

8 A. A-N-N-A-B-I, Annabi.

9 THE COURT: "Annabi".

10 THE WITNESS: I am sorry. "Annabi".

11 Q. And what location do the records relate to?

12 A. The location is at 249 Rumsey Road, Apartment 1B, Yonkers,
13 New York.

14 Q. Is that the same as 245 Rumsey Road?

15 A. Yes, it is.

16 Q. Is that a residence?

17 A. Yes, it is.

18 Q. Are these records kept in the ordinary course of Con
19 Edison's business?

20 A. Yes, it is.

21 Q. As to the regular course of business to make and keep such
22 records?

23 A. Yes.

24 Q. Are the records and entries on the records made at or near
25 the dates reflected on them?

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C2LAAANN2 Pennington - Direct

1 A. Yes, they're accurate.

2 Q. Are the entries on those documents made by someone with
3 knowledge of the underlying transactions?

4 A. Yes.

5 MR. CARBONE: The government offers Government Exhibit
6 260, 261 and 262 in evidence.

7 THE WITNESS: Yes.

8 MR. ARONWALD: No objection.

9 THE WITNESS: I am sorry.

10 THE COURT: It's okay. If he asks you a question, you
11 answer it. If he says, "I offer it in evidence", he is talking
12 to me.

13 THE WITNESS: Sorry.

14 THE COURT: No. No. It's all right. Admitted.

15 MR. ARONWALD: No objection.

16 MR. SIANO: No objection.

17 (Plaintiffs' Exhibits 260, 261 and 263 received in
18 evidence)

19 MR. CARBONE: Mr. Terk, could you please broadcast
20 Government Exhibit 262 please and maximize the top half of the
21 document.

22 BY MR. CARBONE:

23 Q. You indicated that this relates to 269 Rumsey Road.

24 A. Yes, I do.

25 Q. That is the same as 245?

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C2LAAANN2

Pennington - Direct

1 A. 245, yes.

2 Q. And the apartment number?

3 A. 1 "B" as in boy.

4 Q. And would you please read the account number assigned today
5 this account?

6 A. The account number is 511609017900044.

7 MR. CARBONE: Please broadcast Government Exhibit 261.

8 Q. What information is contained in Government Exhibit 261?

9 A. I am showing that payments are -- how payments are
10 processed.

11 Q. All right. What are O and R payment processing?

12 A. O and R payment processing is our payment processing center
13 where bills are mailed and processed to Orange/Rockland.

14 Q. Can you tell us how the bills were paid for this account?

15 A. Bills are made via check.

16 Q. And how are they received by Con Edison?

17 A. Through our processing department.

18 Q. Are they received through the United States mails?

19 A. Yes, they are received through United States mail.

20 Q. And how do you know that?

21 A. It's indicating that they were mailed indicating by the
22 batch and sequence. That's how it's noted.

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

25 MR. ARONWALD: No objection.

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C2LAAANN2

Pennington - Direct

1 MR. SIANO: No questions, your Honor.

2 THE COURT: Ma'am. You are done. You may step down.

3 Thank you very much.

4 Call your next witness.

5 MR. CARBONE: David D'Amico.

6 DAVID D'AMICO,

7 called as a witness by the Government,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. CARBONE:

11 Q. Good morning, Mr. D'Amico.

12 Where are you employed?

13 A. TD Bank at 21st and Park in New York.

14 Q. What do you do there?

15 A. Store manager.

16 Q. How long have you been employed by TD Bank?

17 A. About nine months now.

18 Q. Where were you employed before that?

19 A. Chase Bank.

20 Q. For how long were you employed by Chase Bank?

21 A. Four and a half, five years.

22 Q. As the store manager have you become familiar with the
23 records of TD Bank?

24 A. Yes, sir.

25 Q. Does TD Bank acquire loans from other lending institutions?

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C2LAAANN2

D'Amico - Direct

1 A. Yes.

2 Q. Have you reviewed Government Exhibits number 225, 226, 227,
3 228 and 229, A through double A?

4 A. Yes.

5 Q. Are those records kept in the regular course of TD Bank's
6 business?

7 A. Yes.

8 Q. And it's the regular practice of TD Bank to make and keep
9 such records?

10 A. Yes.

11 Q. Are the entries on the records made at or documents
12 received near the dates reflected on the document?

13 A. Yes.

14 Q. And are they created by someone or based on information
15 received from someone with knowledge of the transaction?

16 A. Yes, sir.

17 MR. CARBONE: Your Honor, the government offers
18 Exhibits 225, 226, 227, 228 and 229 A through double A in
19 evidence.

20 A. Yes.

21 THE COURT: Any objection?

22 MR. ARONWALD: No objection.

23 MR. SIANO: No objection, your Honor.

24 THE COURT: Admitted.

25 (Plaintiffs' Exhibits 225, 226, 227, 228 and 229 A and
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C2LAAANN2 D'Amico - Direct

1 AA received in evidence)

2 MR. CARBONE: Please broadcast Government Exhibit 226
3 and maximize the middle of the page.

4 BY MR. CARBONE:

5 Q. Mr. D'Amico, can you explain what Government Exhibit 226
6 is?

7 A. It's a contract for an auto loan.

8 Q. Who is the borrower as reflected in the middle of the page?

9 A. Sandy Annabi.

10 Q. And what is the date of the agreement?

11 MR. CARBONE: Maximize the document at the top right
12 please.

13 A. July 15, 2002.

14 Q. And was this note sold?

15 A. Excuse me?

16 Q. Was this note sold or acquired by the bank?

17 A. Yes. It was acquired through Hudson United.

18 Q. And please broadcast -- actually, what is the amount of the
19 note?

20 A. \$17,613.60.

21 Q. What is the account number?

22 A. 24442014846.

23 MR. CARBONE: Please broadcast Government Exhibit 227.

24 Q. Can you please explain what the document on top of the
25 canceled check is?

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C2LAAANN2

D'Amico - Direct

- 1 A. It's a payment slip for the referenced auto loan.
2 Q. And it says Hudson United Bank. What's the connection
3 between Hudson United Bank and TD Bank?
4 A. I think it was January 2006 TD acquired Hudson United Bank.
5 Q. And what are the amounts of monthly payments on this loan?
6 A. Looks to be \$293.56.
7 MR. CARBONE: Would you maximize the canceled check
8 please.
9 Q. Whose name appears on the top of the canceled check that
10 was used to pay this payment?
11 A. Don't know how to pronounce that first name but Z-E-H-Y,
12 first name, last name, "Jereis".
13 Q. And does the account number on the bottom left, does that
14 correspond to the payment coupon?
15 A. Below the check image?
16 Q. Yes.
17 A. Yes.
18 Q. No. No. The memo section, the account number written?
19 A. Yes. Ending 446, yes.
20 Q. And would you please take a look at Government Exhibit 229
21 which for the record through 229 double A which for the record
22 are a series of coupons and of canceled checks. Have you
23 reviewed those coupons and cancelled checks?
24 A. Yes, sir.
25 MR. CARBONE: Please broadcast 229.

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C2LAAANN2

D'Amico - Direct

1 Q. And do all the checks and coupons that follow, are they
2 from the same individual?

3 A. Yes.

4 MR. CARBONE: Please read into the record whose name
5 appears on top of the canceled check.

6 A. Mr. Jereis Zehy.

7 Q. Jereis?

8 A. Jereis.

9 MR. CARBONE: Thank you. No further questions, your
10 Honor.

11 MR. ARONWALD: Briefly, your Honor.

12 THE COURT: Surely, Mr. Aronwald.

13 CROSS-EXAMINATION

14 BY MR. ARONWALD:

15 Q. Just as a preliminary matter, you have nothing at all to do
16 with the processing of the loan application, correct?

17 A. No, sir. We take applications in the branch but this
18 specific loan, no.

19 Q. Well, you indicated that you've been working at TD Bank
20 for, approximately, nine months?

21 A. Correct.

22 Q. And for four and a half to five years before that you
23 worked for Chase?

24 A. Correct.

25 Q. So this was a loan that was processed through Hudson Union

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C2LAAANN2

D'Amico - Cross

- 1 Bank, correct?
2 A. Hudson United, yes.
3 Q. Correct?
4 A. Correct.
5 Q. And did you at any time work for Hudson United Bank?
6 A. No, sir.
7 Q. So you had nothing, whatsoever, to do with this loan?
8 A. Correct.
9 Q. Okay. And you have no knowledge at all concerning the
10 circumstances with respect to the loan other than as reflected
11 in the documents in evidence that you've discussed, correct?
12 A. Correct.
13 Q. You now know who Sami Annabi is? Did you ever meet him?
14 A. No, sir.
15 Q. He is the borrower according to the documents?
16 A. Yes.
17 Q. Okay. Those two -- Government Exhibit 226 -- withdrawn.
18 Document 225 or 226 or 227 or any of the other
19 documents comprising 228 or 229 do any of those documents
20 indicate where the car was purchased or the make and model of
21 the car?
22 A. The make and model, yes.
23 Q. Where is that reflected in what exhibit?
24 A. 226, right under the borrower's name 99 Nissan.
25 Q. 1999 Nissan and amount of the loan was \$17,613, correct?

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C2LAAANN2

D'Amico - Cross

- 1 A. Correct.
- 2 Q. Do you know Sandy Annabi?
- 3 A. No, sir.
- 4 Q. Do you know -- withdrawn.
- 5 Does Sandy Annabi's name appear anywhere at all on any
- 6 of the documents that you have been discussing this morning?
- 7 A. No, sir.
- 8 Q. Okay. And do you have any knowledge or information that
- 9 anyone other than Sami Annabi is the person who drove the 1999
- 10 Nissan?
- 11 A. No, sir.
- 12 Q. And this loan originated on July 15th of 2002, correct?
- 13 A. Correct.
- 14 Q. What is the current status of the loan, if you know?
- 15 A. I believe by the document that I read, I believe the car
- 16 was revoked.
- 17 Q. "Revoked"?
- 18 A. Yeah.
- 19 Q. What does that mean?
- 20 A. When the car is repo-ed. The car is taken back into the
- 21 possession of the bank for lack of payment.
- 22 Q. By the borrower, Sami Annabi, correct?
- 23 A. Correct.
- 24 Q. Do you know of any connection, whatsoever, that Sandy
- 25 Annabi had with respect to this loan?

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C2LAAANN2

D'Amico - Cross

1 A. No, sir.

2 MR. ARONWALD: No further questions.

3 THE COURT: Mr. Siano.

4 MR. SIANO: No questions, your Honor.

5 MR. CARBONE: No further questions.

6 THE COURT: Thank you, sir. You may step down.

7 Call your next witness please.

8 MR. HALPERIN: The government calls Antonio Serrao.

9 ANTONIO SERRAO,

10 called as a witness by the Government,
11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. HALPERIN:

14 Q. Good morning Mr. Serrao?

15 A. Good morning.

16 Q. What city do you live in?

17 A. New Rochelle, New York.

18 Q. What county is that?

19 A. Westchester.

20 Q. What do you do for work, sir?

21 A. I am a jeweler.

22 Q. Do you have a business?

23 A. Yes, I do.

24 Q. Family business?

25 A. Yes, it is.

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C2LAAANN2

Serrao - Direct

1 Q. Has Zehy ever bought anything from your store?

2 A. No.

3 Q. Did you speak to Zehy on the phone before Ms. Annabi came
4 to your store?

5 MR. SIANO: Objection; leading, your Honor.

6 MR. HALPERIN: Doesn't suggest an answer.

7 THE COURT: Mr. Halperin is getting us to a point
8 where he will very quickly not ask leading questions.

9 Q. Did you speak to Zehy on the phone before Ms. Annabi came
10 to your store?

11 A. Yes, I did.

12 Q. What is he say?

13 A. He is recommending a potential customer he wants me to take
14 care of her when she comes in.

15 Q. What is, if anything, did he say about who was going to be
16 buying from?

17 A. She is just a friend. Never mentioned anything else.

18 (Continued on next page)

19

20

21

22

23

24

25

C210ann3 Serrao - direct

1 Q. Was he going to be buying it?

2 A. Not to my knowledge, she was buying it.

3 Q. Mr. Serrao, do you see the woman you have been referring to
4 as Sandy Annabi here in the courtroom today?

5 A. Yes, I do.

6 Q. Point to her and state where she is sitting.

7 A. Second row, the gentleman in front of me --

8 THE COURT: Indicating Ms. Annabi?

9 THE WITNESS: Yes.

10 Q. Mr. Serrao, do you see the man you referred to as Zehy here
11 in the courtroom today?

12 A. Yes, I do.

13 Q. Mr. Jereis is standing up.

14 THE COURT: You're standing up, why don't you ask the
15 witness if he can identify.

16 MR. HALPERIN: Yes.

17 Q. Can you identify --

18 A. Yes, I do, right there, the one that just stand up.

19 THE COURT: Indicating the gentleman that just stood
20 up.

21 THE WITNESS: Right.

22 BY MR. HALPERIN:

23 Q. Now, when Sandy Annabi came into your store, do you know
24 what she did for work?

25 A. No, I didn't.

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C210ann3 Serrao - direct

1 Q. Did you later find out what she did for work?

2 A. Yes, I did. Can I say how --

3 Q. Not right now.

4 A. Okay.

5 Q. Thank you.

6 When Sandy Annabi came, the defendant, first came to
7 your store in New Rochelle, did anyone come with her?

8 A. Zehy came with her.

9 Q. What did Annabi say she was looking for?

10 A. For a watch.

11 Q. For whom?

12 A. For herself.

13 Q. How do you know it was for herself?

14 A. I asked her, and that's what they said.

15 Q. You said that's what "they" said, you mean --

16 A. When she said it was for herself.

17 Q. Thank you. Did she bring any pictures with her?

18 A. Yes, she did.

19 MR. ARONWALD: Your Honor, this is leading.

20 THE COURT: What did she bring with her, if anything.
21 That's how you ask the question. What happened next; what did
22 she say; what did he do. What, what, what, which, why, where.
23 That's how you ask a nonleading question to a witness on
24 direct.

25 Q. What if anything did she bring with her when she came to

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C210ann3 Serrao - direct

1 blown up, so I couldn't really tell what size; it was a small
2 size, a medium size. But we narrowed it down to being the
3 smaller size.

4 Q. In or about July 2006 when she came into your store did you
5 carry that watch as part of your inventory?

6 A. No, I didn't.

7 Q. What did you tell Ms. Annabi about whether you could get
8 it.

9 A. First we showed her what we had in stock. She could pick
10 something we had. She didn't like anything we had, but we had
11 no choice but to go out from a wholesaler and get this
12 particular watch.

13 Q. In your business, do you work with wholesalers?

14 A. Yes, we do.

15 Q. What did Ms. Annabi do with the picture of the watch she
16 brought in that day?

17 A. Left it and says to get it as soon as possible, and then
18 call her when I get it.

19 Q. Now, after Ms. Annabi left the store, in the days that
20 followed, did she call you up about the watch?

21 A. Yes. We were talking about prices, and you know to give
22 her the best prices possible. I worked out to giving her the
23 best price.

24 Q. What did she say about the price.

25 A. She was getting it on the internet for certain amount of --

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C210ann3 Serrao - direct

- 1 Q. And, sir, what is the store name at the top of the page?
2 A. T&R Jewelers, 557 Main Street.
3 Q. Whose store is that?
4 A. My store.
5 Q. What is the date on the top, right?
6 A. 7/28/06.
7 Q. And what's the words left of the date?
8 A. Cash.
9 Q. And what's the description of the item.
10 A. One ladies Rolex watch with mother of pearl diamond bezel
11 and mother of pearl diamond dial.
12 MR. HALPERIN: Slow down.
13 THE WITNESS: Sorry.
14 BY MR. HALPERIN:
15 Q. Repeat the description.
16 A. One ladies Rolex watch, mother of pearl diamond bezel, and
17 mother of pearl diamond dial.
18 Q. What is mother of pearl?
19 A. It's a pearlized face in the dial of the watch.
20 Q. And what's the amount before tax?
21 A. 3550, plus 297.31, 3,847.31.
22 Q. And how is this paid?
23 A. By cash.
24 Q. Which customer was this for?
25 A. Sandy Annabi.

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C210ann3 Serrao - direct

1 Q. How do you know that?

2 A. It's the only watch I ever sold in that whole entire year,
3 with that particular watch, Rolex.

4 Q. All right. Are there times when you don't write down
5 customer's names on cash purchases?

6 MR. SIANO: Objection, your Honor.

7 A. Sometimes we don't, you know.

8 THE COURT: I'm sorry, hang on.

9 Sir, you need to wait if the lawyer says objection.
10 You need to wait until I can hear what the lawyer is saying and
11 rule on his objection.

12 Ground?

13 MR. SIANO: Leading.

14 THE COURT: Overruled.

15 Q. Sir, you can answer.

16 THE COURT: He did answer it, and that's the problem,
17 so.

18 Q. Okay. On what occasions might you not write down a
19 customer's name?

20 A. Sometime they buy for boyfriend, girlfriends; husband buys
21 for ex -- wives, we don't really know, sometimes they don't
22 want names on the receipts.

23 Q. How many of these Rolex mother of pearl diamond bezel
24 watches did you sell in the year 2006?

25 A. One.

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C210ann3

Serrao - direct

1 Q. To whom?

2 A. Sandy Annabi.

3 Q. Now, the date on the receipt, in the upper right is, is
4 what?

5 A. 7/28/06.

6 Q. What does that date relate to?

7 A. To me, when I got the watch in, I actually wrote the
8 receipt on it. To prepare, in case she wanted it right away,
9 so whenever she was going to come in, pick it up, it was
10 already done 7/20/06 in case I wasn't there.

11 Q. Now, after the watch came in, on or about July 28, what did
12 you do next?

13 A. I called her a couple of times, and I didn't get any
14 answers.

15 Q. What happened?

16 A. She -- she wasn't answering. And then she called me back
17 after a week or so, 10 days.

18 Q. What if anything did Ms. Annabi say to you when she called
19 you back.

20 A. She was away, can she pick up the watch when she comes
21 back.

22 Q. At some point later, did Mrs. Annabi come back to the
23 store?

24 A. Yes.

25 Q. What did she do when she came back to the store.

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C210ann3 Serrao - direct

1 A. They came back and they picked up the watch.

2 Q. How did she pick up the watch?

3 A. Cash.

4 Q. Now after Ms. Annabi bought the Rolex watch from you, did
5 she make any other purchases from you?

6 A. Yes, she did.

7 Q. I'm now going to ask you to look at government exhibit 214,
8 which you have in front of you.

9 A. Okay.

10 Q. Do you recognize this item, sir?

11 A. Yes, I do.

12 Q. What do you recognize it to be?

13 A. A bill from T&R Jewelers.

14 Q. Did you provide this to the government?

15 A. I did.

16 Q. Which customer do the items in government 214 relate to?

17 A. Sandy Annabi.

18 MR. HALPERIN: Your Honor, the government offers
19 government exhibit 214 into evidence.

20 MR. ARONWALD: No objection.

21 MR. SIANO: No objection.

22 THE COURT: Admitted.

23 (Government's Exhibit 214 received in evidence)

24 BY MR. HALPERIN:

25 Q. And, starting from the top, what's the store name at the
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C210ann3 Serrao - direct

- 1 Q. And what's the item description?
2 A. Eighteen karat white gold diamond cross.
3 Q. What is that?
4 A. It's a diamond necklace.
5 Q. What was the amount?
6 A. \$3,000, plus 251.25 in tax, 3,251.25.
7 Q. And what do the words MC mean?
8 A. Mastercard.
9 MR. HALPERIN: Mr. Turk, let's pull up the smaller
10 item on the left.
11 Q. Sir, what is this?
12 A. It's receipt from the credit card machine.
13 Q. And, again, what store at the top?
14 A. T&R Jewelers.
15 Q. And the date?
16 A. August 22nd, 2006.
17 Q. Paid for with what type of credit card?
18 A. Mastercard.
19 Q. Total amount?
20 A. 3,251.25.
21 Q. I'm sorry?
22 A. \$3,251.25.
23 Q. And what's the customer's name?
24 A. Sandy Annabi.
25 Q. Who was Ms. Annabi buying the diamond cross necklace for?

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C210ann3 Serrao - direct

1 A. Herself.

2 Q. How do you know that?

3 A. She was trying it on different like 16, 18-inches. I'm
4 pretty sure she even walked out with the necklace on.

5 Q. I'm now going to ask you to look at government exhibit 760,
6 761, and 762 A?

7 A. What numbers? I'm sorry.

8 Q. 760, 761, and 762 A?

9 A. Okay.

10 Q. Do you recognize these items, sir?

11 A. Yes, I do.

12 Q. Okay. And what are these?

13 A. These are the -- this is Annabi in the picture.

14 Q. Photographs?

15 A. Yes.

16 Q. Of whom?

17 A. Sandy Annabi.

18 Q. Do you recognize anything in the photos?

19 A. The cross.

20 MR. HALPERIN: Your Honor, the government offers into
21 evidence government exhibits 760, 761, and 762 A.

22 THE COURT: Any objection?

23 MR. ARONWALD: No objection.

24 MR. SIANO: No objection.

25 THE COURT: Admitted.

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C210ann3 Serrao - direct

- 1 (Government's Exhibits 760, 761, 762 A received in
2 evidence)
3 Q. Pull up 760. And who do you recognize in the photo,
4 please?
5 A. Same one.
6 Q. Look on your monitor?
7 A. I'm sorry, yes.
8 Q. Who do you --
9 A. Sandy Annabi.
10 Q. And what if anything do you recognize in the photo?
11 A. Assumed to be the necklace from -- that she bought from us.
12 Q. 761, please.
13 Sir, can you can just look at the monitor?
14 A. Oh, I don't have to look at this?
15 Q. No.
16 A. I'm sorry.
17 Q. So who do you recognize in the photo?
18 A. Sandy Annabi.
19 Q. What if anything do you recognize in the photo?
20 A. Appears to be the necklace that she bought.
21 Q. 762 A, please. Who do you recognize in the photo?
22 A. Sandy Annabi.
23 Q. And what if anything do you recognize in the photo?
24 A. Appears, again, to be the watch that she bought.
25 Q. I'm sorry, the --

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C210ann3 Serrao - direct

1 MR. ARONWALD: No objection.

2 MR. SIANO: No objection.

3 THE COURT: Admitted.

4 (Government's Exhibits 746 R received in evidence)

5 MR. HALPERIN: Okay, Mr. Turk, can we play 746 R,
6 please.

7 (Videotape played)

8 Q. Mr. Serrao, who do you recognize in the video clip?

9 A. Sandy Annabi.

10 Q. What if anything did you recognize?

11 A. Again, appears to be the necklace and the watch.

12 Q. Now, before the summer of 2006, had you ever met Sandy
13 Annabi?

14 A. No, I did not.

15 Q. Before the summer of 2006, what if any purchases had Sandy
16 Annabi made from your store?

17 A. None.

18 Q. Since August 2006, what if any purchases has Sandy Annabi
19 made from your store?

20 A. None.

21 MR. HALPERIN: No further questions.

22 CROSS-EXAMINATION

23 BY MR. ARONWALD:

24 Q. Mr. Serrao, we've never met?

25 A. Nope.

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C210ann3

Serrao - cross - Aronwald

- 1 A. Yes, I do.
- 2 Q. Okay. And the more expensive watches or jewelry, are
- 3 luxury items; correct?
- 4 A. Right.
- 5 Q. And this cross that you sold to Ms. Annabi, would that be
- 6 classified as a luxury item?
- 7 A. Yes.
- 8 Q. And the watch, would that also be considered a luxury item?
- 9 A. Yes.
- 10 Q. So would it be fair to say that it is not often that in the
- 11 course of your business you have occasion to make sales of
- 12 items in the amounts of \$3,000 or more, correct?
- 13 A. Yes.
- 14 Q. Okay. And you sell watches that cost a lot more than the
- 15 watch that you sold to Ms. Annabi, correct?
- 16 A. Correct.
- 17 Q. And you sell other items including crosses that cost much
- 18 more than you sold to Sandy Annabi; correct?
- 19 A. Correct.
- 20 Q. And would it be fair to say that you make thousands of
- 21 sales a year?
- 22 A. Correct.
- 23 Q. All right. So in 2006, you first met Sandy Annabi,
- 24 according to your testimony; correct?
- 25 A. Yes.

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Serrao - cross - Aronwald

- 1 Q. And according to your testimony, you made two sales to her
2 in 2006, correct?
3 A. Correct.
4 Q. And it is your recollection that on both occasions she was
5 the one that bought and paid for the two items?
6 A. Correct.
7 Q. Now, these sales were made in 2006, correct?
8 A. Correct.
9 Q. And when was it that you first had occasion to meet with
10 anyone from the United States Attorney's Office or the FBI?
11 A. 2009.
12 Q. April 17, 2009 would that be the correct date?
13 A. Approximately -- yup, yes.
14 Q. And that first meeting -- that meeting that you had with
15 them, do you recall where that meeting took place?
16 A. Came to my shop.
17 Q. They came to your shop. And who was it that came to your
18 shop?
19 A. Michael Mazzuca.
20 Q. Okay.
21 MR. ARONWALD: Could we have Mr. Mazzuca, please,
22 stand up, your Honor.
23 Q. Is this the man you are referring to?
24 A. Yes.
25 Q. Okay. So he came to your shop, and he came to your shop in

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C210ann3

Serrao - cross - Aronwald

- 1 A. No.
2 Q. Did it have the date?
3 A. No.
4 Q. It had Agent Mazzuca's name, title, phone number; correct?
5 A. Correct.
6 Q. Do you know how long after they came in -- Mr. Mazzuca came
7 into the shop and spoke to Robert that you returned from your
8 vacation?
9 A. Yes, I do.
10 Q. How long?
11 A. A couple of days.
12 Q. Couple of days, okay.
13 So, when you returned to the shop, and your brother
14 gives you Agent Mazzuca's card, correct --
15 A. Correct.
16 Q. -- what did you do?
17 A. I called him up.
18 Q. And did you speak to him?
19 A. Yes, I did.
20 Q. And did you -- did you meet with him, did he come back to
21 the store to speak to you?
22 A. No, he did not.
23 Q. Okay.
24 A. As far as I remember, no.
25 Q. Okay. Excuse me one second, your Honor.

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Serrao - cross - Aronwald

1 Did you go to meet with Agent Mazzuca or anyone else?

2 A. Yes, I did.

3 Q. And where did you go?

4 A. Where -- in White Plains, the federal court building.

5 Q. And who did you meet with?

6 A. With Mr. Jason Halperin.

7 Q. Anyone else?

8 A. As far as I remember, only them two.

9 Q. When you say -- okay, I asked you who did you meet with,
10 you said Mr. Halperin. Was Agent Mazzuca there?

11 A. Yes.

12 Q. Just the two of them, and you?

13 A. Yes.

14 Q. Okay. By the way, when Agent Mazzuca spoke to you on the
15 telephone, did he tell you what it was he was interested in
16 speaking to you about?

17 A. Yes.

18 Q. Okay. And what did he tell you?

19 A. He needed receipts from --

20 MR. HALPERIN: Objection, hearsay.

21 THE COURT: On what basis. As an out-of-court
22 statement? Is it offered to prove the truth of the matter
23 asserted?

24 MR. ARONWALD: Just the state of mind of the witness.

25 THE COURT: I'm going to have to hear this at sidebar.

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C210ann3

Serrao - cross - Aronwald

1 (In open court)

2 THE COURT: The objection is sustained. The objection
3 is sustained.

4 Move on, please.

5 BY MR. ARONWALD:

6 Q. When you spoke to Agent Mazzuca and you went -- withdrawn.

7 When you -- did you make the appointment to go to meet
8 with Mr. Halperin and Mr. Mazzuca during the telephone
9 conversation that you had with Agent Mazzuca?

10 A. I don't understand the question.

11 Q. When you spoke to Agent Mazzuca, did you make an
12 appointment to go to the federal building to meet with
13 Mr. Halperin and Mr. Mazzuca?

14 A. Yes, I did.

15 Q. Okay. Did you make any notes, calendar, diary, anything
16 that would indicate exactly when it was that you met with
17 Mr. Halperin and Agent Mazzuca?

18 A. No, I didn't.

19 Q. Okay. When you went to -- when you went to -- to meet with
20 Mr. Halperin and Agent Mazzuca, did you bring any documents
21 with you?

22 A. Yes, I did.

23 Q. Okay. And before you went to the United States Attorney's
24 Office to meet with Mr. Halperin and Agent Mazzuca, did you
25 receive a subpoena calling for the production of any of your

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C210ann3

Serrao - cross - Aronwald

1 He answered the question.

2 Next question.

3 BY MR. ARONWALD:

4 Q. And then after you met with Mr. Halperin and Agent Mazzuca
5 you appeared and testified before a grand jury, correct?

6 A. Correct.

7 Q. Did you go before the Grand Jury on the same day that you
8 met with Agent Mazzuca and Mr. Halperin?

9 A. No.

10 Q. Do you remember the date that you appeared before the Grand
11 Jury?

12 A. I don't remember.

13 Q. Do you recall, or do you remember, how long after you met
14 with Mr. Halperin and Agent Mazzuca that you appeared before
15 the Grand Jury?

16 A. Approximately three, four months.

17 Q. Okay. And between the time that you first met with them,
18 and the time that you appeared before the Grand Jury, did you
19 meet with either Agent Mazzuca or any other agent of the FBI,
20 and anyone from the United States Attorney's Office to prepare
21 for your testimony before the Grand Jury?

22 A. Repeat that question one more time, I didn't understand it.

23 Q. After you first met with Agent Mazzuca and Mr. Halperin,
24 between that date and the date that you appeared before the
25 Grand Jury, did you meet with Mr. Halperin or anyone else from

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C210ann3

Serrao - cross - Aronwald

1 is.

2 Q. Okay. Now, government exhibit 213 -- can we put that up on
3 the screen, please.4 Just magnify the portion, that -- the lower half of
5 it.

6 So, the date on this is July 28th of '06, correct?

7 A. Correct.

8 Q. And you indicated that that was the date that you received
9 the watch?

10 A. Correct.

11 Q. Okay. And so you have the price of \$3,550, plus the tax of
12 297.31 for a total of 3,847.31, correct?

13 A. Correct.

14 Q. And it says final sale, no exchanges, and no returns.

15 A. Right.

16 Q. That's the custom of the shop, correct?

17 A. Right.

18 Q. Okay. And according to your testimony, when she did come
19 in to pick up this watch, whenever it was, it was after
20 July 28th of 2006?

21 A. Correct.

22 Q. And it turned out that the watch that you had ordered was
23 not watch she wanted because of the bezel?

24 A. Right.

25 Q. Okay. The bezel had to go back?

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C210ann3 Serrao - cross - Aronwald

1 A. Absolutely not. No.

2 Q. Absolutely not to what question?

3 A. No, no. Why would I make a receipt for further time. The
4 receipt was already made.

5 Q. But the receipt simply reflects the date that you received
6 the watch from your wholesaler. It does not reflect the date
7 on which you say you delivered it to Sandy Annabi and the date
8 on which you say she paid you \$3800 in cash for the watch,
9 doesn't it?

10 A. I just said it was a week before she picked up the
11 necklace.

12 MR. ARONWALD: Move to strike as not responsive.

13 THE COURT: It's perfectly responsive.

14 And ask your next question.

15 BY MR. ARONWALD:

16 Q. By the way, do you remember -- withdrawn.

17 Did you ever say that date on the receipt, July 28,
18 2006, is probably the date that you got it from your
19 wholesaler?

20 A. Yes, I did.

21 Q. Okay. And is that still your testimony?

22 A. Yes, I --

23 Q. Okay. Now, with respect to your testimony about cash
24 sales. Is it your custom and practice that when you make a
25 cash sale, you put the name of the customer on the receipt?

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C210ann3

Serrao - cross - Aronwald

1 A. I'm sorry?

2 Q. When you make a cash sale, is it your practice to put the
3 name of the purchaser or customer on the receipt?

4 A. Yes, we do.

5 Q. Okay. And the sale of the watch was a cash sale, wasn't
6 it?

7 A. Correct.

8 Q. And if it was your custom and practice to put the name of
9 the purchaser on the cash receipt, how is it that Sandy
10 Annabi's name does not appear on the cash receipt, government
11 exhibit 213?

12 A. Very simple. We negotiated the best price on it. She was
13 getting the watch from internet for 3750. And I had to beat
14 that price, to say you give me the better price. I worked on a
15 very, very small percentage on that watch to accommodate
16 Mrs. Annabi, and not to pay the 3 percent in credit cards and
17 this and that, it was a cash sale. So this way here, instead
18 of paying points in extra of sales, that was the reason for the
19 cash sale.

20 Q. So why -- I think you testified that it is custom and
21 practice, your custom and practice in the operation of your
22 jewelry business, to put the name of the buyer or customer on
23 the cash sale document; correct?

24 A. Correct.

25 Q. Correct?

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C210ann3

Serrao - cross - Aronwald

1 A. Correct.

2 Q. Okay. Looking at government exhibit 213, you did not put
3 Sandy Annabi's name on this document as the purchaser or
4 customer, correct?

5 A. Correct.

6 Q. And she didn't ask you not to put her name on it, did she?

7 A. No, she did not.

8 Q. No one asked you not to put her name on it, correct?

9 A. Correct.

10 Q. The fact is, that this document, government 213, that
11 document was not prepared by you until shortly before you met
12 with the government in 2009, correct?

13 MR. HALPERIN: Objection.

14 A. Wrong.

15 THE COURT: The objection is --

16 Q. Is it your --

17 THE COURT: The objection is overruled.

18 BY MR. ARONWALD:

19 Q. Now, looking at government exhibit 214, government
20 exhibit 214 --

21 MR. ARONWALD: If we could have that up on the screen,
22 please. And if we could have the --

23 Q. Do you recognize that document?

24 A. Yes.

25 Q. All right. That is the -- the bill of sale reflecting the

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C210ann3 Serrao - cross - Aronwald

1 purchase by Ms. Annabi of the gold diamond cross; correct?

2 A. Correct.

3 Q. Okay. And the date of that was August 22nd, 2006, correct?

4 A. Correct.

5 Q. Okay. And in fact, that date corresponds with the credit
6 card receipt that was also part of that exhibit, correct?

7 A. Correct.

8 Q. Okay. And if you look at the --

9 MR. ARONWALD: If we could just have the lower portion
10 of the receipt, with the number on it, magnified, please, for
11 the witness. The receipt, not the credit card. In the lower
12 left hand corner.

13 Q. Do you see this number 42622?

14 A. Correct.

15 Q. And that's because these documents, these -- the receipts
16 or sales receipts, are sequentially numbered, correct?

17 A. Okay.

18 Q. Okay. And there is no sequential number or any number on
19 government exhibit 213, is there?

20 A. Okay.

21 Q. Is that correct?

22 A. Yes.

23 Q. And the reason for that is because you do not always report
24 your cash sales on your audit statements or tax returns; isn't
25 that correct?

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C210ann3 Serrao - cross - Aronwald

1 MR. HALPERIN: Objection, objection.

2 THE COURT: Grounds?

3 MR. HALPERIN: Good-faith basis.

4 MR. ARONWALD: We'll discuss it at the sidebar, your

5 Honor?

6 THE COURT: Folks go to lunch, I'll see you at 2:00.

7 Don't discuss the case, keep an open mind.

8 THE COURT: Sir, you can step down and go to lunch.

9 THE WITNESS: Thank you.

10 (Jury excused)

11 (Witness temporarily excused)

12 THE CLERK: Leave your books there, or take them with

13 you.

14 THE COURT: I would rather you take it in the back,

15 it's more secure that way.

16 (Jury not present)

17 THE COURT: And your good-faith basis is?

18 MR. ARONWALD: My good-faith basis, your Honor, is we

19 have reason to believe that --

20 THE COURT: You have to tell me why you have reason to

21 believe. And it can't be that all jewelers and people who have

22 small businesses have an off-the-books life.

23 MR. ARONWALD: First of all, because the cash receipt

24 is not a sequential numbered document. There is no numbers on

25 it whatsoever to track as to whether or not it is in or out of

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1 sequence with other documents that would indicate when it was
2 and what the year and the month that it was -- the transaction
3 occurred.

4 Number 2, if you look at the two documents -- and I
5 don't know if you have them in front of you, your Honor.

6 THE COURT: I don't.

7 MR. ARONWALD: But government exhibit 214 has the
8 address of the store as 557 Main Street, New Rochelle, New
9 York, 10801. The document, the cash receipt, does not have
10 that address, it has a different address crossed out and 557
11 put into it. So it would appear that this form, this document,
12 was not the form that was being used in 2006 when the sale
13 ostensibly occurred. So on that basis, your Honor, and also
14 because there is no acknowledgment that this watch was
15 delivered to her, name doesn't appear on it, she doesn't
16 acknowledge receipt of it, it is not even marked paid. There
17 is no record of that whatsoever. And, also, your Honor, this
18 sale occurred in 2006. He did not produce these documents
19 until 2009, and only in response to a grand jury subpoena
20 calling for production --

21 THE COURT: That's no reason for anything. That gives
22 you no good-faith basis for anything. There wasn't a
23 government investigation that he could have produced them in
24 2006.

25 MR. ARONWALD: That's not true.

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C210ann3

Serrao - cross - Aronwald

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case.
Honor.

MR. ARONWALD: I'm happy to vacate the table, your
(Luncheon recess)

C2LAANN4

Serrao - Cross
AFTERNOON SESSION

2:02 p.m.

1
2
3 MR. HALPERIN: I'll just note that the 1A has now been
4 provided for Mr. Serrao.

5 THE COURT: Thank you.

6 (Jury present)

7 THE COURT: Okay. Have a seat. Get comfortable.
8 Sir, you are still under oath.

9 Mr. Aronwald, I believe you were questioning the
10 witness.

11 CROSS-EXAMINATION

12 BY MR. ARONWALD:

13 Q. Can you see the two exhibits?

14 A. Yes.

15 Q. Just so -- I just have a few questions and I'll be quite
16 finished. The bill of sale that you gave the government for
17 the cross has a bill of sale number, correct?

18 A. Correct.

19 Q. The bill of sale you gave the government for the watch does
20 not have a bill of sale number, correct?

21 A. Correct.

22 Q. The bill of sale for the cross has Sandy Annabi's name
23 written on it, correct?

24 A. Correct.

25 Q. The bill of sale for the watch does not, correct?

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C2LAANN4

Serrao - Cross

- 1 A. Correct.
- 2 Q. The bill of sale for the cross has a credit card machine
3 receipt attached, right?
- 4 A. Correct.
- 5 Q. The bill of sale for the watch does not have a register
6 receipt attached, does it?
- 7 A. Correct.
- 8 Q. The bill of sale for the watch is not part of a multicopy
9 form, is it?
- 10 A. It's a three form.
- 11 Q. It's what?
- 12 A. Three form.
- 13 Q. I didn't --
- 14 A. Three copies.
- 15 Q. The bill of sale for the watch is a three copy form?
- 16 A. Yes.
- 17 Q. The bill of sale for the cross is also a three copy form?
- 18 A. Two copies.
- 19 Q. Two copies. Every Rolex watch has a serial number,
20 correct?
- 21 A. Correct.
- 22 Q. Okay. And there is no serial number on the bill of sale
23 for the watch, correct?
- 24 A. Okay.
- 25 Q. Is that correct?

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C2LAANN4

Serrao - Cross

1 A. Correct.

2 Q. The bill of sale for the cross describes a seven day return
3 policy, correct?

4 A. Correct.

5 Q. The bill of sale for the watch has a "no returns/all sales
6 final" on it, correct?

7 A. Correct.

8 MR. ARONWALD: Thank you. No further questions, your
9 Honor.

10 THE COURT: Mr. Siano.

11 MR. SIANO: Yes, your Honor.

12 THE COURT: Oh, please.

13 CROSS-EXAMINATION

14 BY MR. SIANO:

15 Q. Mr. Serrao, good afternoon.

16 My name is Anthony Serrao. I represent Mr. Jereis?

17 A. Good afternoon.

18 Q. Mr. Serrao, I believe you've testified in questions
19 Mr. Aronwald asked you that this was the first time you met an
20 FBI agent?

21 A. Yes.

22 Q. Now, you also went down to the courthouse in White Plains
23 and met with the prosecutors or at least one, Mr. Halperin?

24 A. Um-hmm.

25 Q. And then some months later you went to the grand jury;

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C2LAANN4

Serrao - Cross

1 isn't that right?

2 A. Correct.

3 Q. You testified under oath in the grand jury?

4 A. Correct.

5 Q. 3526A, please.

6 Now, in the weeks prior to today's, sir, did you have
7 occasion to prepare your testimony?

8 A. I don't understand what that means.

9 Q. Well, did you meet with anybody --

10 A. Yes.

11 Q. Just let me finish now. Did you meet with anybody from the
12 United States government about your appearance in that witness
13 box?

14 A. Yes.

15 Q. And did they give you things to read?

16 A. No.

17 Q. Let me place in front of you what's been marked as 3526A.

18 Excuse me, your Honor, permission to approach?

19 THE COURT: Of course.

20 MR. SIANO: Thank you.

21 Q. Could you look at what's been previously marked as
22 Government Exhibit 3526A for identification. You could turn
23 the cover page, Mr. Serrao. Do you see your name there on page
24 2?

25 A. Yeah.

C2LAANN4 Serrao - Cross

1 Q. And do you recall, sir, that you testified in about July of
2 2009?

3 A. Yes.

4 Q. About two and a half years prior to today?

5 A. Correct.

6 Q. And in 2009 that was three years prior to the transactions
7 in your store in the summer of 2004?

8 MR. HALPERIN: Objection to "prior".

9 Q. The grand jury appearance was three years after --
10 Thank you, Mr. Halperin.

11 -- after the transactions in the store.

12 A. Correct.

13 Q. Okay. Now, you took an oath in the grand jury to tell the
14 truth, didn't you?

15 A. Yes, I did.

16 Q. You were trying your best?

17 THE COURT: To tell the truth I think he means.

18 A. Yes.

19 Q. And do you recall in the grand jury being asked about the
20 subject matter of who came in your store in the summer of 2006?

21 A. Right.

22 Q. Do you recall being asked those questions?

23 A. Yes.

24 Q. Do you recall being asked the following question and giving
25 the following answer, page 33 line 6.

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C2LAANN4

Serrao - Cross

1 Question: When Sandy Annabi came in bringing the
2 eight by ten picture of the watch she wanted, did Zehy come
3 with her?

4 Answer: No.

5 Q. Do you recall being asked that question and giving that
6 answer in 2009?

7 A. I don't remember it.

8 Q. Well, why don't you open up the transcript to page 33 and
9 look at it.

10 A. Okay.

11 Q. Okay. You turned the page or --

12 A. 33?

13 Q. Line 6, question and answer.

14 A. I don't remember. Is that what --

15 THE COURT: The question is, does that jog your memory
16 as you sit here today about what you said when you were in the
17 grand jury?

18 THE WITNESS: I don't remember.

19 THE COURT: Apparently it doesn't jog his memory.

20 MR. SIANO: Offer in evidence extract Defense Exhibit
21 that page 33, line 6 through line 9.

22 MR. HALPERIN: Your Honor, line 12.

23 MR. SIANO: Oh, I am going to continue.

24 THE COURT: Then let's keep going.

25 BY MR. SIANO:

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C2LAANN4

Serrao - Cross

1 Q. Do you recall the next question, sir, where you were asked
2 if you remembered Zehy came with her at any time? And you
3 answered, no, not that I remember. Do you recall being asked
4 that question and giving that answer?

5 A. Yes, if I did.

6 Q. All right. So you were asked, did Mr. Jereis come with
7 Ms. Annabi when she brought the picture and you said no.

8 A. That's all I remember back then. I can't tell you now. I
9 think he did. I think he did. I don't remember. I don't
10 remember. I think he came with her. It's six years ago. It's
11 hard to remember.

12 Q. Now, do you recall also being asked questions of the grand
13 jury about the referral, specifically, about the referral in
14 the grand jury?

15 A. What does that mean?

16 Q. Did you say, sir, on direct that you received a referral
17 phone call from a man named "Zehy"?

18 A. Yes.

19 Q. Do you recall being asked about that in the grand jury,
20 sir?

21 A. I don't remember.

22 Q. So it's your testimony you don't remember your grand jury
23 appearance but you do remember the event?

24 A. I remember the event.

25 MR. HALPERIN: Objection.

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C2LAANN4

Serrao - Cross

1 THE COURT: Objection is overruled.

2 Q. Mr. Serrao, I asked you do you recall being asked the
3 following questions and giving the following answers.

4 Page 32, Mr. Halperin, grand jury appearance page 32
5 line 7 "question".

6 And, Mr. Serrao, you can read along.

7 Question: Mr. Serrao, you testified that someone
8 named Zehy referred Sandy Annabi to your store?

9 Answer: Yes.

10 Question: How did you know that Zehy was the one who
11 referred Sandy Annabi to your store?

12 Answer: He called up said I am recommending you a
13 customer.

14 Question: Zehy called up?

15 Answer: Yes.

16 Question: And said I am recommending a customer. Did
17 he say who it was?

18 Answer: This councilman, whatever her name is.

19 Question: Sandy Annabi?

20 Answer: I knew her as "Sandy".

21 Q. Excuse me, sir. Do you recall being asked those questions
22 and giving those answers?

23 A. I don't remember.

24 MR. CARBONE: Offer in evidence second abstract, your
25 Honor?

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C2LAANN4

Serrao - Cross

1 MR. HALPERIN: Your Honor, we object. We don't see
2 how it's inconsistent.

3 THE COURT: Well, here is the deal, ladies and
4 gentlemen. Ladies and gentlemen, all lawyers for anybody, for
5 both sides who have a witness called against them have many
6 ways of trying to convince you that the witness may not be
7 telling the truth or may have faulty memory or whatever. And
8 one of those ways is called impeaching with prior inconsistent
9 testimony. A lawyer can impeach with prior inconsistent
10 testimony if it is really inconsistent. I can't make those
11 calls. I am not allowed to find facts in this case. So I
12 don't get to decide whether testimony or is not inconsistent.
13 That's for you to decide. So I am going to admit this
14 testimony. I am going to let the lawyers at the end of the
15 case argue that it either is inconsistent with what the witness
16 is telling you here today or is not in consistent with what the
17 witness is telling you here today.

18 The prior statement is not evidence in the case. The
19 evidence in the case is what the witness tells you here on this
20 witness stand. Prior testimony is offered to you for a limited
21 purpose. And when you deliberate you'll decide if you think
22 there's an inconsistency from what the witness has said to you
23 here on the stand and what the witness said on a prior occasion
24 and then you'll decide what to make of that.

25 And lawyers sometimes see inconsistencies where jurors

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C2LAANN4

Serrao - Cross

1 don't. Different lawyers may see inconsistencies or not. In
2 the end that decision is left to you. Was there an
3 inconsistency and if so, does it mean that I don't believe what
4 the witness is telling me here but what he tells you here in
5 this courtroom, that is the evidence in the case.

6 It's admitted.

7 MR. SIANO: Thank you, judge.

8 Q. Now, Mr. Serrao, I believe you testified that you received
9 this phone call from the man named Zehy and then a person named
10 Sandy came in to see you; is that correct?

11 A. Right.

12 Q. And you described her carrying this picture of the watch
13 she wanted; is that correct?

14 A. Correct.

15 Q. And then I believe, sir, did you testify that there was
16 some back and forth between you and Sandy over price?

17 A. Correct.

18 Q. And that took place on the telephone?

19 A. On the phone.

20 Q. And from time to time you would call Sandy and Sandy would
21 call you and you would, basically, was hard bargaining over
22 price?

23 A. Exactly.

24 MR. SIANO: No further questions.

25 THE COURT: Thank you. Any redirect?

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C2LAANN4 Serrao - Cross

1 MR. HALPERIN: No redirect, your Honor.

2 THE COURT: Sir, you are done. Thank you very much.

3 You may leave the.

4 Call your next witness.

5 MR. CARBONE: The government calls Doug Wells.

6 DOUGLAS WILLIAM WELLS,

7 called as a witness by the Government,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. CARBONE:

11 Q. Good afternoon, Mr. Wells.

12 A. Good afternoon.

13 Q. Sir, are you employed?

14 A. I am.

15 Q. Where do you work?

16 A. Ray Catena Motor.

17 Q. And what do you do at Ray Catena Mercedes Benz?

18 A. I am the general manager.

19 Q. How long have you been employed by Ray Catena?

20 A. Since 1989.

21 Q. What do you do as general manager?

22 A. I run the entire dealership.

23 Q. How many employees do you supervise?

24 A. We have about 178.

25 Q. And as the general manager are you familiar with the

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C2LAANN4 Wells - Direct

1 business records of ray Catena Mercedes Benz?

2 A. Yes.

3 Q. Would you please open your binder and take a look at
4 Government Exhibit 206R which has been marked for
5 identification and which lists a series of documents.

6 A. Okay.

7 Q. Have you reviewed the records identified on that list?

8 A. Yes.

9 Q. And are they business records of Ray Catena Mercedes Benz
10 relating to a Mercedes Benz leased by Sandy Annabi?

11 A. Yes.

12 Q. And are these records kept in the ordinary course of Ray
13 Catena's business?

14 A. Yes.

15 Q. Is it the regular course of business to make and keep such
16 records?

17 A. Yes.

18 Q. Are the records or the entries on record made at or near
19 the date reflected on them?

20 A. Yes.

21 Q. And are the entries on the documents made by information
22 received from a person with knowledge of the transaction?

23 A. Yes.

24 MR. CARBONE: Your Honor, we offer the exhibits
25 identify in 206R in evidence, for the record 206 and 206G

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C2LAANN4 Wells - Direct

1 through 206Q?

2 MR. ARONWALD: No objection.

3 MR. SIANO: No objection.

4 THE COURT: Admitted.

5 (Plaintiff's Exhibit 206R, 206, 206G and 206Q received
6 in evidence))

7 MR. CARBONE: Please broadcast Government Exhibit
8 206G.

9 Q. Mr. Wells, what is 206G?

10 A. 206G is purchase order.

11 MR. CARBONE: And can you maximize the top half of the
12 page please.

13 Q. Who is the person who's purchasing the car here?

14 A. Sandy Annabi.

15 Q. Was this a special order?

16 A. It was a order for a 2006 COK 350 convertible.

17 Q. And does it indicate what color the car would be?

18 A. White.

19 Q. And what other options were ordered with the car?

20 A. It was a ash leather blue top. It had a premium package
21 navigation and heated seats.

22 Q. What is the purpose of the purchase order?

23 A. When we place an order for a client we need to make sure
24 who the customer is, their address, what type of car they're
25 purchasing, what options they want so that when the car comes

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C2LAANN4 Wells - Direct

1 in we adhere to the proper order.

2 MR. CARBONE: Can you maximize the bottom half of the
3 document please.

4 Q. Was a down payment required when this purchase took place?

5 A. Yes. Whenever we order a car for a client we take a
6 deposit.

7 Q. And, approximately, how much cash was due at the delivery
8 of the car?

9 A. Due at delivery would have been ten thousand.

10 Q. And how much of a down payment?

11 A. It was \$500 deposit.

12 Q. And was that done by credit card?

13 A. Yes.

14 Q. Can you please read the credit card number that was used to
15 fund the down payment?

16 A. 5424180303242652.

17 Q. What is the date that the car was ordered?

18 A. This was the middle of November.

19 Q. Well, can you --

20 A. I mean middle of September.

21 Q. What was the date that the credit card was debited?

22 A. I do not recall. I don't have that in front of me.

23 Q. Can you look underneath.

24 A. That's the expiration date on the bottom of the credit
25 card.

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C2LAANN4

Wells - Direct

1 MR. CARBONE: Can you maximize the document please.

2 A. This copy at the top the date of this, the order, the date
3 is missing.

4 Q. I see. It's cut-off.

5 A. But it was sometime in September when the car was ordered.

6 MR. CARBONE: Can you please broadcast Government
7 Exhibit 206.

8 Q. And what is Government Exhibit 206?

9 A. That is a lease contract with Mercedes Benz credit.

10 Q. Would you maximize the middle of the page please. What is
11 the total amount of the lease?

12 A. What are you looking for the gross cap highest cost of the
13 car including sale tax was \$58,420.

14 Q. What were the monthly lease payments?

15 A. \$625.

16 MR. CARBONE: Would you please broadcast page 2.
17 Maximize the bottom.

18 Q. Whose signature appears there?

19 A. Client which was Sandy Annabi and then one of the managers
20 at bottom of the contract.

21 Q. When is the lease typically signed?

22 A. The day they take delivery of the car.

23 Q. What was the date of delivery?

24 A. 12/8/05.

25 MR. CARBONE: Please broadcast Government Exhibit 206

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C2LAANN4 Wells - Direct

1 J. Maximize the check.

2 Q. What is 206J?

3 A. This was the check that was turned that was used to cover
4 the \$9500 cash on delivery for Sandy Annabi.

5 MR. CARBONE: Can you maximize the section that says
6 remittitur.

7 Q. Who actually provided words "remittitur" on the check?

8 A. Zehy Jereis.

9 MR. CARBONE: Maximize the check again.

10 Q. What is the amount?

11 A. \$9500.

12 Q. And was Sandy Annabi given credit for this cashiers check
13 toward the down payment on her lease?

14 A. Yes.

15 MR. CARBONE: Please broadcast Government Exhibit 206

16 L.

17 Q. What is Government Exhibit 206L?

18 A. That is a paper credit application that was either handed
19 to the client or was filled out by the salesperson. We'd taken
20 all the information that would be provided to get a credit
21 application submitted to the bank.

22 MR. CARBONE: Would you maximize the handwritten
23 section.

24 Q. What is the address provided by Sandy Annabi?

25 A. 45 Bacon Place Yonkers.

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C2LAANN4 Wells - Direct

1 Q. How long does it say that she lived there?

2 A. One year.

3 Q. Now, is the borrower required to sign the credit
4 application?

5 A. Yes.

6 MR. CARBONE: Please broadcast page 3 of that exhibit.
7 Let's try page 4 and maximize the signature section.

8 Q. What is the date that the credit application was signed?

9 A. 12/8/05.

10 MR. CARBONE: Please broadcast Government Exhibit 206

11 K. Please rotate document.

12 Q. What does that form indicate?

13 A. The one that's now facing me somebody takes delivery and
14 they're out of state from us, we ask them where they would like
15 the plates sent and they provide us with an address.

16 Q. What address was provided?

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

18 Q. Do the records reflect how Sandy Annabi was referred to Ray
19 Catena Mercedes Benz?

20 A. Yes.

21 MR. CARBONE: Please broadcast Government Exhibit
22 2060.

23 Q. What is the purpose of 2060?

24 A. This is a printout from your CRN tool which is a customer
25 management tool which is designed that when a client comes into

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1 the dealership we know that they're there, get their address,
2 e-mail information, stay in contact. If they don't buy a car
3 why didn't they buy a car? Try to reach out to them in the
4 future. If they do buy a car, stay in contact with them. If
5 there's a lease the lease is coming due, help them try and get
6 into another car again.

7 Q. Is it fair to say that the purpose of this is to track the
8 communications with the customer?

9 A. Correct.

10 Q. And do you keep these for each customer?

11 A. Yes.

12 Q. And what customer is this particular document for?

13 A. Loria DelBello.

14 MR. CARBONE: Would you please maximize the entry
15 dated 8/10/05.

16 Q. And can you read what's reflected?

17 A. This is a note from one of my BDC reps which is the
18 Business Development Center. They called and spoke with the
19 doctor and he wants to come in and visit. He wants to purchase
20 a car for himself and he has a friend who will be coming in and
21 trading in a COK also and there was a scheduled appointment for
22 8/12/05 and go from there.

23 MR. CARBONE: Now, would you please broadcast 206Q and
24 would you maximize the shaded entry.

25 Q. What is reflected in 206Q?

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C2LAANN4 Wells - Direct

1 A. The salesperson puts a notes in that the doctor had come in
2 and came in with his friend Sandy Annabi and that he likes E
3 Class car and that she likes the COK.

4 MR. CARBONE: No further questions. Thank you.

5 THE COURT: Mr. Aronwald.

6 CROSS-EXAMINATION

7 BY MR. ARONWALD:

8 Q. Just so we're clear, this was not a purchase. It was a
9 lease, correct?

10 A. Correct.

11 Q. And what you told us is that there was A five hundred
12 dollars deposit that was paid by Ms. Annabi?

13 A. Correct.

14 Q. Okay. And there was a \$9500 balance on the \$10,000 down
15 payment that is paid with a check by Mr. Jereis, correct?

16 A. Correct.

17 Q. Okay. You have told us that the lease payments were \$625 a
18 month?

19 A. Correct.

20 Q. And this lease was for how many months?

21 A. 39.

22 Q. And 39 months from the date of the delivery?

23 A. Date of delivery.

24 Q. And delivery was in December of '05?

25 A. Correct.

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C2LAANN4 Well - Cross

1 Q. Who made the lease payments?

2 A. I would presume that Sandy made the lease payments.

3 Q. Okay. So that there would have been 39 payments at \$625 a
4 month which as far as you know was not paid by anyone other
5 than Sandy Annabi?

6 A. Correct.

7 Q. And the purchase, the lease price of this vehicle you said
8 was \$58,000?

9 A. Gross cap cost including sales tax was \$58,000.

10 Q. Okay. So of that amount then Sandy Annabi paid everything
11 other than the \$9500 that Mr. Jereis paid towards the down
12 payment, correct?

13 A. If you want to put it that way, yes.

14 Q. Well, did anybody else -- it was Sandy that paid the five
15 hundred, correct?

16 A. Correct.

17 Q. So the other payments were made by Sandy Annabi?

18 A. Correct.

19 Q. So the only payment of that amount that was paid by
20 Mr. Jereis was the \$9500 that was the balance of the down
21 payment, correct?

22 A. Correct.

23 MR. ARONWALD: No further questions.

24 THE COURT: Mr. Siano.

25 MR. SIANO: Could we have 206 please.

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C2LAANN4

Well - Cross

1 CROSS-EXAMINATION

2 BY MR. SIANO:

3 Q. Sir, do you recognize 206N?

4 A. Yes.

5 Q. What is it?

6 A. It looks like it's scratchpad from the sales person when he
7 was working the numbers with the client for the car.

8 Q. And in the center of this does this appear to be

9 Ms. Annabi's driver's license?

10 A. It is one the photocopies of a driver's license, yes.

11 Q. Can you tell by looking at this document whether or not
12 it's a scratchpad as to just Ms. Annabi's car or the dentist's
13 car?14 A. I couldn't exactly give the exact answers on it but it
15 looks like based on what I see written own all over it, it
16 looks like it was referred by the dentist whose name is on the
17 top which is the salesperson when he is working with the client
18 will make a little note for himself and the rest looks like it
19 all belongs to her.20 Q. The gentleman who earlier on direct you testified he was
21 looking for a car but he had a friend who was also looking for
22 a car?

23 A. Correct.

24 MR. ARONWALD: Judge, one question.

25 CROSS-EXAMINATION

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C2LAANN4

Wells - Cross

1 BY MR. ARONWALD:

2 Q. Looking at the same 206N, you had indicated previously that
3 there was an exhibit looking at 206 -- well, let's start with
4 this one. 206, you see in the handwritten portion none of that
5 is your handwriting, correct?

6 A. None of this is my handwriting.

7 Q. You were not the salesperson?

8 A. Correct.

9 Q. You see the address 245 Rumsey Road, Yonkers, New York 107;
10 do you see hat?

11 A. Correct.

12 Q. Do you know what that address represents?

13 A. From what I am looking at with this cause you'll have
14 somebody who'll be living in one location or who has just moved
15 and hasn't changed their driver's license which does happen
16 quite a bit and sometimes it could be a different address on
17 the back of the license. But that looks like the address that
18 they wanted to use as the address.

19 Q. Okay. Would you look at Government Exhibit 206?

20 MR. ARONWALD: If we can have that up on the screen
21 please.

22 Q. Government 206 is the lease contract?

23 A. Correct.

24 MR. ARONWALD: If we could just have the portion that
25 has the lessee and the lessee's address magnified please on the

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C2LAANN4 Wells - Cross

- 1 upper left. That's it.
- 2 Q. This is the document that is prepared by the dealership not
- 3 by --
- 4 A. Correct.
- 5 Q. Ms. Annabi. And the address listed for Ms. Annabi is 245
- 6 Rumsey Road, Apartment 1B, Yonkers, New York?
- 7 A. Correct. That's given to us by Sandy Annabi. We're only
- 8 putting address based on --
- 9 Q. The information that Ms. Annabi provided to you, correct.
- 10 Looking at 206G, that's the purchase order?
- 11 A. Yes.
- 12 MR. ARONWALD: Okay. We can have the just the upper
- 13 ten lines magnified please. Thank you.
- 14 Q. Do you know whose handwriting that is, the handwritten
- 15 portion?
- 16 A. That would be a salesperson.
- 17 Q. Okay. And the address that's listed for Sandy Annabi is
- 18 245 Rumsey Road, Apartment 1B, Yonkers, New York?
- 19 A. Correct.
- 20 Q. Looking at 206H is what type of document?
- 21 A. That is a bill of sale.
- 22 Q. The bill of sale again reflects Ms. Annabi's address is 245
- 23 Rumsey Road, Yonkers?
- 24 A. Correct.
- 25 Q. 206K. There are two addresses listed on this, the address
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C2LAANN4

Wells - Cross

1 that's in the lower portion addressed to where plates should be
2 sent lists 45 Bacon Place, Yonkers, New York, correct?

3 A. Correct. That's where the client requested cause we Fed Ex
4 the plates when they come in that's the address they request.
5 Could be a home, could be a office, whatever it may be.

6 Q. But the other document that's reflected on there that is
7 sort of --

8 MR. ARONWALD: I don't know whether that could be
9 rotated.

10 A. That is a sticker that goes on the front of our holder
11 jacket which lists the customer, lists the deal number for us
12 for our record keeping, phone number, salesperson's name, the
13 vehicle that she purchased when the deal was filled out and the
14 vin number of the automobile.

15 Q. And it also lists customer address?

16 A. Correct.

17 Q. The customers address is the address that's provided by the
18 customer and in case the address was 245 Rumsey Road, Yonkers,
19 New York?

20 A. Correct.

21 MR. ARONWALD: No further questions.

22 THE COURT: Any redirect?

23 MR. CARBONE: Briefly, your Honor.

24 Please broadcast Exhibit 206G and maximize the bottom
25 left.

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C2LAANN4

Wells - Cross

1 BY MR. CARBONE:

2 Q. You were asked on cross-examination by Mr. Aronwald whether
3 Sandy Annabi paid the five hundred dollars down payment with
4 the credit card. Is it fair to say that by looking at the
5 purchase order what you see there is a credit card number?

6 A. Yes.

7 Q. And you don't really know who that credit card number
8 belongs to; is that right?

9 A. By just looking at that number, no.

10 Q. Is there anything in the file that would indicate whose
11 credit card that was?

12 A. When you do a printout you should have a copy with the name
13 written on it.

14 THE COURT: Is there a copy of that in your file?

15 THE WITNESS: No.

16 BY MR. CARBONE:

17 Q. Based on what you see there you don't know who it came
18 from?

19 A. No.

20 Q. And you also broadcast 206L in response to Mr. Aronwald's
21 questions about the different addresses that were provided. Is
22 it fair to say that 206L is one of the first documents that
23 would be submitted in connection with the lease?

24 A. Yes.

25 Q. And that is the credit application?

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C2LAANN4

Wells - Cross

- 1 A. Correct.
- 2 Q. How does that work? The customer comes in and they give
- 3 you a handwritten version and then what happens next?
- 4 A. They give you a handwritten credit ap and in turn you'll
- 5 input it into the computer.
- 6 Q. And what address did Ms. Annabi provide?
- 7 A. On this piece of paper it looks like they started with one
- 8 address and then changed it to 45 Bacon Place Yonkers.
- 9 Q. So there are different addresses in the file?
- 10 A. Correct.
- 11 MR. CARBONE: Thank you. Nothing further.
- 12 MR. ARONWALD: Thank you, your Honor.
- 13 THE COURT: Mr. Siano, anything? Okay.
- 14 Thank you, sir. You may step down.
- 15 Call your next witness.
- 16 MR. CARBONE: The government calls Helen Henkel.
- 17 HELEN ANN HENKEL,
- 18 called as a witness by the Government,
- 19 having been duly sworn, testified as follows:
- 20 DIRECT EXAMINATION
- 21 BY MR. CARBONE:
- 22 Q. Good afternoon, Ms. Henkel.
- 23 Where are you employed?
- 24 A. City Hall Yonkers.
- 25 Q. What is your title?

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C2LAANN4 Henkel - Direct

1 distribution, the collection and making sure everyone has
2 returned them.

3 Q. What is the mission of the Yonkers Board of Ethics? Well,
4 do you review complaints? Do you ensure compliance with the
5 disclosure laws?

6 A. Yes.

7 Q. Now, would you please take a look at Government Exhibit 19
8 in evidence.

9 A. Yes.

10 Q. Is that exhibit a copy of the current City of Yonkers Code
11 of Ethics?

12 A. This is the Local Law 10-2005, yes.

13 Q. When did that become effective?

14 A. In 2005 with the Charter Revision Commission reciting the
15 code.

16 Q. And please take a look at Government Exhibit 18 in
17 evidence.

18 A. Yes.

19 Q. What is Government Exhibit 18?

20 A. Chapter 7 of the general provisions of the various articles
21 of the financial disclosures.

22 Q. Was that in effect up until the 2005 revision?

23 A. Yes.

24 Q. Are all city employees who are required to file financial
25 disclosure forms given a copy of the code of ethics?

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C2LAANN4

Henkel - Direct

1 A. Yes.

2 Q. And are instructions also provided to the filer?

3 MR. ARONWALD: Your Honor, objection to the leading.

4 THE COURT: Objection is sustained.

5 Ask her questions that begin with who, what, where,
6 why, which and when. Do not tell her something and ask her if
7 that is correct or not correct.8 Q. What, if anything, is provided along with the financial
9 disclosure forms to the elected officials?10 A. An elected official is given a copy of the Code of Ethics
11 as it was dawn up by 2006 as they become employed or when it
12 was first distributed in 2005.13 Q. Does the city make anyone available to answer questions
14 that filers may have?

15 MR. ARONWALD: Objection again; the same thing.

16 THE COURT: What, if anything, does the city do in
17 case citizens or filers have questions, ma'am? What, if
18 anything, does the city do so that those questions can be
19 answered?20 THE WITNESS: The city provides both advise with the
21 Corporation Counsel or the chairman of the Ethics Board or if
22 it is in writing the board meets and comes up with a decision
23 from there.

24 THE COURT: Who is the Corporation Counsel?

25 THE WITNESS: The head attorney for the city of

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C2LAANN4

Henkel - Direct

1 Yonkers is an advisor to the Ethics Board and is available
2 daily whereas the chairman and the rest of the board are not in
3 residence.

4 THE COURT: See how easy that is, Mr. Carbone?

5 MR. CARBONE: Thank you, judge.

6 Q. Would you please look at Government Exhibits 11 through 17
7 in evidence.

8 A. Yes.

9 Q. Can you tell us what they are?

10 A. These are copies of financial disclosure forms completed by
11 Councilwoman Annabi.

12 Q. For what reporting period?

13 A. The first is, reads in 2001. The second one reads -- it
14 doesn't. It was completed in 2003, so therefore it was for
15 2002. The next one was completed in 2004 for the reporting of
16 2003. The next one is March of 2005 that would have been for
17 the -- that form there, 2004, information. The next is
18 notarized on 2006, therefore it would be for the financial
19 information of 2005. The next is dated 2007, therefore, it
20 would have been in the information for 2006. Then we started
21 catching up. Now the next one is May 2008 is the date that
22 that form was signed and that's the completed file.

23 Q. What is the purpose of the financial disclosure forms?

24 MR. ARONWALD: Your Honor, if she knows.

25 THE COURT: You know what, I've already figured out if
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C2LAANN4 Henkel - Direct

1 Ms. Henkel doesn't know something she is perfectly capable of
2 telling us.

3 Q. What is the purpose of the financial disclosure forms?

4 A. To show incomes and expenses and conflicts of interest and
5 relatives pertaining to your employment.

6 Q. Thank you. And are these statements available for members
7 of the public?

8 A. Yes.

9 Q. And where are they filed and maintained?

10 A. At city hall.

11 MR. CARBONE: Please broadcast page 1 of Government
12 Exhibit 11 and maximize the top half of the page.

13 Q. What position does defendant list on her file?

14 A. The position?

15 Q. Yes.

16 A. Councilwoman Second District.

17 Q. And what is the actual reporting period covered by this
18 disclosure form?

19 A. It would have been for the prior year, 2000, completed
20 in -- let me doublecheck. Pardon me. Our forms were very
21 confusing. This was completed in 2002. This form is for the
22 year 2001 financial information.

23 Q. And does the form contain a certification?

24 A. Yes, it does.

25 MR. CARBONE: Please broadcast page 7.
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C2LAANN4 Henkel - Direct

- 1 A. Page 7 Sandy Annabi signed it with the Notary of --
2 MR. CARBONE: Hold up one second. Now please maximize
3 the bottom of the page.
4 Q. And what is the date? Can you read the certification?
5 A. 17th day of June 2002.
6 Q. And read what's directly above Ms. Annabi's signature.
7 A. I hereby certify under the penalty of perjury the foregoing
8 information is true to the best of my knowledge.
9 MR. CARBONE: Please turn to question 5 on page 5.
10 Maximize question 5 where it says list the source of all gifts
11 aggregating in excess of two hundred dollars received during
12 this last year by you, your spouse or dependent children,
13 excluding gifts from a relative. The term "gift" includes
14 cash, property, personal items, payments to third parties on
15 your behalf or forgiveness of debts on earnings or any other
16 payments that are not reportable as incomes.
17 Q. Can you tell us how Ms. Annabi responded to that question?
18 A. With the word "none".
19 Q. Does defendant Sandy Annabi disclose anywhere on this form
20 that she received any financial benefits from Zehy Jereis?
21 A. No.
22 MR. CARBONE: Please broadcast page 12 of Government
23 Exhibit 12 and maximize the top half of the page.
24 Q. Is this the next calendar year reporting period?
25 A. Yes.

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C2LAANN4

Henkel - Direct

1 MR. CARBONE: Please broadcast page 7. Maximize the
2 bottom of the page.

3 Q. What is the date that this form was certified?

4 A. May 13, 2003.

5 MR. CARBONE: Please turn to Question 4G on page 4 and
6 maximize the bottom half of the page.

7 Q. Where it says identify the source the nature of any other
8 income in excess of \$1000 per year from any source not
9 described above. How does Ms. Annabi respond to that question?

10 A. With the word, "none".

11 MR. CARBONE: Please turn to page 5.

12 Q. Question five and where it says list the source of all
13 gifts aggregating in excess of \$200 received during the last
14 year by you, your spouse, your dependent children, excluding
15 gifts from a relative how did Ms. Annabi respond?

16 A. With the word "none".

17 Q. Did the defendant Sandy Annabi disclose anywhere on this
18 form that she had received any financial benefits from Zehy
19 Jereis?

20 A. No.

21 MR. CARBONE: Please turn to Government Exhibit 13 and
22 maximize the top half of the page.

23 Q. What is the actual reporting period covered by this
24 disclosure form?

25 A. It would have been for the year 2003 and it was sworn on

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C2LAANN4 Henkel - Direct

1 June 2004, the 14th of the month.

2 Q. And please turn to Question 4G on page 4.

3 A. Yes.

4 Q. Does Ms. Annabi disclose any other source of income?

5 A. No.

6 Q. Now, turning to page 5 question 5, does Ms. Annabi disclose
7 any gifts aggregating in excess of \$200 for this year?

8 A. No.

9 (Continued on next page)

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25

C210ann5 Henkel - direct

1 Q. Does she disclose anywhere on this form that she received
2 any financial benefits from Zehy Jereis?

3 A. No.

4 Q. Please turn to government exhibit 14, page 1, top of the
5 page. Can you tell us what reporting period government
6 exhibit 14 covers?

7 A. It was notarized in March of 2005, therefore it would cover
8 from -- for the financial of 2004.

9 Q. And, please, turn to page 3, question four(e).

10 A. Yes.

11 Q. The question -- can you read the question, please?

12 A. Investments. Itemize and describe all investments in
13 excess of \$5,000, or 5 percent of the value in any business.
14 Preparation, partnership, or other assets including stocks,
15 bonds, loans, pledge, collateral, and other investments for
16 you, your spouse, or dependent children, if any. List the
17 location of all real estate within the City or within 5 miles
18 thereof in which you, your spouse, or dependent children, if
19 any, have any interest regardless of its value.

20 Q. And how did Ms. Annabi respond to that question?

21 A. She responded that she had a residence at 245 Rumsey Road,
22 and an investment at 45 Bacon Place.

23 Q. Does she disclose anywhere in this form that she also owned
24 a house during that calendar year located on Patton Drive in
25 Yonkers?

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C210ann5

Henkel - direct

1 A. No.

2 Q. And please turn to page 5, question five --

3 A. Yes.

4 Q. -- where it says: List the source of all gifts aggregated
5 in excess of \$200.

6 How did Ms. Annabi respond to that question?

7 A. With the word of "none."

8 Q. And please turn to page -- page 6, question 7.

9 A. Yes.

10 Q. Where it says: Debt. Describe all debts of you, your
11 spouse, and dependent children, if any, in excess of \$5,000.12 Did Ms. Annabi disclose any debt that she owed to Zehy
13 Jereis?

14 A. She did not respond to any debt owed to Zehy Jereis.

15 Q. Did Ms. Annabi disclose that she had received any rental
16 income on this disclosure form. And I'll direct your attention
17 to page 4(g), other income.

18 A. The word is none.

19 Q. During this calendar year, did Ms. Annabi disclose anywhere
20 in this form that she had received any financial benefits from
21 Zehy Jereis?

22 A. No.

23 Q. Please turn to government exhibit 15. And please broadcast
24 page 1. And maximize the top half of the page.

25 What is the reporting period covered by government

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C210ann5 Henkel - direct

1 exhibit 15?

2 A. As it was sworn on May 2006, it would have been the 2005
3 year.

4 Q. Please turn to question eight on page 3.

5 A. Yes.

6 Q. Where it says: Disclose all loans in excess of \$1,000 made
7 to you, your spouse, household member, or children, how did
8 Ms. Annabi respond?

9 A. Her response was: All loans include National City
10 Mortgage, American Servicing Company.

11 Q. And now turn to page 4, question 10. Maximize question 10,
12 please. Now, where it says: For the disclosing City officer
13 employee, disclose any gift in excess of \$200 received within
14 the prior year, except for those gifts enumerated in.

15 Section C1A-7B. How did Ms. Annabi respond to that question?

16 A. With the word of: None.

17 Q. Did Ms. Annabi disclose that she had received any loans,
18 gifts, or other financial benefits from Zehy Jereis during this
19 reporting period?

20 A. No.

21 Q. Please turn to government exhibit 16.

22 A JUROR: I'm sorry, I have a very small bladder, do
23 you mind if I --

24 THE COURT: No problem. I'm sorry I worked through.
25 Take a short break, folks. If you all want to just stand up

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C210ann5 Henkel - direct

1 we were no longer putting specific dollar amounts on our forms,
2 it was determined that it made more sense for the form to be
3 dated the year you were completing it.

4 Q. Now, what is the date that the 2007 form, government
5 exhibit 16, was certified by Ms. Annabi?

6 A. May 15, 2007.

7 Q. And please broadcast page 4. And where it says as a result
8 of your position with the City of Yonkers, have you received a
9 gift value in excess of \$75 within the past year, how did
10 Ms. Annabi respond?

11 A. With the word: Yes.

12 Q. And what did she write?

13 A. Fruit basket and a bottle of wine from Forest City Ratner.
14 Don't know cost. Holiday gift.

15 Q. And please turn to page 5 and maximize question 11(b).
16 Where it says as a result of the position with the City of
17 Yonkers, have you received a gift or gifts with an aggregate
18 value in excess of \$200 within the last year, how did
19 Ms. Annabi respond?

20 A. With the word: No. As well as a checkmark.

21 Q. Does the form, anywhere, identify who a family member is.

22 Please broadcast page 1 and maximize the middle of the
23 page.

24 Can you please read the definition?

25 A. Certainly. A relative is defined in CIA-4R, as a spouse,
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C210ann5 Henkel - direct

1 child, step-child, sibling, half-brother, half-sister, parent,
2 stepfather, step mother, mother-in-law, father-in-law,
3 brother-in-law, sister-in-law, grandparent grandchild, uncle,
4 aunt, niece, nephew, and first cousin. And shall also include
5 any person claimed as a dependent on the New York State
6 Individual Tax Return of the disclosing City officer or
7 employee.

8 Q. Please turn to government exhibit 17, and broadcast,
9 page 1.

10 Can you tell us what calendar year government
11 exhibit 17 covers.

12 A. 2008.

13 Q. Did Ms. Annabi disclose anywhere in the form that she had
14 received any financial benefits from Zehy Jereis?

15 A. No.

16 Q. Did the board ever receive any supplement or amendment from
17 the defendant, through her 2001 through 2008 disclosure
18 reports, in which she disclosed or received any loans, gifts,
19 or other financial benefits from Zehy Jereis?

20 A. No.

21 MR. CARBONE: Nothing further, your Honor.

22 CROSS-EXAMINATION

23 BY MR. ARONWALD:

24 Q. Ms. Henkel, my name is William Aronwald. I represent Sandy
25 Annabi.

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C210ann5

Henkel - cross - Aronwald

- 1 Through the years of your experience working for the
2 City of Yonkers, you have come to know Sandy Annabi also,
3 correct?
- 4 A. Absolutely.
- 5 Q. And with respect to your testimony today, would it be fair
6 to say that what you have done, is you have simply described
7 what these forms are, and you have basically read from the
8 forms as to what her answers were, correct?
- 9 A. That is correct.
- 10 Q. And you don't have any personal knowledge that any of the
11 information that she put down on the form is in fact incorrect,
12 do you?
- 13 A. I do not know of any incorrect.
- 14 Q. And I think you indicated during part of your testimony,
15 early on in your testimony, that I think you said, quote: Our
16 forms were very confusing.
- 17 Do you recall that testimony?
- 18 A. Yes.
- 19 Q. And when you say "our forms," you were referring to the
20 forms that Mr. Carbone just questioned you about, the various
21 financial disclosure forms; correct?
- 22 A. May I elaborate?
- 23 Q. Sure.
- 24 A. It was confusing as for the reporting year. That's where
25 the confusion was.

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1 Q. Okay. And prior to 2005, there was no definition of
2 relative, was there?

3 A. Yes, there was.

4 Q. And how was it defined?

5 A. It was defined as if you had the same grandparent, for one,
6 and --

7 Q. Where would we find that definition?

8 A. It's in the Code, the City Code. We had copies of the Code
9 in --

10 Q. But the form itself does not define relative; in other
11 words, let me withdraw that.

12 Mr. Carbone questioned you about government
13 exhibit 16.

14 A. Uh-huh.

15 MR. ARONWALD: Can we have government exhibit 16 put
16 back up on the screen --

17 A. Right, uh-huh.

18 Q. Wait until we can get the form put up.

19 MR. ARONWALD: And if we can have the portion with the
20 first, where there is an asterisk?

21 A. Yes.

22 MR. ARONWALD: Could we have --

23 Q. I'm just speaking to the --

24 A. I'm sorry.

25 Q. -- gentleman who is working the machine.

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1 MR. ARONWALD: Where it says a relative, if we can
2 have that magnified. Right.

3 Q. So in this particular form, and this is government
4 exhibit 16, there is actually a portion which defines relative,
5 correct?

