

C3JUANN3

Jereis - cross

- 1 A. Yes.  
2 Q. You also had other business going on with Mr. Mangone at  
3 this time, correct?  
4 A. Yes.  
5 Q. For example, you heard Mangone testify that right around  
6 this time, you called Mangone about paying a bribe to a  
7 candidate not to run for office, correct?  
8 A. That's a lie.  
9 Q. But you heard the testimony, correct?  
10 A. Yes.  
11 Q. You knew that Senator Spano was going to have a tough  
12 re-election fight that November, correct?  
13 A. Correct.  
14 Q. He ended up losing that race, correct?  
15 A. Yes.  
16 Q. To State Senator Andrea Stewart-Cousins, correct?  
17 A. Correct.  
18 Q. And Senator Spano is a Republican, correct?  
19 A. Correct.  
20 Q. And he also wanted to get the Independent's Party's line  
21 too?  
22 A. Who is that?  
23 Q. Mr. Spano?  
24 A. He had it.  
25 Q. But he wanted to get it for that race?

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1 A. Yeah, but he had it.

2 Q. In early July 2006, you met with Mr. Mangone at the home of  
3 your first cousin John Cater, correct?

4 A. Yes.

5 Q. At your request, Mangone gave Cater \$5,000 in cash to give  
6 to this candidate to stay out of the race against Senator  
7 Spano, correct?

8 A. That's not correct.

9 Q. Mr. Jereis, you heard Mr. Mangone's testimony that he gave  
10 you \$10,000 in cash outside of Trotter's restaurant, correct?

11 A. His testimony, yes.

12 Q. You heard his testimony?

13 A. Yes.

14 Q. Obviously, you deny that, sir?

15 A. Yes.

16 Q. Mangone said that that occurred outside of Trotter's, a  
17 restaurant in White Plains, on July 13, 2006, correct?

18 A. Correct.

19 Q. You would agree that Sandy Annabi left for Jordan on July  
20 14, 2006, the next day, correct?

21 A. Yes.

22 Q. Let's look at Government Exhibit 1526.

23 Mr. Jereis, this is another of analyst Enright's  
24 charts. Do you recall seeing this at trial?

25 A. Yes.

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- 1 Q. It is July 13, 2006 phone activity, correct?  
2 A. Correct.  
3 Q. The first line from July 13 shows a call from Mangone to  
4 you, two minutes' duration, correct?  
5 A. Correct.  
6 Q. 11:14 in the morning, correct?  
7 A. Correct.  
8 Q. Then at 1:25 p.m., you send a text to Annabi, correct?  
9 A. Correct.  
10 Q. Then at 3:20 p.m., Annabi calls you, correct?  
11 A. Correct.  
12 Q. Then four minutes later you call her -- withdrawn.  
13 Four minutes later you send her a text, correct?  
14 A. Correct.  
15 Q. Then about an hour and 20 minutes later, you send her  
16 another text, correct?  
17 A. Correct.  
18 Q. At 4:54 p.m., Mangone called you and there was a two-minute  
19 phone call, correct?  
20 A. Correct.  
21 Q. Then at about 5:32 p.m., you called Mr. Mangone for about a  
22 minute, correct?  
23 A. Correct.  
24 Q. And then three minutes later at 5:35 p.m., you called  
25 Ms. Annabi and you spoke for six minutes, correct?

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1 A. Correct.

2 Q. Next, about seven minutes later, you called her right  
3 back -- withdrawn.

4 By the time the six-minute phone call ended, it would  
5 have been about 17:41 or 5:41 p.m., correct?

6 A. Correct.

7 Q. So it looks like about a minute later, you called her back  
8 and you had a seven-minute phone call, correct?

9 A. Correct.

10 Q. Then at 6:46 p.m., you sent her a text?

11 A. Correct.

12 Q. So you have no reason to doubt the accuracy of Mr.  
13 Enright's phone chart?

14 A. No.

15 Q. Is it your testimony, sir, that none of these contacts  
16 related to Mangone's giving you \$10,000 in cash for Annabi that  
17 day?

18 A. Yes.

19 Q. Now, you testified on direct, I guess, in mid 2006, you  
20 were driving a blue Mercedes, correct?

21 A. Yes.

22 Q. Do you recall Anthony Mangone's testimony that when you  
23 pulled up outside of trotter's, he said you were driving a  
24 white Mercedes, correct?

25 A. Yes.

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1 Q. So that is another reason why you think Mangone has his  
2 facts wrong, correct?

3 A. Yes.

4 MR. HALPERIN: Mr. Turk, can we have 2068, please.  
5 Let's highlight the top half of the page.

6 Q. Mr. Jereis, do you recall seeing this government exhibit  
7 from Ray Catena Mercedes, correct?

8 A. Yes.

9 Q. This was for the Mercedes that you helped Sandy Annabi  
10 lease in the fall of 2005, correct?

11 A. Correct.

12 Q. You don't dispute that in the fall of 2005, you paid  
13 \$10,000 for the down payment on Sandy Annabi's Mercedes lease,  
14 correct?

15 A. Correct.

16 Q. Let me direct your attention to the line near the top under  
17 the word "color." What color was the Mercedes that you helped  
18 Ms. Annabi get in the fall of 2005?

19 A. White.

20 MR. HALPERIN: Mr. Turk, thank you.

21 Q. Now, while Ms. Annabi was in Jordan, she wanted you to help  
22 with the Longfellow project, correct?

23 A. Excuse me?

24 Q. While Ms. Annabi was in Jordan about five weeks in July and  
25 August 2006, she wanted you to continue helping with the

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1 Longfellow project, correct?

2 A. No.

3 MR. HALPERIN: Mr. Turk, can we please have Government  
4 Exhibit 777. Let's highlight the top. Let's see if we can  
5 highlight the whole text from top to bottom.

6 Thank you, Mr. Turk.

7 Q. You recall seeing Government Exhibit 770 at this trial,  
8 right, Mr. Jereis?

9 A. Yes.

10 Q. The bottom portion contains an email from Debbie Kayal, Ms.  
11 Annabi's assistant, correct?

12 A. Yes.

13 Q. To Sandy Annabi, correct?

14 A. Yes.

15 Q. Dated July 20, correct?

16 A. Yes.

17 Q. This related to, as you can see in the second line there,  
18 whether Joan Deierlein, the city clerk, should be putting the  
19 Milio management, new and changed Longfellow legislation on the  
20 special council meeting agenda, correct?

21 A. Yes.

22 Q. And the top portion of the email is a response from  
23 Ms. Annabi, correct?

24 A. Yes.

25 Q. And the parties stipulated that this was sent on July 25,

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1 2006, right?

2 A. Yes.

3 Q. And in the response, Ms. Annabi writes, as of today, I may  
4 not be back for the August 15th meeting. I may extend my trip.  
5 Do not put Milio on just yet. If I am back by then. We can  
6 put it on. Also call Z and let him know that the process was  
7 not outlined in the legislation and it should be. They have to  
8 rewrite it. And you heard Ms. Kayal's testimony that Z refers  
9 to you, Zehy Jereis?

10 A. Yes.

11 Q. And you agree, when Ms. Annabi said Z, that referred to  
12 you, correct?

13 A. Yes.

14 Q. And you agree, that during the time that she was in Jordan  
15 you were helping her with the Longfellow project, correct?

16 A. This was the first I seen this, and Debbie never called me.

17 Q. Would you agree that when Ms. Annabi was in Jordan in late  
18 July and early August 2006, you were helping her with the  
19 Longfellow project, yes or no?

20 A. No.

21 Q. Thank you.

22 Mr. Jereis, you heard Scott Cantone testify that you  
23 told him that you were "quarterbacking" the Longfellow project  
24 for Councilwoman Annabi, correct?

25 A. Yes.

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1 Q. You heard that testimony?

2 A. Yes.

3 Q. And you would agree that you said that to Mr. Cantone,  
4 correct?

5 A. I did not say that to Mr. Cantone.

6 Q. So he got his facts wrong?

7 A. Yes, he does.

8 Q. Mr. Jereis, you testified that you did not buy the \$3800  
9 Rolex watch in cash for Ms. Annabi through T & R Jewelers?

10 A. Yes.

11 Q. But you acknowledged on direct, though, that you did pay a  
12 portion of the \$3800 in cash for Ms. Annabi's ticket upgrade to  
13 business class, correct?

14 A. Correct.

15 Q. I think you testified on direct that you went to her house  
16 and, "Her families and uncles were all pitching in to upgrade  
17 her ticket to a business class. Her father had given me the  
18 money they put together, and whatever was short on that amount,  
19 I had to put in."

20 That was your testimony on direct, sir?

21 A. Yes.

22 Q. And you testified that her father gave you an envelope full  
23 of the cash, correct?

24 A. Yes.

25 Q. You said that you put in about \$1,500 of your own money to

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1 cover the balance, correct?

2 A. Yes.

3 Q. The business class ticket cost \$3,864.20, correct?

4 A. Yes.

5 Q. So if you had kicked in about \$1,500, her parents and her  
6 aunts and uncles would have contributed about \$2,364.20 in  
7 cash, correct?

8 A. Correct.

9 Q. Mr. Jereis, do you recall that Ms. Annabi's father had  
10 filed for bankruptcy in 2005, right?

11 A. Correct.

12 Q. You remember hearing the testimony about the casualty loss  
13 Ms. Annabi took on her 2005 tax return based on her father's  
14 bankruptcy, correct?

15 A. Yes.

16 Q. And his inability to pay that \$50,000 back, correct?

17 A. Correct.

18 Q. Do you remember hearing Agent O'Connor testify that when  
19 Ms. Annabi was interviewed in December 2009, she said that her  
20 father "never gave me a penny," correct?

21 A. Correct.

22 Q. So Ms. Annabi says that her father never gave her a penny,  
23 but you say that her father and aunts and uncles gave you 2300  
24 in cash?

25 A. It was a collection.

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1 Q. That is your testimony?

2 A. Yes. It was a collection.

3 Q. Mr. Jereis, your testimony is that you were deeply  
4 infatuated with Ms. Annabi, correct?

5 A. That's correct.

6 Q. You did a lot of different things for Sandy Annabi,  
7 correct?

8 A. Yes, I did.

9 Q. You said that you lost 150 pounds for her, correct?

10 A. Yes.

11 Q. And you said, "I was trying to do whatever I can to win  
12 Sandy over," correct?

13 A. That's correct.

14 Q. And you testified you would do anything to help Sandy  
15 Annabi, correct?

16 A. Whatever would make her happy.

17 Q. And that would include lying under oath for her?

18 A. No.

19 Q. Mr. Jereis, you heard testimony at this trial about School  
20 13, correct?

21 A. Yes.

22 Q. And you own commercial real estate property right across  
23 the street from School 13, correct?

24 A. Not necessarily across the street but about a block and a  
25 half away.

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- 1 Q. A block and a half away from School 13, correct?  
2 A. Yes.  
3 Q. Now, Mr. Jereis, it is fair to say that back in 2005 and  
4 2006, you were close to Anthony Mangone?  
5 A. Yes.  
6 Q. You spoke to him regularly at that time, correct?  
7 A. Yes.  
8 Q. You had worked for years together for Senator Nick Spano,  
9 correct?  
10 A. Yes.  
11 Q. You had both worked on Senator Spano's State Senate  
12 payroll, correct?  
13 A. Yes.  
14 Q. And you had both worked in Republican politics in Yonkers  
15 together, correct?  
16 A. Yes.  
17 Q. You worked on Senator Spano's tight 2004 re-election race  
18 together, correct?  
19 A. Yes.  
20 Q. It is fair to say that you and Mangone was were two of  
21 Senator Spano's most important lieutenants, correct?  
22 A. Lieutenants? What do you mean by lieutenants?  
23 Q. Most important aides?  
24 A. Yes.  
25 Q. You heard discussions about the factions in Yonkers at this

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1 trial, correct?

2 A. Yes.

3 Q. It is fair to say that you were very much a Spano family  
4 guy, correct?

5 A. Yes.

6 Q. And so was Mangone, correct?

7 A. Yes.

8 Q. Senator Spano was the person who installed you as Yonkers  
9 Republican chairman in the fall of 2005, correct?

10 A. He supported me.

11 Q. At the time, there were people who opposed you because of  
12 your election misconduct conviction, correct?

13 A. I don't recall anybody opposing me.

14 Q. You don't recall anybody opposing you in 2003 for party  
15 chairman, is that your testimony?

16 A. No one opposed me.

17 Q. But Senator Spano was still your main supporter in terms of  
18 your getting that position, right?

19 A. Yes.

20 Q. You had also worked for Senator Spano's father who was a  
21 Westchester County clerk, right?

22 A. Yes.

23 Q. Even today your wife works for the mayor of Yonkers, Mike  
24 Spano who testified at this trial, correct?

25 A. I'm sorry?

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C3JUANN3 Jereis - cross

1 Q. Your wife works for Mike Spano today, correct?

2 A. Yes.

3 Q. The mayor of Yonkers, correct?

4 A. Yes.

5 Q. So in 2005, 2006, you and Mr. Mangone worked closely  
6 together in government and politics, correct?

7 A. In politics.

8 MR. HALPERIN: Mr. Turk, can we please have Defense  
9 Exhibit 103.

10 Q. This is the first of the emails contained in Defense  
11 Exhibit 103, correct?

12 A. Correct.

13 Q. These were the packet of emails that you offered into  
14 evidence relating to your relationship with Ms. Annabi,  
15 correct?