6 A. That is correct.

7 Q. Okay. And if you turn to government exhibit 17, and we
8 don't need to put that up on the screen, that form also
9 contains the same exact language in the same place on the form,
10 as relative is defined in government exhibit 16, correct?

11 A. That is correct.

12 Q. Okay. But we'll now turn to the earlier forms.

13 A. Uh-huh.

14 Q. For example government, exhibit 15.

15 A. Uh-huh.

16 MR. ARONWALD: If we could have that put up on the
17 screen.

18 Q. That form defines relative in question number 13 in a
19 different place, correct? If you look at page 5, question 13?

20 A. Yes.

21 Q. State the name of any relative.

22 A. Yes.

23 Q. And that refers to a relative who is a City officer or
24 employee, and the department within which he or she is employed
25 by the City of Yonkers; correct?

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1 A. That is correct.

2 Q. Okay. And that defines relative?

3 A. Uh-huh.

4 Q. And turning now to government exhibit 14. And if we go to
5 page five.

6 MR. ARONWALD: Question five if we can have that on
7 the screen, and if you can just blow up the portion which
8 appears immediately under the words "gift" and "honorariums."

9 Q. That requires that the person filling it out list the
10 source of all gifts, aggregating in excess of \$200 received
11 during the last year by you, your spouse, or dependent child,
12 children if any, excluding gifts from a relative; correct?

13 A. Correct.

14 Q. And nowhere on this form is "relative" defined as it is in
15 the forms that I previously discussed with you, correct?

16 A. That is correct.

17 Q. Okay. And the same would be true with respect to
18 government exhibit 13. If you look at government exhibit 13,
19 we don't have to have this put up on the screen, but if you
20 take a look at government exhibit 13, if you turn to question
21 five, it has the language: List the source of all gifts,
22 aggregating in excess of \$200 received during the last year by
23 you, your spouse, or dependent children, excluding gifts from a
24 relative, correct?

25 A. Correct.

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Henkel - cross - Aronwald

- 1 Q. And again, the term relative is not defined anywhere within
2 that form?
- 3 A. Correct.
- 4 Q. And if we turn to government exhibit 12, and we turn again
5 to question number five, that has the same language that you're
6 required to list all gifts aggregating in excess of \$200
7 received during the last year excluding gifts from a relative?
- 8 A. That is correct.
- 9 Q. And once again, relative is nowhere defined within that
10 form, correct?
- 11 A. Correct.
- 12 Q. And just if you would take a look at what's been marked as
13 government exhibit 11, turn to question five on that exhibit.
14 And I would ask you the same question and answer concerning
15 question five on this exhibit, as I did in the preceding
16 question about the preceding exhibit, the answer would be the
17 same, correct?
- 18 A. That is correct.
- 19 Q. Now, you also testified about government exhibit, I believe
20 it is 18. And 19. Now, as I understood your testimony, please
21 tell me if I'm wrong. I believe you identified government
22 exhibit 19 as the rules that are currently in effect and have
23 been in effect since 2005?
- 24 A. That is correct.
- 25 Q. Correct.

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1 A. That I believe that is correct.

2 Q. Okay. And if you would turn to page 4 of that exhibit.

3 MR. ARONWALD: If we could have that put up on the
4 screen, please.

5 Q. I'm referring specifically to question number 4 -- I'm
6 sorry, to capital R. It's exhibit number 19. And it would be
7 the fourth page, just the portion that begins with the word
8 "relative."

9 MR. ARONWALD: If we could have that magnified.

10 Q. So here on this, this one, this is the form -- withdrawn.
11 I think you indicated that every employee receives a copy of
12 the rules of ethics, correct?

13 A. That is correct. Since the 2005, yes.

14 Q. Right. So that would include every employee would receive
15 a copy of government exhibit 19, correct.

16 A. Correct.

17 Q. And one of the reasons they are given that is to assist
18 them in filling out the financial disclosure forms, correct?

19 A. That is correct.

20 Q. And when we turn to page 4, here again, the rules define
21 relative as a spouse, child, step-child, sibling, half-brother,
22 half-sister, parent, stepfather, stepmother, mother-in-law,
23 father-in-law, brother-in-law, sister-in-law, grandparent,
24 grandchild, uncle, aunt, niece nephew and first cousin;
25 correct?

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1 A. Correct.

2 Q. Okay. Now, government exhibit 18, those were the Code of
3 Ethics. That document was the Code of Ethics that was in
4 existence prior to 2005, correct?

5 A. I believe so.

6 Q. Okay. And this -- on the third page, if you would, in
7 terms of relative, on the third page, I think it's on the
8 bottom of the page, it has page number 704.

9 A. Uh-huh.

10 Q. That says: Relative includes any person who is a direct
11 descendent of the grandparent of any employee or officer or his
12 or her spouse; correct?

13 A. Yes.

14 Q. Okay. So would you agree that the definition of relative,
15 as is contained within government exhibit 19, is much more
16 detailed than the definition of relative that appears in
17 government exhibit 18?

18 A. Yes.

19 Q. Okay. Now, by the way, in terms of these forms, would it
20 be -- isn't it true that the responsibility of the Board of
21 Ethics is to make sure that each person who was required to
22 fill out a financial disclosure form does fill it out and, in
23 fact, does file it?

24 A. Yes.

25 Q. Okay. And isn't it also true that the financial disclosure

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- 1 forms are viewed annually by a State of New York
2 representative?
3 A. Usually.
4 Q. Are they supposed to be?
5 A. They're supposed to be, but they don't always show up.
6 Q. And up until 2005, the forms were due to be filed by the
7 employee by May 15th, correct?
8 A. I --
9 Q. Prior to 2005?
10 A. Right.
11 Q. Filed by January 15?
12 A. January, yeah.
13 Q. In 2005 --
14 A. Right.
15 Q. -- they changed it to May 15?
16 A. And then they moved it again until after taxes were due.
17 Q. And so -- and there is a -- isn't it also true that prior
18 to the charter revision in 2005, there was no penalty assessed
19 if an employee just didn't file the form?
20 A. That is correct.
21 Q. And since 2005, there have been enacted some penalties for
22 failing to file these forms, correct?
23 A. That is correct.
24 Q. And the penalty for a first nonfiling is \$250?
25 A. Yeah. Yes.

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1 Q. And the penalty for the second nonfiling is \$1,000?

2 MR. CARBONE: Judge, I object to --

3 THE COURT: Overruled.

4 MR. CARBONE: -- discussion of penalties for
5 nonfiling. It is not relevant.

6 THE COURT: Overruled.

7 MR. ARONWALD: Let me repeat the question.

8 Q. Ms. Henkel, the penalty for a second offense of nonfiling
9 is \$1,000, correct?

10 A. I believe so.

11 Q. And the penalty for a third nonfiling is \$10,000, correct.

12 A. I honestly don't recall.

13 Q. Well, do you remember -- do you remember testifying in the
14 Grand Jury on December 18th, of 2008 -- well, do you remember
15 testifying before a federal grand jury?

16 A. I remember shaking like a leaf, yes.

17 Q. Well, you were questioned by Mr. Halperin. Certainly he
18 didn't make you shake like a leaf.

19 A. Oh, sure he did.

20 Q. With respect to your grand jury testimony, does the date
21 December 18, of '08 refresh your recollection at all?

22 A. I'm sorry, no.

23 Q. Okay. Well, do you recall when you were before the Grand
24 Jury you were asked the following question and gave the
25 following answers --

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1 MR. CARBONE: Can I have a line and page, please.

2 MR. ARONWALD: I'll give it to you in a moment.

3 BY MR. ARONWALD:

4 Q. Page 14, beginning at line 3, and continuing through to
5 line 11. Do you recall being asked the following questions and
6 giving the following answers.

7 MR. ARONWALD: Does the government have an extra copy
8 of government exhibit 3513-A that I can put before the witness?

9 May I approach the witness, your Honor?

10 THE COURT: You may.

11 BY MR. ARONWALD:

12 Q. Ms. Henkel, I'm just going to give you this. I'm going to
13 ask you, if you would, to please turn to page number 14.

14 A. Yes.

15 Q. And I'm going to ask you to please focus and read to
16 yourself, lines three through lines 11.

17 A. Okay.

18 Q. You have completed reading them?

19 A. Yes.

20 Q. Okay so, when you appeared before the Grand Jury on
21 December 18th of '08, do you recall being asked the following
22 questions and giving the following answers:

23 "Q. What are the penalties for people who don't file the
24 financial disclosure form?

25 "A. Before the Charter Revision Commission that changed things

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1 in 2005, there really wasn't any penalty.

2 "Q. Now?

3 "A. Now, it is \$250 for the first offense that we ask for;
4 \$1,000 for the second; and \$10,000 for the third."

5 Do you recall being asked those questions and answers?

6 A. Yes.

7 Q. And does that refresh your recollection that the penalties
8 for nonfiling are, as I indicated in my question, the first,
9 second, and third offense of nonfiling?

10 A. Yes, because I had read my codes before I came and I didn't
11 today.

12 Q. That's all right.

13 I'll take that back from you. Thanks.

14 And Ms. Henkel, do you know whether or not Zehy Jereis
15 and Sandy Annabi are, in fact, relatives of each other; do you
16 know that?

17 MR. HALPERIN: Objection.

18 THE WITNESS: No, I do not.

19 MR. CARBONE: Objection, foundation.

20 THE COURT: You don't know one way or the other?

21 THE WITNESS: No.

22 THE COURT: Okay.

23 BY MR. ARONWALD:

24 Q. To your knowledge, has anyone been penalized for not filing
25 the form?

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1 A. No, we just send out a lot of threatening letters.

2 Q. I'm sorry?

3 A. We just send out a lot of threatening letters, but no one
4 has actually had to pay it yet.

5 MR. ARONWALD: It was very nice meeting you, thank
6 you.

7 THE COURT: Mr. Siano.

8 MR. SIANO: No questions.

9 Mr. Carbone.

10 REDIRECT EXAMINATION

11 BY MR. CARBONE:

12 Q. We'll broadcast government exhibit 11, page 7. And
13 maximize the bottom half of the page.

14 Ms. Henkel, you were asked a series of questions about
15 the penalties for nonfilers?

16 A. Yes.

17 Q. Do you have any reason to believe that Ms. Annabi did not
18 file any financial disclosure forms?

19 A. No.

20 Q. She filed every year, correct?

21 A. She filed every year. I remind people when they don't,
22 and they usually get it in on time.

23 Q. Now, right above the disclosure's signature there when
24 where it says Sandy Annabi, it says I hereby certify under
25 penalty of perjury the foregoing information is true to the

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1 best of my knowledge.

2 Would it be fair to say that perjury is different
3 than --

4 MR. ARONWALD: Objection, your Honor.

5 THE COURT: I have not heard the question yet. I mean
6 I'm intrigued, but I haven't heard it yet, so let him get it
7 out.

8 BY MR. CARBONE:

9 Q. Once you do file, are you obligated to file accurately and
10 disclose all relevant information?

11 A. I believe so, yes.

12 Q. And is it fair to say that if you don't, you could be
13 subject to prosecution for perjury?

14 MR. ARONWALD: Objection, your Honor.

15 THE COURT: The objection is sustained as to the form
16 of the question.

17 Do you know what could happen to you if you aren't
18 truthful in your filing? Now that would be a question you
19 could ask.

20 If you choose to do so.

21 MR. CARBONE: Thank you, your Honor.

22 BY MR. CARBONE:

23 Q. What are the consequences to a filer once you do file and
24 you make false statements.

25 MR. ARONWALD: Objection, your Honor, as to the form.

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Henkel - redirect

1 THE COURT: The objection is overruled. He just
2 asked, more or less, the question I told him he could ask.

3 THE WITNESS: Could you repeat the question?

4 MR. CARBONE: Okay.

5 BY MR. CARBONE:

6 Q. What are the consequences to a filer who certifies, under
7 penalty of perjury and then makes a willful false statement on
8 the form?

9 THE COURT: If you know.

10 THE WITNESS: I do not know.

11 THE COURT: Thank you, ma'am.

12 BY MR. CARBONE:

13 Q. Ms. Henkel, would you please turn to government exhibit 18.
14 And we'll broadcast Section 7-2 which is the third page of the
15 exhibit, and maximize the top half of the page.

16 Can you read the definition of "relative?"

17 A. Includes any person who is a different descendent of the
18 grandparents of any employee, or officer, or his or her spouse.

19 Q. Did you mean to say "direct descendant?"

20 A. Includes any person -- yeah. Sorry.

21 Q. Okay. And do the forms themselves, after 2005, contain the
22 definition of relative right on the face of the form?

23 A. Yes.

24 MR. CARBONE: Thank you.

25 No further questions.

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Henkel - redirect

1 MR. ARONWALD: No questions from this side, your
2 Honor.
3 MR. SIANO: No questions.
4 THE COURT: Ma'am, thank you. You may step down.
5 (Witness excused)
6 THE COURT: Do you guys want to take a break, or do
7 you want to keep going.
8 MR. ARONWALD: Your Honor.
9 THE COURT: I'm sorry, Mr. Aronwald wants to.
10 Short break. Don't discuss the case, keep an open
11 mind.
12 (Jury excused)
13 (Recess)
14 (Jury present)
15 THE COURT: Okay, have a seat.
16 THE CLERK: Step up in front of the chair.
17 THE COURT: Call your next witness, please.
18 MR. HALPERIN: Government calls John Murtagh.
19 THE COURT: Mr. O'Neill.
20 THE CLERK: Raise your right hand.
21 JOHN MURTAGH,
22 called as a witness by the Plaintiff,
23 having been duly sworn, testified as follows:
24 THE COURT: You may inquire.

DIRECT EXAMINATION

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C210ann5 Murtagh - direct

- 1 BY MR. HALPERIN:
2 Q. Good afternoon, Mr. Murtagh.
3 A. Good afternoon.
4 Q. Where do you live, sir?
5 A. I live in Yonkers, New York.
6 Q. How long have you lived in Yonkers, New York?
7 A. 35 years, last month.
8 Q. How far did you go in school?
9 A. Law school, J.D.
10 Q. What type of law do you practice?
11 A. It's a general practice firm. My specialty is primarily
12 litigation.
13 Q. What county is your office based in?
14 A. White Plains, Westchester County.
15 Q. Have you ever held elective office in the City of Yonkers?
16 A. Yes.
17 Q. In what position?
18 A. City council member in Yonkers for 8 years.
19 Q. When were you first elected?
20 A. November of 2003.
21 Q. And when did you first take office?
22 A. New Year's Day, January 1st, 2004.
23 Q. What political party are you?
24 A. Republican.
25 Q. During your 8 years on the council, how long were the

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C210ann5 Murtagh - direct

1 council member's terms?

2 A. Well, they had actually, by referendum, it had changed. So
3 when I was elected, I was elected to a four-year term, as were
4 two other council members that year. The remaining council
5 members were elected to two-year terms. And then two years
6 later, it transitioned, and everybody went to a four-year
7 system.

8 Q. When did you leave office, sir?

9 A. December 31st of last year.

10 Q. About six weeks ago?

11 A. Approximately.

12 Q. And why did you leave the City council?

13 A. We have term limits. You can only serve two terms. And my
14 second term ended.

15 Q. Did you run for mayor last fall?

16 A. Yes, I did.

17 Q. What happened in the election?

18 A. I lost the election.

19 Q. When you served with the City council, what district did
20 you represent?

21 A. The Fifth Council District.

22 Q. What geographic areas does the Fifth District Cover?

23 A. Roughly, northeast Yonkers, from the kind of Crestwood
24 section in the north, down to almost Yonkers Avenue in the
25 south, Central Avenue to the west, and the Bronx River Parkway,

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1 which is kind of the Yonkers border with Eastchester on the
2 east.

3 Q. Is there a residency requirement for council members?

4 A. Yes.

5 Q. What is that requirement?

6 A. Need to reside in your district where you are serving.

7 Q. Let me ask some background about the City of Yonkers.

8 What is that approximate population of the City?

9 A. Approximately 200,000 people.

10 Q. And where does that rank in terms of cities in the State of
11 New York?

12 A. I believe we are the fourth largest City.

13 Q. Geographically, what county is Yonkers located in?

14 A. Westchester County.

15 Q. And where in Westchester, which part?

16 A. I guess you would say the southern-most portion. We border
17 New York City, the Bronx, to the south, Mount Vernon and.
18 Eastchester to the east, and the Hudson River to the west.

19 Q. How many members of the Yonkers city council are there?

20 A. There is seven, total. There is a City council president
21 who is elected Citywide, in effect, a councilman-at-large. And
22 then there are six council districts.

23 Q. When council members are sworn in, do they take an oath of
24 office?

25 A. Yes, they do.

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C210ann5 Murtagh - direct

1 Q. I'm now going to show you government exhibit 25, 25 A, and
2 25 B, which the Court has already received in evidence.

3 MR. HALPERIN: Mr. Turk, if we can pull up 25 A,
4 please. You can look at your monitor there, sir?

5 A. Thank you.

6 Q. Do you recognize this document?

7 A. It appears to be an example of the oath of office form, a
8 form that one swears to and signs.

9 Q. Did you, yourself, take an oath of office like this?

10 A. Yes, I did.

11 Q. Mr. Murtagh, I'll have you please read the text of the oath
12 of the City council member.

13 A. I do solemnly swear that I will support the Constitution of
14 the United States, the Constitution of the State of New York,
15 and the City Charter of the City of Yonkers, and that I will
16 faithfully discharge the duties of the office of council
17 member, City of Yonkers, to the best of my ability.

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

19 BY MR. HALPERIN:

20 Q. Now, Mr. Murtagh, based on your 8 years on City council,
21 please describe the duties and responsibilities of a City
22 council member.

23 A. I used to say to people that, at least in my mind, it was
24 almost two distinct jobs, by which I mean you had kind of a
25 purely legislative function. We, for example, vote the City

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- 1 budget every year, we vote on any number of laws on a regular
2 basis. And then, almost distinct from that, are that, in a lot
3 of ways was a very sort of nuts and bolts constituent service.
4 You know, Mrs. Smith has a City tree in front of her house and
5 it's dying, and there is pothole on Tuckahoe Road needs to be
6 filled, people call their councilman.
7 Q. In 2005 and 2006, did you sit on the City council's Real
8 Estate Committee?
9 A. Yes, I did.
10 Q. Sir, do you know someone named Sandy Annabi?
11 A. Yes, I do.
12 Q. How do you know her?
13 A. We served together on the City council.
14 Q. When you arrived on City council, was Councilwoman Annabi
15 already a member?
16 A. Yes, she was.
17 Q. When did she first become a member?
18 A. I believe she was first elected two years before I was.
19 Q. So that would have been what year?
20 A. Elected in 2001.
21 Q. And what district did Councilwoman Annabi represent?
22 A. The Second City Council District.
23 Q. And, geographically, what part of Yonkers is the Second
24 District?
25 A. Kind of southwest, south central Yonkers.

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1 Q. What political party was Annabi?

2 A. A Democrat.

3 Q. Was Annabi ever elected to a leadership position on the
4 council?

5 A. Yes. I believe she was majority leader.

6 Q. Have you seen Sandy Annabi on numerous occasions?

7 A. Yes.

8 Q. Do you see the woman you have been referring to as Sandy
9 Annabi --

10 MR. ARONWALD: We'll stipulate, your Honor. We'll
11 stipulate identification.

12 THE COURT: You know --

13 Can you identify Ms. Annabi?

14 THE WITNESS: Yes, I can, your Honor.

15 THE COURT: Where is she?

16 BY MR. HALPERIN:

17 Q. Please point to her and state where she is sitting.

18 THE WITNESS: Sitting essentially straight in front of
19 me, your Honor.

20 THE COURT: Indicating Ms. Annabi.

21 Okay.

22 BY MR. HALPERIN:

23 Q. Mr. Murtagh, do you know someone named Zehy Jereis?

24 A. Yes, I do.

25 Q. Who is he?

C210ann5 Murtagh - direct

1 A. He was -- for a number of years, I knew him as a political
2 operative in Yonkers, as a member of Senator Spano's staff, and
3 ultimately as the chairman of the Republican party.

4 Q. Approximately what year did Mr. Jereis became the Yonkers
5 Republican chairman?

6 A. I believe in the fall of 2003, I think it was, while I was
7 first a candidate.

8 Q. When he was first proposed as republican chairman, who was
9 his principle advocate?

10 A. Senator Spano.

11 Q. Until about what year did Jereis serve as the Yonkers
12 Republican Chairman?

13 A. 2007.

14 Q. Have you seen Zehy Jereis on numerous occasions?

15 A. Yes, I have.

16 Q. Do you see the Zehy Jereis you have been discussing in the
17 courtroom here today?

18 A. Yes, I do.

19 Q. Please point to him and state where he is sitting or
20 standing?

21 A. Just stood up.

22 THE COURT: Indicating Mr. Jereis.

23 MR. SIANO: Indicating the defendant.

24 THE COURT: Indicating Mr. Jereis.

25 Q. Are you familiar with the Ridge Hill project?

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Murtagh - direct

1 A. Yes.

2 Q. Let me direct your attention to 2005 and 2006. What was
3 the proposal at the time for the Ridge Hill project?4 A. In simplest terms, the parcel of land commonly known as
5 Ridge Hill was an 81-acre parcel in central Yonkers, roughly
6 bounded by Tuckahoe Road to the south, the town of Greenberg to
7 the north, the New York City Thruway to the west, and
8 Springbrook Parkway to the east. Eighty one acres of property
9 that was, and probably had been for a century or so some
10 development up there. There was an office building and
11 whatnot. Essentially, it was 81 acres of largely undeveloped
12 land in the middle of Yonkers.13 Q. And what was the proposal for the Ridge Hill project,
14 essentially?15 A. The proposal was what I learned to call from the industry a
16 lifestyle village. In other words, a combination of kind of a
17 traditional shopping mall, entertainment, movie theaters, and
18 restaurants. As I said, there was an existing office space
19 there and the idea was to continue the office use and, in
20 addition, have a residential, residential component.

21 Q. What is the status of the Ridge Hill project now?

22 A. It is open. It is not fully open yet, there are still
23 stores waiting to come on line. And, I believe they have just
24 started occupying the residential recently.

25 Q. And roughly when did it open? What year?

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C210ann5 Murtagh - direct

1 A. 2011. It was sometime last year.

2 Q. Who is the developer of the Ridge Hill project?

3 A. A company, I believe, called Forest City Ratner is the
4 name.

5 Q. Directing your attention to 2005 and 2006, how high or low
6 profile an issue was the Ridge Hill project for Yonkers City
7 Council?

8 A. It was the single-most important, biggest issue that
9 occupied our time.

10 Q. And during that time frame, what was your position on the
11 project?

12 A. I was in favor of developing the parcel. I was opposed to
13 the particular proposal that was being made, for a variety of
14 reasons.

15 Q. What were those reasons?

16 A. They -- they were, as I said, a variety. A number of us,
17 and by that I mean both members of the public community people,
18 as well as elected officials --

19 MR. SIANO: Objection, your Honor.

20 Could the witness confine himself to his position.

21 THE COURT: Objection is overruled.

22 Q. You can answer.

23 A. -- were very concerned about, I'll call it the financial
24 package; in other words, both the benefits that the developer
25 was getting by way of tax agreements and so forth, as well as

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C210ann5

Murtagh - direct

1 what was proposed to be generated in new revenue for the City,
2 we thought, was grossly insufficient, would be the best way to
3 put it.

4 In addition, we were, and indeed I continue to be
5 today, very concerned about environmental impacts that I don't
6 think were properly addressed, about traffic mitigation, and
7 dealing with the major increase in traffic in that part of
8 Yonkers. And we -- I certainly didn't feel that any of those
9 issues were being properly addressed or were properly addressed
10 in the end.

11 Q. Let me direct your attention the early November 2005. How
12 many votes were required at the time to pass the project?

13 A. Five votes.

14 Q. Why were five votes, out of seven, required to approve the
15 zoning change for Ridge Hill?

16 A. Ordinarily, a Zone change would require four votes of the
17 City council, simple majority. But, in certain cases, a super
18 majority is required or triggered. And, in this case, the
19 County, because the project site bordered County park land,
20 that triggered a requirement that the County Planning Board
21 review the project. They did not have, what you would call
22 veto power. They couldn't say no. But, if they in effect
23 voted against the project, while we could still go ahead with
24 it -- that is Yonkers -- it now required five votes, not four.
25 If the county gave it a thumbs down, you had to give it five

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1 votes, not four. And in this case, the Planning Board had
2 reviewed it and said it was not in -- I don't know if the word
3 was compliance, but basically not in compliance with the
4 regional plan.

5 Q. So that kicked in a super majority requirement?

6 A. That's right.

7 Q. Let me direct your attention to November 22nd, 2005.

8 Was there a City council meeting that day about Ridge
9 Hill?

10 A. Yes, there was.

11 Q. And what did the meeting relate to?

12 A. The way the City council generally worked on alternate
13 Tuesdays, we had on one Tuesday evening what was called a Rules
14 Committee. That was a committee of every council member that
15 was used to both take new legislation in, whether from council
16 members or from the mayor, and assign it to committees and so
17 forth for review. And, also, to set the agenda for the
18 upcoming council meeting. So a week before the 22nd at a Rules
19 Committee meeting, a majority of the council had introduced
20 legislation to do away with the fifth vote requirement,
21 basically to wipe out the super majority requirement and make
22 it a simple majority.

23 I asked for discussion, they refused any discussion,
24 they hammered the meeting closed over my objection and the
25 objection of members of the public that were there, and put

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1 this to a vote the following Tuesday, which was the 22nd,
2 a piece of legislation to do away from the five-vote
3 requirement and reduce it to a simple four-vote requirement.

4 (Continued on next page)
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C2LAAANN6

Murtagh - Direct

1 BY MR. HALPERIN:

2 Q. And what was the vote on the issue of getting rid of the
3 two majority requirement?

4 A. Four to three.

5 Q. Who were the three counsel members who opposed?

6 A. Me, councilwoman Barbato and Councilwoman Annabi.

7 Q. Now, I'm going to ask to look at what's been marked as
8 Government Exhibit 358R which is in the redwell there on the
9 ledge, 358, the stipulation.10 MR. HALPERIN: Your Honor, Mr. Carbone reminds me 358R
11 has been received in evidence.

12 Mr. Terk, can we play 358R?

13 Q. Actually, Mr. Murtagh what is this?

14 A. This is a -- I was going to say a tape. That's
15 old-fashioned. It's a DVD of a portion of the November 22,
16 2005 council meeting.

17 Q. Did you watch this before you testified here today?

18 A. Yes, I did.

19 Q. Who is speaking on the DVD?

20 A. Councilwoman Annabi.

21 Q. About what subject?

22 A. About the vote that was going to take place that night to
23 do away with the five vote requirement and reduce it to a four
24 vote requirement.

25 Q. Were you at this meeting?

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C2LAAANN6

Murtagh - Direct

1 A. Yes.

2 Q. Did you hear Councilwoman Annabi speak about the Ridgehill
3 project?

4 A. Yes, I did.

5 MR. HALPERIN: Mr. Terk, can you play that please.

6 (Audio/Video Recording Played)

7 MR. ARONWALD: No sound, judge.

8 THE COURT: There certainly isn't. Can we do
9 something about that?

10 (Pause)

11 THE COURT: We have a problem here.

12 MR. HALPERIN: Your Honor, we'll come back to this.

13 THE COURT: Thank you.

14 BY MR. HALPERIN:

15 Q. Now, Mr. Murtagh, after the November 22, 5005 council
16 meeting was a lawsuit filed?

17 A. Yes.

18 Q. Who file the lawsuit?

19 A. Actually, I did.

20 Q. Did anyone else join you in the lawsuit?

21 A. Well, when I say I did, I was in sort of the odd position
22 of being a councilman but also the lead lawyer, so I actually
23 filed it as the lawyer. There were I am going say to about 18
24 plaintiffs. We had a conglomeration or combination of elected
25 officials and citizen community leaders who joined in as

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C2LAAANN6 Murtagh - Direct

1 plaintiffs on the lawsuit.

2 Q. Who was the named lead plaintiff?

3 A. The lead plaintiff was Councilwoman Sandy Annabi.

4 Q. What was the basis for the suit?

5 A. We were asking for the vote that had switched from the
6 simple, rather, from the super majority to simple majority. We
7 were asking to have that vote thrown out on procedural grounds
8 that they had not followed proper procedure and protocol as
9 required by law in order to make that change.

10 Q. Now, in the fall of 2005 did you hear councilwoman Annabi
11 speak about the Ridgehill Project?

12 A. Yes.

13 Q. Did you hear her speak in public and private about that?

14 A. Yes.

15 Q. What type of things did you here Councilwoman Annabi say
16 about the project?

17 A. Well, as I said I think, it's fair to say what I heard was
18 that she shared all of the concerns that I and others shared
19 about the finances of the project, the income to the city, the
20 tax breaks and so forth, the environmental concerns which,
21 again, to my mind included flooding, traffic mitigation, a
22 whole host of things like that.

23 And in addition I heard her express the opinion
24 that -- well, let me back up for a second. Understand that the
25 entire 82 acres physically sat within Councilwoman Barbato's

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C2LAAANN6 Murtagh - Direct

1 6th Council District. It was immediately adjacent to where I
2 represented, but the project itself was all within the 6th
3 District.

4 Q. What section of Yonkers was that geographically?

5 A. I'll call it north central Yonkers. So additionally
6 Councilwoman Annabi had expressed the view that whatever else
7 she was not prepared to support the project until Councilwoman
8 Barbato whose district it sat in was satisfied and prepared to
9 support the project.

10 Q. Based on the comments that you heard and comments that you
11 heard in the fall of 2005, how would you describe her position
12 on the project?

13 A. Like me, she was opposed to it.

14 Q. Now did the City Council hold a meeting on Ridgehill on
15 December 9, 2005?

16 A. Yes.

17 Q. Was there a vote on merits of zoning change for Ridgehill
18 that night?

19 A. Yes, there was.

20 Q. What was the vote?

21 A. Four to three.

22 Q. Who were the three council members opposed?

23 A. Myself, Council Member Barbato and Council Member Annabi?

24 MR. HALPERIN: Your Honor, one moment please?

25 THE COURT: Yes. Have we solved our technical problem

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1 now?

2 MR. HALPERIN: Let's find out. We'll give it a try.
3 If not, we'll try again later.

4 THE COURT: Okay. You guys have to solve this.

5 MR. HALPERIN: We'll come back.

6 BY MR. HALPERIN:

7 Q. Now, Mr. Murtagh, let me direct your attention to early May
8 2006. Did the state court issue a ruling on the action
9 challenging the elimination of super majority requirement?

10 A. Yes, they did.

11 Q. What was the essence of the ruling?

12 A. The state court agreed with our position and that they had
13 violated procedures and in effect throughout the vote.

14 Q. What impact did that ruling have on the number of votes
15 needed for the project to pass?

16 A. It put it back to five. They would need the super majority
17 of five votes.

18 Q. Now, let me direct your attention to, approximately, mid
19 May 2006. At around this time did you attend a meeting at the
20 Westchester Country Club?

21 A. Yes, I did.

22 Q. I am going to ask you to look at Government Exhibit 300 and
23 300A which you should have in front of you in the Redweld. Do
24 you recognize these items, sir?

25 A. I recognize 300. It is my pocket diary from 2006.

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C2LAAANN6 Murtagh - Direct

1 Q. Okay. And what is 300A?

2 A. Don't know yet. It's a photocopy of that two pages of my
3 diary from May 15th of '06.

4 Q. I don't want you to get into the dates yet?

5 A. It is two pages photocopied from the 300 my diary.

6 Q. From your 2006 diary?

7 A. Yes.

8 Q. Does that page relate to the Ridgehill project, the
9 specific page that's photocopied?

10 A. Yes.

11 MR. HALPERIN: Your Honor, the government offers
12 Government Exhibit 300 and 300A.

13 MR. ARONWALD: No objection.

14 THE COURT: Admitted. Well --

15 MR. SIANO: No objection.

16 THE COURT: Admitted.

17 (Government's Exhibits 300 and 300A received in
18 evidence)

19 MR. HALPERIN: Mr. Terk, can we have 300A please.
20 Could we blow that up please? Let's blow up the top right hand
21 corner of the page please.

22 Q. What date is this, sir?

23 A. Thursday, May 18, 2006.

24 Q. What entry, if any, relates to the Ridgehill project?

25 A. The very first entry where it says "Pirro" and then I drew

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Murtagh - Direct

1 an arrow.

2 Q. And how does this item relate to the Ridgehill project?

3 A. On the afternoon of May 18th I, along with others, met with
4 Al Pirro at the Westchester Country Club.5 Q. And what was Al Pirro's role regarding the Ridgehill
6 project?

7 A. He was a lobbyist for Forest City Ratner, the development.

8 Q. You said the meeting was where?

9 A. At the Westchester Country Club.

10 Q. Who was at the meeting?

11 A. Al Pirro, me, council members Barbato and Annabi, a
12 gentleman named Bruce Bender who was the vice president with
13 Forest City Ratner at the time and another individual from
14 Forest City Ratner who to the best of my recollection I only
15 met him that one time and I candidly don't remember his name.

16 Q. What was the purpose of the meeting?

17 A. I guess I'd say that they were trying to explore what they
18 could do to convince us to support the project.

19 Q. What happened at the meeting?

20 A. Really not a whole lot. I mean we spoke for a period of
21 time. We were in kind of a restaurant area or dining room
22 area. We discussed the project and our concerns and their
23 position and so on and so forth but truth to tell, a whole lot
24 of nothing in the end because they weren't conceding any of our
25 concerns or the changes we needed and kind of went no where in

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C2LAAANN6

Murtagh - Direct

1 my mind.

2 Q. At the meeting did you hear Councilwoman Annabi state her
3 views on the projects?

4 A. Yes.

5 Q. What did you hear her say?

6 A. Again, I think we all reiterated the same group of concerns
7 including Councilwoman Annabi about financing, about traffic,
8 about environmental issues.

9 Q. How productive was the meeting?

10 A. It wasn't productive at all. Nothing changed.

11 Q. Leaving the meeting what, if anything, did Councilwoman
12 Annabi say to you?13 A. Well, after we left the meeting meeting the three of us the
14 three council members --

15 Q. And, again, which three are you talking about?

16 A. Me, Dee Barbato and Sandy Annabi we kind of chatted for a
17 little while in the parking lot before we went out separate
18 ways and we talked about the fact that they now again needed
19 five votes. And Sandy offered the opinion, well, as long as we
20 all stick together, eventually, they're going to have to come
21 to us and resolve things.22 Q. Based on Annabi's comments at the meeting how would you
23 describe her position on May 18, 2006 on the project?24 A. No different than it had been all along, that she was
25 opposed to the project. She shared all the same concerns that

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Murtagh - Direct

- 1 we and the public community members did. And, again, as long
2 as Councilwoman Barbato wasn't satisfied I don't think --
3 again, it more directly impacted my district because it's
4 immediately adjacent. If the traffic backs up on Tuckahoe
5 Road. It is going to back up in the Fifth Council District.
6 Again, there was kind of a mini tradition on the city council
7 that if a project was of any significance in a particular
8 council member's district you kind of gave him a little
9 deferral anyhow.
- 10 Q. At some point in about mid June 2006 did you hear
11 Ms. Annabi make any public statements about the project?
- 12 A. Yes. I learned I think through the press really that she
13 had suddenly announced she is supporting the project.
- 14 Q. What, if anything, did she tell you before she announced
15 her change of position on the project?
- 16 A. She didn't tell me anything.
- 17 Q. What did you hear Ms. Annabi say through the press about
18 her change of position?
- 19 A. Basically, that she had negotiated directly with the
20 developer. They had agreed to commit, I think it was another
21 nine or \$10 million to Yonkers Public Schools money for schools
22 over a period of time, years. And as a result of that she now
23 felt comfortable supporting the project and would vote for it.
- 24 Q. Did Forest City Ratner's agreement to provide an additional
25 ten million for education address your concerns on the project?

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Murtagh - Direct

1 A. Well, it was funny because Al Pirro had called me a couple
2 of weeks beforehand in my office and had suggested to me
3 that --

4 MR. ARONWALD: Objection, your Honor, as hearsay.

5 THE COURT: I don't know that it is. I have no idea
6 what he is going to say.

7 A. I received a phone call from Mr. Pirro a couple weeks
8 earlier myself in which he had suggested to me that the
9 developer was willing to put up that additional money and I
10 could take credit for negotiating with him. They'd put out
11 press statements and say that I had secured the money and I
12 could support the project. And I didn't say this I don't think
13 to Mr. Pirro at the time. My feeling, my view was, look, hey,
14 nine million dollars is nine million dollars. Nobody he is
15 going to turn that down. But in the scheme of the economic and
16 the financial concerns we have it's a drop in the bucket. The
17 numbers we were concerned about from tax revenue and subsidies
18 and tax breaks was more like hundreds of millions of dollars
19 over time, not nine million dollars.

20 And when he said this to me also it in no way even
21 addressed all the other issues, traffic, mitigation
22 environmental issues and so forth, none of that was addressed.
23 But I wasn't in that sense surprised by the content of what
24 Sandy Annabi said because I'd gotten this offer myself a couple
25 weeks earlier from Al Pirro.

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C2LAAANN6 Murtagh - Direct

1 MR. HALPERIN: Your Honor, we now have our office
2 technical expert here. We just have a few seconds. We can
3 hopefully go back and play the video.

4 (Pause)

5 MR. HALPERIN: We'll keep going, judge, until it's
6 fixed.

7 BY MR. HALPERIN:

8 Q. Mr. Murtagh, let me direct your attention to July 11, 2006.
9 Was there a city council meeting schedule for that evening?

10 A. Yes, there was.

11 Q. On what?

12 A. To again vote on the Ridgehill zone change and zone
13 project.

14 Q. Now at some point on July 11, 2006 before the council
15 meeting did you get a phone call from Mr. Jereis?

16 A. Yeah, that afternoon.

17 Q. And what did he say to you on the call?

18 A. Well, what he said was, would I be willing to meet with
19 someone from Forest City Ratner before the vote.

20 Q. About what?

21 A. He didn't really say. I mean, I assumed that Forest City
22 Ratner people wanted to try one last time or something. The
23 only surprise to me about it was it to get the call from Zehy.

24 Q. Did you meet with Mr. Jereis?

25 A. Yes, I did.

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Murtagh - Direct

1 Q. About what time on July 11, 2006 did you meet with
2 Mr. Jereis?

3 A. Probably about four o' clock or so that afternoon.

4 Q. Where did you meet?

5 A. At a Starbucks on Central Avenue in Yonkers.

6 Q. And who attended the meeting?

7 A. When I arrived Zehy was there with Bruce Bender the vice
8 president from Forest City Ratner who I already knew?

9 Q. Who did most of the talking that meeting?

10 A. Really Zehy did almost all of the talking at that meeting.

11 Q. What did he say to you?

12 A. As I anticipated, although, I anticipated it from Forest
13 City Ratner not from Zehy, he spent post of the meeting or all
14 of the meeting trying to convince me to change my vote telling
15 me, basically, look, it's going to pass. They've got the five
16 votes. Sandy is voting for it. It would look good for you
17 politically. It would help you politically if you got on the
18 train and supported the project.

19 Q. What was your understanding for why Mr. Jereis wanted you
20 to switch your vote?

21 A. I kind of figured that it looked better for Sandy if two
22 people switched their vote than one. Politically, we were the
23 kind of the three musketeers all along that had stood with the
24 community who was opposed and was fighting the project and,
25 obviously, if two of us supported it it was better than one.

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Murtagh - Direct

1 Q. And what was your response?

2 A. I don't think I really gave a definitive response. My
3 reaction as I sat there was far from being the politically
4 smart thing for me to do, really, it would have been political
5 suicide. I mean, I had joined the council and essentially made
6 my first two years on city council. My hallmark issues was
7 fighting this project. And to suddenly change my vote,
8 literally, two hours before the vote far from being politically
9 savvy, if one were going to think, politically, it would have
10 been political suicide. I would have had the community
11 outraged at me.

12 Q. Now basically your conversation with Jereis and Mr. Bender
13 on July 11, 2006, what was your understanding about whether
14 Jereis supported or opposed the project?

15 A. That phone call and that meeting were the first inkling I
16 had that Zehy Jereis was in any way involved or interested in
17 Ridgehill. I never heard anything from him about it before
18 but, clearly, he supported it. He pushed hard for about a half
19 hour or more trying to convince me to vote for him.

20 Q. In 2005 or 2006 roughly how many a year would Zehy Jereis
21 call you?

22 A. We either spoke on the phone or saw each other at political
23 functions and one thing or another on a regular basis at almost
24 weekly probably.

25 Q. When you spoke to him what types of issues would you

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Murtagh - Direct

1 usually discuss?

2 A. Either -- nothing of substance by which I just mean
3 socializing or if it was of substance it was Republican party
4 politics republican party issues.

5 Q. Before this occasion on July 2006 had Mr. Jereis called you
6 about a policy matter?

7 A. Only once that I remember. Only once.

8 Q. What issue was that?

9 A. I don't remember exactly when but shortly after I got on
10 the city council there was a --

11 Q. That was 2004?

12 A. 2004. There was before I got elected an old public school
13 building on McLean Avenue called School Thirteen that had been
14 turned into apartments. And then when I was on the council the
15 city was trying to acquire what was then a used parking lot
16 across the street to try to create additional parking for the
17 apartments. And the woman who owned it didn't want to sell it
18 or at least, certainly, at not the price they were offering.
19 So they were looking for the city council to pass a resolution
20 giving the city authority to use eminent domain if they had to
21 to take the land.

22 Q. What is eminent domain?

23 A. My law school professors are probably going to be unhappy
24 with my explanation. Basically, the government's right to take
25 some private land -- they have to compensate the owner -- but

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Murtagh - Direct

1 take the land against the owner's will for a public use. You
2 know what you typically think of, they're trying to build an
3 interstate highway they have to take farmland, it's imminent
4 domain. In a nutshell they wanted to use imminent domain or at
5 least wanted us to give them the authority. We have to vote to
6 give the city the authority in any case and they wanted to us
7 give them the authority to do that.

8 I got a call from Zehy asking me where I stood on the
9 issue. I didn't honestly know a whole lot about the
10 particulars but just as a matter of principle, I've always been
11 on record as generally not being a fan of imminent domain at
12 all and you certainly not being a fan of imminent domain to
13 take property from one person, not for really a public purpose
14 but to benefit another person. So in this case to the benefit
15 of apartment builder, so I wasn't voting in the thing. I
16 wasn't going to support it and I told them so.

17 Q. What did Mr. Jereis say to you on the call?

18 A. He asked me how I was going to vote and once I told him, he
19 seemed to be satisfied.

20 Q. What was your understanding of his position?

21 A. My sense was that he wanted to make sure that they weren't
22 going to use imminent domain.

23 MR. HALPERIN: Your Honor, if I could have a moment
24 please?

25 (Pause)

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C2LAAANN6 Murtagh - Direct

1 MR. HALPERIN: Your Honor, we seem to have solved our
2 technical difficulties. I apologize to the jury and the Court.

3 Mr. Terk, could we please have 358R.

4 (Audio/Video Recording Played)

5 BY MR. HALPERIN:

6 Q. Mr. Murtagh, when you heard councilwoman Annabi say she
7 thinks we could do better, what did you understand her to mean?

8 A. I understood all of the things that we were pushing for,
9 for want of a better word, a better financial package for the
10 city, less, in effect, less brakes for the developer. And
11 therefore more revenue for the city, as well as the traffic
12 issue which was a huge issue for the residents in all the
13 neighborhoods surrounding this project. You know this
14 developer at the time themselves was predicting that this
15 project was going to put on a typical like Saturday afternoon
16 about five thousand more cars per hour on Tuckahoe Road, which
17 is a two lane road in each direction.

18 Q. In 2005 and 2006 how was the traffic on Tuckahoe Road?

19 A. It's been lousy as long as I've lived in Yonkers. It's
20 already over built. There's too much traffic. It can't
21 support it and we were concerned. As I said as I sit here now
22 I'm still concerned. Lord & Taylor's hasn't opened yet. When
23 Lord & Taylors opens and two apartment towers are filled up I
24 am still concerned about what a disaster it may be.

25 MR. HALPERIN: Thank you.

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C2LAAANN6

Murtagh - Direct

1 Mr. Terk.

2 (Audio/Video Recording Played)

3 MR. HALPERIN: Let's pause.

4 BY MR. HALPERIN:

5 Q. Who is the councilwoman of the area?

6 A. Councilwoman Dee Barbato.

7 Q. What was Ms. Annabi referring to there?

8 A. As I said there was a rules committee meeting the week
9 before the actual vote and that was where this legislation to
10 go from five to four was suddenly kind of thrown on the table
11 and rushed through. I didn't think it was coincidental that
12 the week that they did that, Barbato had taken a weeks'
13 vacation and was down on one of the islands with her husband.
14 I remember I felt a little guilty about it, interrupting her.
15 But I remember calling her that night on vacation to tell her
16 what had happened because we walked into that meeting now not
17 even knowing they were going to introduce this legislation. It
18 was a complete out of left field thing.

19 MR. HALPERIN: All right. Mr. Terk.

20 (Audio/Video Recording Played)

21 MR. HALPERIN: Let's pause just briefly.

22 Q. When she says the change in the council what is Ms. Annabi
23 referring to?24 A. Everything that took place with this change from four to
25 five or five to four, rather. Again, I don't think it was

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Murtagh - Direct

1 coincidental that it happened in late November. There were
2 four council members supporting the project including the
3 council president.

4 Q. What happened in the November 2005 election?

5 A. Mr. Martinelli two or three weeks earlier, Election Day, he
6 had lost his bid for reelection to a gentleman named Chuck
7 Lesnick who had campaigned as an opponent of the project. So
8 they had four. They needed five. The handwriting's on the
9 wall. They were about to go to three. It was about to become
10 a four/three majority against the project. So that was what
11 was happening.

12 MR. HALPERIN: Thank you.

13 Mr. Terk.

14 (Audio/Video Recording Played)

15 MR. HALPERIN: Pause there.

16 Q. What's a pilot, Mr. Murtagh?

17 A. A pilot is an acronym. Stands for "Payment in Lieu of
18 Taxes". Best way to explain it is, basically, I guess
19 developers when they're budgeting they want to know they can
20 sort of depend on a constant number for their tax payments so
21 they don't want to be subject to the city council's raising
22 taxes five percent or whatever. So they negotiate an agree
23 with the city for a fixed number that they will pay over
24 whatever it might be ten years, 20 years, it'll never change
25 and it's called a "Payment in Lieu of Taxes".

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1 MR. HALPERIN: Thank you.

2 Mr. Turk.

3 (Audio/Video Recording Played)

4 MR. HALPERIN: Please pause.

5 Q. What do you understand Councilwoman Annabi to mean when she
6 said "they're robbing the city blind"?

7 A. Well, again, among any number of other things we felt that
8 the economic package of pilots and subsidies and what not that
9 had been negotiated between the city and its agencies and this
10 developer we felt it was woefully insufficient. There were,
11 for example, other projects, the Cross County Shopping Center
12 which was an existing shopping center in the city.

13 Q. Also in Yonkers?

14 A. Yes. The Cross County Shopping center, it's been there for
15 50 years. They were going through, my recollection is, like a
16 two hundred million dollar renovation negotiating an so on and
17 so forth at about the same time and were going to be paying, I
18 think full taxes but, certainly, substantially more, closer to
19 full taxes. So using as comparison we simply felt that the
20 financial package that this developer was getting was far more
21 beneficial to the developer than it was to the city and
22 therefore the tax payers?

23 Q. Which was a bigger project, Cross County or the proposed
24 Ridgehill project?

25 A. The Ridgehill was a substantially bigger project.

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1 MR. HALPERIN: Mr. Terk.

2 (Audio/Video Recording Played)

3 MR. HALPERIN: Let's pause.

4 Q. What was the budget situation at the time?

5 A. Unfortunately, it's the history of Yonkers that we have
6 chronic budget short falls every single year.

7 Q. I am going to refer you back to this timeframe, fall of
8 2005.

9 A. I don't recall as I sit here the precise number but I
10 hazard to say, I don't think there was a year on the city
11 council at least going into budget season, we weren't looking
12 at 40 and 50 million dollar deficits. That was almost routine.
13 I think this year it's 90 million.

14 MR. HALPERIN: Mr. Terk.

15 (Audio/Video Recording Played)

16 MR. HALPERIN: Pause.

17 Q. When you heard Ms. Annabi say something about hold out for
18 the best possible deal what did you understand her to mean?

19 A. I would understand that and understood it to mean they had
20 to address all of the financial concerns we had about the tax
21 breaks and the pilot they were getting as well as the traffic
22 issues and the other environmental issues.

23 MR. HALPERIN: Mr. Terk.

24 THE COURT: How much more of this do we have?

25 MR. HALPERIN: 15 seconds left.

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Murtagh - Direct

1 THE COURT: Good.
2 (Audio/Video Recording Played)
3 MR. HALPERIN: Is this a good time, your Honor?
4 THE COURT: It's a great time.
5 Folks, I will see you in the morning the usual time.
6 Don't discuss the case, the broadest sense of the word
7 "discuss". Keep an open mind. I will see you in the morning.
8 (Jury not present)
9 MR. HALPERIN: Can the witness step down, your Honor?
10 THE COURT: Absolutely.
11 THE WITNESS: Thank you, your Honor.
12 THE COURT: I'll see you in the morning.
13 (Adjourned to Wednesday, February 22, 2012 at 9:30
14 a.m.)
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C2MAAANN1 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 Defendant.
6

7 -----x

8 New York, N.Y.
8 February 22, 2012
9 9:55 A.M.
9

10
10
11 Before:

11
12 HON. COLLEEN MCMAHON,

13 District Judge

14
15 APPEARANCES

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 WILLIAM I. ARONWALD
20 Attorney for Defendant ANNABI

20
21 ANTHONY J. SIANO
21 JEANNIE GALLEGGO
22 Attorneys for Defendant JEREIS
23

C2MAAANN1 Trial

1 (Trial continuing)

2 (In open court; jury not present)

3 THE DEPUTY CLERK: Case on trial continuing.

4 THE COURT: Good morning. Where is the witness?

5 (Jury present and the witness is present)

6 THE COURT: Good morning, everybody. Okay. Have a
7 seat.

8 Advanced warning. At some point I am going to get an
9 e-mail signal that I have to run and take a call in another
10 matter which will be a very short call. I jump up, do that and
11 be back inside of two minutes, okay

12 Mr. Murtagh, you are still under oath.

13 Mr. Halperin, I believe you are still up.

14 MR. HALPERIN: Thank you, your Honor.

15 JOHN MURTAGH,

16 called as a witness by the Government,

17 having been duly sworn, testified as follows:

18 CONTINUED DIRECT EXAMINATION

19 BY MR. HALPERIN:

20 Q. Good morning, Mr. Murtagh.

21 A. Good morning.

22 Q. Yesterday we finished with the video from November 22,
23 2005.

24 A. Yes.

25 Q. Did the council subsequently meet on December 9, 2005?

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1 A. Yes, it did.

2 Q. Was there a vote on merits of zoning change that night?

3 A. There was.

4 Q. What was the vote?

5 A. Four to three.

6 Q. Who were the three council members in opposition?

7 A. Me, Councilwoman Annabi and Councilwoman Dee Barbato.

8 Q. Were you at the December 9, 2005 city council meeting?

9 A. Yes.

10 Q. Did you hear Councilwoman Annabi speak at that meeting that
11 day?

12 A. Yes, I did.

13 MR. HALPERIN: Can we play 359-R which the Court has
14 received.

15 (Audio/Video Recording Played).

16 MR. HALPERIN: Let's pause there.

17 BY MR. HALPERIN:

18 Q. Mr. Murtagh, what did you understand Ms. Annabi to mean
19 when she said, shouldn't Forest City Ratner to at least pay
20 full taxes?

21 A. Well, what we discussed yesterday when they were getting
22 tax breaks, subsidies or whether a pilot or whether they would
23 pay full taxes, they said that was one of the issues. The
24 environmental and traffic issues were the others.

25 MR. HALPERIN: Thank you. Mr. Terk.

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1 (Audio/Video Recording Played)

2 MR. HALPERIN: Pause there.

3 BY MR. HALPERIN:

4 Q. What do you understand her to mean when she said traffic
5 was an issue that still has not been resolved?

6 A. Well, other than finances traffic was probably the biggest
7 of the other concerns. And what the surrounding community,
8 community leaders and what we were pushing for was direct
9 access to the site, particularly, from the Spring Brook
10 Parkway. In other words, as it was proposed and, indeed, as it
11 ultimately was approved and built, you can get to the Ridge
12 Hill Village directly off the New York State thruway. But if
13 you are coming from any other direction, for example, on the
14 Spring Brook Parkway you have to get off the Parkway. You have
15 to exit onto city streets, particularly, Tuckahoe Road and I
16 think I mentioned yesterday their own predictions were 5000
17 additional cars on Tuckahoe Road. We were looking in
18 particular for a ramp, a new exit ramp in effect off of the
19 Spring Brook Parkway directly into the development.

20 Now, the estimates for that were 16/20 million dollars
21 and needless to say the developer kept saying it was unworkable
22 and unnecessary.

23 Q. Let's fast forward to July 2006 when the project was
24 approved. Which traffic issues, if any, had been resolved?

25 A. None. The "resolution" was that they were going to change

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1 the yellow striping on Tuckahoe Road.

2 MR. HALPERIN: Mr. Terk.

3 (Audio/Video Recording Played)

4 MR. HALPERIN: Let's pause the tape.

5 BY MR. HALPERIN:

6 Q. When you heard her say that the best we can get out of
7 Forest City Ratner, what did you understand her to mean?

8 A. Well, again, they were claiming that they had made changes
9 to the project to make it better. But the majority of what we
10 were concerned about had in no way been addressed?

11 MR. HALPERIN: Mr. Terk.

12 (Audio/Video Recording Played)

13 BY MR. HALPERIN:

14 Q. Mr. Murtagh, let's move forward to July 2006. At the time
15 of the vote on Ridge Hill in July 2006 what, if anything, did
16 you know about a business relationship between Zehy Jereis and
17 Forest City Ratner?

18 A. I wasn't aware of any business relationship.

19 Q. With, if anything, did you know of any income, gifts or
20 benefits that Jereis had given to Councilwoman Annabi?

21 A. Nothing.

22 Q. What, if anything, would you want to know in general about
23 whether another council member had received financial benefits
24 from someone who supported or opposed a particular project that
25 the council was voting on?

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Murtagh - Direct

- 1 A. Well, I think kind of obviously that would be important for
2 me as a legislator. It would be important for the general
3 public. You want to know that any council member I'm,
4 certainly, speaking for myself is considering a project on its
5 merits for the best interests of your particular constituent or
6 the city residents as a whole. If someone is influencing in
7 some way I think that's something I want to know and it's
8 certainly something the public would want to know.
- 9 Q. Does the council have a duty to disclose a financial
10 relationship like that?
- 11 A. Absolutely, yes.
- 12 Q. Have you ever recused yourself from an issue before the
13 council?
- 14 A. I did once.
- 15 Q. What's the purpose of requiring public officials to file
16 financial disclosure forms?
- 17 A. As I see it and understand it, the purpose is just that you
18 want to know what potentially influences might be coming to
19 bear on a council member's actions and a council member's
20 decisions.
- 21 Q. What is your understanding being how forth coming a public
22 official should be when filling out those forms?
- 23 A. Fully forthcoming.
- 24 Q. Did you ever have a meeting with Zehy Jereis at Dunkin
25 Donuts?

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Murtagh - Direct

- 1 A. Yes.
- 2 Q. Which Dunkin Donuts was it?
- 3 A. I don't know the address. It's on Central Avenue on the
4 west side just below, I guess, that's Jackson Avenue.
- 5 Q. For the New York City jurors where is Central Avenue?
- 6 A. I'm sorry.
- 7 Q. Where is Central Avenue?
- 8 A. In Yonkers.
- 9 Q. What happened when you arrived at the Dunkin Donuts?
- 10 A. Actually, it was I believe a Saturday or Sunday. It was a
11 weekend afternoon. I got there ten or 15 minutes before we
12 were supposed to meet. I figured I'd have a cup of coffee. I
13 went inside and Mr. Jereis was already there sitting at a table
14 with Councilwoman Annabi.
- 15 Q. And what did Annabi and Jereis do when they saw you?
- 16 A. Candidly, they both looked rather surprised when I walked
17 in. Sandy and I exchanged pleasantries and she left.
- 18 Q. Let me direct your attention to the fall of 2006. Did you
19 attend a press conference for then assembly candidate Michael
20 Spano?
- 21 A. Yes, I did.
- 22 Q. Who asked you to attend?
- 23 A. Zehy Jereis.
- 24 Q. What did he say to you?
- 25 A. Mike Spano was holding a press conference in front of the

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1 City Port in Yonkers and Zehy reached out to me. He was the
2 party chairman at the time and asked if I could be there. They
3 were trying to get republican officials and office holders to
4 kind of show, I guess, moral support or whatever for the
5 candidate.

6 Q. At the time what party was Michael Spano?

7 A. He was a republican.

8 Q. What did you do after the press conference?

9 A. When the press conference ended Zehy asked me if we could
10 have a cup of coffee. There was or was, it's out of business
11 now. There's kind of a luncheonette diner across the street.

12 Q. What did he discuss with you at the restaurant?

13 A. What he discussed was he was making a proposal to me to
14 form a coalition with Sandy Annabi, with Councilman Dennis
15 Robertson who was a democrat and Council Member Lee McLaughlin
16 who was a Republican and he wanted the four of us to form a
17 coalition to then remove Councilwoman Pat MacDow who was the
18 democratic majority leader and replace her and make Sandy the
19 democratic majority leader.

20 Q. What did you say in response?

21 A. I was puzzled why the republican chairman would be
22 injecting or inserting himself into what's really a democratic
23 party politics. I was puzzled why he'd asked me to do that
24 because with the whole Ridge Hill thing going on Sandy and I
25 were not, if you will, on the same side as Robertson McLaughlin

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1 at the time after everything that had gone on, at least I
2 wasn't.

3 Q. So what did you say in response?

4 A. I said, you know, I didn't really see why I would get
5 involved in that.

6 Q. When you left the diner where did you go?

7 A. Zehy gave me a lift back to my law office.

8 Q. What, if anything, did Zehy say to you in his car that day?

9 A. Well, the one thing I remember him saying cause it struck
10 me as kind of odd was he mentioned to me as we were driving
11 back how he bought his car in, I don't know if he said monthly,
12 but on a regular basis to have it swept or bugs.

13 Q. What did you understand him to mean by "bugs"?

14 A. Listening, I guess, what you call listening devices.

15 MR. HALPERIN: Nothing further, your Honor.

16 THE COURT: Mr. Aronwald.

17 MR. ARONWALD: Good morning, your Honor.

18 THE COURT: Good morning. How are you, sir?

19 MR. ARONWALD: Just fine. Thank you for asking.

20 CROSS-EXAMINATION

21 BY MR. ARONWALD:

22 Q. Good morning, Mr. Murtagh.

23 How are you?

24 A. Good morning, sir. I am good. Thank you.

25 Q. You and I have never met, correct?

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- 1 A. No.
- 2 Q. But you were represented by an attorney, Mr. John Flannery?
- 3 A. Yes, I am.
- 4 Q. Okay. And were you made aware that I had requested an
- 5 opportunity to meet with you to discuss what you knew about
- 6 this case before this trial began?
- 7 A. Yes.
- 8 Q. Okay. And did you tell your lawyer to tell me that you
- 9 were not interested in meeting with me?
- 10 A. I took my counsel's advise on the subject.
- 11 Q. Did you ultimately decide not to meet with me?
- 12 A. On the advice of counsel.
- 13 Q. Okay. Now, Mr. Murtagh, let's talk a little bit about the
- 14 legislative process because that's what this case is all about.
- 15 There are seven members on the Yonkers City Council, correct?
- 16 A. Yes.
- 17 Q. And you said that -- how many districts are there within
- 18 the city of Yonkers?
- 19 A. Six.
- 20 Q. So there are six districts, each one of which is
- 21 represented by its own council member?
- 22 A. Yes.
- 23 Q. And each council member is an elected position?
- 24 A. Yes.
- 25 Q. And the city council president is, in fact, I think as you

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1 described a councilman or councilwoman at large, correct?

2 A. In effect citywide, yes.

3 Q. Now, so would it be correct to say that when you ran for
4 election to be the council member for your district the only
5 people that had the right to vote as to who would be their
6 representative in that district were the people in the
7 district?

8 A. That's right.

9 Q. Okay. But the council president is, basically, a position
10 that all of the registered voters in Yonkers can vote for,
11 correct?

12 A. Yes.

13 Q. Now, would it be fair to say that your district is the
14 wealthiest or one of the two wealthiest districts in the city
15 of Yonkers?

16 A. Anecdotally, yes. I mean, I don't know the --

17 Q. Okay. Would it be fair to say that Sandy Annabi which
18 represents the Second District which is the district that Sandy
19 represented was the poorest district within the city of
20 Yonkers?

21 A. I don't know. I mean, it's poorer than mine if you want to
22 say that generally.

23 Q. Well, when you say you don't know, I mean based upon the
24 number of years that you were a member of the city council
25 didn't you come to understand, you know, which districts were

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1 considered the more affluent and which districts were
2 considered the poorest districts in the city?

3 A. Yes.

4 Q. Wasn't Sandy's district considered the poorest, if not one
5 of poorest in the city?

6 A. I'd go with one of the poorest.

7 Q. Okay. So it had a high unemployment rate?

8 A. Honestly, I don't know what the unemployment rate was.

9 Q. Well, you said the unemployment rate was certainly higher
10 than the unemployment rate in your district, right?

11 A. I don't know.

12 Q. Would you agree that the people in her district were, there
13 were more people on welfare in her district than there were in
14 yours?

15 MR. HALPERIN: Objection; relevance.

16 THE COURT: Objection sustained.

17 BY MR. HALPERIN:

18 Q. The point I'm getting to is as a council member
19 representing your district you are concerned with the needs of
20 your constituents, correct?

21 A. As well as the city at large, yes.

22 Q. But when it comes down to determining whether you are going
23 to be more concerned about the needs of the constituents in
24 Sandy Annabi's district or the needs of the constituents in
25 your district you are going to be more concerned about the

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1 needs of your constituents because your constituents are the
2 ones that get to vote you in office, not hers; isn't that
3 correct?

4 MR. HALPERIN: Objection; ambiguous.

5 THE COURT: I don't see anything ambiguous about the
6 question, Mr. Halperin.

7 A. No, I wouldn't say that's correct.

8 Q. Okay. So, well, with respect to the legislative process
9 would you agree that as part of the legislative process it is
10 not at all unusual for a council member to change a vote on a
11 project that is before the city council; that's happened
12 before, correct?

13 A. Yeah.

14 Q. Good. And would you also agree that it's part of the
15 legislative process that council members are expected to debate
16 back and forth on various proposals or resolutions that are
17 before the city council, correct?

18 A. Yes.

19 Q. And are you familiar with something called a motion to
20 reconsider?

21 A. Yes.

22 Q. Okay. So a motion to reconsider is even after the city
23 council votes up or down on a particular resolution there's a
24 limited amount of time within which any member can, basically,
25 make a motion to reconsider to see whether or not the issue can

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1 be reassessed, correct?

2 A. Yes.

3 Q. Okay. Have you ever made a motion to reconsider?

4 A. I don't recall. No, I don't believe I did.

5 Q. But it's not uncommon for a motion to be reconsidered being
6 made by city council members, correct?

7 A. Actually, in my eight years it's uncommon.

8 Q. Has it happened?

9 A. I don't recall it ever happening.

10 Q. But the rules allow for it, correct?

11 A. Yes.

12 Q. All right. By the way, Mr. Halperin played a tape for you
13 to few moments ago and that was a tape of the meeting city
14 council meeting that occurred on December 9th of 2005. Now,
15 December of 2005 was the city council meeting that occurred
16 right after the city council had voted four to three to
17 override the super majority requirement, correct?

18 A. I believe it was the very next meeting.

19 Q. Yeah. Well, I mean the meetings to override the super
20 majority I think you said was a special meeting and that
21 occurred on November 22, 2005 with very little notice, correct?

22 MR. HALPERIN: We'll stipulate to that.

23 A. I don't recall it was a special meeting. I think was at
24 regular council meeting.

25 Q. But it was a meeting where it was the item of overriding

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1 the super majority an item that was on the agenda?

2 A. On November 22, yes.

3 Q. Okay. And November 23rd, you went into court and filed an
4 action to overturn that vote and Sandy Annabi was the lead
5 plaintiff in that lawsuit, correct?

6 A. Yes.

7 Q. Okay. In the lawsuit that you filed did you also seek a
8 temporary restraining order?

9 A. Yes.

10 Q. And the temporary restraining order was basically to
11 restrain the city council from moving ahead with a vote on the
12 Ridge Hill project, correct?

13 A. Yes.

14 Q. Okay. And that was because the concern, your concern and
15 the concern of Sandy Annabi and the other people that joined in
16 this lawsuit was that now that the city council had eliminated
17 the super majority requirements you anticipated that they would
18 very shortly thereafter put back on the table the Ridge Hill
19 resolution so that they could now get it passed by the four to
20 three simple majority, correct?

21 A. Yes.

22 Q. Okay. And the Court did not grant the application for the
23 temporary restraining order, did it?

24 A. I don't believe it did.

25 Q. Okay. And so that is what led to the meeting that occurred

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1 on December 9th of 2005, correct?

2 A. There was a meeting on December 9th if, that's at your
3 question.

4 Q. And on December 9 --

5 THE COURT: No. No. The question was, was the
6 failure of the court to grant what's called a temporary
7 restraining order the reason for that meeting, not why the
8 meeting was held on that night.

9 THE WITNESS: I would say, no.

10 BY MR. ARONWALD:

11 Q. But was the that fact the Court withheld the temporary
12 restraining order the reason why the Ridge Hill resolution was
13 back on the agenda at that meeting?

14 A. The Ridge Hill item was on the agenda on December 9 because
15 four council members put it on the agenda.

16 Q. The same four council members who had over-rid the super
17 majority?

18 A. Correct.

19 Q. So, during the portion of the tape that was played for the
20 jury --

21 MR. ARONWALD: Could we have the tape played. I'd
22 like to have it -- well, if we can just play the part that was
23 played for the jury but without the interruptions. Just so
24 we're clear --

25 (Audio/Video Recording Played)

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C2MAAANN1

Murtagh - Direct

1 BY MR. ARONWALD:

2 Q. Now, Mr. Murtagh, what was your understanding as to what
3 Sandy was referring to when she referred to the brazen stunt?
4 What was the brazen stunt?

5 A. The brazen stunt, as I understood it, was changing the
6 requirement from super majority to simple majority.

7 Q. When she talked about the violation of the process what was
8 your understanding as to what she was referring to?

9 A. I understood her to be referring to the fact that they had
10 kind of ramrodded that item onto the agenda. They had not
11 followed the rules and procedures that were necessary basically
12 what we were suing about.

13 Q. When you say that item on the agenda you mean the items to
14 overturn the super majority?

15 A. Yes.

16 Q. And when she said that, referred to the simple majority the
17 four people as manipulation of the system, what was she
18 referring to as far as you understood it?

19 A. All the above, all of the same things.

20 Q. When she referred to, when she said that based upon what
21 the simple majority was doing in terms of overriding the super
22 majority and now ramming this Ridge Hill proposal through that
23 they were sending a signal that the city charter means nothing,
24 what was your understanding as to what she is referring to
25 then?

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C2MAAANN1 Murtagh - Direct

1 A. Again, I think all the same things. Although, it was more
2 than the city charter that we believed was being violated
3 legally.

4 Q. Okay. And getting back briefly to the legislative process,
5 in your experience as a council member you would agree, would
6 you not, that council members routinely engage in compromise in
7 terms of settling maybe for less than what they would like to
8 get in order to do right by the people of the city of Yonkers,
9 right?

10 A. Sure. It's part of the process.

11 Q. And in fact some resolutions mean more to a particular
12 council member than other resolutions, correct?

13 A. I am not sure I understand the question.

14 Q. You were not terribly interested in the Longfellow project,
15 were you? Do you understand my question?

16 A. Trying to think how to answer that question.

17 Q. Just yes or no. Either it was or it wasn't?

18 A. It was not in my district so in that respect, no.

19 Q. And the Longfellow project was in another council member's
20 district, correct?

21 A. I believe was actually in two other council members.

22 Q. Those two council members were?

23 A. Councilwoman Annabi and Council Member MacDow.

24 Q. Now as part of the legislative process there were occasions
25 when council members such as yourself would basically swap

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1 votes. In other words, I've vote "no" on a project that means
2 something to you if you vote "yes" on a project that means
3 something me, correct?

4 A. I remember one occasion when that occurred, that I know of.
5 Again, I can't speak for what other council members did.

6 Q. That occasion involved you?

7 A. Yes.

8 Q. And it involved the Longfellow project?

9 A. Yes.

10 Q. And on that occasion -- well, basically -- just let me
11 withdraw that.

12 You were interested in a proposal or resolution that
13 was coming before the city council concerning Con Ed, correct?

14 A. On that occasion?

15 Q. Yes.

16 A. Yes.

17 Q. Okay. And you were opposed to the Con Ed proposal?

18 MR. HALPERIN: Objection; beyond the scope.

19 THE COURT: Objection is overruled.

20 A. I wouldn't characterize it as opposed. Much like Ridge
21 Hill I wanted to continue to negotiate with Con Ed on that
22 particular item.

23 Q. Okay. But it's true, is it not, that you called Council
24 Member Patricia MacDow and offered to her that if she voted
25 against the Con Ed proposal you and Dee Barbato would vote "no"

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Murtagh - Direct

1 on the Longfellow resolution; isn't that true?

2 A. No, that's not true.

3 Q. Well, sir --

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

5 THE COURT: Yes.

6 THE WITNESS: Perhaps, I could clarify?

7 THE COURT: No. Just wait until he asks a question.

8 (Pause)

9 BY MR. ARONWALD:

10 Q. Do you remember, sir, being interviewed on March 13th and
11 again on March 26th of 2009 at the United States attorney's
12 office?

13 A. I remember being interviewed at United States attorney's
14 office. Honestly, I don't remember the dates.

15 Q. Well, do you recall that you were present during the
16 interview where FBI Special Agent Michael Mazzuca, Assistant
17 United States Attorney Jason Halperin and your attorney who at
18 the time was James Castro-Blanco?

19 A. On which date?

20 Q. March 13th and again on March 26th of 2009.

21 A. I don't remember -- I think that's correct.

22 MR. ARONWALD: May I have a moment?

23 THE COURT: Yes.

24 (Pause)

25 MR. HALPERIN: We'll stipulate to the dates, judge.

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1 THE COURT: Thank you. That mean that as you know,
2 ladies and gentlemen, the lawyers have agreed on the dates.
3 You are to regard them as established.

4 Since you are all chatting, I just got my e-mail.
5 I'll be right back.

6 (Pause)

7 THE COURT: Okay.

8 MR. ARONWALD: Thank you, your Honor.

9 BY MR. ARONWALD:

10 Q. Mr. Murtagh, did you on either March 13th or March 26th of
11 2009 tell Mr. Halperin and FBI Special Agent Mazzuca that you
12 were never really involved in any discussion regarding the
13 Longfellow project and that Annabi and MacDow were more
14 concerned with that project; do you recall that, correct?

15 A. It sounds right.

16 Q. And that would be the truth, correct?

17 A. I'd like to think everything I said was the truth.

18 Q. And did you tell them at that time that you were more
19 involved with an issue dealing with a Con Ed substation issue?

20 A. Again, that sounds accurate.

21 Q. And did you tell them that you recall that you called
22 Patricia MacDow and told her that if she voted "no" for the Con
23 Ed issue you and Dee Barbato would vote "no" on Longfellow?

24 A. Well, again, I wanted to say I'd clarify Pat MacDow called
25 me.

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C2MAAANN1 Murtagh - Direct

1 Q. OK. So the statement is correct except Pat MacDow called
2 you, you didn't call her?

3 A. I had the conversation with Pat MacDow. I was in my car.
4 I remember pulling to the side of the road to speak with her.

5 Q. So you deny that you told Assistant U.S. Attorney Halperin
6 and agent, FBI Agent Mazzuca that you called Pat MacDow, you
7 defy that?

8 A. My testimony is --

9 THE COURT: The question is, did you tell the agent
10 when you were interviewed by the agent before the trial that
11 you called Pat MacDow as opposed to vice versa?

12 THE WITNESS: I don't believe I told them that.

13 MR. ARONWALD: Your Honor, can I ask that the witness
14 be given a copy of Government Exhibit 3521?

15 THE COURT: Give it to him.

16 MR. SIANO: Judge, I state for the record that
17 Mr. Carbon had earlier today had given me the government's
18 originals of the 3500 exhibits and that's what I am giving
19 Mr. Aronwald to hand to the witness.

20 MR. ARONWALD: May approach the witness?

21 THE COURT: Yes.

22 (Pause)

23 THE WITNESS: Thank you.

24 BY MR. ARONWALD:

25 Q. Going to direct your attention to -- sorry for talking

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C2MAAANN1 Murtagh - Direct

1 while my back was to you. I am going to direct your attention
2 to page 5.

3 A. Yes, sir.

4 Q. And I am going to now direct your attention to the last
5 full paragraph on page 5?

6 A. Okay.

7 Q. I am going to ask you to read to yourself the first seven
8 lines of that paragraph on that page. Just read it to
9 yourself?

10 (Pause)

11 Q. Just let me know when you are finished.

12 A. Okay. I am done.

13 Q. Okay. Does that refresh your recollection that on the
14 occasion of that interview you did tell Mr. Halperin and Agent
15 Mazzuca that you do recall that you called MacDow and told her
16 that if she voted "no" for the Con Ed issue that you and Dee
17 Barbato would vote "no" on Longfellow; does that refresh your
18 recollection?

19 A. No.

20 THE COURT: Does it jog your memory, sir?

21 THE WITNESS: No.

22 Q. All right. Putting aside the issue as to whether you
23 called her or she called you, did you in fact tell Council
24 Member MacDow that if she voted "no" for the Con Ed issue you
25 and Dee Barbato would vote "no" on the Longfellow issue?

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Murtagh - Direct

1 A. I remember the conversation. I don't recall who initiated
2 that suggestion but we -- Pat MacDow and I, certainly, agreed
3 that they wanted to continue negotiating with Longfellow. We
4 wanted to continue to negotiate with con Ed. So if we each
5 agreed to vote no they'd stay in the committee and we could
6 each continue our representative negotiations with the
7 principles, Con Ed and the Milios.

8 Q. Well, you just read the exhibit that I handed to you and
9 you read the portion that I asked you to read, that's not the
10 way it's described in the report I gave you, is it?

11 MR. HALPERIN: Objection.

12 THE COURT: Objection is sustained.

13 Q. Mr. Murtagh, let me ask you the question this way. Do you
14 deny that on the occasion of that interview you told Assistant
15 U.S. Attorney Halperin and FBI Agent Mazzuca that you told
16 Ms. MacDow that if she voted "no" for the Con Ed issue you and
17 Dee Barbato would vote "no" on Longfellow; do you deny saying
18 that?

19 MR. HALPERIN: Objection; asked and answered.

20 THE COURT: Sustained.

21 Q. By the way, Dee Barbato was not part of that call that you
22 had with Ms. MacDow, was she?

23 A. No.

24 Q. Okay. And did you at that time when you had that
25 conversation with Ms. MacDow, did you have the authority to

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C2MAAANN1 Murtagh - Direct

1 speak on behalf of Dee Barbato?

2 A. No. Dee can speak for herself.

3 Q. Okay. Now -- by the way, just so we're clear in terms of
4 the long fellow project, you were not involved in very many
5 discussions concerning Longfellow, correct?

6 A. Only those discussions which took place in city council
7 meetings.

8 Q. Okay. Now, so you never engaged in any negotiations with
9 the developer Milio Management Company, correct?

10 A. Again, only to the extent that Milio did on occasion appear
11 before the city council.

12 Q. By the way, do you recall whether Milio Management was
13 represented by counsel at any of the city council or real
14 estate committee meetings?

15 MR. HALPERIN: Objection; relevance.

16 THE COURT: Overruled.

17 Q. Do you, sir?

18 A. My recollection is they were represented by an attorney
19 named Al DelBello.

20 Q. Yes. And with respect to the Longfellow resolution just so
21 we're clear, the Longfellow resolution was a resolution to
22 designate Milio Management as the developer for the Longfellow
23 project, correct?

24 A. Honestly, I don't recall what the specific resolution
25 before the city council said.

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C2MAAANN1 Murtagh - Direct

1 Q. Okay. But are you familiar with a procedure where if a
2 developer wants to develop a project there is a mechanism by
3 which that person, that corporation or individual can make an
4 application to be designated the developer by the city council?

5 A. Yes.

6 Q. Okay. And once a developer whether it be corporation or an
7 individual is designated the developer, that gives that person
8 the one year, a period of one year, exclusive one year window
9 within which he can come back to the city council and make his
10 presentation as to the, as to the size, scope, architectural
11 drawings environmental impact study and everything else that's
12 associated with approving a project, correct?

13 A. It may. Again, I don't remember the specific resolution in
14 detail.

15 Q. Well, there came a time when Milio management was
16 designated the developer of Longfellow and were you on the city
17 council when there were occasions when Milio came back for a
18 redesignation cause that one year window had elapsed?

19 A. I am embarrassed but I don't recall.

20 Q. Now, is there also -- you testified about a meeting that
21 you say occurred at the Westchester Country Club with Al Pirro,
22 Bruce Bender, Sandy Annabi and Dee Barbato and yourself?

23 A. And another gentleman from Forest City Ratner but I don't
24 know his name.

25 Q. Whose name you don't recall?

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C2MAAANN1

Murtagh - Direct

- 1 A. Yes.
- 2 Q. If I mention the name would that refresh your recollection?
- 3 A. I don't know.
- 4 Q. Well, does the name "Scott Cantone" mean anything?
- 5 A. I know the name but I don't recall whether that was the
- 6 gentleman or not.
- 7 Q. The name "Richard Pesin" ring a bell as the person who was
- 8 thee?
- 9 A. Again, the name is familiar but I don't recall. He was a
- 10 younger man but I don't recall his name.
- 11 Q. By the way, how many meetings do you recall there being
- 12 between you, Sandy Annabi, Dee Barbato and Al Pirro?
- 13 A. How many meetings were all of those people were present?
- 14 Q. Yeah. In other words, let me rephrase the question. I
- 15 apologize. With respect to the Ridge Hill project, on how many
- 16 occasions did you, Sandy Annabi and Dee Barbato meet together
- 17 with Al Pirro?
- 18 A. I think that might have been the only occasion.
- 19 Q. Westchester Country Club?
- 20 A. Possibly one other but I think that was the only occasion.
- 21 Q. Now, you were shown Government Exhibit. I think it was 300
- 22 which was your -- which is the cover of your appointments
- 23 calendar for the year 2006.
- 24 A. I think I have it here.
- 25 Q. Okay. And it was one page from that calendar which was

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1 marked as Government Exhibit 300-A?

2 A. Yes.

3 Q. And the date on that exhibit is Thursday May 18, 2006.

4 A. Yes.

5 Q. And you have on the page the name "Pirro" with an arrow?

6 A. Yes.

7 Q. Okay. So there's nothing in this portion of the calendar
8 which indicates who the people were that were supposed to be
9 attending that meeting?

10 A. Just says "Pirro" then there are some related entries.

11 Q. Did you have any other calendar or diary entries which
12 would indicate who the other attendees who were supposed to be
13 at the May 18th, 2006 meeting?

14 A. No.

15 Q. Okay. Did you immediately or soon after that meeting
16 prepare any memorandum or other document memorializing what was
17 discussed at the meeting?

18 A. No.

19 Q. Did you prepare any document or memorandum memorializing
20 the positions taken by each of the individuals who were at that
21 meeting?

22 A. No.

23 Q. Now, when for the first time do you recall ever telling
24 anyone about the meeting that you say you had on May 18, 2006
25 with Al Pirro, Sandy Annabi, Dee Barbato, Bruce Bender and some

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Murtagh - Direct

1 other individual representing Forest City Ratner?

2 A. That night.

3 Q. Okay. And who did you discuss it with?

4 A. My wife.

5 Q. Okay. Other than your wife that night, when was the very
6 next time that you had occasion to discuss with anybody what
7 you say took place at the May 18, 2006 Westchester Country Club
8 meeting?

9 A. I don't recall. Probably, the next day.

10 Q. Isn't it true that the next, the only time that you
11 discussed that meeting was when you were first interviewed by
12 anyone from the FBI or the United States attorney's office?

13 A. No.

14 Q. Okay. Now, by the way, there were -- during the period of
15 time that this Ridge Hill proposal was ongoing you've said on
16 several occasion that the three people who were opposed to the
17 project was Sandy Annabi, you and Dee Barbato.

18 A. The three council members.

19 Q. Three council members. And how often did you and Dee
20 Barbato speak concerning the Ridge Hill project during the
21 period of time that the Ridge Hill issue was before the city
22 council?

23 A. Fairly regularly.

24 Q. Would you say at least four times a week?

25 A. I really wouldn't want to guesstimate.

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C2MAAANN1

Murtagh - Direct

1 MR. ARONWALD: Just have a moment, your Honor, please?

2 THE COURT: Yes.

3 (Pause)

4 BY MR. ARONWALD:

5 Q. Do you remember telling --

6 MR. ARONWALD: I apologize, your Honor. I am just
7 looking for --

8 Q. Do you recall being interviewed on March 11, 2008 --

9 MR. SIANO: May I have a moment, your Honor?

10 THE COURT: Yes.

11 (Pause)

12 MR. ARONWALD: I apologize, your Honor. I am having a
13 senior moment in spades. I cannot find what I am looking for.

14 THE COURT: I hope that is not a senior moment,
15 Mr. Aronwald, because I have them in spades too.

16 MR. ARONWALD: We belong to the same club then, your
17 Honor. Embarrassing at least for me.

18 (Pause)

19 BY MR. ARONWALD:

20 Q. Do you recall that on during those interviews that I asked
21 you about before that you had with the U.S. attorney's office
22 on March 13th and March 26th, do you remember telling
23 Mr. Halperin and Agent Mazzuca that you, during the approval
24 process for the Ridge Hill project, you and Dee Barbato talked
25 to one another at least four time a week?

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1 A. Again, I don't recall the dates. Sounds like something I
2 might have said.

3 Q. Okay. I am asking you now does that accurately reflect
4 that was going on during that process? During the Ridge Hill
5 approval process did you and Dee Barbato speak at least four
6 times a week?

7 A. We probably did because we represented adjoining districts
8 and we went to a lot of the same homeowners meetings and
9 neighborhood meetings. We would see each other constantly.

10 Q. In fact, you and Dee Barbato had regular and frequent
11 strategy session meetings concerning the Ridge Hill project,
12 correct?

13 A. No.

14 Q. Were there strategy meetings or conversations that you had
15 with Dee Barbato relating to the Ridge Hill project during the
16 period of time that the approval process was before the city
17 council, yes or no?

18 A. I think I said we had conversations.

19 Q. Were those conversations concerning strategy in terms of
20 how to make sure that the Ridge Hill project didn't get passed?

21 A. No.

22 Q. Well, you would agree, would you not, that Sandy Annabi was
23 not really involved or as involved in strategy discussions or
24 conversations as you and Dee Barbato were; would that be true?
25 Would that be accurate?

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C2MAAANN1 Murtagh - Direct

1 A. No because, again, I don't know what you mean by "strategy
2 sessions".

3 Q. Well, let me ask you the question. Let's go back to the
4 FBI interview, to the interview with the U.S. attorney's office
5 on the two dates I've already mentioned. Didn't you tell
6 Assistant U.S. Attorney Halperin and Agent Mazzuca that during
7 the time of the Ridge Hill approval Sandy Annabi was not really
8 as involved with any strategy discussions or conversations with
9 you and Dee Barbato; didn't you tell them that?

10 MR. HALPERIN: Objection to counsel's reading the
11 document.

12 THE COURT: The objection is overruled.

13 A. Again, sir, I can't speak for what somebody wrote down. I
14 can tell that you Dee and I spoke on a regular basis and as I
15 said, saw each other frequently at neighborhood meetings and
16 the kinds of things that elected officials go to.

17 Q. I am just going to show you the document and ask you to
18 look at it and see whether that refreshes your recollection?

19 THE COURT: He has not indicated that his recollection
20 needed to be refreshed. I don't recall is what stimulates a
21 refreshment of recollection. He has not indicated that he does
22 not recall.

23 BY MR. ARONWALD:

24 Q. So let me ask the question this way. You are saying that
25 you don't recall, is that correct? You are not saying you

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C2MAAANN1

Murtagh - Direct

1 don't recall?

2 THE COURT: No. He is very clear, Mr. Aronwald. Ask
3 your next question.

4 BY MR. ARONWALD:

5 Q. Do you deny telling Mr. Halperin and Agent Mazzuca that
6 Sandy Annabi during the Ridge Hill process was not involved in
7 strategy discussions as you were with Dee Barbato?

8 MR. HALPERIN: Objection; asked and answered.

9 THE COURT: Sustained.

10 Q. Let's get back to the Westchester Country Club meeting.
11 Did you meet with Al Pirro and Sandy Annabi and Dee Barbato on
12 June 30th of 2005?

13 A. June 30th of 2005. Other than Westchester Country Club I
14 recall a meeting in Mr. Pirro's office. I don't recall the
15 date.

16 Q. Do you recall who was present?

17 A. I recall that Mr. Pirro was there. Dee and I were there.
18 I believe Bruce Bender was there. I don't recall if anyone
19 else came or went.

20 Q. Do you recall what the subject of the discussion was during
21 that meeting?

22 A. Again, other than Ridge Hill in the broadest terms, I don't
23 remember, no.

24 Q. Isn't it true that -- I may have misspoke before. Do you
25 recall a meeting with Mr. Pirro in his office on July 5th of --

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C2MAAANN1 Murtagh - Direct

1 I'm sorry. June 30th of 2005 was the correct date. Isn't it
2 true that on that date you met with Al Pirro in his office and
3 that the only people that were present were you, Dee Barbato
4 and Sandy Annabi; isn't that true?

5 A. As I said, I recall a meeting in Al's office. I don't
6 remember the date and I am a little iffy on whether Sandy was
7 there or not.

8 Q. Let me ask you this question. You have testified that the
9 meeting at the Westchester Country Club was attended by Bruce
10 Bender and by you, Sandy and Dee Barbato, correct, as well as
11 this other unnamed gentleman?

12 A. That's right.

13 Q. Okay. Now, on how many other occasions did you meet with
14 Sandy Annabi, did you, Sandy Annabi and Dee Barbato meet with
15 Al Pirro and Bruce Bender?

16 A. Not including, not trying to be difficult but not including
17 council meetings.

18 Q. I am talking about a meeting where the only people present
19 would be you, Sandy Annabi, Dee Barbato, Al Pirro and Bruce
20 Bender.

21 A. I don't absolutely recall any other meeting like that. As
22 I said, I recall another meeting in Mr. Pirro's office. I
23 don't recall Sandy Annabi -- I don't recall Sandy Annabi being
24 there. She may have been.

25 Q. But you do recall Bruce Bender being there?

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1 A. Yes. It seems I recall him coming into the meeting.

2 Q. Well, then would it be fair to say that you had at least to
3 meetings with Al Pirro and Bruce Bender where Dee Barbato was
4 present?

5 A. Yes.

6 Q. Okay. And are those the only two that you recall?

7 A. The only two that Al Pirro and Bruce Bender and Dee Barbato
8 were present at?

9 Q. Were those the only two meetings that you and Dee Barbato
10 had with Al Pirro and Bruce Bender and no one else?

11 MR. HALPERIN: Objection; misstates.

12 THE COURT: Ladies and gentlemen, it's for the witness
13 to decide, not for me to rule whether a question misstates his
14 prior testimony, okay.

15 BY MR. ARONWALD:

16 Q. Let me rephrase the question. Mr. Halperin is actually
17 right. I apologize.

18 You've testified as to the Westchester Country Club
19 meeting?

20 A. Yes.

21 Q. Okay. On how many occasions other than the Westchester
22 Country Club meeting did you and Dee Barbato have occasion to
23 meet with Al Pirro and Bruce Bender and no one else?

24 A. Again, I only recall that one other meeting in Al Pirro's
25 office and I can't be absolutely certain there was nobody else

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C2MAAANN1 Murtagh - Direct

1 there.

2 Q. Do you recall that on June 30, 2005 you met with Al Pirro
3 and among the issues that were discussed were the pilot which
4 you described yesterday?

5 A. Again --

6 Q. -- taxes?

7 A. I know we met on Ridge Hill cause I wouldn't have had any
8 other meeting reason to meet with those people but I don't
9 remember the specifics.

10 Q. Would it be fair to say you don't remember very much about
11 what happened at that meeting at Al Pirro's office?

12 A. Other than we discussed Ridge Hill.

13 MR. ARONWALD: May I show the witness a document which
14 I am marking Defendant's Exhibit SA-A.

15 THE COURT: SA-A?

16 MR. ARONWALD: Well, the defendant's exhibit's would
17 be A, B, C, D.

18 THE COURT: No, they wouldn't. They'd be Defendant's
19 one, two, three, four, five, six.

20 MR. ARONWALD: Defendant's Exhibit?

21 THE COURT: Two for identification.

22 MR. ARONWALD: Okay.

23 THE COURT: One marking system. One through X for
24 each side.

25 MR. ARONWALD: I'll see if I have a copy for

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C2MAAANN1 Murtagh - Direct

1 Mr. Halperin.

2 (Pause)

3 BY MR. ARONWALD:

4 Q. Showing you what's been marked as Defendant's Exhibit 2 for
5 identification. Would you just read that to yourself.

6 (Pause)

7 A. Okay.

8 Q. Does that refresh your recollection as to the meeting that
9 you had in Al Pirro's office on June 30, 2005?

10 A. No, not really.

11 Q. Now, with respect to the Westchester Country Club meeting
12 that you described, Mr. Murtagh, isn't it true that nobody from
13 Forest City Ratner was at that meeting?

14 A. The meeting at the Westchester Country Club?

15 Q. Yes.

16 A. No, it's not true.

17 (Continued on next page)

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C2m0ann4 Murtagh - cross - Aronwald

1 Q. And your sure about that, as you are about everything else
2 you have testified to today and yesterday?

3 A. Bruce Bender was there.

4 Q. So does that mean you are not so sure that there was
5 another representative from Forest City Ratner there?

6 A. No, there was, as I said, a young-ish, my recollection, a
7 kind of stocky man there.

8 Q. My question to you is, are you as certain about your
9 testimony that Bruce Bender and another individual from Forest
10 City Ratner were at the Westchester Country Club on this
11 occasion, as you are about everything else you have testified
12 to, both yesterday and today, yes or no.

13 A. I'm certain that I recall them at the meeting.

14 Q. That's not answering my question. My question is are you
15 as certain about that as you are about everything else you have
16 testified to yesterday and today; yes or no?

17 A. Yes.

18 Q. All right. Now, getting back to the legislative process,
19 in your experience would you agree that when a resolution, any
20 resolution, comes before the City council, there may be more --
21 there may be certain aspects of the resolution which of more
22 concern to one council member than they are to another council
23 member; that would be accurate, correct?

24 A. It would be, yes.

25 Q. Okay, for example, as far as the Ridge Hill project was

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1 concerned, your district, the -- as far as the Ridge Hill
2 project is concerned, the 81 acres were squarely within
3 DeBarbato's district, correct?

4 A. I don't know what you mean by "squarely," but it was all
5 DeBarbato's district.

6 Q. And the traffic ingress and egress that you have been
7 describing, that was of considerable concern to you, because
8 that was of considerable concern to the constituents in your
9 district, correct?

10 A. Among other things, yeah.

11 Q. Okay. But the traffic issues, in terms of getting in and
12 out of the Ridge Hill property, that did not have any impact
13 upon the people that live in Sandy's district, did it?

14 A. I wouldn't agree with that.

15 Q. How would it?

16 A. For one thing, it would have a -- couple of things. It
17 could conceivably back upwards into central and south Yonkers.
18 And any major traffic problems are gonna create police
19 problems, potentially. Police, over time, issues. Fire safety
20 issues. Because Tuckahoe Road, which was the main road we're
21 talking about, is one of only, really, three east/west roads,
22 you know, that can take you across the City, so I wouldn't
23 agree with that. I think every council member should have been
24 concerned about the traffic issues.

25 Q. All right. Would you agree that the traffic issues more

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1 directly impacted upon the people in your district than they
2 did upon people in her district?

3 A. Sandy Annabi's district.

4 Q. Yes.

5 A. Yes.

6 Q. Now you indicated -- in describing the Westchester Country
7 Club meeting, you indicated, I think you referred to it
8 yesterday as sort of like a nonevent meeting; it was not at all
9 productive. Do you remember that?

10 A. Yes.

11 Q. Okay. And the reason for that was that, you indicated,
12 that the concerns that you had were addressed with -- with the
13 people that were Bruce Bender, Hal Pirro, correct?

14 A. Well --

15 Q. You expressed the concerns that you had. And they
16 basically did not address any of those concerns?

17 A. Not that I recall, no.

18 Q. Okay. In fact, you said that nothing -- they really didn't
19 say anything different from what they had previously said?

20 A. That's fair.

21 Q. Okay. So at the end of the meeting, there was nothing
22 different than what Forest City Ratner had proposed before the
23 meeting?

24 A. Not that I recall, no.

25 Q. Okay. And as a result, you continued to be opposed to the

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1 Ridge Hill project -- let's strike that.

2 Nothing happened at that meeting that changed your
3 opposition, or your attitude, or position, toward Ridge Hill;
4 that would be correct wouldn't it?

5 A. Yes.

6 Q. Okay. Now jumping ahead to July 11 of 2006, you testified
7 that a few weeks before the July 11 vote you learned that Sandy
8 Annabi was going to change her vote from no to yes because of a
9 press release; do you recall that?

10 A. I believe it was from a press release.

11 Q. Okay. Well, do you recall testifying yesterday it was from
12 a press release?

13 A. I believe I said that, yes.

14 Q. Okay. And if I can show you a document that I'm going to
15 mark as defendant's exhibit 3 -- if you'll bear with me -- for
16 identification. Showing you what's been marked as defendant's
17 exhibit 3 for identification.

18 A. Yes, sir. I'm sorry.

19 Q. Do you recognize that as the press release that you were
20 referring to?

21 A. I believe this was the press release that Forest City
22 Ratner prepared, yes.

23 Q. Is this the press release that you were referring to
24 yesterday in your testimony on direct examination?

25 A. Yes.

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1 Q. Yes or no?

2 A. Yes.

3 Q. Okay.

4 MR. ARONWALD: Move it into evidence, your Honor, as
5 defendant's exhibit 3?

6 THE COURT: You're offering defendant's three?

7 MR. HALPERIN: I would like a moment to compare it
8 with the one that's been stipulated to.

9 THE COURT: Fine.

10 MR. HALPERIN: We have no objection.

11 THE COURT: Admitted.

12 (Defendant's Exhibit 3 received in evidence)

13 MR. ARONWALD: Thank you, your Honor.

14 BY MR. ARONWALD:

15 Q. Now, you testified yesterday that you had a conversation
16 with Al Pirro about three weeks before the press release which
17 was marked as defendant's exhibit 3.

18 Do you recall that testimony, sir?

19 A. Yes.

20 Q. Okay. And during that conversation, didn't Mr. Pirro tell
21 you that according -- that Forest City Ratner would be willing
22 to put X million dollars up front as payment to the City?

23 A. What Mr. Pirro told me, in substance, was that they were
24 willing to put up a small amount of additional money, I could
25 take credit for having negotiated with them. They prepared the

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1 press releases and so forth. And I believe his words were:

2 The project will get passed and you'll be the hero.

3 Q. So it's your recollection that Mr. Pirro simply said that
4 Forest City Ratner would be willing to put up a small amount of
5 money, and you could take the credit --

6 A. I think he may have said nine or ten million dollars, but
7 to me that was a small amount of money in the scheme of things.

8 Q. Do you recall testifying before the Grand Jury?

9 A. Yes.

10 Q. Okay. And how -- how certain are you that during that
11 telephone conversation Mr. Pirro mentioned the figure nine or
12 ten million dollars.

13 A. I'm reasonably certain, because I remember thinking that
14 what he was offering was not much. He may just have said some
15 additional money. And the fact that he was not addressing
16 traffic or flooding or anything else, is what I'm thinking of.

17 Q. So does that mean you're not certain that during that
18 conversation Mr. Pirro mentioned the figure nine or ten million
19 dollars, is that what you are telling us?

20 A. As I sit here now, I believe he did.

21 Q. Well, as you sat before the Grand Jury on March 26 of 2009,
22 was that your recollection then, as well?

23 A. It was 3 years ago, I don't -- I don't recall.

24 Q. And when you appeared before the Grand Jury on March 26 of
25 2009, that would have been only 3 years after the July 11, 2006

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1 vote, correct?

2 A. Give or take, yeah.

3 Q. Okay. Do you recall being asked this question and giving
4 this answer at grand jury when you described the Pirro
5 conversation?

6 MR. HALPERIN: Page, Judge?

7 THE COURT: I can barely hear you Mr. Aronwald.

8 BY MR. ARONWALD:

9 Q. Page 35, lines 6 through 16. Do you recall being asked
10 this question and giving this answer:

11 "Q. And what did you mean by that?

12 "A. Well, at some point after the Westchester Country Club
13 meeting and before Sandy flipped, I had gotten a call myself
14 from Al Pirro. I think I was probably in my office, but I
15 don't recall. But I got a call from Al Pirro. And, again, the
16 sum and substance of it was Forest City Ratner is willing to
17 put x million dollars right up front as a payment for the City.
18 You go along ..." That's it.

19 Do you remember being asked that question and giving
20 that answer before the Grand Jury?

21 A. Nope, not particularly, but I may have been. You're
22 reading it, I assume I was.

23 Q. I'm not asking you to assume, I'm just asking you what you
24 remember.

25 A. I don't independently recall that particular question and

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1 answer, no.

2 MR. ARONWALD: Your Honor, may I approach the witness
3 to show him the portion of the --

4 THE COURT: You may.

5 BY MR. ARONWALD:

6 Q. Mr. Murtagh, please look at lines 6 through 16 of the page
7 I just handed you, read it to yourself please, and let me know
8 when you have finished.

9 MR. HALPERIN: Your Honor, under the rule of
10 completion --

11 THE COURT: Hang on, hang on, please. Save it for
12 redirect.

13 MR. HALPERIN: Okay.

14 A. Yes.

15 THE COURT: Do you want to know if that refreshes his
16 recollection about the question and answer?

17 Q. Yes, I do.

18 THE COURT: Does it?

19 THE WITNESS: No.

20 MR. ARONWALD: Okay.

21 I would offer that portion of it.

22 MR. HALPERIN: Not without the next page, Judge.

23 THE COURT: The objection is sustained. We'll talk
24 about it later.

25 BY MR. ARONWALD:

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1 Q. I'll continue to ask this question.

2 Do you recall telling the Grand Jury at page 35, lines
3 17 through 25, and continuing on to page 36, line 14. And let
4 me strike that.

5 At any time had you told the government that Pirro had
6 told you that the figure would be \$10 million during that phone
7 call; do you recall ever telling that to the government?

8 A. I -- I don't recall specifically if I named a figure.

9 Q. So whatever the amount of money was that Forest City Ratner
10 was willing to put up as of July 11th, 2006, that amount was
11 not on the table during the Westchester Country Club meeting
12 that you previously testified about; correct?

13 A. I don't recall that it was, no.

14 Q. You indicated that you thought that \$10 million was not
15 enough money?

16 A. Not nearly, no.

17 Q. Okay. But do you agree that what you thought would be not
18 enough money to another council member, might have been
19 considered sufficient money?

20 A. I -- I can't speak for another council member.

21 Q. Well, you heard Sandy Annabi basically say when she
22 approved the project, when she said she was voting for the
23 project, that as far as she was concerned \$10 million was a
24 sufficient amount of money to sway her vote from no to yes;
25 correct?

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1 A. Are you talking about the press release?

2 Q. I'm not talking about the press release.

3 You had discussions with Sandy Annabi -- you were at
4 the City council meeting of July 11, 2006; weren't you?

5 A. Yeah.

6 Q. Didn't Sandy Annabi discuss the \$10 million, didn't she
7 indicate that that is why she was changing her vote to a yes
8 vote?

9 A. As I recall at the council meeting in July of '06, she
10 really didn't speak in substance at all.

11 Q. Did you speak to Sandy Annabi before the July 11, 2006
12 meeting?

13 A. And after she flipped?

14 Q. After you learned that she was switching her vote to yes?

15 A. I imagine I did. I -- I don't recall. I was on vacation
16 for part of that, so I was out of town.

17 Q. So you have no recollection of any discussion with Sandy
18 before the July 11th meeting, after you learned that she
19 flipped, where she told you that the \$10 million that she had
20 negotiated with Forest City Ratner was the best that she
21 thought the City could get?

22 A. No, I don't recall that.

23 Q. When you had that conversation with Mr. Pirro, what did you
24 tell him?

25 A. It's kind of my style, I don't think I really told him

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1 anything. Maybe it's the lawyer in me, I kind of uh-hummed a
2 lot, I guess, and said I would think about it. In my own mind,
3 I already knew it was a ridiculous proposal but I said, oh,
4 well, let me sleep on that or something like that, and ended
5 the conversation.

6 Q. By the way, did you ever disclose that conversation on the
7 floor of the City council?

8 A. Before the City council?

9 Q. On the floor of the City council.

10 A. I don't think so.

11 Q. All right. When you had the conversation with Al Pirro --
12 withdrawn.

13 By the way, getting back to Longfellow, the
14 conversation that you had with Pat MacDow, the fact is that she
15 did vote no on the Con Ed proposal, and you and Dee Barbato
16 voted no on the Longfellow project, correct?

17 A. The first time they came up that day? Yes --

18 Q. Yes.

19 A. -- it's my recollection.

20 Q. And then, later, you ultimately flipped your vote and voted
21 in favor of the Longfellow project, correct; yes or no?

22 A. I'm not sure I like your characterization, but I ultimately
23 voted for for the resolution, yeah.

24 Q. I apologize for the characterization, but --

25 By the way, was it your understanding based upon the

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1 discussions that you had with Dee Barbato, that she was
2 unalterably opposed to the Ridge Hill project because of the
3 effect it would have on her district.

4 A. Can you clarify what you mean by that? I -- like I said
5 about myself yesterday, again, I can't speak for any other
6 council member. But I was opposed to this proposal. I -- I
7 was certainly never opposed to developing that 81-acre site,
8 substantially developing it. I thought it should be developed.

9 Q. Was it your understanding that Forest City Ratner had
10 essentially given Dee Barbato a pass because they knew that
11 there was no circumstance under which they would be able to
12 persuade her to vote for the project?

13 A. I have no idea what Forest City Ratner was thinking.

14 Q. Now, with respect to the ultimate Ridge Hill proposal, we
15 can agree, can we not, that the pilot was eliminated, the
16 payment in lieu of taxes, that part of Forest City Ratner's
17 original proposal, that was eliminated, that was out of it,
18 correct?

19 A. I believe that is correct.

20 Q. Okay. By the way, wasn't there also a -- didn't Forest
21 City Ratner also agree to pay \$500,000 up front for a traffic
22 mitigation study?

23 A. I believe they escrowed money, and it was never used.

24 Q. No, but didn't Forest City Ratner agree to pay a half
25 million dollars -- before the proposal was -- before the vote

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1 on July 11, 2006, hadn't Forest City Ratner agreed to pay
2 \$500,000, up front, for a traffic mitigation study?

3 A. I believe so, yes.

4 Q. Yes. And part of that -- well, strike that.

5 MR. MR. ARONWALD: No further questions.

6 Thank you.

7 THE COURT: Can we take our morning break at this
8 point? Ten minutes, don't discuss the case, keep an open mind.

9 (Jury excused)

10 THE CLERK: Case on trial continued, the government
11 defendant are present, the jurors are not present, and the
12 witness is ascending the stand.

13 THE COURT: Yes.

14 Mr. Aronwald, you wanted to say something you had
15 already talked to the government about.

16 MR. ARONWALD: Yes, your Honor. I did speak to the
17 government. There was another exhibit I wanted to introduce.
18 I should be very brief. I have shown it to the government. I
19 obtained it from the government. I don't believe they have any
20 objection to it coming in, but I need to show it to the witness
21 first.

22 MR. HALPERIN: We have no objection.

23 THE CLERK: Jurors.

24 (Jury present)

25 THE COURT: Okay, have a seat.

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1 Mr. Aronwald needs to reopen his cross-examination to
2 show one more document to the witness.

3 JOHN MURTAGH

4 CROSS-EXAMINATION (Continued)

5 BY MR. ARONWALD:

6 Q. Let me show you what has been marked as defendant's
7 exhibit 4 for identification and ask you whether you recognize
8 that.

9 A. It appears to be my 2005 pocket diary.

10 Q. When you say, "it appears to," if you look through the
11 pages, is there any doubt from the handwriting that it is your
12 diary?

13 A. No.

14 Q. I ask you to please direct your attention to the entry for
15 June 30th, 2005, which has been marked as defendant's
16 exhibit 4 A.

17 A. And it happens to be the center page, yes.

18 Q. Okay. And what entry -- do you see -- do you see an entry
19 for June 30th?

20 A. Yes, I see -- I wrote Pirro, 4:30; blood donation, 6:30.

21 Q. Okay.

22 MR. ARONWALD: We move the exhibit into evidence.

23 THE COURT: Offer.

24 MR. ARONWALD: Offer defendant's exhibit 4 and 4 A in
25 evidence.

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1 THE COURT: Any objection?
2 MR. HALPERIN: No, your Honor.
3 THE COURT: Admitted.
4 (Defendant's Exhibits 4, 4A received in evidence)
5 MR. ARONWALD: No further questions.
6 Thank you.
7 THE COURT: Thank you.
8 Mr. Siano.
9 MR. SIANO: Thank you, Judge.

10 CROSS-EXAMINATION

11 BY MR. SIANO:

12 Q. Good morning. My name is Anthony Siano. I represent Zehy
13 Jereis.

14 A. Good morning.

15 Q. Mr. Murtaugh, did I hear -- you say you attended the
16 Fordham Law School?

17 A. I don't think I said it, but I did.

18 Q. And when you were there, sir, I take it you took a course
19 in criminal law?

20 A. From Professor Abramofsky.

21 Q. Did you take a course in criminal law, sir?

22 A. Yes.

23 Q. Did you take a course in Constitutional law?

24 A. Yes.

25 Q. And did you take a course in professional responsibility or

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1 ethics?

2 A. Yes, I believe I did.

3 Q. And I take it all of those were required courses at the
4 Fordham University School of Law, weren't they, sir?

5 A. Yes.

6 Q. And you passed all of them?

7 A. Yes.

8 Q. And I take it that when you testified, I believe both on
9 direct and cross, that "the lawyer in you," a number of times,
10 you were referring to your training and the examinations you
11 took variously along the way in becoming a lawyer, isn't that
12 correct?

13 A. And my life experience.

14 Q. And from that training and education and life experience,
15 you know that an individual accused of a crime is presumed
16 innocent, don't you?

17 MR. HALPERIN: Objection, relevance.

18 THE COURT: Objection sustained.

19 MR. SIANO: Judge, I have a foundation.

20 THE COURT: Get there quick, Mr. Siano.

21 MR. SIANO: I would like just a few questions, Judge.

22 THE COURT: Three.

23 MR. SIANO: Thank you.

24 BY MR. SIANO:

25 Q. I take it you know an individual is presumed innocent,

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1 isn't that correct?

2 A. Yes.

3 Q. And you know that an accusation, an indictment, is merely
4 an accusation --

5 THE COURT: Okay, these -- forget it. No.

6 MR. SIANO: Judge, may I approach, Judge.

7 THE COURT: Mr. Siano, please -- no. Not proper
8 questioning. Ask him a question about the case.

9 MR. SIANO: Yes.

10 BY MR. SIANO:

11 Q. Mr. Murtagh, you ran for mayor last year, isn't that
12 correct?

13 A. Yes, I did.

14 Q. And isn't it a fact that your campaign literature
15 prominently featured my client's picture with the word
16 "indicted" on it?

17 A. I know one of our mailers had Mr. Jereis' picture.

18 Q. And a color picture with his face covered by the word
19 indicted, isn't that correct?

20 A. That may be accurate.

21 Q. Are you suggesting to me, sir, that you don't remember the
22 mailer?

23 A. I remember the mailer.

24 Q. And you do remember the picture, don't you, sir?

25 A. I remember the -- Mr. Jereis' picture was in there, along

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1 with a number of other people.

2 Q. And Mr. Jereis' picture had the word "indicted" on it.

3 A. It may have.

4 Q. Are you suggesting to me, sir, you don't remember whether
5 his picture had that word "indicted" on it?

6 A. Specifically, no.

7 MR. SIANO: May I approach, your Honor?

8 THE COURT: You may.

9 BY MR. SIANO:

10 Q. Mr. Murtaugh, I show you what's been marked as defendant's
11 exhibit number 5. And I have put the exhibit tag above the
12 specific photograph I'm asking you to look at, sir.

13 First of all, do you recognize this document as being
14 the mailer you were describing in your prior testimony?

15 A. Yes.

16 Q. And is Mr. Jereis' picture there with the word "indicted"
17 written across it?

18 A. Yes, it is.

19 Q. Thank you, sir.

20 I believe you testified on direct you ran for mayor
21 and lost, is that correct?

22 A. Unfortunately, yes.

23 Q. Approximately, what, 30 some-odd percent of the vote?

24 A. Something like that.

25 Q. And the gentleman who won the election was Michael Spano;

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1 isn't that correct?

2 A. That's correct.

3 Q. And you ran as a Republican, and he ran as a Democrat?

4 A. And there was a third candidate, who ran independent.

5 Q. And, Mr. Spano, at one time Michael Spano was a Republican;
6 isn't that right?

7 A. I believe he was, yes.

8 Q. And you first ran for City council in Yonkers in 2003,
9 isn't that right?

10 A. I actually sought the party's nomination 10 years before
11 that, and they endorsed another candidate, so I dropped out.

12 Q. Let me ask the question again, sir.

13 You first ran for City council in 2003, is that
14 correct --

15 A. That is correct.

16 Q. -- sir?

17 A. Yes.

18 Q. And prior to you actually running, you attended the
19 Republican party of Yonkers' City convention; isn't that right?

20 A. Yes.

21 Q. At the Polish Center in Yonkers?

22 A. I -- I don't recall where it was held that year.

23 Q. Do you recall attending?

24 A. I've attended a Republican convention in the City pretty
25 much every year for the last 20, I don't have a particular

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1 independent recollection of that one.

2 Q. You were planning a race for the 5th Council District in
3 2003; is that correct, sir?

4 A. Yes.

5 Q. And it's your testimony that you don't remember going to
6 the convention wherein you were going to seek the Republican
7 party nomination?

8 A. I -- I apologize, but as I said, I attend conventions every
9 year. And I have been nominated on four different occasions
10 for public office. I don't specifically recall the details of
11 that one.

12 Q. Mr. Murtaugh, do you recall that at the same convention in
13 2003 where you were designated by the Republican party as the
14 designated choice, that Mr. Michael Spano was designated as the
15 party choice for mayor that same year?

16 A. I recall that he was the designated candidate. I, again,
17 don't independently recall the details of the convention.

18 Q. I just asked you if you recall, sir, that the same
19 convention that designated you for the 5th Council District,
20 designated Michael Spano as the mayoral designee for the
21 Republican party?

22 A. It may or may not have been, because sometimes they have
23 what they call mini conventions for the council seats, and I
24 just don't recall.

25 Q. Do you recall that you had a primary opponent in the

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- 1 Republican primary; is that right?
2 A. Yes.
3 Q. And that was Fiorito?
4 A. Fiorito.
5 Q. And Mr. Spano had two opponents in the Republican primary,
6 isn't that right, Mr. Amicone and Ms. Restiano?
7 A. I remember Amicone, I don't recall Ms. Restiano running in
8 a primary that year, but maybe she did.
9 Q. Mr. Amicone any was not the party designee?
10 A. No, he was not.
11 Q. He was, at the time, the deputy mayor, however?
12 A. Yes, he was.
13 Q. So Mr. Spano and Mr. Amicone, you recall being in the same
14 primary citywide, as you and Mr. Fiorito were in the primary in
15 the 5th council matter?
16 A. Yeah.
17 Q. You won in your district, and Mr. Spano lost citywide?
18 A. Yes.
19 Q. And the race didn't have anything to do with Ridge Hill,
20 did it?
21 A. It probably came up in the race, because they were starting
22 to, you know, discuss the planning.
23 Q. It was not the principle issue in the race, though was it,
24 Mr. Murtagh?
25 A. My race or the mayor's race?

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1 Q. Both.

2 A. It was not in my race.

3 Q. And, in fact, the principle issue in that race was
4 something else; isn't that right?

5 A. In my race?

6 Q. Sir, the principle issue was abortion, wasn't it?

7 MR. HALPERIN: Objection.

8 THE COURT: The objection is sustained.

9 This entire line of questioning is irrelevant. Let's
10 get on to something that is relevant.

11 BY MR. SIANO:

12 Q. You and Mr. Spano were in the same party, you were both
13 party designees, but you had policy differences; isn't that
14 right?

15 MR. HALPERIN: Objection, relevance.

16 THE COURT: Sustained.

17 Q. Now, you said to me you attended conventions virtually
18 every year. Do you recall attending a party convention in
19 2005?

20 A. Not independently, no.

21 Q. All right. Let me see if I can help refresh your
22 recollection.

23 MR. ARONWALD: I'm showing this to the government.

24 BY MR. ARONWALD:

25 Q. Now, let me show you what's been marked as defendant's

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1 exhibit 6 for identification, Mr. Murtaugh.

2 If you would, sir, I direct your attention to the
3 second page, in the interest of time. You can look at it as
4 long as you like.

5 A. Yes, sir.

6 Q. Do you recall, sir, having looked at that document, that
7 you actually were in attendance at the 2005 Republican City
8 convention in the City of Yonkers?

9 A. I probably was, but I don't have an independent
10 recollection, no.

11 Q. Does the document help you?

12 A. No.

13 Q. Did you have an independent recollection of seconding the
14 nomination of Mr. Jereis for City leader in Yonkers in 2005?

15 A. Again, I may have I don't have an independent recollection.

16 Q. You have no basis to contest the document I have placed in
17 front of you, do you, Mr. Murtaugh?

18 MR. HALPERIN: Objection.

19 THE COURT: Objection sustained.

20 Q. Do you have any independent factual information to contest
21 that you seconded the nomination of Mr. Jereis for City leader
22 in 2005?

23 MR. HALPERIN: Objection.

24 THE COURT: Objection sustained.

25 Q. Now, are you aware of something that the Republican party

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1 in Yonkers put out called The Yonkers Republican Journal?

2 A. Not really. There was a website of some sort at one point.

3 Q. And do you recall a website including information about
4 fundraisers?

5 A. I don't -- I don't recall.

6 Q. And do you recall Mr. Jereis running fundraisers for you,
7 sir?

8 A. I remember he ran one for me, in particular.

9 Q. Did he run that in 2006?

10 A. I don't recall the year.

11 Q. Do you recall it being March of 2006?

12 A. No. By which I mean I don't recall. I recall that I
13 spelled his name wrong on the invitation.

14 Q. Let me show you what's been marked for identification as
15 defendant's exhibit 7. Let me show you what's been marked for
16 identification as defendant's exhibit 7. I'm directing your
17 attention to page 6, Mr. Murtaugh. But you can certainly look
18 at it as long as you like.

19 A. Page 6, you say, sir?

20 Q. Yes. It indicates on March 6, sir. Does that refresh your
21 recollection that there was a fundraiser at the Old Stone Mill
22 in March, and Mr. Jereis was the contact person?

23 A. Doesn't particularly refresh my recollection about that,
24 no.

25 Q. Okay. Now, the Yonkers City Council, that word is spelled

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1 C-O-U-N-C-I-L, correct? Council.

2 A. Yes.

3 Q. They have their own council C-O-U-N-S-E-L, their own
4 attorney for the City council, isn't that right?

5 A. It's little more complicated than that, but the Democratic
6 caucus and Republican caucus each have a counsel.

7 Q. An attorney?

8 A. Yes.

9 Q. And as the elections occur and new administrations, new
10 majorities, new minorities take office, one of the functions of
11 the elected officials is to select counsel for, you say, a
12 portion of the City council; is that correct?

13 A. Again, the Republicans have an attorney, and the Democrats
14 have an attorney, the lines blur a little about what their
15 responsibilities are, ultimately.

16 Q. Nonetheless, these are what might be described as a
17 political appointment?

18 MR. HALPERIN: Objection, relevance.

19 THE COURT: The objection is sustained.

20 MR. SIANO: Judge, it will become clear in a moment.

21 Judge --

22 THE COURT: You'd better come over here to
23 sidebar and make it clear to me, because I haven't heard much
24 that is relevant so far.

25 (Continued on next page)

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C2m0ann4 Murtagh - cross - Siano

1 (At the side bar)

2 MR. SIANO: He was arguing that Mangone as counsel to
3 the City council in 2004, Judge.

4 THE COURT: So.

5 MR. SIANO: Judge, when Mr. Mangone is on the witness
6 stand, it is going to be open news, it was notorious in 2001,
7 for having tampered in the Wedrick case. Your Honor has
8 already seen this documentation. His entire presentation is
9 that he is a paradigm of ethics and fiscal restraint in 2004.
10 Another City council member is going to get on the witness
11 stand and say he argued for Anthony Mangone as counsel to City
12 council.

13 MR. HALPERIN: Irrelevant.

14 THE COURT: Objection is sustained. It's irrelevant.
15 (Continued on next page)

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C2m0ann4

Murtagh - cross - Siano

1 (In open court)

2 BY MR. SIANO:

3 Q. Now, Mr. Murtaugh, you have described the property up at
4 Ridge Hill, the 81 acres, as largely undeveloped land?

5 A. Well, I -- I think I said --

6 Q. I asked you if that's the way you described it, sir, not
7 asking you to describe.

8 THE COURT: Let me try to make this easy.

9 THE WITNESS: Yes or no.

10 THE COURT: He is going ask you a lot of questions.
11 You have heard this before, you have heard the rules. He's
12 going to ask you a lot of questions that you can answer yes or
13 no. Answer yes or no.14 A. No, I don't believe that that is the way I characterized
15 it.16 Q. There was, in fact, a drug treatment center up there that
17 had been abandoned, isn't that correct?18 A. There was some sort of New York State youth facility. I
19 don't know that it -- I don't independently know that it was a
20 drug treatment center.21 Q. There was Lorrall office facility up there that had been
22 abandoned, isn't that right?

23 A. No, that was fully functioning.

24 Q. You didn't mention the fact that there was a Con Edison
25 power station on Ridge Hill, did you, sir?

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Murtagh - cross - Siano

1 A. It's at the bottom of the hill on Tuckahoe Road.

2 Q. It's at the bottom of the hill on Tuckahoe Road. That's
3 your testimony?

4 A. I believe the actual building is, the power lines run the
5 whole length of the property.

6 Q. And it's your recollection that the power station is,
7 quote, at the bottom of the hill, sir?

8 A. It's not at the top of the hill, to my recollection.

9 Q. And there are extensive power-generating poles that have
10 been there for decades; isn't that right?

11 A. I -- I obviously -- I don't know how long they have been
12 there.

13 Q. You don't have any bases to believe they were not there
14 when you were debating Ridge Hill.

15 A. They have been there as long as I have lived in Yonkers.

16 Q. Now, you were describing the, what you described as a
17 procedural change that you contested in Westchester County
18 Supreme Court.

19 Do you recall giving that testimony on direct about
20 your litigation, because the 5-2 super majority was changed to
21 a 4-3?

22 A. Sure, yes.

23 Q. And the litigation that was successful, the judge ruled
24 that the way the City council went about changing from 5-2 to
25 4-3 was procedurally infirmed, isn't that correct?

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C2m0ann4 Murtagh - cross - Siano

1 A. In sum and substance, yes.

2 Q. Now, Mr. Martinelli was, prior to this change, from 4-3, he
3 was City council president?

4 A. Wait. The change from 4-3.

5 Q. Richard Martinelli, was the orchestrator of this change
6 from a 5-2 to a 4-3 in 2005; isn't that right?

7 A. I don't know that to be the case. He supported it.

8 Q. He supported it.

9 And before he supported this, he had run for
10 reelection; isn't that correct?

11 A. Yes.

12 Q. And he had run basically as a supporter of Ridge Hill, and
13 his opponent had run as an opponent of Ridge Hill; is that
14 right?

15 A. Yes.

16 Q. And that was Mr. Lesnick?

17 A. Yes.

18 Q. Mr. Lesnick was a democrat, Mr. Martinelli was a
19 Republican?

20 A. Yes.

21 Q. And you and Ms. Barbato assisted Mr. Lesnick in that
22 campaign; isn't that right?

23 A. No.

24 Q. All right.

25 Now, Mr. Martinelli, after he lost, tried essentially

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Murtagh - cross - Siano

1 a lame duck play on the 5-2 super majority provision; is that a
2 fair statement on my part?

3 A. I -- I don't know what that means. He -- after he lost the
4 election, and before he left office, they, the four, introduced
5 this legislation.

6 Q. And Mr. Lesnick ran against Ridge Hill, isn't that right?

7 A. Again, like me, my sense of Chuck Lesnick was he was
8 opposed to what was then on the table. He was not opposed to
9 developing the property.

10 Q. Mr. Lesnick took office in January of 2006, is that
11 correct?

12 A. That sounds right, yes.

13 Q. And then he had a -- he had a big meeting with a French
14 name; right? A charrette?

15 A. It was more than one meeting.

16 Q. Well, he had something called a charrette, didn't he?

17 A. Yes.

18 Q. And he had that meeting, and it basically is a big tent
19 sort of meeting, everybody on board?

20 A. Is that a question?

21 Q. I said he had this large meeting, isn't that right?

22 A. Mr. Lesnick organized what he called a charrette. It was,
23 to my recollection, a series of meetings.

24 Q. And after this, Mr. Lesnick announced that he was in favor
25 of the Ridge Hill project, in essence, as it was proposed at

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1 the time he announced his approval?

2 A. At some point he said he would vote in favor of it. I
3 don't recall exactly when that was.

4 Q. You don't recall when Mr. Lesnick announced he was in favor
5 of the project?

6 A. Not precisely.

7 Q. How about approximately?

8 A. Somewhere in the first half of 2006.

9 (Continued on next page)

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C2MAAANN3

Murtagh - Cross

1 BY MR. SIANO:

2 Q. Now, you said that you are with a private firm now?

3 A. Yes.

4 Q. And you weren't with that firm before you left your city
5 council position; is that correct?

6 A. I am sorry.

7 Q. You went with Gaines, Gruner, Ponzini & Novick on February
8 1st of this year?

9 MR. HALPERIN: Objection; relevance.

10 THE COURT: Objection sustained.

11 Q. Mr. Murtagh, you testified on direct one of your concerns
12 as a city councilman was fiscal responsibility; isn't that
13 right?

14 A. That was one of my concerns as a councilman, yes.

15 Q. And in the last months of your sitting on the city council
16 did you observe the city council awarding a \$50,000 contract to
17 the law firm you were joining in February?

18 MR. HALPERIN: Objection; relevance.

19 THE COURT: The objection is sustained.

20 Q. Now, do you recall being asked some questions in the grand
21 jury about whether or not you felt, the relationship between my
22 client and Ms. Annabi?

23 A. I don't recall.

24 Q. You don't recall being asked those questions?

25 A. In the grand jury, no, I don't recall that.

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C2MAAANN3

Murtagh - Cross

1 MR. SIANO: Page and line, your Honor, page 25, line
2 15, I begin.

3 Q. Sir, do you recall being asked these questions and giving
4 these answers?

5 MR. HALPERIN: Objection to reading.

6 THE COURT: I don't really know, Mr. Halperin, how you
7 can impeach a witness with prior inconsistent statement without
8 reading the prior inconsistent statement. Objection to reading
9 is not an objection that is known to me in 20 years of practice
10 and 15 years on the bench; okay? Enough.

11 MR. SIANO:

12 Question: Do you recall, sir, being asked those
13 questions and giving these answers?

14 Question: How would you describe Zehy Jereis'
15 relationship with Council Member Sandy Annabi?

16 Answer: To my observation that was a close
17 relationship.

18 Question: Would you say he was inferential over
19 Annabi?

20 Answer: Absolutely, yes

21 Question: Why would you say that?

22 Answer: Well, again, they seemed to have a close
23 relationship. He would indicate, you know, in conversations he
24 would talk to Sandy or was talking to Sandy. They both come
25 out of Yonkers as a very tight knit Jordanian Christian

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C2MAAANN3

Murtagh - Cross

1 community and has for years. My understanding is a lot of
2 these folks come from the same region or maybe even the same
3 village originally in Jordan. They all kind of trace back
4 there. So in a good sense they were a very tight knit little
5 community. They both came out of that background in that
6 community.

7 Do you recall being asked those questions and giving
8 those answers?

9 A. I don't independently recall it but it sounds accurate.

10 MR. SIANO: Offer into evidence abstract 3521-A the
11 portions I read, your Honor.

12 MR. HALPERIN: No objection.

13 THE COURT: Admitted.

14 (Defendant's Exhibit 3521-A received in evidence)

15 BY MR. SIANO:

16 Q. Now, Mr. Murtagh, you spoke with the government on several
17 occasions prior to your appearance on this witness stand here
18 today; is that correct?

19 A. Yes.

20 Q. And the first time you spoke to them was early in 2008;
21 isn't that correct?

22 A. Again, I don't recall the dates I was subpoenaed.

23 Q. I didn't ask you about a subpoena, sir. I asked you, sir,
24 do you recall speaking to the government for the first time in
25 early 2008?

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C2MAAANN3 Murtagh - Cross

1 A. Again, I don't recall when it was.

2 Q. Let me place in front of you, sir --

3 MR. SIANO: Placing in front of you three pieces of
4 3500 material. For the record, 3521-D, 3521-B and 3521-C.

5 And I ask you, sir, to look at the dates at the top of
6 each of those documents. Does that refresh your recollection
7 that you, in fact, were interviewed by representatives of the
8 federal government in March of the year 2008?

9 A. No. I recall getting a subpoena and going with my attorney
10 to meet with the government.

11 MR. SIANO: Judge, it is my understanding that
12 Mr. Halperin and I are stipulating that Mr. Murtagh was in fact
13 interviewed on March 11, 2008.

14 MR. HALPERIN: We'll stipulate.

15 THE COURT: Thank you.

16 BY MR. SIANO:

17 Q. Now, Mr. Murtagh, I direct your attention to the 3500
18 material, the agent's notes of interviews which I've placed in
19 front of you. And in the interest of time you can look at all
20 of them but I call your attention to a page I marked in yellow.
21 And I note for the defense counsel -- excuse me, sir.

22 A. Sorry.

23 MR. SIANO: Let me just show it to Mr. Halperin.

24 (Pause)

25 Q. Mr. Murtagh, I direct your attention to the seventh page of
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C2MAAANN3 Murtagh - Cross

1 3521-D. Does that, sir, refresh your recollection that you
2 spoke to representatives of the United States government on
3 March 11, 2008 about the specific subject matter of Ms. Annabi
4 being the majority leader and Mr. Jereis urging that?

5 A. It doesn't refresh my recollection but I think I testified
6 to that a few minutes ago.

7 MR. SIANO: I offer into evidence, your Honor, this
8 portion of this 3500 material.

9 MR. HALPERIN: Objection; nothing inconsistent.

10 THE COURT: The one determination I can't make.
11 That's ground. That's it.

12 MR. SIANO: Thank you, judge.

13 Now , judge, I am going to put something on the rail
14 of the jury box. I know different judges have different
15 procedures. I am not trying to get anybody to look at it.

16 THE COURT: If there's no way to avoid it, okay, but I
17 prefer that you didn't.

18 MR. SIANO: Okay. Then, I put it down here below,
19 judge, I just want to get these out of the way. There's a lot
20 of them.

21 THE COURT: Sure.

22 BY MR. SIANO:

23 Q. Now, do you, sir, have an independent recollection as you
24 sit there on the witness stand as to when your grand jury
25 appearance was?

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C2MAAANN3

Murtagh - Cross

1 A. No.

2 Q. Now, having shown you those documents does that help you
3 remember that the first time you spoke to the government was in
4 2008, just the year, sir?5 A. I believe that was the year. These don't, particularly,
6 help me remember that.7 Q. Thank you. Now, do you recall about a year after this
8 initial interview you had another series of meetings with
9 representatives of the United States of America?10 A. I don't remember when it was. I had multiple meetings,
11 yes, but I don't recall the times.12 Q. So after this first meeting which you, generally, recollect
13 being in 2008 some time passed and you recall another meeting
14 or meetings?

15 A. Yes.

16 Q. Let me place in front of you, sir, and I take it you don't
17 have a recollection as to the specific dates?

18 A. No.

19 Q. Now, I am placing in front of you what has been previously
20 marked as 3521-E, 3521-F and 3521-G and I am, particularly,
21 directing your attention, Mr. Murtagh, for these purposes on
22 the handwritten items, the dates on the top and on the printed
23 item, sir, the date to the bottom.

24 A. Yes, sir.

25 Q. Does that refresh your recollection, sir, that you met with

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C2MAAANN3 Murtagh - Cross

1 representatives of the United States of America on several
2 occasions in March of 2009?

3 A. Well, the documents would suggest two but it doesn't,
4 particularly, refresh my recollection, no.

5 MR. SIANO: Your Honor, Mr. Halperin and I are
6 stipulating that the meetings took place on two occasions in
7 the year 2009, specifically, March 13th, 2009 and March 26,
8 2009.

9 THE COURT: So stipulated.

10 MR. HALPERIN: Yes, your Honor.

11 THE COURT: Thank you.

12 BY MR. SIANO:

13 Q. Now, there then came a point, did there not, sir, where you
14 gave the grand jury testimony, a portion of which I just read
15 to you a few moments ago; isn't that correct?

16 A. I testified before the grand jury, yes.

17 Q. Thank you. Do you recall now that I've given you the
18 transcript, does this help you, does it refresh your
19 recollection 3521A as to the date of that appearance?

20 A. There's a date on the document but it doesn't give me any
21 independent recollection, no.

22 MR. SIANO: I believe Mr. Halperin and I can agree,
23 your Honor, that the grand jury appearance took place on March
24 26, 2009?

25 THE COURT: Is that so stipulated?

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C2MAAANN3 Murtagh - Cross

1 MR. HALPERIN: Yes, your Honor.

2 THE COURT: Thank you.

3 BY MR. SIANO:

4 Q. Then, sir, you had a telephone conversation, you and your
5 attorney had a telephone conversation with two representatives of
6 the government, isn't that correct, in or about December of
7 '09?

8 A. I really don't recall that, no.

9 Q. Let me show you what's been marked as 3521-J, sir.

10 A. Yes, sir.

11 Q. That was December of last year; isn't that correct?

12 MR. HALPERIN: No. 2009.

13 MR. SIANO: Thank you, Mr. Halperin.

14 Q. Does that refresh your recollection it was December of
15 2009?

16 A. There is a 2009 date here but I have no recollection of the
17 conversation at all to be honest with you.

18 Q. You don't recall being on the phone with Mr. Castro-Bianco
19 and the government?

20 A. No, I don't.

21 Q. Mr. Castro-Bianco your lawyer at the time?

22 A. He was at the time.

23 Q. Have you no recollection of that at the time?

24 A. No, I really don't.

25 Q. Now, do you recall having a meeting in January of this

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C2MAAANN3

Murtagh - Cross

1 year?

2 A. Yes.

3 Q. And you recall that is on January 17, 2012?

4 A. That sounds about right.

5 Q. Let me show you what's been marked as 3521-H.

6 A. Yes, sir.

7 Q. And you recall that took place in January of this year?

8 A. I recall meeting with the U.S. attorney's office in January
9 of this year.

10 Q. And you were talking about this case?

11 A. Sure, yeah.

12 Q. And all of these several documents in all of these events
13 in 2008 and in 2009 and in your grand jury appearances and in
14 the interviews reflected up until January of this year, had you
15 ever mentioned that Mr. Jereis told you in your car that he has
16 his car swept for bugs?17 A. I told people that story for years because I thought it was
18 so incredible when I heard it.

19 THE COURT: Just, please, "yes or no".

20 THE WITNESS: I am sorry.

21 MR. SIANO: Could I have the reporter read the
22 question back to Mr. Murtagh is not confused as to my question?

23 THE COURT: Read back the question.

24 (Testimony read back)

25 A. Yes, I am sure I did.

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C2MAAANN3 Murtagh - Cross

1 Q. You are sure you did?

2 MR. SIANO: May I have a moment?

3 THE COURT: Yes.

4 (Pause)

5 BY MR. SIANO:

6 Q. In all of these meetings was Mr. Jereis brought up
7 repeatedly in 2008 and 2009 in the grand jury and in the
8 follow-up interviews?

9 A. He came up, I am sure, in every meeting.

10 Q. When you say he came up, he was a topic of discussion with
11 the United States of America; isn't that right?

12 A. Yes.

13 Q. And did anyone --

14 THE COURT: Would you please, you are blocking my view
15 of the jurors. Would you please get behind the podium. Thank
16 you.

17 Q. At any point were you asked about bugs?

18 A. I don't know if I was asked, no.

19 Q. And you don't know that you weren't asked?

20 A. I don't, particularly, have a recollection. I just recall
21 telling the story.

22 Q. Mr. Murtagh, prior to coming here today, have you seen any
23 of those documents in front of you?

24 A. No.

25 Q. When is the first time you have an affirmative

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Murtagh - Cross

- 1 recollection? You have an affirmative recollection of saying
2 to the government that Mr. Jereis told you he had his car swept
3 for bugs?
- 4 A. I don't -- like I said, I'm not trying to make light of the
5 situation, sir, but I've told that story so many times
6 anecdotally that I don't recall when I would have mentioned it
7 the first time in conversation with the government.
- 8 Q. Let me show you what's been marked as 3521-I. It's a
9 meeting with the government on February 6th of this year. Sir,
10 that's a note of your meeting with the government,
11 approximately, 13 days ago.
- 12 A. It could be, sir, and I don't know what this document is.
13 I mean, I assume that's what it is but I don't know.
- 14 Q. Does that refresh your recollection, sir, that you
15 mentioned the topic of bugs in Mr. Jereis' car in February of
16 this year to the government?
- 17 A. It doesn't, particularly, refresh my recollection about
18 that, no.
- 19 Q. Other than Mr. Jereis, has anyone ever told you, sir, that
20 they had their car swept for bugs?
- 21 A. No.
- 22 Q. And other than Mr. Jereis and Ms. Annabi, have you had
23 occasion to testify in any criminal proceeding as to any
24 individual?
- 25 A. I don't think so.

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C2MAAANN3

Murtagh - Cross

1 Q. And other than Mr. Jereis and Ms. Annabi have you ever had
2 occasion to give several interviews to the FBI and testify in a
3 federal grand jury?

4 MR. HALPERIN: Objection; relevance.

5 THE COURT: The objection is sustained.

6 MR. SIANO: No further questions, your Honor. Thank
7 you.

8 MR. HALPERIN: Your Honor briefly?

9 THE COURT: Yes.

10 REDIRECT EXAMINATION

11 BY MR. HALPERIN:

12 Q. Mr. Murtagh, counsel asked you about council members
13 changing their votes; do you recall that?

14 A. Yes.

15 Q. For what reason might a council member change his or her
16 vote on a project?

17 A. I would imagine, again, as I've said repeatedly and I know
18 I sound like a broken record, I can only speak for myself. I'd
19 had occasions where I might not have supported something
20 initially and may have later supported it either because maybe
21 I misunderstood what was intended initially or as I think
22 Mr. Aronwald discussed, there were negotiations and compromises
23 and I came to a point where I was satisfied to support
24 something.

25 Q. Are there times when projects change over time?

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C2MAAANN3

Murtagh - Redirect

1 A. I think every project that I was involved in on the city
2 council changed over time.

3 Q. Now, which, if any, council members who were on the council
4 in December 2005 changed their votes on Ridge Hill in July of
5 2006?

6 A. Sandy Annabi.

7 Q. Anyone else?

8 A. No.

9 Q. Counsel asked you about compromising as a politician/public
10 official sometimes have you to compromise?

11 A. I think as people we have to compromise, yeah.

12 Q. What was your view about how good or bad comprise the
13 additional ten million dollars from Forest City Ratner was on
14 Ridge Hill?

15 A. It was essentially meaningless. You don't look a gift
16 horse in the mouth. \$10 million is \$10 million but in it in no
17 way addressed the revenue and financial concerns that we in the
18 public had. And, obviously, in no way addressed, again, the
19 traffic issues, the public safety issues, the environmental
20 issues and so forth.

21 Q. Do you recall counsel asking you about the meeting at the
22 Westchester Country Club?

23 A. Yes.

24 Q. Do you recall items that May 18, 2006?

25 A. Yes.

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C2MAAANN3

Murtagh - Redirect

1 Q. I ask you again who was there, sir?

2 A. Me, Council Member Annabi, Council Member Barbato, Al
3 Pirro, Bruce Bender, and a short unidentified man.

4 Q. How certain are you that Councilwoman Annabi was at that
5 meeting?

6 A. I am absolutely certain of it.

7 Q. Did you have a conversation with councilwoman Annabi after
8 that meeting?

9 A. Yes.

10 Q. Where did it take place?

11 A. In the parking lot.

12 Q. Who was with you in the parking lot when that conversation
13 took place?

14 A. Me and Dee and Sandy.

15 Q. By "Dee" you mean who?

16 A. Dee Barbato.

17 Q. What did Councilwoman Annabi say to you in the parking lot?

18 A. In sum and substance, again, as I think I said yesterday,
19 she said after some discussions, they need five votes as long
20 as the three of us stick together they are going to have to
21 come to us and compromise.

22 Q. Do you recall counsel asking you about page 356 of your
23 grand jury transcript?

24 A. Yeah, I think so.

25 Q. Do you remember what you said on page 36 of your grand jury

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C2MAAANN3

Murtagh - Redirect

1 transcript?

2 A. No idea.

3 Q. Now, showing you what's been marked as 3521-A page 36.

4 MR. HALPERIN: Your Honor, may I approach?

5 THE COURT: Yes.

6 (Pause)

7 BY MR. HALPERIN:

8 Q. I direct your attention to lines four through 14 please.

9 Just read that to yourself.

10 MR. SIANO: Page and line, sir?

11 MR. HALPERIN: Page 36, lines four through 14.

12 MR. SIANO: Thank you.

13 MR. HALPERIN: Just look up when you have had a chance

14 to read that.

15 THE COURT: Someone want to give me pages 35 and 36?

16 MR. HALPERIN: Absolutely, judge.

17 (Pause)

18 BY MR. HALPERIN:

19 Q. Does that refresh your recollection about what was

20 discussed on page 36?

21 A. I read it. I really don't recall my testimony in
22 particular but, again, it sounds consistent with what I have
23 been saying.24 Q. Do you recall a discussion about the \$10 million from
25 Forest City Ratner?

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C2MAAANN3

Murtagh - Redirect

1 A. My conversation with Al Pirro?

2 Q. Yes.

3 A. Yes.

4 Q. Do you recall counsel asking you if had you ever mentioned
5 the discussion you had with Al Pirro and whether or not you
6 had, specifically, mentioned the \$10 million that he had
7 offered you on behalf of developer, correct?

8 A. Yes.

9 Q. And do you recall that you weren't certain if you had
10 mentioned that fact previously to the government? That is what
11 you said on cross.

12 A. I am sorry. What?

13 Q. That you weren't certain whether you'd mentioned the fact
14 about Al Pirro offering you the \$10 million to the government
15 previously.

16 A. Well, I think what I said was --

17 MR. ARONWALD: Objection.

18 THE COURT: Excuse me. I can't listen to three voices
19 at once.

20 MR. ARONWALD: Objection, your Honor. That
21 mischaracterizes the question and the testimony.

22 THE COURT: That's for the witness to decide not for
23 you to preach about, Mr. Aronwald, and I don't make those
24 calls.

25 MR. ARONWALD: Objection to "preaching".

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C2MAAANN3

Murtagh - Redirect

1 THE COURT: Have a seat. Have a seat.

2 Q. You can answer, sir.

3 A. What I think I was saying was I didn't recall whether I
4 had -- Mr. Aronwald showed me something where I said "X"
5 dollars. I couldn't recall if I had particularly said the \$10
6 million dollar figure.

7 Q. Let me ask you this question. We've established by
8 stipulation that you were interviewed on March 13 and March 26,
9 2009; do you recall that?

10 A. Yes.

11 Q. Do you recall if during those interviews you mentioned the
12 story about Al Pirro talking about the \$10 million for you in
13 those two interviews?

14 A. Again, Mr. Halperin, I apologize --

15 Q. Do you have a failure of recollection?

16 A. I don't, specifically, recall it at that meeting. I can't
17 imagine I didn't mention it.

18 THE COURT: Look, do you remember as you sit here
19 today that you said that you talked about that at the meeting
20 or do you not remember?

21 THE WITNESS: At that particular meeting I don't have
22 an independent recollection.

23 Q. I am going to show you something to refresh your
24 recollection 3521-E. I'll direct you to page 3 and I'll ask
25 you to read the first full paragraph on page 3.

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C2MAAANN3

Murtagh - Redirect

1 THE COURT: The issue is, does that jog your memory as
2 you sit here today to cause you to remember something that you
3 do not remember, yes or no?

4 (Pause)

5 BY MR. HALPERIN:

6 Q. You can put that down. Does that refresh your recollection
7 about whether you said that in that meeting?

8 A. It doesn't independently refresh my recollection.

9 Q. Sir, counsel asked you about Longfellow and whether you
10 changed your vote on Longfellow; do you recall that?

11 A. Yes.

12 Q. At first did you oppose the project?

13 A. The first time it came up, yes.

14 Q. Okay. Then you supported the project?

15 A. I think it was a couple of months later, yes.

16 Q. How much money, if any, did you receive from the Longfellow
17 developer?

18 A. None.

19 MR. HALPERIN: Nothing further.

20 MR. ARONWALD: I have a few.

21 CROSS-EXAMINATION

22 BY MR. ARONWALD:

23 Q. Just so we're clear, Mr. Murtagh, from day one you, Sandy
24 Annabi, and Dee Barbato were in the minority concerning the
25 Ridge Hill resolution, correct? Anything about the question

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C2MAAANN3

Murtagh - Cross

1 you don't understand?

2 A. I'm not sure what you mean by the "Ridge Hill resolution".

3 A resolution as councilman means something specific to me.

4 Q. With respect to the Ridge Hill project isn't it true that
5 from day one you, Sandy Annabi and Dee Barbato were in the
6 minority in opposing the project as it was before the city
7 council, yes or no?

8 A. As it was before the city council then, yes.

9 Q. Okay. And the four people or the four council members who
10 were always in favor of the Ridge Hill project with the
11 exception of the city council president because between the
12 time was initially -- strike that -- between the time that
13 Ridge Hill first came before the city council and the time it
14 was voted for on July 11th '06 the city council presidency
15 changed. It was passed from Mr. Martinelli to Mr. Lesnick,
16 correct?

17 A. Yes.

18 Q. So putting aside the city council president, the three
19 council members that were in favor of the Ridge Hill project
20 from day one, those three people continued to be in favor up
21 until July 1th of '06, correct?

22 A. As far as I know they all voted for it.

23 Q. That's right. By the way, Mr. Halperin asked you whether
24 or not you had received any money from Milio Management to
25 change your vote in connection with Longfellow?

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C2MAAANN3

Murtagh - Cross

1 A. Right.

2 Q. Okay.

3 A. And I said no.

4 Q. Okay. And you don't know of your own knowledge whether
5 Sandy Annabi ever received a penny to change her vote with
6 respect to Ridge Hill or Longfellow, do you?

7 A. No, I have no knowledge of that at all.

8 Q. You said you never looked a gift horse in the mouth with
9 respect to the \$10 million that Milio was willing to put up?

10 MR. HALPERIN: Objection.

11 A. That not what I said at all, sir.

12 Q. You said, never look a gift horse in the mouth but Ridge
13 Hill -- I apologize -- referring to the \$10 million that Forest
14 City Ratner had agreed to put up for the Ridge Hill project
15 before the July 11th meeting at which Sandy Annabi changed her
16 vote, you said that you never looked a gift horse in the month
17 but you didn't think that the \$10 million addressed other
18 issues that you were concerned about, correct? Isn't that what
19 you said?

20 A. No, sir. I think you are characterizing my testimony.

21 Q. What did you say? Strike that.

22 MR. ARONWALD: Can I have the question and answer read
23 back?24 THE COURT: No, you may not. We're not going to go
25 looking through. Actually, you are being argumentative. Save it

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C2MAAANN3 Murtagh - Cross

1 for closing.

2 MR. ARONWALD: No further questions, judge.

3 THE COURT: Mr. Siano.

4 MR. SIANO: No, your Honor.

5 THE COURT: Nothing. Anything? Thank you.

6 Mr. Murtagh. You may accept down.

7 It probably makes sense for us to take lunch now
8 rather than waiting a few more minutes. So we'll do that and
9 we'll start again at a quarter of two. We will be getting done
10 between 4:15 and 4:30 today.

11 Don't discuss the case. Keep an open mind. Leave
12 your notebooks back in the jury room.

13 (Jury not present)

14 (Continued on next page)

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C2m0ann4

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AFTERNOON SESSION

(Jury not present)

THE CLERK: Case on trial continued. The government is present, defendant. The jury is in the jury room.

MR. HALPERIN: May we raise one quick issue.

THE COURT: I don't think I have ever been able to stop you, Mr. Halperin.

MR. HALPERIN: When I said objection to reading this morning, that was certainly inartful. I apologize for the phrasing. What I wanted to convey, what I'm asking the Court's guidance on, our objection was, we believe Mr. Siano was improperly refreshing the witness' recollection. After he establishes a failure of recollection, he has to show obviously --

THE COURT: That's true if he is showing. But if he is impeaching with a prior statement, I guess I assume -- Mr. Siano seems to know the rules -- that he was impeaching. But let me make this clear, all right.

If a witness says I don't recall, you wish to refresh the witness' recollection, you walk to the witness stand -- you have blanket permission to do so. You show something to the witness and you ask the witness if that jogs the witness' memory, if that refreshes the witness' recollection about the matter as to which there was a failure of recollection.

If, however, the witness said something on day one

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1 that you believe is contradictory to his testimony and you wish
2 to impeach him using the testimony from day one, then you do it
3 in the standard form which Mr. Aronwald and Mr. Siano have
4 always done, which is to say page, line, were you -- on such
5 and such a day were you asked the following question and did
6 you give the following answer, page, line. And there is no way
7 not to read it, because you're trying to confront the person
8 with a statement that is written down on a piece of paper.

9 MR. HALPERIN: That's fine, Judge.

10 Our objection, though, was that Mr. Siano read
11 approximately a page of the grand jury testimony, as opposed to
12 one specific question.

13 THE COURT: That certainly was not the objection that
14 was uttered.

15 Yes, Mr. Siano.

16 MR. SIANO: I take it you are not foreclosing the
17 notion that 801 also contemplates the notion that, on
18 occasions, prior sworn testimony by a witness can be admissible
19 as evidence directly, not just for impeachment.

20 THE COURT: If you want to make an 801 argument in the
21 face of an objection, make the 801 argument.

22 MR. SIANO: Again, I certainly -- I believe I
23 proceeded in the proper fashion with regard to Mr. Murtaugh's
24 question and answer. And I believe it has been admitted. And
25 before I use it in front of the jury at any future time, I will

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1 confront the situation.

2 THE COURT: Thank you.

3 MR. SIANO: Thank you.

4 MR. HALPERIN: Bring the witness up, Judge?

5 THE COURT: Yes, that would be helpful. We'll bring
6 in the witness, we'll bring in the jury.

7 Okay.

8 THE CLERK: Jury.

9 (Jury present)

10 THE COURT: Have a seat. I hope that the testing of
11 the fire alarm system is over, but in case it's not, we'll
12 listen to the voice from the sky and we'll do whatever it tells
13 us to do.

14 Call your next witness, please.

15 MR. HALPERIN: The government calls Dee Barbato.

16 THE CLERK: Rise and take the oath. Raise your right
17 hand.

18 DENISE BARBATO,

19 called as a witness by the Government,

20 having been duly sworn, testified as follows:

21 THE COURT: You may inquire.

22 DIRECT EXAMINATION

23 BY MR. HALPERIN:

24 Q. Good afternoon, Ms. Barbato.

25 What City do you live in?

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C2m0ann4 Barbato - direct - Halperin

- 1 A. City of Yonkers.
2 Q. Do you sometimes go by the name Dee?
3 A. I do.
4 Q. How long have you lived in the City of Yonkers?
5 A. I have been living in Yonkers about 41 years.
6 Q. How far did you go in school?
7 A. I have a bachelors degree.
8 Q. What do you do for work currently?
9 A. I work for Westchester County Taxi and Limousine
10 Commission.
11 Q. How long have you worked with TLC?
12 A. I was with them back in '98 and '99, and then returned in
13 2007 to present.
14 Q. Did you ever hold elective office in the City of Yonkers?
15 A. Yes, I did.
16 Q. In what position?
17 A. I was City councilwoman.
18 Q. What year were you first elected to Yonkers City council?
19 A. I was elected in 1999, and began serving in 2000.
20 Q. What political party are you?
21 A. I'm a republican.
22 Q. What years were you reelected?
23 A. I was reelected in 2001, 2003, and 2005.
24 Q. Overall, how many years did you serve on the Yonkers City
25 council?

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C2m0ann4

Barbato - direct - Halperin

- 1 A. Ten years.
- 2 Q. During your time at the council, how long were the council
- 3 member's terms?
- 4 A. They were two-year terms. And then in 2005, they went to
- 5 four-year terms. There was a referendum that changed the
- 6 length of the terms.
- 7 Q. Why did you leave City council?
- 8 A. My term limited out. We can only serve so many terms.
- 9 Q. When you served on City council, what district did you
- 10 represent?
- 11 A. 6th District.
- 12 Q. And geographically, what area does the 6th District cover?
- 13 A. That's the northeast Section of Yonkers. It runs from the
- 14 Scarsdale line to the Hasting line, and kind of down the center
- 15 to Midland Avenue.
- 16 Q. Is there a residency requirement for council members?
- 17 A. Yes, there is.
- 18 Q. What is that requirement.
- 19 A. Well, you must live in the district that you represent.
- 20 Q. What was the proximate salary of a City council member
- 21 during your time on the council?
- 22 A. It was about 36, 37,000.
- 23 Q. Is being a council member a full-time or part-time job?
- 24 A. It's a part-time job.
- 25 Q. Directing your attention to 2005 and 2006, did you sit on

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C2m0ann4 Barbato - direct - Halperin

1 the Real Estate Committee during that time?

2 A. Yes, I did.

3 Q. Ms. Barbato, are you familiar with the Ridge Hill project?

4 A. Yes, I am.

5 Q. Did the City council hold meetings from 2004 to 2006 on the
6 Ridge Hill project?

7 A. We held extensive meetings, yes.

8 Q. Did the Real Estate Committee hold meetings on the project?

9 A. Yes.

10 Q. In 2005 and 2006, how high or low profile an issue was the
11 Ridge Hill project in Yonkers?

12 A. It was an extremely high profile issue.

13 Q. What made it such a high profile issue?

14 A. Well, multitude of things. First of all, it was a very
15 large proposed project. The City also had been going through
16 financial hard times. So this was going to be the panacea that
17 was going to bring manna from Heaven for the City. So there
18 was a great deal of interest in this project.

19 Q. Was there opposition to the project?

20 A. Yes, there was.

21 Q. Who was the developer of the Ridge Hill project.

22 A. Forest City Ratner.

23 Q. Now, going back to 2005 and 2006, at that time, what
24 generally was the proposal for the Ridge Hill project?

25 A. Well it was 81 acres. It was an 88-acre site. But part of

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1 that was parkland, so an 81-acre development that included
2 retail, movie theater, conference center, hotel conference
3 center, and housing.

4 Q. And roughly, how many units of housing were apartment units
5 being built?

6 A. We were looking at about a thousand units of housing.

7 Q. Where, exactly, was the proposed project going to be
8 located?

9 A. It was in the 6th District.

10 Q. Your district?

11 A. Yes.

12 Q. The district I represented.

13 And it was between Tuckahoe Road and Jackson Avenue
14 which is the Greenberg line -- and between the New York State
15 Thruway and the Sprain Brook Parkway, probably would be the
16 best way to describe it.

17 Q. And what quadrant or neighborhood of Yonkers was this
18 located?

19 A. Well, that was the northeast, or what is considered the
20 northeast.

21 Q. Let's just move forward for a moment.

22 What's the current status of the Ridge Hill project?

23 A. It is up and running, probably halfway complete.

24 Q. Going back to 2004 through 2006, what was your position on
25 the Ridge Hill project?

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1 A. I was opposed to it.

2 Q. And why were you opposed to the project?

3 A. Well, I represented the people in the district. And there
4 was a great deal of concern about environmental issues. Most
5 specifically, traffic issues, because it would impact many of
6 the neighborhoods in my district. And, also, the financial
7 proposal, the financial package that was put together.

8 Q. What did your constituents think about the project?

9 A. They were opposed to it, for those same reasons.

10 Q. And what were the specific concerns about traffic with the
11 project?

12 A. Well, one of the things is the Tuckahoe Road corridor,
13 which is -- there is only two ways to get in and out of the
14 project. And that's off the New York State Thruway and
15 Tuckahoe Road. Tuckahoe Road is one of three, I believe,
16 east/west corridors in City of Yonkers. It is always heavily
17 trafficked. And the feel was that this project would make it
18 just impossible to be able to get through there. And many of
19 the homeowners would not even be able to get out to Tuckahoe
20 Road, out of their neighborhood.

21 As a matter of fact, there was so much concern over
22 the corridor, that many years ago a group of neighborhoods and
23 community leaders put together what was called the Tuckahoe
24 Road Watchdog Committee.

25 Q. And what, if any, were the environmental concerns?

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C2m0ann4 Barbato - direct - Halperin

1 A. The environmental concerns were the usual in terms of
2 runoff --

3 Q. When you say, "runoff," water?

4 A. Water runoff. Ridge Hill sits on a plateau, so everything
5 would drain down from there. So there was concern about that.

6 There was concern about what we call the halo effect
7 all of the lights that would be generated from the project on
8 these small little neighborhoods and private homes.

9 There was also concerns about the drain on City
10 services, whether we would have enough in terms of catch basins
11 and sewers, and even services in terms of police and fire.

12 Q. You said you lived in Yonkers for about how many years at
13 this point?

14 A. At the time of the vote?

15 Q. No, as of now.

16 A. At the time of the project? Or now.

17 Q. As of now.

18 A. As of now, I live -- probably 41, 42 years.

19 Q. And how long have you lived in your City council district?

20 A. About 38 years.

21 Q. Now, in 2005 and 2006, before Ridge Hill was built, how was
22 the traffic along Tuckahoe Road at that time?

23 A. Well, traffic was, is always, heavy on Tuckahoe Road, ergo
24 the Tuckahoe Road Watchdog Committee.

25 Q. Let me direct your attention to July 2005. At about that

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1 time, did the County Planning Board issue a report on Ridge
2 Hill?

3 A. Yes, they did.

4 Q. And what type of recommendation did the County Planning
5 Board give the project.

6 A. They were opposed to it.

7 Q. Now, showing you what has already been received by the
8 Court into evidence, government exhibit 355.

9 MR. HALPERIN: Judge, may I approach?

10 THE COURT: You may.

11 Q. Ms. Barbato, do you recognize that document?

12 A. Yes, I do.

13 Q. And what do you recognize it to be?

14 A. This was the -- the findings of the Westchester County
15 Planning Board, where they opposed the project.

16 Q. And what is the date of that letter?

17 A. July 7th, 2005.

18 Q. What were the main issues cited by the Planning Board in
19 arriving at its negative recommendation?

20 A. It was many of the same concerns that myself and the
21 community had in regard to -- in regard to traffic, the density
22 of the project, the thousand units. The environmental issues
23 as well.

24 Q. Okay. Put that to the side.

25 Now, after the County Planning Board came out with its

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1 negative recommendation, what impact if any did that have on
2 the number of votes needed for the project to pass?

3 A. Well, just to clarify, part of the Ridge Hill project abuts
4 parkland. And it was county parkland. And because of that,
5 our municipal law said that we must have a fifth vote majority
6 on the City council. So you needed five votes to pass it.

7 Q. And what was that called?

8 A. Super majority.

9 Q. Now, in the fall of 2005, how many City council members
10 supported, how many opposed, the Ridge Hill project?

11 A. Three of us opposed it, and four supported it.

12 Q. Who were the three council members in the minority?

13 A. Myself, council member Annabi, and council member Murtagh.

14 Q. You mentioned Councilwoman Sandy Annabi, did you serve
15 together on the City council?

16 A. Yes, we did.

17 Q. Were you already a council member when she arrived on the
18 council?

19 A. Yes.

20 Q. When did she arrive on the council?

21 A. She came on in 2001.

22 Q. Well, was she elected in 2001, or did she come on in 2001?

23 A. I guess she was elected in 2000, and came on in 2001, I
24 believe.

25 Q. Okay. And what district did Councilwoman -- well, let me

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1 just back up. What were elections at the time --

2 A. I think I got that wrong in terms of --

3 Q. Okay, go ahead.

4 A. If I came on in '99 and started to serve in 2000, then I
5 guess she was elected in 2000 -- yeah, came on in 2001, two
6 years later; supposed to be two years later.

7 Q. So if she was elected in 2001, when did she take office?

8 A. It would have been January 2002, I think.

9 Q. Okay.

10 A. Okay.

11 Q. And what district did Councilwoman Annabi represent?

12 A. She was the 2nd District.

13 Q. What part of Yonkers was that?

14 A. That would be considered southwest Yonkers.

15 Q. What political party was Ms. Annabi?

16 A. A Democrat.

17 Q. Do you see the woman you have been referring to as Sandy
18 Annabi in court today?

19 A. Yes, I do.

20 Q. Point to her, state where she is sitting?

21 A. Right there.

22 THE COURT: Indicating Ms. Annabi.

23 MR. HALPERIN: Thank you.

24 Q. Ms. Barbato, do you know someone name Zehy Jereis?

25 A. Yes, I do.

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C2m0ann4 Barbato - direct - Halperin

1 Q. Who was he?

2 A. He was the leader of the Yonkers Republican party.

3 Q. And you said you were a Republican?

4 A. Yes, I am.

5 Q. So, who was your party chairman for several years when you
6 were on the City council?

7 A. Zehy Jereis.

8 Q. And who was party chairman in 2005 and 2006?

9 A. It was Zehy.

10 Q. Have you seen Mr. Jereis on numerous occasions? Have you
11 seen Mr. Jereis on numerous occasions?

12 A. Yes.

13 Q. And do you see the Zehy Jereis you have been discussing in
14 the courtroom here today? You can stand up.

15 A. Yes. The gentleman that is standing.

16 THE COURT: Indicating Mr. Jereis.

17 BY MR. HALPERIN:

18 Q. Let me direct your attention to the fall of 2005.

19 Did you hear Councilwoman Annabi speak about the Ridge
20 Hill project at council meetings or real estate committee
21 meetings?