16 A. Correct.

17 Q. And you said you sent them on or about the dates listed in  
18 the emails, correct?

19 A. Correct.

20 Q. But these emails did not come from your computer, right,  
21 sir?

22 A. Yes, they did.

23 Q. Well, the copies of the emails that were produced were  
24 produced by Sandy Annabi, correct?

25 A. I believe they were produced by you, by the government.

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Jereis - cross

1 These are not --

2 Q. Mr. Jereis, these emails were produced by Ms. Annabi to the  
3 government, correct?

4 A. I assume. When I saw these emails, they were part of the  
5 investigation.

6 Q. In fact, you were subpoenaed the other day for any of your  
7 hard drives, correct?

8 A. Yes.

9 Q. If you could see in front of Mr. Carbone in the cart there,  
10 what's been marked as Government Exhibit 2105, that's the only  
11 hard drive that you produced in response to a subpoena,  
12 correct?

13 I am happy to bring it closer if you need it.

14 Q. Yes, that's the one.

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

16 Q. Mr. Jereis, you did not produce the emails marked as  
17 Defense Exhibit 103, isn't that correct, sir?

18 A. No, I did not produce them.

19 Q. Now, sir, you would acknowledge that you made many, many  
20 payments for Sandy Annabi from 2001 to 2008, correct?

21 A. That's correct.

22 Q. You gave her money for about seven years, is that correct?

23 A. That's correct.

24 Q. You made hundreds of different payments for her, is that  
25 correct.

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1 A. That's correct.

2 Q. As we saw, these payments totaled -- you don't dispute --  
3 at least \$174,000, right?

4 A. Yes.

5 Q. Your claim is that for seven years you kept giving her all  
6 of this money, all of these things because you were infatuated  
7 with her, right?

8 A. Yes.

9 Q. You wanted her, correct?

10 A. That's correct.

11 Q. You testified you never slept with her, correct?

12 A. That's correct.

13 Q. During the whole time Ms. Annabi was in office from 2002 to  
14 2009, you and Ms. Annabi were never romantically involved,  
15 correct?

16 A. What do you mean by romantic?

17 Q. Sir, it is not a complicated question. You were never  
18 romantically involved --

19 A. What were --

20 Q. -- during the whole time that Ms. Annabi was in office,  
21 correct?

22 A. I real don't -- define "romantic" for me.

23 Q. You were never boyfriend and girlfriend?

24 A. Yes. We were boyfriend/girlfriend.

25 Q. Your testimony is that you and Ms. Annabi --

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1 A. I considered her my girlfriend, yes.

2 Q. But your testimony, sir, just so everyone is clear, is that  
3 you never had sexual relations with her, correct?

4 A. That's correct.

5 Q. But you kept giving her thousands and thousands of dollars  
6 in benefits because you hoped you could get into bed with her,  
7 correct?

8 A. Yes.

9 Q. Even though you kept striking out for the most part  
10 romantically with Ms. Annabi for seven long years, correct?

11 A. I love Sandy so it wasn't an issue --

12 Q. Mr. Jereis, it was a yes or no question.

13 A. Yes.

14 Q. Let me direct your attention to June 9, 2006. That first  
15 meeting you and Ms. Annabi had with Forest City Ratner. You  
16 would agree that part of the reason Ms. Annabi agreed to attend  
17 that meeting with the developer was because of the relationship  
18 that you had established with her, correct?

19 A. Yes.

20 Q. You acknowledged that you asked her to attend that June 9  
21 meeting, correct? That was your testimony on direct?

22 A. Yes.

23 Q. And she did in fact attend that meeting with you and the  
24 developer, correct?

25 A. Correct.

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Jereis - cross

- 1 Q. And you understood that Sandy Annabi enjoyed the benefits  
2 that you had been providing to her, correct?  
3 A. I guess.  
4 Q. She enjoyed having you pay for her student loans, correct?  
5 A. Correct.  
6 Q. She enjoyed having you pay \$10,000 for her Mercedes,  
7 correct?  
8 A. Yes.  
9 Q. She enjoyed driving the Mercedes, correct?  
10 A. Yes.  
11 Q. She enjoyed that you helped her buy two houses, correct?  
12 A. It was a loan. She paid me back.  
13 Q. She enjoyed that you had loaned her \$60,000 to buy tow  
14 houses, correct?  
15 A. Yes.  
16 Q. That was of benefit to her, correct?  
17 A. Yes.  
18 Q. She didn't have to go to a bank and pay interest on the  
19 loans, correct?  
20 A. That's correct.  
21 Q. She enjoyed that you paid for the Rumsey Road apartment,  
22 correct?  
23 A. That's correct.  
24 Q. She was enjoying all of these things when she agreed to  
25 your request for her to meet with Forest City Ratner on June 9,

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1 correct?

2 A. Yes.

3 Q. And you enjoyed knowing that you were in a position to make  
4 Councilwoman Annabi show up, correct?

5 A. She showed up. I didn't make her show up.

6 Q. You were in a position to make her available -- let me  
7 finish my question, please -- for a meeting with the developer,  
8 correct?

9 A. Correct.

10 Q. Because nobody else had that kind much political sway with  
11 her, correct? Yes or not?12 Did anybody else have that type of political influence  
13 with Ms. Annabi aside from you, yes or no?

14 A. No.

15 Q. Al Pirro couldn't get her to the meeting, correct?

16 A. I guess.

17 Q. Mike Spano couldn't get it done, correct?

18 A. I guess.

19 Q. But you could, correct?

20 A. Yes.

21 Q. And you did, correct?

22 A. I called her and asked her to attend.

23 Q. You enjoyed being in a meeting with representatives of an  
24 \$11 billion company, correct?

25 A. That's correct.

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1 Q. You enjoyed being in a meeting with them because you could  
2 personally benefit, correct?

3 A. No.

4 Q. You delivered Sandy Annabi's presence at that meeting with  
5 Forest City Ratner, that \$11 billion dollar company, correct?

6 A. I didn't deliver her. She came.

7 Q. You asked her to come, sir, correct?

8 A. I gave her a recommendation. She chose to come.

9 Q. Mr. Jereis, I want to make sure I am not confusing what you  
10 testified to a minute ago.

11 Did you not just testify that you were the one who  
12 asked her to attend that meeting on June 9?

13 A. Yes.

14 Q. Thank you.

15 And you knew that the Ridge Hill project could not  
16 proceed without Sandy Annabi's fifth vote, correct?

17 A. No.

18 Q. You were thinking almost from the outset of the meeting  
19 with the developer about cashing in on what you could deliver,  
20 correct?

21 A. No. That's not correct.

22 Q. That's why you told Bruce Bender at the first meeting that  
23 maybe Forest City Ratner was hiring the wrong people, correct?

24 A. That's not correct.

25 Q. The point that you were making is that, if they wanted

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- 1 Annabi's vote, they should have hired you, correct?  
2 A. That's not correct.  
3 Q. You did cash in on what you could deliver, correct?  
4 A. That is not correct.  
5 Q. Well, you did get a \$50,000 contract from Forest City  
6 Ratner, yes or no, sir?  
7 A. I got a contract, yes.  
8 Q. On June 9, as you testified, you did ask for a job for  
9 yourself, didn't you?  
10 A. That's correct.  
11 Q. And they were not going to give you a job unless you could  
12 deliver something of value to the developer, is that correct?  
13 A. That's not correct.  
14 Q. And what you had to deliver was Sandy Annabi's vote,  
15 correct?  
16 A. That's not correct.  
17 Q. On July 11, 2006, Sandy Annabi did in fact vote in favor of  
18 Ridge Hill?  
19 A. Say that again.  
20 Q. On July 11, 2006 --  
21 A. Yes.  
22 Q. -- Sandy Annabi did in fact vote in favor, correct?  
23 A. Correct.  
24 Q. And three months later, you got yourself a \$60,000  
25 consulting contract, correct?

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1 A. That's correct.

2 Q. Now, sir, you testified on direct on Thursday and a moment  
3 ago again that you and Ms. Annabi never had sexual intercourse,  
4 correct?

5 A. That's correct.

6 Q. You did say that you and she had had sexual contact, right?

7 A. Yes.

8 Q. I am not going to ask you what that means. But it is your  
9 testimony that you did have sexual contact with Ms. Annabi?

10 A. Yes.

11 Q. You heard the testimony of Agent Karaka who said that when  
12 Ms. Annabi was interviewed by FBI agents, she said you friends,  
13 but there had never been a sexual relationship, correct?

14 A. I don't know what Ms. Annabi said. I was not there.

15 Q. Did you not hear the testimony from Ms. Karaka?

16 A. Yes.

17 Q. And that was an accurate description of what Ms. Annabi  
18 said in the interview, correct?

19 A. That's what she said.

20 Q. But there had never been a sexual relationship --

21 MR. ARONWALD: Your Honor, I object to that. How  
22 would he know whether it is a correct statement by Ms. Annabi  
23 during the interview if he was not there?

24 THE COURT: The objection is sustained. The objection  
25 is sustained.

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1 BY MR. HALPERIN:

2 Q. Mr. Jereis --

3 MR. ARONWALD: Move to strike it, your Honor.

4 THE COURT: It is stricken.

5 Q. Mr. Jereis, you heard Dennis Robinson testify that Annabi  
6 said that the two of you had never been romantically involved,  
7 correct?

8 A. Correct.

9 Q. So you said you did have sexual contact but Ms. Annabi said  
10 never, correct?11 MR. ARONWALD: Objection again, your Honor. All that  
12 we know is what Mr. Robinson said.

13 THE COURT: Objection is sustained.

14 It is not proper cross.

15 Keep going.

16 BY MR. HALPERIN:

17 Q. Mr. Jereis, your testimony is that you and Ms. Annabi had  
18 sexual contact, correct?

19 A. Yes.

20 Q. Your testimony is that you and Ms. Annabi were boyfriend  
21 and girlfriend, correct?

22 A. Yes.

23 Q. And you heard the testimony of Ms. Chousa at this trial,  
24 correct?

25 A. Yes.

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1 Q. She testified that you and Ms. Annabi never had any type of  
2 sexual relationship, correct?

3 MR. ARONWALD: Your Honor, that mischaracterizes the  
4 testimony.

5 MR. HALPERIN: That is does not mischaracterize it.

6 MR. ARONWALD: How would Ms. Chousa know whether Mr.  
7 Jereis or Ms. Annabi ever had a --

8 THE COURT: Are you having fun listening to this?

9 Will you stop fighting over who is mischaracterizing  
10 the testimony. It is your recollection of the testimony that  
11 controls, ladies and gentlemen -- not theirs. But this is a  
12 good object lesson of the fact that I guarantee you that when  
13 we get around to the closing statements, they will remember  
14 testimony differently, even though they have the transcript.

15 Mr. Halperin, if you would ask fewer argumentative  
16 questions and save the argument for your closing --

17 MR. HALPERIN: Fair enough.

18 THE COURT: -- that would help.

19 MR. HALPERIN: I think this is actually the point  
20 where I am finished.

21 No further questions.

22 THE COURT: Mr. Aronwald, do you have any questions of  
23 this witness?

24 MR. ARONWALD: I think I do.

25 CROSS-EXAMINATION

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1 BY MR. ARONWALD:

2 Q. Hello, Mr. Jereis.

3 A. How are you?

4 Q. Probably feeling better than you are.

5 Sorry about that.

6 THE COURT: Enough. Enough.

7 Q. Mr. Jereis, let me ask you a question. You testified ad  
8 nauseam about the payments that you made on behalf of Sandy  
9 Annabi?

10 A. Yes.

11 Q. What if anything did you tell her your intent for making  
12 these payments was?

13 A. I wanted to help Sandy out any way I could help her, and my  
14 intent was that I wanted to be her boyfriend and I wanted to  
15 take care of her.

16 Q. Did you ever tell Sandy Annabi that these payments were  
17 being made with the intent and understanding that she would  
18 vote the way you wanted her to vote when and as specific  
19 opportunities arose?

20 MR. HALPERIN: Objection. Leading

21 THE COURT: Overruled.

22 MR. ARONWALD: It is cross-examination.

23 THE COURT: It is cross, but the objection is  
24 overruled anyway.

25 A. Absolutely not.

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1 Q. Did you ever have any agreement or understanding with Sandy  
2 Annabi that the payments or benefits that you were making on  
3 her behalf were in any way linked to any official action that  
4 she would or could take as a member of the Yonkers City  
5 Council?

6 A. Absolutely not.

7 Q. Mr. Halperin asked you a question as to a conversation that  
8 Dee Barbato testified about that she had with you where you  
9 indicated that if Democrats moved in, the Republicans couldn't  
10 get elected, do you remember that line of questions?

11 A. Yes.

12 Q. You testified it was not a conversation that related to  
13 Ridge Hill, correct?

14 A. That's correct.

15 Q. Would you please tell the ladies and gentlemen of the jury,  
16 what if any project that conversation related to?

17 A. What happened is, in the -- I would say -- late '90s into  
18 early 2000s, the southern part of the city which is considered  
19 the waterfront was going through a lot of development. And so  
20 as party chairman, we have to find polling places for people to  
21 vote because you were getting people who were moving in and  
22 there was no polling places and those get a large amount of  
23 voters. So both the Democrat chair and the Republican chair,  
24 were saying, we are having a huge influx of voters and, of  
25 course, the majority of the voters that were coming in were

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1 Democratic voters and that we have to make it very accessible  
2 for them, to have polling places.

3 The problem that we were having was finding something  
4 very accessible for them because necessarily the owners of the  
5 building might not want a polling machine in the place, so  
6 would go to the library or wherever it would be. And my  
7 conversation with Dee Barbato was that the development that was  
8 occurring on the south side of the city was pretty much about  
9 the influx of voters coming down there.

10 And that was the extent of it, that we had to provide  
11 a place for them to vote and we had to make it handicap  
12 accessible. It wasn't something easy -- it was very difficult  
13 to find through half of the voting rights law. That's what my  
14 conversation with Dee Barbato was about. Her husband was a  
15 ward leader of mine, so it was party politics.

16 Q. Mr. Jereis, we have heard testimony that you are a  
17 Republican, Sandy Annabi was a Democrat, is that correct?

18 A. Yes.

19 Q. Was Sandy Annabi the only Democrat that you publicly  
20 supported?

21 A. No.

22 Q. Did you also support Senator Andrea Stewart-cousins when  
23 she was running for senator?

24 A. No. When she ran for county legislator, I supported her.

25 Q. She is a Democrat, right?

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1 A. Yes.

2 Q. So you supported her in her race for county legislator  
3 against a Republican opponent?

4 A. Actually, it was a Democratic primary.

5 Q. Is it Dennis Robinson, is he a Democrat or a Republican?

6 A. He is a Democrat.

7 Q. When he ran for mayor, did you support him?

8 A. Very much so.

9 Q. Who was running against him?

10 A. Republican Phil Amicone.

11 MR. ARONWALD: Could we have Government Exhibit 1522  
12 put up on the screen, please.

13 Q. Can you see the chart, Mr. Jereis?

14 A. Yes.

15 Q. These are according to the label on the chart,  
16 Annabi/Jereis June 2006 contacts by day. Referring your  
17 attention to June 23, 2006, do you see that there were 31 calls  
18 that day?

19 A. Yes.

20 Q. Do you remember Mr. Enright testified that the fact that  
21 the calls were made doesn't mean that they were actually  
22 completed?

23 A. Correct.

24 Q. Mr. Enright also testified that the chart simply showed the  
25 frequency of the calls, the dates and times, but not the

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1 content as to the conversations that ensued, correct?

2 A. That's correct.

3 Q. Is June 23rd a date of any specific significance in terms  
4 of your relationship with my client, Sandy Annabi?

5 A. It is her birthday.

6 MR. ARONWALD: Could we please have 1524 put up,  
7 please.

8 Q. Government Exhibit 1524 is the calls among Annabi, Jereis  
9 and T & R Jewelers on June 23, 2006?

10 A. Yes.

11 Q. Again, do you recall Mr. Enright saying that subscribers  
12 often have a default, usually one minute, it could be two  
13 minutes, correct?

14 A. That's correct.

15 Q. So that means even if the call doesn't go through, the  
16 telephone company still charges for the call, correct?

17 A. That's correct.

18 Q. But there are a number of calls here that you made to  
19 Ms. Sandy Annabi on June 23rd, her birthday, correct?

20 A. That's correct.

21 Q. Do those conversations have anything at all to do with  
22 Ridge Hill or Longfellow?

23 A. No, they do not.

24 MR. ARONWALD: Could we have chart 1526, please, put  
25 up on the board or the screen.

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1 Q. Mr. Halperin asked you a series of questions about this  
2 particular chart just a few moments ago, do you recall that?

3 A. Yes.

4 Q. Let's go through the chart, if we can, tracking the same  
5 calls as Mr. Halperin asked you about.

6 Mr. Halperin asked you about the first call which was  
7 made on June 13, 2006, at 11:14 in the morning. And that call,  
8 according to Mr. Enright's chart, was of two-minute duration,  
9 right?

10 A. Yes.

11 Q. We don't know whether that two minutes was the telephone  
12 company's default or not, correct?

13 A. Correct.

14 Q. Do you recall whether or not you spoke to Mr. Jereis on  
15 July 13, 2006?

16 A. I spoke to who?

17 Q. Mr. Mangone?

18 A. Yes, I believe I did.

19 Q. Do you recall what it related to?

20 A. It related to petitions.

21 Q. Petitions for?

22 A. That date, which is the 13th, is about the deadline for  
23 filing petitions. And that was the year Senator Spano was  
24 running. So we have four sets of petitions out there. What we  
25 do on a daily basis is to kind of get a count on where we are

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1 in regard to the petitions before we file them. That is the  
2 beginning of the filing date, and it was a lot of politics. It  
3 was an important election year.

4 Q. I think you testified that Ms. Annabi was scheduled to  
5 leave for Jordan the following day, July 14, right?

6 A. Yes.

7 Q. Mr. Halperin asked you about the next call that is depicted  
8 or next telephone activity depicted on this chart which was at  
9 13:25 which was a text message that you sent to Sandy, correct?

10 A. Correct.

11 Q. So if I do my arithmetic correctly, the first call was at  
12 11:14 from Mangone to you, and then you texted Sandy at 1:25 in  
13 the afternoon, correct?

14 A. That's correct.

15 Q. Is there any relationship between the call you received  
16 from Mr. Mangone and the text message you sent Sandy Annabi two  
17 hours later or an hour and a half later -- two hours later?

18 A. Absolutely not.

19 Q. Then there is that indication that at 3:30, which is  
20 depicted at 15:20 on this chart, there was another call from  
21 Sandy to you -- again, the chart indicates it was one minute.  
22 So did Ms. Annabi's call to you on July 13, assuming it was  
23 completed, do you recall whether the call was completed?

24 A. No, I don't.

25 Q. And then there is another text message that you sent at

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1 3:24 in the afternoon. Did that have anything at all to do  
2 with the conversation you had with Anthony Mangone?  
3 A. No, it did not.

4

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(Continued on next page)

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C3jQann4 Jereis - Cross

1 BY MR. ARONWALD: (Continued)

2 Q. Did it have anything at all to do with Longfellow or Ridge  
3 Hill?

4 A. Had nothing to do with either project.

5 Q. In fact, Ridge Hill had already been voted on two days  
6 earlier, correct?

7 A. Correct.

8 Q. In fact, originally she was scheduled to leave before  
9 July 14, but it had to be rearranged so she could be present  
10 for the July 11, 2006 council vote on Ridge Hill, correct?

11 A. That's correct.

12 Q. So not to take up any time, Mr. Jereis, looking at this  
13 chart, did any of the telephone contact or text messages  
14 between you and Sandy Annabi on that date have anything at all  
15 to do with either Ridge Hill or Longfellow?

16 A. They don't.

17 Q. They don't?

18 A. They do not.

19 Q. Is it correct that all of those conversations or text  
20 messages between the two of you had to do with Sandy's  
21 scheduled departure the following day to Jordan?

22 A. That's correct.

23 Q. Mr. Jereis, did you receive any money from Anthony Mangone  
24 at any time in connection with the Longfellow project?

25 A. Absolutely not.

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C3jQann4

Jereis - Cross

1 Q. Did you on July -- I forget the date that -- I believe it  
2 was July 13, July 11 or July 12, whatever date was Mr. Mangone  
3 said he met with you outside of Trotter's. When Mr. Mangone  
4 said he met with you outside of Trotter's, was that truthful?

5 A. Never happened. Was not truthful at all.

6 Q. The white Mercedes that Sandy Annabi purchased from Ray  
7 Catina for which you paid the down payment, correct?

8 A. Yes.

9 Q. Did you ever drive that car?

10 A. Never drove it.

11 Q. Is that, by the way, a big four-door sedan or is it a  
12 relatively smaller size Mercedes?

13 A. It's the smallest version they make.

14 Q. Could we have Government Exhibit 2 -- it would be Ray  
15 Catina -- 206-H I believe it is. Could we have that put up?  
16 You can take that down, I'm sorry. Mr. Turk, would you please  
17 put Defense Exhibit 103 up. Could we please blow up the  
18 portion of the actual message itself.

19 You sent this to Sandy Annabi on May 1, 2005?

20 A. Yes.

21 Q. In this email you say, "Don't believe every horoscope  
22 because they lie. It once read me that you and I would be  
23 inseparable and our hearts will beat as one. That was eight  
24 months ago and we are far from ever hooking up."

25 That was in May of '05, correct?

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C3jQann4

Jereis - Cross

1 A. Yes.

2 Q. And these payments that you had made in an attempt to take  
3 care of Sandy, those began in 2001, correct?

4 A. That's correct.

5 Q. Did this email have anything at all to do with getting  
6 Sandy's vote on any project?

7 A. No.

8 Q. Did this email have anything at all to do with making sure  
9 that Sandy understood that when you were taking care of her, it  
10 was with the expectation and understanding that she would vote  
11 the way you wanted her to vote when and as opportunities arose?

12 A. I'm sorry --

13 Q. You sent this email?

14 A. Yes, I did.

15 Q. Did this email have anything at all to do with any  
16 expectation or understanding on your part or any agreement  
17 between you and Sandy that the payments or benefits that you  
18 were making for her were tied into her --

19 A. No.

20 Q. -- voting the way you wanted her to vote when and as  
21 opportunities arose?

22 A. Absolutely not.

23 Q. Could we have the next one put up, please. Could we just  
24 have I believe it's May 17 of 2005. Go to May 18, 2005 -- it's  
25 May 19, 2005.

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C3jQann4

Jereis - Cross

1           You sent this email on May 19, 2005 at almost 1:00 in  
2 the morning?

3       A.   Yes.

4       Q.   Mr. Jereis, do you recall why it is that you sent her that  
5 email at that time? Do you?

6       A.   No, I'm reading it. I'm actually recalling the reason why  
7 I sent it. I meant it.

8       Q.   But you did send it at that time --

9       A.   Yes, I sent it. I meant it. That is me.

10      Q.   Could we have the next one, I think it's dated June 6,  
11 2005, put up.

12               (Pause)

13      Q.   Then could we go to June 15, 2005. When you say in the  
14 last sentence, "Keep up the good work. Your guardian angel is  
15 always with you," who are you referring to as her guardian  
16 angel?

17      A.   Me.

18      Q.   The next email, please, July 25, 2005. The sentence that  
19 reads, "The only thing that is different from day one to now is  
20 that I love you a whole lot more."

21               What did day one refer to?

22      A.   Where is that at? I'm sorry.

23      Q.   Four lines down from the top of the page. You say, "Since  
24 day one of knowing you, I've taken your fears away. The only  
25 thing that is different from day one to now is that I love you

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C3jQann4 Jereis - Cross

1 a whole lot more."

2 Was day one the day you saw her in the summer blue  
3 dress?

4 A. Yes.

5 Q. Then you say, "In late December of 2004, I once stayed  
6 parked outside of 53 Linden all night because I was worried  
7 about you, and the next day I put the offer on 245 Rumsey  
8 Road."

9 Why were you parked outside of 53 Linden?

10 A. Because it was -- it was a hot summer night. It was crazy  
11 over in Nodine Hill area and she was scared and worried, and I  
12 was also terrified.

13 Q. Where was she living at that time?

14 A. 53 Linden. And I was afraid. I didn't want nothing to  
15 happen. Somebody throw something through the window. And I  
16 stood out there by her window.

17 Q. Then you say, Mr. Jereis, at the bottom, "Remember,  
18 politics is secondary and our friendship is a lifetime, and if  
19 you weren't in this politics, I would still love you so, so, so  
20 much. I will be here for you like always and my famous words  
21 'everything is going to be all right'. Love you."

22 That's the email you sent?

23 A. Yes, I said that. Yes.

24 Q. Then could we have the July 3, 2005 email put up, please.

25 MR. ARONWALD: Could I just have a moment, your Honor?

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C3jQann4

Jereis - Cross

1 (Pause)

2 THE COURT: Are we in the middle of cross? Is  
3 something happening.

4 MR. ARONWALD: Yes, your Honor. I'm just looking for  
5 a tab and marking an exhibit, Judge. I'm sorry.

6 (Pause)

7 MR. ARONWALD: I'm sorry, your Honor. I'm just  
8 looking for -- your Honor, we are offering Defense Exhibit 105  
9 as to which there is no objection.

10 MR. HALPERIN: No objection.

11 THE COURT: Admitted.

12 (Defendant's Exhibit 105 received in evidence)

13 Q. You can take that down. I just wanted to publish it to the  
14 jury.

15 Would you put August 30, 2005 up, please? In this  
16 email the last sentence is, "What's the deal with the Benz."  
17 What does that refer to?

18 A. I believe she was searching for the new car because her  
19 lease was up, and it could have been either two things. I was  
20 wanting the status of her returning her car, getting another  
21 car, or it could have been the \$500 on my credit card, either  
22 one of --

23 Q. The car she purchased at Ray Catina?

24 A. Yeah. It was either she returned the lease, she keep the  
25 car, or it could have either been the telephone credit card

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C3jQann4 Jereis - Cross

1 that I gave Ray Catina for \$500.

2 Q. Mr. Turk, could you have January 22, 2006 and June 6 of  
3 2006.

4 All of these emails that we have just been going  
5 through, these all occurred before June 9 of 2006 when Sandy  
6 met with Bruce Bender, Scott Cantone, Richard Pesin and you at  
7 Jake's Steakhouse, correct?

8 A. That's correct.

9 Q. Could we have the email from September 11, 2006 put up,  
10 please.

11 You say in the second sentence, the second line, the  
12 last sentence, "The one thing you know is that I love you and  
13 would do anything for you. I have a five year record of being  
14 there for you."

15 And the five year record refers to the year 2001 when  
16 you began make payments or providing financial benefits to  
17 Sandy Annabi?