22 A. Yes.

23 Q. Did you have private conversations with her about the Ridge
24 Hill project?

25 A. Yes, we probably did.

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C2m0ann4 Barbato - direct - Halperin

1 Q. What types of things did you hear Annabi say about the
2 project?

3 A. Well, she shared my -- the same concerns that I had, and
4 the concerns of the constituents. And she had also stated that
5 she would not support the project until I was satisfied and
6 that my constituents were satisfied.

7 Q. Based on Annabi's comments at the time, how would you
8 describe her position on the project?

9 A. That she was opposed to it.

10 Q. In July 2006, did Councilwoman Annabi change her vote on
11 the Ridge Hill project?

12 A. Yes.

13 Q. How did she vote on the project in July of 2006?

14 A. She voted for it.

15 Q. At that time, which of your concerns had been addressed
16 about the project?

17 A. To my estimation, none.

18 Q. What about your concerns regarding traffic mitigation?

19 A. None.

20 Q. Your concerns about the environmental impact?

21 A. None.

22 Q. What about your concerns regarding the amount of tax
23 revenues Yonkers would receive?

24 A. None.

25 Q. And in July 2006, what was the position of most of your

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1 the project took a vote to change whether we needed a super
2 majority or not. So they changed it to a simple majority,
3 which was four, and then they voted the project.

4 Q. Okay. And on the vote to change the super majority
5 requirement and to get rid of it, what was the vote on the that
6 issue?

7 A. That was 4-3.

8 Q. Which three in minority?

9 A. Myself, Sandy Annabi, and John Murtagh.

10 Q. Did you have conversations with Councilwoman Annabi about
11 the council's vote the get rid of the super majority
12 requirement?

13 A. Yes.

14 Q. What did she say to you about that?

15 A. Well, we went to Court on it to get an injunction on the
16 vote.

17 Q. Was a lawsuit filed?

18 A. Yes, it was.

19 Q. Who filed the lawsuit?

20 A. Well, it was Sandy, myself, and John, and some community
21 members.

22 Q. Let me direct your attention to December 2005.

23 Did the council vote to approve the Ridge Hill
24 project?

25 A. December of 2000 -- yes.

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1 Q. What was the vote?

2 A. That was 4-3.

3 Q. Which three in minority?

4 A. Myself, Sandy Annabi, and John Murtagh.

5 Q. You mentioned the lawsuit that was filed against the action
6 changing the super majority requirement.

7 Directing your attention to about early May 2006,
8 what, if any, Court issued a ruling on the lawsuit at that
9 time?

10 A. I'm sorry, could you repeat that, please?

11 Q. Sure. In or about early May 2006, did a Court issue a
12 ruling on the lawsuit that you had filed?

13 A. Yes, they did.

14 Q. And what did the Court rule?

15 A. Well, they overturned the vote.

16 Q. And what effect did that Court ruling have on the number of
17 votes required for the project to pass?

18 A. That pushed us back to having -- to have a super majority,
19 or five votes, to pass the project.

20 Q. Let me direct your attention to mid May 2006.

21 Did you attend the meeting at the Westchester Country
22 Club on Ridge Hill?

23 A. Yes, I did.

24 Q. Who hosted the meeting?

25 A. It was hosted by Al Pirro and Bruce Bender of Forest City

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1 A. At that meeting?

2 Q. Yes.

3 A. I don't recall specifically what she might have said at
4 that meeting.

5 Q. Do you remember, generally, what she said to the developer?

6 A. Well, we were all in agreement that we needed to address
7 those concerns.

8 Q. Now, after the meeting, as you were leaving the meeting,
9 did you have a conversation with Councilwoman Annabi?

10 A. Yes. Myself, John Murtagh, and Sandy were in the parking
11 lot. And we were talking, obviously, about the meeting. And
12 I recall Sandy saying to us if we stick together, we could --
13 we could do this thing, we could get what we wanted.

14 Q. At the time of this meeting, based on your observations and
15 conversations with Ms. Annabi, how would you describe her
16 position on the Ridge Hill project?

17 A. She remained opposed to it.

18 Q. Let me direct your attention to about June 7, 2006.

19 Did you attend the Gold Key dinner?

20 A. Yes, I did.

21 Q. And what is the Gold Key dinner?

22 A. That's a yearly annual fundraiser by the Yonkers Republican
23 party. It is the chairman's dinner. It's a fundraiser.

24 Q. Who hosts the dinner?

25 A. It's the chairman of the party.

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1 Q. And who was the Republican chairman?

2 A. At that time, Zehy Jereis.

3 Q. Where was the dinner held?

4 A. It was held at St. Andrews Country Club in Hastings,
5 Greenberg.

6 Q. And that's in Westchester County?

7 A. Yes, it is.

8 Q. Did you see Zehy Jereis at the Gold Key dinner?

9 A. Yes, I did.

10 Q. Did you hear him have a conversation with anyone about
11 Ridge Hill?

12 A. Yes, I did.

13 Q. What happened next?

14 A. Well, it's -- when you go to these things, you know, you
15 work the room, and you stand around with your glass of wine.
16 And I was talking to a few people. And there was Mr. Jereis
17 and a firefighter behind me. And I heard them mention Ridge
18 Hill. And I, I guess flippantly, turned and said, Now, there's
19 a subject near and dear to my heart.

20 And at that point, the conversation stopped.

21 Q. And what happened next?

22 A. And they walked away.

23 Q. Let me direct your attention to around the time of the Gold
24 Key dinner.

25 Did you receive a phone call from Zehy Jereis?

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- 1 A. Yes, he did.
- 2 Q. What was he calling you about?
- 3 A. He had called me to ask me some particulars on the Ridge
4 Hill project. He said he understood fully the concerns of the
5 constituents in regard to the traffic issues, and the
6 environmental issues. But he had said that a lot of people had
7 been asking him about the concerns, and wanted to know
8 specifically about the financial package. And he didn't really
9 understand it. So he asked me to explain it to him.
- 10 Q. And what did you say to him?
- 11 A. I told him what it was about, why there was concerns.
- 12 Q. How often would Zehy Jereis call you on a policy matter?
- 13 A. Not often, at all.
- 14 Q. And in 2005 and 2006, roughly, how many times a year would
15 Mr. Jereis call you?
- 16 A. Well, we would speak if there were political issues, you
17 know, people running for office, or new ward leaders or those
18 types of things, but very rarely on policy.
- 19 Q. Before this occasion, June 2006, had Mr. Jereis ever called
20 you before about a policy matter?
- 21 A. Yes, once before.
- 22 Q. And what was he calling you about on that previous
23 occasion?
- 24 A. It was a School 13 Project, what we called the School 13.
25 A developer had taken over one of the vacant schools and was

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1 making housing out of it. And they needed parking. And there
2 was a -- I think it was a used car parking lot directly across
3 the street that a developer was trying to get.

4 The City was looking to take that by eminent domain.
5 And Zehy had called me on behalf of the owner of that. He told
6 me it was an elderly woman, this was her nest egg, and that we
7 really needed to be sure that her property was not taken.

8 Q. So what was his position on the taking of the property by
9 eminent domain?

10 A. Well, he didn't want me to vote on it.

11 Q. Say that again?

12 A. He didn't want plea to vote for taking it by eminent
13 domain.

14 Q. Which council member was the most vocal about the School 13
15 issue?

16 A. I know Sandy had spoken about it quite a bit. It was in
17 Dennis Robertson's district. It's kind on the -- the
18 borderline, I believe, of the two districts. And Sandy was
19 pretty vocal about it.

20 Q. In which direction?

21 A. Opposing it. Myself, Sandy, John Murtagh, we were not
22 proponents of eminent domain.

23 Q. Now, let me direct your attention back to June 2006. Some
24 days after Mr. Jereis called you about Ridge Hill, did you
25 receive a call from Sandy Annabi?

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1 A. Yes, I did.

2 Q. What did she say?

3 A. She told me that she was going to change her vote, that she
4 was going to vote for the project.

5 Q. Which project?

6 A. Ridge Hill.

7 Q. Where were you when Annabi called.

8 A. I was with my husband in our car. As a matter of fact,
9 it's one of those moments like where were you when Kennedy got
10 shot. We were going over the Tappan Zee Bridge and going to
11 visit my son in Rockland. And I got the call.

12 Q. And what exactly did she say to you?

13 A. She said Dee, I'm calling to tell you that I'm changing my
14 vote. And I -- my response was, oh, Sandy, oh, no, don't do
15 that. And she said that she had gotten additional money for
16 the school system, and that she had to do it.

17 Q. Before this phone call, had you had any conversations with
18 Annabi where she told you she was thinking about supporting the
19 project?

20 A. No.

21 Q. And what specifically did she tell you in the phone call or
22 that you read about later, about how much money she had gotten
23 for the school?

24 A. She had said that they were going to give \$10 million for
25 the school system.

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1 Q. They, meaning who?

2 A. Forest City Ratner.

3 Q. How significant a concession, in your view, was it that
4 Forest City Ratner would give ten million dollars more for the
5 school system?

6 A. Well, \$10 million is not chump change. I mean it's lot of
7 money. But for us, and especially for me, that was just
8 another one shot. Which the City customarily received one
9 shots to bail it out of its financial problems.

10 We were looking for something that was more lasting.
11 And the only way I can equate that is part of the decision was,
12 maybe about a half mile from Ridge Hill, there is another
13 retail center, Cross County Center. And at the time, that
14 development was one third the size of Ridge Hill, what Ridge
15 Hill was proposed to be at full build-out. And, yet, they were
16 paying \$3 million in a pilot, a year, for their property taxes.
17 And the deal for Ridge Hill was like 1.2 million. So it was
18 like one third the size, so we always figured that if they were
19 paying three, then Ridge Hill had the potential of maybe nine,
20 ten million dollars a year in property tax.

21 Q. Over how many years were you seeking?

22 A. I believe it was a 30-year pilot.

23 Q. So nine or ten million dollars a year?

24 A. That would be about \$300 million for the City.

25 Q. Which of your concerns, in June 2006, about the traffic,

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1 had been addressed?

2 A. At that time, nothing.

3 Q. Which of your environmental concerns had been addressed.

4 A. Nothing.

5 Q. Directing your attention to July 11, 2006, did the City
6 council vote on the zoning change for Ridge Hill that evening?

7 A. Yes.

8 Q. How did you vote?

9 A. I voted no.

10 Q. How did John Murtagh vote?

11 A. No.

12 Q. How did Sandy Annabi vote?

13 A. Yes.

14 Q. I direct your attention to approximately a year before that
15 July 2006 vote.

16 Had you ever had a previous discussion with Zehy
17 Jereis about the Ridge Hill project?

18 A. A year before? There -- he was aware of the concerns of
19 the --

20 THE COURT: No, the question was did you have a
21 discussion with him.

22 THE WITNESS: Oh, I'm sorry. Yes.

23 THE COURT: Okay.

24 A. Yes.

25 Q. Let me say it again, just so you're clear. About a year

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1 before the July 2006 vote, had you had a previous discussion
2 with Zehy Jereis about the Ridge Hill project?

3 A. Yes.

4 Q. And what did he say to you at the time about the Ridge Hill
5 project?

6 A. Well, Zehy is one of my -- was one of my constituents. He
7 lived in the district.

8 Q. In the 6th District?

9 A. In the 6th District. So he was very much aware of the
10 concerns of the constituents. And he concurred with them, in
11 terms of the traffic and, you know, the environmental issues
12 and all. And as a matter of fact, one time he had said, you
13 know, they are going to put up a thousand units of housing and,
14 you know, traditionally apartment dwellers are Democrats, so we
15 can change the configuration, or the -- or the party in the 6th
16 District, the majority.

17 Q. And you were a Republican?

18 A. I was a Republican.

19 Q. So what was he saying to you at time about what could
20 happen to the political makeup of the district?

21 A. Well, it could change and become Democratic.

22 Q. And what might happen to council seat?

23 A. It would become a Democratic seat, probably.

24 Q. When Jereis made this comment to you about Ridge Hill
25 approximately a year or so before the July 2006 vote, what was

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1 your understanding about whether he supported or opposed the
2 Ridge Hill project?

3 A. Well, I -- I got the distinct impression that he opposed
4 it.

5 Q. Let me move ahead to July 2006. At the time of the vote, what
6 if anything did you know about a business relationship between
7 Zehy Jereis and Forest City Ratner?

8 A. I didn't know anything.

9 Q. What if anything did you know about any income, gifts, or
10 benefits that Zehy Jereis had given to Sandy Annabi?

11 A. I -- I had no -- no information on that.

12 Q. Let me direct your attention to about late December 2005.

13 At the time, did you have a meeting with Zehy Jereis
14 and others at your house?

15 A. When are you referring to?

16 Q. Late December 2005.

17 A. Yes.

18 Q. Who was there at the meeting at your house?

19 A. It was myself, Zehy, John Murtagh, and my husband.

20 Q. What was the meeting about?

21 A. It was about the leadership of the City council.

22 Q. And what if anything did Jereis say at the meeting?

23 A. Well, we were going back and forth between about who was
24 going to be the minority leader, myself or a fellow by the name
25 of councilman by the name of Liam McLaughlin.

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1 Q. So Republicans were in minority at the time?

2 A. That's right, that's correct.

3 Q. Go ahead.

4 A. And he was very much concerned. It almost seemed like it
5 didn't matter which one of us would be the minority leader.

6 His concern was that we would back Sandy to be majority leader.

7 Q. Ms. Annabi was a Democrat?

8 A. Yes.

9 Q. And he was the chairman of which party?

10 A. Republican party.

11 MR. HALPERIN: Nothing further, your Honor.

12 MR. ARONWALD: One moment, your Honor.

13 THE COURT: Sure, Mr. Aronwald.

14 CROSS-EXAMINATION

15 BY MR. ARONWALD:

16 Q. Good afternoon, Ms. Barbato.

17 A. Good afternoon.

18 Q. You and I, up until yesterday, as we were both leaving the
19 courthouse, had never met, correct?

20 A. Correct.

21 Q. And you have known Sandy Annabi for quite sometime,
22 correct?

23 A. Yes.

24 Q. And in fact, your daughter and Sandy went to school
25 together?

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1 A. That's correct.

2 Q. And up until the Ridge Hill project, you and Sandy had a
3 very good, close relationship?

4 A. Yes.

5 Q. And after Sandy changed her vote on July 11, of 2006, your
6 relationship cooled?

7 A. For a short time.

8 Q. And for a while, short time or not, after Sandy changed her
9 vote, you really had no contact with her at all except as you
10 came together at the City council meetings, correct?

11 A. That is correct.

12 Q. Now, in terms of the City council and the workings of the
13 City council -- and everybody by now has heard that there are
14 seven members, six districts within the City of Yonkers, and
15 the City council president is elected by a citywide vote, and
16 he is sort of the councilman or councilwoman at large?

17 A. Correct.

18 Q. And during the part of the time when the Ridge Hill process
19 was going on, the City council president was Mr. Martinelli?

20 A. That's correct.

21 Q. And then there came a time when, during that same Ridge
22 Hill process, Mr. Martinelli was replaced by Chuck Lesnick?

23 A. That's correct.

24 Q. And Martinelli was Republican and Lesnick is a Democrat?

25 A. Correct.

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- 1 Q. Right. Okay. Now, based upon the 10 years that you were
2 on the City council, you would agree, would you not, that each
3 District is comprised of a different category or different --
4 the background and make-up of the constituents varies from
5 district to district?
6 A. Correct.
7 Q. Okay. And would you agree that Sandy's district, the 2nd
8 District, was considered the poorest district within the City?
9 A. That is correct.
10 Q. Okay. And as such, it had the highest unemployment rate?
11 MR. HALPERIN: Objection, relevance.
12 THE COURT: Overruled.
13 Q. Had the highest unemployment rate?
14 A. I really don't know.
15 Q. Did it have the highest welfare rate?
16 MR. HALPERIN: Objection, relevance.
17 THE COURT: Overruled.
18 A. Probably.
19 Q. Okay --
20 THE COURT: Okay, the answer is stricken, the answer
21 is stricken --
22 Q. Highest crime rate?
23 A. I guess you could say that, yes.
24 Q. Largest minority population of any of the districts?
25 A. Yes.

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1 Q. Now because of the different demographics in terms of the
2 constituency from district to district, the concerns that might
3 be important to the people in Sandy's district might be
4 different than the concerns of the people in your district?

5 A. Correct.

6 Q. Okay. For example, with respect to Ridge Hill, Ridge Hill
7 those 81 acres were in your district, correct?

8 A. Yes.

9 Q. Okay. And the direct access or the traffic immediately
10 surrounding the Ridge Hill parcel, was more of a concern to the
11 people in your district and Mr. Murtaugh's district than they
12 would be to the people in Sandy's district, correct?

13 A. Correct.

14 Q. Okay. And by the way, you testified before in response to
15 Mr. Halperin's question, that Mr. Jereis told you that one of
16 the issues to be considered was that with the 1,000 units of
17 housing that was gonna be put in Ridge Hill, that there would
18 be a substantial influx of, I apologize for using the word,
19 "Democrats," correct?

20 A. When you are Republican, you go, "Democrats."

21 Q. But in terms of your opposition to this project, it would
22 be fair to say that the influx of Democrats was not a concern
23 of yours, was it?

24 A. No, it wasn't.

25 Q. Okay. And so putting that aside, your concerns were the

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1 concerns that you have expressed; the financial package, the
2 environmental impact, including among other things the traffic,
3 okay? That would be correct, right?

4 A. Yes.

5 Q. Okay. Now, you testified early on in the direct
6 examination that during the period that Ridge Hill was before
7 the City council, the City of Yonkers was going through -- I
8 think you used the term: hard financial times.

9 A. Uh-huh.

10 Q. Do you remember that?

11 A. Yes.

12 Q. Could you explain what you meant by that?

13 A. Well, for a number of years, probably most of the years
14 that I was on the City council, we always struggled with our
15 budget. And it's very complicated thinking, because it goes
16 back to a landmark lawsuit that was imposed on the City. It
17 was a desegregation case, which included housing in school
18 system. So for many, many years as a settlement of that with
19 the -- with the federal government, the City got a large influx
20 of money for the school system. I'm talking about 300 million
21 a year, possibly. It was a large amount of money.

22 One of the former mayors negotiated with a judge at
23 the time to get rid of that portion, to get rid of the judge
24 and the City, in essence, where he wouldn't have such a say
25 over our school system. But in order to do that, we began, it

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1 was a five-year increment that where the money from the Feds
2 for our school system lessened and lessened. So by the end of
3 it, we were in the hole in terms of our funding for our school
4 system. And each year, our elected officials in the state
5 would, you know, come down with additional dollars always in
6 terms of these one shots to get us solvent.

7 Q. So was the -- when you used the term hard financial times,
8 were you referring only to the situation which related to the
9 education system within the City of Yonkers, or was the hard
10 financial times something that affected much more than just the
11 education system?

12 A. Actually, through the Court order, we had to fund the
13 school system. That was part of the deal with the federal
14 judge. So, always, when the struggles came, we made sure we
15 funded the school system, but we would then find ourselves on
16 the shortfall on the City side. And sometimes both.

17 Q. So, basically, there was a trickle-down effect where
18 basically all segments of the services that the City of Yonkers
19 would provide to its citizens, would be affected because of
20 this educational drain on the funds that were available in the
21 budget?

22 A. Correct.

23 Q. Okay. And I think you indicated that, and we'll get to it
24 again. But I think you indicated that when we jump forward to
25 July of 2006, you understood, from what Sandy had said, that

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1 she felt that the \$10 million that was coming in to be used for
2 the education system within the City of Yonkers was the reason
3 that she thought it was important she change her vote, correct?

4 A. She told me she was going to vote for it, because of the
5 10 million; yes.

6 Q. Thank you.

7 And I -- I believe that -- now, you did say that as
8 far as you're concerned, \$10 million is not chump change?

9 A. Right.

10 Q. I think you would agree that \$10 million is not a trifle
11 sum?

12 A. No, it's not.

13 Q. And I think you would agree that \$10 million is not a
14 pittance, correct?

15 A. When you have got the budget shortfalls that we have had,
16 it could be considered a pittance in regard to this project and
17 the amount of money that we could have realized from it.

18 Q. But at the time that the vote was made on July 11, 2006,
19 the only thing that Forest City Ratner had offered at that
20 point, based upon the discussions and negotiations it had with
21 Sandy, was the \$10 million, is that --

22 A. To my knowledge, yes.

23 Q. Yes, okay. And, by the way, I mean you had discussions
24 with Forest City Ratner, didn't you, concerning the Ridge Hill
25 issue?

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1 A. Yes, I did.

2 Q. You talked about the meeting at the Westchester Country
3 Club. And at that meeting, you said you addressed your
4 concerns, or raised your concerns. But at the end of the
5 meeting, Forest City Ratner had not made any additional
6 concessions?

7 A. No, they did not.

8 Q. They didn't sweeten the pot. They certainly did not, at
9 that meeting, say we will put in \$10 million in additional
10 revenue to be used for education or for anything else that the
11 City feels is necessary, did they?

12 A. No, they did not.

13 Q. Okay. So, basically, when went into the -- when you left
14 the meeting, as far as what Forest City Ratner had put on the
15 table, nothing had changed?

16 A. That's correct.

17 Q. Okay. And because nothing had changed, your opposition was
18 the same, correct?

19 A. Correct.

20 Q. And as far as you know, because nothing had changed in
21 terms of their proposal, John Murtagh's opposition remained,
22 correct?

23 A. Correct.

24 Q. And as far as you know, because Forest City Ratner had not
25 addressed those concerns, Sandy Annabi was still opposed to the

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1 project?

2 A. Correct.

3 Q. Okay. So when we go to June 11th of 2006 with the
4 \$10 million that Forest City Ratner had put on the table as an
5 additional concession, that did not affect your opposition,
6 that was not enough, as far as you were concerned?

7 A. No, it didn't. That's correct.

8 Q. And based upon everything you know, that was not enough as
9 far as John Murtagh was concerned?

10 A. Correct.

11 Q. But as far as you know, based upon everything that was
12 said, that was enough to satisfy Sandy's concerns?

13 A. I think Sandy has to answer that.

14 Q. That's what she said at the City council meeting, isn't it?

15 A. Yes.

16 Q. Okay. You heard her say it, correct?

17 A. Yes.

18 Q. Okay. In fact, isn't it true that at the time of the vote,
19 on July 11, 2006, Sandy said that, in her opinion, nothing was
20 going to be done to alleviate the traffic, and she felt that
21 the \$10 million in increased dollars for the City of Yonkers
22 was the best that they could hope for.

23 A. Yes.

24 Q. And that she said that that was the reason she was voting
25 yes on Ridge Hill, correct?

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1 A. Yes.

2 Q. But by the way, there was another project that was before
3 the City council, also, totally unrelated to Ridge Hill. And
4 that was known as the Longfellow project --

5 A. Yes.

6 Q. -- correct? Okay.

7 And with respect to the Longfellow project, you were
8 on the Real Estate Committee meeting, you were a member of the
9 Real Estate Committee?

10 A. I believe so, at that point, yes.

11 Q. And do you recall who was the attorney that represented the
12 developer, Melio Management at meetings --

13 MR. ARONWALD: I'm sorry, Mr. Halperin, you were
14 rising?

15 MR. HALPERIN: I'm going to let you finish your
16 question.

17 MR. ARONWALD: Thank you.

18 Q. Who was the attorney that represented the developer, Milio
19 Management during the Real Estate Committee meetings and City
20 council meetings when the Longfellow project was discussed?

21 MR. HALPERIN: Objection. Beyond the scope of direct.

22 THE COURT: Objection sustained.

23 MR. ARONWALD: Will we have the right to recall Ms.

24 Barbato?

25 THE COURT: Of course you do.

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1 MR. ARONWALD: Unless your Honor will permit me to
2 make her my witness for the purpose of these questions. Are we
3 allowed to do that?

4 THE COURT: I wish I could. It gets too confusing in
5 a criminal case. Were we in a civil case, I would do that,
6 Mr. Aronwald.

7 MR. ARONWALD: Then, your Honor, because I know I'm
8 going to have a memory gap, because I forget, would you explain
9 to Ms. Barbato that she is subject to recall by the defense
10 when the government rests?

11 THE COURT: Ms. Barbato, you understood what
12 Mr. Aronwald just said to you?

13 THE WITNESS: Yes, I did, your Honor.

14 THE COURT: I don't think I need to explain it, I
15 think you just explained it.

16 MR. ARONWALD: Thank you.

17 Q. And your attorney is Kerry Lawrence, is that correct?

18 A. Yes.

19 Q. So if it's okay with you, rather than me contacting you
20 directly --

21 THE COURT: That, we can deal with directly.

22 MR. HALPERIN: To save the jurors' time, we'll -- take
23 no objection to this line of questioning.

24 THE COURT: Well, the government seems to have
25 withdrawn its perfectly proper objection, so you can go right

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1 ahead, Mr. Aronwald.

2 MR. ARONWALD: So now my question is perfectly proper,
3 thank you.

4 THE COURT: Let me just explain this to the jurors.

5 Ladies and gentlemen, the rules of evidence allow
6 cross-examination on subjects that were inquired into by the
7 party who put the witness on the stand, okay. So when a lawyer
8 jumps up and says, objection, beyond the scope, that means the
9 lawyer is saying I didn't ask any questions about that subject,
10 so he can't ask questions about that subject.

11 And if, in fact, that is the case, then the lawyer who
12 wants to ask the question has to wait until it's time for that
13 lawyer to put in his case, re-call the witness, and ask those
14 questions.

15 So this is not part of the government's case what you
16 are about to hear, all right. This is actually part of Ms.
17 Annabi's case.

18 Now, you will remember that I told you that Ms. Annabi
19 has no burden to prove anything. And so by examining a witness
20 on a new subject and essentially putting in the case,
21 Ms. Annabi and Mr. Aronwald are not assuming any burden to
22 prove anything. It's just some point Mr. Aronwald wants you to
23 consider when it's time for you to consider this matter, okay?
24 So I want to caution you about that. Caution you. She is not
25 abandoning her presumption of innocence, and she is not

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1 assuming any kind of burden of proof by asking these questions
2 of the witness.

3 Okay, go ahead Mr. Aronwald.

4 MR. ARONWALD: Thank you very much, your Honor.

5 BY MR. ARONWALD:

6 Q. Do you know Al DellBello?

7 A. Yes, I do.

8 Q. And what do you know about Mr. DellBello?

9 A. Well, he was a former county executive of Westchester, very
10 prominent attorney in Westchester County.

11 Q. Do you know whether or not he ever held any statewide
12 office.

13 A. Yes, he did. I believe he was Lieutenant Governor.

14 Q. And do you know whether or not he ever held any office in
15 the City of Yonkers?

16 A. Yeah, I think he -- yeah, he did. I don't remember if he
17 was mayor or just a council member, it was before my time.

18 Q. Now, what if any relationship did Albert DelBello have, to
19 your knowledge, with Milio Management insofar as it related to
20 the Longfellow project?

21 A. You know, after we went through all of this, I know at some
22 point he was the lawyer of record, I don't know if he was when
23 we first started to review the project, I don't remember.

24 Q. Al DelBello -- do you recall whether Al DelBello appeared
25 at Real Estate Committee meetings concerning the Longfellow

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1 project when you were attending the meeting?

2 A. I believe he did.

3 Q. Would the same be true with respect to City council?

4 A. Yes.

5 Q. Now, in terms of how the City council works, during the
6 10 years that you were a member of the City council, were there
7 occasions when you would change your vote from one position to
8 another position based upon changes in a proposal by the
9 developer or proponent of the resolution?

10 A. Yes.

11 Q. Okay. And as part of legislative process, did you
12 understand that one of the functions of an effective council
13 member is to be able to exchange views with his or her
14 colleagues with respect to issues that were before the City
15 council?

16 A. Yes.

17 Q. Okay. And were you aware that -- did it ever come to your
18 attention that John Murtagh had approached, or had a
19 conversation with councilwoman Pat MacDow where he told her
20 that if she voted no for the Con Ed package, you and he would
21 vote no for Longfellow?

22 MR. HALPERIN: Objection, hearsay.

23 THE WITNESS: What do I do?

24 THE COURT: You wait. Very good. Very good.

25 (Readback)

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1 THE COURT: Objection, sustained.

2 BY MR. ARONWALD:

3 Q. Did you ever have any conversation with Councilwoman MacDow
4 where you told her if she voted no for the Con Ed proposal,
5 that you would vote no for Longfellow?

6 A. No.

7 Q. Did you ever authorize John Murtagh to tell Pat MacDow that
8 if she voted no for Con Ed, you and he would both vote no on
9 Longfellow?

10 A. I can't say authorized, but we were involved with an issue
11 with Con Edison. So the Longfellow, like you had said earlier
12 about the different districts and whose impact -- you know,
13 like my -- my constituents were more concerned about traffic
14 than perhaps Sandy's in the Ridge Hill instance, I was not
15 really as concerned about the Longfellow project, I was
16 concerned about what was going on with Con Ed. But there was
17 never, from me, a quid pro quo, you do this, I'll do that.

18 Q. Okay. And the reason that the Longfellow project would be
19 of more interest to Sandy, was because Longfellow was in her
20 district, much as Ridge Hill was in your district?

21 A. Correct.

22 Q. And by the way, when you say that many of your constituents
23 were opposed to the Ridge Hill project, did you ever take any
24 poll to determine the percentage of your constituents that were
25 for Ridge Hill, and those who were opposed to it?

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1 A. I guess the poll could have been how many people turned out
2 at all those public hearings.

3 Q. And those public hearings -- when you say the public
4 hearings, you are referring to those public hearings referring
5 to Ridge Hill?

6 A. Correct.

7 Q. Would it be fair to say that at those public hearings the
8 place was packed?

9 A. Yes.

10 Q. And there were a lot of people came out strongly in favor
11 of Ridge Hill.

12 A. Primarily the trade unions and City unions.

13 Q. Because they were looking for the jobs?

14 A. Correct.

15 Q. In fact, isn't it true that you were -- you were confronted
16 by an individual who was a leader of one of the unions who
17 threatened that he was -- his union would take out a full-page
18 ad against you because you were opposing Ridge Hill?

19 MR. HALPERIN: Objection, hearsay.

20 THE COURT: Is it being offered for the truth of the
21 matter asserted, or is it offered because it was said.

22 MR. ARONWALD: It was offered because it was said, not
23 for the truth.

24 MR. HALPERIN: Then objection, relevance.

25 THE COURT: Overruled.

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1 THE WITNESS: So what do I do? Do I answer?

2 THE COURT: Now you can answer.

3 THE WITNESS: Repeat the question, Mr. Aronwald.

4 BY MR. ARONWALD:

5 Q. I think the gentleman's name was John Mueller?

6 A. Repeat the question, because your facts, I believe, are
7 wrong, so repeat the question.

8 Q. Were you approached, at one of these meetings, by a trade
9 union leader who said that if you opposed Ridge Hill, the union
10 would take out a full-page ad against you.

11 A. That's not correct, sir.

12 Q. What was correct?

13 A. It was, again, at that -- the Gold Key dinner that I
14 referred to, John Mueller is a City union leader. He is not a
15 trade union leader --

16 Q. Okay.

17 A. -- he -- he was the head of the captains, lieutenants and
18 sergeants in the Police Department. And when I came -- and he
19 was -- he was some -- he was a union leader that I believed was
20 sympathetic to what myself and Sandy and John were concerned
21 with in terms of Ridge Hill and understood where we were coming
22 from. And when I walked into that Gold Key dinner, John came
23 up to me and he said that all of the unions were taking out a
24 full-page ad in the newspaper, urging the passage of Ridge
25 Hill. So it was not directed just at me, it was to pass the

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1 project.

2 Q. And so passing on now to -- and that didn't change your
3 vote?

4 A. No, it didn't.

5 Q. But the fact of the matter is, you're not saying that none
6 of the people that lived in your district were in favor of
7 Ridge Hill, you are not saying that?

8 A. I couldn't say that.

9 Q. Now, I want to direct your attention to the meeting that
10 you say took place at the Westchester Country Club in May of
11 2006.

12 A. Uh-huh.

13 Q. You testified that Al Pirro was at the meeting, together
14 with Bruce Bender, a gentleman from Forest City Ratner named
15 Richard, yourself, John Murtagh, and Sandy Annabi?

16 A. Yes.

17 Q. Okay. If I mention the name of Richard, do you think you
18 might recall it?

19 A. I might, but --

20 Q. Okay, let me -- does the name Pesin, Richard Pesin refresh
21 your recollection in any way?

22 A. Yes, that sounds familiar.

23 Q. And that is the gentleman who was also at the Westchester
24 Country Club meeting with Bruce Bender, correct?

25 A. I'm not a hundred percent on that.

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1 Q. Okay. All right, but whoever it was, it was Richard?

2 A. Richard somebody.

3 Q. Okay. Now, do you recall ever attending any other meeting
4 with Al Pirro and Bruce Bender where John Murtagh and Sandy
5 Annabi were also present?

6 A. No.

7 Q. Okay. Do you recall any other meeting at which you, Sandy
8 and John Murtagh met with Al Pirro to discuss the Ridge Hill
9 project?

10 A. You know there was a meeting at his office, but I don't
11 remember who was there.

12 Q. Well, do you recall whether that meeting occurred before or
13 after the meeting that you say took place at the Westchester
14 Country Club?

15 A. I don't remember.

16 Q. Are you absolutely certain that Sandy Annabi was at the
17 Westchester Country Club meeting with you, Murtagh, Pirro,
18 Bender, and Richard somebody?

19 A. Yes.

20 Q. Okay. Do you have any recollection, at all, of meeting
21 with Al Pirro, in his office, on June 30, 2005?

22 A. I remember we -- I remember meeting in his office. I don't
23 remember the dates, sir.

24 Q. And you don't remember who else was there?

25 A. No.

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1 Q. Do you have a specific recollection that when you had that
2 meeting with Mr. Pirro, there was only the two of you?

3 A. You know, I just don't remember.

4 Q. Okay. At the meeting at the Westchester Country Club,
5 isn't it true that the only people that spoke to the issues
6 were you and John Murtagh?

7 A. We probably did most of the talking, yes.

8 Q. In fact, didn't you and John Murtagh do all of the talking
9 with respect to Bruce Bender and Richard somebody, and Sandy
10 did not participate in offering anything with respect to the
11 issues?

12 A. I -- I can't say that for certain.

13 Q. By the way, Zehy Jereis was not at the Westchester Country
14 Club meeting, was he?

15 A. No.

16 Q. Okay. But did you ever tell anyone from the FBI, or from
17 the United States Attorney's Office, that Mr. Jereis was at the
18 Westchester Country Club meeting?

19 A. No.

20 Q. Ms. Barbato, let me show you what's been marked as
21 government exhibit 3502 B. I'm directing your attention to the
22 second page. And before I ask you the question, do you
23 remember meeting with Special Agent Michael Mazzuca of the FBI
24 on March 14 of 2008?

25 A. I remember meeting with him, I don't remember the date.

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- 1 Q. Okay. Directing your attention to the second page to the
2 portion that I'm pointing to, would you just read that to
3 yourself. Just these two lines, right here.
4 A. Okay, I read it.
5 Q. Okay. Does that -- I'm sorry, does that refresh your
6 recollection that on March 14, 2008, you did tell Agent
7 Mazzuca, and whoever else was there from the government, that
8 you, John Murtagh, Zehy, Sandy Annabi, Al Pirro, Pesin --
9 referring to Richard Pesin, and Bender, referring to Bruce
10 Bender, had a meeting at the Westchester Country Club?
11 A. I never said Zehy Jereis. Maybe the -- the agent got it
12 wrong.
13 Q. Okay. And, by the way, early on in the direct examination,
14 Mr. Halperin asked you some questions about government
15 exhibit 355 which was the letter from the Westchester County
16 Planning Board?
17 A. Uh-huh.
18 Q. And do you have that in front of you?
19 A. Yes, I do, sir.
20 Q. And just so we're clear, the only reason that the
21 Westchester County Planning Board was involved in this process
22 was because county parkland abutted against the 81-acre parcel
23 that comprised Ridge Hill, correct?
24 A. That's correct.
25 Q. So the Planning Board had to issue an opinion, for you to

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1 approve or disapprove the project, based upon the environmental
2 concerns, correct?

3 A. Correct.

4 Q. Okay. So just so everybody is clear, the Westchester
5 County Planning Board's letter, which disapproved of the
6 project, was based upon the environmental concerns and the, you
7 know, the additional impact in terms of people in the area,
8 traffic, and so on, and did not have anything at all to do with
9 the financial package, correct?

10 A. Could I just look at this a moment?

11 Q. Absolutely, sure.

12 A. To refresh myself?

13 Q. Sure.

14 A. That's correct, sir.

15 Q. Thank you. And, also, isn't it true that from the
16 discussions that you had with Forest City Ratner officials and
17 representatives, they knew that you were not going to vote for
18 the Ridge Hill project, because it was in your district, and
19 your constituents were not in favor of it, is that true?

20 MR. HALPERIN: Objection, hearsay.

21 THE COURT: Objection, sustained.

22 Q. Did you testify before the Grand Jury that Forest City
23 Ratner was going to give you a pass insofar as the Ridge Hill
24 vote was concerned?

25 A. I don't recall saying that Forest City Ratner would give me

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1 a pass. It just was understood that because it was my
2 district, and I had to represent the people in my district,
3 that probably, you know, I would -- I would not be pressured
4 into voting for the project.

5 Q. Ms. Barbato, I'm showing you what has been marked as
6 government exhibit 3502 A, page 33. I'm sorry, beginning at
7 page 32, line 24, and continuing on to page 33, line 13. Would
8 you just read those lines, beginning at page 32, line 24 and
9 25, and then continuing to, on the next page, up through
10 line 13. Would you just --

11 A. Sure.

12 Q. -- read that to yourself, and just tell me when you are
13 finished.

14 A. If I said that, that's what I said.

15 Q. So that based upon the meetings and discussions that you
16 had with Forest City Ratner, it was your understanding that
17 they were giving you a pass because the project was in your
18 district, and because your constituents opposed it, correct?

19 MR. HALPERIN: Objection, hearsay.

20 THE COURT: Objection sustained.

21 Q. Your state of mind was such that you were under the -- the
22 distinct understanding that Forest City Ratner was giving you a
23 pass in terms of voting on Ridge Hill?

24 MR. HALPERIN: Objection, hearsay.

25 THE COURT: Overruled.

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1 Q. Correct, ma'am?

2 THE WITNESS: Can I answer, your Honor?

3 THE COURT: Yes. Say "yes" or "no."

4 THE WITNESS: Okay.

5 THE COURT: Yes or no.

6 A. Yes.

7 THE COURT: Was that your state of mind; yes or no.

8 A. Yes.

9 MR. ARONWALD: Thank you.

10 (Continued on next page)

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C2MAAANN5

Barbato - Cross

1 BY MR. ARONWALD:

2 Q. Were you a member of the city council during the period of
3 time that the Longfellow project was being considered?

4 A. Yes.

5 Q. And are you familiar with the term "designated developer"?

6 A. Yes.

7 Q. Would you explain to the jury what "designated developer"
8 is? Or I'm sorry, not what designated developer is but what
9 the term means?

10 A. That's the developer of record and that's the one that's
11 been given the rights to move forward on the project.

12 Q. And by move forward on the project you mean, basically,
13 develop plans for the project with respect to environmental
14 impact study, architectural renderings and so on and so forth?

15 A. That's correct.

16 Q. And then ultimately when those plans are in place does it
17 come before the city council again or does it go before some
18 other city of Yonkers body?

19 A. It depends on how it's structured. Sometimes it would go
20 to the planning board.

21 Q. With respect to the Longfellow project do you recall
22 whether it would go before the planning board or come back to
23 the city council?

24 A. You know I don't remember.

25 Q. And that is a project in which Sandy initially opposed it

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1 and then changed her vote to a "yes" vote, correct?

2 A. Yes.

3 Q. And do you recall what, if anything, Sandy Annabi said as
4 to why she was opposed to the project?

5 A. There was concern from a senior housing complex that was in
6 close proximity to the development and that was probably one of
7 the primary things.

8 Q. And do you recall what Sandy Annabi said was the reason for
9 her changing her vote on Longfellow to a "yes" vote?

10 A. I remember her saying that she had held some meetings with
11 the developer and the people from the senior housing and they
12 had worked at some of the concerns.

13 Q. In fact, do you recall that the resolution that was before
14 the city council that, ultimately, was voted upon seven to
15 nothing in favor of Longfellow had language that would provide
16 seniors with an exclusive six month window to apply for
17 housing, affordable housing as part of the resolution?

18 A. I don't recall that, sir.

19 MR. ARONWALD: Ms. Barbato, thank you very much.

20 No further questions, your Honor.

21 THE COURT: Mr. Siano.

22 MR. SIANO: Thank you, judge.

23 CROSS-EXAMINATION

24 BY MR. ARONWALD:

25 Q. Good afternoon, Ms. Barbato.

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C2MAAANN5

Barbato - Cross

1 My name is Anthony Siano and I represent Mr. Jereis.

2 A. Good afternoon.

3 Q. Ms. Barbato, I don't mean to be glib when I say,
4 notwithstanding that it might be slightly painful, I wonder if
5 you might look at some pictures of the Ridge Hill property?

6 A. Yes, sir. I look at it everyday from my bedroom window.
7 Can't sleep at night for the lights.

8 MR. SIANO: Thank you. I've shown the witness a
9 photograph I've marked as Defendant's Exhibit 10, all of which
10 have previously been shown to the defendant.

11 Q. Ms. Barbato, do you recognize what's depicted in this
12 photograph?

13 A. Yes, sir.

14 Q. And does it fairly and accurately depict the view across
15 Tuckahoe Road toward the Ridge Hill property taken from,
16 approximately, the Murray Skating Rink?

17 A. Yes. In the winter.

18 Q. Right. Well, we are in the winter. And with respect to
19 everything in the picture except for the road cut up the hill,
20 does it fairly and accurately depict the orientation of the
21 property as it existed prior to the building of Ridge Hill?

22 A. This picture appears to have -- I am not quite sure what
23 this is.

24 Q. That's the road cut.

25 A. Now.

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Barbato - Cross

1 Q. Except for record?

2 A. Well, that wasn't there prior.

3 Q. Other than that does it fairly and accurately depict --

4 A. Yes. But this view here, there is nothing here. That's
5 just woods where Murray's is. That's, I think state land or
6 part of Parkway.

7 Q. Is that Tuckahoe Road at the bottom?

8 A. Yes, it is, sir.

9 Q. We are going to do this with the jury but I have to ask
10 some preliminary questions.

11 A. Well, I just want to be clear that this is not a view that
12 somebody sees from a home. There's no homes here.

13 Q. Absolutely. I agree. Now, does this picture also taken
14 from the vantage of the skating rink toward the property look
15 across Tuckahoe Road?

16 MR. HALPERIN: Judge, for the record, could counsel
17 just identify which pictures.

18 MR. SIANO: I apologize. Yes, 11.

19 THE COURT: Got that?

20 BY MR. SIANO:

21 Q. Does that fairly and accurately depict that view?

22 A. Yes.

23 Q. And in this picture other than the beginnings of the road
24 cut which is all the way on the left, did it fairly and
25 accurately depict the scene as it existed prior to Ridge Hill?

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Barbato - Cross

1 A. Yes.

2 Q. Number 12. Do you recognize the scene depicted in this
3 picture?

4 A. Yes.

5 Q. All right. Other than the little black fence at the
6 bottom, does it fairly and accurately depict the scene looking,
7 what I would call, eastward or to the right from the Ridge Hill
8 property?

9 A. Yes.

10 Q. Thank you. And as it existed in the year 2006?

11 A. Yes.

12 Q. Thank you. And I show you what's been marked as
13 Defendant's Exhibit 13 for identification and, again, with the
14 exception of the light pole in the front and the black fence,
15 does it fairly and accurately depict the scene looking
16 northeast?

17 A. Yes.

18 Q. As it existed in 2006?

19 A. Yes.

20 Q. Thank you. Defendant's Exhibit 14, again, with the
21 exception of the black fencing, Ms. Barbato, does this picture
22 fairly and accurately depict the scene looking from the Ridge
23 Hill property across westward or what I would call the left
24 side of the property?

25 A. Yes. I am just trying to get my bearings as to what I am

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C2MAAANN5 Barbato - Cross

1 looking at here.

2 Q. Sure.

3 A. Because there's two different parkways that are above the
4 project, so this is the thruway part, yes.

5 Q. Do they fairly and accurately depict property as it existed
6 in 2006?

7 A. Yes.

8 Q. All right. Now, Ms. Barbato, let me go back to the
9 lectern.

10 (Pause)

11 Q. On that, the New York Thruway side, so we can do it simply
12 you and I, on the New York Thruway side there were some
13 existing facilities in proximity to the Ridge Hill property in
14 2005 and 2006?

15 A. You mean was there structuring on the site?

16 Q. Yes.

17 A. Yes, the Lorel property.

18 Q. I don't mean on the 81 acres. I mean next to the 81 acres,
19 next to the proper was there Westchester resources?

20 A. Yes, a recycling center.

21 Q. And right across the highway there was a --

22 A. Stew Leonard.

23 Q. -- a little milk store called Stew Leonard; is that
24 correct?

25 A. Yes.

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C2MAAANN5 Barbato - Cross

1 Q. There was also a little --

2 A. It wasn't a little store. It was a sizable development
3 that would be in addition to the sizable development of Ridge
4 Hill.

5 THE COURT: I think, Mr. Siano, maybe is a little bit
6 sarcastic.

7 Mr. Siano, try not to be.

8 BY MR. SIANO:

9 Q. Was there also a hardware store called "Home Depot"?

10 A. Yes.

11 Q. And a Costco?

12 A. Yes. Hardly little, big box.

13 Q. Does picture number 15, Defendant's Exhibit 15 for
14 identification fairly and accurately depict the Westchester
15 County Resources Recovery Facility as it existed in 2005 prior
16 to Ridge Hill being built?

17 A. Correct.

18 Q. And does the Stew Leonard store?

19 A. Yes.

20 Q. In 16. Does picture 16 fairly and accurately depict Stew
21 Leonard's as it existed prior to Ridge Hill being built?

22 A. Correct.

23 Q. And finally, does Defendant's Exhibit 17 for identification
24 fairly and accurately depict the Costco and the Home Depot as
25 it existed prior to the construction of Ridge Hill?

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Barbato - Cross

1 A. Yes.

2 MR. SIANO: Your Honor, I offer Defendant's Exhibits
3 number 10 through 17 at this time into evidence. I'd like to
4 ask the witness some questions with the jury being able to see
5 the picture.

6 MR. HALPERIN: Could we take a moment to look at the
7 pictures?

8 THE COURT: Of course.

9 MR. HALPERIN: No objection.

10 MR. SIANO: With the government's permission, I will
11 enlist Mr. Terk to assist me in this part lest I touch
12 something electrical and we have to stop for the day.

13 THE COURT: Okay.

14 MR. SIANO: Could we start with number 10, Mr. Terk.

15 (Pause)

16 Q. And, again, Ms. Barbato, I wonder if we might look at the
17 screen and if I could ask you some questions about the
18 pictures?

19 A. Yes.

20 Q. At the bottom of Defendant's Exhibit No. 10 in evidence is
21 Tuckahoe Road?

22 A. That's correct.

23 Q. And as you pointed out to me there are no homes at the
24 Murray Avenue -- excuse me -- the Edward Murray Skating Ring?

25 A. That is on that side of the street where you are seeing the

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C2MAAANN5

Barbato - Cross

1 trees. That's a wooded area. Right behind the service station
2 right in there is a whole neighborhood, sir.

3 Q. You are saying behind that gas station there's a
4 neighborhood?

5 A. Yes, there is, sir.

6 Q. All right. Now, thank you. Let me also ask you a
7 question. That power station that's at the center of the
8 picture --

9 A. Yes.

10 Q. -- was that power station there 2005?

11 A. Yes. It's been there for some time.

12 Q. Decades, I believe?

13 A. Um-hmm.

14 Q. And that's at the --

15 A. It's still there.

16 Q. It was Sunday.

17 A. Yeah.

18 Q. It's at the top of the hill?

19 A. Yes.

20 MR. SIANO: Mr. Terk, if you would.

21 (Pause)

22 Q. Now, Ms. Barbato, these are the poles in Defendant's
23 Exhibit 11 in evidence. These are the power holes that are
24 coming out of that power station; is that right?

25 A. Well, actually, that's the right of way. It's not coming

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C2MAAANN5

Barbato - Cross

1 out of that power station. That goes all the way through
2 Yonkers. It probably goes from Albany all on down.

3 Q. We might agree it comes from Canada?

4 A. Could be.

5 Q. Right. But those power poles go through that power station
6 and then --

7 A. No. They're on the side of that power station. They're
8 separate from the power station.

9 Q. And they continue on down into New York City, right? Not
10 here but --

11 A. Right.

12 Q. -- into New York?

13 A. Right.

14 Q. And those power poles have been there for decades as well?

15 A. Yes.

16 Q. And are there, the houses depicted in that picture, is that
17 the neighborhood you were talking to me about briefly?

18 A. That looks like that's on the other side of the lake, sir.
19 So it's kind of tucked behind. There's a road that goes
20 behind. Not quite sure what you are seeing over there in the
21 corner. It's either the Sprain Parkway or part of a lake.
22 It's not clear to me, sir.

23 Q. I apologize for the limitations of my skills but there is
24 an access road from the Sprain Brook Parkway. There's an exit
25 right there in Tuckahoe Road where King Fence is?

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Barbato - Cross

1 A. Yes.

2 Q. Are you speaking about those houses?

3 A. Yes, sir.

4 Q. Are those the houses you were referring to earlier in the
5 prior picture when you told me there were houses back there?

6 A. Yes, that's right. There's a neighborhood there.

7 Q. Those are over by King Fence?

8 A. That's correct.

9 Q. We can agree on that. Thank you. I don't have a picture
10 of that today. That's why you wanted to get a specific --11 A. See, those folks can't get out of that neighborhood like
12 they used to any more and they have to go up the hill and in
13 through part of Ridge Hill and get back out that way. And they
14 can't get in directly either any more.

15 Q. I am trying to identify the geography for our purposes?

16 A. Um-hmm.

17 MR. SIANO: Mr. Terk, if we could go to number 12.

18 Q. Now, this is in fact what you referred to as the lake.
19 Defendant's 12 in evidence?

20 A. Correct.

21 Q. Now at the bottom that black fence is new. We can agree on
22 that, can't we, Ms. Barbato?

23 A. Yes, I believe so.

24 Q. We are now -- from this perspective we are standing on the
25 Ridge Hill property; is that correct?

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Barbato - Cross

1 A. Um-hmm. And you know what, sir, if you look right across
2 the lake is my home.

3 Q. I knew that Ms. Barbato.

4 A. Good. Come and visit and see the lights.

5 Q. I actually was up there.

6 A. Did you come at night? Let me take you into my bedroom. I
7 have to make sure the blinds are --

8 THE COURT: Ms. Barbato, please, TMI, okay.

9 BY MR. SIANO:

10 Q. Ms. Barbato, I wonder if you might for our purposes, just
11 for my purposes so we can layout the geography for the jury,
12 just try to listen to my questions and --

13 A. Sure. I just figured we had this thing going.

14 Q. I don't know that there would be other people that would
15 happy about that, Ms. Barbato?

16 THE COURT: That's the best part of the trial so far,
17 Mr. Siano.

18 THE WITNESS: That's an invitation, your Honor?

19 THE COURT: Let's go.

20 BY MR. SIANO:

21 Q. Ms. Barbato, behind the black fence there's a little gray
22 ribbon that starts at the left side of the picture, continues
23 to about the middle, then disappears. Those are the southbound
24 lanes of the Sprain Parkway?

25 A. They could be.

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Barbato - Cross

1 Q. I am not about to be climbing any fences and offending
2 anybody from Forest City Ratner. Now, in the middle is this
3 lake, Sprain Lake; is that right?

4 A. Yes.

5 Q. That's been there for decades too?

6 A. Yes.

7 Q. And on the other side of the lake is another long ribbon
8 which is the northbound lanes of the Strain Parkway?

9 A. Correct.

10 Q. The parkway's been there for decades?

11 A. '68.

12 Q. 1968.

13 A. Um-hmm.

14 Q. Cause you could mean 1868 with me.

15 A. No, sir.

16 MR. SIANO: Could we go to 13, Mr. Terk.

17 Q. All right. Now, if we, you and I, Ms. Barbato, could
18 ignore the big pole here in the center and the black fence,
19 this is looking in the generally speaking northbound towards
20 Jackson Avenue; is that correct?

21 A. That's correct.

22 Q. And that little rut there is where the dirt bikers
23 sometimes play around with or without permission?

24 A. Correct.

25 MR. HALPERIN: Judge, I am going to object to the

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1 whole line on relevance grounds.

2 THE COURT: I am sorry. You're objecting to showing
3 the jury the property on relevance grounds?

4 MR. HALPERIN: To the whole line, yes.

5 THE COURT: The objection is overruled.

6 BY MR. SIANO:

7 Q. As I was saying, Ms. Barbato, this is generally northbound
8 from the Ridge Hill properties?

9 A. Yes.

10 Q. And up there somewhere where the water gets narrower is
11 Jackson Avenue; is that right?

12 A. Yes.

13 Q. And you could again see those power transmission poles that
14 you and I agree go way north and then come down to the city?

15 A. Correct.

16 MR. SIANO: Mr. Terk, if we could go to 14 please.

17 Q. Now, we're on the left side of the property. We have gone
18 over from the Sprain Brook side which was the right side. Now
19 we are over on the left side; that correct, Ms. Barbato?

20 A. I am trying to figure out if this is running north or
21 south? It's little confusing to me.

22 Q. Well, you would agree with me that the highway was between
23 the Ridge Hill property and the residences on the other side?

24 A. The New York State Thruway, yes.

25 Q. Thank you, Ms. Barbato. So since the properties are over

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Barbato - Cross

1 there to the left-hand side the houses are on the left-hand
2 side, Ridge Hill is over here on the right?

3 A. So we're looking in the foreground here as far as the part
4 of Ridge Hill Boulevard. Okay.

5 Q. That orient you. So the southbound is on the left side of
6 the picture, then the northbound side and the infamous toll
7 booths are a little bit off to the right side of the picture?

8 A. Yes.

9 Q. This is the New York State Thruway, known to New Yorkers as
10 the Major Deegan but it changes to the New York Thruway as soon
11 as it get's to Yonkers and goes all the way up to Yonkers and
12 goes all the way up to Albany?

13 A. Yes.

14 Q. That was there for decades prior to Ridge Hill?

15 A. Yes.

16 MR. SIANO: Can I have the next picture.

17 Q. This is the Westchester County Resource Recovery Facility
18 on this side of the highway, on the same side of the highway as
19 Ridge Hill; is that correct?

20 A. Correct.

21 Q. And how long has that been there?

22 A. I don't know. Maybe eight years. I don't know. I am not
23 sure.

24 Q. That was the subject of some debate and discussion to be
25 polite in various governments in Westchester County, wasn't it?

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Barbato - Cross

- 1 A. I wasn't in government at the time, sir.
- 2 MR. SIANO: All right. Next then, 16, Mr. Terk.
- 3 Q. Here is where I get slapped down for being sarcastic. In
- 4 16 this is the Stew Leonard store that's across the thruway on
- 5 the housing side of the New York Thruway?
- 6 A. That's correct. And right down where those trees are a
- 7 bunch of private homes that are impacted by that too.
- 8 Q. And the Stew Leonard's been there for years?
- 9 A. It's been there maybe about eight years now, maybe less,
- 10 probably, eight years.
- 11 MR. SIANO: All right. Mr. Terk, could we go to 17.
- 12 Q. And, finally, we have the Home Depot/Costco facility which
- 13 can we agree is just to the north of the Stew Leonard?
- 14 A. Yes.
- 15 Q. And that was the -- the photo is of the Costco and Home
- 16 Depot which is to the north of Stew Leonard on the highway on
- 17 the home owner's side?
- 18 A. Yes.
- 19 Q. And that was there prior to Ridge Hill?
- 20 A. Yes.
- 21 Q. Thank you. Thank you, Ms. Barbato. I'll take the last
- 22 picture off so you don't have to look at them new more this
- 23 afternoon.
- 24 Now, you ran for office in 1999?
- 25 A. Yes.

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Barbato - Cross

1 Q. And Mr. Jereis was of some assistance to you?

2 A. Yes.

3 Q. And you ran for office in 2001 and Mr. Jereis was some
4 assistance to you?

5 A. Yes.

6 Q. And you ran for office in 2003 and Mr. Jereis was of some
7 assistance to you?

8 A. Yes.

9 Q. And you ran for office in 2005 and he was likewise of
10 assistance to you?

11 A. Yes.

12 MR. SIANO: Showing the government four checks I've
13 marked collectively as Government Exhibit 18 for
14 identification.

15 MR. HALPERIN: You mean "defendants"?

16 MR. SIANO: Excuse me. "Defendants". They have so
17 many checks of their own.

18 (Pause)

19 BY MR. SIANO:

20 Q. Ms. Barbato, I show you what's been collectively marked
21 four checks and I ask you, do you generally recognize these
22 four checks marked Defendant's Exhibit 18 for identification?

23 A. Yes.

24 Q. These are, in fact, contributions that Mr. Jereis made to
25 your various election and reelection campaigns?

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Barbato - Cross

1 A. That's correct.

2 MR. SIANO: Offer in evidence Defendant's 18, your
3 Honor.

4 MR. HALPERIN: No objection.

5 THE COURT: Admitted.

6 (Defendant's Exhibit 18 received in evidence)

7 Q. And, in fact, Ms. Barbato, from time to time besides
8 contributions Mr. Jereis provided other assistance in various
9 forms in your election and reelection campaigns; is that
10 correct?

11 A. Our city leader, absolutely.

12 Q. I believe you testified --

13 A. And he was a member of the party. I believe he was a
14 district leader, board leader, vice president. He held various
15 positions in the party.

16 Q. And he was helpful to your campaigns and various positions
17 in the party?

18 A. Yeah, myself and other Republicans running, yes.

19 Q. And as a matter of courtesy and the good manners we've seen
20 here today, you commented upon his services after the election;
21 isn't that correct?

22 A. I am not following you.

23 Q. You wrote "thank you" letters?

24 A. Probably did, yeah. Sure. I always do.

25 MR. SIANO: Would the government like me to do

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Barbato - Cross

1 something else while they're looking at the letters just to
2 move things along?

3 MR. HALPERIN: That would be great.

4 THE COURT: Okay.

5 BY MR. SIANO:

6 Q. Now, for you -- I don't mean -- you are here, so I am
7 asking, council position that you have as council member is a
8 part-time position; is that correct?

9 A. Correct, sir.

10 Q. You have is a full-time position elsewhere?

11 A. Yes.

12 Q. And we only got part of your previous employments. You
13 said you were working for the Taxi and Limousine Commission of
14 Westchester?

15 A. Westchester County Taxi and Limousine Commission.

16 Q. Two terms.

17 A. Actually, I was there before I was elected, left and then
18 went back in 2007.

19 Q. While you were in office?

20 A. Yes.

21 Q. All right. And that's an appointed position?

22 A. I had to take a civil service test.

23 Q. You took a test for that position?

24 A. Yes.

25 Q. All right. And then you worked in the Office of the

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Barbato - Cross

- 1 Minority Leader of the New York State Assembly?
2 A. That is correct.
3 Q. That was an appointed position?
4 A. Yes, it was.
5 Q. And then you worked for County Executive Andrew O'Rourke; is
6 that correct?
7 A. That's correct.
8 Q. That's an appointed position?
9 A. Yes.
10 Q. And you are married; is that correct?
11 A. That's correct.
12 Q. Your husband Richard holds a position in that Clerk's
13 office In Westchester County?
14 A. He has since retired.
15 Q. That was the position from which he retired?
16 A. Yes.
17 Q. And he, in fact, filled the position held previously by
18 Mr. Jereis; isn't that right?
19 A. I don't know if they had the same title. Mr. Jereis was in
20 that office. I am not quite sure if Richie filled his
21 position or not.
22 Q. I would refer to him, of course, as Richard Barbato but
23 when you say "Richie" you mean your husband?
24 A. Right.
25 Q. That position he was in was an appointed position?

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C2MAAANN5

Barbato - Cross

1 A. Yes, it was.

2 MR. SIANO: All right. Are we done, gentlemen?

3 Q. Let me show you what's been marked as Defendant's Exhibit

4 No. 19. And that's a collection of letters, Ms. Barbato.

5 They're only put together so I don't lose any.

6 (Pause)

7 A. Yes. What's your question?

8 Q. Thank you. Are those letters, in fact, the what I call the

9 "thank you" letters you sent to Mr. Jereis for his assistance

10 in --

11 A. Mr. Jereis, to other people who had made contributions,

12 yes, district leaders --

13 Q. Are they all there in that pile in 19?

14 A. No, but those folks got them.

15 Q. But my question was what 19 was, Ms. Barbato.

16 A. They're letters to Mr. Jereis.

17 MR. SIANO: Thank you. Offer into evidence

18 Defendant's 19.

19 MR. HALPERIN: Objection; relevance, and hearsay.

20 THE COURT: Objection sustained.

21 BY MR. SIANO:

22 Q. Now, you attend from time to time the Yonkers Republican

23 Party Conventions?

24 A. Yes.

25 Q. And at one of those conventions your husband seconded a

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C2MAAANN5 Barbato - Cross

1 Mr. Jereis's nomination as city leader?

2 A. He might have. I don't remember.

3 Q. All right. Now, you discussed both on direct and in

4 Mr. Aronwald questions, a number of meetings you had discussing
5 the strengths and weaknesses of the Ridge Hill project; is that
6 correct?

7 A. Yes.

8 Q. It would be fair to say that there were some pretty rough
9 tactics occurring with respect to the people who had the
10 decisions in the city council; isn't that right?

11 A. I don't know what you mean.

12 Q. Well, the union's demonstrated quite heavily, didn't they?

13 A. Yes, they did.

14 Q. And occasionally they bumper locked various people at
15 various gatherings; isn't that right?

16 MR. HALPERIN: Objection; relevance.

17 A. I've never heard that term.

18 THE COURT: I am sorry. Objection, relevance? I
19 don't have any idea where he is going, Mr. Halperin. I am
20 sorry. I don't. Not in front of the jury please.

21 MR. SIANO: That's fine.

22 Q. There were demonstrations at people's homes?

23 A. Not in regard to Ridge Hill.

24 Q. You don't recall that happening as to Ridge Hill?

25 A. No, not in somebody's home. I did have unions speak at my

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Barbato - Cross

1 home but not for Ridge Hill. It was a budget issue.

2 Q. And there were occasions when people went to people's
3 places of employment in connection with Ridge Hill?

4 A. I don't know what you are referring to.

5 MR. HALPERIN: Objection, your Honor.

6 Q. Do you recall having a meeting discussing Ridge Hill with
7 Mr. Bender at the offices of Mr. Nick Spano?

8 A. No. No, I don't believe with Mr. Bender. No, I don't.

9 Q. You have a meeting with Mr. Bender in which the topic of
10 whether or not political pressure was being brought to bear on
11 you as far as --

12 A. I don't remember that meeting, sir.

13 Q. Let me see if I can refresh your recollection by showing
14 you 3503-E and I am going to direct your attention to the top
15 of the paragraph. You could read anything you want,
16 Ms. Barbato. The highlighting is just for me.

17 A. I don't know who --

18 THE COURT: Ma'am --

19 THE WITNESS: Just read?

20 THE COURT: Just read it. Don't say anything about
21 it. Don't read it to the jury. Read it to yourself.

22 THE WITNESS: Okay.

23 (Pause)

24 MR. HALPERIN: Judge, can we have a moment?

25 THE COURT: It's going to take her a while to read it.

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Barbato - Cross

1 MR. SIANO: Then I'll give the government my copy.

2 THE WITNESS: Can I ask a question, your Honor?

3 THE COURT: See, therein we have a problem because you
4 don't get to ask questions. All he wants you to do is read
5 this document and when you are done say, I'm done reading the
6 document.

7 THE WITNESS: Okay.

8 (Pause)

9 THE WITNESS: Okay. I read it.

10 BY MR. SIANO:

11 Q. Ms. Barbato, does that refresh your recollection as to
12 whether or not you participated in a meeting at Mr. Spano's
13 office or with Mr. Spano concerning Ridge Hill with Mr. Bender?

14 THE COURT: Does it jog your memory?

15 A. No, it doesn't. And if --

16 THE COURT: Don't say what it refers to. It's not in
17 evidence so we don't want the jury to hear what's not in
18 evidence. All he asks is does it jog your memory that you were
19 at much a meeting?

20 THE WITNESS: No.

21 THE COURT: The answer is "no". Thank you. I am
22 sorry we have to be like hyper technical about this.

23 MR. SIANO: Judge, I have another photograph in light
24 of Ms. Barbato's comment.

25 Q. Ms. Barbato, do you recognize the scene depicted in this

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C2MAAANN5 Barbato - Cross

1 photograph, Defendant's 20. I'll show it to the government
2 after she looks at it.

3 A. This is the development I am presuming.

4 Q. You lived across --

5 A. I lived in.

6 Q. Across the lake?

7 A. Yeah.

8 Q. I tried to look through my pictures for a picture across
9 the lake.

10 A. What I see is this.

11 Q. Does that fairly and accurately depict the view out your
12 window today?

13 A. Yes.

14 MR. SIANO: Offer into evidence Defendant's 20?

15 MR. HALPERIN: Can we see, judge?

16 THE COURT: Yes.

17 (Pause)

18 MR. HALPERIN: No objection.

19 Q. Ms. Barbato, this picture speaks to what you were saying to
20 me about me coming by your house and looking at the window.

21 MR. SIANO: Okay. Let's put this one up now that it's
22 in evidence.

23 Q. Ms. Barbato, does this fairly and accurately depict the
24 look from the other side of the Sprain Parkway across the lake
25 and six lanes of traffic and up the hill to Ridge Hill as the

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C2MAAANN5 Barbato - Cross

1 project is being built now?

2 A. Yes.

3 MR. SIANO: Thank you.

4 Thank you, Mr. Terk.

5 Q. Now, you were alluded -- you didn't allude. You actually
6 said Cross County Shopping Center when you were making some
7 comparisons as to revenue streams on direct-examination,

8 Ms. Barbato?

9 A. Correct.

10 Q. Would you agree with me that this project at Ridge Hill is
11 not Cross County Shopping center? It has -- Ridge Hill has
12 streets, regular streets with street names and stop signs and
13 maybe even a traffic light inside the facility; is that
14 correct?

15 A. There's streets. There's traffic lights and stop signs in
16 Cross Country as well. No street names but there is.

17 Q. There are two traffic lanes?

18 A. And stop signs, yes.

19 Q. But this is a much different scale from Cross County
20 Shopping Center?

21 A. Yes.

22 Q. And Cross County Shopping Center was built, I believe it
23 was either late 1940s or early 1950s?

24 A. In the 50s, yes.

25 Q. And that facility has gone through a number, a very large

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Barbato - Cross

- 1 number of changes in terms of structure, in terms of tenants
2 and otherwise?
3 A. Yes.
4 Q. Good times and bad times in Cross County Shopping Center?
5 A. Yes.
6 Q. And now, you referred to Mr. Jereis asking you questions
7 about policy matter involving a used car lot across the street
8 from School Thirteen; do you recall that testimony?
9 A. Yes.
10 Q. Apart from that policy discussion do you recall there being
11 meetings of the Yonkers Republican Party in various gatherings
12 sometimes called "caucuses", sometimes called "assembly",
13 sometimes just called "meetings"?
14 A. Yeah.
15 Q. And that happened at regular intervals; isn't that right?
16 A. Yes.
17 Q. Sometimes they were in Mr. Jereis's house; is that right?
18 A. That's correct.
19 Q. But they were in other republicans' houses; isn't that
20 right?
21 A. Yes.
22 Q. And you also were asked some questions on direct about
23 majority leader and minority leader in the Yonkers City
24 Council; do you recall those questions?
25 A. Yes.

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Barbato - Cross

1 Q. Would it be fair for me to say that the Yonkers City
2 Council there were factions in the council?

3 A. Yes.

4 Q. And from time to time everybody wearing a democratic hat
5 wasn't on the same side of a particular faction; isn't that
6 correct?

7 A. That's correct.

8 Q. And every time there was a faction on the Republicans sides
9 everybody with a republican has wasn't in the same faction?

10 A. That's correct.

11 Q. So from time to time you couldn't tell who the majority was
12 the -- the majority leader was the leader of other than that
13 person got four votes?

14 A. That's correct.

15 Q. So sometimes there were four democrats in the Yonkers City
16 Council but two factions added up to four and elected somebody
17 who wasn't a democrat?

18 A. That's correct or vice versa.

19 Q. And vice visa. So sometimes the three got together and
20 elected somebody that wasn't the three hats of that party?

21 A. Yes.

22 Q. And so the phrase "majority" and "minority leader" as it
23 relates to the Yonkers City Council really means for want of a
24 better expression, the bigger faction versus the smaller
25 faction?

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Barbato - Cross

1 A. Correct.

2 Q. And these were politically desirable positions because or
3 among other things there was a secretary involved?

4 A. Well, there's staffing and, yeah.

5 Q. Staffing. I sorry. I use a politically questionable
6 phrase but there was staffing involved that went with the
7 majority and minority leaders offices?

8 A. Yes.

9 Q. And from time to time there might be what we described as
10 political bargaining?

11 A. Yes.

12 Q. And calling upon your experience in the council would it be
13 fair to say that the vast majority of these majority and
14 minority positions were not aligned with the party as you
15 observed it?

16 A. Sometimes they were. Sometimes they weren't.

17 Q. There it is. You were asked some questions on direct about
18 Mr. Jereis and somebody else in essence turning their back on
19 you at a gold key dinner; do you recall those questions and
20 answers?

21 A. Yes.

22 Q. You were asked by the government counsel?

23 A. Yes.

24 Q. And then Mr. Aronwald tried to focus in on, essentially,
25 the message that was sort of being sent to you at or about that

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C2MAAANN5

Barbato - Cross

1 dinner with regard to the union's taking out a big ad?

2 A. Um-hmm.

3 Q. Would it be fair to say that even though it was a
4 Republican party gathering there were factions at that
5 gathering?

6 A. I can't answer that.

7 Q. Well, in 2005 there were factions in the Republican party
8 in the city of Yonkers as manifested by the fact that the mayor
9 was a Republican and he was enthusiastically -- my phrase -- in
10 support of Ridge Hill; isn't that correct?

11 A. That's correct.

12 Q. And you and Mr. Murtagh were Republicans. You were openly
13 opposed to the project?

14 A. Yes. But that's the difference between the levels of
15 government. Just because you are of the same party doesn't
16 mean you have to agree on everything. It's check and balance.

17 Q. I wasn't raising that point. I was raising the point that
18 you were all Republicans and you would all be invited to
19 something like the gold key dinner?

20 A. That's correct.

21 Q. And assuming Ridge Hill was as contentious as everyone's
22 been telling us, that would a problematic gathering in respect
23 to discussions of Ridge Hill, would it not?

24 A. I don't know that it would be considered problematic but,
25 certainly, Ridge Hill was a topic of discussion.

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C2MAAANN5 Barbato - Cross

1 Q. And people turned their back on you in that dinner?

2 A. I don't know if I said they turned their back. I said they
3 walked away. They were behind me. I had my back to them and I
4 turned and when I said it's a subject near and dear to my heart
5 they stopped talking and you walked away.

6 Q. That's what I was trying to encapsulate.

7 A. Yeah.

8 MR. SIANO: Thank you for your time, Ms. Barbato?

9 MR. HALPERIN: Very briefly, your Honor?

10 THE COURT: Mr. Halperin.

11 REDIRECT EXAMINATION

12 BY MR. HALPERIN:

13 Q. Ms. Barbato, counsel asked about how your relationship with
14 Ms. Annabi cooled after she changed her vote on Ridge Hill and
15 you testified that it did briefly; is that correct?

16 A. Yes.

17 Q. As you sit here today what, if any, animosity do you have
18 toward Sandy Annabi?

19 A. Absolutely, none. I've always been fond of Sandy and I am
20 still fond of Sandy.

21 Q. Counsel asked about the \$10 million to Forest City Ratner;
22 do you recall that?

23 A. Yes.

24 Q. How did the \$10 million compare to the amount of money that
25 you were seeking from the developer?

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C2MAAANN5

Barbato - Redirect

1 A. Well, again, I looked at it when Sandy told me about the
2 \$10 million and, actually, what happened with that, it wasn't,
3 it didn't even come in as a lump sum ten million. It wound up
4 being broken out of the three point something over a ten year
5 hold. I viewed it as the usual one shots that we would get to
6 get us to the next year. We were always seeming to be getting
7 to the next year instead of looking at our financial forecast
8 and planning so that we wouldn't have these short falls and we
9 wouldn't have these impacts on our tax payers.

10 And I believed, I truly believed that Ridge Hill was
11 given a sweetheart deal and that for the size of the project,
12 the amount of money that was going to be made, the impact that
13 it was going to have on our city and it was called a city
14 within a city, so it wasn't a little shopping center that the
15 developer really should have and could have paid appropriate
16 fair share of property tax and we just weren't getting that.

17 Q. You testified previously that over the course of 30 years
18 you were seeking, approximately, how much more money from the
19 developer?

20 A. Well, you know, we'd used the analogy of the Cross County
21 Shopping Center, again, was one third. It's one third the size
22 of what Ridge Hill in full build back would be. And they were
23 paying three million and change in a pilot, not full property
24 tax, in a pilot which is Payment in Lieu of Taxes. You agree
25 to an amount rather than what the market or tax increases bear.

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C2MAAANN5

Barbato - Redirect

1 Q. So how much were you seeking additional from the developer?

2 A. You know, we never really said to the developer or to the
3 administration that we had a finite amount. We just felt that
4 it should have been better than it was. 1.2 million at the
5 time that we were discussing property taxes was just not
6 sufficient in my mind or my constituents and even some of my
7 colleagues. It had the potential to give us a great deal of
8 money.

9 Q. If Cross County was paying about three million a year what
10 did you think Forest City Ratner should be paying?

11 A. If Cross County was one third, the analogy that we were
12 making at the time, if they were paying three million and it
13 was one third then shouldn't Ridge Hill pay nine million, maybe
14 ten?

15 Q. Nine or ten million over how many years?

16 A. I believe the pilot was 30 years.

17 Q. Three hundred million dollars total?

18 A. It had that potential in my estimation.

19 Q. Counsel asked about whether you thought Forest City Ratner
20 was going to give you a pass on the project because it was your
21 district; do you recall that?

22 A. Yes.

23 Q. Were you opposed to the Ridge Hill project under any
24 circumstances?

25 A. No, sir, I was not.

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C2MAAANN5

Barbato - Redirect

1 Q. Why not?

2 A. Because I thought it was a good project.

3 Q. Under what, if any, circumstances would you have supported
4 the Ridge Hill project?

5 A. One, if they had come back to us with a better property tax
6 plan and, two, if we could really find a way to mitigate some
7 of the traffic on Tuckahoe Road. Those were the two primary
8 issues.

9 Q. Counsel asked about Ms. Annabi changing her vote on the
10 Longfellow project; do you recall that?

11 A. Yes.

12 Q. At the time Longfellow passed what, if anything, did you
13 know about Ms. Annabi receiving cash payment from the long
14 fellow dealers?

15 A. I never heard anything about that.

16 Q. What, if anything, at the time did you know about
17 whether --

18 MR. ARONWALD: Your Honor, objection because it
19 assumes a fact that's not been proven and a fact that's an
20 issue. There is no evidence that Ms. Annabi received anything.

21 THE COURT: Sit down, please.

22 MR. HALPERIN: Counsel opened the door on cross, your
23 Honor.

24 MR. ARONWALD: I disagree, your Honor.

25 THE COURT: Okay. Well, we're all have to go to
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C2MAAANN5 Barbato - Redirect
1 sidebar and chat about that. Come on over.
2 (Continued on next page)

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C2MAAANN5

Barbato - Redirect

1 (Sidebar)

2 THE COURT: It may be an issue of question phrasing,
3 okay. Maybe an issue of the way the question is phrased. You
4 did ask questions about Longfellow. Now, Mr. Halperin, if he
5 thinks it's helpful to his cause to hear Ms. Barbato say that
6 she never heard that Ms. Annabi got any money from the
7 Longfellow people, it's perfectly free to ask a question about
8 whether she ever heard any such thing. But honest to God, I
9 don't know how that helps Mr. Halperin. That said, if he wants
10 Ms. Barbato to say, I never heard anything about that, that's
11 fine.

12 MR. HALPERIN: One more question on this line and
13 that's it.

14 MR. SIANO: Could we hear the question now?

15 THE COURT: The problem is that you asked the question
16 in a way that assumes that you've already proven that she
17 received it and I appreciate it. Also, there is a way to ask
18 the question that you can make the point that you want to make
19 whatever that point may be without saying, when did you stop
20 beating your wife.

21 MR. HALPERIN: Your Honor, respectfully, I don't think
22 I did that. I said what, if anything, did you know about Sandy
23 Annabi receiving a cash payment.

24 MR. ARONWALD: That doesn't assume that fact is in
25 evidence, means it assumes it is a fact in existence.

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C2MAAANN5

Barbato - Redirect

1 MR. HALPERIN: I am asking the witness what see knew
2 about that.

3 THE COURT: Why don't you try, cause I'll allow this,
4 have you heard anything about Sandy Annabi receiving cash
5 payments?

6 MR. SIANO: Thank you.

7 MR. ARONWALD: The problem what that, judge, is that's
8 what the indictment is alleging.

9 MR. SIANO: So what?

10 THE COURT: He can bound it in time so that it's at
11 the time of the vote at or -- calm down, Mr. Siano.

12 Thank you.

13 (Continue on next page)

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C2MAAANN5

Barbato - Redirect

1 (In Open Court)

2 MR. ARONWALD: I take it the question is we drawn,
3 your Honor?

4 MR. HALPERIN: I'll rephrase the question.

5 THE COURT: Thank you.

6 BY MR. HALPERIN:

7 Q. Ms. Barbato, at the time Longfellow passed had you ever
8 heard anything about Ms. Annabi receiving a cash payment from
9 the Longfellow developers?

10 A. No.

11 Q. At the time Longfellow was passed had you ever heard
12 anything about Zehy Jereis being involved with the Longfellow
13 project?

14 A. No.

15 Q. Mr. Siano showed you checks that Mr. Jereis wrote to your
16 campaign account in 2001.

17 A. 2001 and 2003.

18 Q. He gave you campaign contributions at the time?

19 A. Yes, sir.

20 Q. How many times, if any, did he pay your student loan bill?

21 A. Never.

22 Q. How many house, if any, did he pay your mortgage?

23 A. Never.

24 Q. Cable bill?

25 A. Never.

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C2MAAANN5

Barbato - Redirect

1 Q. Con Ed bill?

2 A. Never.

3 Q. Your monthly maintenance bill?

4 A. Never.

5 Q. How many times did he pay the down payment on a Mercedes
6 Benz for you?

7 A. Never.

8 MR. HALPERIN: Thank you.

9 THE COURT: Anything else?

10 CROSS-EXAMINATION

11 BY MR. ARONWALD:

12 Q. With respect to Ridge Hill, just so the picture may become
13 a little bit clearer, Ridge Hill is a project which did bring
14 substantial additional revenues into the City of Yonkers; isn't
15 that so?

16 A. Yes.

17 Q. Okay. For example, as a result of the vote in favor of
18 Ridge Hill and the ability of Forest City Ratner to move ahead
19 with the project, isn't it true that there were thousands of
20 construction jobs that were created as a result of the Ridge
21 Hill project?

22 MR. HALPERIN: Objection. Beyond the scope of
23 redirect.

24 THE COURT: The objection is sustained.

25 Q. Well, you testified that you thought that the city should

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C2MAAANN5 Barbato - Cross

1 have gotten more tax revenues?

2 A. Yes.

3 Q. Okay. Well, don't tax revenues encompass and incorporate
4 sales taxes?

5 A. Do I have to answer just "yes or no"? Okay. When you
6 looked at the financial package what we were going to realize
7 in terms of taxes or money, yes, it did include sales tax and a
8 sizable amount but we have to remember that sales tax are
9 distributed between the city, the state and the county so when
10 we look at the dollar amount sounds great for the City of
11 Yonkers but at the time that wasn't what they were touting.
12 That wasn't the true picture.

13 And then I go back to the property tax, sir, that's
14 what we were talking about more than anything. You are talking
15 88 acres or 81 acre major project. The city within a city on a
16 hill right off of a major thoroughfare that had the potential
17 to make millions upon millions of dollars and we are getting
18 1.2 million for 80 acres of property.

19 THE COURT: Ms. Barbato, do me a favor. Sit back from
20 that microphone a little bit.

21 THE WITNESS: I am sorry.

22 A. And you have to grade it to what a home owner was paying
23 for their property are you are talking 80 acres of prime real
24 estate for \$1.2 million.

25 Q. You made those feelings known?

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C2MAAANN5

Barbato - Cross

1 A. I sure did.

2 Q. And the fact of the matter is Forest City Ratner didn't
3 give you what you wanted to get, correct?

4 A. That's correct.

5 Q. Okay. And there's no guarantee that Forest City Ratner
6 ever would have agreed to give you what you wanted in order to
7 get the go ahead for Ridge Hill; isn't that so?

8 A. That is not what I believed, sir.

9 Q. But you have no guaranty?

10 A. I can't say either way because if we had held the line,
11 they invested in a lot of money in that project prior to that
12 and it came down to three votes. It came down to us three.
13 And I truly believed in my heart of hearts that we could make a
14 difference and that we were going to get more money for that
15 project, that they weren't going to walk away from their
16 investment. And maybe we didn't get ten million a year but I
17 thought we would have done better. I truly believed that.

18 Q. But as part of the proposal, as of the resolution that was
19 ultimately approved, didn't Forest City Ratner guarantee
20 payment of 9.9 million, \$500,000 per year annually minimum in
21 lieu of the pilot program; isn't that so?

22 A. That's, if I recall, and it's been a lot of years but it
23 included revenue as far as the housing component went which at
24 the time the state still owned the property, so there was
25 question whether that was going to be, had to be rental rather

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C2MAAANN5

Barbato - Cross

1 than co-op or resale. So it was the way that nine million was
2 broken out, sir, within that nine million was the 1.2 in
3 property tax.
4 Q. I just want to ask you one more question, if I can. I
5 asked you about -- we talked about the meeting that you had
6 with Mr. Pirro and you said didn't recall who else was present.
7 MR. HALPERIN: Objection; beyond the scope.
8 THE COURT: Beyond the scope of redirect.
9 MR. ARONWALD: Your Honor, may we approach please?
10 THE COURT: No. It's beyond the scope of redirect.
11 MR. ARONWALD: I am asking just as to one question,
12 your Honor, please?
13 MR. HALPERIN: Objection; beyond the scope.
14 THE COURT: The objection is sustained.
15 MR. ARONWALD: Thank you, Mr. Halperin.
16 Thank you, your Honor.
17 THE COURT: Mr. Siano.
18 MR. SIANO: No, judge.
19 MR. HALPERIN: Nothing, your Honor.
20 THE WITNESS: Thank you, your Honor.
21 THE COURT: Thank you, Ms. Barbato. You may leave.
22 Now, we are going to quit at 4:15 or so do you have a
23 really short witness?
24 MR. HALPERIN: We don't, your Honor. The next
25 witness --

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C2MAAANN5

Barbato - Cross

1 THE COURT: We don't have a short witness, okay.
2 Well, there is no sense in starting a long one. So let's break
3 for the day and be back tomorrow morning at 9:30. Don't
4 discuss the case. Keep an open mind. I'll see you in the
5 morning.

6 (Jury not present)

7 THE COURT: So who is up next?

8 MR. HALPERIN: Mr. Robertson judge.

9 (Adjourned to Thursday, February 23, 201 at 9:30 a.m.)

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C2n0ann1 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

4
5 SANDY ANNABI and ZEHY JEREIS,

5
6 Defendant.

6
7 -----x

7
8 New York, N.Y.
8 February 23, 2012
9 9:55 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 Attorney for Defendant JEREIS

C2n0ann1 Trial

1 (Trial continuing)

2 (In open court; jury not present)

3 THE DEPUTY CLERK: Case on trial continuing.

4 THE COURT: Good morning.

5 THE CLERK: Ready for the jurors?

6 THE COURT: I'm ready for the jurors.

7 Do you have a witness.

8 MR. HALPERIN: Yes, your Honor.

9 THE COURT: I received a very long list of witnesses
10 that came over the transom this morning.

11 MR. ARONWALD: I'm sorry?

12 THE COURT: I got a long list of witnesses this
13 morning.

14 MR. SIANO: I don't think that is today, Judge.

15 THE COURT: I certainly hope not, I'm not up for 35
16 today.

17 MR. SIANO: I'm working as fast as I can.

18 MR. CARBONE: Some of them will be very brief.

19 THE CLERK: Jury entering.

20 (Jury present)

21 THE COURT: Good morning.

22 Before we start, an example of how careful we all have
23 to be in the public halls, I was walking into the elevator
24 lobby, and a kind man stuck his hand out and held the elevator
25 door open until I could get in. And I said thank you, looked

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C2n0ann1 Trial

1 up, and it was alternate number 3.

2 So, remember, we're all going to be there together in
3 the halls.

4 Okay. Call your next witness, please.

5 MR. HALPERIN: Thank you.

6 Your Honor, the government calls Dennis Robertson.

7 THE CLERK: Stand up, raise your right hand.

8 DENNIS M. ROBERTSON,

9 called as a witness by the Government,
10 having been duly sworn, testified as follows:

11 THE COURT: You may inquire.

12 MR. HALPERIN: Thank you, your Honor.

13 DIRECT EXAMINATION

14 BY MR. HALPERIN:

15 Q. Good morning, Mr. Robertson?

16 A. Good morning.

17 Q. What city do you live in?

18 A. Yonkers.

19 Q. How long have you lived there?

20 A. My entire life.

21 Q. What do you do for work, sir?

22 A. I'm Director of Housekeeping for Empire City at Yonkers
23 Raceway.

24 Q. How long have you had that position?

25 A. I have been there since 2002.

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C2n0annla

Robertson - direct

1 Q. Did you ever hold elective office in the City of Yonkers?

2 A. Yes, I did.

3 Q. In what position?

4 A. I was the council member for the 3rd District.

5 Q. When were you first elected?

6 A. I was elected in 2003, and served 2004 through 2007.

7 Q. And what political party are you?

8 A. Democrat.

9 Q. So you served 4 years on the council?

10 A. Yes, one four-year term.

11 Q. Why did you leave the City council at the end of 2007?

12 A. In 2007, I was the Democratic candidate for mayor.

13 Therefore, I didn't have the option to run for my existing seat
14 and I lost the election and was out of office.

15 Q. To whom?

16 A. I lost that election to Philip Amicone.

17 Q. You mentioned 3rd District. What geographic area did the
18 3rd District cover in Yonkers.

19 A. The Yonkers 3rd District covers the west side, literally,
20 from the north end to the south end, starts around the Hasting
21 border, goes down Warburton, east to perhaps Nepperhan at some
22 points, down around Park Hill, juts back to south Yonkers, some
23 neighborhood in south Yonkers, and then down to southwest
24 Yonkers, and concludes on Riverdale Avenue, just at the border.

25 Q. From 2004 through the end of 2007 when you served on the

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C2n0annla Robertson - direct

- 1 City council, what was the proximate salary of the City council
2 members?
3 A. Approximately \$37,500.
4 Q. Is there a residency requirement for council members?
5 A. Yes.
6 Q. What is that requirement?
7 A. You need to live in the district which you serve in while
8 you are serving.
9 Q. And when you served on the council, where was your counsel
10 office located?
11 A. City hall.
12 Q. Who, if anyone, did you share office space with?
13 A. In my first two years on the council, I shared an office
14 with council members Annabi and MacDow. And in my second two
15 years, I shared an office with council member MacDow.
16 Q. And in your first two years in office, who were the -- the
17 Democrats on the council?
18 A. Patricia MacDow was in the 1st council district, Sandy
19 Annabi was in the 2nd council district, and I was the 3rd
20 council district.
21 Q. So your first two years in office there were three
22 Democrats?
23 A. Right, three democrats.
24 Q. What District did Sandy Annabi represent?
25 A. Second.

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C2n0annla Robertson - direct

1 Q. And geographically, where is the 2nd District?

2 A. Primarily all in southwest Yonkers, parts of Park Hill.

3 It's pretty much --

4 Q. Does part of the 2nd District abut your --

5 A. Yeah, the 2nd, 1st and 3rd Districts have many common
6 neighborhoods, so I could literally have one side of the street
7 and Sandy would have the other side, and cross around the
8 corner would be Patricia MacDow -- actually, Park Hill Section,
9 there was a -- the 4th District, even, came into it slightly.

10 Q. And just for the record, when you say "Sandy," who are you
11 referring to?

12 A. Council member Annabi.

13 Q. During your 4 years on City council, roughly how often
14 would you see Councilwoman Annabi?

15 A. At least once or twice a week. We would have council
16 meetings once a week and generally a committee meeting or two
17 the same week.

18 Q. Do you see the person you have been referring to as
19 Councilwoman Sandy Annabi here in the courtroom today?

20 A. Yes.

21 Q. Please point to her and state where she is sitting.

22 A. Sitting to your left.

23 THE COURT: Indicating Ms. Annabi.

24 Q. During your time on the council, Mr. Robertson, did you
25 serve on certain committees?

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C2n0annla

Robertson - direct

- 1 A. In my first two years, I was a chairperson of municipal
2 operations, and I served on budget, education, real estate.
3 Those were the primary committees.
4 Q. And in 2006, were you chairman of any committees?
5 A. In 2006, I became the chairman of the real estate, co-chair
6 of budget, and I was chairman of franchise, and served on the
7 Education Committee.
8 Q. Sir, have you heard of the Ridge Hill project?
9 A. Yes.
10 Q. Let me direct your attention to the time frame 2004 to
11 2006. At that time, what was the proposal for the Ridge Hill
12 project?
13 A. The Ridge Hill project was a -- an 80-plus acre parcel of
14 land located in northeast Yonkers off the New York State
15 Thruway, on a hill; hence, Ridge Hill. And it was a proposed
16 mixed use development project 1.3 million square feet,
17 residential, retail, and commercial office.
18 Q. Were you a supporter of the Ridge Hill project when you
19 were on the City council?
20 A. Yes, I was.
21 Q. Did you support the Ridge Hill project during your whole
22 time on the counsel?
23 A. Yes, I did.
24 Q. What about before you joined the City council?
25 A. I supported it, it had already started the -- the review

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C2n0annla

Robertson - direct

1 process before I had gotten on the City council, and it was an
2 issue, not specific to the 3rd District in my campaign, but it
3 was a general Yonkers issue that came up, so I was on record as
4 being a proponent of it.

5 Q. And when you say campaign, you are talking about your fall
6 2003?

7 A. Fall, 2003.

8 Q. What were the reasons you supported the Ridge Hill project?

9 A. I believed that Yonkers needed to expand its tax base
10 through economic development. And I thought the best way to do
11 that was through this type of development, retail, commercial,
12 as opposed to taxing the people of Yonkers directly. I thought
13 it would create a lot of jobs. I thought that we had had a
14 success similar to it on the other side of the Thruway at
15 Austin Avenue, and that it was just a good -- a good deal for
16 Yonkers.

17 Q. From the time you began on City council in January 2004
18 until 2006, roughly how many meetings did the City council hold
19 on Ridge Hill?

20 A. A lot.

21 Q. And in 2005 and 2006, how high profile or low profile was
22 Ridge Hill for the City council.

23 A. It was the most high profile issue facing us; very high
24 profile.

25 Q. And what made it such a high profile?

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C2n0ann1a

Robertson - direct

1 A. Well, there was significant opposition to the project.

2 Q. Based on what?

3 A. Well, based on the -- specific to that neighborhood, a lot
4 of the people who lived there thought that there was going to
5 create too much traffic. A lot of people were -- took
6 exception to the fact that we would be essentially displacing
7 hundreds of trees; the environment. Some people thought we
8 were not getting enough benefit, financial benefit, from the
9 project. Noise was of significant issue. Those of that
10 nature.

11 Q. Now, in the fall of 2005, what was the breakdown of the
12 City council of the City council members who supported and
13 opposed the project?

14 A. In the fall of 2005, counsel President Martinelli supported
15 it, council member McLaughlin, supported it, council member
16 MacDow supported it, and I supported it.

17 And the opposition was council members Barbato,
18 council member Murtagh, and council member Annabi.

19 Q. So at the time the vote count, was what?

20 A. Four to three.

21 Q. In favor?

22 A. In favor.

23 Q. At the time, was that enough to pass the project?

24 A. No, it was wasn't.

25 Q. Why not?

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C2n0annla

Robertson - direct

- 1 A. As a result of a negative declaration from the Westchester
2 County Planning Board, they had had an opportunity to review
3 the project, because the project abutted county land, therefore
4 they needed to weigh in on the project. And if they weighed in
5 against the projectively, negatively, they would -- it would
6 trigger a law that required a super majority, in this case five
7 out of seven to pass.
- 8 Q. And generally -- I'm sorry.
- 9 A. To pass the project.
- 10 Q. Generally, what were the County Planning Board's objections
11 to the project?
- 12 A. Essentially, the same opposition that I just outlined that
13 the neighborhood had; traffic, noise. The trees was a very big
14 issue for them, specifically, I recall. And the financial
15 benefit.
- 16 Q. Let me direct your attention to November 2005. Did the
17 council take a vote on the super majority requirement?
- 18 A. We did.
- 19 Q. And what was the vote?
- 20 A. The vote was to pass it 4-3. Specifically who?
- 21 Q. No, no, I'm sorry. Let me rephrase the question.
- 22 What was the issue relating to the super majority that
23 the council voted on at the time?
- 24 A. We voted to eliminate that as a requirement.
- 25 Q. In other words, five votes were no longer needed?

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C2n0annla

Robertson - direct

- 1 A. Correct.
2 Q. And what was the actual vote count, in numbers, that that
3 passed by?
4 A. 4-3.
5 Q. And what was Sandy Annabi's position on the bill
6 eliminating the super majority requirement?
7 A. She was against it.
8 Q. Was a lawsuit subsequently filed?
9 A. It was.
10 Q. What did the lawsuit seek to do?
11 A. To make that vote invalid.
12 Q. And directing your attention to December 2005, at that
13 time, did the City council vote on the merits of the zoning
14 change for the Ridge Hill project?
15 A. We did.
16 Q. And what was the vote?
17 A. 4-3.
18 Q. Who was in the minority?
19 A. Barbato, Murtagh, and Annabi; council members Barbato,
20 Murtagh, and Annabi.
21 Q. Did you attend City council meetings and Real Estate
22 Committee meeting during in November 2005?
23 A. Yes.
24 Q. Did you hear councilwoman Sandy Annabi talk about the Ridge
25 Hill project?

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Robertson - direct

1 A. Yes.

2 Q. Did you ever have any private conversations with her about
3 the Ridge Hill project?

4 A. Yes.

5 Q. Based on those conversations, how would you describe the
6 level of her opposition to the project at the time?7 A. She was opposed to the project. And, basically, wouldn't
8 vote for them as Dee Barbato -- she was opposed to it and
9 wouldn't vote for it unless Dee Barbato voted for it.

10 Q. And Dee Barbato represented, which district?

11 A. The 6th District where the project was.

12 Q. Now, did Sandy Annabi eventually switch her vote on the
13 Ridge Hill project?

14 A. She did.

15 Q. Is that in or about July 2006?

16 A. Yes.

17 Q. Which, if any, other council members who had been on the
18 council in the fall of 2005 changed their votes?

19 A. None.

20 Q. And in July 2006, what was the vote count to pass the
21 project?

22 A. 5-2.

23 Q. When councilwoman Sandy Annabi announced her change in
24 support of the project, did you hear her explanation?

25 A. Yes, she had -- she had said that she had gotten another

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C2n0ann1a

Robertson - direct

1 A. He did.

2 Q. What did he say?

3 A. Well, he had actually been supporting my opponent. And he
4 said now that you had won the primary, it was pretty obvious I
5 would win the general election against the same person. He had
6 other lines, and he wanted to know what he wanted me to do.
7 And I -- I told him -- excuse my French -- but I told him, I
8 don't give a fuck what you do, I won now, I'll win again.

9 Q. You mentioned lines. Explain to everyone, what do you mean
10 by lines; party lines?

11 A. Well, I had just won the Democratic party line in the
12 primary. And the person I ran against also had other party
13 lines, specifically the conservative, independents, and work
14 and family line. And there was no Republican candidate, which
15 is why it was obvious a Democrat was gonna win.

16 Q. Have you seen Zehy Jereis on numerous occasions?

17 A. I have seen him, yes.

18 Q. Do you see the person you have been referring to as Zehy
19 Jereis in the courtroom today?

20 A. Yes.

21 Q. Please point to him and state where he is sitting?

22 A. The gentleman standing.

23 THE COURT: Indicating Mr. Jereis.

24 Q. Mr. Robertson, when you were a City council member, did you
25 ever meet with Al Pirro?

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C2n0annla

Robertson - direct

- 1 A. I did.
- 2 Q. Who was Al Pirro?
- 3 A. Al Pirro was a power broker, if you will, attorney, and
- 4 lobbyist. Just a prominent businessmen in Westchester County.
- 5 Q. What was Pirro's role for Forest City Ratner?
- 6 A. He lobbied for them.
- 7 Q. And actually I should ask you, who is Forest City Ratner?
- 8 A. Forest City Ratner was the developer of the said project.
- 9 Q. Of Ridge Hill project?
- 10 A. Of the Ridge Hill project.
- 11 Q. So he was a lobbyist for Forest City Ratner on Ridge Hill?
- 12 A. Yes, to my knowledge.
- 13 Q. And why did you want to meet with Al Pirro?
- 14 A. I had been entertaining a run for City council president in
- 15 2005. So in early 2005, I had actually met with him on three
- 16 separate occasions to try to get his support for that
- 17 particular run. Specifically, he had had significant
- 18 involvement, to my knowledge, with the independent's party line
- 19 which was a line that I was seeking to get, other than the
- 20 Democratic line.
- 21 Q. And you met with him three times in 2005?
- 22 A. Yes.
- 23 Q. In front of you, sir, you have what's been marked as
- 24 government exhibit 310; 310 A to 310 V. Take a moment and look
- 25 at those, please.

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C2n0annla

Robertson - direct

1 A. This?

2 THE WITNESS: This whole package, your Honor?

3 THE COURT: Apparently so.

4 Q. Yeah.

5 A. I'll take them out.

6 Q. Sir, do you recognize these items?

7 A. Yes.

8 Q. And what do you recognize them to be.

9 Let's start with government exhibit 310.

10 A. This is my calendar for 2005.

11 Q. Who --

12 A. My appointment calendar.

13 Q. Did you provide this to the government?

14 A. I did.

15 Q. Did you keep and maintain the calendar in 2005?

16 A. Yes.

17 Q. Let me direct your attention to 310 A; what is that?

18 A. This says -- it's my calendar, it's the personal
19 information.

20 Q. Like one of the first pages of the calendar?

21 A. It is the first page; my name, my address, phone --

22 Q. Let me direct your attention --

23 A. -- number. I'm sorry.

24 Q. Let me direct your attention to 310 B, C and D.

25 Do these entries relate to the dates you had meetings

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1 with Mr. Pirro?

2 A. They do.

3 Q. Is your calendar in substantially same condition as when
4 you kept it in 2005?

5 A. It is.

6 MR. HALPERIN: Your Honor, the government offers
7 government exhibit 310 and 310 A - D.

8 MR. ARONWALD: No objection.

9 THE COURT: Admitted.

10 (Government's Exhibits 310, 310 A through D received
11 in evidence)

12 MR. HALPERIN: Mr. Turk, can we please display 310 B.

13 BY MR. HALPERIN:

14 Q. Mr. Robertson, is there an entry here that relates to the
15 meeting you had, the first meeting you had with Mr. Pirro?

16 A. Yeah, on Friday the 25th, at 10 a.m. Al P, 1 North
17 Lexington.

18 Q. Al P, refers to whom?

19 A. Al Pirro.

20 Q. And 1 North Lexington, was what?

21 A. His office.

22 Q. In what City?

23 A. White Plains.

24 Q. In Westchester County?

25 A. Yes.

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1 Q. And you said the 25th, what month?

2 A. Of February.

3 Q. Year?

4 A. 2005.

5 Q. All right.

6 MR. HALPERIN: Mr. Turk, can we have 310 C.

7 Q. What entry here relates to any of those meetings?

8 A. On March 1, 9:00 a.m. Westchester Country Club, Al P, Al
9 Pirro, WCC is Westchester Country Club?

10 Q. 310 B.

11 A. At 11:15, Al P.

12 Q. On what day?

13 A. March 3; Tuesday, March 3.

14 Q. And where was that meeting?

15 A. That was also 1 North Lexington.

16 Q. Now, during one of your meetings -- you can put that down?

17 A. Okay.

18 MR. HALPERIN: Take it down.

19 Q. During one of your meetings with Al Pirro, did he raise the
20 subject of the Ridge Hill project?

21 A. He did.

22 Q. Where was this meeting?

23 A. In his office on North Lexington.

24 Q. Tell us about the discussion when he raised Ridge Hill.

25 A. He started talking about the project, and who it was for it

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C2n0annla

Robertson - direct

1 Q. And when you spoke to Ms. Annabi, what did you say to her
2 about the conversation?

3 A. Exactly what I just told you. And I told her this is what
4 he said and, you know, that that -- that's not right. That he
5 would say that.

6 Q. What was Annabi's response about what you told her what Al
7 Pirro had said?

8 A. She didn't respond. She just stared at me, didn't really
9 engage in any conversation regarding it.

10 Q. Did you have a conversation with Councilwoman Annabi about
11 her relationship with Zehy Jereis?

12 A. I had.

13 Q. Let me direct your attention to 2004 to 2005, how many
14 times did you have such conversations with Councilwoman Annabi?

15 A. A few; several.

16 Q. What did you say to her during these conversations?

17 A. Well, I -- I had been concerned about, again, as a
18 Democratic coalition, I had wanted her to discuss business
19 with -- City business with Democrats; myself and MacDow,
20 council members MacDow. And I had known that Zehy was the
21 Republican leader. And I said you shouldn't be discussing our
22 business with him. I was concerned.

23 Q. Why did you say she shouldn't?

24 A. She had told me that she trusted Zehy, whenever he had
25 helped her in any campaigns.

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C2n0annla

Robertson - direct

- 1 Q. Mr. Jereis was?
2 A. Yes.
3 Q. Did you ever talk to Ms. Annabi about who had taught her
4 about politics?
5 A. She told me Zehy taught her everything she knew.
6 Q. Everything she knew about politics?
7 A. Pretty much.
8 Q. Did you ever talk to Sandy Annabi about whether she and
9 Zehy Jereis were related?
10 A. I did ask her if they were cousins.
11 Q. What did she say?
12 A. She said they were not.
13 Q. Did you ever talk with Ms. Annabi about whether they were
14 more than friends?
15 A. I asked her if she had a different relationship with him,
16 and she said she didn't, but he wanted to.
17 Q. Are you familiar, sir, with something called School 13.
18 A. School 13? Yes.
19 Q. And whose district was school 13 in?
20 A. It was in my district.
21 Q. What if any issue --
22 A. 3rd District. I'm sorry.
23 Q. 3rd District?
24 A. Yes.
25 Q. What if any issue related to School 13 came before the City

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C2n0annla Robertson - direct

1 council during your term?

2 A. Well, the project had already been approved and developed.
3 It was an old school, small school that was developed into
4 condos. And as part of the deal with the City and the
5 developer, there was a parcel of land opposite School 13 on
6 McClain Avenue. A used car lot that the owner had agreed to
7 sell to the City for a particular sum of money. And those were
8 the spaces that the people who lived in the old School 13
9 condominium would park their cars. And when I got on the
10 council, I started to receive phone calls from some of the
11 merchants on McClain Avenue stores, and they would complain.
12 And the people who lived in School 13 were parking in the
13 spaces that belonged to their customers in front of the store.

14 So upon inquiring with the administration as to what
15 was going on here, they had told me that they, in fact, had not
16 gotten the parcel of land from the owner. Across the street.
17 Did you ever talk to Councilwoman Annabi about School 13?
18 Well, at that point, I wanted to take the property through
19 eminent domain. I was convinced that the City had acted in
20 good faith, and that the developer, the owner, had agreed to
21 already sell the property and now they wanted to get more money
22 for the property. And the administration told me that Frank
23 Capola was representing them, and Zehy was trying to get them
24 more money for the property. And Sandy had been giving me a
25 hard time on passing that through for eminent domain, and I

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C2n0annla

Robertson - direct

- 1 A. We were discussing who would be the minority leader; we
2 were in the minority, three Democrats.
- 3 Q. And what did Councilwoman Annabi say about who she thought
4 should be the minority leader?
- 5 A. She thought she should be the minority leader.
- 6 Q. What did you say about that?
- 7 A. I said I wasn't sure that she should be minority leader.
8 And she had told me that she was the senior person. And I told
9 her that seniority didn't equal leadership, and reminded her
10 that, you know, after I had won the Democratic primary, she
11 continued to help my opponent and not necessarily act like a
12 good Democrat.
- 13 Q. What if anything was mentioned about Zehy Jereis at the
14 meeting?
- 15 A. And Zehy Jereis had ran the campaign of my opponent. And
16 that was about it, there was nothing more specific in that
17 conversation.
- 18 Q. What was Annabi's reaction when you said maybe she should
19 not be the minority leader?
- 20 A. She was pretty angry.
- 21 Q. Let me direct your attention to 2004.
- 22 Was there a meeting at which people were handing out
23 fliers criticizing you?
- 24 A. Yes.
- 25 Q. Did you talk with Councilwoman Annabi about the people

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C2n0annla Robertson - direct

1 room where the file cabinet is?

2 THE COURT: Of course.

3 Folks, we have given the defense lawyers one of the
4 witness rooms so they can keep their file cabinet there. It's
5 right outside that door.

6 (Pause)

7 CROSS-EXAMINATION

8 BY MR. ARONWALD:

9 Q. Good morning, Mr. Robertson. I'm William Aronwald,
10 representing Sandy Annabi?

11 A. Good morning.

12 Q. You and I have never met, correct?

13 A. I don't believe so.

14 Q. And with respect to your testimony this morning, you
15 testified that you were a supporter of Ridge Hill both before
16 and during the period of time that you were a member of the
17 City of Yonkers City council, correct?

18 A. Yes.

19 Q. Okay. And you testified that the reasons that you were in
20 favor of the project were because of it would expand the City
21 tax base through economic development, correct?

22 A. Yes.

23 Q. Okay. That it would create a lot of jobs, correct?

24 A. Yes.

25 Q. And that because there was a similar project, or another

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C2n0ann1a

Robertson - cross - Aronwald

1 project, which had generated those benefits to the City of
2 Yonkers in the past?

3 A. Yes.

4 Q. Okay. And in terms -- in terms of your testimony that it
5 would expand the City tax base, could you explain how that
6 would have happened through Ridge Hill?

7 A. Property taxes and sales taxes.

8 Q. Okay. And what about income taxes?

9 A. People who -- yes, certainly. The people who worked there
10 and lived in Yonkers would pay income tax.

11 Q. By the way, during that period of time before -- just
12 before you became a member of the City council and during the
13 period that you were a member of the City council, how would
14 you describe the City of Yonkers financial situation?

15 A. Poor.

16 Q. Okay. When you say "poor," poor in what respect?

17 A. We always ran at a deficit. Budget time, we always were
18 looking for new sources of income. Revenue.

19 Q. Okay. What about during the period of time that you were
20 on the City council, what was the unemployment rate in the City
21 of Yonkers?

22 A. I don't recall specifically.

23 Q. Was there a substantial amount of people in Yonkers who
24 were unemployed?

25 A. It was probably in the 8, 9 percent area, but that's a

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C2n0annla Robertson - cross - Aronwald

- 1 Q. And the people who were the unemployed in the City of
2 Yonkers did not have an opportunity to get employment through
3 the construction of Ridge Hill, correct?
4 A. Yes.
5 Q. So you were in the majority of the people on the City
6 council who were in favor of Ridge Hill?
7 A. Yes.
8 Q. Okay. And you were not favoring Ridge Hill because of any
9 benefits or moneys that you had received from Forest City
10 Ratner, correct?
11 A. Correct. No.
12 Q. In your heart, you were voting what you thought was in the
13 best interests of the people of the City of Yonkers?
14 A. Correct.
15 Q. Your constituents?
16 A. Correct.
17 Q. Okay. And even beyond your constituents?
18 A. Correct.
19 Q. Now with respect to the super majority requirement, the
20 County Planning -- the County Planning Board issued a negative
21 opinion on the Ridge Hill project, correct?
22 A. Yes.
23 Q. But isn't it true that their opinion was based only upon
24 the environmental concerns, and not the financial concerns?
25 A. I seem to recall they had financial concerns, as well.

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C2n0annla Robertson - cross - Aronwald

- 1 Q. He was Republican. And, yet, you as a Democrat, had no
2 difficulty in speaking to Mr. Martinelli who was Republican
3 concerning county business such as the super majority
4 requirement, correct?
5 A. Correct.
6 Q. And you had no difficulty, as a Democrat, speaking to
7 Republican council member Liam McLaughlin concerning this plan
8 to do a way with the super majority, correct?
9 A. Correct.
10 Q. There is nothing wrong with that, right?
11 A. No.
12 Q. In fact, as part of the legislative process, isn't it
13 incumbent upon all council members regardless of party
14 affiliation to speak to each other, whether you be democrat, or
15 Republican, or independent, to come to a common consensus with
16 respect to issues that affect the people of the City of
17 Yonkers?
18 A. It is.
19 Q. Okay. And certainly as a Democratic, as member of the
20 Democratic party and a member of the City council, you didn't
21 restrict yourself in discussing issues of public issues --
22 A. Uh-huh.
23 Q. -- with only Democrats, did you?
24 A. No, I did not.
25 Q. Okay. And yet you were upset with Ms. Annabi because you

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C2n0annla Robertson - cross - Aronwald

1 thought there was something odd about the fact that she was
2 discussing business, City business issues before the City
3 council, with Zehy Jereis who was a Republican?

4 A. Not so much that he was a Republican as the fact that I
5 thought it might be influencing her.

6 Q. Okay, but you did testify on direct examination that you
7 were --

8 A. As it related to --

9 Q. Let me finish my question --

10 THE COURT: Let him finish the question.

11 Q. -- we can't talk over each other.

12 You did testify on direct examination in response to
13 Mr. Halperin's question, that one of the things you were upset
14 about with Sandy was the fact that she was discussing City
15 business with Zehy Jereis, because he was a Republican.

16 That's what you said, correct?

17 A. Correct.

18 Q. Okay. Now, after -- do you recall that the vote to
19 eliminate the super majority requirement was on November 22 of
20 2005?

21 A. Specific date, I don't recall, but it was around then, yes.

22 MR. HALPERIN: We'll stipulate to the date.

23 THE COURT: Thank you.

24 BY MR. ARONWALD:

25 Q. Do you recall it was just before Thanksgiving of 2005?

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C2n0annla Robertson - cross - Aronwald

1 A. I can't -- I don't recall her actually saying that.

2 Q. Jumping forward to the occasion of a couple of weeks later
3 when the Ridge Hill resolution was back on the agenda, Sandy
4 again voted against it, correct?

5 A. Correct.

6 Q. And she again expressed why she was opposing it, correct?

7 A. Correct.

8 Q. Okay. Do you recall during this period of time that
9 whenever the issue of the Ridge Hill project was before the
10 City council, that Ms. Annabi basically said that she thought
11 it would be a good project, but she thought that the developer
12 was not putting enough money on the table for the people of the
13 City of Yonkers?

14 A. Yes.

15 Q. And she thought they could do better?

16 A. Yes.

17 Q. In fact, initially, the project that the four of you voted
18 for, that project included tax abatements for the developer?

19 A. I think at that time we had already gotten the pilots out
20 of the project, the payment in lieu of taxes.

21 Q. Are you absolutely certain about that, sir?

22 A. Not absolutely certain.

23 Q. All right, but we can agree that the developer was looking
24 for tax abatements, correct?

25 A. Yes, we can.

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1 voted by a vote of 4-3 to pass the Ridge Hill project, there
2 was a lawsuit filed; isn't that so?

3 A. Yes.

4 Q. In Westchester Supreme Court?

5 A. Yes.

6 Q. The lead plaintiff in that lawsuit was Sandy Annabi, wasn't
7 she?

8 A. Yes.

9 Q. Okay. And that lawsuit sought a declaratory judgment from
10 State Supreme Court Justice Nicholas Colabella, declaring the
11 vote to overturn the super majority illegal, correct?

12 A. Invalid.

13 Q. Invalid. Invalid, fine.

14 And at the same time that lawsuit was filed, Sandy
15 Annabi and the other plaintiffs also asked for a temporary
16 restraining order to block the Ridge Hill project from coming
17 before the City council so that it could pass 4-3; correct?

18 A. I don't recall that, but okay.

19 Q. You understood that, though, isn't that so?

20 A. I -- I don't recall that part of the lawsuit.

21 Q. Okay. But in the face of the lawsuit, consistent with what
22 the plan was all along, in December Ridge Hill's back on the
23 City council agenda, and passes 4-3?

24 A. Correct.

25 Q. Okay. And then in May of '06, Judge Colabella issues his

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1 Q. Yeah, the press release that was issued --

2 A. Okay.

3 Q. -- by Chuck Lesnick who, at the time, was the City council
4 president.

5 A. Okay, yes, sir.

6 Q. Do you recall that?

7 A. I recall this, yes.

8 Q. Okay.

9 A. Conversations --

10 Q. This basically was a press release that was issued by the
11 City council president, Chuck Lesnick, on June 15th of 2006,
12 concerning the super majority requirement as it related to
13 Ridge Hill, correct?

14 A. Correct.

15 Q. Okay.

16 MR. ARONWALD: Move its admission, your Honor?

17 MR. HALPERIN: Objection, hearsay.

18 THE COURT: The objection is sustained.

19 MR. ARONWALD: May I have a moment?

20 BY MR. ARONWALD:

21 Q. Well, isn't it true that the City council was going to have
22 a resolution on the agenda asking the Westchester County
23 Planning Board to allow for the elimination of the super
24 majority requirement by an amendment to the City charter
25 putting back in place a simple majority?

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1 A. I don't recall -- I -- that wouldn't be their call. I
2 don't know how they would be involved in that.

3 Q. Well, were you at the -- you were a member of the City
4 council as of June 16th of 2006.

5 A. Correct.

6 Q. Were you present on June 16, 2006, where a proposed general
7 ordinance -- I'm sorry. Where a resolution was before the City
8 council to amend the Zoning Code of the City of Yonkers in
9 regards to voting procedures and, specifically, the super
10 majority requirement?

11 A. I don't recall that specifically.

12 Q. Do you recall whether you were at the city council meeting
13 on June 16, '06?

14 A. Most likely, I would have been.

15 Q. Are you sure that you were?

16 A. Not a hundred percent.

17 Q. I'm showing you what has been marked as -- looking at
18 defendant's exhibit 22 for identification.

19 A. Okay.

20 Q. Focusing on the second and third pages of that exhibit,
21 does that refresh your recollection concerning the resolution
22 that was on the City council agenda on June 16th of '06?

23 A. It does.

24 Q. Okay. And were you present for that vote?

25 A. I was.

C2n0annla

Robertson - cross - Aronwald

1 I'm asking you whether you were aware -- at the time
2 that you voted on June 16, '06 to do away with the super
3 majority requirement, isn't it true that you knew at that time,
4 that it had to go to the Westchester County Planning Board to
5 get their blessing; did you know that, yes or no.

6 A. No.

7 Q. Okay. Thank you.

8 And by the way, the reason why it was important to do
9 away with the super majority requirement was because it would
10 make the fifth vote irrelevant and unnecessary, correct?

11 A. And it simply was not fair to the City on any project.

12 Q. But insofar as this project was concerned, once you
13 eliminated the super majority, the vote of Sandy Annabi, John
14 Murtagh, and Dee Barbato would have been rendered invalid or
15 irrelevant; correct?

16 A. Not needed, correct.

17 Q. Not needed.

18 Mr. Robertson, you had this discussion with Al Pirro
19 in what month?

20 A. It was either February or March.

21 Q. Okay. And of course the discussion I'm referring to is the
22 discussion where you say that Al Pirro said that he was not
23 concerned about Sandy Annabi's vote, because all they would
24 have to do is give Zehy Jereis a consulting job and they would
25 get her vote, correct?

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C2n0annla Robertson - cross - Aronwald

1 Did you discuss that --

2 A. No.

3 Q. -- on the floor of the City council?

4 A. No.

5 Q. Did you file any official report with the City council
6 about that conversation?

7 A. No.

8 Q. Mr. Halperin asked you a series of questions about, you
9 know, would you have -- would you have thought it important to
10 know about any benefits or payments that Zehy Jereis was making
11 to Sandy before the vote on the project was taken, and your
12 answer was yes; correct?

13 A. Uh-huh, yes.

14 Q. Okay. Don't you think it would have been important for
15 other members of the City council to know what you say you knew
16 based upon the discussion you say you had with Al Pirro?

17 A. And I made it known to the people I should have made it
18 known to. And it was -- it was -- I figured they would take
19 care of it. I figured Sandy was responsible for that comment
20 and --

21 Q. You thought that Sandy --

22 A. Not responsible -- not -- I thought -- it -- her name came
23 up, so I let her know. And I, essentially, I had forgotten
24 about it, I let it go.

25 Q. You forgot about it?

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C2n0annla Robertson - cross - Aronwald

1 A. Yeah, it wasn't -- in 2005, it wasn't a -- it wasn't -- I
2 didn't believe it, you know, and that was it.

3 Q. But there was a vote on the Ridge Hill proposal in December
4 of '05, correct?

5 A. Correct.

6 Q. Okay. And then there was another vote in July of '06.

7 But the only person you told was Mr. McLaughlin,
8 correct?

9 A. To my knowledge.

10 And Sandy. Ms. Annabi.

11 Q. And you also testified about a -- there was an event where
12 Zehy Jereis was handing out leaflets or something?

13 A. Not himself, other people.

14 Q. And when was that?

15 A. I don't recall the date.

16 Q. But you recall --

17 A. It was probably in 2004.

18 Q. Okay. And what was it that you said to Sandy about that?

19 A. I said, why are your cousins handing out fliers. That's
20 what I was told.

21 Q. And you thought that Zehy Jereis was responsible for that,
22 didn't you?

23 A. She told me Zehy was responsible, yes.

24 Q. Now, by the way, were you on the City council when the
25 Longfellow resolution came up?

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C2n0annla

Robertson - cross - Aronwald

1 A. Yes.

2 Q. Okay. You were chairman of the Real Estate Committee?

3 A. In '06 and 07, yes.

4 Q. And there were Real Estate Committee meetings held in '06
5 and '07 concerning the Longfellow project?

6 A. Yes.

7 Q. And Al DelBello appeared before the City council meetings
8 concerning the Longfellow project?

9 A. Yes.

10 Q. And at one of those Real Estate Committee meetings, Al
11 DelBello announced that he had met with Councilwoman Annabi and
12 they had worked out some sort of a compromise with respect to
13 housing units?

14 MR. HALPERIN: Objection, hearsay.

15 THE COURT: Objection sustained.

16 Q. Sandy Annabi was opposed to the Longfellow project when it
17 was initially presented, correct?

18 A. That is correct.

19 Q. Do you recall a City council meeting where the Longfellow
20 item was on the agenda and a number of the seniors from her
21 district attended the City council meeting?

22 A. I do.

23 Q. Okay. And do you recall that Ms. Annabi had the Longfellow
24 item moved up on the agenda so that her seniors could get
25 bussed back to the district for their dinner and to get to bed?

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C2NAAANN2

Robertson - Cross

1 BY MR. ARONWALD:

2 Q. Mr. Robertson, when you met with Mr. Pirro, as you
3 indicated, you were not meeting with him with respect to Ridge
4 Hill?

5 A. No, I wasn't.

6 Q. You weren't meeting with him with respect to any agenda
7 item --

8 A. No, I wasn't.

9 Q. You were meeting with him because you were considering
10 running for the city council presidency and you wanted him to
11 get the independent party endorsement for you?

12 A. Yeah, and I wanted his support.

13 Q. Okay. Was there anything else that you wanted from
14 Mr. Pirro other than his support, politically, for your city
15 council presidency run?

16 A. No.

17 Q. Now the city council is a part-time job, correct?

18 A. That's correct.

19 Q. So during the years of 2004 and 2005, 2006, in fact, during
20 the entire four years you were a city council member you had a
21 job other than your city council job?

22 A. Correct.

23 Q. And where were you working?

24 A. The company was Sky Scraper Services.

25 Q. What was the nature of that business?

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C2NAAANN2

Robertson - Cross

- 1 A. It's a contract cleaning firm, billing service firm.
2 Q. Was the company formed, do you recall what year the company
3 was formed?
4 A. Early 2000, perhaps.
5 Q. Were you ever an owner of that company?
6 A. Yes.
7 Q. During what period of time were you an owner of the
8 company?
9 A. Early 2000 to maybe around 2005 or so.
10 Q. And were you the -- did you own all of the --
11 A. No.
12 Q. Stock in the company?
13 A. No, minority share.
14 Q. Who were the other owners of the company?
15 A. The other owner was Mordechai Levy.
16 Q. Now, what was the nature of the business of Sky Scraper?
17 MR. HALPERIN: Objection; relevance.
18 THE COURT: The objection is sustained.
19 MR. ARONWALD: Your Honor, may we approach so I can
20 explain the relevance?
21 THE COURT: Please.
22 MR. ARONWALD: Thank you very much.
23 (Continued on next page)
24
25

C2NAAANN2

Robertson - Cross

1 (Sidebar)

2 THE COURT: What's the relevance?

3 MR. ARONWALD: The relevance I believe that one of the
4 subjects that came up when Mr. Robertson get's with Mr. Pirro
5 was he wanted Mr. Pirro to refer Mr. Pirro's clients to Sky
6 Scrapper for cleaning services and offered to pay Mr. Pirro --
7 or kickback -- discussions I had with Mr. Pirro.

8 MR. HALPERIN: Then I can call, Mr. Pirro.

9 MR. ARONWALD: I don't have to do that.

10 THE COURT: He doesn't have to do that. I hate to
11 tell you that you guys are the ones who injected Al Pirro into
12 this thing.

13 MR. SIANO: Judge, also I would note that
14 Mr. Robertson's cleaning business had a relationship with
15 Forest City Ratner under a prior iteration.

16 THE COURT: Fine. Okay. I mean, you know, the
17 government chose to get in bed with Mr. Pirro. The government
18 chose to come to me and say they wanted to inject Mr. Pirro
19 into this case. Why? I don't know. Cause the government
20 spent a long time trying to put Mr. Pirro in jail eventually
21 successfully. So as far as I am concerned if you have a good
22 faith basis, if you say you've talked to Al Pirro, in that
23 case, go right ahead.

24 MR. HALPERIN: Judge, I don't understand how they
25 overcome the hearsay objection.

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C2NAAANN2

Robertson - Cross

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MR. ARONWALD: That's what he said.

THE COURT: That's what he said, so you can ask.

MR. CARBONE: Is there something improper about a
referral fee.

THE COURT: Maybe not.

MR. ARONWALD: If Mr. Pirro refused to give it to
him --THE COURT: And maybe not but I don't know where this
is going, Mr. Carbone.

MR. CARBONE: I am concerned --

MR. SIANO: Judge?

THE COURT: Can we get back to the trial?

MR. SIANO: I wanted to do something so we wouldn't --

THE COURT: What?

MR. SIANO: I'm going to go into some of this
independence party stuff that he testified about.

THE COURT: OK.

(Continued on next page)

C2NAAANN2

Robertson - Cross

1 (In Open Court)

2 BY MR. ARONWALD:

3 Q. What was the nature of Sky Scraper's business?

4 A. Sky Scraper was an office cleaning contractor building
5 service company.6 Q. And before you began working at Sky Scraper during the
7 years 1990 to 1999 were you involved in another company?

8 A. Yes.

9 Q. And the name of that company was?

10 A. Well, in 1990 to 93/94, about '93 the company was Akron,
11 same company, type of company and later I was an employee of
12 another company called Kencal, K-E-N-C-A-L.

13 THE COURT: Go ahead.

14 BY MR. ARONWALD:

15 Q. When you -- wasn't the name of the company Akron Cleaning
16 Company, A-K-R-O-N:1990 to 1999?17 A. I don't know how long Akron existed but I had only been
18 there until 1993, early '93. I left. I sold my share.19 Q. Do you recall being interviewed on February 15, 2008 by an
20 FBI agent by the name of Rosemarie Karaka?

21 A. In 1998, yes, I do.

22 Q. Was anyone else present during that interview?

23 A. I don't -- perhaps, another agent.

24 Q. Do you recall where the interview occurred?

25 A. White Plains.

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C2NAAANN2

Robertson - Cross

- 1 Q. Do you recall where in White Plains?
2 A. One of the office buildings. I don't recall exactly.
3 Q. Was it at the FBI office building? Was it the U.S.
4 Attorney's Office building? Was it the courthouse? Do you
5 have any recollection as to where it was?
6 A. One of those buildings. I don't recall exactly.
7 Q. Okay. Didn't you -- withdrawn.
8 Didn't you tell Special Agent Rosemary Karaka that
9 from 1990 to 1999 you had a cleaning company Akron, A-K-R-O-N,
10 Cleaning Company?
11 A. No, I did not.
12 Q. And by the way, did Akron Cleaning Company have among its
13 clients Forest City Ratner?
14 A. Yes. Akron Building Services, I believe was the name.
15 Q. And Forest City Ratner was a customer or client of Akron
16 during the period of time that you were an owner of the
17 company, correct?
18 A. Correct, I left it in '93.
19 Q. Okay. By the way, were you the only owner of Akron?
20 A. No.
21 Q. Were there more than one other co-owner?
22 A. There was one other co-owner.
23 Q. And who was that?
24 A. Eileen Spencer.
25 Q. And what, if any, relationship does Eileen Spencer have to

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C2NAAANN2

Robertson - Cross

1 the former mayor of the City of Yonkers, John Spencer?

2 A. She is the former wife.

3 Q. At the time that she was -- at the time that you and she
4 owned Akron was she and Mr. Spencer still married?

5 A. Yes.

6 Q. Now, I am placing before you a document which we'll mark as
7 25-I for identification -- 25 for identification. I am sorry?

8 THE COURT: Thank you.

9 Q. I am asking you if you would just read the highlighted
10 portion on the bottom three lines?

11 A. 1999.

12 Q. Don't read it out loud.

13 A. Oh, to myself.

14 THE COURT: Thank you.

15 (Pause)

16 A. Okay.

17 Q. Now, did you on February 15, 2008 tell Special Agent
18 Rosemary Karaka from 1990 to 1999 you had a cleaning company,
19 Akron Cleaning Company?

20 MR. HALPERIN: Objection; misstates the document. Can
21 I hand up to the Court please?

22 THE COURT: I don't have it. Will you please be very,
23 very careful not to misstate anything in the document,
24 Mr. Aronwald.

25 MR. ARONWALD: Yes, judge, I'll rephrase the question.

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C2NAAANN2

Robertson - Cross

1 THE COURT: Thank you.

2 Q. Did you tell Agent Karaka that 1990 to 1999 you had a
3 cleaning company, A-K-R-O-N Cleaning Company?

4 A. I couldn't have told her I had it from that time period,
5 no.

6 Q. Did you tell her that you owned Akron Cleaning Company at
7 any time between 1990 and 1999?

8 A. Akron Building Services from 1990 to early '93, perhaps,
9 and you want it -- I don't recall the exact dates but it was a
10 short time.

11 Q. Well, between 1993 and 1999 were you employed?

12 A. Yes.

13 Q. What company?

14 A. In '93 with a company Classico. In the Bronx and '95 to
15 2000 Kencal Services, Kencal Cleaning Company.

16 Q. So Forest City Ratner was a client or customer of Akron,
17 correct?

18 A. Yes, that's correct.

19 Q. Was it also a customer or client of either of the other two
20 conditions you mentioned?

21 A. No.

22 Q. Now, by the way, during the period of time that Forest City
23 Ratner was a client of Akron, do you have any recollection as
24 to how much money the company received from Forest City Ratner?

25 MR. HALPERIN: Objection; relevance.

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C2NAAANN2

Robertson - Cross

1 THE COURT: Sorry. Read it back, please.

2 (Testimony read back)

3 THE COURT: Objection sustained.

4 BY MR. ARONWALD:

5 Q. Did you ever disclose to the city council that Forest City
6 Ratner, you had had a financial relationship with Forest City
7 Ratner before you came a member of the city council?

8 A. Yes, I did disclose that.

9 Q. And in what form did you disclose that?

10 A. I probably disclosed it to the Corporation Counsel and,
11 perhaps, the IG and to the real estate committee meeting. I
12 wanted to be clear.

13 Q. When you say "probably" and you say "perhaps" I am asking
14 you from your specific recollection.

15 A. I don't specifically remember when but I do remember I did
16 make it known that earlier in 1990 I had had a relationship
17 with Forest City Ratner, yes, that was appropriate.

18 Q. Did you recuse yourself --

19 A. It wasn't necessary.

20 Q. Excuse me. Let me finish my question. Did you recuse
21 yourself from the vote on the Ridge Hill project?

22 A. No.

23 Q. Did you disclose in writing to the city council the
24 financial relationship you had with Forest City Ratner before
25 you became a member of the city council?

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C2NAAANN2

Robertson - Cross

1 A. No.

2 Q. Did you on the floor of the city council during any meeting
3 when the Ridge Hill proposal was being asked by the city
4 council, did you ever publicly disclose on the floor of the
5 city council that you had had a financial relationship with the
6 developer Forest City Ratner before you became a member of the
7 city council?

8 A. Not that I recall.

9 Q. You were asked on direct-examination -- by the way -- let
10 me strike that.

11 You testified that it is a requirement that a city
12 council member reside in their district, correct?

13 A. Yes.

14 Q. Okay. Now, did you ever attend any caucus meetings in
15 Sandy Annabi's apartment?

16 A. Yes.

17 Q. At 245 Rumsey Road in the City of Yonkers?

18 A. Yes.

19 Q. On how many occasions?

20 A. Four or five, perhaps.

21 Q. Now, during the meeting you had with Al Pirro didn't you
22 ask Mr. Pirro if he could refer clients of his to your cleaning
23 company, Sky Scraper?

24 A. Morty Levy had wanted to meet with him. I asked him to
25 meet with Morty Levy. That had already been scheduled. I

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Robertson - Cross

1 don't know if that ever happened.

2 Q. And you were an employee of the Sky Scraper at the time
3 that you meet with Mr. Pirro or were you still a minority
4 owner?

5 A. At the time I met with Mr. Pirro I was probably an
6 employee.

7 Q. Okay. And this is the company that you had a minority
8 interest in?

9 A. Correct, I think.

10 Q. And you think that you were a minority owner -- did you
11 think you were an employee at the time of the meeting with Mr.
12 Pirro?

13 A. At some point during the relationship the majority owner
14 changed the charter the agreement and never told me and took me
15 out as an owner.

16 Q. But you continued on as an employee?

17 A. Correct.

18 Q. And was this -- and when you asked Mr. Pirro if he would be
19 able to refer clients of his to Sky Scraper did you discuss
20 with him whether or not Mr. Pirro would receive any financial
21 benefit for doing that?

22 A. No. He told me some stories of some --

23 Q. I am not asking what you told him?

24 A. No.

25 Q. Okay. Did you ever disclose to the city council -- strike

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C2NAAANN2

Robertson - Cross

1 that.

2 During the period of time that you were on the city
3 council, to your knowledge, did Mr. Pirro ever refer any
4 clients of his to Sky Scraper?

5 A. Not to my knowledge, no.

6 Q. And did you ever disclose to the city council the fact that
7 you had solicited business from Mr. Pirro, a consultant for
8 Forest City Ratner, during the period of time that the Ridge
9 Hill project was on the city council, before the city council?

10 A. Not that I recall.

11 Q. Do you think that that's something that the city or the
12 city --

13 A. Not while I met with him.

14 Q. Let me finish my question. Would you think that telling
15 the other members of the city council that you had solicited
16 business from a consultant or lobbyist for the developer of the
17 biggest project before the City of Yonkers that you had
18 solicited business from that person would be at least as
19 important --

20 A. If I had solicited business, yes.

21 Q. Didn't you just testify, sir, that you had solicited --

22 A. Asked him to meet with Mr. Levy.

23 Q. For the purpose of having Mr. Levy get business, correct?

24 A. That was my presumption, correct.

25 Q. You are an employee of the company, correct?

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Robertson - Cross

1 A. Yes.

2 Q. You --

3 A. But I didn't -- the two had to be separate --

4 THE COURT: Excuse me. I can't listen to two voices.

5 Let him finish.

6 MR. ARONWALD: There is no question before him.

7 THE COURT: Let him finish. He is trying to finish
8 his answer.9 A. The two had to be separated. And, again, I was only
10 meeting with Mr. Pirro to discuss the city council president
11 race at those meetings so.

12 Q. You were only --

13 A. And I never met with him any other times.

14 Q. You were only meeting with Mr. Pirro to ask him for his
15 support in the city council presidency race?

16 A. Correct.

17 Q. But during that meeting you asked him if he would be
18 willing to meet with --

19 A. No, that was a separate. It wasn't during that meeting.

20 Q. Okay. So it was in a separate meeting?

21 A. Well, actually, it came up at that meeting, yes.

22 Q. That was something that you never disclosed to the city
23 council?

24 A. No.

25 MR. ARONWALD: One moment, your Honor?
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Robertson - Cross

1 THE COURT: Surely.

2 (Pause)

3 MR. ARONWALD: Thank you very much, your Honor. No
4 further questions.

5 THE COURT: Thank you. Mr. Siano.

6 Why don't we take a five minute break. Don't discuss
7 the case. Keep an open mind.

8 (Jury not present)

9 (Recess)

10 MR. HALPERIN: You Honor, we have one very quick
11 issue. The government handed up during Mr. Aronwald's
12 cross-examination a copy of 3524-E which Mr. Aronwald, page 4
13 which the Court should have at the bottom of the page which
14 Mr. Aronwald was using to suggest that Mr. Robertson had said
15 he had previously worked at the company from 1990-1999. The
16 document that the Court has in front of you specifically says
17 third line from the bottom 1990/199 "dash". And the last year
18 is not indicated.

19 I am not saying Mr. Aronwald did that intentionally.
20 It may have been a mistake but it's important to not misstate
21 the document but he is clearly trying to leave the impression
22 with the jury that the witness said one thing previously that
23 he did not say.

24 MR. ARONWALD: I thought that the copying of material
25 basically had --

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C2NAAANN2

Robertson - Cross

1 THE COURT: Well, it's obvious that it says 1990 to
2 199 something, but so what? I mean the events at issue took
3 place in 2005 and 2006 and whether the 1990 is 1993, 1996 or
4 1999 is years and years and years prior to the events at issue
5 in this lawsuit, a point I am sure the government is capable of
6 making in its summation.

7 (Jury present)

8 (Witness present)

9 THE COURT: Mr. Siano.

10 MR. SIANO: Thank you, your Honor.

11 THE COURT: You are still under oath, sir.

12 CROSS-EXAMINATION

13 BY MR. SIANO:

14 Q. Good morning, Mr. Robertson. My name is Anthony Siano. I
15 represent Mr. Jereis.

16 I wonder, sir, if you could find the original of your
17 calendar, the ring calendar there on the desk in front of you.
18 Now, I just want to clear up, if I could, the specific dates of
19 these meetings that you testified you had with Mr. Pirro. And
20 could you look at the first meeting 310-B please?

21 A. Not the original.

22 Q. I've got to do both. I want you to keep the ring notebook
23 open, sir.

24 A. Okay. Confused. Okay.

25 MR. SIANO: These are in evidence, judge, so I won't

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C2NAAANN2

Robertson - Cross

- 1 left hand we're looking at the last three days of the week,
2 plus the weekend down at the bottom in the corner. I am
3 looking at 310-B. So this is a Thursday, a Friday and a
4 Saturday?
5 A. That's correct.
6 Q. Okay. And I take it then on the other side of the open
7 folio would be Monday, Tuesday and Wednesday?
8 A. That's correct.
9 Q. All right. So for every week when we see the spiral on the
10 left-hand side it is Thursday, Friday, Saturday and Sunday down
11 in the corner and when we see the spiral on the right-hand side
12 we have Monday, Tuesday, Wednesday. Would you agree with me
13 that that's correct?
14 A. That's correct.
15 Q. All right. Now let's try to go through these dates so I
16 can see if I could confirm when they were. 3010-B the meeting
17 with Mr. Pirro depicted on 310-B is on what day of the week?
18 A. Friday.
19 Q. And that is February 25?
20 A. That's correct.
21 Q. All right. Because 26 and 27 are the last two days
22 depicted on the right-hand side of the open folio?
23 A. Yes.
24 MR. SIANO: All right. Now let's go to 310-C,
25 Mr. Terk.

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C2NAAANN2

Robertson - Cross

1 Q. Now, here and I don't want to characterize your testimony
2 but if you can you find 310-C, I want to give you some time,
3 Mr. Robertson, in the page in your book.

4 A. Okay.

5 Q. You there?

6 A. Yes, sir.

7 Q. Once again, we have the spiral as we look at the 310-C
8 exhibit on the left-hand side which means the end of the week;
9 is that correct?

10 A. Yes, that's correct.

11 Q. And the meeting with Mr. Pirro which I believe you
12 testified was the second meeting is on a Friday; isn't that
13 right?

14 A. That's correct.

15 Q. And the date is, in fact, April 1st; isn't that right?

16 A. Yes.

17 MR. SIANO: Thank you. Now, if you'll go to 310-D.

18 Mr. Terk, thank you, sir. He is ahead of me.

19 Judge, may I approach the witness?

20 THE COURT: You, certainly, may.

21 (Pause)

22 Q. You found the open folio pages, sir?

23 A. Yes.

24 Q. Now, this time we have the spiral in the picture in 310-B
25 the spiral is on the right-hand side?

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C2NAAANN2

Robertson - Cross

1 A. Yes.

2 Q. And that would indicate the beginning of the week; is that
3 correct?

4 A. Yes.

5 Q. All right. And the meeting with Mr. Pirro in 310-D appears
6 to be 1115 Al P and was on a Tuesday?

7 A. Yes.

8 Q. And it was May 3rd?

9 A. Yes.

10 Q. Thank you very much, Mr. Robertson. You can close all of
11 that up.12 Now, you testified earlier that you were meeting with
13 Mr. Pirro because he was a power broker. I believe that was
14 the phrase you used.

15 A. Yeah.

16 Q. I mean when you said "power broker" and I'm not trying to
17 be sarcastic. You were not talking about Con Edison?

18 A. No.

19 Q. All right. And, in fact, he was also at the time a
20 convicted felon; isn't that right?

21 A. I suppose so.

22 Q. You suppose so?

23 A. Yes.

24 Q. You know for a fact he was a convicted --

25 A. Yes.

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C2NAAANN2

Robertson - Cross

1 Q. All right. So you weren't supposing at all, were you,
2 Mr. Robertson?

3 A. No.

4 Q. In fact, he was convicted of 29 federal felonies; isn't
5 that right?

6 MR. HALPERIN: Objection; relevance.

7 THE COURT: The objection is overruled.

8 Q. 29 federal felonies; isn't that right?

9 A. I don't know the exact number.

10 Q. Well, approximately, it was a lot of federal felonies?

11 A. Yes.

12 Q. And at the time he was convicted of these federal felonies
13 you were living in Yonkers; isn't that right?

14 A. Yes.

15 Q. Are you a Republican at that time?

16 A. What was the year?

17 Q. Was in the 1990s.

18 A. No.

19 Q. You had already changed parties; isn't that right?

20 A. Yes. Well, actually, I changed parties in 1992.

21 Q. You had been a re --

22 A. I had been a Republican in '89.

23 Q. Then you became a Democrat?

24 A. Yes, sir.

25 Q. I would call it changing hats.

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C2NAAANN2

Robertson - Cross

1 A. Yes.

2 Q. And at the time Mr. Pirro was convicted in federal court
3 not only was he a Republican but his spouse was the district
4 attorney in Westchester County; isn't that right?

5 MR. HALPERIN: Objection; relevance.

6 THE COURT: The objection is sustained.

7 BY MR. SIANO:

8 Q. Now, Mr. Pirro, in addition to being convicted, also spent
9 a period of time in federal prison; isn't that right?

10 A. Yes.

11 Q. And, notwithstanding, any of those events you went to him
12 because he was a Republican power broker?13 A. At the time, Independence, yes. I didn't say "Republican".
14 I was seeking the Independence line.15 Q. I know it's what you were looking for but what I am asking
16 you is what he was. He was a Republican; isn't that right?17 A. I'm not sure at that time if he was. I thought, perhaps,
18 he may have been an independent.

19 Q. Did you ask him?

20 A. I don't recall.

21 Q. It wasn't important to you?

22 A. Not necessarily.

23 Q. Because you are looking for his support to get a minor
24 party line; isn't that right?

25 A. That's correct.

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C2NAAANN2

Robertson - Cross

- 1 Q. And it was the Independence party; isn't it right?
2 A. That's correct.
3 Q. And that party, the chairman of that party was somebody
4 named Giulio Cavallo; isn't that right?
5 A. Yes.
6 Q. And you talked to Mr. Pirro about that subject?
7 A. Yes.
8 Q. And Mr. Pirro in one of these meetings, actually, offered
9 to help you; isn't that right?
10 A. Yes.
11 Q. He offered to buy a table at Dr. Cavallo's dinner for
12 \$10,000 for you; isn't that right?
13 A. That's correct.
14 Q. He made that offer?
15 A. He did.
16 Q. And did you go?
17 A. No.
18 Q. Did you get the Independence party nomination?
19 A. No.
20 Q. Who got it?
21 A. Richard Martinelli.
22 Q. Who won the race for city council?
23 A. Chuck Lesnick.
24 Q. And Mr. Martinelli was what party?
25 A. Republican.

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C2NAAANN2

Robertson - Cross

1 Q. And you were looking to run as what?

2 A. A Democrat.

3 Q. Now, you've used that expression "power brokers" on other
4 occasions, haven't you?

5 MR. HALPERIN: Objection; ambiguous.

6 MR. SIANO: Ambiguous.

7 THE COURT: Is there is nothing ambiguous about the
8 question.

9 Q. Mr. Robertson, did you understand my question?

10 THE COURT: There is nothing ambiguous about the
11 question. Answer it.

12 A. Sure.

13 Q. Let me show you what's been marked as 3524-I and all I want
14 you to do is look at the pages, Mr. Robertson. Let me go back.
15 Just look at them and ask if you recognize them.

16 A. Yes.

17 Q. And they are, in fact, your handwritten notes; isn't that
18 right?

19 A. Correct.

20 Q. And you prepared those incident to your meeting with the
21 government; isn't that right?

22 A. That's correct.

23 Q. Approximately, when in time do you recall handing these to
24 the government of the United States of America?

25 A. 2007 at some time, perhaps.

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C2NAAANN2

Robertson - Cross

- 1 Q. 2007?
2 A. Yeah, I believe so, yes.
3 Q. All right.
4 A. Maybe.
5 Q. Now, if you would look at the last page of that exhibit,
6 sir.
7 A. Yes.
8 Q. And that is your handwritten notes about the year 2007;
9 isn't that right?
10 A. Yes.
11 Q. And, in fact, you are commenting on the 2007 election
12 campaign which you testified on direct you lost; isn't that
13 right?
14 A. Yes.
15 Q. So, in order to try to figure out when you may have handled
16 these notes to the government is it fair to say the earliest it
17 could have been was very late in the year?
18 A. It was probably 2008 based on this.
19 Q. That's all right, Mr. Robertson.
20 A. I was just mistaken as to when the subpoenas came out.
21 Q. We are going to get to that.
22 A. Okay.
23 Q. I am not trying to confuse you. I am trying to fix a date
24 on a document that doesn't have a date.
25 A. Okay.

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C2NAAANN2

Robertson - Cross

1 Q. So now having looked at the last page your memory is clear
2 that this was sometime in 2008?

3 A. Correct.

4 Q. And, in fact, you told the government in this document
5 mostly in 2007 all -- and you put it in quotes -- "players and
6 power brokers of all parties worked against me"; is that right?

7 MR. HALPERIN: Objection to the process of refreshing
8 the witness' recollection.

9 THE COURT: Are you trying to refresh his
10 recollection?

11 MR. SIANO: I'm trying to find out what he told the
12 government, judge, and again --

13 THE COURT: Well, here is the way to do it. If you
14 ask him if he said it, if he says he doesn't recall you can
15 show him a document and ask if it jogs his memory. If it
16 doesn't, then you'll have to move on.

17 MR. SIANO: Thank you, judge.

18 Q. Mr. Robertson, did you tell the government orally or in
19 writing that as to the 2007 election mostly in 2007 all players
20 and power brokers of all parties worked against you?

21 A. Yes.

22 Q. Thank you. Now you used the word "power brokers" again;
23 isn't that right?

24 A. Yes.

25 Q. And this was essentially your experience with the process

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C2NAAANN2

Robertson - Cross

1 of attempting to enlist some of those brokers on your side in
2 2007?

3 A. Correct.

4 Q. You expressed a slightly different opinion on the subject
5 to Ms. Annabi, didn't you?

6 A. I don't understand the question.

7 MR. SIANO: Let me see if I can clarify a little bit.
8 Judge, this will take me just a moment.

9 (Pause)

10 Q. Isn't it a fact, sir, that you told Ms. Annabi that she
11 didn't need any power brokers?

12 A. I told her she didn't need any other political lines other
13 than the Democratic line.

14 Q. Is it your testimony, sir, you did not tell Ms. Annabi she
15 does not need any of these power brokers?

16 A. I don't recall.

17 Q. All right. Let me show you what's been previously parked
18 as 3524-A, specifically, directing you to page 23?

19 MR. SIANO: And for reference of the government lines
20 14 and 15.

21 Q. And you could take your time, Mr. Robertson. You could
22 look at the whole document if you want.

23 THE COURT: Read it to yourself please.

24 MR. SIANO: Thank you, judge.

25 (Pause)

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C2NAAANN2

Robertson - Cross

- 1 A. Yes.
- 2 Q. You recall telling Ms. Annabi that?
- 3 A. Yes.
- 4 Q. Nevertheless, in the year 2005 and you yourself had sat
5 down with a convicted federal felon seeking his support; isn't
6 that right?
- 7 A. Correct.
- 8 Q. And, nevertheless, in 2007 you recall that all players and
9 power brokers had campaigned against you?
- 10 A. It was a different election I was referring to.
- 11 Q. But, nevertheless, you told the government that's what
12 happened?
- 13 A. Correct.
- 14 Q. Isn't it a fact you also told the government that in 2007
15 Mr. Jereis had helped you in your election?
- 16 A. He had offered to help me, yes, yes.
- 17 Q. Isn't it a fact, sir, that you said that Mr. Jereis had
18 helped you?
- 19 A. Yes.
- 20 Q. And isn't it a fact that Mr. Jereis and members of his
21 family had actually made contributions of their own money to
22 you?
- 23 A. Yes.
- 24 Q. And isn't it a fact that at that time he was still a
25 Republican?

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C2NAAANN2

Robertson - Cross

- 1 A. Yes.
2 Q. And you were still a Democrat?
3 A. Yes.
4 Q. Now, you are familiar with a gentleman by the name of
5 "Spencer", aren't you?
6 A. "John Spencer"?
7 Q. "John Spencer".
8 A. Yes.
9 Q. He was the mayor of the City of Yonkers?
10 A. Correct.
11 Q. And when he was the mayor of the city of Yonkers do you
12 remember the years he was the mayor, just so we keep it clear?
13 A. He is elected in '94 so he was mayor 95/96. I am sorry '96
14 to two four year terms.
15 Q. '96 to?
16 A. 2003.
17 Q. And while he was mayor you were awarded a cleaning
18 contract, isn't that right, for city hall?
19 A. It was an emergency contract, yes.
20 Q. It was the \$250,000 emergency?
21 A. Yes, that was the amount over the amount of time that was
22 23,000 a month.
23 Q. And you were awarded that contract; isn't that right?
24 A. It wasn't an award. He had -- the company he had had
25 walked out and his person responsible that called me and asked

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C2NAAANN2 Robertson - Cross

1 me if I could handle it and I did.

2 Q. And you got the money, \$23,000 month?

3 A. That was the contract.

4 Q. Did you get the money?

5 A. Yes.

6 Q. Now, you also were appointed to something called the
7 Yonkers IDA during Mr. Spencer's administration; isn't that
8 right?

9 A. Prior to his administration he reappointed me.

10 Q. He --

11 A. I was originally appointed by --

12 THE COURT: By whom?

13 A. Mayor Spallone.

14 THE COURT: Thank you.

15 Q. And after Mayor Spallone, Mayor Spencer reappointed you?

16 A. Mayor Zaleski, the Mayor Spencer, correct.

17 Q. During that contract during Mr. Spencer administration
18 Yonkers IDA studied something called the Yonkers Ballpark;
19 isn't that right?

20 MR. HALPERIN: Objection; relevance.

21 A. That's right.

22 THE COURT: The objection is sustained.

23 Q. Did you receive \$84,000 for that project?

24 MR. HALPERIN: Objection; relevance.

25 THE COURT: I'll let it in.

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C2NAAANN2

Robertson - Cross

1 Q. You received \$84,000?

2 A. I received a consulting contract from the IDA that related
3 to more than just what you referred to, yes.

4 Q. And did you received \$85,000, sir?

5 A. Yes.

6 MR. SIANO: Thank you, sir.

7 THE WITNESS: Can I clarify?

8 THE COURT: No, you'll get to clarify on redirect.
9 That's what redirect is for.

10 THE WITNESS: Thank you.

11 Q. In fact, do you recall telling the government in the year
12 2008 that when Mr. Pirro was telling you about giving
13 Mr. Jereis a consultancy it was a boast?

14 A. Yes.

15 Q. Now, you testified on direct about inquiring of Ms. Annabi
16 as to the nature of her relationship with Mr. Jereis; is that
17 correct?

18 A. Yes.

19 Q. Now, what was the specific phrasing of the question, sir?

20 A. I believe I asked her if they were related and then I asked
21 her if there was more to the relationship when she told me they
22 weren't related.

23 Q. You didn't use the words "more to the relationship", did
24 you, Mr. Robertson?

25 A. I am not quite sure.

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C2NAAANN2

Robertson - Cross

1 Q. Didn't you, in fact, ask if Mr. Jereis was her boyfriend?

2 A. Perhaps.

3 Q. Perhaps?

4 A. I may have put it that way. I am not sure.

5 Q. And, in fact, you told the government when you told the
6 government about that question that Ms. Annabi's response was
7 to go silent; isn't that right?

8 A. On that question?

9 Q. Yes.

10 (Pause)

11 Q. I am waiting, Mr. Robertson. Did you say --

12 A. I don't recall saying that, no, on that question.

13 MR. SIANO: Judge, I am going to need just one moment.
14 I apologize for the lull. I have to find the specific
15 reference.

16 (Pause)

17 Q. Mr. Robertson, with your permission, I am going to move on
18 to something else and come back to this; is that all right?

19 A. Sure.

20 Q. Now, over the course of the discussions and debate about
21 Ridge Hill, sir, there was a fair amount of community
22 involvement; is that correct?

23 A. Yes.

24 Q. There was a whole lot of people making a whole lot of
25 noise; isn't that right?

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C2NAAANN2

Robertson - Cross

1 A. That's correct.

2 Q. Including a lot of what you described as pressure; isn't
3 that right?

4 A. I am sorry.

5 Q. Including a lot of what you described as pressure?

6 A. "Pressure"?

7 Q. Yes. From unions?

8 A. Yes.

9 Q. And there were instances of demonstrations by various
10 unions and union leaders?

11 A. That's correct.

12 Q. Were you ever aware of people demonstrating at council
13 members' homes?

14 A. I don't recall.

15 Q. Were you ever aware, sir, that union members were visiting
16 people's offices?

17 MR. HALPERIN: Objection; relevance.

18 THE COURT: The objection is sustained.

19 Q. Now, going back to the meeting with Mr. Pirro. They were
20 there in number and we've already identified them as being
21 spaced out about two months each apart; is that right?

22 A. Yes.

23 Q. And you never, specifically, told Mr. Bender of Mr. Pirro's
24 boast that he could obtain Sandy Annabi's vote by giving Zehy
25 Jereis a consultancy, did you?

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C2NAAANN2

Robertson - Cross

1 A. I don't recall.

2 Q. Now, nevertheless, you asked Mr. Bender, specifically, why
3 all these power brokers were involved, isn't that right?

4 A. I don't recall.

5 (Continued on next page)

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C2n0ann3 Robertson - cross - Siano

1 THE WITNESS: Your Honor, can I say --

2 THE COURT: You answer his question. If anything
3 needs to be cleared up, it will be cleared up on redirect.

4 THE WITNESS: Okay.

5 A. I did mention to Mr. Bender, just to follow up.

6 Q. There is no question pending, Mr. Robertson.

7 THE COURT: You may complete your answer.

8 A. I did mention to Mr. Bender that if Mr. Pirro was charging
9 him for his time with me, don't pay it because I was not there
10 to discuss Ridge Hill.

11 Q. That's what you do recall telling Mr. Bender?

12 A. I do recall telling Mr. Bender that; yes, sir.

13 MR. SIANO: Judge, I need a moment.

14 THE COURT: Uh-huh.

15 THE WITNESS: Your Honor?

16 BY MR. SIANO:

17 Q. Now, do you recall, sir, speaking to the agents of the
18 Federal Bureau of Investigation in or about July of 2008?

19 A. Yes.

20 Q. All right.

21 Let me show you 3524 F. Let me show you some
22 handwritten notes.

23 MR. SIANO: And with the Court's permission I'm going
24 to -- it's lengthy. And that's why it took me so long.

25 Q. Mr. Robertson, you are free to look at this as much as you

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C2n0ann3 Robertson - cross - Siano

1 want, but I want to direct your attention to the middle of the
2 page, it's the page that begins 2 DR, DR tells SA. But I want
3 you to look at --

4 A. Read it.

5 Q. Don't read it out loud.

6 A. Uh-huh.

7 Q. Start reading there where, DR.

8 MR. SIANO: Just a moment, Judge. May I consult with
9 Mr. Halperin?

10 THE COURT: You may.

11 MR. SIANO: Thank you, Judge.

12 THE COURT: Lots of consulting going on here, not a
13 lot of asking questions.

14 MR. SIANO: Judge, a set of notes, it's about 30 pages
15 in length, without page numbers. I think it's the 18th page.

16 Ms. Gallego, is the only one on top of this, Judge
17 Thank you.

18 BY MR. SIANO:

19 Q. Mr. Robertson, have you found the reference? It begins --

20 A. Yes, sir. Yup. Yes.

21 Q. All right. Now, do you recall asking Ms. Annabi on this
22 one occasion if Mr. Jereis was her boyfriend.

23 Do you recall telling the FBI that?

24 A. I don't recall it, but I --

25 Q. Well, does that help you remember what happened when you

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C2n0ann3 Robertson - cross - Siano

1 asked the question, that's what I'm trying to get at?

2 A. Yes.

3 Q. What happened when you asked the question?

4 A. Yes.

5 Q. Ms. Annabi, when you asked her: Is Zehy Jereis your
6 boyfriend?

7 A. She said no.

8 Q. She said no?

9 And that's your recollection?

10 A. That's my recollection.

11 MR. SIANO: Thank you, sir.

12 THE WITNESS: Thank you.

13 BY MR. SIANO:

14 Q. Now, do you recall telling the FBI when you were
15 interviewed with them in that simple interview that's in front
16 of you, that you were more stunned by Mr. Lesnick's vote than
17 Sandy Annabi's vote?

18 A. Yes.

19 Q. And, in fact, that was the case, wasn't it?

20 A. Yes.

21 Q. And did you -- did you, in fact, at the time, in 2006, you
22 individually, believe that Dee Barbato would never vote for
23 Ridge Hill because, in your words, her political butt was on
24 the line?

25 A. Yes.

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C2n0ann3 Robertson - redirect

- 1 that I had proposed at one point much earlier than it ever
2 became public. And we were also discussing the possibility of
3 taking over the Sprain Golf Course from the county and making
4 it a -- perhaps the golf hall of fame, since Yonkers had been
5 the home of golf and --
6 Q. In the United States.
7 A. Home of golf in the United States. We had also been
8 discussing -- there had been some money that the county had out
9 there, about \$15 million of money, that we could have used, the
10 City, for some of our infrastructure -- it was available -- for
11 the downtown area.
12 Q. Now, what year did your company get the 84,000-dollar
13 contract?
14 A. Well, that was -- to me.
15 Q. And what year was that?
16 A. 1999, 2000, that area.
17 Q. How many years was that before you joined the City council?
18 A. Four.
19 Q. Four years before you joined the City council?
20 A. As a matter of fact, I terminated that contract when I had
21 made a decision to run for City council. And that was the
22 reason I had given when I resigned.
23 Q. Thank you. Counsel asked about your position on Ridge
24 Hill; do you recall that, there was lots of questions?
25 A. Yes.

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C2n0ann3 Robertson - redirect

1 Q. Okay. Mr. Robertson, how many times did Al Pirro pay your
2 mortgage?

3 A. Never.

4 Q. How many times did he pay your monthly maintenance
5 payments?

6 A. Never.

7 Q. How many times did he pay your Con Ed bill?

8 A. Never.

9 Q. Your cable bill?

10 A. Never.

11 Q. Your down payment on your Mercedes?

12 A. Never.

13 I don't have one, actually.

14 Q. Counsel asked about your meeting with Al Pirro -- your
15 meetings with Al Pirro in 2005, correct? Do you recall that?

16 A. Yes.

17 Q. And he was a convicted felon at the time, correct?

18 A. Yes.

19 Q. And he was a lobbyist for Forest City Ratner at the time,
20 correct?

21 A. Yes.

22 Q. So Forest City Ratner had hired a former convicted felon to
23 work on the Ridge Hill project, correct?

24 A. Yes.

25 MR. HALPERIN: Nothing further.

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C2n0ann3

Robertson - redirect

1

THE COURT: Anything else?

2

MR. ARONWALD: Nothing further, your Honor.

3

MR. SIANO: Nothing, your Honor.

4

THE COURT: You are done, sir. Step down.

5

Call your next witness.

6

THE WITNESS: Thank you.

7

(Witness excused)

8

MR. ARONWALD: Your Honor, except that please instruct

9

the witness that he is subject to recall when the government
rests its case.