18 A. Yes.

19 Q. And you say, "Zehy and Sandy are best friends. Even though  
20 I love you more than you love me, I will always be there for my  
21 sweetheart."

22 THE COURT: Is there a question?

23 MR. ARONWALD: Yes, I'm about to ask it, your Honor.

24 Q. When you say that you will always be there for her, what  
25 did you mean by that?

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C3jQann4

Jereis - Cross

1 A. What I meant is that I would always be there for her. I  
2 care for her a lot and anything she needed of me to be there  
3 and help her with, I would always help her. I spent --

4 Q. I'm sorry?

5 A. I'm saying I spent tremendous time with her back from day  
6 one, we had a history, you know, of being -- spending a lot of  
7 time with each other, and I grew much for her.

8 Q. Could we have the email of October 2, 2006 put up, please?  
9 Could we have the email from October 10, 2006 put up, please.  
10 And October 18, 2006. There is another October 18, 2006.

11 THE COURT: I'm still waiting for a question.

12 MR. ARONWALD: I am just publishing these for the  
13 jury, your Honor. They are in evidence but they have not been  
14 published.

15 Q. December 10 of 2006. And then finally December 11,  
16 2006. -- Mr. Jereis it says, "Good morning, Sandy. For the  
17 last five and a half years everything you ever asked for, I  
18 gave it to you. You have this effect on me where I could never  
19 say no to you. I did all these things for you because of one  
20 thing is that I love you."

21 When you refer to the last five and a half years,  
22 everything that she ever asked for, you gave to her, what did  
23 that relate to?

24 A. I mean whatever she asked me to help her with, I would do  
25 for her, whether it was personal or politics, it was just a

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C3jQann4

Jereis - Cross

1 broad, you know, whatever she needed, I would help her with, no  
2 matter what it was.

3 Q. With respect to the politics, you mean in terms of  
4 political advice, in terms of her campaign?

5 A. Correct. Yes, campaigning and issues, whatever -- whatever  
6 made her happy.

7 Q. With respect to the "personal" you referred to, did that  
8 encompass and include the stream of financial benefits and  
9 payments that you made on her behalf beginning in 2001?

10 A. Yes.

11 Q. Then you say, "Whether today or tomorrow, I always believed  
12 at end of the day nothing could come between us and our hearts  
13 would be one. Whether today or tomorrow we would be together,  
14 but I finally woke up and realized that it is not going to  
15 happen."

16 Please explain what that relates to, what you meant by  
17 that?

18 A. Around this time of the period, I realized that it wasn't  
19 going to happen. I mean, 2005 and 2006 were, like I said, a  
20 hot-and-cold relationship, and I never really gave up. But at  
21 this point in time I realized that, you know, I gave it my last  
22 shot with this email here, and maybe there's a few others, but  
23 I come to the realization that it just wasn't going to happen.

24 Q. Then down at the bottom, you say, "And if any guy deserves  
25 to be with you, it's Zehy. Just understand how I feel. I hook

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C3jQann4

Jereis - Cross

1 you up and another guy reaps the benefit. I'm not asking for  
2 you to be my girl. I just want you to know how I feel inside."

3 MR. HALPERIN: Objection. Asked and answered.  
4 Cumulative.

5 THE COURT: The objection is sustained. Enough  
6 already.

7 Q. Mr. Jereis, after you sent this email, you continued to  
8 make a stream of payments on Sandy's behalf, correct?

9 A. On the co-op.

10 Q. On the co-op, OK.

11 Mr. Jereis, you were asked by Mr. Halperin some  
12 questions about the meeting with Ridge Hill that took place  
13 with Sandy, Bender, Cantone, Pesin and you on June 9 of 2006.  
14 At the June 9 meeting there came a time when Sandy Annabi and  
15 Richard Pesin became very confrontational with each other,  
16 correct?

17 A. That's correct.

18 Q. And Sandy expressed the fact that she didn't like being  
19 pressured or bullied, correct?

20 MR. HALPERIN: Objection. Hearsay.

21 THE COURT: Objection sustained.

22 Q. There came a time when Sandy left the meeting, correct, to  
23 go back to work?

24 A. That's correct.

25 Q. And Pesin left the meeting, correct?

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C3jQann4 Jereis - Cross

1 A. Yes. He left earlier.

2 Q. Isn't it true that when Sandy Annabi left the meeting and  
3 Pesin left, you were left alone with Scott Cantone and Bruce  
4 Bender, correct?

5 A. That's correct.

6 Q. You told them, did you not, that the only way that they  
7 would be able to get Sandy Annabi to vote for the project would  
8 be to make the concessions that she was insisting upon,  
9 correct?

10 A. That's correct.

11 Q. What happened between June 9, 2006 and July 11, 2006 with  
12 respect to those concessions?

13 A. They made those concessions.

14 Q. They agreed to pay almost \$\$10.8 million in additional  
15 revenues to the city of Yonkers, correct?

16 A. That's correct.

17 Q. Did you at any time tell Sandy Annabi that you were  
18 discussing with anyone from Forest City Ratner a consulting job  
19 or any other type of job prior to July 11, 2006?

20 MR. HALPERIN: Objection. Asked and answered.

21 THE COURT: The objection is asked and answered.

22 MR. ARONWALD: I didn't ask that question.

23 MR. HALPERIN: Mr. Siano asked that exact same  
24 question.

25 MR. ARONWALD: I didn't ask --

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C3jQann4

Jereis - Cross

1 THE COURT: All right. If Mr. Siano asked the  
2 question, sorry about that. Ruling withdrawn.

3 Q. OK.

4 A. Can you repeat the question?

5 Q. Did you at any time prior to July 11, 2006 tell Sandy  
6 Annabi that you had asked for a job with Forest City Ratner?

7 A. No, I never did.

8 Q. OK. Any of the emails back and forth between you and  
9 Forest City Ratner concerning your submitting a rsum, your  
10 personal qualifications, or looking for a job, did you ever  
11 forward or copy Sandy Annabi on any of those emails?

12 A. No, I did not.

13 Q. With respect to the Longfellow project, do you recall  
14 Mr. Halperin put up on the screen awhile ago a portion of a  
15 transcript of the testimony of Franco Milio in which he related  
16 a conversation that he had with you?

17 A. Yes.

18 Q. OK. According to the transcript and according to  
19 Mr. Milio's testimony, you said to Mr. Milio that Sandy was  
20 looking for senior housing. Do you recall that?

21 A. Yes.

22 Q. What was it that Sandy -- when you said that to Franco  
23 Milio, what did that relate to?

24 A. The best of my recollection of that meeting was that they  
25 were talking about building market rate housing there, and I

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C3jQann4

Jereis - Cross

1 think I may have -- I responded by saying that Sandy wants  
2 senior housing there.

3 Q. Now, between the time of that meeting and September 26 of  
4 2006 when the Longfellow resolution was passed by a  
5 seven-to-nothing vote, what, if anything, changed with respect  
6 to whether or not Sandy Annabi would be able to get the senior  
7 housing concession from Milio Management?

8 A. She did, she got the -- it was in the resolution about  
9 senior housing.

10 MR. ARONWALD: Thank you very much, Mr. Jereis.  
11 No further questions, your Honor.

12 THE COURT: Let's break for lunch. Be back at 2:00.  
13 Don't discuss the case. Keep an open mind.

14 (Luncheon recess)

15 AFTERNOON SESSION

16 2:00 p.m.

17 (In open court)

18 THE DEPUTY CLERK: Case on trial continued. The  
19 government and defendants are present. The jurors are not  
20 present.

21 (Jury present)

22 ZEHY JEREIS, resumed.

23 THE COURT: Have a seat. You are still under oath.  
24 Mr. Siano.

25 MR. SIANO: Thank you, your Honor.

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C3jQann4 Trial

1 REDIRECT EXAMINATION

2 BY MR. SIANO:

3 Q. Mr. Jereis, do you recall being asked some questions by  
4 Mr. Halperin on the matter of whether or not you were paid back  
5 the \$60,000 you loaned Ms. Annabi in connection with the  
6 family's acquisition of various pieces of real property? Do  
7 you remember those questions?

8 A. Yes.

9 Q. Did you in fact deposit the \$23,000 check that you  
10 received?

11 A. Yes.

12 Q. Did you deposit the \$37,000 check that you received?

13 A. Yes.

14 Q. Let me show you Defendant's Exhibit 98 for identification.  
15 It's a deposit ticket. Do you recognize Defense Exhibit 98 for  
16 identification?

17 A. Yes.

18 Q. What is it?

19 A. The deposit slip.

20 Q. For which check?

21 A. For the check given to me by Sandy Annabi.

22 Q. Which amount, sir?

23 A. \$37,000.

24 Q. Did both the \$23,000 and the \$37,000 checks clear?

25 A. Yes.

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C3JQANN4

Jereis - Redirect

1 Q. Thank you.

2 Now, sir, do you recall being asked some questions  
3 about your notary application?

4 A. Yes.

5 Q. Do you have the Government's Exhibit in front of you there?

6 A. No.

7 Q. I am going to place in front of you what is Government  
8 Exhibit 2022 for identification. I ask you, sir, what's the  
9 date on the application there? May I be of assistance, Judge?

10 A. The date of my signature which is April 2, the year 2000.  
11 I don't see a date on the application here.

12 Q. Did you have occasion to submit various application forms  
13 in connection with various positions you held with government  
14 agencies, particularly Westchester County?

15 A. Yes.

16 Q. Did they ask similar questions about whether you've ever  
17 been convicted of a crime on those application forms?

18 A. Yes.

19 Q. Let me show you four documents, Defense Exhibits for  
20 identification 106, 107, 108, 109. I would ask you, sir, if  
21 you would take your time and just look at them.

22 (Pause)

23 Q. Let's go simply, Mr. Jereis, do you recognize Defense  
24 Exhibit 106 for identification?

25 A. Yes.

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C3JQANN4 Jereis - Redirect

1 Q. What do you recognize it to be?

2 A. It's a job application.

3 Q. Who signed it?

4 A. I did.

5 Q. At or about what date?

6 A. January 16, 1996.

7 Q. In that form, does it ask you whether you've been convicted  
8 of a misdemeanor?

9 A. Yes.

10 Q. What box did you check?

11 A. I checked yes.

12 Q. Thank you.

13 Defendant's Exhibit's 107 for identification, do you  
14 recognize defense's Exhibit 107 for identification?

15 A. Yes.

16 Q. Do you recognize it?

17 A. Yes. It's a job application.

18 Q. Whose job application?

19 A. My job application for county executive.

20 Q. You weren't applying for the job of county executive?

21 A. No, I'm sorry, senior office assistant to the county  
22 executive.

23 Q. Did you sign that application?

24 A. Yes.

25 Q. At or about what date?

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C3JQANN4

Jereis - Redirect

- 1 A. November 17, 1997.  
2 Q. Is there a question there about whether or not you've been  
3 convicted of a crime?  
4 A. Yes.  
5 Q. What box did you check?  
6 A. I checked yes.  
7 Q. Thank you. 108 next, is that correct, Mr. Jereis?  
8 A. Yes.  
9 Q. Defendant's Exhibits's 108 for identification, sir, do you  
10 recognize that document?  
11 A. Yes.  
12 Q. What do you recognize it to be?  
13 A. Job application.  
14 Q. Whose job application?  
15 A. My job application.  
16 Q. Do you recognize your signature on that application?  
17 A. Yes.  
18 Q. When did you sign it?  
19 A. March 23, 1998.  
20 Q. Is there a question on that form about whether or not  
21 you've been convicted of a crime?  
22 A. Yes.  
23 Q. What box did you check?  
24 A. Checked yes.  
25 Q. Defense Exhibit 109 for identification, sir, do you

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C3JQANN4 Jereis - Redirect

1 recognize that document?

2 A. Yes.

3 Q. What do you recognize it to be?

4 A. My job application, also dated in March 7, 1999.

5 Q. Did you fill it out?

6 A. Yes.

7 Q. Did you sign it?

8 A. Yes.

9 Q. Is there a question on that form about whether or not you  
10 had been convicted of a crime?

11 A. Yes.

12 Q. What did you say?

13 A. I checked yes.

14 Q. Thank you.

15 Now, when, sir, did you invest in the business that's  
16 Atlantic Gas, the car wash business?

17 A. Invested in in the summer of 2007.

18 Q. How much of your own money did you invest?

19 A. \$350,000.

20 Q. Describe, sir, your responsibilities at the wash.

21 A. My responsibilities is the gas, which is the most extremely  
22 important part of the business; the gas, ordering the gas,  
23 pricing the gas, making sure the gas reports are done, making  
24 sure we follow every environmental code, every environmental  
25 rule, all our permits are up to date. And the second part is

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C3JQANN4 Jereis - Redirect

- 1 the safety of the employees that are there. The car wash is  
2 located in East New York, Brooklyn, which it's a very tough  
3 area, so crime's an issue, safety's an issue. So we do our  
4 best to make sure employees are safe, the premises is  
5 protected, inventory.  
6 Q. Now, is there a cashier?  
7 A. Yes.  
8 Q. How many different registers are there?  
9 A. There's two registers, and there's one cashier only per  
10 shift.  
11 Q. What happens at the end of each shift?  
12 A. At the end of each shift, there's two registers. One  
13 register is for the store and the car wash, and the other  
14 register is for the gas. So, the cashier will print out a  
15 shift report for each register, and at that point in time he'll  
16 calculate his money. He puts his money in a bag, and he'll put  
17 a shift report. Any payouts that the cashier makes, he marks  
18 on the shift report, puts it in the bag and staples it.  
19 Q. Is there any report of who's working on a given shift?  
20 A. Yes.  
21 Q. Is that included in the bag?  
22 A. Yes.  
23 Q. Are you there three shifts a day?  
24 A. No.  
25 Q. What do you do with the shift report bag when you are

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C3JQANN4

Jereis - Redirect

1 there?