10

11

MR. HALPERIN: We will do so.

12

THE WITNESS: Thank you.

13

MR. HALPERIN: Your Honor, the government calls

14

Michael Spano.

15

THE CLERK: Remain standing in front of the chair.

16

Raise your right hand.

17

MICHAEL SPANO,

18

called as a witness by the Government,

19

having been duly sworn, testified as follows: Michael

20

Spano

21

THE COURT: You may inquire.

22

DIRECT EXAMINATION

23

BY MR. HALPERIN:

24

Q. Good afternoon, Mr. Spano.

25

A. Good afternoon.

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C2n0ann3 M. Spano - direct

- 1 Q. Sir, what city do you live in?
2 A. I live in the City of Yonkers.
3 Q. What do you do for work?
4 A. I'm Mayor of the City of Yonkers.
5 Q. When were you elected Mayor of the City of Yonkers?
6 A. This past November.
7 Q. Congratulations.
8 What political party are you?
9 A. Democrat.
10 Q. Did you ever switch parties?
11 A. Yes, I did.
12 Q. You used to be, what party?
13 A. I used to be Republican.
14 Q. Who did you defeat in last November's election?
15 A. Former councilman John Murtagh, and Carlo Calvi.
16 Q. And when did you take office, sir?
17 A. January 1. Of this year.
18 Q. Seven weeks ago?
19 A. Yes.
20 Q. How long have you lived in Yonkers?
21 A. I have lived in Yonkers my whole life.
22 Q. The before serving as mayor of Yonkers, what other public
23 office have you previously held.
24 A. I served in the New York State Assembly. And I also served
25 as a county legislator for a short period of time.

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C2n0ann3

M. Spano - direct

1 Q. What years did you serve in the New York City Assembly?

2 A. I first got elected in 1992 in a special election, served
3 for a short stint, then was elected to the county legislature
4 in '93. In '94, I went and got reelected to the assembly.
5 Served to 2004. Left in 2004. And then after two years, ran
6 for the assembly again in 2006, and served up until I left to
7 become mayor.

8 Q. And when you served the assembly, what areas did your
9 assembly district cover?

10 A. It was -- the district was entirely contained in the City
11 of Yonkers.

12 Q. After you left the assembly at the end of 2004, what did
13 you do for work next?

14 A. In 2004, after I left the assembly I went to work for
15 Patricia Lynch Associates.

16 Q. And what year did you start with Patricia Lynch Associates?

17 A. 2005. April 2005.

18 Q. And what is Patricia Lynch Associates?

19 A. It's a lobbying firm.

20 Q. Who is Patricia Lynch?

21 A. She is the owner of the lobbying firm.

22 Q. Have you heard of Forest City Ratner, sir?

23 A. Yes, I did.

24 Q. What does Forest City Ratner do?

25 A. Forest City Ratner is a developer.

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C2n0ann3

M. Spano - direct

- 1 Q. And what, if any, was Forest City Ratner's involvement with
2 the Ridge Hill project in Yonkers?
- 3 A. I -- they were the developer for the Ridge Hill site.
- 4 Q. What if any was the relationship between Forest City Ratner
5 and Patricia Lynch Associates?
- 6 A. Patricia Lynch Associates handled Forest City Ratner for
7 lobbying issues in New York State.
- 8 Q. And what if any work did you do for Patricia Lynch
9 Associates on the Ridge Hill project?
- 10 A. I lobbied for the Ridge Hill project.
- 11 Q. In favor of the project?
- 12 A. I lobbied in favor of the project.
- 13 Q. And, roughly, when did you start working on the Ridge Hill
14 project for Patricia Lynch Associates?
- 15 A. I would say sometime in the summer months.
- 16 Q. Of 2005?
- 17 A. Of 2005.
- 18 Q. And what specifically was your role and your assignment
19 when you worked on the Forest City Ratner account for Patricia
20 Lynch Associates?
- 21 A. To lobby for a successful conclusion, to get -- be able to
22 try and get one of the council members to vote for the project.
- 23 Q. And were you trying to help get the project passed, or were
24 you opposing the project?
- 25 A. I was trying to get the project passed.

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C2n0ann3 M. Spano - direct

- 1 Q. Did the Yonkers City council have to approve the zoning
2 change for Ridge Hill to proceed?
3 A. Yes, they did.
4 Q. Now, directing your attention to September 2005, how many
5 votes from the City council did the project need to go forward?
6 A. I believe they needed five.
7 Q. You believe, or you know.
8 A. I know they needed five.
9 Q. And how many supporters were there at the time on the
10 council?
11 A. Four.
12 Q. Which council members, if any, were you focusing on to try
13 to get that person's support?
14 A. I attempted to get Councilwoman Sandy Annabi's vote.
15 Q. And what made you focus on Councilwoman Annabi?
16 A. Well, knowing the three, it was Councilwoman Sandy Annabi,
17 Councilman John Murtagh, and Councilwoman Dee Barbato. And
18 considering I represented the area for as long as I did, I
19 knew, by my own assessment, that Sandy Annabi would be the more
20 likely person to get to win support for the project.
21 Q. Have you seen Sandy Annabi on numerous occasions?
22 A. Yes.
23 Q. Do you see the person you have been referring to as Sandy
24 Annabi in the courtroom here today?
25 A. Yes, I do.

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C2n0ann3 M. Spano - direct

1 Q. Please point to her and state where she is sitting.

2 A. Right ahead of me.

3 THE COURT: Indicating Ms. Annabi.

4 THE WITNESS: Okay, sorry.

5 Q. Mr. Spano, do you know someone named Zehy Jereis.

6 A. Yes, I do.

7 Q. What position did he used to hold?

8 A. Republican Chair for the City of Yonkers.

9 Q. Have you seen him on numerous occasions?

10 A. Yes.

11 Q. Is the person you have been referring to as Zehy Jereis in
12 the courtroom here today?

13 A. Yes, I do.

14 Q. Please point to him.

15 A. Standing up in the back row right now.

16 THE COURT: Indicating Mr. Jereis.

17 Q. Now, you said a moment ago you were focusing your efforts
18 on Sandy Annabi's support for the project.

19 Who if anyone did you talk to to try to get
20 Ms. Annabi's support?

21 A. I spoke with Zehy Jereis.

22 Q. And anyone else?

23 A. I spoke with a number of people.

24 Q. I'm now going to show you what has been marked as
25 government exhibit 371.

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C2n0ann3 M. Spano - direct

1 MR. HALPERIN: One moment, Judge.

2 BY MR. HALPERIN:

3 Q. Sir, do you recognize government exhibit 371?

4 A. Yes, I do.

5 Q. What do you recognize it to be?

6 A. I would say it's an e-mail from me to Bruce Bender.

7 Q. Were you included -- is it an e-mail chain?

8 A. Yes.

9 Q. Okay. Were you included on the e-mails in this document?

10 A. Yes, I was.

11 Q. What project does this e-mail chain relate to?

12 A. Relates to Ridge Hill development project in Yonkers.

13 Q. What is the date of the e-mails?

14 A. The date of the e-mail is September 25th, 2005.

15 Q. And is this a true and accurate e-mail chain that you
16 reviewed around that date?

17 A. Yes, it is.

18 MR. HALPERIN: Your Honor, the government offers into
19 evidence government exhibit 371.

20 MR. ARONWALD: Objection on hearsay grounds.

21 THE COURT: Go on to something else, please.

22 BY MR. HALPERIN:

23 Q. Now, around this time in September 2005, did you have any
24 conversations with Sandy Annabi about the Ridge Hill project?

25 A. Yes, I did.

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C2n0ann3 M. Spano - direct

- 1 Q. At this time in September 2005, based on those
2 conversations, how would you describe the strength of Annabi's
3 opposition for the Ridge Hill project?
4 A. She was opposed to the project.
5 Q. How strongly opposed?
6 A. She was completely opposed to the project.
7 Q. What if anything did you hear her say about what it would
8 take for her to support the project?
9 A. I think the best way to describe it is one of the last
10 conversations I had with her was: Unless my demands are met,
11 and those of Dee and John's are met, I will not be supporting
12 the project.
13 Q. And by Dee and John who did you understand her to mean?
14 A. Councilwoman Barbato and Councilman Murtagh.
15 Q. Now at the time in September 2005, what was Mr. Jereis'
16 position in Yonkers politics?
17 A. He was Republican Chair.
18 Q. Did you ever have discussions with Zehy Jereis about his
19 relationship with Sandy Annabi?
20 A. Yes, I have.
21 Q. What if anything did he tell you about his political
22 relationship with Sandy Annabi?
23 A. That he always felt that he had a tremendously strong bond
24 with Sandy, felt that politically he was a force in her career,
25 helped make her career, and that he felt he had access to her.

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C2n0ann3 M. Spano - direct

1 Q. What else, if anything, did he say about his relationship
2 with Ms. Annabi?

3 A. Just that -- that he -- he created her, he was her
4 political creation and that --

5 Q. He was her, or she was his?

6 A. I'm sorry, she was his political creation.

7 MR. HALPERIN: Your Honor, has the Court had the
8 chance to review 371?

9 THE COURT: We'll talk about it when we break for
10 lunch. Mayor Spano will be coming back after lunch, I'm sure.

11 MR. HALPERIN: Okay. Thanks.

12 Q. What if anything had Mr. Jereis told you had about how
13 Ms. Annabi got into politics?

14 A. When we discussed it, obviously over time, it basically
15 centered on the fact that he had courted her, he had got her to
16 get to consider running for public office. He had helped her
17 to get the things that people who hold public office need,
18 which is help raise money, help her get on the ballot, help her
19 get the party's nomination. All of the things that, you know,
20 someone who supports you would do.

21 Q. What if anything did Mr. Jereis tell you about how long he
22 had been involved in Ms. Annabi's political career?

23 A. Since the very beginning.

24 Q. Now, when you served as lobbyist, what if any contact did
25 you have with Zehy Jereis about the Ridge Hill project and

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C2n0ann3 M. Spano - direct

1 Ms. Annabi's vote?

2 A. I had some discussions with them.

3 Q. Did you have a meeting with Zehy Jereis and Sandy Annabi at
4 her families house at 45 Bacon Place in Yonkers?

5 A. Yes, I did.

6 Q. How did you get to the meeting?

7 A. I -- I attended -- I went to the meeting with Zehy Jereis.

8 Q. Same car?

9 A. Yes.

10 Q. Did you talk to Zehy Jereis on the way to the meeting in
11 Ms. Annabi's family's house?

12 A. Yes.

13 Q. And during the car ride, did you talk to him about the
14 Ridge Hill project?

15 A. Yes, we did. I was discussing with him ways that we could
16 try to win her support for the project.

17 Q. And how receptive was he during this car ride?

18 A. I thought he was very much on the same page.

19 Q. How would you describe his demeanor toward you in the car
20 ride?

21 A. Very friendly.

22 Q. And what happened when you got to the house and had this
23 meeting with Mr. Jereis and Ms. Annabi?

24 A. Well, when we went to -- went into Councilwoman Annabi's
25 home, we had a nice meal, and we were trying to -- I was trying

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C2n0ann3

M. Spano - direct

1 to talk with Sandy about why I think this was a good project
2 for the City of Yonkers. And it was -- I was -- I was -- put
3 it this way, I was by myself in pushing for the project.

4 Q. Expand on that. What do you mean by that?

5 A. At that point, Zehy took the other position. And he --
6 he was basically -- I don't remember the exact words, but he
7 basically was on Sandy's side in opposition to the project and
8 didn't really offer me any help in trying to convince her to
9 support the project.

10 Q. What type of tone did Zehy Jereis take toward you during
11 that meeting?

12 A. He was tough. He was -- he was -- at one point, he even
13 raised his voice with me.

14 Q. With you?

15 A. Yes.

16 Q. And what if anything did Mr. Jereis say during the meeting
17 about whether or not he should or should not support the
18 project?

19 A. He did not believe that she should support the project,
20 that was the indication that I felt he was giving off at that
21 meeting.

22 Q. At some later point, after the meeting, did you ever talk
23 to Zehy Jereis about what had happened during the meeting?

24 A. Yeah, when we left.

25 Q. What did he say and what did you say?

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C2n0ann3

M. Spano - direct

1 A. I asked him, I said what was that all about. And he
2 basically just indicated to me that, you know, Sandy needs to
3 trust me. And -- and I needed to show I was on her side.
4 Q. Did he apologize to you?
5 A. I don't know if he used those words.
6 Q. After the meeting with Jereis and Annabi at Annabi's
7 family's house, did you ever meet with Sandy Annabi alone to
8 talk to her?
9 A. Yeah, I decided that since that didn't work, I should meet
10 with Sandy alone.
11 Q. Where did you meet with her?
12 A. On Central Avenue at a Dunkin Donuts.
13 Q. Did you speak to Sandy Annabi about what had happened at
14 the meeting that Mr. Jereis had been tough with you?
15 A. Yes, I did. I asked her, what was that all about with
16 Zehy?
17 Q. And what did she say?
18 A. She said, you know, to understand Zehy looks out for me and
19 I'm loyal to him.
20 Q. And I'm what?
21 A. I'm loyal to him.
22 Q. What if anything did Ms. Annabi say about how she had
23 gotten into politics?
24 A. Well, I don't remember the exact words, but she basically
25 indicated, you know, Zehy has always been there, he has been

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C2n0ann3

M. Spano - direct

- 1 there with me since the beginning, and he is somebody I rely
2 upon.
- 3 Q. And what if anything did she say about why she was in
4 office?
- 5 A. Oh, she's in office because of -- because of Zehy.
- 6 Q. Now, did you a conversation with Zehy Jereis about someone
7 named Chris Spring?
- 8 A. Yes, I did.
- 9 Q. Who is Chris Spring?
- 10 A. Chris Spring is the brother of a former Mayor of Yonkers.
- 11 Q. The brother or --
- 12 A. I'm sorry, the brother-in-law of a former Mayor of Yonkers.
- 13 Q. Which former mayor?
- 14 A. John Spencer.
- 15 Q. What did Mr. Jereis say to you about Chris Spring?
- 16 A. Well, I mean it was just a politically Frank discussion,
17 where he was complaining about Chris Spring working for Forest
18 City Ratner and --
- 19 Q. Chris Spring had a job with Forest City Ratner?
- 20 A. Yes.
- 21 Q. Okay.
- 22 A. He worked over at Ridge Hill, so.
- 23 Q. What if anything do you remember Mr. Jereis saying to you
24 about jobs.
- 25 A. Just complaining. Just, you know, where the -- he got the

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C2n0ann3

M. Spano - direct

1 job, where is the job for the Republican leadership.

2 Q. He said to you where is the job?

3 A. Where are the jobs for the Republican leadership.

4 Q. When he said to you where are the jobs for Republican
5 leadership, who did you understand him to be talking about?

6 A. I think it was either him, someone close to him, or --
7 somebody, you know, within the party.

8 Q. Who was the Republican leadership in the City of Yonkers at
9 the time?

10 A. It was Zehy.

11 MR. HALPERIN: Your Honor, that's the end of the
12 direct, except for that one thing. Is this a good time for a
13 lunch break?

14 THE COURT: Well, actually, no. But why don't you
15 come over to sidebar, then.

16 (Continued on next page)

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C2n0ann3

M. Spano - direct

1 (At the side bar)

2 THE COURT: Why? Why is this not full of hearsay?

3 MR. ARONWALD: That's my basis for my objection.

4 THE COURT: I understood that.

5 MR. HALPERIN: It's Mr. Spano's e-mail.

6 THE COURT: That's okay. It's still his former
7 statement.

8 Is it offered to prove truth of the matter asserted?

9 Otherwise, he can testify to what he said. And that's what
10 about Mr. Bender's statement to him. Mr. Bender isn't here.11 MR. CARBONE: If we lay a foundation as a business
12 record.13 THE COURT: The fact that it a business record gets it
14 in at one level. It doesn't get Bender's statement in at all.

15 MR. HALPERIN: Well, we'll redact that. We'll redact.

16 THE COURT: Two statements here.

17 MR. HALPERIN: We'll redact everything above the
18 second from the bottom e-mail.

19 THE COURT: No, the second from the bottom e-mail --

20 MR. HALPERIN: Is from Spano to Bender.

21 THE COURT: Well --

22 MR. HALPERIN: So we'll redact everything but --

23 THE COURT: Go below two.

24 MR. HALPERIN: Yeah.

25 THE COURT: What we are talking about is the e-mail

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C2n0ann3 M. Spano - direct

1 that was sent at 15:44. Just that e-mail. This one -- this
2 one here, Mr. Aronwald, that one. Hi, Bruce. That's the only
3 thing the government is offering.

4 MR. SIANO: It starts, Hi, Bruce.

5 THE COURT: Okay, fine.

6 MR. ARONWALD: Yes.

7 MR. HALPERIN: Need two minutes to redact that.

8 THE COURT: All right. We don't need to show it.

9 MR. HALPERIN: Okay.

10 THE COURT: Admit it as redacted, okay.

11 MR. HALPERIN: Okay, well, I guess -- I'm sorry, I'm
12 confused.

13 THE COURT: I don't want to --

14 (Continued on next page)

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C2n0ann3

M. Spano - direct

1 (In open court)

2 THE COURT: We'll watch redaction in action, ladies
3 and gentlemen.

4 MR. HALPERIN: My second grade skills coming in handy.

5 THE COURT: Government exhibit 371 will be admitted,
6 with redaction. There is a bunch of hearsay in it.7 MR. HALPERIN: I'll call it government exhibit 371 R,
8 with the Court's permission.

9 THE COURT: 371 R, for redacted.

10 MR. HALPERIN: And we'll ask Mr. Turk to put up 371 R
11 on the screen.

12 BY MR. HALPERIN:

13 Q. Okay. Mr. Spano, you can look at the monitor in front of
14 you?

15 A. Okay.

16 Q. Could you see the redacted portion there of that e-mail?

17 A. Yes, I do.

18 Q. Who is this e-mail from?

19 A. It's from me.

20 Q. Okay. What was your e-mail address at the time?

21 A. It was MJS9@blackberry.net.

22 Q. Is your middle initial J?

23 A. Yes, it is.

24 Q. Who did you sent it to?

25 A. Bruce Bender.

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C2n0ann3

M. Spano - direct

- 1 Q. Who is he?
2 A. He is the -- I guess described as government relations
3 person for Forest City Ratner.
4 Q. And what's the date of the e-mail?
5 A. September 25th, 2005.
6 Q. Subject line? Just RE?
7 A. Just RE.
8 Q. Read the e-mail, please?
9 A. Hi, Bruce, I have taken every angle with this Sandy. I
10 have Nick involved, Zehy involved, and Anthony. We have all
11 talked to her more than once. She has not moved. We have
12 union heads talking with her too. We are still working on it.
13 Q. What project did this relate to, sir?
14 A. I'm sorry the Ridge Hill project.
15 Q. When you say, I have taken every angle with this Sandy, who
16 did the Sandy refer to?
17 A. Councilwoman Annabi.
18 Q. You say you have Nick involved, who is Nick?
19 A. My brother.
20 Q. What was his position at the time?
21 A. Nick was State Senator.
22 Q. And who is Zehy referring to?
23 A. Zehy Jereis.
24 Q. And Anthony?
25 A. Anthony Mangone.

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C2n0ann3 M. Spano - direct

1 Q. Who was Anthony Mangone at the time?

2 A. Anthony Mangone was counsel to Nick Spano.

3 Q. And when you say she has not moved, what did you mean?

4 A. That she has continued to stay opposed to the project.

5 Q. What was Mr. Jereis' position in relation to your brother,
6 Senator Spano, at the time?

7 A. He was the party chair.

8 Q. Did he also work on your brother's -- was he on your
9 brother's staff, Senate staff?

10 A. I believe he was for a period of time, yes.

11 MR. HALPERIN: Thank you very much, sir.

12 THE COURT: Mr. Aronwald.

13 CROSS-EXAMINATION

14 BY MR. ARONWALD:

15 Q. Mayor Spano, my name is William Aronwald. I am an attorney
16 representing Sandy Annabi. You and I have never met before?

17 A. That is correct.

18 Q. And you are represented by an attorney, David Lewis?

19 A. Yes, I am, sir.

20 Q. Mr. Lewis is seated in the courtroom as we speak?

21 A. Yes, he is.

22 Q. Mr. Lewis represented you throughout your many discussions
23 with the government concerning your testimony in this case?

24 A. Yes, he has.

25 Q. And were you made aware of the fact that I had asked for an

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C2n0ann3

M. SPANO - CROSS - ARONWALD

1 opportunity to meet with you before your testimony?

2 A. Yes, I was.

3 Q. And were you made aware of the fact that I wanted the same
4 opportunity to speak to you as the government had been given?

5 A. Yes, I was.

6 Q. And you declined to speak to me, correct?

7 A. I was advised not to.

8 Q. And but, advised or not, you declined to speak to me,
9 correct?

10 A. Yes, sir.

11 Q. Okay. Now, on approximately how many occasions,
12 separate -- how many separate occasions did you meet with any
13 representative of the United States Attorney's Office or the
14 FBI?

15 A. Two or three, I believe.

16 Q. And were any of those meetings or discussions with the
17 United States Attorney's Office pursuant to what is called a
18 proffer agreement?

19 A. I don't understand what that is, sir.

20 Q. Well, do you recall signing any documents or agreements by
21 which the government agreed that they would not use anything
22 that you told them against you so long as you were truthful?

23 A. I did not sign any such document.

24 Q. But you were advised by the government on more than one
25 occasion when you met with them that you were required to be

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C2n0ann3 M. SPANO - CROSS - ARONWALD

1 completely truthful, correct?

2 A. Yes, sir.

3 Q. You were warned as to what the consequences of not being
4 truthful might be, correct?

5 A. Yes, sir.

6 Q. You were told by Mr. Halperin and Mr. Carbone, for example,
7 that if you lied to a federal officer, whether it be a U.S.
8 Attorney or FBI agent, that was a federal crime which is a
9 felony, correct?

10 A. Yes, sir.

11 Q. Okay. And you were advised that it was very important and
12 in your interest to be 100 percent completely truthful,
13 correct?

14 A. Yes, sir.

15 Q. Okay. The fact of the matter is, that throughout your
16 meetings with the United States Attorney's Office, you were not
17 completely truthful, were you?

18 A. I was very truthful.

19 Q. Were you completely truthful about everything, including
20 whatever involvement your brother Nick Spano had with respect
21 to trying to get Sandy Annabi or anyone else to be the
22 fifth deciding vote.

23 A. Completely truthful to the best of my recollection.

24 Q. Do you recall on one occasion be confronted by Mr. Carbone
25 or Mr. Halperin with the fact that you had not been completely

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C2n0ann3

M. SPANO - CROSS - ARONWALD

1 truthful and do you recall telling them: I'm trying to protect
2 my brother.

3 MR. HALPERIN: Objection.

4 THE COURT: Overruled.

5 Q. Do you recall saying that to Mr. Carbone and Mr. Halperin:
6 I'm trying to protect my brother.

7 A. I don't recall saying such a thing.

8 Q. Do you recall saying to him: He is a Senator and I have
9 got to protect him.

10 A. I don't remember using that language, but --

11 Q. Okay. Directing your attention to June 12th of 2008, do
12 you recall meeting at the United States Attorney's Office with
13 the Assistant United States Attorney, Perry Carbone and Jason
14 Halperin and Special Agents Michael Mazzuca, and Rosemary
15 Karaka of the FBI; do you recall that meeting?

16 A. Yes, sir.

17 Q. Do you recall your attorney, David Lewis, was present
18 during that meeting?

19 A. Yes, sir.

20 Q. And do you recall that before the meeting began,
21 Mr. Carbone told you that you needed to tell the truth and not
22 mislead the government? Do you remember him saying that?

23 A. I'll take your word for it.

24 Q. No, please, don't take my word for it.

25 Do you remember it, yes or no?

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C2n0ann3

M. SPANO - CROSS - ARONWALD

1 A. I don't remember exactly. That was quite a long time ago.

2 Q. Well, it was sooner than the events that you have testified
3 about with respect to your working for Pat Lynch to try to
4 focus on Ms. Annabi to get her vote, correct?

5 A. Yes.

6 Q. Okay, so are you saying that you don't remember whether
7 Mr. Carbone told you that it was important for you to tell the
8 truth and not mislead the government?

9 A. I do remember that, yes.

10 Q. Okay. And do you recall that you were also told by
11 Mr. Carbone that making a false statement during the interview
12 in the presence of the federal agents would be a violation of
13 federal law?

14 A. Yes, sir.

15 (Pause)

16 THE COURT: Something happening?

17 MR. ARONWALD: Yes, Judge.

18 BY MR. ARONWALD:

19 Q. Do you recall that during the meeting you said to
20 Mr. Carbone and Mr. Halperin, quote, I got to protect Nick, he
21 is a Senator, close quote?

22 MR. HALPERIN: Objection, mischaracterizes.

23 THE COURT: I don't have it.

24 MR. HALPERIN: I would like to show the Court the
25 document, please.

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C2n0ann3

M. SPANO - CROSS - ARONWALD

1 THE COURT: All right. Please be very careful not to
2 misquote a document.

3 THE CLERK: Second paragraph.

4 MR. ARONWALD: Second paragraph, your Honor.

5 THE COURT: Uh-huh.

6 MR. ARONWALD: Five lines up from the bottom of the
7 second paragraph.

8 THE COURT: There was no mischaracterization.

9 MR. ARONWALD: Thank you, your Honor.

10 MR. HALPERIN: Can we approach, please?

11 THE COURT: No, you may not.

12 Those exact words are in the document.

13 MR. HALPERIN: He is relating --

14 THE COURT: Excuse me. Have a seat, Mr. Halperin.

15 BY MR. ARONWALD:

16 Q. Do you recall telling Mr. Carbone and Mr. Halperin, quote,
17 I got to protect Nick, he is a Senator, close quote?

18 A. I -- I don't recall those exact words.

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

20 THE COURT: You may.

21 BY MR. ARONWALD:

22 Q. Directing your attention to -- does that refresh your
23 recollection that you made that statement?

24 THE COURT: Does that jog your memory, sir; yes or no.
25 Yes or no.

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C2n0ann3

M. SPANO - CROSS - ARONWALD

1 THE WITNESS: It doesn't, really.

2 THE COURT: Fine. Doesn't jog his memory.

3 Next.

4 BY MR. ARONWALD:

5 Q. Now, starting from the beginning, during the period of time
6 that you served as an assemblyman or member of the New York
7 State Legislature, during those 11 and a half years, were there
8 ever occasions when you changed your vote on a particular issue
9 or bill from a yes vote to a no vote, or vice versa?

10 A. I'm sure there were many cases.

11 Q. It's not uncommon, correct --

12 A. No.

13 Q. -- for legislators to do that?

14 A. No.

15 Q. Now, was it true that it was your understanding that in
16 connection with the work that you were doing for Patricia Lynch
17 Associates, you were expected to speak to Dee Barbato, John
18 Murtagh, and Sandy Annabi regarding the issues they had with
19 the Ridge Hill project, correct?

20 A. That is correct.

21 Q. And that during those discussions, you met with --
22 withdrawn.

23 And you met with each one of the three separately,
24 correct?

25 A. Yes, I did.

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C2n0ann3

M. SPANO - CROSS - ARONWALD

1 Q. Okay. And Sandy Annabi had the same concerns that had been
2 expressed to you by Mr. Murtaugh and Ms. Barbato, correct?

3 A. That's correct.

4 Q. And did Sandy have a concern which was more important to
5 her than concerns about traffic?

6 A. I'm trying to remember. There were -- I -- I know there
7 was the three major issues, consistent among the three. There
8 had been also some discussions about some additional dollars
9 for the City for the schools. And, you know, there were many
10 discussions, I know, that I can't give you specifically. But I
11 know there were many discussions trying to get more out of the
12 developer for the City.

13 Q. Uh-huh. Do you remember being interviewed by the United
14 States Attorneys -- I'm sorry. Do you recall being interviewed
15 by Special Agents Rosemary Karaka and Michael Mazzuca on May 8
16 of 2008 at your office?

17 A. Yes, I do.

18 Q. Okay. And do you remember that the focus or subject of
19 that interview concerned the Ridge Hill and Longfellow
20 development project in Yonkers?

21 A. I remember Ridge Hill. To the best of my recollection, I
22 don't think Longfellow was a discussion in that meeting, in
23 that first meeting.

24 Q. Well, is it true that -- withdrawn.

25 Do you remember telling the agents that you told

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C2n0ann3

M. SPANO - CROSS - ARONWALD

1 Patricia Lynch that you should be included during the dealings
2 with the Ridge Hill project because you knew the Yonkers City
3 council members and what their needs were in their district to
4 get the project approved?

5 A. I felt I was a natural to help with the project.

6 Q. My question to you is did you tell the agents that you told
7 Patricia Lynch that you should be included during dealings with
8 the Ridge Hill project because you knew the Yonkers City
9 council members and what their needs were in their district to
10 get the project approved. Did you tell her that?

11 A. I believe so.

12 Q. Okay.

13 THE COURT: Tell me when we're at a good spot to
14 break, because I have a matter I to have do before lunch, Mr.
15 Aronwald.

16 MR. ARONWALD: Your Honor, now is as good a time as
17 any.

18 THE COURT: In that case, we're going to break for
19 lunch. And I'll see you at 2:00.

20 Don't discuss the case and keep an open mind.

21 THE CLERK: Step down.

22 (Witness temporarily excused)

23 (Jury excused)

24 (Luncheon recess)

25

C2NAAANN4

Spano - Cross
AFTERNOON SESSION
2:20 p.m.

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(Jury present)

THE COURT: Okay. Everybody, get comfortable.

Mr. Spano, you are still under oath.

Mr. Aronwald, you are still up. I am sorry folks that I made you wait.

CROSS-EXAMINATION

BY MR. ARONWALD:

Q. When you were working for Patricia Lintz an associates, one of the things you were tasked to do was to persuade Sandy Annabi to vote for the Ridge Hill project, correct?

A. That's correct.

Q. And your sense was that between Ms. Annabi and Mr. Murtagh and Dee Barbato she was the most practical. In other words, she was the best, to you presented the best opportunity to get the fifth vote, correct?

A. That's correct.

Q. And the reason for that was because her district was not as squarely impacted traffic-wise as were Mr. Murtagh and Dee Barbato, correct?

A. Correct.

Q. And also was it because of the fact that her district was the poorest district in the City of Yonkers?

A. I did not take that into consideration.

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C2NAAANN4

Spano - Cross

- 1 Q. Okay. But it is the poorest district in the City of
2 Yonkers, correct?
- 3 A. I believe so.
- 4 Q. And in your view -- strike that. Were there any other
5 reasons why you thought that Sandy Annabi would be the person
6 to focus on in terms of switching her vote rather than
7 Mr. Murtagh or Ms. Barbato other than the fact that Ridge Hill
8 was closer to their districts than it was to Sandy's?
- 9 A. John Murtagh and Dee Barbato were very much hard core, very
10 much, very much associated with the homeowner groups that were
11 in opposition to the project and Sandy did not represent those
12 areas, in such didn't have the same type of connection.
- 13 Q. In fact, Dee Barbato is, was at the time one of your
14 closest friends; isn't that so?
- 15 A. That is true.
- 16 Q. Okay. And so you had a lot of opportunity to speak to her
17 concerning the Ridge Hill project, correct?
- 18 A. Yes.
- 19 Q. Okay. And as a result of those discussions were you pretty
20 much convinced that there was literally no chance that she
21 would be persuaded to vote for this project?
- 22 A. Are you talking about Dee Barbato?
- 23 Q. Yes.
- 24 A. Yes, I was convinced.
- 25 Q. Would it be fair to say that you had occasion to have

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C2NAAANN4 Spano - Cross

1 discussions with Mr. Murtagh as well?

2 A. I did.

3 Q. Okay. And from those discussions was it your view that
4 there was little, if any, chance that Mr. Murtagh with be
5 persuaded to change his vote?

6 MR. HALPERIN: Objection, hearsay.

7 THE COURT: Overruled. Overruled. Overruled.

8 Q. You may answer the question.

9 A. That's correct.

10 Q. Now, and you testified that you spoke to many different
11 people in an effort to figure out how best to get Sandy to
12 switch her vote from "no" to "yes", correct?

13 A. Yes.

14 Q. Okay. And one of those individuals was your brother Nick,
15 correct?

16 A. Yes.

17 Q. And at the time he was a state senator; is that correct?

18 A. That's correct.

19 Q. Now, with respect to the e-mail that was produced in
20 evidence earlier today 371-R which I am handing up to you.

21 MR. ARONWALD: And I wonder if we could have that put
22 up on the screen.

23 Q. And this is an e-mail that you sent to Mr. Bender on
24 September 25th of 2005, correct?

25 A. Yes.

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C2NAAANN4

Spano - Cross

1 Q. And you say, "I have taken every angle with this Sandy".
2 What were you referring to? Withdrawn.

3 What did you mean when you said, "I have taken every
4 angle with this Sandy"? First, was the "Sandy" you were
5 referring to Sandy Annabi?

6 A. It was Sandy Annabi.

7 Q. Could you explain what you meant by, "I have taken every
8 angle with this Sandy"?

9 A. Whatever context which I said was Bruce Bender he was a
10 government operation person for Forest City Ratner and I was
11 the lobbyist. And he was really being pushy, really being
12 persistent, wanting to know every second that he possibly
13 could, what are you doing to try and get a positive outcome for
14 the project? And so that's in the context of which that came
15 out.

16 Q. I understand the context of which it came out but I am
17 asking what did you mean when you said, "I have taken every
18 angle with this Sandy"?

19 A. Well, if you read further, "taken every angle", obviously,
20 my brother was always supportive of the project was involved in
21 pushing the project. Zehy and Anthony had indicated they were
22 pushing and trying to speak with Sandy. And the unions, there
23 are nine labor unions in the City of Yonkers were all calling
24 her. And so I knew this and I made this readily through this
25 e-mail readily available to the, Bruce Bender.

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C2NAAANN4

Spano - Cross

- 1 Q. Are you familiar with the basketball term "full court
2 press"?
- 3 A. Yes, I am.
- 4 Q. Now would it be fair to say that what this e-mail was
5 referring to, the message you were trying to send to Mr. Bender
6 was that you were applying a full court press. You were
7 pulling out stops, doing everything you could to try to
8 persuade Sandy Annabi to change her vote to "yes"?
- 9 A. It's fair to say that.
- 10 Q. And that included involving your brother Nick, correct?
- 11 A. Yes.
- 12 Q. Okay. And despite those efforts according to the e-mail
13 that you sent to Mr. Bender "she has not moved" referring to
14 Sandy Annabi again, correct?
- 15 A. Correct.
- 16 Q. Okay. And by the way, at the time this e-mail had been
17 sent you had spent time talking to Ms. Annabi yourself on more
18 than one occasion, correct?
- 19 A. That's correct.
- 20 Q. Now, you were convinced based upon the discussion you had
21 with her that she was intransigent and was not changing her
22 vote at that time, correct?
- 23 A. I believed that she would not change her vote.
- 24 Q. She also indicated to you what her concerns were; isn't
25 that so?

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C2NAAANN4

Spano - Cross

1 A. That's true.

2 Q. She had a concern that was separate and apart from the
3 concerns that had been expressed by Mr. Murtagh and Dee
4 Barbato, correct?

5 A. Trying to figure out. I am trying to think of what,
6 specifically, referring to.

7 Q. Didn't Ms. Annabi tell you that she was concerned about
8 education money?

9 A. I believe so.

10 MR. ARONWALD: One moment please, your Honor.

11 (Pause)

12 Q. When you were interviewed by the FBI on May 8th of 2008
13 didn't you tell the FBI agents that interviewed you that
14 Annabi's -- withdrawn. I am sorry.

15 MR. ARONWALD: This would be 3527-B, page 2.

16 Q. Didn't you tell the FBI that Ms. Annabi's main issue of
17 concern was education money for Yonkers?

18 MR. HALPERIN: Objection to the process of
19 refreshment.

20 THE COURT: I can't tell. Are we refreshing? Are we
21 refreshing? Is there a failure of recollection?

22 MR. ARONWALD: I am asking whether or not he told the
23 FBI that Annabi's main concern was --

24 THE COURT: Perfectly acceptable question. Did you
25 tell the FBI, yes or no?

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C2NAAANN4 Spano - Cross

1 THE WITNESS: To the best of my recollection I believe
2 that's one of the things that she had said.

3 THE COURT: The question is, did you tell the FBI?
4 Not what she said to you. What you said to them.

5 THE WITNESS: Your Honor, I probably just to look at
6 it, just to reflect --

7 THE COURT: If you don't recall, you say "I don't
8 recall". That triggers a process.

9 THE WITNESS: Okay. I am sorry.

10 THE COURT: Okay.

11 A. I don't recall.

12 Q. Let me place before you page 2 of the exhibit that I just
13 identified and I'm directing your attention to just this
14 underlined portion?

15 A. Yeah.

16 Q. Does that refresh your recollection that you told --

17 A. Yes.

18 Q. And when you told the agents that on May 8th of 2008 that
19 was the truth, correct? That was what she told you?

20 A. Yes.

21 Q. By the way, I think you testified on direct that you
22 favored the project?

23 A. That's correct.

24 Q. Okay. What were the reasons that you favored the project?

25 A. For -- the reason I favored the project because it was a

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C2NAAANN4

Spano - Cross

1 significant infusion of jobs to the city and to the district I
2 represented. I represented \$600 million project with a
3 tremendous amount of tax revenue to the city, two million a
4 month and 400 jobs. It wasn't a hard one to want to support.

5 Q. And that was your feeling throughout the entire period of
6 time that it took for Ridge Hill to, ultimately, get approved,
7 correct?

8 A. I believe so, yes.

9 Q. But you understood that there were points that were of
10 concern to Ms. Annabi, Mr. Murtagh and Ms. Barbato, correct?

11 A. That's correct.

12 Q. And among those issues, for example, were tax abatements
13 that developer were seeking?

14 A. Correct.

15 Q. And among those issues were the traffic impact that
16 especially affected the districts in which Ms. Barbato and
17 Mr. Murtagh represented?

18 A. That's correct.

19 Q. During the course of your discussions with Ms. Annabi did
20 she mention anything to you concerning one alternative solution
21 to the traffic issues such as reducing the size and scope of
22 Ridge Hill itself?

23 MR. HALPERIN: Objection; hearsay as to what Annabi
24 said.

25 THE COURT: Objection is overruled. It sounds to me
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C2NAAANN4 Spano - Cross

1 like he is asking if someone said something.

2 MR. HALPERIN: Ms. Annabi said something.

3 THE COURT: Yes. That objection is sustained.

4 BY MR. ARONWALD:

5 Q. Well, you were asked on direct-examination about the
6 efforts you made to get Ms. Annabi to change her vote, correct?

7 A. Correct.

8 Q. And you were asked on direct-examination whether those
9 efforts included meeting and speaking to Sandy Annabi, correct?

10 A. That's correct.

11 Q. Okay. And you were asked whether or not as a result of
12 those discussions Ms. Annabi agreed to change her vote or
13 whether she continued to oppose the project, correct?

14 A. Correct.

15 Q. And she explained to you why she was opposing the project,
16 correct.

17 A. Yes.

18 Q. OK. And during the course of the discussion did the two of
19 you discuss ways that she thought that the traffic situation
20 could be alleviated?

21 A. Yes.

22 Q. Okay. So in the course of your discussions with Ms. Annabi
23 it wasn't as if she drew a line in the sand and said, I am not
24 going to support this project under any circumstances, did she?

25 MR. HALPERIN: Objection.

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C2NAAANN4 Spano - Cross

1 THE COURT: Stained.

2 Q. Based upon the discussions that you had with Ms. Annabi you
3 continued to believe that she was, in your words, the weak
4 link, correct?

5 A. Correct.

6 Q. And when you say "weak link" you meant between as concerns
7 Ms. Barbato and Mr. Murtagh as far as you were concerned she
8 was the only possible way of getting the fifth vote?

9 A. That's correct.

10 Q. And the fact is that your brother, Senator Spano, was also
11 involved in trying to persuade Sandy Annabi to change her vote;
12 isn't that so?

13 A. To my knowledge, yes.

14 Q. And that was back in 2005, correct?

15 A. That's correct.

16 Q. And Senator Spano at the time was a pretty powerful guy in
17 Westchester County, wasn't he?

18 A. Yes.

19 Q. And despite Senator Spano's efforts to persuade Sandy
20 Annabi to change her vote she would not change her vote,
21 correct?

22 A. That's correct.

23 Q. And on each and every occasion that you spoke to her the
24 issues that she had were the same; isn't that so?

25 A. Not necessarily, correct. I think that they were overall

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C2NAAANN4 Spano - Cross

1 the same. They were somewhat the same, though, I think the
2 education one came later on.

3 Q. Now, you were asked some questions on direct-examination
4 about conversations that you had with Sandy Annabi. And you
5 described a meeting that took place at her parents' place on
6 Bacon Place in Yonkers, correct?

7 A. That's correct.

8 Q. Okay. And you testified that after the meeting you had a
9 conversation with Ms. Annabi because you were surprised at what
10 took place with respect to the position of Mr. Jereis. That is
11 what you told us, correct?

12 A. That's correct.

13 Q. And you said that Sandy told you that Zehy Jereis looks out
14 for her and that she was loyal to him, correct?

15 A. Yes, correct.

16 Q. But didn't she at the same time also tell you that Zehy
17 does not control her?

18 MR. HALPERIN: Objection; hearsay.

19 THE COURT: Objection sustained.

20 MR. ARONWALD: Rule of completeness, judge.

21 THE COURT: The objection is sustained.

22 BY MR. ARONWALD:

23 Q. Now, your efforts to -- Withdrawn.

24 You were tasked to try to get Sandy Annabi to change
25 her vote. When was that?

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C2NAAANN4 Spano - Cross

1 A. Sometime in the summer of 2005.

2 Q. When you met with Ms. Annabi after the meeting that took
3 place at her parents' home, the meeting, you described the
4 purpose of your meeting with her was to see if there was any
5 way that she could see her way clear to supporting Ridge Hill,
6 correct?

7 A. That's correct.

8 Q. And was that something that you discussed with her at that
9 meeting?

10 A. That's correct.

11 Q. And did you leave that meeting with the expectation or
12 belief that she was going to change her vote?

13 A. I did not leave that meeting believing she was going to
14 change her vote.

15 Q. Did you leave that meeting with the understanding that
16 there was nothing that could be done to persuade her to change
17 her vote?

18 A. I believed that she had actually made some, went through
19 different --

20 THE COURT: I am sorry. This is a "yes or no"
21 question. When you left the meeting did you have an
22 understanding that there was no way that she would ever change
23 her vote? That was the question. Your understanding.

24 A. No.

25 BY MR. ARONWALD:

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C2NAAANN4

Spano - Cross

1 Q. So you left the meeting with the understanding that it was
2 still possible for the developer to make concessions that might
3 persuade here to change her vote, correct?

4 A. Yes.

5 Q. Okay. Did you communicate that to anyone at Forest City
6 Ratner including Bruce Bender, Scott Cantone, Richard Pesin,
7 John Swagerty or anybody else?

8 A. Yeah, I did actually.

9 Q. Who did you communicate that to?

10 A. I am assuming Bruce Bender because he is the only person we
11 dealt with over there.

12 Q. Okay.

13 A. And we talked about, I sent him a quick e-mail talking
14 about the size of the retail.

15 Q. That's one of the things, one of concessions you thought
16 might be made that might persuade her or influence her to
17 change her vote, correct?

18 A. That's correct.

19 MR. ARONWALD: Thank you very much, mayor. No further
20 question.

21 THE COURT: Mr. Siano.

22 MR. SIANO: Thank you, judge.

23 CROSS-EXAMINATION

24 BY MR. SIANO:

25 Q. Mr. Spano, my name is Anthony Siano. I represent the
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C2NAAANN4 Spano - Cross

1 defendant Zehy Jereis.

2 You testified on direct to a meeting that you had at
3 Ms.~Annabi's parents' house and I believe you said that
4 Mrs.~Annabi made dinner?

5 A. Yeah, there was dinner there. And I believe it was her
6 mom, yes.

7 Q. And that took place in --

8 A. Actually, it was her mom, so.

9 Q. No offense taken. This meeting took place sometime in
10 2005?

11 A. I believe so, yes.

12 Q. Can you place at any point the year for me? Was it warm
13 outside?

14 A. It was probably in that same period of time, that
15 summertime into spring into fall, I guess.

16 Q. And this is the meeting at which Mr. Jereis was friendly
17 and positive about Ridge Hill with you and then adversarial to
18 you in the meeting. And did you get the sense, sir, that
19 Mr. Jereis was putting on a show when he was opposing you?

20 A. I thought maybe that might be one of the reasons.

21 Q. Well, isn't it a fact, sir, you said in the grand jury that
22 your sense was that he was putting on a show for Sandy Annabi?

23 A. Yes.

24 Q. And I am asking you now on the witness stand was it your
25 sense, sir, at the time that Mr. Jereis was putting on a show

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C2NAAANN4

Spano - Cross

1 for Ms. Annabi?

2 A. Yes.

3 Q. Now, it was also in 2005 when this discussion of Chris
4 Spring and the job at Ridge Hill came up. You said on direct,
5 I believe, it was after the Annabi family dinner?

6 A. I can't say for certain. My -- to the best of my
7 recollection it was sometime after that but I can't say for
8 certain.

9 Q. Well, was it in 2005, sir?

10 A. Absolutely.

11 Q. And at that time were you aware that Mr. Jereis had a job
12 at that time?

13 A. I was not aware.

14 Q. Sir, you were not aware?

15 A. I'm sorry. I take that back.

16 Q. If I might, sir. If fact, you were aware at the time, sir,
17 that Mr. Jereis had a job on the staff of Senator Nicholas
18 Spano; isn't that correct?

19 A. Yes.

20 Q. Now, you are familiar with the concept of patronage, I take
21 it?

22 A. Yes.

23 MR. HALPERIN: Objection.

24 THE COURT: Overruled. It's an introductory question.
25 Let me at least see where it's going.

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C2NAAANN4

Spano - Cross

- 1 Q. You are aware of the concept of jobs being awarded by the
2 leadership of various parties to individuals under the concept
3 of patronage?
4 A. Yes.
5 Q. Mr. Jereis was speaking to you about jobs for the
6 Republican leadership, did you not consider it to be a job
7 conversation about patronage?
8 A. If could have been.
9 Q. I'm asking you was it a discussion of patronage?
10 A. Yes.
11 Q. And at the time Mr. Spring was, for want of a better word,
12 aligned with Mr. Spencer; is that a fair statement?
13 A. Yes.
14 Q. And Mr. Spencer was a Republican?
15 A. Yes.
16 Q. And but Mr. Spencer at the time in 2005 was even though he
17 wore a Republican hat he was very much at odds with the mayor
18 Mr. Amicone; isn't that right?
19 A. Yes.
20 Q. And Mr. Amicone was a Republican; isn't that right?
21 A. Yes.
22 Q. And from time to time those two factions of Republicans
23 were at odds with other factions of the Republican parties,
24 right?
25 A. Yes.

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C2NAAANN4

Spano - Cross

1 Q. Including the faction that your brother, the state senator,
2 was aligned with --

3 MR. HALPERIN: Objection; relevance.

4 THE COURT: Overruled.

5 Q. Isn't that right, sir?

6 A. That's correct.

7 Q. And it was your understanding that notwithstanding their
8 adamant opposition to the Ridge Hill project, Ms. Barbato and
9 Mr. Murtagh were Spano Republicans; isn't that right?

10 A. I don't know how to answer that question.

11 Q. Well, hadn't you seen a piece of campaign literature with
12 Ms. Barbato's husband wearing a Nick Spano tattoo?

13 MR. HALPERIN: Objection; relevance.

14 THE COURT: Objection sustained to that question.

15 MR. SIANO: Thank you.

16 THE COURT: I think, Mr. Siano, perhaps you could ask
17 the question differently as in, had those who persons been
18 supported by Senator Spano.

19 MR. SIANO: Actually, judge, the relationship --

20 THE COURT: No speeches. If that question doesn't
21 work then, perhaps, think of a different way to ask the
22 question. I think a term "Spano Republicans" may be the
23 problem here.

24 Q. Were you aware, sir, that Ms. Barbato and Mr. Murtagh were
25 supportive of Senator Spano in this period of time?

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C2NAAANN4

Spano - Cross

1 A. Yes.

2 Q. And were you aware, sir, that Senator Spano was supportive
3 of Ms. Barbato and Mr. Murtagh at the time?

4 A. Yes.

5 Q. And that included appearances in various pieces of campaign
6 literature?

7 A. I assume you are right.

8 Q. I don't want you to assume I am right, mayor. You are
9 under oath.

10 A. I understand.

11 Q. Let me see if I can help you.

12 A. I'd have to see it.

13 MR. HALPERIN: Judge, objection to the relevance.

14 THE COURT: Does that refresh your recollection?

15 THE WITNESS: Yes, it does.

16 THE COURT: Objection is overruled.

17 MR. SIANO: Thank you.

18 THE COURT: And what does it refresh your recollection

19 about?

20 MR. SIANO: Thank you, judge.

21 THE COURT: Thank you.

22 A. That is Rich Barbato on the cover of that mail piece who is
23 Dee Barbato's husband.

24 Q. Wearing a Nick Spano tattoo?

25 A. Wearing a Nick Spano tattoo.

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C2NAAANN4

Spano - Cross

- 1 Q. Now, do you recall, sir, that you were interviewed by the
2 Federal Bureau of Investigation on at least two occasions in
3 connection with the subject matter of this investigation?
4 A. Yes.
5 Q. And do you recall, sir, at least one of those instances you
6 were asked about your relationship with Mr. Jereis; is that
7 correct?
8 A. Yes.
9 Q. And, in fact, you described Mr. Jereis as a political
10 friend?
11 A. That's correct.
12 Q. Would you, sir, explain to me what a political friend is?
13 A. It's not like we were going out with our wives and our kids
14 together. We were people who went to political events
15 together. He was someone who supported me, supported my
16 candidacy and why I described him as a friend.
17 Q. Do you recall in that same interview you described
18 Mr. Mangone as real good friend?
19 A. Yes, I did.
20 Q. You were referring to Mr. Mangone as a personal friend?
21 A. Yes, I did.
22 Q. You are saying that you and Mr. Mangone went to school
23 together?
24 A. That's not correct.
25 Q. Let me show you, sir, what's been marked as 3527-E. And I

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C2NAAANN4 Spano - Cross

1 direct your attention to page 4 and in the interest of time,
2 sir, the second paragraph from the bottom.

3 A. I think it was --

4 Q. Excuse me. There's no question pending, mayor.

5 A. Sorry.

6 Q. I just asked you, sir, if you told the FBI that you went to
7 school with Mr. Mangone and you told me "no".

8 A. I did not say that.

9 Q. You did not say what's in the 302?

10 A. No, not in that. I think it's a misunderstanding. If you
11 like I can explain it to you.

12 Q. What did you tell the FBI --

13 THE COURT: Let him finish the question please.

14 Q. What did you tell the FBI about your secondary education
15 and that of Mr. Mangone? High school, sir?

16 A. I said I knew Anthony since he was in high school.

17 Q. Thank you, sir. Now, did you also tell the FBI that it was
18 necessary to go through Anthony Mangone in order to get to Nick
19 Spano?

20 A. Yes.

21 Q. Now, do you recall, sir, testifying in the grand jury about
22 the -- I'll use the word "changes" -- to the Ridge Hill project
23 being pressed by the three individuals who were voting "no"; do
24 you recall being asked about that?

25 A. Can you just give me that question again.

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C2NAAANN4 Spano - Cross

1 Q. Do you recall, sir, testifying in the grand jury about the
2 subject matter of the changes that Ms. Barbato, Mr. Murtagh and
3 Ms. Annabi were pressing Forest City Ratner for prior to the
4 project being approved?

5 A. Yes, I do.

6 Q. And, in fact, you heard the specifics of those various
7 requests from each of the council members themselves; isn't
8 that right?

9 A. That's correct.

10 Q. And, in fact, you believed that the things, at least some
11 of the things they were asking for would, quote/unquote, "kill
12 the project"; isn't that right?

13 A. That is correct.

14 Q. And you so told the grand jury?

15 A. Yes, I did.

16 Q. And one of those was the 30 percent reduction in retail
17 space in the project?

18 A. That's correct.

19 MR. SIANO: No further questions, your Honor.

20 THE COURT: Mr. Halperin.

21 MR. HALPERIN: Thank you, your Honor.

22 REDIRECT EXAMINATION

23 BY MR. HALPERIN:

24 Q. Mr. Spano, as you recall at the beginning of your
25 cross-examination counsel asking about a memo of an interview

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C2NAAANN4 Spano - Redirect

1 you did with the FBI in June 2008 where there's a quote that
2 says, I got to protect Nick. He's a senator.

3 A. Yes.

4 Q. Do you remember who you were talking about in the sentence
5 immediately before that sentence?

6 A. No, I don't.

7 Q. I am going to show you what's been marked as 3527-H, page
8 2, second full paragraph, third sentence. Could you read that
9 portion to yourself?

10 (Pause)

11 Q. Sir, does that refresh your recollection about who you were
12 talking about in the sentence immediately prior?

13 A. Yes.

14 Q. Who were you talking about?

15 A. Anthony Mangone.

16 Q. When you said the quote, I got to protect Nick. He's a
17 senator, was that something you yourself said or was that
18 something you were relaying that Mangone had said?

19 A. Something that Anthony Mangone had said.

20 MR. HALPERIN: Thank you sir. Nothing further.

21 MR. ARONWALD: Nothing further.

22 MR. SIANO: Nothing further, your Honor.

23 THE COURT: Thank you, mayor. You may leave.

24 Call your next witness please.

25 MR. HALPERIN: The government calls Joseph Galimi.

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C2NAAANN4 Spano - Redirect

1 JOSEPH GALIMI,
2 called as a witness by the Government,
3 having been duly sworn, testified as follows:
4 DIRECT EXAMINATION
5 BY MR. HALPERIN:
6 Q. Good afternoon, Mr. Galimi.
7 A. Good afternoon.
8 Q. Where do you live, sir?
9 A. Ardsley, A-R-D-S-L-E-Y.
10 Q. Where is Ardsley?
11 A. Westchester County.
12 Q. Do you currently work or are you retired?
13 A. I am retired.
14 Q. What year did you retire?
15 A. 2005.
16 Q. How far did you go in school?
17 A. I have a master of science from Fordham University.
18 Q. After college what did you do for work?
19 A. I worked for Brooklyn Union Gas as a department head.
20 Q. In the late 1980s to 1991 or '92 did you work for the City
21 of Yonkers?
22 A. Yes. I was a DPW Commissioner.
23 Q. DPW stands for what?
24 A. Department of Public Works.
25 Q. Starting in about the year 2000 what did you do for work,
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C2NAAANN4 Galimi - Direct

1 sir?

2 A. I then worked for the Yonkers Board of Education.

3 Q. What was your title?

4 A. Executive director operations.

5 Q. Now, sir, do you know someone named Joseph Lentol, a New
6 York State Assemblyman?

7 A. Yes, I do.

8 Q. What district does he represent?

9 A. Greenpoint in Brooklyn, New York City.

10 Q. How do you know Assemblyman Lentol?

11 A. I met him years ago at a Reliance Club meeting back in the
12 70s.

13 Q. In the 70s?

14 A. Yes.

15 Q. Did you ever work for assemblyman Lentol?

16 A. Yes, I did.

17 Q. Roughly when?

18 A. In the 80s.

19 Q. And for roughly how long did you work for him?

20 A. Part-time for about seven years, then full-time for about
21 six months.

22 Q. What types of work would you do for the assemblyman?

23 A. Constituents and also I reviewed any legislation regarding
24 utilities for him.

25 Q. Since you stopped working for Assemblyman Lentol in roughly

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1 the early 1990s, is that a fair timeframe?

2 A. Yeah. I believe so, yes.

3 Q. Since that time have you stayed in touch with him?

4 A. Oh, yes.

5 Q. Direct your attention to the 2005 and 2006. Do you recall
6 during that timeframe did you see him regularly?

7 A. I'd spoke to him regularly but I didn't see him regularly
8 because he was in Brooklyn but I did see him from time to time.

9 Q. When you saw him from time to time where and when would you
10 see him?

11 A. Usually in a private club called Tiro A Segno in Manhattan.

12 Q. Spell that for the court reporter?

13 A. T-I-R-O, "A" is a separate word, then it's S-E-G-U-N-O.

14 Q. Now, do you know someone named Zehy Jereis?

15 A. Yes, I do.

16 Q. About when did you meet him?

17 A. About 2003.

18 Q. How did you meet Zehy Jereis?

19 A. I was overseeing the building of a school that was right
20 near where he lived and that's how I knew his sister.

21 Q. Have you seen Mr. Jereis on numerous occasions?

22 A. Yes, I have.

23 Q. Did you see the Zehy Jereis you have been referring to here
24 in the courtroom today?

25 A. Oh, yes. The gentleman that just stood up.

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1 THE COURT: Mr. Jereis.

2 Q. From the time you met Zehy Jereis to about 2006, roughly,
3 how often would you have contact with Zehy Jereis?

4 A. We talked on the phone quite a bit and then after I retired
5 I went to his house from time to time.

6 Q. When you say you talked on the phone quite a bit, give us a
7 sense of what that means, how long?

8 A. Couple times a week maybe.

9 Q. What types of things would you talk about?

10 A. General things, politics, general things.

11 Q. Direct your attention to, approximately, April 2006 at this
12 time did Assemblyman Lento raise an issue with you about Forest
13 City Ratner, Ridge Hill project in Yonkers?

14 A. Yes, he did.

15 Q. Where were you when Assemblyman Lentol brought this issue
16 you up?

17 A. We were at the Tiro A. Segno, that private club that I
18 mentioned.

19 Q. Was anyone else with you that day?

20 A. Yes. Mr. Jereis, obviously, Joe Lentol, myself and a
21 friend of mine, Victor Gartenstein.

22 Q. I don't know if the court reporter needs the spelling on
23 the last name.

24 A. I'm gonna be embarrassed cause he's a goof friend of mine
25 but I'll take a stab at it, G-A-R-S-T-E-I-N.

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Galimi - Direct

- 1 Q. Now, when Assemblyman Lentol raised the issue of Ridge Hill
2 was Mr. Jereis present at the table?
3 A. No, he was not.
4 Q. How had you gotten down to the restaurant that day?
5 A. Mr. Jereis drove us down.
6 Q. Who drove you back?
7 A. Mr. Jereis.
8 Q. In the car ride back did you mention your discussion with
9 Assemblyman Lentol about Ridge Hill to Zehy Jereis?
10 A. Yes. I told him that Joe Lentol had spoke to me about the
11 possibility of --
12 Q. I don't want to know what Mr. Lentol said to you.
13 A. Sorry.
14 Q. What did Mr. Jereis say to you in response to what you said
15 to him about a meeting?
16 A. He would think about it. Do you want me --
17 Q. A meeting with whom?
18 A. With the Ratner people and what do you call, Ms. Annabi.
19 Q. He would think about doing what with the meeting?
20 A. Set up a meeting to discuss the project, the Ridge Hill
21 project.
22 Q. Now sometime after that day, after the lunch at Tiro A.
23 Segno did you hear back from Mr. Jereis about whether he would
24 have a meeting with the developer?
25 A. Yes, he called me and advised me that he was going to set

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1 up a meeting with the developers and Sandy and himself.

2 Q. And did you, in fact, have a meeting subsequently with the
3 developers and with Zehy Jereis?

4 A. I am sorry. Did I have the meeting?

5 Q. Yes.

6 A. No. No. I was not at the meeting.

7 Q. Let me direct your attention to early June 2006. Did you
8 attend a lunch at he Marco Polo restaurant?

9 MR. SIANO: Objection; leading, your Honor.

10 Q. Let me direct your attention to early June 2006. Did you
11 attend any lunches with Mr. Jereis?

12 A. Yes.

13 THE COURT: You know what, it's a lead-in question.
14 We allow a leading question to introduce a subject. It's quite
15 customary.

16 Q. You can answer, sir.

17 A. Yes. We met at the Marco Polo in sometime in early June of
18 2006.

19 Q. Did you meet for breakfast, lunch or dinner?

20 A. We met for lunch.

21 Q. And who chose the Marco Polo restaurant in Brooklyn?

22 A. I chose it because Joe Lentol said he would like to have
23 the meeting in Brooklyn.

24 Q. Who attended the meeting?

25 A. Myself, Mr. Jereis, Joe Lentol and two representatives of

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1 Forest City Ratner. One of the names is Mr. Bender.

2 Q. Who drove you to the meeting that day?

3 A. Mr. Jereis.

4 Q. Sometime before the meeting on that day did you have any
5 conversations with Mr. Jereis about then State Senator Nick
6 Spano and the Ridge Hill project?

7 A. Yes. He said that Nick was mad because Ms. Annabi wouldn't
8 meet with him about the project.

9 MR. ARONWALD: Your Honor, could I just have the
10 answer read back? I didn't hear that.

11 MR. HALPERIN: Yes.

12 (Testimony read back)

13 BY MR. HALPERIN:

14 Q. Now, once you and Zehy Jereis arrived at the restaurant who
15 was there, sir?

16 A. Okay. At the restaurant Joe Lentol and the two
17 representatives from Forest Ratner, the Ridge Hill people, one
18 of the names I remember is Mr. Bender.

19 Q. Do you remember his first name or --

20 A. No, I don't.

21 Q. You don't remember the other person's name?

22 A. I don't. Sorry.

23 Q. Did you and Mr. Jereis arrive on time?

24 A. No. We were late.

25 Q. Who was there when you got there?

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- 1 A. The other three gentlemen, the two people from Ridge Hill
2 and Joe Lentol.
3 Q. Who did you sit next to at the lunch?
4 A. Joe Lentol was sitting to my right.
5 Q. What was the purpose of the meeting?
6 A. The purpose of the meeting was to introduce Zehy Jereis to
7 the Forest Ratner people.
8 Q. As far as you knew had they ever met before?
9 A. I don't believe so.
10 Q. At the lunch meeting what, if anything, did you hear
11 Mr. Jereis say to the Forest City Ratner representatives?
12 A. He gave them like a rundown of who he was, like a resume,
13 so to speak, chairman of the Republican party of Yonkers.
14 Q. What did if anything did you hear Mr. Jereis say about
15 Councilwoman Sandy Annabi?
16 A. He said he could probably arrange a meeting.
17 Q. Who paid for the meal that day?
18 A. The Forest Ratner people.
19 Q. During the meeting who did you talk to?
20 A. Predominantly, Mr. Lentol.
21 Q. Did you ask Mr. Lentol about a possible job for yourself
22 with the developer?
23 A. Yes, I did. The thought occurred to me at the time and I
24 asked Joe a possibility of working for him.
25 Q. Did you ever get any type of job or consulting contract?

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Galimi - Direct

- 1 A. No, I did not.
- 2 Q. Now after the lunch meeting at Marco Polo that day in about
- 3 early June of 2006, how did you get back to Westchester?
- 4 A. Mr. Jereis drove me back.
- 5 Q. When did you next here from that Jereis after the Marco
- 6 Polo lunch?
- 7 A. I believe it was about a day later.
- 8 Q. What did he say when you spoke to him?
- 9 A. He told me that he was going to set up a meeting with the
- 10 Forest Ratner people and Ms. Annabi and himself.
- 11 Q. Did you attend any subsequent meetings between Ms. Annabi,
- 12 Mr. Jereis and Forest City Ratner?
- 13 A. No, I did not.
- 14 Q. Do you know if a meeting, such a meeting took place?
- 15 A. Yes, I do.
- 16 Q. How do you know that?
- 17 A. Because I happened to be calling Zehy one day, Mr. Jereis,
- 18 and he said to me he couldn't talk because he's at a meeting
- 19 with Sandy Annabi and the people from Forest Ratner and himself
- 20 discussing the project and it was a short conversation.
- 21 Q. Sometime after your lunch meeting at the Marco Polo
- 22 restaurant were you ever at Mr. Jereis' house and did he show
- 23 you his computer?
- 24 A. Yes.
- 25 Q. What did he show you on it?

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C2NAAANN4

Galimi - Direct

1 A. He showed me a draft of a press release regarding the
2 additional money that Sandy was going to secure for the City of
3 Yonkers from the Ridge Hill project. I think it was ten or 11
4 million dollars more in funds that the developer was going to
5 pay Yonkers.

6 Q. What, if anything, did Jereis tell you about who drafted
7 the press release?

8 A. He said he drafted it.

9 Q. Did you ever have discussions with Mr. Jereis about his
10 political relationship with Sandy Annabi?

11 A. Well, yeah, that he discussed that he was like, basically,
12 if -- this is in his words -- but he is like a political mentor
13 to her.

14 Q. Did you ever talk to Mr. Jereis about petitions relating to
15 one of Councilwoman Annabi's races?

16 A. Yes. I called him one day. He said he couldn't talk
17 because what happened somebody was priming her for a counsel
18 race and the person was filing petitions had so-called phony
19 signatures and he was getting it tossed out.

20 Q. He was getting who tossed out?

21 A. The opponent member who had the phony invalid petitions.

22 Q. Opponent of whom?

23 A. Ms. Annabi.

24 Q. Did Mr. Jereis ever talk to you about Councilwoman Annabi
25 possibly running for mayor of Yonkers?

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Galimi - Direct

- 1 A. Yeah.
- 2 Q. In 2007, once news reports began to appear about an
3 investigation did you have any discussions with Mr. Jereis
4 after that time?
- 5 A. Yes, I did.
- 6 Q. What did he say about his relationship with Forest City
7 Ratner at the time?
- 8 A. He said he didn't have a relationship with them.
- 9 Q. What, if anything, did he say about whether he had received
10 a job or consulting contract from Forest City Ratner?
- 11 A. He said he didn't receive a job, not even a penny.
- 12 Q. How many times did you ask Mr. Jereis this question?
- 13 A. Two or three times.
- 14 Q. What did he say on those two or three occasions?
- 15 A. Always said "no".
- 16 Q. Let me direct your attention to Tuesday, July 11, 2006. Do
17 you recall what was going to happen in the Yonkers City Council
18 that day relating to the Ridge Hill project?
- 19 A. They were going to vote that night to get the five votes to
20 approve the project.
- 21 Q. Did you receive a phone call from Zehy Jereis that day?
- 22 A. Yes, I did.
- 23 Q. At about what time of day?
- 24 A. Early in the morning.
- 25 Q. What did Mr. Jereis say to you?

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1 A. He asked me if I could get some teamster members to go down
2 to support the council that night for the vote.

3 Q. What, specifically, did he say to you about why he wanted
4 you to get teamsters?

5 A. Well, he knew that I could get a couple hundred because I
6 was formerly the Department of Public Works Commissioner, so he
7 knew that I knew some teamsters.

8 Q. To support whom?

9 A. Excuse me.

10 Q. To support who?

11 A. Sandy Annabi.

12 Q. How did you know members of the Teamsters union?

13 A. Cause I was the DPW Commissioner, so quite a few of them
14 still worked for the city and I knew them.

15 Q. Did you, in fact, call some of your contacts with the
16 teamsters and ask them to show up at the meeting that night?

17 A. Yeah. I made one phone call and the individual told me
18 that they were going down and --

19 Q. I don't want to know what the individual told you. Did
20 anybody members of the teamsters, actually, show up at the
21 meeting that night --

22 A. Yes, they did.

23 Q. -- to support and Annabi?

24 A. Yes, they did.

25 MR. HALPERIN: No further questions.

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C2NAAANN4 Galimi - Direct

1 MR. ARONWALD: With your position, is it okay if we
2 switch, Mr. Siano precedes me?

3 THE COURT: Certainly.

4 MR. ARONWALD: Thank you.

5 MR. SIANO: Thank you, judge.

6 CROSS-EXAMINATION

7 BY MR. SIANO:

8 Q. Mr. Galimi, the company you are calling forest Ratner you
9 had a meeting with them one time?

10 A. Just once.

11 Q. And there was the person whose last name you know as
12 "Bender" whose --

13 A. Yes.

14 Q. -- whose first name you don't recall?

15 A. Yes.

16 Q. And another person?

17 A. Yes.

18 Q. Now I am going to ask you a very specific question, sir.

19 At any time at or after that meeting did you solicit a job from
20 the Forest Ratner people?

21 A. I never spoke to the Ratner people.

22 Q. Directly, did you solicit a job directly from the persons
23 you are calling the Forest Ratner people?

24 A. No, I did not.

25 Q. And you are as sure of that as you are as to any part of

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C2NAAANN4 Galimi - Cross

1 your testimony here today?

2 A. Yes.

3 MR. SIANO: No further questions.

4 MR. ARONWALD: No questions.

5 MR. HALPERIN: Nothing, judge.

6 THE COURT: I believe you are done, sir. Thank you.

7 Call your next.

8 MR. CARBONE: The government calls Scott Cantone.

9 SCOTT CANTONE,

10 called as a witness by the Government,
11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. CARBONE:

14 Q. Good afternoon, Mr. Cantone.

15 Mr. Cantone, where do you live?

16 A. In Brooklyn, New York.

17 Q. Are you married?

18 A. Yes, I am.

19 Q. Do you have any children?

20 A. Yes, I do.

21 Q. How many?

22 A. Two.

23 THE COURT: We don't really need that. It's not
24 relevant to anything.

25 Q. How far did you go in school, sir?

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C2NAAANN4 Cantone - Direct

- 1 A. Law school. I have a juris doctorate degree.
2 Q. Are you admitted to practice in New York State?
3 A. Yes, I am.
4 Q. Are you employed?
5 A. Yes, I am.
6 Q. Where do you work?
7 A. Forest City Ratner companies.
8 Q. And is Forest City Ratner a public company?
9 A. Yes, it is.
10 Q. What are its approximate assets?
11 A. In excess of 11 billion dollars.
12 Q. Is that "billion"?
13 A. "Billion", yes.
14 Q. Mr. Cantone, could you just lean up a little closer to the
15 microphone?
16 THE COURT: Bend down a little bit. I think that will
17 help.
18 THE WITNESS: Okay.
19 Q. And what is your job title at Forest City Ratner?
20 A. Senior vice president for public and government affairs.
21 (Continued on next page)
22
23
24
25

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C2n0ann5 Cantone - direct

1 Q. And what do you do as a senior vice president for
2 government and public affairs?

3 A. I assist in overseeing media, community government, and
4 political affairs for the company.

5 Q. And who did you answer to, until recently?

6 A. Bruce Bender, executive vice president for government and
7 public affairs.

8 Q. Approximately when did you start working at Forest City
9 Ratner?

10 A. January 2004.

11 Q. Can you tell the jurors what kinds of project the company
12 has been involved in in the New York City area?

13 A. Atlantic Yards, Barclay Center Project, in Brooklyn; 80
14 DeKalb, a residential tower tower, in Brooklyn; Beekman Tower,
15 otherwise known as New York by Gehry; and Lower Manhattan East
16 River Plaza in Harlem, and Ridge Hill, in Yonkers, Westchester.

17 Q. Do you have in front of you what has been marked as
18 government exhibit 349 for identification.

19 That's the exhibit listing the exhibits?

20 A. I'm sorry, I don't see it.

21 Q. As the senior vice president for Forest City Ratner, did
22 you become familiar with the business records of the company?

23 A. Yes, I have.

24 Q. Have you reviewed the exhibits identified in government
25 exhibit 349 for identification?

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C2n0ann5 Cantone - direct

1 A. Yes, I have.

2 Q. And are those records kept in the normal course of Forest
3 City Ratner's business?

4 A. Yes, they are.

5 Q. And is it the regular practice of Forest City Ratner to
6 make and keep such records?

7 A. Yes.

8 Q. Were those records created at or near the dates reflected
9 on them?

10 A. Yes.

11 Q. And were the records created by, or the information
12 received from, someone with knowledge of the transactions?

13 A. Yes.

14 Q. Would please describe the categories of the records listed
15 on government exhibit 349?

16 A. There is e-mails, calendar entries, receipts, expense
17 reports.

18 Q. And do those records identified on the list relate to the
19 Ridge Hill project?

20 A. Yes, they do.

21 MR. CARBONE: Your Honor, the government offers the
22 following exhibits which have been identified on 349 into
23 evidence. And I think I handed up a list to the Court. And I
24 provided a list to defense counsel.

25 Government exhibits 351, 352, 372, 373, 374, 375, 376,

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1 377, 378, 379, 380, 380A, 381, 383, 384, 388, 388A, 389F,
2 389I, 391, 391A, 391B, 391C, 391D, 391E, 391F, 401, 402, 404,
3 404A, 404B, 404C, 415, 416, 417, 418, 419, 420, 421, 422,
4 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 439, 440A,
5 440B, 440C, 440E, 441A, 441B, 441E, 441F, 442, 442A, 442B,
6 442C, 442D, 442E, 442F, 443, 445, 445A, 446, 447, 447A, 447B,
7 448A, and 449.

8 We offer the following exhibits in evidence.

9 MR. ARONWALD: No objection.

10 MR. SIANO: No objection.

11 THE COURT: Admitted.

12 (Government's Exhibits 351, 352, 372, 373, 374, 375,
13 376, 377, 378 received in evidence)

14 (Government's Exhibits 379, 380, 380A, 381, 383, 384,
15 388, 388A, 389F received in evidence)

16 (Government's Exhibits 389I, 391, 391A, 391B, 391C,
17 391D, 391E, 391F received in evidence)

18 (Government's Exhibits 401, 402, 404, 404A, 404B,
19 404C, 415 received in evidence)

20 (Government's Exhibits 416, 417, 418, 419, 420, 421,
21 422, 424, 425 received in evidence)

22 (Government's Exhibits 426, 427, 428, 429, 430, 431,
23 432, 433, 439 received in evidence)

24 (Government's Exhibits 440A, 440B, 440C, 440E, 441A,
25 441B, 441E, 441F received in evidence)

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1 (Government's Exhibits 442, 442A, 442B, 442C, 442D,
2 442E, 442F received in evidence)

3 (Government's Exhibits 443, 445, 445A, 446, 447, 447A,
4 447B, 448A, 449 received in evidence)

5 BY MR. CARBONE:

6 Q. Mr. Cantone, after you were first hired, were you assigned
7 to work on any particular project?

8 A. Yes.

9 Q. And what projects were you assigned to work on?

10 A. Atlantic Yards in Brooklyn, and Ridge Hill in Yonkers.

11 Q. And approximately when were you first assigned to the Ridge
12 Hill project?

13 A. Approximately January, February 2004.

14 THE COURT: Scoot up a little bit more. Thank you.
15 Maybe lean forward a little and speak into that microphone.

16 THE WITNESS: Okay.

17 THE COURT: Thank you.

18 BY MR. CARBONE:

19 Q. Can you please describe the scope of the Ridge Hill
20 project?

21 A. The Ridge Hill project, it's approximately 81 acres,
22 located between the New York State Thruway, the Sprain Brook
23 Parkway, and adjacent to the Sprain Brook County Park.

24 Q. And approximately how many square feet of retail space is
25 included in the project?

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C2n0ann5 Cantone - direct

1 A. There is about 1.3 million square feet of retail restaurant
2 and entertainment space.

3 MR. CARBONE: Please broadcast government exhibit 351.

4 Q. Do you recognize this?

5 A. Yes. This an aerial view of the Ridge Hill project.

6 Q. Using this aerial photo, can you describe where the current
7 access routes are.

8 A. Off the New York State Thruway, Exit 6A, and off Tuckahoe
9 Road.

10 Q. And what is that body of water on the top?

11 A. That's the Grassy Spring Reservoir.

12 Q. And can you indicate where the Thruway is?

13 A. The Thruway is the road down below.

14 Q. Running along the bottom?

15 A. Yes.

16 THE COURT: Does somebody have a laser pointer or
17 something to indicate for the jurors?

18 MR. CARBONE: Could the witness step up to the screen.

19 THE COURT: Only because the initials NYS and Thruway
20 are very, very faint.

21 MR. CARBONE: Could you maximize, to the extent you
22 can.

23 THE COURT: That's better. Much better. And just to
24 orient us, Mr. Cantone, which direction is north.

25 THE WITNESS: I believe north is that way. Am I

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C2n0ann5 Cantone - direct
1 right?

2 THE COURT: I don't know what that way is.

3 THE WITNESS: How am I supposed to?

4 THE COURT: Let's see, toward the left, the top, the
5 right, or the bottom?

6 THE WITNESS: I believe it is toward the left.

7 MR. CARBONE: Your Honor, may we have Mr. Cantone
8 approach the screen.

9 THE COURT: Sure.

10 Q. Mr. Cantone, why don't you step up and explain the project.
11 I'll ask you just a few questions.

12 Why don't you indicate, by pointing, where the Thruway
13 is.

14 A. This is the New York State Thruway. Tuckahoe Road runs
15 along here to the right. The project, the Sprain Brook Parkway
16 runs along the top. Project. This is the county park over
17 here.

18 Q. And where is the access route to the Thruway?

19 A. Exit 6A is right here. Get off here. Go into the project.

20 Q. And are those the only two access routes to this project?

21 A. Yes.

22 Q. What is that big box on the right?

23 THE COURT: Which big box?

24 Q. On the right of the project?

25 A. Here?

C2n0ann5 Cantone - direct

1 Q. Yes.

2 A. That's the development -- part of the development.

3 Q. And can you explain where the retail stores are?

4 A. The retail stores are located throughout the project.

5 Q. Okay, thank you very much. You can be seated.

6 And what was the approximate cost to build the
7 project?

8 A. In excess of \$600 million.

9 Q. And what was your specific role in the project?

10 A. My role was to assist the development team, the retail
11 team, in government and public affairs and government
12 relations, and to assist them in getting the project through
13 the public approval process.

14 Q. Can you tell the jury, generally, how the project was
15 staffed?

16 A. You had a team headed by an executive vice president. And
17 project managers below him. And the development team was
18 responsible for, not only locating the project, locating and
19 identifying the project, designing the project, but also
20 getting it through the public approval process. And the
21 government and public affairs team assisted them in getting
22 this project through the public approval process.

23 MR. CARBONE: Please broadcast government exhibit 352.
24 Would you please maximize, you have already.

25 Q. Is this an organizational chart for the Forest City Ratner

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C2n0ann5 Cantone - direct

1 Company as it existed in 2006?

2 A. Yes, it is.

3 MR. CARBONE: Mr. Turk, could you please maximize the
4 fourth box in from the left.

5 Q. Mr. Cantone, would you please describe the general function
6 of that box which is labeled Retail Development?

7 A. The Retail Development Division identifies viable retail
8 projects for the company, designs and develops those projects.

9 Q. And who was the head of Retail Development in 2005?

10 A. The executive vice president for Retail Development was
11 Richard Pesin.

12 MR. CARBONE: Please return the document to the
13 original, and maximize the seventh box in from the left, which
14 says Government and Public Affairs.

15 Q. Now, are the head of the Government and Public Affairs and
16 Retail Development Divisions peers?

17 A. Yes, they are.

18 Q. And who do they report to?

19 A. Bruise Ratner.

20 MR. CARBONE: Turn to page 2, Mr. Turk, and maximize
21 the top half of the page.

22 Q. And what division is this organizational chart?

23 A. This is the Retail Development Division.

24 Q. And who is the head of the Retail Development Division at
25 the time?

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C2n0ann5 Cantone - direct

1 A. Richard Pesin.

2 Q. And what was Richard Pesin's role in the Ridge Hill
3 project?

4 A. He was the executive in charge of overseeing the entire
5 project.

6 Q. Referring to the box that says John Swagerty?

7 A. Uh-huh.

8 Q. What was John Swagerty's role in the Ridge Hill project?

9 A. He was the project manager for the project. And he
10 basically coordinated all of the efforts for the project. He
11 was a liaison between the Government and Public Affairs
12 Division, and his division, and the engineers, the architects
13 and so forth.

14 MR. CARBONE: Please turn to page 3. Maximize the top
15 half of the page.

16 Q. And what division does this organizational chart relate to?

17 A. This is the Government and Public Affairs Division.

18 Q. And at this time, in 2005, who headed the division?

19 A. Bruce Bender.

20 MR. CARBONE: And can you maximize that any more,
21 Mr. Turk?

22 Q. And you directly reported in to Bruce Bender at this time?

23 A. Yes, I did.

24 Q. And what was Roberta Fearon's role?

25 A. My assistant, and Bruce Bender's back-up assistant.

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1 Q. Who is Deborah Venesia?

2 A. Bruce Bender's assistant.

3 MR. CARBONE: And maximize the page again.

4 Q. And how about Deirdre Cahill.

5 A. She was a -- a project analyst that worked for our team.

6 Q. Did the project have all of the approvals that were
7 necessary by the Yonkers City council by the summer of 2005?

8 A. No, they did not.

9 Q. And what approvals were still needed?

10 A. In the summer of 2005, the Westchester County Planning
11 Board issued a negative declaration for the project,
12 essentially disapproving the project unless major modifications
13 were made. So that basically had the effect of requiring the
14 City council of Yonkers to provide a super majority, a vote,
15 for the approval of the project.

16 MR. CARBONE: Your Honor, is this a good time for an
17 afternoon break in case any of the jurors need to make a rest
18 room call?

19 THE COURT: Do you need to take a rest room call,
20 Mr. Carbone?

21 Okay. Don't discuss the case. Keep an open mind.

22 (Jury excused)

23 (Recess)

24 (Jury present)

25 THE COURT: Okay, Mr. Cantone, you are still under
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- 1 A. Ultimately, they prevailed in their lawsuit. And a super
2 majority requirement was required for the Ridge Hill project to
3 proceed.
- 4 Q. And now after the lawsuit was resolved in favor of the
5 plaintiffs, where did that leave the project?
- 6 A. That left us with four City council members supporting the
7 project, three against. And we needed one more vote. We
8 needed to convince one of the three other council members to
9 vote for project if the project was to proceed.
- 10 Q. Did Forest City Ratner hire any lobbyists in connection
11 with its efforts to move the Ridge Hill project forward?
- 12 A. Yes, we did.
- 13 Q. Who was the lobbyist paid the most by Forest City Ratner?
- 14 A. Al Pirro.
- 15 Q. And who was Al Pirro hired to lobby on your behalf.
- 16 A. City council members.
- 17 Q. During the 2005 time period, did the company make any
18 effort to gain the support of councilwoman Sandy Annabi?
- 19 A. Yes.
- 20 Q. What efforts were made?
- 21 A. We asked our lobbyists to reach out to her to see if we
22 could set up a meeting to discuss the merits of the project.
23 We, internally, reached out to her directly ourselves.
- 24 Q. What lobbyists did you rely on to try to get her support?
- 25 A. Al Pirro, and Pat Lynch Associates, and Mike Spano, who

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1 worked for Pat Lynch.

2 Q. Were your lobbyists successful in getting her support?

3 A. No, they were not.

4 Q. Were they successful in getting you a one-on-one meeting
5 with her?

6 A. No, they were not.

7 Q. Did the company reach out to other officials and community
8 members to try to get her support, as well?

9 A. Yes, we did.

10 Q. Did you ever personally try to meet with Sandy Annabi, one
11 on one, to discuss the project?

12 A. I personally approached Councilwoman Annabi on the council
13 floor on one or two occasions after council meetings asking if
14 we could meet.

15 Q. And what did she say?

16 A. She said to call her office.

17 Q. Were you ever able to set up a meeting with her, one on
18 one?

19 A. No, we were not.

20 Q. Now Councilwoman Dee Barbato opposed the project; is that
21 right?

22 A. Yes.

23 Q. Did Councilwoman Barbato agree to meet with you to discuss
24 the project?

25 A. Yes, she did.

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1 Q. Did you meet with her on more than one occasion?

2 A. Yes, we did.

3 Q. And did Forest City Ratner agree to make any changes to the
4 project that were suggested by Councilwoman Barbato?

5 A. Yes, we did.

6 Q. Do you recall what changes were made to the project?

7 A. There was a realignment of the road that goes through the
8 project, and we realigned that road based on the concerns her
9 and her constituents had.

10 Q. Did Councilwoman Barbato ever refuse to meet with you?

11 A. No.

12 Q. How about John Murtagh, did he ever -- did he agree to meet
13 with you, one on one?

14 A. Yes, several times.

15 Q. And did you discuss his concerns?

16 A. Yes, we did.

17 Q. Did Councilman Murtagh ever refuse to meet with you?

18 A. Not that I'm aware of, no.

19 Q. And in your experience, was it unusual for an elected
20 official not to meet with the developer to discuss the merits
21 of a major project like this?

22 A. Yes, it was unusual.

23 Q. Directing your attention to June 2, of 2006, do you recall
24 what you were doing that day?

25 A. June 2, 2006, there was a lunch meeting at Marco Polo

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1 Restaurant, in Brooklyn, New York.

2 Q. Did you expense the lunch meeting through your company?

3 A. Yes, I did.

4 MR. CARBONE: Please broadcast government

5 exhibit 47 A.

6 Q. Is that the guest check?

7 MR. CARBONE: Please maximize and highlight the top of
8 the check.

9 Q. Mr. Cantone, is this the guest check for lunch that day?

10 A. Yes.

11 Q. Please read the name of the restaurant at top of the
12 receipt.

13 A. Marco Polo Restaurant.

14 Q. And what is that date of the receipt?

15 A. The date is June 2, '06.

16 Q. Who was present at this meeting?

17 A. It was Assemblyman Joe Lentol, of Brooklyn, Zehy Jereis,
18 Joe Galimi, myself, and Bruce Bender.

19 Q. Had you ever met Zehy Jereis before that day?

20 A. No, I did not.

21 Q. How was he introduced to you?

22 A. He was introduced as Republican Chairman of Yonkers,
23 someone who can help us, someone who was close to Councilwoman
24 Sandy Annabi.

25 Q. Was the subject of the Ridge Hill project discussed at the

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1 meeting?

2 A. Yes, it was.

3 Q. And what if anything did Zehy Jereis say about the project?

4 A. He was in favor of the project. He said he was surprised
5 that any council member would be opposed to such a project,
6 given the economic benefits it would provide to City of Yonkers
7 and Westchester County.

8 Q. During the meeting, did Zehy Jereis ever say that he could
9 get Sandy Annabi to support the project?

10 A. He said that he would certainly talk to Sandy Annabi about
11 the project and see if he can arrange a meeting.

12 Q. And did he, in fact, then, arrange to have Sandy Annabi
13 attend a meeting with you and others?

14 A. Yes, the following week.

15 Q. And do you recall what day that meeting took place?

16 A. June 14th, 2006.

17 Q. Was there a meeting prior to the June 14 meeting?

18 A. I'm sorry -- yes, June 9.

19 Q. And where did the June 9 meeting take place?

20 A. The June 9 meeting took place at Jake's Steakhouse in
21 Yonkers.

22 Q. Who was present at that meeting?

23 A. At that meeting, it was Zehy Jereis, Council Member Sandy
24 Annabi, Richard Pesin, Bruce Bender, and myself.

25 Q. Did you expense that luncheon?

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1 A. Yes, I did.

2 MR. CARBONE: Please broadcast government exhibit 445

3 A, and maximize the receipt.

4 Q. Is this the receipt for the Jake's Steakhouse luncheon?

5 A. Yes, it is.

6 Q. Please read the date on the top of the receipt.

7 A. June 9, '06.

8 Q. And the name on the receipt?

9 A. Jakes's Steakhouse.

10 Q. Did you make any notes on the back of the receipt when you
11 submitted it for reimbursement?

12 A. Yes.

13 MR. CARBONE: Please broadcast page 2, which is the
14 back of the receipt, and maximize the handwriting.

15 Q. Is that your handwriting?

16 A. Yes, it is.

17 Q. How did you describe your meeting on your expense report?

18 A. Lunch meeting with consultant on Ridge Hill project.

19 Q. Approximately how long did the meeting last?

20 A. Between an hour, and hour and a half.

21 Q. Please describe what discussions took place at the meeting.

22 A. We discussed the project at length; the benefits, the pros
23 and cons. We discussed Councilwoman Annabi's concerns about
24 the project. And we offered some things to Councilwoman Annabi
25 to see if she would come on board.

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1 Q. Did Zehy Jereis speak either favorably or unfavorably about
2 the project at the meeting?

3 A. He spoke favorably about the project.

4 Q. Do you recall what he said?

5 A. He said to me, it was something along the lines of that
6 this was a project that would be good for Yonkers, good for the
7 economy, good for jobs. And that's basically it.

8 Q. Now, you mentioned that Forest City Ratner offered some
9 things.

10 A. Yes.

11 Q. Can you please tell the jury what, if any, discussion you
12 had on the subject of what concessions you would make?

13 A. The concessions we offered setting up the meeting was,
14 basically, we offered 10 million dollars, an additional
15 \$10 million, over a three-year period, before the project would
16 open, in taxes to the City of Yonkers.

17 Q. Did you discuss traffic mitigation during the meeting?

18 A. Yes, we did. At length.

19 Q. Did Forest City Ratner agree to make any concessions on
20 traffic mitigation?

21 A. No. We said we could not.

22 Q. During this meeting with Sandy Annabi, did Forest City
23 Ratner make any concessions that had not previously been
24 offered by Forest City Ratner?

25 A. No, we did not.

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- 1 Q. As a result of this meeting, was there any reduction in
2 retail space?
3 A. No.
4 Q. Was there any reduction in the scope of the project at all?
5 A. No, there was not.
6 Q. Any change in the scope of the project?
7 A. No.
8 Q. During this meeting, was the subject of whether Zehy Jereis
9 would be given a consultant contract discussed?
10 A. During the meeting, no. But afterwards, yes.
11 Q. And when did that happen?
12 A. As we were all walking to our car, going on our separate
13 ways, Zehy Jereis approached me and asked if we would consider
14 hiring him as a consultant.
15 Q. And where did this occur?
16 A. This occurred outside of Jake's Steakhouse.
17 Q. What did you say to him?
18 A. I said I couldn't give him an answer at that point in time,
19 this was something we could certainly consider and talk about
20 in the future.
21 Q. When is the next time you met with Sandy and Zehy Jereis?
22 A. That was on June 14th.
23 Q. And where did that meeting occur?
24 A. That occurred at Madison's Restaurant.
25 Q. And where is Madison's Restaurant located?

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C2n0ann5 Cantone - direct

1 A. Riverdale, the Bronx.

2 Q. Who was present at that meeting?

3 A. At that meeting, Councilwoman Sandy Annabi, Zehy Jereis,
4 Bruce Bender, and myself.

5 Q. Prior to that meeting, did you have any discussions with
6 Zehy Jereis?

7 A. Yes.

8 Q. What were the substance of those discussions?

9 A. We discussed the concessions. We discussed how, from a
10 public relations point of view, if Councilwoman Annabi were to
11 switch her vote, how we could make her look the best because
12 she was switching her vote. A political parachute, per se, we
13 were discussing.

14 Q. Why were you talking to Zehy Jereis, instead of Sandy
15 Annabi?

16 A. My understanding was that he was the point person to talk
17 to on behalf of Sandy Annabi.

18 Q. And again at this point in time, did Zehy Jereis support
19 the project?

20 A. He said he did, yes.

21 Q. Please broadcast 447 B. And maximize the bottom box.

22 Mr. Cantone, whose calendar is this?

23 A. This is my calendar.

24 Q. And what is reflected on the June 14 entry?

25 A. There is a 2:30 meeting, Friends of Yonkers, Madison's,
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1 Riverdale Avenue.

2 Q. Is that the meeting you just described?

3 A. Yes.

4 Q. Now, during this meeting, did you discuss how the public
5 would perceive Sandy Annabi's support for the project?

6 A. Yes, that was a matter of discussion.

7 Q. And what, in substance, did Sandy Annabi say?

8 A. Well, she was concerned that, you know, she was an opponent
9 of the project for so long, how -- she was concerned how it
10 would look if she were to switch her vote. The concessions
11 needed to be enough in a way where people would understand why
12 she was switching her vote.

13 Q. And again, at this meeting, did Zehy Jereis speak favorably
14 about the project?

15 A. Yes, he did.

16 Q. During this meeting, did Sandy or Zehy Jereis ask Forest
17 City Ratner for anything of value?

18 A. At this meeting, Zehy Jereis asked -- well, if I can put it
19 in context.

20 I guess the vote coming up for the approval for the
21 Ridge Hill project was on July 11. On July 11, Councilwoman
22 Annabi was scheduled to be out of the country on vacation, so
23 she had to switch her flight. So Mr. Zehy Jereis asked if it
24 would be possible for Forest City Ratner to pay the costs
25 associated with changing her flight.

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1 Q. And what is your understanding of where Ms. Annabi was
2 going?

3 A. I believe it was Jordan.

4 Q. And was Ms. Annabi present when Zehy Jereis asked for
5 Forest City Ratner to pay for the change?

6 A. Yes, she was.

7 Q. And what if anything did you say?

8 A. We said we did not think that was possible due to ethical
9 and legal concerns, but we would bring it back to our general
10 council and then get back to them.

11 Q. Did Forest City Ratner agree to pay for the change in
12 Ms. Annabi's airfare to Jordan?

13 A. No, we did not.

14 Q. And was this communicated to her?

15 A. It was communicated to Mr. Zehy Jereis.

16 Q. And who communicated it to him?

17 A. I did.

18 Q. What did you say?

19 A. I said it would not be possible because of the legal and
20 ethical concerns we raised, that we were not comfortable to pay
21 for the costs associated with changing the flight.

22 Q. And what if anything did Mr. Jereis say in response?

23 A. He said, okay, he'll figure it out. Maybe he'll pay for it
24 himself.

25 Q. When did Sandy Annabi announce her support for the project?

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1 A. The following day, after the June 14th meeting we had, she
2 announced the support for project via press release on
3 June 15th.

4 Q. And who drafted the press release?

5 A. I did.

6 Q. After you drafted the release, who did you send it to?

7 A. I sent it internally to our media PR expert, they tweaked
8 it, sent it back to me, and I then forwarded it on to
9 Councilwoman Annabi and Zehy Jereis.

10 MR. CARBONE: Please broadcast government
11 exhibit 441 A and maximize the top.

12 Q. Now, can you explain to me who you sent this e-mail to?

13 A. This was sent to Sandy Annabi and Zehy Jereis.

14 Q. On what date?

15 A. On Wednesday, June 14th, 2006.

16 Q. Approximately what time?

17 A. 10:34 p.m.

18 Q. Just to be clear, this is a press release that Sandy Annabi
19 was gonna issue in her name?

20 A. That's correct.

21 Q. Why were you sending it to Zehy Jereis?

22 A. Because he was the point person for Sandy Annabi working on
23 this issue.

24 Q. Now, what was attached to this particular e-mail?

25 A. Attached was the draft of the press release that we had

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1 drafted.

2 MR. CARBONE: Please broadcast government
3 exhibit 4439.

4 Q. And in this e-mail chain there are two e-mails. Can you
5 tell us who the first e-mail is from and who it is to?

6 A. I'm sorry, Mr. Carbone, do you want plea to start from the
7 bottom or the top?

8 Q. Yes, at the bottom.

9 A. Okay. This is from Sandy Annabi, to myself. And Zehy
10 Jereis is copied on the e-mail: Scott, I notice there is no
11 mention of the 10.8 we discussed. I need that in there, since
12 that is the reason I agreed to come on board. Also, I would
13 like to be able to say that FCR and I -- and I are continuing
14 negotiations with regard to traffic mitigation and that FCR is
15 committed to exploring all options available in order to
16 alleviate increased traffic or something to the effect that
17 shows FCR's willingness to continue to address traffic
18 concerns. Thanks, Sandy.

19 Q. And what did you do after you received -- by the way, who
20 does Sandy Annabi copy on that e-mail?

21 A. Zehy Jereis.

22 Q. And what did you do after you received that?

23 A. I forwarded this to our international media staffer.

24 Q. And can you please read what you wrote?

25 A. I said: Just FYI. In case you need her e-mail address

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1 later, I have a call in to her to talk her out of the changes.
2 Stay tuned.

3 Q. What, if any, further discussions did you have with her on
4 the subject of mentioning the 10 million-dollar figure in your
5 release?

6 A. I had a conversation with her later that evening or the
7 next morning, where I explained the problems we had mentioning
8 the 10.8 million off the bat. We had to get our ducks in order
9 with the City of Yonkers, and that we could not put the
10 10.8 million in there off the bat. And I also explained the
11 problems we had with mentioning traffic mitigation changes due
12 to EIS concerns.

13 Q. And what were EIS concerns?

14 A. I'm sorry, environmental impact statement.

15 Q. And just to be clear, has Forest City Ratner agreed to put
16 any further money into traffic mitigation?

17 A. At this point, no.

18 Q. And would you please take a look at government
19 exhibit 441 F, and turn to page 2.

20 Did you then receive a final of the press release?

21 A. Yes.

22 MR. CARBONE: Broadcast 441 F, page 2, maximize the
23 top.

24 Q. And who is this fax communication from?

25 A. This is from Debbie Kayal, on behalf of Sandy Annabi's --

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1 from Sandy Annabi's council office.

2 Q. And approximately when did you receive this?

3 A. Looks likes it came in on June 15, at 12:51 p.m.

4 Q. Would you turn to page 3 of that exhibit.

5 And is this the final press release that was issued?

6 A. Yes, it is.

7 Q. Any mention of the 10.8 million in there?

8 A. No.

9 Q. And when did the City council vote take place?

10 A. The City council vote took place on July 11th.

11 Q. And what council members voted in favor of the project on
12 July 11?

13 A. On July 11, it was Councilwoman Sandy Annabi, Dennis
14 Robertson, Liam McLaughlin, Pat MacDow, and council president
15 Chuck Lesnick.

16 Q. During the approximately three-and-a-half week period
17 between June 15 and July 11, what if any discussions did you
18 have with Zehy Jereis concerning his request for a job at
19 Forest City Ratner?

20 A. Well, there were multiple e-mails and phone calls from Mr.
21 Jereis asking about the possibility of a contract.

22 Q. Can you describe the contact you had with him on the
23 subject of a consulting contract during that time period?

24 A. He was persistent. He was aggressive during that period of
25 time.

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1 Q. And approximately how many times did he ask you for a job
2 after Ms. Annabi announced her support and before she voted for
3 the contract -- for the -- the project?

4 A. Approximately half dozen times.

5 MR. CARBONE: Please broadcast government exhibit 41.

6 Q. And who is this e-mail from?

7 A. This is from Zehy Jereis.

8 Q. And approximately what date and time did you receive this
9 e-mail?

10 A. On Friday, June 16, at 4:14 p.m.

11 Q. What was attached to this e-mail?

12 A. Attached to this e-mail was Zehy Jereis's resume and cover
13 letter.

14 Q. How long after Sandy issued her press release announcing
15 her support for the Ridge Hill project did Zehy Jereis send you
16 his resume?

17 A. It was within 24 hours.

18 MR. CARBONE: Please broadcast government exhibit 416.

19 Maximize the to and from section.

20 Q. And did you receive this e-mail?

21 A. Yes.

22 Q. Who is it from?

23 A. This is from Zehy Jereis.

24 Q. What is the date and time you received the e-mail.

25 A. Tuesday, June 20, at 8:20 a.m.

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1 Q. What was attached to this e-mail?

2 A. It looks like Zehy Jereis' cover letter and resume, once
3 again.

4 Q. How many days earlier had he already sent you a copy of his
5 resume and cover letter?

6 A. Less than a week.

7 Q. And can you read the text?

8 A. Hi, Scott, I hope all is well. How are things in regards
9 to our discussion last Friday. Say hi to Bruce.

10 MR. CARBONE: Please broadcast government exhibit 417.
11 And maximize the to and from section.

12 Q. Who is this e-mail from?

13 A. This is from me, Scott Cantone.

14 Q. And were you responding to Mr. Jereis e-mail?

15 A. Yes, I was.

16 Q. What does the subject line say?

17 A. Resume and cover.

18 Q. Can you please read the text?

19 A. Hey, how are you. We are moving forward. We are in Albany
20 today. We should talk tomorrow.

21 MR. CARBONE: Please broadcast government exhibit 419.

22 Q. Starting with the second e-mail in the chain, is that the
23 same e-mail as we just reviewed?

24 A. Yes, it is.

25 Q. And did Mr. Jereis respond?

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1 A. On Friday, June 23, 10:50 a.m. he says: How are we doing.

2 Q. And what does the subject line say?

3 A. Resume and cover.

4 MR. CARBONE: Please broadcast government

5 exhibit 440 A.

6 Q. And what date did you receive this e-mail from Mr. Jereis?

7 A. Sunday, June 25, 2006, 5:33 p.m.

8 Q. And is this Mr. Jereis' response to your response?

9 A. This says: Hi, Scott, I hope you are enjoying the rain.
10 Hopefully we can meet on Monday.

11 Q. Would you read the subject line please?

12 A. Resume and cover.

13 MR. CARBONE: Please broadcast government

14 exhibit 42020.

15 Q. Did you respond to this e-mail?

16 MR. CARBONE: Maximize the top third.

17 A. On Monday, June 26, 9:44 a.m.

18 Q. And who did you send this e-mail to?

19 A. This is to Zehy Jereis.

20 Q. Please read the subject line.

21 A. Resume and cover.

22 Q. And please read the text.

23 A. Hey, hope all is well. I'm stuck in Brooklyn today, but I
24 spoke with Bruce, and he is going to try and come up today and
25 see you. I'll call you later.

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1 Q. Did you have occasion to meet with Zehy Jereis after this
2 e-mail was sent?

3 A. Yes, on June 28th.

4 Q. And where did that meeting take place?

5 A. It was at a Dunkin Donuts, in Yonkers.

6 MR. CARBONE: Please broadcast 441 B, maximize the top
7 third.

8 Q. And what is 441 B?

9 A. This is an e-mail generated by myself explaining how to get
10 to Dunkin Donuts.

11 Q. And can you please read the subject line?

12 A. Meet Zehy at 11:00 a.m.

13 Q. And who did you copy this e-mail to?

14 A. This was to Bruce Bender, Richard Pesin. I copied myself.
15 And Debbie Venesia, Bruce's assistant.

16 Q. And did you attend this meeting?

17 A. Yes, I did.

18 Q. And other than Mr. Bender, Mr. Pesin, and Mr. Jereis, was
19 anyone else present?

20 A. No.

21 Q. What if any discussions occurred at that meeting about the
22 subject of whether Zehy Jereis would be hired as a consultant?

23 A. Somewhere in the course of the meeting, he raised the topic
24 of whether we can hire him as a consultant. We asked him about
25 his business, whether it was a valid business, whether he had

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1 an employer, federal employer ID number, whether he had
2 employees, whether he had an office and so forth. We asked him
3 what kind of services he provides in the course of his
4 business.

5 Q. Did anyone from Forest City Ratner at that meeting tell him
6 that he would not be hired?

7 A. No, we did not.

8 Q. How did you leave it with him?

9 A. We told him that we would consider to think about it, but
10 we were not going to make a decision on that at this time.

11 MR. CARBONE: Please broadcast government exhibit 421.

12 Q. Who is this e-mail from?

13 A. This is from Zehy Jereis.

14 Q. And who is it to?

15 A. Myself.

16 Q. When did you receive this?

17 A. Wednesday, June 28th, 3:20 p.m.

18 Q. How long after the meeting at Dunkin Donuts did you receive
19 this e-mail?

20 A. Not very long at all.

21 Q. Was it the same day?

22 A. Yes, it was.

23 Q. And please explain what information Mr. Jereis provided?

24 A. It looks like his Social Security number.

25 Q. And what business name?

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C2n0ann5 Cantone - direct

- 1 A. Z J Enterprises.
2 Q. And what is the address for Z J Enterprises.
3 A. 17 Robbins Place, Yonkers New York 10705.
4 Q. Is it fair to say you were putting Mr. Jereis off at this
5 time?
6 A. Yes.
7 Q. Why were you putting him off?
8 A. We didn't feel -- internally, we spoke about it and we felt
9 that we didn't -- we didn't think it was appropriate at this
10 period of time to hire Zehy Jereis for a number of reasons.
11 Q. And what if any concerns did you have about how it would
12 look if Zehy Jereis was given a job before the vote took place?
13 A. We thought optically it would look bad if we were to give
14 him a consulting contract at this time. We also really had
15 just met Zehy Jereis and were still unsure of what value he
16 would have to us going forward in the future.
17 Q. What if any concerns did you have that if you did not hire
18 him that Sandy Annabi would withdraw her support for the
19 project?
20 A. That was certainly a concern that I had.
21 Q. Did you hire him before the July 11 vote?
22 A. No, we did not.
23 Q. After the July 11 vote, did you hear from Zehy Jereis about
24 the subject of this contract.
25 A. Yes, we did.

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C2n0ann5 Cantone - direct

1 MR. CARBONE: Please broadcast government exhibit 422.

2 Q. And read the to and from lines, and the date of the bottom
3 e-mail.

4 A. From Zehy Jereis to Scott Cantone. Sent on Sunday,
5 July 23rd. It says: Hi, Scott, how are things going?

6 Q. And can you read what you wrote in response to Zehy Jereis'
7 e-mail?

8 A. Good, thanks. How are you. How are the races going.

9 By the way, I am going to try and get you some
10 contract language by the end of the week.

11 Q. And this is after the vote?

12 A. Yes.

13 Q. Did you get him any contract language by the end of the
14 week?

15 A. No, I did not. I was just trying to put him off here.

16 MR. CARBONE: Please broadcast government
17 exhibit 44 C.

18 Q. Did Zehy Jereis respond to your e-mail relating to when you
19 said that you were going to try and get him some contract
20 language by the end of the week?

21 A. Yes. In an e-mail dated Monday, July 24th, 2006,
22 11:23 a.m. He replied: I appreciate that.

23 Q. And I'm sorry, what time of day was that e-mail?

24 A. 11:23 a.m.

25 MR. CARBONE: Now, broadcast 440 D.

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C2n0ann5 Cantone - direct

1 Q. And, how many minutes after the previous e-mail did you
2 receive this?

3 A. I'm sorry, when was the other -- couple of minute later, it
4 looks like.

5 Q. Okay. Referring to 440 D, would you please read the text
6 of the e-mail?

7 A. Very busy trying to knock some candidates off the minor
8 lines. Specifications are due today and tomorrow. Things are
9 fine. I appreciate the movement on the contract.

10 MR. CARBONE: Please broadcast government
11 exhibit 440 E.

12 Q. And did Mr. Jereis follow up?

13 A. On Friday, August 4, 2006, 7:35 a.m., subject is: Hi.

14 The body of the e-mail says: Hi, Scott, how is
15 everything going?

16 Q. Now, how much time passed before you actually sent Mr.
17 Jereis a contract?

18 A. Several months. I believe it was in October that we
19 finally sent him some contract language.

20 Q. And who, from the company, was the point of contact with
21 Zehy Jereis during this time period?

22 A. I was.

23 MR. CARBONE: Please broadcast government exhibit 426.

24 Q. And can you please take the jury through this chain of
25 e-mails starting with the first, on the bottom. And if you

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C2n0ann5 Cantone - direct

1 could --

2 MR. CARBONE: Mr. Turk, just maximize a third of the
3 page at a time so Mr. Cantone can read them.

4 A. I would read it like this. Tuesday, September 19,
5 11:46 a.m. Subject: Z J Enterprises, consulting agreement.
6 It is from me to Zehy.

7 Hey, Zehy, hope all is well and you enjoyed the
8 summer. Please see the attached draft contract. And let me
9 know if you have any comments and let's discuss. Thanks.

10 Q. And when did Mr. Jereis respond?

11 A. On Tuesday, October 10th, 2006, 11:30 a.m. How are you
12 doing.

13 Q. Is it: How are we doing?

14 A. I'm sorry, yes. How are we doing.

15 Q. And can you take us through the next, your response?

16 A. On Tuesday, October 10, 11:43 a.m., I say: Hey, how are
17 you. Can you sign agreement and get back to me.

18 He then replies on October 10, at 11:47 a.m. Should I
19 e-mail it or drop it off to you. If you want me to mail it,
20 please give me the address.

21 Q. And did you then provide him with the address of Forest
22 City Ratner?

23 A. Yes.

24 Q. Now, Mr. Jereis asked for the address. Had he ever been to
25 your office?

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C2n0ann5

Cantone - direct

1 A. No.

2 Q. Even after he was hired, had he ever been to your office?

3 A. No.

4 MR. CARBONE: Please broadcast government exhibit 443.

5 Can you just maximize the top page 1.

6 Q. Mr. Cantone, is it fair to say that this agreement which
7 was forwarded to Mr. Jereis in October was dated, backdated
8 August 1st of 2006?

9 A. Yes.

(Continued on next page)

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C2NAAANN6

Cantone - Direct

1 BY MR. CARBONE:

2 Q. And was the format of this agreement unusual for Forest
3 City Ratner?4 A. Yes. It was unusual because it includes services to both
5 the retail division and government of public affairs of
6 division.7 Q. Let's review the agreement. First of all, who from your
8 company was Mr. Jereis supposed to report to?9 A. According to the agreement, he was supposed to report
10 directly to Bruce Bender, Richard Pesin and Scott Cantone.11 MR. CARBONE: Now Mr. Turk, would you maximize the
12 last sentence of the first paragraph and just highlight that.

13 (Pause)

14 Q. Can you read that section, that sentence at the end of the
15 first paragraph.16 A. Consultant reporting directly to Bruce Bender, Richard
17 Pesin and Scott Cantone and other senior members of SC
18 Acquisition and his affiliates.19 Q. Can you just explain, generally, what is it that Mr. Jereis
20 was supposed to be doing in connection with this consulting
21 contract?22 A. He was supposed to be providing government relations
23 services to the government affairs division of Co-op City, as
24 well as retail hunting, in other words, looking for potential
25 development sites, the retail division for the retail division.

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C2NAAANN6 Cantone - Direct

1 MR. CARBONE: Please, Mr. Turk, broadcast the second
2 paragraph of the agreement.

3 Q. And can you read page one, second paragraph. Can you read
4 that paragraph?

5 A. The term of this agreement shall commence on August 1, 2006
6 and continue to July 31, 2007. Subject to the terms and
7 provisions herein, the term, this agreement may be extended
8 upon the mutual written agreement of the parties.

9 MR. CARBONE: And, Mr. Turk, please return to the
10 original and maximize the sentence beginning "FC Acquisitions".
11 (Pause)

12 Q. And how much was Mr. Jereis being paid for this agreement?

13 A. Five thousand dollars per month for one year.

14 Q. And how much does that come out to annually?

15 A. \$60,000.

16 MR. CARBONE: And, Mr. Turk, would you please maximize
17 the first half of the third paragraph beginning with "during
18 the term".

19 Q. Now, was Mr. Jereis obligated under the terms of this
20 agreement to provide you with monthly reports detailing what he
21 was allegedly doing for the company?

22 A. Yes.

23 Q. Can you please read the first sentence in Paragraph 3?

24 A. During the term consultant shall deliver a written report
25 to FC Acquisition at least once per month regarding general

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C2NAAANN6 Cantone - Direct

- 1 matters and happenings within Westchester County and issues
2 that may be time sensitive and of interest to "FC Acquisition".
3 Q. Approximately, when did you learn of the investigation?
4 A. Approximately, March of 2007.
5 Q. Did Mr. Jereis provide any reports between August 1, 2006
6 and March 1st of 2007 describing the work that he allegedly did
7 for Forest City Ratner?
8 A. No, he did not.
9 Q. Did he provide you with any reports at all before the
10 investigation became public?
11 A. No.
12 Q. Please turn to the last page of the agreement which is Page
13 3. That's Government Exhibit 443. Now this agreement is
14 signed by David Berliner. Who is he?
15 A. He is Senior Vice President for FC Acquisition Associates
16 and the General Counsel of Forest City Ratner companies.
17 MR. CARBONE: Please maximize the signature line on
18 the left.
19 Q. And whose signature does that appear to be?
20 A. Zehy Jereis.
21 Q. Now, you were the point person?
22 A. Yes.
23 Q. Once he was hired? Approximately, how often would you say
24 that you met with Zehy Jereis between August 1st and March
25 after the investigation became public? August 1, 2006 and

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C2NAAANN6 Cantone - Direct

1 March of 2007?

2 A. Approximately, two times.

3 Q. And, approximately, how many times did you speak with him
4 by phone?

5 A. Once or twice.

6 MR. CARBONE: Please broadcast Government Exhibit 381.

7 Q. And starting with the bottom e-mail in the chain, who is
8 that from?

9 A. From Zehy Jereis sent on Monday, March 12, 2007, 2:26 p.m.
10 subject: Reports, Hi Scott, hope all is well. Please see
11 attached reports. There are a few good properties in
12 Westchester County. The market is adjusting but not quite
13 there yet. Give regards to Bruce and Richard. Sincerely, Zehy
14 Jereis.

15 Q. What did you do once you received these reports from
16 Mr. Jereis?

17 A. I forward the reports to Richard Pesin and John -- and
18 copied Bruce Bender.

19 Q. This is after the investigation began?

20 A. Yes.

21 Q. Please, let's take a look at some of those reports. Please
22 turn to page three, say the September 2006 report. By the way,
23 this report says September 2006. Had you received this report
24 from Mr. Jereis in September of 2006?

25 A. No.

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C2NAAANN6 Cantone - Direct

1 Q. And when did you --

2 A. Sorry, Mr. Carbone. What page?

3 Q. Page 3. It's up on the screen.

4 A. I don't have it here.

5 Q. It's on the screen.

6 A. Okay.

7 Q. And I am sorry. The report says monthly report September
8 2006. When did you receive this?

9 A. In March 2007.

10 Q. And it says reviewed Town of Portland press release on open
11 space and development concerns. Reviewed minutes of Courtland
12 town council meeting for September information pertaining to
13 changes in outlook for development. Did you ever discuss those
14 things with Zehy Jereis?

15 A. No.

16 Q. Did he ever report to you at the time that he did any of
17 these things?

18 A. No, he did not.

19 MR. CARBONE: And turning to go page 4 of the October
20 report. Please maximize the October report again.

21 Q. This says October of 2006. When did you receive this?

22 A. March 2007.

23 Q. Says reviewed city of Peekskill grant announcement of 8.3
24 million for waterfront development from New York state. The
25 grant is a mixture of infrastructure and specific projects.

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C2NAAANN6

Cantone - Direct

1 Reviewed the waterfront egis enclosed in September for
2 Peekskill pertaining to timeline and proposed changes.
3 Comments on Peekskill FGs will be accepted until November 3rd.

4 Did Mr. Jereis ever report any of that to you at the
5 time?

6 A. No, he did not.

7 Q. When you met did he ever mention to you that there were any
8 investment opportunities in Peekskill?

9 A. No, he did not.

10 Q. Did he ever tell that you he had reviewed a City of
11 Peekskill grant announcement?

12 A. No.

13 Q. That says comments on Peekskill FGEIS will be accepted
14 until November 3rd. First, what is FGEIS?

15 A. I am not sure what an FGEIS is. And FEIS is a final
16 environmental impact statement. A DEIF is a draft
17 environmental impact statement.

18 Q. Did you care then or do you care now that comments were due
19 on the FGEIS for Peekskill?

20 A. No.

21 Q. Is that the kind of project that Forest City Ratner was
22 interested in?

23 A. No.

24 Q. Turning to page 5, please, the November report. And,
25 again, you received this report in March of '07?

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C2NAAANN6

Cantone - Direct

1 A. Yes.

2 Q. It says reviewed the Peekskill environmental finding
3 statement adopted November 13th. Did Mr. Jereis ever at the
4 time tell you he had done anything like that?

5 A. No.

6 MR. CARBONE: Now, the December report, turning the
7 page, Mr. Turk, which is 6.8 Q. December report refers to reviewing a draft plan for the
9 Tarrytown development. Had you ever discussed with Mr. Jereis
10 any development in Tarrytown?

11 A. No.

12 Q. New development opportunities in Tarrytown?

13 A. No.

14 Q. And referring to the January report --

15 MR. CARBONE: Please maximize the top two paragraphs.

16 Q. Makes reference to restrictions on development in the town
17 of Portland and recent findings of a planning in New Rochelle
18 Economic Development, IDA.19 Did Mr. Jereis ever mention to you any projects or
20 possible development in those areas?

21 A. No, he did not.

22 Q. Mr. Cantone, between June 2nd and the present what, if any,
23 value did Zehy Jereis provide to Forest City Ratner?24 A. Besides providing access to Councilwoman Annabi, nothing at
25 all.SOUTHERN DISTRICT REPORTERS, P.C.
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C2NAAANN6

Cantone - Direct

- 1 Q. Did he add any value as a retail hunter?
2 A. Not that I am aware of, no.
3 Q. Even assuming he did any of the things described in these
4 reports, did these things add any value to Forest City Ratner?
5 A. No.
6 Q. When you received these reports did you have any concerns
7 that the sites identified in your reports were not real sites?
8 A. I am sorry. Repeat the question.
9 Q. When you received these reports from Mr. Jereis did you
10 have any concerns that the sites that he identified at the end
11 of report that he had allegedly visited were not real sites?
12 A. I believe the retail groups sent someone out to review the
13 sites to see if they had any value.
14 Q. And were any of these sites listed in the report, sites
15 that Forest City Ratner would ever be interested in?
16 A. I don't know to tell you the truth.
17 Q. Well, let me phrase it this way. What is the smallest site
18 that you have ever seen Forest City Ratner develop?
19 A. Smallest site?
20 Q. Yes.
21 A. Sites are usually very large so.
22 Q. What is the total assets, approximate, assets of Forest
23 City Ratner?
24 A. Approximately \$11 billion.
25 Q. And does Forest City Ratner develop like a gas station?

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C2NAAANN6

Cantone - Direct

1 A. No.

2 Q. Or a convenience store?

3 A. No.

4 MR. CARBONE: Please broadcast Government Exhibit 380.
5 And maximize the second e-mail.

6 Q. And who is this e-mail from and to?

7 A. This is from myself to Richard Pesin and Bruce Bender.

8 Q. What is the date of the e-mail? The bottom e-mail, who is
9 that from?10 A. From Zehy Jereis, Friday, November 3, 2006, 6:21 p.m.,
11 subject, Nepperhan property. This is the following block and
12 lots on Nepperhan Avenue property.

13 Q. Now, and what did you do after you received this e-mail?

14 A. I forwarded this to the development group, the retail
15 development group.16 Q. Can you explain the circumstances surrounding your receipt
17 of the e-mail from Mr. Jereis dated November 3rd, 2006?18 A. We had met with Mr. Zehy Jereis that day and he raised that
19 he had a property, knew of a property that we may be interested
20 in developing.

21 Q. Where was the property located?

22 A. Nepperhan Avenue.

23 Q. You said you met with him. Where did you meet with him?

24 A. We met with him at a Starbucks in Yonkers.

25 Q. Was that a prearranged meeting?

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C2NAAANN6

Cantone - Direct

- 1 A. I believe we were up there for a day at another meeting and
2 we just called to see if he was around because we were up
3 there. Something we usually do and when we're up in
4 Westchester or Yonkers to try to maximize our time up there.
5 So we reach out to him to see if he was available--
6 Q. Other than this meeting, did have you any other meetings
7 with Mr. Jereis during this time period about investment
8 opportunities or retail hunting?
9 A. No.
10 Q. And you said that he mentioned this Nepperhan Avenue
11 Property at the meeting?
12 A. Yes, he did.
13 Q. And then when he followed up and sent you this blog and lot
14 information, did you ask him for any additional information
15 relating to this block and lot?
16 A. Yes. I asked him for tax lot for tax map information.
17 Q. Did he ever respond?
18 A. He did not, no.
19 Q. Did Forest City Ratner pay him any way?
20 A. Did we pay Mr. Jereis?
21 Q. Yes.
22 A. Yes, we paid him.
23 Q. Did the payments stop after the company learned of the
24 investigation?
25 A. Yes.

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C2NAAANN6 Cantone - Direct

1 Q. Approximately, how much was Mr. Jereis paid on the \$60,000
2 contract before the investigation began?

3 A. It is my understanding we paid him for three months for a
4 total of \$15,000.

5 MR. CARBONE: Please broadcast Government Exhibit 428.

6 Q. Can you please read the "from" and "to" lines and date you
7 received the e-mail?

8 A. From Zehy Jereis, sent on Friday, October 13, 2006, at
9 11:41 a.m. to Scott Cantone, subject, invoice attachments,
10 invoice for August and September '06 as attached. Thank you.

11 MR. CARBONE: Please turn to page 2.

12 Q. What was attached to this e-mail?

13 A. Invoices for August and September.

14 Q. Can you read the description of the services?

15 A. There is no description of services.

16 Q. And what did Mr. Jereis say in the invoice?

17 A. Invoice, the number, August consulting fee, five thousand
18 dollars per contract; another invoice number, September
19 consulting fee, five thousand dollars per contract; total
20 \$10,000.

21 MR. CARBONE: Please broadcast Government Exhibit 430.

22 Q. Please describe the e-mails "from" and "to" and the date?

23 A. From Zehy Jereis, sent Friday, November 3, 2006, 7:19, to
24 Scott Cantone, subject, October invoice.

25 Q. Is there any description of the services Mr. Jereis

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C2NAAANN6 Cantone - Direct

1 allegedly provided in this e-mail?

2 A. No.

3 MR. CARBONE: Can you just turn back to 428 for a
4 minute.

5 Q. How long after the contract was signed --

6 MR. CARBONE: Turn to page 2.

7 Q. How long after the contract was signed did you receive
8 these invoices from Mr. Jereis?

9 A. Immediately.

10 Q. Mr. Cantone, if Zehy Jereis had not produced Sandy Annabi's
11 vote would he have been hired by Forest City Ratner?

12 A. It's hard to say but, probably, not.

13 Q. After the project was approved did you have any discussions
14 with Zehy Jereis on the subject of other projects he was
15 involved with?

16 A. I am sorry. Could you repeat the question.

17 Q. After the Forest City Ratner project was approved did you
18 have any discussions with Zehy Jereis on the subject of other
19 projects in Yonkers that he was involved with?

20 A. I believe the summer or fall of 2006 I had reached out to
21 Zehy regarding some information that Bruce had wanted. And he
22 had returned my phone call and he asked me if I was calling
23 about a particular property that he was quarterbacking in the
24 city council. And I said, no, what are you talking about? He
25 says, well, I am quarterbacking the Longfellow project. I

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C2NAAANN6

Cantone - Direct

1 said, no, I am calling you about, I believe it was maybe again
2 a tax information or some other information that Bruce had
3 wanted.

4 Q. And what did you understand it to mean when he said he was
5 quarterbacking the Longfellow fellow project?

6 A. Quarter backing meant he was managing it. He was the one,
7 basically, making sure things were in order.

8 THE COURT: Mr. Carbone, are you almost done?

9 MR. CARBONE: I think I am. I just want to --

10 THE COURT: Good because I've got two sentences.

11 MR. CARBONE: This would be a good time to break,
12 judge.

13 THE COURT: Okay. Folks, we're going to break. I
14 will see you again on Monday morning. Now don't discuss the
15 case. Keep an open mind over the weekend. Remember don't go
16 trolling about the media. And if you should happen to see or
17 hear anything, turn it off, turn away, turn the page, do
18 whatever you have to do to keep from acquiring knowledge about
19 the case from outside sources. Your knowledge about the case
20 is to be acquired in this room and only in this room.

21 Have a very pleasant weekend. I will see you on
22 Monday.

23 (Adjourned to Monday, February 27, 2012, at 9:30 a.m.)
24
25

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C2RQANN1 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 Defendant.
6

7 -----x

8 New York, N.Y.
8 February 27, 2012
9 10:00 A.M.
9

10
10
11 Before:

11
12 HON. COLLEEN MCMAHON,

13 District Judge

14
15 APPEARANCES

16 PREET BHARARA
16 United States Attorney for the
17 Southern District of New York
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19
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20

21 ANTHONY J. SIANO
21 JEANNIE GALLEGGO
22 Attorneys for Defendant JEREIS
23

C2RQANN1

Trial

1 (In open court; jury not present)

2 THE DEPUTY CLERK: Case on trial continuing.

3 The government and defendants are present. The jurors
4 are in the jury room.

5 MR. HALPERIN: Good morning, your Honor.

6 MR. CARBONE: Good morning, your Honor. Judge, one
7 brief matter, the government offered a series of exhibits on
8 Thursday, a list of which were marked as Government Exhibit 349
9 for identification. Government Exhibit 373 the parties agreed
10 should not be in evidence.

11 THE COURT: Then it's not admitted.

12 (Government's Exhibit 373 withdrawn)

13 MR. CARBONE: And Government Exhibit 440D was not
14 reflected in the transcript as having been received although it
15 was discussed and should be in evidence, and the parties agree
16 on that as well.

17 THE COURT: Then it's in.

18 (Government's Exhibit 440D received in evidence)

19 MR. CARBONE: We're ready to proceed.

20 THE COURT: Good morning, Mr. Aronwald.

21 MR. ARONWALD: Good morning. Judge, just one question
22 for scheduling purposes. Your Honor indicated a few weeks ago
23 that there was an issue with March 8.

24 THE COURT: The issue with March 8 is that I need to
25 end the day at 3:00, so what I was going to do is we were going

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C2RQANN1 Trial

1 to start the usual time, we were going to take an early and
2 short lunch break. I might even bring lunch in for the jurors
3 who can't eat in the cafeteria, and I don't necessarily want
4 them to disburse, and we have to get done by 3:00.

5 MR. ARONWALD: That's all I need to know. Thank you
6 very much.

7 MR. CARBONE: Should I bring the witness in, your
8 Honor?

9 THE COURT: Absolutely.
10 (Jury present)

11 SCOTT CANTONE,
12 called as a witness by the Government,
13 having been duly sworn, testified as follows:

14 DIRECT EXAMINATION CONTINUED

15 BY MR. CARBONE:

16 THE COURT: Good morning. I hope everybody had a good
17 weekend. We are ready to resume.

18 Sir, you are still under oath.

19 Mr. Carbone.

20 MR. CARBONE: Thank you, your Honor.

21 THE COURT: Now, see, Mr. Carbone, remember he was
22 almost ready to quit on Thursday, but we've given him the
23 weekend to think about it, and he's not sitting down so he's
24 thought of some more questions.

25 BY MR. CARBONE:

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C2RQANN1 Cantone - direct

1 Q. Good morning, Mr. Cantone.

2 A. Good morning.

3 Q. Sir, before we broke last Thursday, we were discussing the
4 Ridge Hill project. Just to be clear, at the time of the
5 July 11, 2006 vote, how many votes were required to approve a
6 project?

7 A. Five votes.

8 Q. Last Thursday you testified that as a result of the June 2,
9 2006 meeting at the Marco Polo restaurant, Zehy Jereis was able
10 to set up a meeting with Sandy Annabi?

11 A. That's correct.

12 Q. How did you view this development?

13 A. It was a very interesting development for us because many
14 people over the years had informed us --

15 MR. ARONWALD: Objection, hearsay.

16 THE COURT: I don't know what's coming, so I don't
17 know if it's being offered for the truth.

18 MR. CARBONE: It's offered to show the witness' state
19 of mind, your Honor.

20 THE COURT: Thank you. I'll let it in.

21 A. So we have been -- we were told over the years by various
22 folks -- elected officials, union leaders, community leaders --
23 that all roads to Sandy Annabi go through Zehy Jereis, so --
24 there are others, obviously, who told us not to go through Zehy
25 Jereis, and we didn't for a long time, and then when we got

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C2RQANN1 Cantone - direct

1 this phone call and this meeting occurred, and Zehy Jereis was
2 at the meeting, we found it to be a very interesting
3 development for us.

4 Q. You testified that Zehy Jereis was persistent in his
5 request for jobs prior to the July 11 vote. When you met with
6 him on June 28, approximately how much money had Forest City
7 Ratner already invested in the project?

8 A. Approximately \$70 million.

9 Q. And at the time he was requesting a job, were you aware
10 that he had already paid \$10,000 to Ms. Annabi toward the
11 purchase of a Mercedes Benz?

12 A. Absolutely not.

13 Q. Did you know that he had given her tens of thousands of
14 dollars for the purchase of three separate pieces of real
15 estate?

16 A. Absolutely not.

17 Q. Did you know that he had paid thousands of dollars for
18 loans for her?

19 A. No.

20 Q. Had you known that Zehy Jereis was giving her these
21 financial benefits, would you have agreed to meet with him to
22 discuss hiring him as a consultant?

23 A. If we had any inclination of any of these accusations or
24 facts, any suspicion whatsoever, we not only would have been
25 meeting with him, we certainly would have hired him.

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C2RQANN1 Cantone - direct

1 Q. What, if any, concerns did you have at that time; that is,
2 June 28 that Sandy Annabi would not show up and vote for the
3 project on July 11 if you told Mr. Jereis that he would not be
4 hired?

5 A. We certainly had a concern about that, which is why we did
6 not tell Zehy Jereis that we would not hire him. We did not
7 tell him that we would hire him, but we did not tell him that
8 we would not hire him because we were concerned, and the
9 purpose of that June 28 meeting was to, in a sense, take Sandy
10 Annabi's temperature at that time, make sure everything was
11 going OK.

12 MR. CARBONE: Thank you, no further questions.

13 THE COURT: Mr. Aronwald.

14 CROSS-EXAMINATION

15 BY MR. ARONWALD:

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

17 THE COURT: Of course. It's Monday.

18 (Pause)

19 Q. You have had discussions -- by the way, I'm sorry, my name
20 is William Aronwald. I represent Sandy Annabi. And you and I
21 have never met.

22 A. No, we haven't.

23 Q. Now, did you ever have any discussions with Mr. Jereis
24 concerning what his relationship was with Sandy Annabi?

25 A. The last meeting I had or we had with Zehy was in March in

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C2RQANN1 Cantone - cross

1 Brooklyn where we discussed his relationship.

2 MR. CARBONE: Objection, your Honor. Could we have a
3 time frame?

4 THE COURT: You know, he's answering the question. He
5 seems to understand what's going on, Mr. Carbone.

6 Q. During the period of time that you were dealing with
7 Mr. Jereis, Mr. Jereis told you that he and Sandy were
8 involved, didn't he?

9 A. No, not until the last meeting, which was in March of 2007.

10 Q. At that time, did he tell you that his relationship with
11 Sandy was such that it was going to cause him a divorce with
12 his wife?

13 MR. CARBONE: Objection, hearsay.

14 THE COURT: Overruled.

15 THE DEFENDANT: I'm sorry, your Honor, should I answer
16 the question?

17 THE COURT: Yes.

18 A. He did mention that he had problems with his wife. He said
19 that investigators were questioning Sandy about his affair
20 which was -- affair with Sandy Annabi, and that that was
21 causing problems with his wife.

22 Q. In fact, during the time that you were speaking to
23 Mr. Jereis, Mr. Jereis discussed with you instances where he
24 went shopping with Sandy Annabi and bought her expensive gifts?

25 A. There was one instance where he had mentioned -- we had a

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C2RQANN1 Cantone - cross

1 meeting at a Starbucks in Yonkers. This was -- I'm not sure if
2 it was before or after the vote. My time frames are not clear
3 right now, but he had mentioned that he had just purchased
4 something, whether it was shoes or a handbag or something, and
5 she was upset about it, which we found very odd, but we didn't
6 ask him any questions about whether he had a relationship or
7 not. That wasn't our business, so we didn't ask him.
8 Q. Was it the fact that she didn't like the shoes or the
9 handbag that struck you as odd or just the fact that he had
10 bought her shoes and a handbag that you found odd?

11 A. Both.

12 Q. And odd in what sense?

13 A. Well, we didn't -- we didn't understand what the
14 relationship was and why he was buying her things.

15 Q. Well, if you didn't know what the relationship was and why
16 he was buying her things, why didn't you ask him what the
17 relationship was?

18 A. I didn't feel it was my --

19 MR. CARBONE: Objection, your Honor.

20 THE COURT: Objection sustained.

21 Q. And you didn't ask him what the relationship was, did you?

22 A. No, we did not.

23 Q. Now, you're an attorney?

24 A. Yes, I am.

25 Q. And as an attorney, you're trained to pay attention to

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C2RQANN1 Cantone - cross

1 details, correct?

2 A. Correct.

3 Q. Details are extremely important to a lawyer in his line of
4 work, aren't they?

5 A. Yes, but to be clear, counselor, I was not acting as an
6 attorney for Forest City. My role was a senior vice-president
7 for --

8 Q. In other words, as senior vice-president of Forest City
9 Ratner, you basically threw out the window everything you
10 learned in law school about how important details were?

11 MR. CARBONE: Objection.

12 THE COURT: The objection is sustained.

13 Q. Now, did Forest City Ratner at any time to your knowledge
14 ever pay or give any financial benefit to any legislator, city
15 counsel member or politician in order to win a vote on any
16 project that Forest City Ratner was interested in?

17 MR. CARBONE: Objection.

18 THE COURT: Sustained.

19 Q. To your knowledge, did Forest City Ratner ever pay a bribe
20 to a politician in order to get their vote?

21 MR. CARBONE: Objection.

22 THE COURT: Sustained.

23 Q. You gave a version -- strike that.

24 You were involved in dealing with the city of Yonkers,
25 the Yonkers City Council throughout the process of getting the

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C2RQANN1 Cantone - cross

1 Ridge Hill resolution approved, correct?

2 A. Yes.

3 Q. Would it be fair to say that you had had experiences in the
4 past dealing with different legislative bodies in the line of
5 work?

6 A. Yes.

7 Q. OK. But you found that politics in Yonkers is very
8 complicated, didn't you?

9 A. Yes, very complicated.

10 Q. In fact, you were unprepared for the political waters that
11 Forest City Ratner was getting into in dealing with the Yonkers
12 City Council, isn't that true?

13 A. That's fair to say, yes.

14 Q. And that was because you found that there were a number of
15 political factions within the Yonkers City Council that made no
16 sense to you, correct?

17 A. Correct.

18 Q. For example, there were factions within the republican
19 party or the Republican caucus of the city council, weren't
20 there?

21 A. Numerous.

22 Q. And you found that there were members of the Republican
23 caucus on the city council that didn't like each other?

24 A. Correct.

25 Q. In your view that made it very difficult for that caucus or

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C2RQANN1 Cantone - cross

1 faction to work together, isn't that true?

2 A. That's correct.

3 Q. And you also found that if you spoke to a person in one
4 faction, you did so at the risk of offending people in
5 different factions, isn't that so?

6 A. That's correct.

7 Q. Now, Mr. Carbone asked you whether or not you had been told
8 or you testified that you had been told or informed by various
9 folks that all roads to Sandy Annabi go through Zehy Jereis,
10 correct?

11 A. Correct.

12 Q. That was before the first meeting that you had with Zehy
13 Jereis on June 2 of 2006, correct?

14 A. That's correct.

15 Q. But you had hired -- you, when I say you, I'm talking about
16 Forest City Ratner -- Forest City Ratner hired other people,
17 other lobbyists who were tasked with getting Sandy Annabi's
18 vote for the project, isn't that so?

19 A. Yes.

20 Q. And that's before you ever met Zehy Jereis on June 2 of '06
21 correct?

22 A. Correct.

23 Q. Al Pirro was a lobbyist that Forest City Ratner hired, and
24 he was tasked with the responsibility to get Sandy Annabi's
25 vote, isn't that so?

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C2RQANN1 Cantone - cross

- 1 A. And others, correct.
2 Q. And Dee Barbato and John Murtagh, correct?
3 A. Yes.
4 Q. And you paid, what, \$1 million, Forest City Ratner to Al
5 Pirro?
6 A. I don't know, sir.
7 Q. But Al Pirro didn't get you access to Sandy Annabi, did he?
8 A. He did not.
9 Q. He also wasn't able to get you the votes of John Murtagh
10 and Dee Barbato for the project, did he?
11 A. No, sir.
12 Q. And you knew Mike Spano, right?
13 A. Yes, sir.
14 Q. You knew Mike Spano was the brother of Senator Nick Spano?
15 A. Yes.
16 Q. And Forest City Ratner basically hired Mike Spano and his
17 company Patricia Lynch Associates, and he was tasked with the
18 responsibility of getting Sandy Annabi's vote, isn't that so?
19 A. Yes.
20 Q. And you paid him a lot of money, didn't you?
21 A. We paid him a sum of money.
22 Q. \$175,000 sound familiar?
23 A. I do not know the amount, sir.
24 Q. OK. And the reason you hired Al Pirro was because you
25 understood from conversations you had with people that Al Pirro

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C2RQANN1 Cantone - cross

1 was a very prominent Republican lobbyist in Westchester County,
2 correct?

3 A. I was not responsible for hiring Mr. Pirro. He was on
4 Forest City retainer before I came on board.

5 Q. But you understood that Al Pirro -- from conversations you
6 had with people, you understood that Al Pirro was a go-to guy
7 if you needed any access to politicians, especially Republicans
8 in Westchester County, isn't that so?

9 A. Again, I didn't hire Mr. Pirro. I'm not sure why -- he was
10 hired to lobby elected officials in Westchester County. That
11 was the purpose of why he was hired.

12 Q. But once you came on board, didn't you understand that Al
13 Pirro was specifically targeting Sandy Annabi, Dee Barbato and
14 John Murtagh?

15 A. Yes.

16 Q. And the same thing is true with respect to Mike Spano?

17 A. Yes.

18 Q. In fact, than the it true that Forest City Ratner was also
19 trying to get Senator Nick Spano to reach out to Sandy Annabi
20 to get her to change her vote, isn't that so?

21 A. I personally did not do that, but I understand that to be
22 true.

23 Q. So, as of June of 2006, Al Pirro didn't get you access to
24 Sandy Annabi, right?

25 A. No.

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C2RQANN1 Cantone - cross

- 1 Q. He also wasn't able to get you the fifth vote because he
2 couldn't persuade John Murtagh or Dee Barbato to vote yes,
3 correct?
4 A. Correct.
5 Q. Mike Spano, he couldn't get you access to Sandy Annabi,
6 isn't that so?
7 A. Correct.
8 Q. And he couldn't get her to change her vote, correct?
9 A. Correct.
10 Q. And the same thing applies with respect to Senator Nick
11 Spano, isn't that so?
12 A. I assume so, yes.
13 Q. As of June of '06, despite all of the money that was being
14 paid to Al Pirro, Mike Spano, Nick Spano, despite all of their
15 efforts, you still were nowhere with respect to having a
16 sit-down meeting with Sandy Annabi, correct?
17 A. That's correct.
18 Q. In fact, you testified last week that you approached her on
19 the floor of the city council and asked her to meet with you?
20 A. That's correct.
21 Q. More than once?
22 A. Correct.
23 Q. OK. And she told you to call her office?
24 A. That's correct.
25 Q. You also testified that you did arrange a meeting with Dee

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C2RQANN1 Cantone - cross

- 1 Barbato and John Murtagh, they agreed to meet with you,
2 correct?
3 A. Yes, through Al Pirro.
4 Q. I'm sorry?
5 A. That was a meeting through Al Pirro.
6 Q. OK. Where did that meeting -- were you at that meeting?
7 A. I was, yes.
8 Q. How many meetings did you have with Dee Barbato and John
9 Murtagh together with Al Pirro?
10 A. One.
11 Q. Where was that?
12 A. Westchester County Country Club, I believe.
13 Q. OK. So it was John Murtagh, Al Pirro, Dee Barbato, you and
14 was Bruce Bender there?
15 A. Yes, he was.
16 Q. And Sandy Annabi was not at that meeting?
17 A. No.
18 Q. OK. Now, was that the only meeting that you attended at
19 Westchester Country Club with Bruce Bender, John Murtagh and
20 Dee Barbato?
21 A. Yes.
22 Q. So just so we're clear, at no time prior to June 9, 2006,
23 did you ever meet with Sandy Annabi?
24 A. No.
25 Q. And as far as you know, prior to -- isn't it true that

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C2RQANN1 Cantone - cross

1 June 9 of 2006 was the first time that Bruce Bender or Richard
2 Pesin actually sat down and met with Sandy Annabi?

3 A. That's correct.

4 Q. OK. And the person that set up that meeting was Zehy
5 Jereis?

6 A. Yes.

7 Q. In fact, do you remember -- withdrawn. Would it be fair to
8 say that in 2005 Forest City Ratner asked its lobbyists,
9 including Al Pirro, to reach out to Sandy Annabi to see if you
10 could set up a meeting with her to discuss the merits of the
11 Ridge Hill project?

12 A. That's fair to say, yes.

13 Q. And that included -- when you say its lobbyists, that
14 included Al Pirro, Mike Spano, Nick Spano, correct?

15 A. I'm not sure when Nick Spano was asked to reach out to
16 Sandy.

17 Q. By the way, isn't it also true that you knew that Sandy
18 Annabi -- withdrawn. You were aware of the fact that the role
19 of a city council member is a part-time position?

20 A. Yes.

21 Q. And you knew that Sandy Annabi while she was working as a
22 member of the city council was also working for St. Joseph's
23 Hospital in Yonkers, correct?

24 A. Yes, we actually tried to call her there as well.

25 Q. And did you make the call to her?

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C2RQANN1

Cantone - cross

- 1 A. I was in the office when Bruce Bender dialed the phone to
2 her. This is after the council meeting when she said "call
3 me", so I went back to the office the next day, Mr. Bender and
4 I sat in his office, we dialed -- he dialed Sandy Annabi's
5 office phone, and he spoke with her.
- 6 Q. And you couldn't hear what she said at the other end of the
7 conversation?
- 8 A. No, I could not. But it was a very short conversation.
- 9 Q. Isn't it also true that during the process of trying to
10 have access to Sandy Annabi, you also attempted -- you meaning
11 Forest City Ratner -- also attempted to exert pressure by
12 enlisting her employers at St. Joseph's Hospital to persuade
13 her to vote yes for Ridge Hill?
- 14 A. I have no knowledge of that, sir.
- 15 Q. So you never spoke to any individual by the name of
16 Speiser?
- 17 A. No.
- 18 Q. In 2005, you reported directly to Bruce Bender?
- 19 A. Yes.
- 20 Q. Did you ever report to Bruce Ratner concerning Ridge Hill?
- 21 A. Concerning Ridge Hill? I may have been involved in
22 conversations with Mr. Ratner involving Ridge Hill.
- 23 Q. Now, you said that -- I believe you testified last week
24 that it was unusual for an elected official to not meet with
25 the developers, do you remember that testimony?

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C2RQANN1

Cantone - cross

1 A. Yes.

2 Q. But in your experience, are you saying that Sandy Annabi's
3 not willing to meet with Forest City Ratner prior to June 9 of
4 2006 was the first time in your experience that any elected
5 official had refused to sit down with Forest City Ratner?

6 A. Yes.

7 Q. OK. And did Sandy Annabi give you any reason why she was
8 not willing to sit down with you?

9 A. Well, no. Initially no. I think maybe one of the
10 conversations I had with her on the council floor was, you
11 know, "you heard my objections to the project. There's no --
12 there's really no reason to meet." That may have been the, you
13 know, second time that we spoke.

14 Q. Now, prior to June 2 of '06, just so we're clear, the
15 meeting that you had with Zehy Jereis on June 2 of '06, that
16 was the first time that you had ever met with Zehy Jereis,
17 correct?

18 A. Correct.

19 Q. Is it your testimony that you had been informed before then
20 that, in your words, all roads to Sandy lead through Zehy
21 Jereis, is that something that you were informed or it was your
22 state of mind before June 2 of '06?

23 A. Yes.

24 Q. OK. This project, you described the scope of the project.
25 I mean, the project was over \$600 million, correct?

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C2RQANN1 Cantone - cross

1 A. Yes.

2 Q. At no time prior to Senator Lentol's involvement did you
3 make any effort to contact Zehy Jereis?

4 A. No.

5 Q. And then --

6 A. You did mean Assemblyman Lentol, correct?

7 Q. Assemblyman Lentol, correct. Yes. I apologize. So, as a
8 result of Assemblyman Lentol, there was a meeting at the Marco
9 Polo restaurant in Brooklyn with Zehy Jereis, Bruce Bender,
10 yourself, Joseph Galimi, correct?

11 A. Correct.

12 Q. At the meeting, Zehy Jereis said that he was in favor of
13 the Ridge Hill project, and he would talk to Sandy to see if he
14 could arrange a meeting with her, correct?

15 A. Yes.

16 Q. But it's also clear, is it not, that at no time during that
17 meeting did Zehy Jereis ever suggest that he could help Forest
18 City Ratner obtain her support, isn't that so?

19 A. Well, I think that was implied, that he would help --

20 Q. I'm not asking you what was implied. I'm asking you what
21 was said. He didn't say -- he did not say --

22 A. He didn't say that he could get her support, but he would
23 help us arrange a meeting and help get her support.

24 Q. He said he would help arrange a meeting and get her
25 support, is that what he said?

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C2RQANN1 Cantone - cross

1 A. He didn't say get her support. Assist us in convincing her
2 of the merits of the project.

3 Q. Did he say he would convince her of the merits of the
4 project, is that what he said on June 2?

5 A. He said he would assist us. He would try. He didn't
6 guarantee anything.

7 Q. Is that what he said, he would try to convince her to
8 support the project at the June 2 meeting? Is that what he
9 said?

10 A. I believe that's what he said.

11 Q. Do you remember testifying before the grand jury?

12 A. Yes, sir.

13 Q. That was on March 4, 2008?

14 A. Mmm-hmm.

15 Q. You took an oath?

16 A. Yes, sir.

17 Q. An oath to tell the truth, the whole truth and nothing but
18 the truth?

19 A. Yes, sir.

20 Q. The same oath you took when you took the witness stand here
21 on Thursday?

22 A. Yes, sir.

23 Q. By the way, before you took the witness stand on Thursday,
24 on how many occasions did you meet with Mr. Carbone or
25 Mr. Halperin to review and discuss your testimony?

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C2RQANN1 Cantone - cross

- 1 A. A handful of times, sir.
2 Q. When you say a handful, are you talking three, four, five,
3 ten, two handfuls?
4 A. Three, four.
5 Q. OK. And that was in addition to appearing before the grand
6 jury?
7 A. Yes.
8 Q. So, in total, in total, on how many separate occasions did
9 you meet with either Mr. Carbone or Mr. Halperin?
10 A. I don't know, sir. I don't remember the number.
11 Q. And on how many occasions did you meet with agents from the
12 FBI outside the presence of Mr. Halperin or Mr. Carbone?
13 A. Never.
14 Q. So you testified before the grand jury on March 4 of 2008,
15 and --
16 (Pause)
17 Q. I will move on until I can find the page. But he certainly
18 didn't guarantee anything at that meeting, did he?
19 A. Correct.
20 Q. And this meeting that you had on June 2, just so we're
21 clear, you said it was at the Marco Polo restaurant, correct?
22 A. Yes.
23 Q. It was a luncheon meeting, correct?
24 A. Yes.
25 Q. It was daylight?

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C2RQANN1

Cantone - cross

1 A. Yes.

2 Q. It wasn't in a back room of Marco Polo's restaurant?

3 A. No, sir.

4 Q. So it was right out in the open for anybody to see,
5 correct?

6 A. Yes.

7 Q. No attempt to hide or conceal the fact that you were
8 meeting with Zehy Jereis?

9 A. No, sir.

10 Q. Now, you knew at the time of the meeting that Sandy Annabi
11 was a city council member, correct?

12 A. Yes.

13 Q. And Zehy Jereis at that point had never even mentioned
14 being hired by Forest City Ratner in any capacity, correct?

15 A. At the June 2 meeting?

16 Q. Yes.

17 A. No.

18 Q. You expensed that lunch, correct?

19 A. Yes.

20 Q. When you say you expensed the lunch, it means you put it on
21 an expense report?

22 A. Yes.

23 Q. I believe that's in evidence. I don't remember what the
24 number is. If we could have that put up?

25 MR. CARBONE: 447A.

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C2RQANN1 Cantone - cross

1 MR. ARONWALD: That sounds about as good as any. No.
2 It's part of the expense report. That's the receipt. Maybe it
3 would be 447B?

4 Q. I may be referring to the June 9, so I'll get to that in a
5 minute. So at the meeting of June 2, the meeting ended with
6 Zehy Jereis saying that he would try to set up a meeting with
7 Sandy Annabi, correct?

8 A. Correct.

9 Q. Then on June 9, that's when the meeting with Sandy Annabi
10 occurred?

11 A. Yes.

12 Q. And Zehy Jereis was there?

13 A. Yes.

14 Q. And you and Bruce Bender were there?

15 A. And Richard Pesin.

16 Q. And Richard Pesin was there. Now, with respect to the
17 June 9 meeting, you knew at the time that Sandy Annabi was a
18 city council member, correct?

19 A. Yes.

20 Q. There had been no discussion with Zehy Jereis during that
21 meeting concerning any job for him, correct?

22 A. During the course of the meeting, no.

23 Q. And certainly as of that meeting, he had not been hired or
24 retained as a consultant or in any other capacity by Forest
25 City Ratner, isn't that so?

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C2RQANN1 Cantone - cross

- 1 A. That's correct.
2 Q. And you expensed that meeting as well?
3 A. Yes.
4 Q. I believe that's Government Exhibit 445. And the purpose
5 of expensing it is what?
6 A. So I get reimbursed, and the company pays for the meeting.
7 Q. OK. Is it important that the information you put on your
8 expense report is as accurate as possible?
9 A. I guess. I mean --
10 Q. Well, is it or isn't it?
11 A. Yes.
12 Q. OK. And there would be no reason for you to
13 mischaracterize on an expense report who you were meeting with,
14 correct?
15 A. Correct.
16 Q. OK. At the time that you had this meeting on June 9 Sandy
17 Annabi was not a consultant --
18 A. No.
19 Q. -- to Forest City Ratner, was she?
20 A. No.
21 Q. Zehy Jereis wasn't a consultant to Forest City Ratner, was
22 he?
23 A. No.
24 Q. How did you expense it? What did you put in your expense
25 report? June 2.

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C2RQANN1 Cantone - cross

- 1 A. June 2...
- 2 MR. CARBONE: June 9.
- 3 Q. The June 9 meeting.
- 4 MR. SIANO: You said June 2.
- 5 Q. I'm sorry, June 8.
- 6 A. June 9, lunch meeting with consultants Ridge Hill.
- 7 Q. Was that a different meeting?
- 8 A. No, sir.
- 9 Q. That was referring to the meeting you had at -- was it
- 10 Madison Steakhouse?
- 11 A. On June 9, yes.
- 12 Q. By the way, that restaurant is in Yonkers, New York?
- 13 A. Yes.
- 14 Q. That restaurant, was this meeting in a back room somewhere
- 15 closed off to the public?
- 16 A. No.
- 17 Q. So, in other words, it was right out in the open for any
- 18 member of the public to see that you were meeting with Sandy
- 19 Annabi?
- 20 A. Mmm-hmm.
- 21 Q. Correct?
- 22 A. Yes.
- 23 Q. But you would agree that the information on that expense
- 24 report is inaccurate because you weren't meeting with
- 25 consultants regarding Ridge Hill. You were meeting with a city

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1 council member; namely, Sandy Annabi and Zehy Jereis. That's
2 not in the expense report isn't that so? Yes or no.

3 A. Well, you said the information was inaccurate in the
4 expense report. I would disagree with that. I agree with you
5 that Zehy Jereis and Sandy Annabi are not on the expense
6 report, but I don't think ever put individuals who I met with
7 on an expense report.

8 Q. No, but the term consultants --

9 A. Yes. These were people we were consulting with.

10 Q. In other words, anybody that you're consulting with would
11 be considered a consultant, is that what you're telling us?

12 A. In some situations.

13 Q. Well, we're talking about this situation.

14 A. Yes. These were not paid consultants, no. I think we've
15 already established that, counselor. These were people we were
16 consulting with. OK? And also this report was produced I
17 believe by my assistant, so...

18 Q. Well, you told your assistant --

19 A. Yes.

20 Q. -- what to put in the report, isn't that so?

21 A. Yes.

22 Q. OK. Now, you described this meeting on June 9 when you
23 were here on Friday?

24 A. Mmm-hmm.

25 Q. OK. The version that you gave of the meeting here on

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1 Friday is completely different than the version you gave of
2 that meeting when you testified before the grand jury in March
3 of 2008, isn't that so?

4 A. No.

5 MR. CARBONE: Objection.

6 Q. No?

7 A. Absolutely not.

8 THE COURT: The objection is overruled.

9 Q. Was the meeting confrontational?

10 A. We're talking about the June 9 meeting?

11 Q. Yes, the first meeting you had with Sandy Annabi.

12 A. OK.

13 Q. Wasn't that a confrontational meeting?

14 A. Portions of the meeting were confrontational, yes.

15 Q. You've attended other sessions with Mr. Bender, correct?

16 A. Yes.

17 Q. On how many other occasions other than June 9 did you have
18 occasion to kick Mr. Bender under the table?

19 A. I don't recall, sir, but it did happen.

20 Q. It happened at that meeting, correct?

21 A. Yes.

22 Q. And it happened at that meeting because Richard Pesin and
23 Sandy Annabi got into a heated exchange about the Ridge Hill
24 project, isn't that so?

25 A. That's correct.

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C2RQANN1 Cantone - cross

1 Q. You didn't tell us about that on Friday, did you?

2 MR. SIANO: Thursday.

3 A. I don't believe I was asked that, sir.

4 Q. Thursday. You were asked to describe the meeting on
5 June 9.

6 A. OK.

7 Q. That's what you were asked by Mr. Carbone on Thursday.

8 A. OK.

9 Q. You did not mention that confrontational exchange when you
10 testified about that meeting on Thursday, did you?

11 A. No.

12 Q. The meeting ended badly, didn't it?

13 A. It ended that we continue to talk.

14 Q. Did you ever say that the meeting ended badly?

15 A. No.

16 Q. Do you remember when you were before the grand jury on
17 March 4, 2008 being asked the following question and giving the
18 following answer:

19 MR. CARBONE: Page and line?

20 MR. ARONWALD: Yes, I'll give it to you in a moment.

21 Q. Page 38 beginning on line 17 continuing on to page 39
22 ending at line 15 -- and, by the way, when you were before the
23 grand jury on that occasion, you were being questioned by
24 Mr. Carbone?

25 A. Yes.

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C2RQANN1 Cantone - cross

1 Q. Mr. Halperin was also there?

2 A. I don't recall.

3 Q. OK. Do you recall being asked this question and giving
4 this answer with respect to that meeting:

5 "Q. Well, what happened at the meeting" -- I'm sorry?

6 MR. CARBONE: Your Honor, the objection is foundation.

7 THE COURT: The objection is overruled.

8 MR. ARONWALD: I'm sorry. And, Mr. Carbone, and

9 Mr. Halperin, the question would begin at line 10 of page
10 38/line 9.

11 Q. "Q. Where was the meeting?

12 "A. At a restaurant in Westchester County. I don't remember
13 the name.

14 "Q. Who was present?

15 "A. Present at the meeting was myself, Bruce Bender, Richard
16 Pesin, Zehy Jereis and Sandy Annabi.

17 "Q. At the conclusion of that meeting, did Sandy Annabi
18 support the project?

19 "A. No. In fact, the meeting ended very badly. We agreed to
20 talk.

21 "Q. Well, what happened at the meeting?

22 "A. We discussed the project. We joked around a little bit
23 about how it took so long for us to sit down. She expressed
24 her reservations with the project. She raised traffic concerns
25 that had come up. She had raised that we weren't paying enough

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1 taxes with the project, which is something she had stated on
2 the record before, so we knew. We went into, you know, the
3 exhaustive public approval process we had went through and
4 everything we had done for the community and modifications we
5 had made and how, you know, relative to the company the taxes
6 we were paying and how that was fair, and discussed, you know,
7 why we couldn't make certain traffic modifications.

8 "At some point it became heated between council member
9 Annabi and Richard Pesin because Sandy was asking us to pay a
10 lot more taxes to make a lot of traffic improvements that were
11 already discussed and discarded. So Richard kind of felt, I
12 guess, the meeting was not productive and was getting nowhere.
13 Sandy took offense to the fact that we weren't being flexible.
14 I was kicking Bruce Bender under the table at this point to get
15 rid of Richard Pesin."

16 Do you remember being asked that question and giving
17 that answer before the grand jury?

18 A. Yes.

19 Q. And when you testified that that's what happened at that
20 meeting before the grand jury, was that the truth?

21 A. Yes, sir.

22 Q. Nothing but the truth?

23 A. Of course.

24 Q. Thank you.

25 MR. CARBONE: Your Honor, we ask that the next
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1 question and answer be read as well.

2 THE COURT: Do it on redirect, please.

3 MR. ARONWALD: I'm sorry, your Honor?

4 THE COURT: I said do it on redirect.

5 MR. ARONWALD: Thank you.

6 BY MR. ARONWALD:

7 Q. Now, that's not where the meeting ended, correct? The
8 meeting continued, and there came a point when Sandy Annabi got
9 up and left the meeting, correct?

10 A. Yes.

11 Q. And shortly thereafter Richard Pesin got up and he left the
12 meeting, correct?

13 A. Yes. I think we all left together at that point.

14 Q. OK. Do you remember being asked this question and giving
15 this answer? Again, page 39, beginning at line 22 and
16 continuing down to line 18 -- strike that.

17 Do you remember being asked this question beginning at
18 line 22 of page 38 -- 39, rather, and continuing to line 4 of
19 page 40.

20 "Q. Sure.

21 "A. Do you want me to explain the rest of the meeting?

22 "Q. Yes.

23 "A. So at some point Sandy had to leave. So Sandy got up and
24 left the meeting. Rich Pesin at some point left the meeting,
25 and it was left with myself, Bruce Bender and Zehy Jereis."

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C2RQANN1 Cantone - cross

1 Do you recall being asked that question and --

2 MR. CARBONE: Judge, I ask at least the entire answer
3 be read.

4 MR. ARONWALD: Please, I'm --

5 THE COURT: That I will insist on, Mr. Aronwald.

6 MR. ARONWALD: Do you want the rest of it? OK.

7 THE COURT: I want the full length. Otherwise, give
8 me a copy of the transcript so that I can follow along, and I
9 can decide what has to come in under completeness. I would
10 really much rather you read a full question and full answer.

11 MR. ARONWALD: Then I'm happy to do that, Judge.
12 Q. Continuing.

13 "Zehy did express that he supported the project; that
14 he thought it would be good for Sandy Annabi to support the
15 project. It certainly would be good politically for Sandy if
16 she could extract some concessions from us like paying more
17 taxes, doing some traffic modifications. It would be good for
18 her career; and that he was going to go back and talk to Sandy
19 and try to present to her to be more flexible.

20 "On our end Bruce Bender and myself would go back and
21 talk to Rich Pesin and other executives at Forest City Ratner
22 to see if we could be more flexible and give her more taxes and
23 give her some of the stuff so maybe we could meet in the middle
24 at some point, and that's where the meeting ended."

25 Do you recall being asked that question and giving

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Cantone - cross

1 that answer?

2 A. Yes.

3 Q. So, in fact, it is true that at some point Sandy Annabi
4 left and soon thereafter Richard Pesin left, correct?

5 A. Yes.

6 Q. By the way, the testimony you gave before the grand jury
7 that I just read to you, that was the truth at the time you
8 testified to it, correct?

9 A. Yes.

10 Q. And it's still the truth day, isn't it?

11 A. Yes, sir.

12 Q. So in describing the June 9 meeting, it would be fair to
13 say that when the meeting ended, there was no agreement?