2 A. When I'm there, I'll bring the bag and bring it to my  
3 partner, he reconciles it.4 Q. How many partners did you have when you bought the car  
5 wash?

6 A. Six partners.

7 Q. Prior to today, have you ever seen a Form 941?

8 A. No, I have not seen that form.

9 Q. Prior to investing in the car wash, have you ever had a  
10 business that was held in ownership with anybody else?

11 A. No, I didn't.

12 Q. Did you, sir, drive Ms. Annabi's white Mercedes Benz?

13 A. Never drove it.

14 Q. Your blue Mercedes Benz, was it a sedan?

15 A. No, it wasn't.

16 Q. What was it?

17 A. It was a convertible.

18 Q. After you turned in your blue Mercedes Benz, did you have  
19 another Mercedes?

20 A. Yes.

21 Q. What color was it?

22 A. It was black.

23 Q. You heard Mr. Murtagh answer some questions here when he  
24 was here in court testifying for the government?

25 A. Yes.

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C3JQANN4 Jereis - Redirect

1 Q. Did Mr. Murtagh -- strike that.

2 As of July 11, 2006, had Mr. Murtagh declared his  
3 intentions to run for any particular public office of Yonkers?

4 MR. HALPERIN: Objection. Beyond the scope, and  
5 relevance.

6 THE COURT: Objection sustained -- actually, no, the  
7 objection is overruled. There were questions about whether he  
8 supported Mr. Murtagh.

9 MR. HALPERIN: Not about Mr. Murtagh running for other  
10 offices.

11 THE COURT: I'm sorry. The objection is overruled.

12 Q. Had Mr. Murtagh declared for a public office in the city of  
13 Yonkers as of the July 11 meeting?

14 A. He formed an exploratory committee to run for mayor.

15 Q. Had you prior to July 11 taken any action on behalf of  
16 Mr. Murtagh?

17 A. Yes. I held a fundraiser for him that year in 2006.

18 Q. What were you saying to Mr. Murtagh on the meeting of  
19 July 11 with respect to him and Ridge Hill?

20 A. I considered Murtagh a friend, and it was clear that the  
21 votes were there for the project to pass, and I had told him  
22 that it's going to pass, and I didn't want to leave him out in  
23 the cold, he's considered a friend, and I told him to support  
24 the project, come on board.

25 Q. Now, did you see any contract with Forest City Ratner in or

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C3JQANN4

Jereis - Redirect

1 about July 2006?

2 A. No, I did not.

3 Q. Did you give Mr. Mangone a copy of any such contract in or  
4 about July 2006?

5 A. No, I did not.

6 Q. Did there come a point in time in October where you finally  
7 saw a contract with Forest City Ratner?

8 A. Yes.

9 Q. Did you show it to Mr. Mangone?

10 A. Yes.

11 Q. Now, the phrase FC Acquisition LLC, when is the first time  
12 you saw that name?

13 A. At the time they emailed me the contract.

14 Q. Prior to this trial, had anyone ever told you that that was  
15 a fictitious entity?

16 A. No, they didn't.

17 Q. Prior to that time, did anybody tell you to submit reports  
18 to FC Acquisition his LLC?

19 A. No, they didn't.

20 Q. You said you had conversations with people from Forest City  
21 Ratner including Mr. Bender, is that correct?

22 A. Yes.

23 Q. And Mr. Cantone, correct?

24 A. Yes.

25 Q. And Mr. Pesin, isn't that correct?

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C3JQANN4

Jereis - Redirect

1 A. That's correct.

2 Q. What did Mr. Pesin tell you about what he wanted you to do?

3 MR. HALPERIN: Objection. Hearsay.

4 THE COURT: Objection sustained.

5 Q. Did you have an understanding as to what Mr. Pesin wanted  
6 you to do from the summer of 2006 forward for him at Forest  
7 City Ratner?

8 MR. HALPERIN: Objection. Hearsay.

9 THE COURT: Overruled.

10 A. Yes.

11 Q. What was that understanding?

12 A. He wanted me to locate --

13 MR. HALPERIN: Objection. Hearsay.

14 THE COURT: Overruled.

15 A. He wanted me to locate empty lots where they could build  
16 small supermarkets.

17 Q. Now, did there come a point in time where you left  
18 employment in the state senate and went to work at the chamber  
19 of commerce?

20 A. Yes.

21 Q. Did you have a conversation with Mr. Spano at or about that  
22 time?

23 A. Yes.

24 Q. Did it have anything to do with anything, anything that was  
25 being reported in the newspapers about something someone did

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C3JQANN4 Jereis - Redirect

1 and didn't say at another trial?

2 A. No, it didn't.

3 Q. Did it have anything to do with your notary application?

4 A. No, it didn't.

5 Q. Did it have anything to do with the event 12 years earlier  
6 in the street with regard to the conservative party petition?

7 A. No, it didn't.

8 Q. What was your understanding of why it was you were leaving  
9 the staff the state senate staff?

10 A. In 2004, that election was won only by 18 votes so in the  
11 year 2006, the senator wanted me to devote as much time as I  
12 could to be on his campaign. It would be very difficult for me  
13 to work on his campaign and at the same time be an employee for  
14 him in the office. So it was at his suggestion that I took  
15 over the chamber of commerce, which will give me flexibility  
16 that I could work on his campaign.

17 Q. In fact, at the time you did, it was your understanding  
18 that there was going to be a member item to support your pay,  
19 is that right?

20 A. Yes.

21 Q. When is the first time you came to know that the member  
22 item had never passed and the chamber was paying you out of  
23 their own money?

24 A. Until recently. Until the 3500 material.

25 Q. In other words, shortly before the trial in this case?

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C3JQANN4

Jereis - Redirect

1 A. Yes.

2 Q. Now, what was your understanding of what you were doing for  
3 the chamber of commerce?

4 A. Most -- the chamber of commerce as a whole they were in bad  
5 shape politically, and they wanted me to be there to try to  
6 help them obtain funding through the city and the county and  
7 the state, and they figured if I'm working there, I could be  
8 able to talk to state officials and local officials to help  
9 them with funding.

10 Q. What happened actually?

11 A. The president of the chamber of commerce was also  
12 political, and the people that were in a position of power were  
13 not fond of him, and they did not want to support the chamber  
14 due to him. He ran for office against one of the people -- one  
15 of the majority leaders on the city council, so the person in  
16 charge of giving funding to his agency he ran in office  
17 against, and they were just not going to buy -- whether I  
18 worked there or not, they were not going to fund the chamber  
19 because they viewed he was very political and that's why they  
20 wouldn't support him.

21 And then in regard to the state that year Senator  
22 Spano lost the election. So I tried my best with the assembly,  
23 but there was nobody -- at that time we had lost that seat, so  
24 it was very tough for me to go lobbying.

25 Q. Did you have conversations with Mr. Mangone on the general

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C3JQANN4 Jereis - Redirect

1 subject matter of the Longfellow project?

2 A. My conversations --

3 Q. Just did you have --

4 A. Yes. Yes.

5 Q. OK. Now, did you initiate those conversations?

6 A. No, I didn't.

7 Q. Who did?

8 A. He did.

9 Q. What was Mr. Mangone evincing interest in?

10 MR. HALPERIN: Objection. Hearsay.

11 THE COURT: Overruled.

12 A. Can you explain that?

13 Q. What did Mr. Mangone ask you about in these conversations?

14 A. He was asking me --

15 MR. HALPERIN: Objection. Hearsay. To what Mr.

16 Mangone said.

17 THE COURT: Overruled.

18 A. He was asking me about his talking to Sandy Annabi in  
19 regards to the Longfellow project.

20 Q. What did he say to you about that subject matter, sir?

21 A. That he was representing the Milios, and that, you know, he  
22 wanted -- he was representing the Milios on the Longfellow  
23 project, and that he wanted issues that came before Longfellow  
24 that he wanted to discuss with Sandy about.

25 Q. Now, did he offer you money?

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C3JQANN4

Jereis - Redirect

1 A. No, he did not.

2 Q. Did he give you money?

3 A. No, he did not.

4 Q. Did he tell you to pay money to Sandy Annabi?

5 A. No, he did not.

6 Q. Mr. Turk, can you have Government Exhibit 770 text  
7 expanded, please, Mr. Turk.

8 Mr. Jereis, did you ever see this document, either the  
9 email at the bottom or the top part of it?

10 A. Just during the trial.

11 Q. Prior to that, had Ms. Kayal actually said the things to  
12 you that Ms. Annabi appears to be referring to here at the top?

13 A. No, she did not.

14 Q. Thank you, Mr. Turk.

15 Mr. Jereis, since you became involved in politics with  
16 Mr. Coppola, how many separate candidates' campaigns have you  
17 worked on?

18 A. Over 75 elections -- over 75 candidates, possibly even a  
19 hundred candidates.

20 Q. Now, have you attended the Republican state conventions in  
21 Albany?

22 A. Yes.

23 Q. Since when?

24 A. I've been attending state conventions and judicial state  
25 conventions since 1995.

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C3JQANN4

Jereis - Redirect

1 Q. Had you had delegate status at those conventions?

2 A. Yes.

3 Q. Did you attend at least two Republican National Conventions  
4 where the party's nominee for president was nominated?

5 A. Yes. I was an alternate delegate in 2000, and actually  
6 2004 I was an actual delegate to the convention.

7 Q. How many candidates for the governor -- how many candidates  
8 for governor's campaigns have you been working on?

9 A. I've been working on gubernatorial races since 1993. Yeah,  
10 since 1993.

11 Q. How many races for the office of county executive in the  
12 county of Westchester have you worked on?

13 A. Since 1991.

14 Q. How many county legislator's campaigns have you worked on?

15 A. Over 20 county legislative campaigns going back to the  
16 early Nineties.

17 Q. How many city council races have you been involved in since  
18 you learned politics from Mr. Coppola?

19 A. Over 20 council races throughout the city.

20 Q. Do you make the types of expenditures we have seen in this  
21 case on Ms. Annabi, did you make those types of expenditures  
22 for any other candidate?

23 A. No.

24 Q. Did you fall in love with any other candidate?

25 A. No, I did not.

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C3JQANN4

Jereis - Redirect

1 Q. Let me ask you a question: You saw the payments you were  
2 making throughout 2004 and '5 and '6 and '7, sir. Was it in  
3 any way your plan or intention to stop paying Ms. Annabi's  
4 maintenance or mortgage payment or cable bill or ConEdison bill  
5 if she had decided to vote against Ridge Hill?

6 A. No, I would have paid them regardless.

7 Q. Did you ever have such a conversation with Ms. Annabi?

8 A. No, I didn't.

9 Q. Sir, was it ever your intention to stop paying those  
10 expenses if Ms. Annabi decided not to vote for the Longfellow  
11 project?

12 A. No.

13 Q. Did you ever have such a conversation with Ms. Annabi?

14 A. No, I did not.

15 Q. Why did you keep making those payments?

16 A. Because, one had nothing to do with the other. I was  
17 making those payments because that was the apartment, she had  
18 lived there, and I had a vested interest in that apartment, and  
19 I cared for her.

20 MR. SIANO: No further questions.

21 THE COURT: Mr. Halperin.

22 MR. HALPERIN: Thank you, your Honor.

23 RECROSS EXAMINATION

24 BY MR. HALPERIN:

25 Q. Mr. Jereis, counsel asked whether Sandy Annabi was the only  
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C3JQANN4 Jereis - Recross

- 1 Democrat you publicly supported. Do you recall that?  
2 A. Yes.  
3 Q. And you testified a moment ago that you also supported  
4 Senator Andrea Stewart-Cousins who's a Democrat, correct?  
5 A. Yes.  
6 Q. That was in a Democratic primary, correct?  
7 A. Yes.  
8 Q. You never paid Democratic Cousin's mortgage bill, did you?  
9 A. No.  
10 Q. Or cable bill?  
11 A. No.  
12 Q. Or down payment for a Mercedes Benz?  
13 A. No, I didn't.  
14 Q. Mr. Turk, can we please have Government Exhibit 1522?  
15 You remember counsel showed you this chart?  
16 Mr. Aronwald showed you this phone chart?  
17 A. Yes.  
18 Q. You testified June 23 was Ms. Annabi's birthday, correct?  
19 A. Yes.  
20 Q. It looks like on June 23 there are approximately 31 phone  
21 contacts between the two of you, correct?  
22 A. Yes.  
23 Q. But on June 9, the day you asked Forest City Ratner for a  
24 job, there are 81 phone contacts, correct?  
25 A. Correct.

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C3JQANN4

Jereis - Recross

1 Q. Now, Mr. Siano just asked about other job applications  
2 where you said you have been convicted of a crime, correct?

3 A. Yes.

4 Q. But, sir, you knew that when you signed that notary  
5 application that if you had admitted you'd been convicted of a  
6 crime, you would not be approved, correct?

7 A. I didn't know that.

8 Q. So that's why you lied on the notary application, correct?

9 A. No, that's not.

10 Q. Mr. Turk, can we please have Defense Exhibit 103, which is  
11 from the packet of emails and with the Bates number Annabi 24  
12 at the bottom, please. If we could highlight the top of the  
13 text. Right there is great.