14 A. Correct.

15 Q. Based upon what was said by Mr. Jereis after Sandy Annabi
16 left the meeting, you thought that there was a possibility that
17 Sandy Annabi would be willing to compromise, correct?

18 A. Yes.

19 Q. Now, it was after the meeting ended, after you left the
20 Steakhouse --

21 A. Mmm-hmm.

22 Q. -- you, Bruce Bender and Zehy Jereis walked out together,
23 correct?

24 A. Yes.

25 Q. And that is when you say that Zehy first mentioned a job

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C2RQANN1 Cantone - cross

1 with Forest City Ratner?

2 A. Correct.

3 Q. Now, last Thursday when you were on the stand, you were
4 shown a series of emails between you and Sandy Annabi which
5 were copied to Zehy Jereis. Do you remember those?

6 A. Yes.

7 Q. And you were asked why it was that Mr. Jereis was being
8 copied on those emails, remember that?

9 A. Yes.

10 Q. You testified that the reason was because he was the point
11 person for Sandy Annabi on Ridge Hill as far as you were
12 concerned?

13 A. Correct.

14 Q. Now, there were also a series of emails between you and
15 Zehy Jereis concerning the possibility of a job with Forest
16 City Ratner, correct?

17 A. Yes.

18 Q. Concerning a consulting contract with Forest City Ratner?

19 A. Correct.

20 Q. And concerning what the meat and potatoes of that
21 consulting contract would be, correct?

22 A. Yes.

23 Q. OK. It's true, is it not, that none of those emails that
24 you exchanged with Mr. Jereis back and forth were copied to
25 Sandy Annabi, isn't that so?

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C2RQANN1

Cantone - cross

1 A. Yes.

2 Q. In fact, isn't it also true that Sandy Annabi was not
3 present at any meeting or discussion where there was any
4 discussion by Forest City Ratner and Zehy Jereis about a
5 consulting agreement, isn't that so?

6 A. Yes.

7 Q. You never told her that Zehy Jereis was seeking a
8 consulting agreement with the Forest City Ratner, did you?

9 A. No.

10 Q. You testified in answer to one of the questions by
11 Mr. Carbone that it was a concern that if you didn't agree to
12 give Zehy Jereis a consulting agreement, Sandy Annabi might
13 withdraw her support for the project, correct?

14 A. Yes.

15 Q. Did you ever approach Sandy Annabi and tell her Zehy Jereis
16 wants a consulting agreement, and if we don't give it to him,
17 are you going to withdraw your support for the project?

18 A. No, sir.

19 Q. At any time during any of your discussions with Sandy
20 Annabi, did Sandy Annabi ever suggest that she wanted some
21 consideration or some benefit given to Zehy Jereis in exchange
22 for her vote?

23 A. No.

24 Q. Did she ever say to you in words or in substance that the
25 road to her vote was financial benefits to Zehy Jereis?

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C2RQANN1

Cantone - cross

1 A. No.

2 Q. She never told you that the only way to get her vote would
3 be to hire Zehy Jereis did she?

4 A. No.

5 Q. What she did tell you was that the only way to get her vote
6 was to make the concessions that she wanted in terms of
7 additional taxes, traffic modifications, no pilot, that's what
8 she told you, correct?9 A. The concessions on taxes we agreed upon. The modifications
10 to traffic we could not agree upon.11 Q. But the concessions on taxes that you agreed upon, that was
12 something that was not in the proposal, the resolution that was
13 before the city council, before the meeting with Sandy Annabi
14 on June 9, correct?

15 A. I'm sorry, I lost the end of the question.

16 Q. Those concessions that you made on taxes --

17 A. Yes.

18 Q. -- those are concessions that you made as a result of the
19 meeting on June 9 and then your internal discussions at Forest
20 City Ratner leading up to the meetings on June 14, correct?

21 A. Yes.

22 Q. Now, the meeting on June 14, do you recall where that
23 meeting was?

24 A. A restaurant by the name of Madison's.

25 Q. Was the meeting on June 14 at a restaurant called Jake's

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C2RQANN1 Cantone - cross

1 Steakhouse?

2 A. June 9 was Jake's. June 14th was Madison's.

3 Q. Well, in any event, the meeting on June 14 was not at the
4 same restaurant as the meeting on June 9, correct?

5 A. Correct.

6 Q. OK. But the meeting on June 14 was again at a public
7 restaurant?

8 A. Yes.

9 Q. And it was during the daytime?

10 A. Yes.

11 Q. It wasn't behind closed doors?

12 A. No.

13 Q. It was there for anybody to see?

14 A. Yes.

15 Q. Correct?

16 A. Yes.

17 Q. No attempt to conceal or hide the fact that Forest City
18 Ratner representatives were meeting with city council member,
19 Sandy Annabi together with Zehy Jereis, correct?

20 A. Correct.

21 Q. And the purpose of this meeting was to finalize an
22 agreement, finalize a deal, correct?

23 A. Yes, sir.

24 Q. Because before the meeting, you had already come to some
25 agreement with Sandy concerning the concessions that Forest

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C2RQANN1 Cantone - cross

1 City Ratner was willing to make, correct?

2 A. Yes.

3 Q. Now, also, I want to get back to the emails that you
4 exchanged with Sandy Annabi that you copied to Zehy Jereis.
5 You said the reason you did that was because you viewed Zehy
6 Jereis as her point man on the Ridge Hill project, correct?

7 A. Mmm-hmm.

8 Q. Sandy Annabi never told you that she wanted all of the
9 emails between the two of you concerning the project to go to
10 Zehy Jereis, did she?

11 A. I don't recall.

12 Q. You're not saying that she did tell you; you're just saying
13 you don't recall her ever saying that, correct?

14 A. That's correct.

15 Q. Between the June 9 and June 14 meetings, it was your
16 understanding that Bruce Bender had had some direct contact
17 with Sandy about the Ridge Hill project, correct?

18 A. I don't recall, sir.

19 Q. Do you remember being asked this question and giving this
20 answer to the grand jury on March 4, 2008 at page 42, beginning
21 at line 2 and going through line 8. I will wait until
22 Mr. Carbone has the page. Do you have the page, Mr. Carbone?

23 MR. CARBONE: Yes.

24 Q. Referring to the time between the second and third meeting.

25 "Q. Is it your understanding that Bruce Bender may have had

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1 some direct contact with Sandy?

2 "A. Primarily, it was myself and Zehy going back and forth
3 figuring out where we were, and at some point Bruce Bender did
4 reach out to Sandy Annabi. Once we were close, you know, to
5 try to push her in one direction or the other to sort of
6 finalize an agreement."

7 Do you remember being asked that question and giving
8 that answer?

9 A. Yes.

10 Q. And that was the truth when you said it?

11 A. Yes.

12 Q. And it's the truth today?

13 A. Yes, sir.

14 MR. CARBONE: Judge, under the rule of completeness, I
15 would ask that the next question and answer be read.

16 THE COURT: No. Do that on redirect.

17 Q. At the third meeting on June 14, I believe you testified
18 last Thursday that the meeting was attended by you, Mr. Bender,
19 Ms. Annabi and Mr. Jereis, correct?

20 A. Yes.

21 Q. Was anyone else present at that meeting?

22 A. I don't recall. Richard Pesin may have come in and out of
23 the meeting, but I don't recall that.

24 Q. Do you remember being asked this question and giving this
25 answer, beginning at page 42/line 25 and continuing through

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C2RQANN1 Cantone - cross

1 page 43/line 5?

2 MR. CARBONE: Judge, again I object. This is
3 refreshing recollection. He should show the witness the
4 document and ask if it refreshes his recollection.

5 THE COURT: Read back the last question and answer
6 please.

7 Q. Do you recall being asked the following question --

8 THE COURT: The one before that. No, would the court
9 reporter read back the last question and answer, please.

10 (Read back)

11 THE COURT: Thank you.

12 The answer was "I don't recall." You may show the
13 witness something to jog his memory and see if it in fact does
14 jog his memory.

15 MR. ARONWALD: May I approach?

16 THE COURT: You may.

17 BY MR. ARONWALD:

18 Q. I am showing you pages 42 and 43 of the grand jury
19 transcript directing your attention to --

20 THE COURT: Speak loudly enough so that the court
21 reporter can take it down, please.

22 MR. ARONWALD: Yes, sure.

23 Q. I am showing you the grand jury transcript from March 4,
24 2008 directing your attention to page 42 beginning at line 22
25 and continuing to the next page, page 43 up to line 5. Would

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1 you please just read those lines to yourself?

2 Does that refresh your recollection that Mr. Pesin was
3 there for part of the meeting?

4 A. It says he may have come in and out, which is not
5 inconsistent with what I just testified to.

6 Q. So you have no recollection one way or the other?

7 A. No.

8 MR. ARONWALD: May I have one moment, your Honor?
9 (Pause)

10 Q. Now, on the following day, that would be June 15, Sandy
11 Annabi announced her support for the Ridge Hill project,
12 correct?

13 A. Yes.

14 Q. And that was because at the meeting on June 14, Forest City
15 Ratner and Sandy Annabi had come to an agreement with respect
16 to the concessions that were going to be made in terms of
17 taxes, correct?

18 A. Yes.

19 Q. OK. You then drafted a press release which you sent to
20 Sandy Annabi and Zehy Jereis, correct?

21 A. Yes.

22 Q. And that was because at the meeting on the 14th it was
23 decided amongst Forest City Ratner and Sandy Annabi that a
24 press release would be issued on the 15th indicating that she
25 had decided to support the Ridge Hill project?

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C2RQANN1

Cantone - cross

1 A. Correct.

2 Q. Now, Government Exhibit 439, if we could have that up.
3 Could we just have the bottom portion of that underneath the
4 lines "original message," could we just have that blown up?

5 Now, you received this email from Sandy Annabi on
6 June 14, correct?

7 A. Yes.

8 Q. But this email was sent to you after you had drafted the
9 press release and sent it to her, correct?

10 A. Yes.

11 Q. So when you testified before that you drafted the press
12 release on the following day and sent it to her, that was not
13 correct?

14 A. I'm not sure what your question is. My -- I drafted the
15 press release, I believe, on the evening of the 14th. I sent
16 it to our PR people who then sent it back to me with some
17 changes. I then forwarded it on to Zehy Jereis and Sandy
18 Annabi.

19 Q. What I am asking though based upon the date on Exhibit 439,
20 this is an email that Sandy Annabi sent to you on June 14?

21 A. Mmm-hmm.

22 Q. At 23:05 which would be at 11:05 that night?

23 A. Right.

24 Q. OK. So wasn't this email in response to the press release
25 that you had drafted and sent to her?

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C2RQANN1

Cantone - cross

1 A. Yes.

2 Q. So, therefore, she had to have received the press release
3 that you drafted before June 15?4 A. Yes, the press release was sent out on June 15. The final
5 press release after we went back and forth was sent out on
6 June 15. I took a shot at the initial press release on
7 June 14, sent it around. We had an agreement on the press
8 release. She was happy with it. She sent it out on June 15.9 Q. Now, you testified last week that after you received this
10 email, you spoke to Sandy about the email that she had sent
11 you?

12 A. Yes.

13 Q. And you testified that during that conversation you
14 explained the problems that Forest City Ratner had mentioning
15 the \$10,800,000 "off the bat." Do you recall that?

16 A. What was the quote, I'm sorry?

17 Q. Off the bat.

18 A. Off the bat?

19 Q. Didn't you testify you used the words off the bat when
20 you--21 A. Could you show me something to refresh my memory? I don't
22 remember using those words.23 Q. I'm showing you page 963 of the court transcript from last
24 Thursday directing your attention to line 3 through line 12.
25 Would you read that to yourself?

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C2RQANN1 Cantone - cross

1 A. Yes. I understand the context now, thank you.

2 Q. Does that refresh your recollection that that's what you
3 testified to --

4 A. Yes.

5 Q. -- on Thursday?

6 And you also testified on Thursday that you told her
7 that "we had to get our ducks in order with the city of
8 Yonkers, and that we could not put the \$10.8 million in there
9 off the bat." Do you recall that?

10 A. Yes.

11 Q. So could you explain what that meant in terms of why it
12 couldn't be put in there off the bat?

13 A. I don't remember specifically the details, but my
14 understanding was at the time that Richard Pesin and others at
15 Forest City did not want to put a \$10.8 million figure in there
16 because he had needed to have discussions with the city of
17 Yonkers of how it would work and what the impact would be on
18 Forest City. So we asked her -- it could get out eventually --

19 Q. I'm sorry?

20 A. It would get out eventually the next couple of days, we
21 were sure of that, but we weren't prepared to release the
22 figure yet until Richard had discussions with the mayor's
23 office and others at city hall.

24 Q. Just so we're clear, it wasn't an issue of whether or not
25 the 10.8 million was agreed upon; it was just the timing of

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C2RQANN1 Cantone - cross

1 when that figure would be released publicly?

2 A. Yes.

3 Q. Forest City had committed to Sandy Annabi that they would
4 pay the \$10.8 million?

5 A. Yes.

6 Q. And you were asked some questions on Thursday about your
7 title and job at Forest City Ratner, but without going into
8 specific numbers, at least for purposes of this question, you
9 had a direct interest in getting the Ridge Hill project
10 approved because once it was approved, there were some
11 provisions in your contract with Forest City Ratner that would
12 provide you with an additional payment, correct?

13 MR. CARBONE: Objection.

14 A. No.

15 THE COURT: I'm sorry. Ground for the objection?

16 MR. CARBONE: Withdrawn.

17 THE COURT: Thank you.

18 (Continued on next page)

19

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C2RUANN2 Cantone - cross

1 Q. Now, you also testified last week that Zehy was being
2 persistent?

3 A. That's correct.

4 Q. But isn't it true that at no time was he threatening?

5 A. He was not threatening.

6 Q. Isn't it true that at no time did he ever say that this was
7 a quid pro quo?

8 A. That's correct.

9 Q. And that he never put you in a position of having to say
10 yes or no to the consulting agreement?

11 A. That's correct.

12 Q. I want to direct your attention to the June 14th meeting
13 for a moment. During the June 9th meeting, although Zehy
14 Jereis was there, isn't it true that during the time that
15 before Sandy got up and left the meeting that she did most of
16 the talking concerning the project?

17 A. Yes.

18 Q. When was the last time that you ever had any discussion
19 with Sandy Annabi?

20 A. I don't recall but I would imagine somewhere in the summer
21 or fall of 2006.

22 Q. Do you have any recollection at all of having any
23 discussions with Sandy Annabi after June 15th of 2006?

24 A. I do not.

25 MR. ARRONWALD: No further questions.

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C2RUANN2 Cantone - cross

1 Thank you.

2 Could I have a moment to collect my stuff?

3 THE COURT: Of course.

4 MR. SIANO: May I have a moment to consult with Mr.

5 Carbone?

6 Thank you.

7 (Discussion off the record among counsel)

8 MR. CARBONE: May I proceed, your Honor?

9 THE COURT: Absolutely.

10 CROSS-EXAMINATION

11 BY MR. SIANO:

12 Q. Good morning, Mr. Cantone.

13 My name is Anthony Siano. I represent Mr. Zehy

14 Jereis.

15 How are you today?

16 A. Good. Thank you.

17 Good morning.

18 MR. SIANO: I wonder if I could impose upon Mr. Turk

19 to put up 445.

20 Q. Mr. Cantone, before we get too far along in this, I did

21 hear an answer to Mr. Aronwald's question that caused me some

22 concern. When he showed you 445, your expense report -- and

23 there it is, where it says, "Lunch with consultants re: Ridge

24 Hill." Did I hear you say in response to the word

25 "consultants" that your assistant prepared this?

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C2RUANN2 Cantone - cross

1 A. Under my direction, yes.

2 Q. Not only under your direction, but is that your signature
3 at the bottom of the page?

4 A. Yes, it is.

5 Q. And is that Mr. Bender's signature at this bottom of the
6 page?

7 A. Yes, it is.

8 Q. So you don't hold your administrative assistant responsible
9 for what is on this piece of paper, do you?

10 A. No, sir.

11 Q. I just wanted to clear that up. Thank you.

12 MR. SIANO: Mr. Turk, you can take that down, please.

13 Q. Now, it is fair to say that you and Mr. Bender spent a lot
14 of time up on Ridge Hill?

15 A. We did.

16 Q. Ever see how things were going up there at L.L. Bean?

17 A. Yes.

18 Q. So you would be familiar with how the property looks today,
19 wouldn't you?

20 A. I was there maybe a month or two ago.

21 Q. You wouldn't mind taking us up there, would you, if I
22 showed you some photographs?

23 A. Sure.

24 MR. CARBONE: May I approach, your Honor?

25 THE COURT: You may.

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C2RUANN2 Cantone - cross

1 Q. Now, again, Mr. Cantone, I'm going to show these to you
2 first and if you tell me they fairly and accurately depict
3 various aspects of the property at Ridge hill, then I will be
4 able to show them to the jury and if they don't, I will throw
5 them away.

6 A. May I clarify? I am not responsible for the development or
7 the construction of the project.

8 Q. Let me ask you a question. When you went up there, you had
9 eyes?

10 A. Yeah.

11 Q. OK. We are clear on that now.

12 MR. CARBONE: Your Honor, may --

13 THE WITNESS: You were asking--

14 THE COURT: Hang on, everybody.

15 Mr. Siano, hold on that is not necessary. The
16 government would like to see copies of what you are showing to
17 the witness. The government has a right to see copies of what
18 you are showing to the witness.

19 MR. SIANO: I have gotten them back and am
20 approaching.

21 BY MR. SIANO:

22 Q. One of the approaches to this property, am I correct is
23 that, if you come up the Sprain Book Parkway and get off
24 northbound and you have to go on an overpass on Tuckahoe Road?

25 A. I don't recall, sir.

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C2RUANN2 Cantone - cross

- 1 Q. Let me show you a picture marked as Defendant Exhibit
2 Number 25. Do you recognize the scene depicted there as the
3 overpass over Tuckahoe Road?
4 A. I don't recall.
5 Q. Let me show you what's been marked as Defendant Exhibit
6 Number 26. Do you recognize what is depicted there?
7 A. It is a road.
8 Q. Do you recognize the phrase "Ridge Hill Boulevard" in this
9 picture?
10 A. Yes.
11 Q. Does that refresh your recollection as to what is depicted
12 in this photograph?
13 A. I am not sure what road this is.
14 Q. Let me show you what's been marked as Exhibit 27. Do you
15 recognize that?
16 A. No, sir.
17 Q. Defendant Exhibit 28?
18 A. It says Grassy Sprain Road up here.
19 Q. Do you recognize this as being one of the approach roads
20 that Forest City Ratner built on the Tuckahoe Road approach?
21 A. Could be, yes.
22 Q. I am asking you if you recognize it?
23 A. Well, it has a Ridge Hill sign there.
24 Q. Do you recognize this to be one of the Tuckahoe Road
25 approaches to the Ridge Hill Shopping Center as it exists

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C2RUANN2 Cantone - cross

1 today?

2 A. As it exists today, no.

3 Q. Do you recognize Defendant Exhibit Number 29?

4 A. I recognize this as the Con Ed station near the site, so it
5 is one of the roads on or near the site.

6 Q. This is one of the approach roads?

7 A. OK.

8 Q. It fairly and accurately depicts one of the approach roads?

9 A. Sure.

10 Q. You recognize Defendant's Exhibit Number 30 as being the
11 cut through the rock off Tuckahoe Road at Ridge Hill?

12 A. OK, yeah.

13 Q. And that fairly and accurately depicts that cut?

14 A. It could be any road, sir.

15 THE COURT: If you don't know what the road is, he is
16 not allowed to just tell you it is a road and have you accept
17 it. He is not allowed to testify. You are a lawyer and you
18 know this.

19 THE WITNESS: These are very generic photos.

20 THE COURT: Fine. He has not identified the road as
21 far as I am concerned.

22 You have identified it, Mr. Siano, and you are not a
23 witness.

24 Ladies and gentlemen, please remember that what
25 Mr. Siano says is not evidence.

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C2RUANN2

Cantone - cross

- 1 BY MR. SIANO:
2 Q. Do you recognize what is depicted in Exhibit 31?
3 A. I see the Ridge Hill project off of the road.
4 Q. Do you recognize this to be one of the apartment buildings
5 at the Ridge Hill Shopping Center?
6 A. Yes.
7 Q. As it presently exists?
8 A. Yes.
9 Q. Does it fairly and accurately depict that apartment
10 building as it exists?
11 A. As it exists when?
12 Q. Today.
13 A. I don't know, sir.
14 Q. How about a month ago when --
15 A. It changed. Yes, it could be it, yes.
16 Q. Do you recognize what is depicted in Exhibit Number 32 for
17 identification?
18 A. It looks like the Whole Foods Market.
19 Q. Where?
20 A. At the Ridge Hill project.
21 Q. Does it fairly and accurately depict the Whole Foods market
22 as it existed a month ago when you were there?
23 A. Looks like the back of it. It could be another Whole Foods
24 Market someplace else.
25 Q. Do you recognize the building next to it with regard to the

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C2RUANN2 Cantone - cross

1 office building in the picture?

2 A. Yes. That looks like the office building.

3 Q. That is the Ridge Hill office building, isn't that correct,
4 sir?

5 A. Yes.

6 Q. It is not a generic office building?

7 A. Yes.

8 Q. Does this picture fairly and accurately depict the back of
9 the Whole Foods Market and the adjacent office building as it
10 existed a month ago when you were at the property?

11 A. Yes, it does.

12 Q. Let me show you what's been marked as Defendant's Exhibit
13 33 for identification. Do you recognize what is depicted
14 there?

15 A. Yes. It is the front of the Whole Foods Market in the
16 Ridge Hill project.

17 Q. As it existed a month ago when you were there?

18 A. Yeah.

19 Q. Let me show you what is depicted in Defendant's Exhibit
20 Number 34 for identification. Do you recognize that?

21 A. It looks like the Cheese Cake Factory in the Ridge Hill
22 project.

23 Q. And beyond in the back of the photograph is also the
24 restaurant the Brio?

25 A. Yes.

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C2RUANN2 Cantone - cross

1 Q. Does that fairly and accurately depict Ridge Hill Shopping
2 Center as it existed a month ago when you were there?

3 A. Yes.

4 Q. Let me show you what has been marked Defendant's Exhibit 35
5 for identification. Do you recognize that photograph?

6 A. Yes. It looks like the movie complex and Dick's Sporting
7 Goods at the ridge Hill project.

8 Q. Does it fairly and accurately depict those facilities at
9 the Ridge Hill Shopping Center as they existed a month ago when
10 you were there?

11 A. Yes.

12 MR. SIANO: At this time, your Honor, I offer into
13 evidence Defendant's Exhibits 29, 31, 32, 33, 34 and 35.

14 And I am giving them back to Mr. Carbone to see what
15 he did identify and what he was unable to identify.

16 MR. CARBONE: No objection to 31 through 35. We
17 object to the remaining photos because Mr. Cantone did not
18 identify them.

19 THE COURT: 31 through 35 are admitted.

20 (Defendant Exhibits 31 through 35 received in
21 evidence)

22 (Discussion off the record among counsel)

23 MR. SIANO: I will withdraw my offer of 29, Judge, and
24 I will limit myself to 31 through 35 at this time.

25 THE COURT: Thank you.

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C2RUANN2 Cantone - cross

1 MR. SIANO: Are they received?

2 THE COURT: They are.

3 MR. SIANO: Mr. Turk, if you could help us again now.

4 BY MR. SIANO:

5 Q. Mr. Cantone, could you share with the jury your
6 understanding as to the buildings and facilities at Ridge Hill
7 depicted in Defendant Exhibit 31 in evidence, please?

8 A. Be more specific.

9 Q. What are the buildings depicted in this photograph that are
10 part of the Ridge Hill complex?

11 Let's start with the glass and white stone structure
12 in the center of the photograph.

13 A. It looks like the residential building as well as some
14 parking garages on the right-hand side of the photo.

15 Q. Continuing on the right-hand side of the photo away from
16 the glass apartment structure in the center, there appears to
17 be a solid stone or masonry building to the right. Do you
18 recall what that building is?

19 A. I do not.

20 Q. Do you see on the left-hand side of the structure off in
21 the distance something that looks like a silo and perhaps a
22 barn?

23 A. Yeah.

24 Q. Do you know what that is?

25 A. That could be Stew Leonard's?

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C2RUANN2 Cantone - cross

1 MR. SIANO: Thank you, Mr. Turk.

2 If we could go to the next in sequence.

3 Q. Is this the structure at the Ridge Hill Shopping Center
4 that is the back of the Whole Foods store?

5 A. Yes, I believe it is.

6 Q. To the left, continuing down the street, depicted there,
7 there appears to be an office structure?

8 A. Yes.

9 Q. Is that where Westmed is?

10 A. Westmed, I believe that is one of our tenants, yes.

11 MR. SIANO: Mr. Turk, if you could continue.

12 Q. I show you Defendant's Exhibit Number 33 in evidence, sir.
13 Is this one of the streets up in Ridge Hill?

14 A. Yes.

15 Q. In fact, that is the front of the Whole Foods Market, isn't
16 it?

17 A. Yes.

18 Q. When you were there a month ago, would it be fair to say
19 that this street that goes down Whole Foods is sort of a
20 shopping street, there are stores further down the block?

21 A. Yes. This is one end of the main street and it goes all
22 the way to the other end where the movie theater and Dick's
23 Sporting Goods is.

24 Q. Along the street there is an L.L. Bean, isn't that correct,
25 sir?

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C2RUANN2

Cantone - cross

1 A. Yes.

2 MR. SIANO: Could we go next please, Mr. Turk, to 34.

3 Q. Down that same street we have this restaurant, The
4 Cheesecake Factory, is that correct?

5 A. Yes.

6 Q. In the back is another restaurant depicted on the left side
7 with sort of a mansard roof, the four-sided roof, that is Brio
8 that is another restaurant?9 A. Yes. I don't believe it is open yet, but that's what it is
10 supposed to be.11 Q. It wasn't open yesterday, but we can agree it wasn't open a
12 month ago when you were there.

13 Thank you.

14 MR. SIANO: Number 35, please.

15 Q. Does this picture depict what you described a few minutes
16 ago, the end of the Main shopping street and a movie theater?

17 A. Yes, sir.

18 Q. These are all facilities that were part of the plan and
19 are, to varying degrees, some of them are open and some of them
20 plan to be open for the spring of 2012?

21 A. Yes.

22 MR. SIANO: Thank you very much, Mr. Turk.

23 Q. Now, on the meeting of June 2 at Marco Polo, when you went
24 to that meeting with whom did you go if anyone?

25 A. Bruce Bender.

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C2RUANN2 Cantone - cross

- 1 Q. What did Mr. Bender tell you or who did he tell you, you
2 were going to meet at that meeting?
3 A. The only person that we knew at that point, I believe, was
4 Joseph Lentol, assemblyman.
5 Q. In fact, Mr. Bender told you it was Mr. Lentol and a friend
6 of Mr. Lentol's?
7 A. Yes. That's correct. He was bringing a friend.
8 Q. Mr. Lentol was bringing a friend. And then you got there
9 and Mr. Lentol, the assemblyman came?
10 A. Yes.
11 Q. But his friend showed up later, was a little late?
12 A. I don't recall, sir.
13 Q. But you came to realize from Mr. Lentol's conversation with
14 you and Mr. Bender that Mr. Galimi was the friend?
15 A. That's correct.
16 Q. And Mr. Galimi brought Mr. Jereis?
17 A. That's correct.
18 Q. You described both in direct and Mr. Aronwald's
19 cross-examination, certain conversations that took place
20 between Mr. Bender and Mr. Jereis among others during this
21 lunch, isn't that correct?
22 A. Yes.
23 Q. And at one of those conversations was, Mr. Jereis discussed
24 politics in Yonkers with Mr. Bender, isn't that right?
25 A. Yes. We were all part of the conversation.

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C2RUANN2

Cantone - cross

- 1 Q. There was a discussion at the beginning of the conversation
2 of sort of politics in general, Yonkers and Westchester County?
3 A. Yes.
4 Q. And then at some point along the line, the conversation
5 turned to Forest City Ratner, Ridge Hill and Ms. Annabi, isn't
6 that right?
7 A. Yes.
8 Q. And Mr. Bender was there and you were there and Mr. Jereis
9 was there and you were listening to this conversation, isn't
10 that right?
11 A. Yes.
12 Q. And one of the things Mr. Jereis commented on was that
13 Forest City Ratner should not have threatened Ms. Annabi's job?
14 Do you recall him saying words to that effect?
15 A. I do not.
16 Q. Do you recall him commenting on the fact that someone had
17 gone to her job?
18 A. I don't recall. If you have something to refresh my
19 memory, if I testified to that in the grand jury, I will be
20 happy to look at it, but I don't recall that right now.
21 Q. Apart from your grand jury testimony, you don't recall an
22 exchange about Ms. Annabi's job at that lunch?
23 A. No.
24 Q. Now, Mr. Jereis didn't ask for anything at that lunch. He
25 didn't anything? Nothing of that sort?

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C2RUANN2

Cantone - cross

1 A. No.

2 Q. After the lunch hour, however, Mr. Galimi asked you for a
3 job?

4 A. Correct.

5 Q. You had met Mr. Galimi at the lunch and that was the only
6 time you had ever met him?

7 A. Yes.

8 Q. You told him no?

9 A. I didn't tell him no. I didn't tell him yes. We took his
10 resume and told him we would look into it.

11 Q. You took Mr. Galimi's resume?

12 A. I believe he passed us his resume.

13 MR. SIANO: I will come back to this.

14 Q. Now, Mr. Aronwald asked you some questions about the
15 meeting on June 9, and I just have one or two questions about
16 that meeting. I don't want to spend too much more time on it.
17 Do you actually recall telling the grand jury that you picked
18 Mr. Bender in the shins during that meeting?19 A. I mean I remember it happening. I don't know if I told the
20 grand jury.

21 Q. You remember doing it, though?

22 A. I do, yes.

23 Q. Is that a routine practice in Forest City Ratner for you to
24 kick your superior?

25 A. Routine practice? I wouldn't characterize it as a routine

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C2RUANN2 Cantone - cross

1 practice.

2 Q. How many other times as you sit there today do you recall
3 you kicked Mr. Bender in the shins?

4 A. I have kicked him a number of times.

5 Q. Any in particular with regard to Forest City Ratner and
6 Ridge Hill?

7 MR. CARBONE: Objection.

8 THE COURT: The objection is sustained.

9 Q. Now, do you recall, sir, that at that meeting on December
10 9, Ms. Annabi was speaking about the substance of her issues
11 with regard to the proposal before the city council as of June
12 9?

13 A. Could you repeat the question?

14 Q. Ms. Annabi was talking about her problems with the current
15 proposal, isn't that right?

16 A. Yes.

17 Q. Mr. Pesin was defending his position, isn't that right?

18 A. Correct.

19 Q. And it got a little hot?

20 A. Yes.

21 Q. Do you recall during that meeting that in fact what
22 Mr. Jereis was talking about was how things might look
23 politically if a particular concession was made, whether it
24 would be good or better or worse politically?

25 A. Yes.

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C2RUANN2 Cantone - cross

1 Q. Now, do you recall that there was another meeting on the
2 14th, right? You have talked about that?

3 A. Yes.

4 MR. SIANO: Mr. Turk, could I have Exhibit 389,
5 please.

6 MR. CARBONE: It is not in evidence.

7 MR. SIANO: Then I will show the witness a copy.

8 Q. Mr. Cantone, I am going to show you what's been marked for
9 identification as Government Exhibit 389. If you could look at
10 that.

11 A. OK.

12 Q. Have you seen that email string prior to today, sir?

13 A. No, I have not.

14 Q. You can put it down.

15 Just to clear up the chain of command in this thing,
16 you worked for Mr. Bender, is that correct?

17 A. Yes.

18 Q. And Mr. Bender worked for Mr. Ratner?

19 A. Yes.

20 Q. And Mr. Ratner was the boss?

21 A. Yes.

22 Q. And I could put as many capital letters there as I want to;
23 he was in charge?

24 A. Yes. Absolutely.

25 Q. Now, with regard to the topic of Mr. Galimi asking for a

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C2RUANN2 Cantone - cross

1 job on June 2, I wonder, sir --

2 MR. SIANO: For the government, grand jury testimony
3 page 33.

4 Q. -- if you could just read to yourself as much as you want,
5 but I am going to focus you on lines 9 through 14. Just read
6 it to yourself.

7 MR. CARBONE: Your Honor, I don't believe there's been
8 a lack of recollection established.

9 THE COURT: He is not necessarily refreshing
10 recollection. He may be laying the foundation for a question
11 he wishes to ask. It is nothing improper about showing the
12 witness.

13 THE WITNESS: May I read it? When I heard the
14 objection and I stopped.

15 BY MR. SIANO:

16 Q. 9 through 14.

17 A. OK.

18 Q. Now, you testified under oath on March 4, 2008, isn't that
19 right that's the day of the grand jury appearance?

20 A. Yes.

21 Q. In fact you told the grand jury that Mr. Galimi asked for a
22 job right after the June 2nd meeting?

23 A. That's correct.

24 Q. In fact you turned him down, isn't that right?

25 A. We never -- at that meeting we said we would look into it.

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C2RUANN2

Cantone - cross

1 We never said no and then he never reappeared and he never
2 asked for a job again, so the issue kind of went away.

3 Q. Mr. Galimi went away?

4 A. Yes.

5 Q. As you sit there now, sir, do you recall ever telling the
6 grand jury that you asked Mr. Galimi for a resume?

7 A. I never said I asked him for a resume. I said, I think he
8 may have given me a resume after that meeting when he asked for
9 a job.

10 Q. Did you ever mention Mr. Galimi's resume or the concept of
11 Mr. Galimi's resume to the grand jury?

12 A. I don't recall, but from what I just read what you showed
13 me --

14 THE COURT: No, no. Thank you.

15 Q. Did you read your grand jury testimony before you came here
16 today?

17 A. No, sir, I did not.

18 Q. Now, when you and all of the Forest City Ratner people left
19 the meeting of June 9, is it fair to say that you didn't have a
20 meeting of the minds with Ms. Annabi at that point?

21 A. That's correct.

22 Q. And you were aware that Mr. Bender was speaking to
23 Ms. Annabi on his own after June 9, isn't right?

24 A. He may have been. I don't recall at this time.

25 Q. And you were speaking to Mr. Jereis?

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C2RUANN2

Cantone - cross

1 A. That's correct.

2 Q. And you spoke to Mr. Jereis to set up the meeting of the
3 14th?

4 A. That's correct.

5 Q. And it was the meeting of the 14th where Ms. Annabi and
6 Mr. Bender appeared to have that meeting of the minds, isn't
7 that correct?

8 A. I believe, pursuant to conversations that I had with Zehy
9 before that meeting that we knew that there was a meeting of
10 the minds. I think we solidified the agreement and what the
11 concessions would certainly be at that meeting on the 14th.

12 Q. So the conversations you had with Mr. Jereis, but you had
13 the meeting with Ms. Annabi?

14 A. Yes.

15 Q. And on the 14th with Ms. Annabi, that's where, in your
16 words, you solidified the meeting of the minds?

17 A. Yes.

18 Q. And it was after that meeting, wasn't it sir, when
19 Mr. Jereis right after that meeting brought up the topic of a
20 job?

21 A. He raised it several times. He was very persistent over
22 the course of the meetings going from June 2nd through, you
23 know, June 28th up to July 11th. I don't remember
24 specifically, and you can refresh my memory and I will look at
25 it, if he did ask for an agreement again on that day.

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C2RUANN2

Cantone - cross

- 1 Q. Are you now testifying that Mr. Jereis asked for a job
2 after the June 2nd meeting in Brooklyn?
- 3 A. No, no, sir. I'm saying after the June 9th meeting is when
4 the first time -- I'm saying he was very -- Let me clarify.
5 From June 9th forward, he was very persistent over the
6 consulting agreement that he wanted from Forest City. So it
7 was raised a number of times, definitely after the June 9th
8 meeting and going forward.
- 9 Q. Now, do you recall being asked about Mr. Jereis's desire
10 for this meeting in your grand jury testimony, isn't that
11 right?
- 12 A. I'm sorry? Could you repeat your question?
- 13 Q. You were asked several times about Mr. Jereis looking for a
14 job during the grand jury testimony, isn't that right?
- 15 A. Yes.
- 16 Q. And you specifically denied that he was threatening in the
17 grand jury, right?
- 18 A. Yes.
- 19 Q. And you used the word "persistent" several times, isn't
20 that right?
- 21 A. Yes.
- 22 Q. And you never in the grand jury used the word "aggressive,"
23 did you, sir?
- 24 A. "Aggressive"? I don't recall.
- 25 Q. So in order to answer that question you are going to need

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C2RUANN2 Cantone - cross

1 to read your grand jury testimony, aren't you?

2 A. What question, sir?

3 Q. If you said in the grand jury the word "aggressive" with
4 respect to the way Mr. Jereis looked for a job?

5 A. Yes.

6 MR. CARBONE: The witness said he doesn't recall.

7 THE COURT: Excuse me. Would you sit down please, Mr.
8 Carbone.

9 MR. SIANO: Judge, I am certainly not going to stop my
10 cross-examination.

11 THE COURT: That's right. You are not, Mr. Siano.
12 You are going to move on to the next question.

13 BY MR. SIANO:

14 Q. In fact, repeatedly you told the government and the grand
15 jury that what Mr. Jereis obtained from Forest City Ratner was
16 access to Ms. Annabi, isn't that right?

17 A. Yes.

18 Q. And that Forest City Ratner persuaded Ms. Annabi to change
19 her vote, isn't that right?

20 A. Yes.

21 Q. And you testified after Mr. Carbone showed you a long set
22 of email strings through July and August, you acknowledged on
23 direct that you were holding Mr. Jereis off, isn't that right?

24 A. Yes.

25 Q. You also said about those emails in the grand jury that it

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C2RUANN2 Cantone - cross

1 appeared to be a coincidence to you that the subject line said
2 "resume," isn't that right?

3 A. Did I say that in the grand jury? Is that what you are
4 asking?

5 Q. Yes.

6 A. I think what I testified to was that sometimes when you
7 reply to an email, you are not necessarily replying to what the
8 subject is. People send emails and they continue to reply from
9 those emails. So what I was questioning was, what my state of
10 mind was in terms of replying to that particular email.

11 Q. And you were also describing the emails you received from
12 Mr. Jereis in the same way, were you not?

13 A. I don't know what his state of mind was.

14 Q. Exactly.

15 Now, did you have hiring authority at Forest City
16 Ratner during this period from June to August 2006?

17 A. No, sir.

18 Q. And you didn't make the decision to offer a consultancy to
19 Mr. Jereis, did you?

20 A. Not on my own, sir, no.

21 Q. Have you ever hired anybody for a job at Forest City
22 Ratner?

23 A. I was a supervisor and manager and I interviewed people,
24 but the final decision on whether those people were hired was
25 above me.

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C2RUANN2 Cantone - cross

1 Q. When you were a supervisor manager, what sort of people did
2 you hire?

3 A. Vice presidents, assistant vice presidents, project
4 managers, project analysts.

5 Q. Did you find that some of those people were, using your
6 word, "persistent" in their pursuit of a job at Forest City
7 Ratner?

8 MR. CARBONE: Objection.

9 THE COURT: The objection is sustained.

10 Q. Now, you used the word "persistent" in describing
11 Mr. Jereis's pursuit of this consultancy, and I am endeavoring,
12 sir, to find out what you mean by that word, and I am going to
13 ask you a series of questions.

14 A. Thank you.

15 Q. Did you find any of the candidates that you looked for,
16 looked at when you were hiring people, did you find any of them
17 to be persistent?

18 MR. CARBONE: Objection.

19 THE COURT: Sustained.

20 Q. Now, you arranged to meet with Ms. Annabi on July 11th,
21 isn't that right?

22 A. I don't believe I did, no, sir.

23 Q. Well, did you arrange to meet with her on June 28th?

24 A. No.

25 Q. Did you attend a meeting with her on June 28th?

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C2RUANN2 Cantone - cross

- 1 A. I don't believe I did, no. I attended a meeting with
2 Mr. Jereis on June 28th, if that's what you are referring to.
3 Q. And that meeting on June 28th with Mr. Jereis, one of the
4 topics was shoring up your votes in Yonkers, isn't that right?
5 A. The June 28th meeting?
6 Q. Yes.
7 A. Yes.
8 Q. The meeting on June 28th, you were concerned, among other
9 things, about how Ms. Annabi coming out for the project would
10 affect the other people who were already supporting the
11 project, isn't that right?
12 A. I don't recall, sir.
13 Q. Now, you told Mr. Jereis that you had an agreement in
14 principle with him around August 1, isn't that right?
15 A. It was sometime in August, September that I guess we had an
16 agreement internally and with Mr. Jereis to hire him, so we
17 backdated the agreement to August 1st.
18 Q. Do you recall anybody in particular shaking hands with
19 Mr. Jereis at or about August or September of 2006?
20 A. No, sir.
21 Q. You considered Mr. Jereis to be engaged with Forest City
22 Ratner as of August 1st, isn't that right?
23 A. Yes.
24 Q. You saw nothing wrong with Mr. Jereis invoicing for August
25 2006, did you?

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C2RUANN2

Cantone - cross

- 1 A. No.
2 Q. Or for September of 2006?
3 A. No.
4 Q. Or for October of 2006?
5 A. No.
6 Q. Now, you drafted the contract that the government put up
7 here on the screen that Mr. Jereis signed -- you drafted it
8 internally at Forest City Ratner, isn't that right?
9 A. No. One of our associate general counsel drafted the
10 agreement.
11 Q. A lawyer inside Forest City Ratner drafted the contract?
12 A. Yes.
13 Q. And you looked it over?
14 A. Yes. I made changes.
15 Q. Internally at Forest City Ratner?
16 A. Yes.
17 Q. It is your testimony, sir, that you didn't even send the
18 contract to Mr. Jereis until sometime in October, isn't that
19 correct?
20 A. Yes.
21 Q. And it was a Forest City Ratner markup, isn't that right;
22 this document came from pieces of various consultancy
23 agreements at Forest City Ratner?
24 A. I guess so, yes. I mean, again, it was drafted by a lawyer
25 at Forest City.

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C2RUANN2 Cantone - cross

1 Q. Right. So Mr. Jereis didn't have a contract in hand --
2 draft, unsigned, any kind until sometime in October, isn't that
3 right?

4 A. Yes.

5 Q. Now, I believe you testified that it was Mr. Pesin and
6 Mr. Connoyer who put in the concept of retail hunting in the
7 agreement?

8 A. Yes.

9 Q. And that term "retail hunting" is a concept internal to
10 Forest City Ratner?

11 A. Yes.

12 Q. And that was a term Mr. Pesin suggested and spoke to other
13 people about?

14 A. Yes.

15 Q. And in fact as discussed by Mr. Pesin, it included the
16 concept of vacant lots and supermarkets, isn't that right?

17 MR. CARBONE: Objection.

18 THE COURT: Ground?

19 MR. CARBONE: Hearsay.

20 THE COURT: The objection is overruled.

21 A. I don't recall.

22 Q. Do you recall telling the grand jury your understanding of
23 retail hunting included empty lots and supermarkets?

24 A. If you want to show me something to refresh my memory, I
25 would be happy to look at it, sir.

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C2RUANN2 Cantone - cross

1 Q. Sir, I don't mean to fence with you. I am asking you, as
2 you sit there now, do you have --

3 THE COURT: Yes or no, do you remember or don't you?

4 THE WITNESS: I don't remember, no.

5 THE COURT: Thank you.

6 What are you showing him?

7 MR. SIANO: I am showing him his grand jury testimony,
8 page 63, lines 13 through 17.

9 BY MR. SIANO:

10 Q. Do you recall being asked in the grand jury the following
11 question and giving the following --

12 THE COURT: No, no. Ask him if that refreshes his
13 recollection. He said he didn't remember.

14 Q. Do you remember telling the grand jury what your
15 understanding of retail hunting was?

16 A. Yes.

17 Q. And do you recall telling the grand jury, sir, that it
18 included supermarkets and empty lots?

19 A. Yes.

20 Q. Did you have such a conversation with Mr. Jereis that you
21 recall?

22 A. I don't recall, sir.

23 Q. To your knowledge did anybody have that conversation with
24 Mr. Jereis?

25 A. Maybe Mr. Pesin. Myself and Mr. Bender were --

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C2RUANN2 Cantone - cross

1 Q. There is no question --

2 THE COURT: There is no question.

3 Q. You and Mr. Bender were discussing politics with
4 Mr. Jereis, weren't you?

5 A. Yes.

6 Q. In fact, you were discussing politics with Mr. Jereis in
7 July and August and September because there still were
8 political problems up there on the hill, isn't that right?

9 A. Yes.

10 Q. And particularly there were political problems with a
11 gentleman named Finer, isn't that right?

12 A. Who was Finer, sir?

13 Q. Paul Finer, the supervisor --

14 A. -- of Greenburgh, yes, sir.

15 Q. And there were problems with Mr. Finer?

16 A. Yes.

17 Q. Now, Mr. Finer just didn't oppose Forest City Ratner's
18 proposal, did he? He detested the project, isn't that right?

19 MR. CARBONE: Objection.

20 THE COURT: The objection is sustained.

21 Q. Was Mr. Finer an opponent of the Forest City Ratner
22 proposal?

23 MR. CARBONE: Objection.

24 THE COURT: Overruled.

25 A. Yes.

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C2RUANN2 Cantone - cross

1 Q. Was he a vocal opponent?

2 A. Yes, he was.

3 Q. He was not an elected official from the city of Yonkers,
4 was he?

5 A. No.

6 Q. He was in the next town up?

7 A. Greenburgh, yes, sir.

8 Q. And he was raising objections about your project, even
9 though it wasn't in Greenburgh, isn't that right?

10 A. Yes.

11 Q. And he continued to so after the Yonkers City Council
12 approved the project on July 11, 2006?

13 A. Yes.

14 Q. And that was one of the things you were talking to
15 Mr. Jereis about?

16 A. It is possible, sir.

17 Q. And in fact, you and Mr. Bender continued to talk to
18 Mr. Jereis about politics in Westchester through August and
19 September and October?

20 A. That's possible, yes.

21 Q. And he submitted invoices for August and September and
22 October, isn't that right?

23 A. Yes.

24 Q. And those were the only months that Forest City Ratner paid
25 Mr. Jereis for his consultancy, isn't that right, Mr. Cantone?

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C2RUANN2 Cantone - cross

1 A. Yes. He was paid for three months.

2 Q. You know in fact he was paid one check for \$15,000,

3 Mr. Cantone, don't you?

4 A. I do not know whether it was one check or three checks,
5 sir.

6 Q. You know that the only time Mr. Jereis was paid was on
7 December 15th of 2006?

8 A. I do not know the dates, sir.

9 Q. If you didn't know the dates, what is the basis for your
10 testimony on Thursday, sir, that the payments to Mr. Jereis
11 stopped after the grand jury subpoenas were served?

12 A. Because that is what I remember.

13 Q. So you remember there being payments?

14 A. Yes.

15 Q. Before March 27th?

16 A. Yes.

17 MR. SIANO: May I approach, your Honor?

18 THE COURT: You may.

19 Q. Mr. Cantone, let me show you what's been marked as
20 Defendant Exhibit Number 36 for identification.

21 Mr. Cantone, give me a second, I want to give Mr.
22 Carbone some direction.

23 MR. SIANO: 00064.

24 Q. Now, do you recall that email string now that you have read
25 it?

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C2RUANN2

Cantone - cross

1 A. Yes, sir.

2 Q. How does it start?

3 MR. CARBONE: Judge, may I see the exhibit?

4 Q. Now, does it fairly and accurately reflect an email
5 exchange that took between you and Mr. Connoyer on or about
6 August 11, 2006?

7 A. Yes.

8 MR. SIANO: I offer into evidence Defendant's 36.

9 MR. CARBONE: No objection.

10 THE COURT: Admitted.

11 (Defendant Exhibit 36 received in evidence)

12 MR. SIANO: Mr. Turk, could I ask you to put this up.

13 Thank you, Mr. Turk.

14 BY MR. SIANO:

15 Q. Now, if I might, Mr. Cantone, ask you to look at this
16 screen. And even though my exhibit number is cut off, it is
17 the document that you just saw. And this email starts at the
18 bottom, right, under the phrase "original message"?

19 A. Yes.

20 Q. You are directing your inquiry to a gentlemen named John
21 Connoyer?

22 A. Yes.

23 Q. You are asking him: "What are we doing? I need to get
24 something. Zehy something. Thanks."

25 You are talking about the contract, aren't you?

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C2RUANN2

Cantone - cross

1 A. Yes.

2 Q. And Mr. Connoyer writes you back: "I didn't know you were
3 looking for something from me. Rich wanted this under retail
4 hunting, if we could."

5 It is a pretty informal exchange?

6 A. Yes.

7 Q. At that time, Mr. Pesin is the Rich, is that correct?

8 A. Correct.

9 Q. And Mr. Connoyer, what box on that chart that you were
10 shown on last Thursday, what box is he in?

11 A. He is a senior vice president like myself -- or was.

12 Q. In what hierarchy of boxes?

13 A. Second.

14 Q. Where? Under what?

15 A. He reports to Richard Pesin who is executive vice
16 president. He is a senior vice president.

17 Q. And Mr. Pesin is a builder, isn't that right?

18 A. Yes.

19 Q. And he was in fact the head man, if you will, for building
20 Ridge Hill, isn't that right?

21 A. Yes.

22 Q. Does Mr. Pesin also have some responsibility in retail
23 hunting or is that a different set of boxes over at Forest City
24 Ratner?

25 A. No. He is responsible for retail hunting.

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C2RUANN2

Cantone - cross

1 Q. So he is responsible for retail hunting too?

2 A. Yes.

3 Q. And in fact, the difference between Ridge Hill and
4 governmental affairs and retail hunting at Forest City Ratner
5 in 2006 was in fact partially budgetary, isn't that right?

6 A. I'm sorry? I don't understand the question.

7 Q. Well, if Mr. Jereis's consultancy was put under
8 governmental affairs, then the governmental affairs
9 expenditures for the year would be increased, isn't that right?

10 A. I guess that is fair to say.

11 Q. And if it was put under Ridge Hill, Ridge Hill's expenses
12 would be increased?

13 A. Yes. But to clarify, sir, even if he is working in
14 Westchester or the Ridge Hill project, he still would be
15 budgeted under a particular project.

16 Q. Absolutely.

17 A. Even if he was working for governmental affairs, because
18 our budget is basically broken up into projects.

19 Q. That is exactly the point I am trying to make, Mr. Cantone,
20 and I appreciate that.

21 Retail hunting, Mr. Pesin was interested in moving him
22 into retail hunting and that would get him out from the Ridge
23 Hill budget?

24 A. Yes.

25 Q. Now, along this period of time in July when you said you

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C2RUANN2 Cantone - cross

1 testified you were stringing Mr. Jereis along, did you ever get
2 angry with him?

3 A. No.

4 Q. Did he ever raise his voice to you?

5 A. No.

6 Q. Did he ever say anything along the lines or in words or
7 substance that you owe him?

8 A. No.

9 Q. And from time to time Mr. Bender and you would continue to
10 talk to Mr. Jereis about the subject matters of interest to
11 Forest City Ratner that you thought Mr. Jereis could help with,
12 isn't that right?

13 A. Yes.

14 Q. So you continued to talk to him about political issues all
15 over Westchester including Mr. Finer and other things all
16 throughout this period of time?

17 A. Yes.

18 Q. And Mr. Jereis continued to talk to you?

19 A. Yes.

20 Q. And you also continued --

21 THE COURT: Excuse me. Multiple voices.

22 The court reporter asked a question of the witness.

23 MR. SIANO: I'm sorry. I didn't hear that.

24 THE COURT: I did.

25 MR. SIANO: Thank you, Judge. That's why I kept

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C2RUANN2 Cantone - cross

1 talking. I didn't hear the court reporter. I apologize.

2 THE COURT: Ask your next question.

3 BY MR. SIANO:

4 Q. In June, you asked Mr. Jereis for his particulars, isn't
5 that right, including his Social Security account number?

6 A. I didn't ask him for it. What happened was the June 28th
7 meeting, he had raised the fact that he had a consultant
8 business. And Mr. Pesin, Mr. Bender and myself asked him about
9 the business, whether it was a legitimate business, whether he
10 had an employee identity number, an EIN number, whether he had
11 employees, whether he had a place of business. And then we
12 told him that we would continue to think about it. It was
13 subsequent to that meeting, he sent more information about his
14 business.

15 Q. He sent his home address and his Social Security number?

16 A. Yes.

17 Q. Mr. Pesin, let me show you what I have marked as
18 Defendant's Exhibit Number 37 -- Mr. Cantone -- excuse me.

19 Mr. Cantone, I show you what's been marked as
20 Defendant Exhibit 37 for identification. For the record, FCR
21 00011. Do you recognize it?

22 A. Yes.

23 Q. What do you recognize it to be?

24 A. A calendar -- it looks like my calendar.

25 Q. It is your calendar?

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C2RUANN2

Cantone - cross

1 A. For July 11th.

2 Q. It is your calendar for July 11th?

3 A. Yeah.

4 MR. ARRONWALD: Your Honor, it is difficult hearing
5 the witness because he has his hand over his mouth.

6 THE WITNESS: I'm sorry.

7 It is my calendar dated July 11, 2006.

8 Q. In fact it reflects that you met with Ms. Annabi on July
9 11th?

10 A. It said that, but I was not at the meeting.

11 MR. SIANO: Offer into evidence, 37, your Honor.

12 MR. CARBONE: It is already in evidence.

13 MR. SIANO: I will offer it.

14 MR. CARBONE: No objection.

15 THE WITNESS: I don't believe the meeting --

16 THE COURT: Sir, there is nothing on the table.

17 MR. SIANO: There is no question pending.

18 THE COURT: It is admitted again, I guess. If we
19 could figure out what it duplicates so that we can get rid of
20 the duplication.

21 Thank you.

22 (Defendant Exhibit 37 received in evidence)

23 BY MR. SIANO:

24 Q. Do you recall, sir, discussions with Mr. Bender about the
25 topic of continuing to pursue Mr. Murtagh's vote and Ms.

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C2RUANN2 Cantone - cross

1 Barbato's vote after Ms. Annabi announced she was in favor of
2 the project?

3 A. Yes.

4 Q. In fact, continuing efforts were made to reach out to get
5 Mr. Murtagh to vote for the project, isn't that right?

6 A. Yes, sir.

7 Q. And that was an FCR decision to do that, isn't that right?

8 A. Yes.

9 Q. Were you part of the decision-making process to have
10 Mr. Jereis ask Mr. Murtagh to come to a meeting on July 11th?

11 A. No.

12 Q. Now, was Ms. Annabi's press release in mid June the only
13 press release you drafted or participated in the drafting of
14 for Yonkers politicians in that time period?

15 MR. CARBONE: Objection.

16 THE COURT: Objection sustained.

17 Q. Sir, did you help Mr. Amicone draft the press release?

18 THE COURT: The objection is sustained.

19 MR. SIANO: I asked a different question, Judge.

20 THE COURT: I know, and the objection is sustained to
21 that one too.

22 Q. At the time that Ms. Annabi expressed her agreement with
23 the project, did Forest City Ratner have some concerns as to
24 Mr. Amicone's reaction?

25 MR. CARBONE: Objection.

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C2RUANN2

Cantone - cross

1 THE COURT: The objection is sustained.
2 Q. Now, you gave a long interview to the FBI and the United
3 States Attorney's office on May 30th of 2007, sir?
4 A. I will take your word that is the date.
5 Q. Well, you recall the interview, sis that right?
6 A. Yes.
7 Q. That was with Ms. James and Ms. Christianne Johnson?
8 A. Yes, sir.
9 Q. And do you recall that taking place at the United States
10 Attorney's office in White Plains?
11 A. Yes.

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(Continued on next page)

C2RQANN3 Cantone - Cross

- 1 Q. It went on for some time, didn't it?
2 A. Yes.
3 Q. There were FBI agents there?
4 A. Yes.
5 Q. And you observed them taking notes?
6 A. I don't recall.
7 Q. You remember that you were asked questions, weren't you?
8 A. Yes.
9 Q. Generally speaking, the subject matter was the same subject
10 matter you've been questioned about Thursday and today, isn't
11 that right?
12 A. Yes.
13 Q. You recall telling the government during that interview
14 that it was Mr. Pesin's responsibility to send out scouts and
15 look at the properties Mr. Jereis had identified?
16 A. Yes.
17 Q. And you also on that same subject matter testified to the
18 grand jury that it was Mr. Pesin's responsibility to foster any
19 kinds of leads for property, isn't that right?
20 A. Yes.
21 Q. And you also told the grand jury that, and it's true, isn't
22 it, that all Forest City Ratner consultants are expected to
23 keep an eye and an ear out for development opportunities?
24 A. Yes.
25 Q. Now, did Mr. Pirro do that for you?

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C2RQANN3 Cantone - Cross

1 MR. CARBONE: Objection.

2 THE COURT: Overruled.

3 A. I don't know, sir.

4 Q. Well, did he file any reports that said that?

5 A. I don't know.

6 Q. Did any of the people at Patricia Lynch Associates ever do
7 that for Forest City Ratner?

8 A. I don't recall.

9 Q. Did you ever see any reports from Patricia Lynch
10 Associates--

11 A. No, sir.

12 Q. -- in which they were looking out for development
13 opportunities?

14 A. No.

15 Q. And did Mr. Carey and Mr. Spencer do that to your
16 knowledge?

17 A. No.

18 Q. Did they ever file any reports to your knowledge?

19 A. I don't believe their contract has specific provisions to
20 file reports with us, sir.

21 Q. Well, your testimony to the grand jury was that Forest City
22 Ratner expected all consultants to keep an eye out and ear out
23 for development opportunities?

24 A. That was a general responsibility. Mr. Jereis had a
25 specific responsibility.

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C2RQANN3 Cantone - Cross

1 Q. And that specific responsibility shows up specifically in
2 the draft contract which you gave him in mid-October?

3 A. Yes.

4 Q. Mr. Jereis with regard to Ms. Annabi's travel to Jordan
5 specifically asked you if Forest City Ratner could pay the
6 penalty charge, isn't that right?

7 A. Yes.

8 Q. And you said no?

9 A. Yes.

10 Q. And that was the last time that came up?

11 A. Yes.

12 Q. Now, do you specifically know who redrafted Mr. Jereis's
13 invoices?

14 A. I wasn't aware they were redrafted.

15 Q. Do you recall if anybody redrafted any of the documents
16 that Mr. Jereis submitted?

17 A. No.

18 Q. Do you recall anyone describing Mr. Jereis's invoices as
19 junior varsity or JV?

20 A. No, sir.

21 Q. Do you recall ever having any conversations with
22 Mr. Swagerty about the quality of Mr. Jereis's paperwork?

23 A. No.

24 Q. Did you, sir, have any conversations with Mr. Jereis laying
25 out parameters for reports, detailed expectations in any way?

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C2RQANN3

Cantone - Cross

1 A. No.

2 Q. Now, I have a few questions about your interactions on
3 behalf of Forest City Ratner with an individual by the name of
4 Dee Barbato. Now, you know Ms. Barbato to be a council member
5 at the time, is that right?

6 A. Yes.

7 Q. And she was opposed to Forest City Ratner, is that right?

8 A. That's correct.

9 Q. And you met with Ms. Barbato numerous times, isn't that
10 right?

11 A. Me personally, I wouldn't characterize as numerous. A
12 handful of times myself.

13 Q. Were you present at the meeting in which she spoke to
14 Mr. Bender about the site and called it Wally World?

15 A. No, sir.

16 MR. CARBONE: Objection.

17 THE COURT: The objection is sustained. The question
18 is stricken.

19 Q. Now, did Forest City Ratner endeavor to make concessions as
20 to the subject matter Ms. Barbato raised, she raised?

21 A. Repeat the question?

22 Q. Did you see Forest City Ratner endeavor to make concessions
23 on the objections Ms. Barbato raised?

24 A. Yes.

25 Q. When you did that, did you find that Ms. Barbato moved

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C2RQANN3 Cantone - Cross

1 toward the project or away from the project?

2 MR. CARBONE: Objection.

3 THE COURT: The objection is sustained.

4 Q. Well, isn't it a fact that no matter what Ms. Barbato said,
5 she communicated that she was adamantly opposed to this
6 project?

7 MR. CARBONE: Objection.

8 THE COURT: The objection is overruled.

9 A. She was always opposed to the project. I don't think we
10 ever expected to change her vote.

11 Q. Now, you recall testifying on Thursday, sir, that
12 Mr. Jereis told you in 2006 that he was quarterbacking the
13 Longfellow project?

14 A. Yes, sir.

15 Q. You were asked in the grand jury, sir, were you not,
16 whether you had ever heard of Longfellow, isn't that right?

17 A. I don't recall.

18 Q. Do you recall being asked this question and giving this
19 answer, sir? Page 84/line 4, Mr. Carbone. Do you recall being
20 asked this --

21 MR. CARBONE: Objection. Lack of recollection, he
22 should show him something.

23 THE COURT: That's correct.

24 MR. SIANO: Judge, I'm refreshing recollection by
25 reading him the transcript.

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C2RQANN3

Cantone - Cross

1 THE COURT: That is not what you are allowed to do.
2 In my courtroom you do it the old-fashioned way, which is if
3 someone says they don't recall, you show them something and ask
4 them if it refreshes their recollection. You impeach by
5 reading a prior inconsistent statement. The universal rule in
6 this courtroom.

7 Q. Mr. Cantone, I direct your attention to page 84.

8 A. Yes, sir.

9 Q. And I direct your attention to page 84/line 4 and ask you
10 to read that series of questions and answers all the way down
11 to the bottom of the page.

12 A. OK.

13 Q. Now, do you recall being asked about Longfellow in the
14 grand jury?

15 A. Yes.

16 Q. And do you recall in fact telling the grand jury that you
17 were unfamiliar with the project known as the Longfellow
18 project?

19 A. That's correct, yes.

20 Q. Do you recall at the same time telling the grand jury that
21 the only projects in Yonkers which Mr. Jereis brought to your
22 attention was what was in his reports?

23 A. Yes.

24 Q. And that's what you testified to on March 4, 2008, two
25 years after the events you were testifying to?

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C2RQANN3

Cantone - Cross

1 A. Yes.

2 Q. Now, isn't it a fact, sir, that the first time you used the
3 word quarterbacking in any conversation with the government was
4 a conversation that you had, I believe it was three weeks ago?

5 A. I'm sorry. What's the question?

6 Q. Could I ask the court reporter to read it back?

7 THE COURT: Please read it back.

8 (Read back)

9 A. I guess so, yes.

10 Q. In fact, the first time you said quarterbacking to the
11 government was on February 3, 2012?

12 A. OK.

13 Q. You're agreeing with me, is that right, Mr. Cantone?

14 A. That sounds correct -- I don't know --

15 Q. When you said quarterbacking to the government, you didn't
16 say Longfellow.17 THE COURT: There is no question. You just made a
18 statement. Did you say--19 Q. All right. Did you say Longfellow to the government on
20 February 3, 2012?21 A. I had a conversation with the government around this period
22 of time where I recall a conversation I had where Mr. Jereis
23 was returning my phone call and asked me if I was calling about
24 what he's quarterbacking in the city counsel. I asked him what
25 that was. He stated Longfellow.

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C2RQANN3 Cantone - Cross

1 Q. When you were asked about this in the grand jury in 2008,
2 you specifically denied you were familiar with Longfellow,
3 didn't you?

4 A. I don't think it's inconsistent --

5 MR. CARBONE: That misstates his testimony.

6 THE COURT: Excuse me. Have a seat. Thank you.

7 Did you say that? Yes or no, sir. We can make this
8 go a lot faster. When he asks you a yes-or-no question, you
9 answer yes or no. Is that what you said? Yes or no or you
10 don't recall.

11 THE WITNESS: Yes, I said I was not familiar with the
12 Longfellow project.

13 MR. SIANO: No further questions, Mr. Cantone.

14 THE COURT: Mr. Carbone.

15 MR. CARBONE: Your Honor, would this be a good time
16 for a five minute break?

17 THE COURT: Do we need a break? OK. We need a break.
18 Five minutes. Don't discuss the case. Keep an open mind.

19 (Jury recessed)

20 (In open court; jury present)

21 THE COURT: OK. You are still under oath, sir.

22 Mr. Carbone.

23 MR. CARBONE: Thank you, your Honor.
24
25

C2RQANN3 Cantone - Cross

1 REDIRECT EXAMINATION

2 BY MR. CARBONE:

3 Q. Mr. Cantone, you were asked on cross-examination about
4 discussions you had about politics with Mr. Jereis between
5 August and March of 2007, do you recall that?

6 A. Yes, sir.

7 Q. Approximately how many times did you meet with Mr. Jereis
8 between that time period?

9 A. Once, twice the most.

10 Q. And how many times did you speak to him by phone?

11 A. Once, twice.

12 Q. Do you recall being asked on cross-examination about a
13 discussion you had where Mr. Jereis told you about this alleged
14 affair that was breaking up his marriage?

15 A. Yes.

16 Q. Approximately when did that conversation take place?

17 A. In March of 2007.

18 Q. Was that after reports of the government's investigation
19 had been reported in the media?

20 A. Yes, sir.

21 Q. Did he ever tell you that he was having an affair with
22 Ms. Annabi before that?

23 A. No, sir.

24 Q. You were asked by Mr. Aronwald a series of questions about
25 why you didn't reach out directly to Mr. Jereis before this

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C2RQANN3

Cantone - Redirect

1 June 2 meeting if all roads to Ms. Annabi lead through
2 Mr. Jereis, do you recall that?

3 A. Yes.

4 Q. Can you tell the jury why you didn't reach out to him
5 directly before that?

6 A. Well, because we were also being told by our paid
7 lobbyists, by other elected official who were supporters of the
8 project not to, and, clearly, because of the political climate
9 in Yonkers which was characterized as crazy, we talked about
10 the factions before as well, we had all these different
11 factions, we did not want to offend any of our supporters or
12 other factions that we were working with to support the project
13 so we did not reach out to Zehy Jereis.

14 Q. You were asked on cross-examination about these meetings at
15 Marco Polo, Jake's Steakhouse and Madisons and whether they
16 were open to the public. Was Dee Barbato invited to those
17 meetings by Ms. Annabi or Mr. Jereis, do you know?

18 A. Not as far as I know.

19 Q. Do you know whether John Murtagh was invited to those
20 meetings?

21 A. No.

22 Q. Do you know whether Ms. Annabi or Mr. Jereis told anyone in
23 the city of Yonkers government that they were having those
24 meetings?

25 A. No.

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C2RQANN3

Cantone - Redirect

1 Q. And the first meeting -- I'm sorry, what borough did that
2 happen in in Marco Polo restaurant?
3 A. Brooklyn.
4 Q. Was the second meeting in Yonkers?
5 A. Yes.
6 Q. How about the third?
7 A. Third was in Riverdale.
8 Q. You were also asked a series of questions relating to the
9 tenor of the June 2 Jake's Steakhouse meeting and a discussion
10 Mr. Pesin had with Ms. Annabi?
11 A. Yes.
12 Q. Is it fair to say that in a nutshell you both expressed
13 your views on the project during that meeting?
14 A. Yes.
15 Q. You were asked a series of questions by Mr. Aronwald about
16 your grand jury testimony. Did you tell the grand jury also
17 that it's fair to say in a nutshell you both expressed your
18 views on the project?
19 A. Yes.
20 Q. The concessions that were offered or discussed at Jake's
21 Steakhouse and then in between the Jake's Steakhouse and
22 Madisons meeting, is it fair to say that those concessions or
23 the concession, which is the 10.8 million in taxes over a
24 three-year period, had been made already to other council
25 members and the public?

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C2RQANN3

Cantone - Redirect

- 1 A. Yes.
- 2 Q. Now, you said that you had come to an agreement with Sandy
3 Annabi. Who was negotiating on Sandy Annabi's behalf?
- 4 A. Zehy Jereis.
- 5 Q. Please broadcast Government Exhibit 439 and maximize the To
6 and From section. You were asked about a series of emails, and
7 you were asked whether Ms. Annabi ever asked you to copy
8 Mr. Jereis on those emails. Do you recall that question?
- 9 A. Yes.
- 10 Q. Now, referring to the bottom email -- Mr. Turk, could you
11 maximize the To and From section on the Sandy Annabi email?
- 12 Now, is that an email from Sandy Annabi to you?
- 13 A. Yes, it is.
- 14 Q. Who did Sandy Annabi copy on that email?
- 15 A. Zehy Jereis.
- 16 Q. Did you ask her to copy Zehy Jereis?
- 17 A. No.
- 18 Q. The photograph that -- Mr. Siano showed you a couple of
19 them of Ridge Hill proper. Do you know what time of day those
20 photos were taken?
- 21 A. No.
- 22 Q. Is the project completed?
- 23 A. No.
- 24 Q. Are all of the stores open yet?
- 25 A. No.

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C2RQANN3

Cantone - Redirect

- 1 Q. You were asked by Mr. Siano about the emails that
2 Mr. Jereis sent you, a series of emails leading up to the
3 June 28 meeting. Any doubt that Mr. Jereis made repeated
4 persistent requests, both orally and in writing, for a job
5 between June 9 and June 28?
6 A. No.
7 Q. Did he continue to make persistent repeated requests after
8 that?
9 A. Yes.
10 Q. Mr. Cantone, Mr. Siano showed you a calendar entry for the
11 July 11, 2006 meeting. Do you recall that?
12 A. Yes, I do.
13 Q. Had there been occasions where you'd schedule a meeting and
14 then you're not able to make it?
15 A. All the time.
16 Q. Did you attend that meeting?
17 A. I did not.
18 Q. What was happening on July 11, 2006?
19 A. The city council was preparing to vote on the Ridge Hill
20 project.
21 Q. Were you otherwise occupied that day?
22 A. I believe I was at city hall all day.
23 Q. You were asked about a conversation that you had with
24 Mr. Jereis in which he told you that he was quarterbacking the
25 Longfellow project through the city council. Do you recall

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C2RQANN3

Cantone - Redirect

1 that?

2 A. Yes.

3 Q. When is the first time you recall the details of that
4 conversation?

5 A. I'm sorry, the question is?

6 Q. When is the first time you recounted the details of that
7 conversation to the government?

8 A. It was a couple weeks ago.

9 Q. Is that because the government asked you about other
10 specific conversations you had during that time period with
11 him?

12 A. Yes.

13 Q. Were you asked in the grand jury whether you had any
14 specific conversations about his role in the Longfellow
15 project?

16 A. No.

17 MR. CARBONE: Thank you. No further questions, your
18 Honor.

19 RE-CROSS EXAMINATION

20 BY MR. ARONWALD:

21 Q. This Ridge Hill project was a huge, huge project as far as
22 Forest City Ratner was concerned, isn't that so?

23 A. Correct.

24 Q. I mean, Forest City Ratner was pulling out all stops in an
25 effort to get the approvals necessary so that they could break

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C2RQANN3

Cantone - Recross

1 ground and begin construction of the project, correct?

2 MR. CARBONE: Objection. Beyond the scope.

3 THE COURT: Objection sustained.

4 Q. Well, you told Mr. Carbone on redirect examination that the
5 reason that you did not reach out for Zehy Jereis knowing that
6 all roads to Sandy lead through Zehy Jereis was because your
7 other lobbyists and consultants told you not to. Do you recall
8 saying that about five minutes ago?

9 A. Yes.

10 Q. Do you recall also telling the jury about five minutes ago
11 that you were concerned with the crazy politics in Yonkers; you
12 didn't want to upset the other lobbyists and consultants
13 correct?

14 A. We didn't want to upset the other political factions.

15 Q. Political factions?

16 A. Yes.

17 Q. But these lobbyists and consultants that were being paid by
18 Forest City Ratner to get access to Sandy Annabi in order to
19 persuade her to vote for the project, those efforts which began
20 in 2005, as of June of 2006 were unsuccessful, correct?

21 A. Correct.

22 Q. So, despite the importance of this project and the failure
23 of Al Pirro, Mike Spano, Nick Spano and others to get access to
24 Sandy Annabi for Forest City Ratner, you're telling us that
25 because you didn't want to upset other factions, you decided

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C2RQANN3 Cantone - Recross

- 1 that you were not going to reach out to the one person that you
2 had been told could give you access to Sandy Annabi - Zehy
3 Jereis. That's your testimony, correct?
4 A. Correct.
5 Q. By the way, Riverdale is on the border between Yonkers and
6 the Bronx?
7 A. Yes.
8 Q. Now, you also testified a few minutes ago that you had
9 meetings with Dee Barbato and John Murtagh before you met with
10 Sandy Annabi, correct?
11 A. Yes.
12 Q. Did you ever meet with Dee Barbato alone?
13 A. No.
14 Q. Did you ever meet with John Murtagh?
15 A. No.
16 Q. So whenever you met with them, you met with them together,
17 correct?
18 A. I didn't meet with them personally alone, but we've had
19 meetings with John Murtagh alone and Dee Barbato alone, but I
20 was never alone with them.
21 Q. I apologize. So, in other words, there were meetings
22 between Forest City Ratner representatives and John Murtagh--
23 A. Yes.
24 Q. -- at which Dee Barbato was not present?
25 A. Correct.

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C2RQANN3 Cantone - Recross

1 Q. And then there were meetings with Dee Barbato with Forest
2 City Ratner representatives at which John Murtagh was not
3 present, correct?

4 A. Correct.

5 Q. OK. Did you have anything at all to do with setting up or
6 arranging for any of the meetings with Dee Barbato or John
7 Murtagh?

8 A. I may have. I don't recall.

9 Q. OK. And was there a reason why Forest City Ratner wished
10 to meet with a specific city council member, for example, Dee
11 Barbato one-on-one in order to persuade her to change her vote?

12 A. Are we talking about specifically Dee Barbato or in
13 general?

14 Q. I'm saying as an example.

15 A. OK.

16 Q. Let me strike it. Isn't it true that the reason why Forest
17 City Ratner would want to meet with Dee Barbato --

18 A. Mmm-hmm.

19 Q. -- independently alone was because you wanted to go
20 one-on-one with her to address whatever concerns she had,
21 correct?

22 MR. CARBONE: Objection. Beyond the scope.

23 THE COURT: Objection sustained.

24 MR. ARONWALD: Your Honor, it was opened up on
25 redirect about meetings that they had with Dee Barbato and John

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C2RQANN3 Cantone - Recross

1 Murtagh that Sandy Annabi did not attend.

2 THE COURT: The objection is sustained.

3 Q. When you arranged a meeting with Sandy Annabi for June 9,
4 did John Murtagh refuse to attend that meeting?

5 A. He wasn't invited to that meeting.

6 Q. Dee Barbato, she refused to attend the meeting, correct?

7 A. I don't believe she was invited. We had previously met oh.

8 THE COURT: You've answered the question.

9 THE WITNESS: Sorry, your Honor.

10 MR. ARONWALD: Thank you very much. No further
11 questions.

12 RE-CROSS EXAMINATION

13 BY MR. SIANO:

14 Q. Mr. Cantone, you were expressly asked in the grand jury
15 about the Longfellow project, weren't you?

16 A. I was asked if I was familiar with the Longfellow project.

17 Q. You were asked if you had any discussions with Mr. Jereis
18 about any property under development in Yonkers, weren't you?

19 A. Yes.

20 Q. And you denied that you knew anything about Longfellow,
21 correct?

22 A. I said that I was unfamiliar with the Longfellow project,
23 yes.

24 Q. And you denied that you talked to Mr. Jereis about any
25 project in development in Yonkers that wasn't on his reports,

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C2RQANN3 Cantone - Recross

1 isn't that right?

2 A. Yes.

3 Q. And you did that in the grand jury?

4 A. Yes.

5 Q. In 2008?

6 A. Yes.

7 MR. SIANO: Thank you.

8 MR. CARBONE: Nothing further, your Honor.

9 THE COURT: You may step down. Thank you.

10 (Witness excused)

11 THE COURT: Call your next witness, please.

12 MR. CARBONE: The government calls Bruce Bender.

13 BRUCE BENDER,

14 called as a witness by the Government,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. CARBONE:

18 THE DEPUTY CLERK: Tell us your full name and spell
19 your last name.

20 THE WITNESS: Bruce Bender, B-E-N-D-E-R.

21 THE COURT: You may inquire.

22 MR. CARBONE: Thank you, your Honor.

23 Q. Mr. Bender, where do you live?

24 A. In New York City.

25 Q. How far did you go in school?

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C2RQANN3 Bender - Direct

1 A. I got my BA at Baruch. I got a master's at NYU in public
2 administration, and then another master's at the New School in
3 Urban Affairs, and I went back to school for finance.

4 Q. Mr. Bender, could you sit -- if you could just lift the
5 microphone up just a little bit. Until recently where, did you
6 work?

7 A. Forest City Ratner Companies.

8 Q. What was your title?

9 A. Executive vice-president for government affairs and public
10 relations.

11 Q. What were your duties as the executive vice-president of
12 governmental affairs and public administration?

13 A. My job was to interact with elected officials, community
14 groups, business leaders, trade unions. It was my job also to
15 work with the administration in the executive office of the
16 municipality that we were working, and to put people together,
17 those that had questions to those in the companies that had the
18 answers to those questions.

19 Q. And who did you answer to?

20 A. Bruise Ratner.

21 Q. How many employees did you supervise?

22 A. Anywhere between 5 and 20.

23 Q. Approximately when did you start working at Forest City
24 Ratner?

25 A. Approximately in 2000.

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C2RQANN3 Bender - Direct

1 Q. What did you do before that?

2 A. I was the chief of staff to the city council under speaker
3 Peter Vallone in New York City.

4 Q. What was your role in the Ridge Hill project?

5 A. It was my job to work with the community, elected officials
6 and the mayor's office, community groups, trade unions and
7 discuss the project, advocate for the project and answer
8 questions as it relates to the project.

9 Q. For approximately how long were you involved in the
10 project?

11 A. From 2002 to almost the present, so eleven and a half
12 years.

13 Q. Directing your attention to December 2005, approximately
14 how many votes did Forest City Ratner need to get the project
15 approved at this time?

16 A. We needed four votes.

17 Q. And what council members supported the project?

18 A. Council Member Martinelli, Council Member McLaughlin,
19 Council Member Robertson and Council Member MacDow.

20 Q. And who opposed it?

21 A. Council Member Dee Barbato, Council Member Annabi and
22 Council Member Murtagh.

23 Q. Had you made any efforts to meet with Councilwoman Barbato
24 to discuss the project?

25 A. Yes, we did.

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C2RQANN3 Bender - Direct

1 Q. Did she agree to meet with you?

2 A. Yes, she did.

3 Q. Did she ever refuse to meet with you?

4 A. Not that I could recall, no.

5 Q. On the occasions when you met with Councilwoman Barbato,
6 did she make suggestions to the project?

7 A. Yes, she did.

8 Q. Did Forest City Ratner carry out any of her suggestions?

9 A. Yes, some of them we did.

10 Q. Do you recall any specific suggestions?

11 A. There were two that I could recall offhand. The first was
12 she wanted to conduct a town hall meeting within her district,
13 and we sent out a mailing for her. I think we actually sent
14 representatives down there that was doing our environmental
15 impact statement to discuss the issues with the community.

16 And on the second occasion, one of the issues that the
17 councilwoman had was we called the east side and west side
18 alignment, which is located off of Tuckahoe Road, and we were
19 going to build a roadway up to Ridge Hill right next to I think
20 the community is called Grassy Sprain. The councilwoman
21 thought it would be a disruption with noise going up that hill,
22 and after she spoke with us, our team agreed to move the
23 alignment to the other side away from the community.

24 Q. How about Councilman John Murtagh, did Councilman Murtagh
25 also agree to meet with you to discuss the project?

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