14 Mr. Jereis, you were asked about this email by  
15 Mr. Aronwald. If I can direct you to the fifth line down, you  
16 wrote, "I always believed at the end of the day nothing could  
17 ever come between us and our hearts would be one. Whether  
18 today or tomorrow we would be together. But I finally woke up  
19 and realized that it is not going to happen."

20 And that's what you wrote, correct, sir?

21 A. Yes.

22 Q. That was on December 11, 2006, correct?

23 A. Yes.

24 Q. But you kept paying Ms. Annabi's bills throughout 2007,  
25 correct?

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C3JQANN4

Jereis - Recross

1 A. Yes.

2 Q. And 2008, correct?

3 A. Yes.

4 Q. Mr. Turk, could we please have Defense Exhibit 103 from the  
5 same packet, Bates number Annabi 0008. Maximize that. Thank  
6 you very much, Mr. Turk.

7 Mr. Jereis, you recall seeing this email during  
8 Mr. Aronwald's questioning of you, sir?

9 A. Yes.

10 Q. This is an email you wrote to Ms. Annabi on Monday,  
11 July 25, 2005, correct?

12 A. Correct.

13 Q. I am going to direct you down about nine lines, and you  
14 said, "I have always been there for you, and I will continue to  
15 do so. In late December of 2004, I once stayed parked outside  
16 of 53 Linden all night because I was worried about you, and the  
17 next day I put the offer on 245 Rumsey Road."

18 And you recall saying that, right, sir?

19 A. Yes.

20 Q. Mr. Turk, can we please broadcast Government Exhibit 202.  
21 Maximize right there.

22 Mr. Jereis, Government Exhibit 202 is the check you  
23 wrote for \$7,200 for 245 Rumsey Road. That's the down payment,  
24 correct?

25 A. I believe so.

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C3JQANN4 Jereis - Recross

1 Q. And that's to Sandy Annabi, correct?

2 A. Yes.

3 Q. And the date is November 30, 2004, correct?

4 A. Yes.

5 Q. Mr. Turk, can we go back to the previous document? Can we  
6 please highlight the sentence in yellow that says "in late  
7 December of 2004." So, Mr. Jereis your timing is off by about  
8 a month, isn't that right?

9 A. There's an explanation to that.

10 Q. I'm just asking you, sir, your email says in late December  
11 of 2004, correct?

12 A. Yes.

13 Q. And the check we just saw for the deposit for Rumsey Road  
14 was November 30, 2004, correct?

15 A. Correct.

16 Q. And you forget the date, sir, because you made up these  
17 emails years later, correct?

18 A. No, that's not correct.

19 Q. You made these emails up years later only after the  
20 investigation began, correct?

21 A. That's not correct.

22 Q. And in all of these supposed emails, they're only emails  
23 from you to Ms. Annabi, correct?

24 A. What's before me, yes.

25 (Continued on next page)

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C3JUANN5 Jereis - recross

1 Q. None of these emails, Defense Exhibit 103 containing 24  
2 emails, has any substantive response from Ms. Annabi, correct?  
3 Yes or no, sir?

4 A. No.

5 Q. So you are pouring your heart out supposedly in these  
6 emails to her, but she never responds, correct?

7 A. She responds.

8 Q. There are no emails in here from Ms. Annabi?

9 A. Not in here.

10 MR. HALPERIN: Nothing further, your Honor.

11 MR. ARONWALD: Nothing further, your Honor.

12 MR. SIANO: Nothing further, your Honor.

13 THE COURT: You may step down.

14 (Witness excused)

15 THE COURT: Mr. Siano, call your next witness.

16 MR. SIANO: A moment with Mr. Carbone.

17 (Discussion off the record between counsel)

18 MR. SIANO: The defense calls Agent Mazzuca.

19 THE COURT: Special Agent Mazzuca, won't you come up.

20 MICHAEL MAZZUCA,

21 called as a witness by the defendant Jereis,

22 having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. SIANO:

25 Q. Special Agent, you are the case agent in this case?

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C3JUANN5

Mazzuca - direct

1 A. Yes, sir.

2 Q. And from time to time you had occasion to interview various  
3 individuals in pursuit of the investigation?

4 A. Yes.

5 Q. In doing so, you were engaged in the performance of your  
6 duties as an FBI agent?

7 A. Yes.

8 Q. You had occasion to interview a man by the name of Anthony  
9 Mangone on two occasions?

10 A. At least, yes.

11 Q. At least two occasions.

12 In fact, sir, I place in front of you what has been  
13 previously marked as Government Exhibit 3517A on the one hand  
14 and 17C on the other hand and ask you, do you recognize those?

15 A. Yes.

16 Q. And what do you recognize them to be?

17 A. These are the FD 302 reports which were put together after  
18 the interviews that were conducted with Mr. Mangone.

19 Q. Would it be fair to say, Special Agent, that the interview  
20 reports are drawn from notes taken during the interview?

21 A. Yes, they may be.

22 Q. Well, in this particular instance, these two were in fact  
23 drawn from notes, weren't they?

24 A. Yes.

25 Q. And I am going to confine my questions to these two. We

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1 will see if we can clear some things up.

2 Now, in each instance, there was another agent  
3 present, isn't that right?

4 A. Yes.

5 Q. And you can tell that by looking at the FD 302 -- and that  
6 phrase "FD 302," it is a bureau phrase because it is an FBI  
7 form, isn't that right?

8 A. Yes.

9 Q. There is nothing magic to that array of letters and  
10 numbers, that's just the way the FBI does it?

11 A. That's what these forms are called, FD 302.

12 Q. The FD 302 is prepared after the interview is conducted  
13 from notes taken during the interview?

14 A. If notes were taken, yes.

15 Q. In this case notes were taken. These were lengthy and you  
16 in fact helped prepare the 3500 material wherein your notes are  
17 included, isn't that right?

18 A. Yes, I believe so.

19 Q. In fact your name is first on both bylines on the bottom of  
20 the page, is that correct?

21 A. Yes.

22 Q. And that indicates that you were the principal dictator of  
23 the report?

24 A. Neither of these forms were dictated.

25 Q. Neither of the forms were dictated?

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Mazzuca - direct

1 A. No.

2 Q. What did you do with them?

3 A. Normally, I would type -- I don't dictate into a machine.  
4 I will type it up for myself and/or with the help of the other  
5 agent.6 Q. And then somebody elsewhere in the staff prepares the FD  
7 302?

8 A. No. These were prepared by myself and the co-agent.

9 Q. Directly?

10 A. Yes.

11 Q. And they are in fact initialed at the bottom?

12 A. Yes.

13 Q. They are both indications of interviews of Mr. Mangone,  
14 isn't that right?

15 A. Yes.

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

17 Q. Now, sir, the FD 302 which is 3517A is Mr. Mangone's  
18 interview of April 30, 2008, right?

19 A. Yes.

20 Q. And that was the interview he conducted when he came in  
21 with Mr. Levin to do what was described as an innocence  
22 proffer, isn't that correct?

23 A. Correct.

24 Q. Reflected therein, sir, there is no recitation in that  
25 report that Mr. Mangone told you on that day that Nick Spano

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1 was present at his first meeting with the Milios, is there?

2 A. Repeat the question, sir. I'm sorry.

3 Q. Did Mr. Mangone tell you or say in your presence on April  
4 30, 2008 that Mr. Spano was actually at the first meeting with  
5 the Milios?

6 A. No.

7 Q. Thank you, sir.

8 Also in that meeting, sir, isn't it a fact that  
9 Mr. Mangone told you that Antonio Milio brought the final  
10 \$10,000 payment the day after he made the \$20,000 payment --  
11 top of 3?

12 A. Yes, he said the next day.

13 Q. Now, on each of these first two instances, I take it, sir,  
14 your FD 302 report reflects accurately what you heard at that  
15 interview?

16 A. Correct, sir.

17 Q. Sir, I take it you would not put down on an FD 302 if the  
18 \$10,000 was paid on the 28th when it was actually paid on the  
19 27th?

20 A. No. I would have put down what the person stated --

21 Q. Because you were not present at any of these events?

22 A. That's correct.

23 Q. So therefore you were in fact recording what a gentleman  
24 named Mangone was telling you that day?

25 A. Correct.

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1 Q. And what you reported was that he told you he got 20,000  
2 one day and \$10,000 the next day?

3 A. I believe so. Those would probably be in my notes also  
4 which I don't have here.

5 Q. Would you like those notes?

6 A. Yes.

7 Q. Absolutely, yes. That's fine.

8 Now, Special Agent, I will tell that this is what I  
9 believe is a full binder subject to the vicissitudes of this  
10 trial, of course, and if you can find your notes there, please  
11 tell me and we can look at one of the other binders.

12 Special Agent, you can tell me when you find your  
13 notes of that meeting?

14 A. I have them.

15 Q. Which piece of 3500 material?

16 A. 3517B.

17 Q. Thank you.

18 A. OK, sir.

19 Q. Did your notes help you?

20 A. Yes, sir. He said that Antonio brought the money the next  
21 day.

22 Q. "He," meaning Mangone?

23 A. Yes, sir.

24 Q. Sat there and told you that?

25 A. Yes, sir.

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Mazzuca - direct

1 Q. That was in the meeting that he had April 30, 2008?

2 A. Correct.

3 Q. That was when he was telling you how innocent he was?

4 A. Yes.

5 Q. Did he also describe to you in that interview in 2008, who  
6 among the Milios came to him with the money?

7 A. Yes.

8 Q. In fact what he told you was that the first money was  
9 Antonio, Franco, Romeo and Dominick Miano, correct?

10 A. Yes.

11 Q. And you wrote that down?

12 A. Yes.

13 Q. And then he told you that the next day it was Antonio that  
14 came with \$10,000, isn't that right?

15 A. Yes.

16 Q. And you wrote it down because he told you?

17 A. Yes.

18 Q. If you could, sir, would you look at your FD 302 report for  
19 the interview that began on March 19, 2010?

20 A. OK.

21 Q. Take your time.

22 A. I am looking at it.

23 Q. Do you have it?

24 A. Yes, sir.

25 Q. I am going to ask you some preliminary questions, Special

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Mazzuca - direct

1 Agent, before we get down into the things that Mr. Mangone told  
2 you.

3 This is a composite 302, isn't that right?

4 A. Correct. There were multiple interviews had of Anthony  
5 Mangone and what I did was compiled the reports of all of those  
6 interviews into one packet.

7 Q. And you call that a composite interview, correct?

8 A. Correct.

9 Q. And the rules, the policy, the manual, for special agent  
10 says you can do a composite interview?

11 A. I believe so.

12 Q. And therefore you did that here and you identified which  
13 days, which conversations were taking place in your 302, isn't  
14 that right?

15 A. Yes, sir.

16 Q. And the events that I am asking you about is the interview  
17 of March 19, 2010, is that right?

18 A. Yes.

19 Q. Would it be fair to say that you sat here during my  
20 conversation with Mr. Mangone, in which I went over that  
21 interview with him, right?

22 A. I was here for most of it. Sometimes I did step out.

23 Q. I didn't have that luxury, but we will try to go through it  
24 together.

25 Now, in the interview on March 19, isn't it a fact

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1 that Mr. Mangone told you that it was Franco, Romeo, Giuseppe  
2 and Dominick who came with the \$20,000?

3 MR. CARBONE: Your Honor, would we have clarification  
4 on whether that is the July or September --

5 MR. SIANO: There was --

6 THE COURT: Let him ask his question. You want to  
7 clear something up, clear it up on cross.

8 A. With all respect, Mr. Siano, it is a 22-page report. Can  
9 you give me some guidance?

10 Q. I would be happy to do that. That is a fair statement on  
11 your part.

12 Page 4, the middle starting paragraph, the one that  
13 begins "when" and ends with "in placed in Mangone's desk"?

14 A. Yes.

15 Q. You've got it?

16 A. Yes.

17 Q. It is a fair help and I will try to help you as we go  
18 along. Fix up date above?

19 A. OK. I have found it.

20 Q. In fact what he told you it was Franco, Romeo, Giuseppe and  
21 Miano there?

22 A. Correct.

23 Q. And that would be fair to say between you and I, Special  
24 Agent, that is different from what he told you in 2008?

25 MR. CARBONE: Objection. Argumentative.

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Mazzuca - direct

1 THE COURT: Overruled.

2 A. Actually, it appears to be more specific. What was stated  
3 in April 30 of 2008, was that Mangone said that after Franco  
4 spoke with his father, Franco contacted Mangone and told him  
5 that the Milios agreed to pay the money. It wasn't specified  
6 in 302 as to who specifically brought the cash.

7 Q. It is not specified in the March 302, sir?

8 A. That's correct, sir.

9 Q. Doesn't it in fact say --

10 A. -- the Milios agreed to pay the money.

11 Q. Doesn't it in fact say, sir, in your 302 on 9/27/2006,  
12 Franco, Romeo, Giuseppe and Miano brought \$20,000 in cash to  
13 Mangone at his office?

14 A. It depends on which payments we are talking about.

15 Q. It says \$25,000 on September 27.

16 So we are both now on the March 19, 2010 interview,  
17 correct Special Agent?

18 A. Yes, sir.

19 Q. In fact, Mr. Mangone told you in that interview on March  
20 19, that it was Franco, Romeo, Giuseppe and Miano that brought  
21 you \$20,000 on 9/27/2006?

22 A. Correct.

23 Q. And that, sir, is in fact different from what you wrote  
24 done in your report from 2008, isn't it?

25 A. It is more specific.

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Mazzuca - direct

1 THE COURT: The question is, is it different, yes or  
2 no?

3 THE WITNESS: Yes, it is different.

4 Q. The individuals identified are different, correct?

5 A. Correct. They were not identified in the April 30, '08  
6 report.

7 Q. In fact, at least one of the persons that Mr. Mangone told  
8 you about in the 2008 interview, he left out when he was  
9 telling you about the payment in 2010, isn't that right?

10 A. Which?

11 Q. He changed Antonio to Giuseppe, didn't he?

12 A. I wouldn't say it was changed, sir. I think it was  
13 expanded upon in the March 19, 2010 interview.

14 Q. So in the contracted interview of 2008, he has four members  
15 of the Milio family there, is that correct; bottom of page 2,  
16 April 30, 2008, second and last line?

17 A. Yes, sir.

18 Q. And in the expanded interview of March 19, 2010, he has  
19 four members of the Milio family there, isn't that right?

20 A. Yes, sir.

21 Q. All he does is change the name, Antonio to Giuseppe?

22 A. Yes. The name Giuseppe is not in the first 302.

23 Q. And the name Antonio is?

24 A. Correct, sir.

25 Q. And the name Antonio isn't in the second interview, and the

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1 name Giuseppe is, correct?

2 A. Yes.

3 Q. You wrote down what you heard, isn't that right?

4 A. Yes, sir.

5 Q. In that second interview, isn't it a fact that Mr. Mangone  
6 told you that Antonio came with the \$10,000 later that same  
7 day?

8 A. The same day or the next day. Let me just try to find it,  
9 to be accurate.

10 Q. Please.

11 A. Yes. On the same date.

12 Q. So in the first interview, he told you it was the next day  
13 it was Antonio and in the second interview he told you it was  
14 the same day?

15 A. Yes.

16 Q. In each instance, those payments were explicitly described  
17 by Mr. Mangone as having come from franco and Antonio Milio on  
18 the 27th and 28th or just the 27th of September 2006, is that  
19 right?

20 A. Yes.

21 Q. Did you ever say to Mr. Mangone, the Milios weren't in the  
22 country then?

23 A. No.

24 Q. Did you ever --

25 MR. CARBONE: Objection, your Honor. These are not  
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C3JUANN5 Mazzuca - direct

1 prior inconsistent statements.

2 THE COURT: Excuse me. That's for the jury to decide,  
3 not you, Mr. Carbone.

4 MR. CARBONE: The statements --

5 THE COURT: Mr. Carbone, you may argue to the jury in  
6 closing that they are not inconsistent. It is for the jury to  
7 make that decision.

8 Please continue, Mr. Siano.

9 BY MR. SIANO:

10 Q. When is the first time you, sir, as the case agent in this  
11 investigation heard from anyone that the Milios were out of the  
12 United States on the 27th and 28 of September 2006?

13 A. During this trial.

14 Q. Prior to that, sir, it is your testimony that Franco Milio  
15 had not delivered documents to you in which he recited that he  
16 was out of the country?

17 A. No, sir.

18 Q. Now, did there come a point in time when the Milios entered  
19 a guilty plea?

20 A. Yes.

21 Q. And at the time were you at arraignment?

22 A. Yes.

23 Q. And the judge ordered them to surrender their passports,  
24 didn't he?

25 A. I believe, yes.

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Mazzuca - direct

1 Q. Now, at any point, sir, did you confront Anthony Mangone  
2 with these specific changes in the way the payoffs were made to  
3 him as reflected in the words you heard him say for the first  
4 time in April of 2008 and for the second time on March 19,  
5 2010?

6 A. Yes.

7 Q. You did?

8 A. Yes.

9 Q. When did you do that?

10 A. I don't recall the date, sir.

11 Q. Where did you write it down?

12 A. I believe it was -- I don't understand the question. Say  
13 the question again, sir.

14 Q. Where did you write down that you expressly confronted  
15 Anthony Mangone --

16 MR. CARBONE: Judge, could we have an indoor voice. I  
17 am getting a headache.

18 THE COURT: Really, Mr. Carbone.

19 MR. CARBONE: Yes.

20 THE COURT: Mr. Siano, will you continue, please.

21 MR. SIANO: Thank you, Judge.

22 BY MR. SIANO:

23 Q. Where did you write down, sir, that you explicitly  
24 confronted Anthony Mangone with the conflict between what he  
25 said to you in the April 30, 2008 interview as you wrote it

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C3JUANN5 Mazzuca - direct

1 down and the March 19, 2010 interview as you wrote it down?

2 Could you show me where it is written down?

3 A. It wasn't specifically written down, sir, but when  
4 Mr. Mangone began cooperating with the government and began to  
5 set forth the details of what really transpired with his  
6 attorney at the time, James DeVita, Anthony began telling us  
7 the truth as opposed to some of the falsities that were put  
8 into the earlier versions.

9 Q. As you sit there now, having heard the testimony in this  
10 trial, sir, you believe that Anthony Mangone told you the truth  
11 when he said that he got money from Franco and Antonio Milio on  
12 September 27 and September 28, 2006?

13 A. That's what he reportedly told me.

14 THE COURT: That wasn't the question.

15 Q. That wasn't the question, sir. I asked you, did you  
16 believe that he was telling you the truth?

17 A. Yes.

18 Q. When did it dawn on you that it was impossible to have  
19 happened?

20 MR. CARBONE: Objection.

21 THE COURT: Overruled.

22 A. When we saw the passport dates of the Milios.

23 Q. Was it confirmed by the records of Homeland Security that  
24 came into this jury just last week?

25 A. Those were the records.

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C3JUANN5 Mazzuca - direct

1 Q. Have you spoken to Mr. Mangone since then?

2 A. Yes.

3 Q. And did you say to him, Anthony, you lied to us?

4 A. It wasn't the topic of why I was calling him.

5 Q. Did you --

6 MR. CARBONE: Objection.

7 THE COURT: Mr. Siano, enough.

8 MR. SIANO: Thank you, Judge:

9 Q. Agent Mazzuca, could I show you what's been received in  
10 evidence as Defendant's Exhibit 24?

11 THE COURT: 74.

12 MR. ARONWALD: 74.

13 MR. SIANO: Thank you, Judge.

14 Thank you, Mr. Aronwald.

15 Q. Do you recognize that document, sir?

16 MR. HALPERIN: Judge, could we have a moment, please?

17 THE COURT: Do you not have the document?

18 MR. HALPERIN: We are pulling it up.

19 MR. SIANO: Mr. Turk, could you be kind enough to put  
20 Defendant Exhibit 74 up?

21 Could we enlarge, please.

22 BY MR. SIANO:

23 Q. Now, at the bottom of this piece of paper, Special Agent,  
24 is what we have been referring to in what I call lawyer speak  
25 as a Bates number at the bottom, isn't that right?

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Mazzuca - direct

1 A. Yes, sir.

2 Q. That is a serial number that is sprayed on the document at  
3 some point during its traffic between the various parties and  
4 entities, isn't that right?

5 A. Yes.

6 Q. You got this document for the first time during your  
7 investigation, isn't that right?

8 A. I don't recall.

9 Q. Did you get it after Franco Milio and Antonio Milios took  
10 their pleas?

11 A. I don't know.

12 Q. Is it your position, sir, that the first time you saw this  
13 document was during the trial?

14 A. Yes. I don't recall whether I saw this before the trial or  
15 not.

16 Q. You can put it aside, sir.

17 MR. SIANO: Judge, I need a moment.

18 THE COURT: A moment you shall have.

19 (Pause)

20 THE COURT: A minute, Mr. Siano, not an hour.

21 MR. SIANO: We are done, Judge.

22 No further questions for Special Agent Mr. Mazzuca.

23 CROSS-EXAMINATION

24 BY MR. CARBONE:

25 Q. Good afternoon, sir.

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Mazzuca - cross

1 Agent Mazzuca, I assume that your 302 is like Agent  
2 Karaka's and Agent O'Connor, they are not verbatim transcripts  
3 of what is said in an interview?

4 A. That's correct. They are basically summaries of the  
5 interviews that take place, unlike as you have here a court  
6 reporter taking down word for word statements that are coming  
7 out of people's mouths. Basically you interview somebody, you  
8 jot down notes, go back in a time period to the best of your  
9 abilities, put forth a summary of what was said. There is no  
10 way they are verbatim transcripts of the statements.

11 Q. You don't have any training in shorthand?

12 A. Correct.

13 Q. You don't know shorthand at all, right?

14 A. No, I don't.

15 Q. I want to direct your attention to one of Mr. Siano's  
16 series of questions about whether you went back to Mr. Mangone  
17 and accused him of perjuring himself when it came to the  
18 September 27th, 28th date.

19 Is it fair to say that Mr. Mangone said that was  
20 approximately when the payments took place?

21 A. That's correct. He said that it may have been, but it may  
22 have been a day or two after, a day or two before. It wasn't  
23 date specific as he may have originally stated.

24 Q. Is it also fair to say that you have no reason to believe  
25 it is anything other than honest lack of recollection?

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Mazzuca - cross

1 A. Absolutely.

2 Q. You were asked a series of questions about what was said in  
3 the 2008 interview as opposed to the later interviews. Isn't  
4 it true that Mr. Mangone admitted to lying in the 2008  
5 interview once he began cooperating in 2010?

6 A. Yes. He began cooperating in 2010, he said that in his  
7 first interview he came in and was making false representations  
8 about what he was doing.

9 Q. After Mr. Mangone began to cooperate in 2010, has he made  
10 any false statements to you?

11 MR. SIANO: Objection.

12 THE COURT: The objection is sustained.

13 Q. That you were aware of?

14 THE COURT: The objection is sustained.

15 Q. Agent Mazzuca, after Mr. Mangone --

16 THE COURT: Don't try to rephrase that question. He  
17 is not going to opine on whether Mr. Mangone has been telling  
18 him the truth. That is for the jury to decide.

19 MR. CARBONE: Absolutely. I don't know why the  
20 question was asked on direct or cross or whatever it was.

21 THE COURT: Mr. Carbone's comment is stricken, ladies  
22 and gentlemen.

23 BY MR. CARBONE:

24 Q. Agent Mazzuca, once Mr. Mangone began to cooperate, was he  
25 asked questions about the Longfellow transaction in a series of

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Mazzuca - cross

1 interviews?

2 A. Yes. After he began cooperating, there were a number of  
3 times we discussed the Longfellow happenings with him. And  
4 once he began cooperating, his story did not change. It was  
5 always consistent once he began --

6 THE COURT: The last part is stricken.

7 Actually, Mr. Carbone, for reasons that I am not clear  
8 about is asking you leading questions that can be answered yes  
9 or no, so answer them yes or no. There was no need for you to  
10 volunteer anything else.

11 Stricken.

12 BY MR. CARBONE:

13 Q. Sir, after Mr. Mangone began to cooperate, has he been  
14 consistent on the question of which family members from the  
15 Milios came along to deliver the cash?

16 A. Yes.

17 MR. SIANO: Objection.

18 THE COURT: Sustained.

19 MR. SIANO: Move to strike.

20 THE COURT: Stricken.

21 MR. CARBONE: Judge, this is cross-examination, no  
22 leading? Understood.

23 THE COURT: If ever there was a witness that is your  
24 witness, Mr. Carbone, it is Agent Mazzuca.

25 MR. CARBONE: Understood, your Honor.

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Mazzuca - cross

1 BY MR. CARBONE:

2 Q. After Mr. Mangone began to cooperate, over the course of  
3 these many interviews, did he tell you that he was answering  
4 the questions the best of his recollection?

5 MR. SIANO: Objection.

6 THE COURT: The objection is sustained. It is  
7 argumentative.

8 Q. What if anything did Mr. Mangone tell you about whether he  
9 was answering your questions to the best of his recollection?

10 MR. SIANO: Objection, your Honor.

11 THE COURT: The objection is sustained.

12 MR. CARBONE: No further questions.

13 REDIRECT EXAMINATION

14 BY MR. SIANO:

15 Q. Now, Special Agent, how long have you been carrying the  
16 credentials of a special agent?

17 MR. CARBONE: Objection.

18 THE COURT: Beyond the scope.

19 Q. Sir, were you trained to prepare FD 302s?

20 MR. CARBONE: Objection.

21 THE COURT: Overruled.

22 Q. Were you trained to prepare these?

23 A. Yes.

24 Q. When were you trained?

25 A. When I was in the academy.

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C3JUANN5

Mazzuca - redirect

1 Q. The National Academy in Quantico, Virginia?

2 A. Yes.

3 Q. It is a mandatory step before you are given credentials,  
4 isn't that right?

5 A. Yes.

6 Q. From time to time, your FD 302 reports are reviewed?

7 A. They may be, yes.

8 Q. They may be? They are reviewed by your supervisor in the  
9 squad?

10 A. Yes.

11 Q. For a period of time, that was special Agent O'Connor who  
12 came here and testified about his interviews?

13 A. That's correct.

14 Q. From time to time, your FD 302s are passed to other agents  
15 to pursue other investigations, isn't that right?

16 MR. CARBONE: Objection.

17 THE COURT: The objection is overruled.

18 A. Yes. They can be used for that purpose, sure.

19 Q. Sir, in your career as an FBI agent, you have relied on the  
20 FD 302 of your brother and sister agents, isn't that right?

21 A. Yes.

22 Q. And you have come to rely upon their accuracy, isn't that  
23 right?

24 A. Yes.

25 Q. And you have seen the information in FD302s carried forward

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Mazzuca - redirect

1 for applications for search warrants and wiretaps in front of  
2 judges, isn't that right?

3 A. I have not.

4 Q. You have never applied for a search warrant from the  
5 information in an FD 302?

6 A. Not myself, no.

7 Q. Have you ever applied for a wiretap off of the information  
8 in an FD 302?

9 A. No, sir.

10 Q. Are you aware that the information is used in that fashion  
11 by other agents?

12 A. Yes, sir.

13 Q. In fact, the information presented in the 302s is presented  
14 as accurate to jurors, isn't that right?

15 A. Yes.

16 Q. In fact you presented your FD 302s as being accurate, isn't  
17 that right?

18 A. Yes.

19 Q. In these FD 302s, you wrote down what Mr. Mangone said to  
20 you?

21 A. Yes.

22 Q. There were no weasel words or qualifications in the  
23 interviews, were there?

24 MR. CARBONE: Objection.

25 THE COURT: The objection is overruled.

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Mazzuca - redirect

1 A. No.

2 MR. SIANO: No further questions.

3 MR. CARBONE: No further questions.

4 THE COURT: You may step down.

5 (Witness excused)

6 THE COURT: Mr. Siano.

7 MR. SIANO: Judge, it has been stipulated by and  
8 between the government on the one hand and by and between Mr.  
9 Aronwald on behalf of Ms. Annabi and by Mr. Jereis, by me, that  
10 the records of the New York State Department of Motor Vehicles  
11 reflect that Mr. Jereis had registered to him through 2008, a  
12 blue Mercedes-Benz convertible and thereafter had registered to  
13 him a black Mercedes-Benz convertible and if a document  
14 custodian were to appear, they would so describe the records of  
15 the New York State Department of Motor Vehicles.

16 Thank you.

17 THE COURT: So stipulated, ladies and gentlemen. You  
18 are to regard that as true, those are the cars that were  
19 registered to Mr. Jereis with the DMV here in the State of New  
20 York.

21 Call your next witness.

22 MR. CARBONE: Judge, while we are on the subject of  
23 stipulations --

24 THE COURT: Mr. Siano is putting his case in.

25 MR. SIANO: I am trying to determine which of my next

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C3JUANN5

Mazzuca - redirect

1 witnesses -- I have had a conversation with Mr. Carbone. We  
2 can't work out with the government who I should be calling with  
3 regard to a different recorded interview.

4 THE COURT: Well, you just take them one at a time,  
5 Mr. Siano.

6 MR. SIANO: This is the last one.

7 THE COURT: I meant the witnesses, not the report.

8 MR. SIANO: Sorry?

9 THE COURT: Never mind.

10 MR. SIANO: Mr. Jereis rests.

11 THE COURT: Mr. Jereis rests.

12 OK. We are going to take a short break. Don't  
13 discuss the case. Keep an open mind. See you in a few.

14  
15 (Continued on next page)  
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C3JUANN5

1 (Jury not present)

2 THE COURT: Who does the government propose to call on  
3 rebuttal?

4 MR. CARBONE: Your Honor, as we indicated the other  
5 day, we intend to call a records custodian from the U.S.  
6 Attorney's office to introduce criminal case initiation form.  
7 We have just a stipulation to offer the gambling records that  
8 were offered subject to connection through cross-examination of  
9 Mr. Darcy. We have a few bank records to put in. We have a  
10 custodian who is not here at the moment, but my understanding  
11 will be here first thing in the morning.

12 THE COURT: First thing in the morning? You will rest  
13 if your case is not over by 5 o'clock today, you will rest.

14 MR. CARBONE: Thank you, your Honor.  
15 We have Detective Koenig as well.

16 THE COURT: Bring Detective Koenig in right now. We  
17 are not taking a break and I will decide whether the jury will  
18 hear it.

19 MR. CARBONE: We have one short witness first.

20 THE COURT: No. We don't have a short witness first.  
21 The jury is out the room now.

22 MR. CARBONE: But after Detective Koenig does his --

23 THE COURT: I don't care what order you call people  
24 in.

25 MR. CARBONE: Judge, we may have, if the case goes

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1 into tomorrow, a witness or two from Mr. Jereis' gas station.

2 THE COURT: It is not going to go into tomorrow, if we  
3 have to stay here until 10 o'clock tonight. It is not going to  
4 go into tomorrow. Let me make that clear. You told me last  
5 week you would have less than an hour of rebuttal. It is not  
6 going into tomorrow.

7 MR. CARBONE: Judge, I certainly did not anticipate  
8 Detective Koenig.

9 THE COURT: I told you last Friday I was going to  
10 listen to him out of the hearing of the jury.

11 MR. CARBONE: We didn't anticipate him last week when  
12 we said our case would be an hour.

13 MR. ARONWALD: I need to get Mr. Frasier in so that he  
14 can listen.

15 THE COURT: That's fine.

16 MR. CARBONE: Judge, Detective Koenig will be  
17 testifying about the analysis he conducted on Ms. Annabi's hard  
18 drive as well as the hard drive of a computer that was turned  
19 over by Mr. Jereis on Friday.

20 THE COURT: I am concerned right now with Ms. Annabi's  
21 hard drive because that's what I have a report for. I don't  
22 have a report for anything else.

23 MR. SIANO: The other topic is news to me.

24 THE COURT: The other issue shouldn't be news because  
25 after all you did turn it over. But the issue that was raised

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1 last week -- just so that everybody knows, because we didn't  
2 have a lot of people here at the conference -- was whether  
3 Detective Koenig should be allowed to testify about his  
4 examination of Ms. Annabi's computer which was turned over a  
5 long time ago.

6 And the reason for that is that his report indicated  
7 that it he was not able to -- detective, I hate to do this to  
8 you, don't go far, good to see you again -- that the detective  
9 was unable to, indeed, he said that it was impossible to verify  
10 whether the emails on the computer had been specific emails  
11 that were of relevance to this case, had been tampered with in  
12 any way or were fake or were real or whether anyone had  
13 intentionally, as opposed to unintentionally, created  
14 inauthentic files or tampered with files.

15 And a motion was made on the grounds that, under 403,  
16 the probative value of the testimony that the detective has no  
17 opinion about the authenticity or inauthenticity of the emails  
18 was outweighed by the prejudicial value of suggesting to the  
19 jury that there might have been some tampering with the  
20 computer. And I said I would listen to the detective's  
21 testimony and I shall

22 Now bring him in.

23 SHLOMO KOENIG,

24 called as a witness by the government,  
25 having been duly sworn, testified as follows:

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C3JUANN5

1 DIRECT EXAMINATION

2 BY MR. CARBONE:

3 THE COURT: You may inquire, Mr. Carbone.

4 Q. Where do you work?

5 A. Rockland County Sheriff's Department, computer crimes.

6 THE COURT: Can we get to the meat of this because I  
7 actually know where the detective works because he testified at  
8 my last trial. Since I am trying to make a decision as to  
9 whether to let this in or not, let's get to the meat of it.

10 BY MR. CARBONE:

11 Q. Sir, would you please look at Government Exhibit 1550.

12 A. Which one is it?

13 THE COURT: I am not sure.

14 Q. What is Government Exhibit 1550?

15 A. That's a hard drive. It is a copy of hard drive that I  
16 received from the U.S. Attorney's office and I had made a copy  
17 of that and, this is a copy of that drive.

18 MR. CARBONE: Your Honor, I am going to fast forward.

19 Q. Is that the hard drive that came from Ms. Annabi that you  
20 were asked to analyze?

21 A. Yes, sir.

22 Q. And what specifically were you asked to do?

23 A. To look for certain emails that were provided by the  
24 defense.

25 MR. CARBONE: Your Honor, those are the emails,

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C3JUANN5 Koenig - direct

1 Defendant Exhibits 102 and 103.

2 Q. Can you tell Judge McMahon what steps you took to perform  
3 an examination of that hard drive?

4 A. I made a copy of that hard drive. I returned the hard  
5 drives. I made a copy of the hard drives and then performed  
6 analysis on the hard drive. We were looking for emails.  
7 Emails on this particular case was AOL emails. And AOL emails  
8 sits in like a folder. It is like a drawer, so every email  
9 goes into one drawer. The drawer is like a filing cabinet  
10 where all emails sit -- I'm sorry.

11 THE COURT: That's OK. You are looking over there. I  
12 am your audience.

13 You are going to tell me about my AOL email and then I  
14 am going to become terrified.

15 THE WITNESS: AOL email sits in one folder. Think of  
16 it as a drawer and every email that goes into that drawer sits  
17 in that drawer. It doesn't have, for example, time stamps or  
18 security or accounting or things that go around the file for  
19 every file to keep track of when it is put there or how it is  
20 put there.

21 In this case, in AOL, it sits on the main AOL file not  
22 on a specific or particular emails. Every email goes into just  
23 that one drawer. Once it is in the drawer, the drawer itself  
24 has times and dates on it. When you delete a file or put in a  
25 file, everything is done in that cabinet.

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C3JUANN5

Koenig - direct

1 Now, in this particular case, the cabinet is like --  
2 if you think about a drawer, when I open the drawer, the files  
3 in there are out of chronological order or there are pry marks  
4 on the file which is really on the folder itself and not on the  
5 emails, those are the notations that we try to look for to say,  
6 could I say for sure this is an untainted or possibly untouched  
7 file because everything seems to fit where it is supposed to,  
8 or if I look at it and I say the drawer that has all of the  
9 emails, there are things that are out of place on this file.

10 THE COURT: I have an AOL count. Every time I do an  
11 AOL email, there is a date on it.

12 THE WITNESS: Those dates, though, are not controlled  
13 by the computer. Those are really just sitting in the file.  
14 When you type it, it sits there. The computer itself doesn't  
15 keep track of those dates. The computer only keeps track of  
16 the dates on the drawer. So if I go and make a change to the  
17 file dates or the drawer, the computer will then say something  
18 is wrong over here, depending on how it is set up. There are  
19 different ways how it will say something is not fitting.

20 THE COURT: I'm stupid. I wrote an email on March 6  
21 and I delete my emails at the end of every day. So it is  
22 somewhere in a --

23 THE WITNESS: An email still sits -- not like in a  
24 regular file. In a regular file on a computer, when I delete  
25 the files, that file's times and dates will still sit on the

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C3JUANN5 Koenig - direct

1 computer because that has a file and a date that the computer  
2 keep tracks of. In AOL in this case, the computer only keeps  
3 track of the drawer.

4 Your Honor, you write another email, yes, the drawer  
5 will be updated there is a new date on it, but if you go  
6 tomorrow and you write another email, then the last date on  
7 that email is actually going to be tomorrow's date when you did  
8 it because it doesn't keep separate accounting for every email.

9 Now, when you go into the drawer --

10 THE COURT: In other words, today, the date on all of  
11 my emails in my drawer is March 18th and tomorrow the date on  
12 all of my emails in the drawer will be March 19th?

13 THE WITNESS: Not in the drawer. The cabinet, if I  
14 pull out this drawer, the drawer itself will have March 19 and  
15 tomorrow it will have March 20. Even though there is still an  
16 email inside from yesterday, because that didn't change because  
17 the computer doesn't keep track of it. So if there is an email  
18 from three days ago, the email inside will have three days ago  
19 date, but the cabinet or the drawer that I pull out only will  
20 have the last dates.

21 Now, there are several dates on the drawer. The  
22 drawer has when it is created. It has when it is last  
23 accessed. It has when it is modified. And one of the  
24 important dates is last accessed. If it is last accessed and  
25 after that there is no date, then nothing happened to it after

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C3JUANN5 Koenig - direct

1 that. The last access is April 2008, a year later --

2 THE COURT: He has not gotten there yet.

3 Just sort of explain this generally to me.

4 Now let Mr. Carbone ask some questions.

5 MR. CARBONE: I do think that the April 2008 access is  
6 relevant to what the detective has to say.

7 BY MR. CARBONE:

8 Q. So can you explain to Judge McMahon what happened in April  
9 2008 and how that impacted on your ability to analyze the hard  
10 drive?

11 A. Or for sure to analyze.

12 What happened is the defense had an Internet or  
13 network person, someone look at the computer and not doing it  
14 forensically -- when we do it forensically, we preserve the  
15 last dates. When I look at it, the dates don't change. I do  
16 it in a way so that the last access dates stay the way it was.

17 THE COURT: Doesn't become the date when I accessed  
18 it.

19 THE WITNESS: When I look at it, but when they looked  
20 it they changed the last dates. When it changed the last  
21 access date on that file is when it was when they looked at it,  
22 so I am missing that last access date to say definitively what  
23 when it was or what was done.

24 THE COURT: When what was done?

25 THE WITNESS: When the last thing was done to this

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C3JUANN5 Koenig - direct  
1 file.

2 THE COURT: Which would be like when the last email  
3 was saved in the file?

4 THE WITNESS: Email saved or an email copied, anything  
5 that really happens to that file would show up on the last  
6 access date, that it was touched.

7 THE COURT: By someone other than the computer  
8 consultant?

9 THE WITNESS: Right.

10 In this case because it was done, the last date was  
11 actually when it was touched by the computer consultant.

12 BY MR. CARBONE:

13 Q. So let's back up, unless the judge has questions --

14 THE COURT: Not yet.

15 Q. What is a backup file?

16 A. An AOL has you -- it will back up this filing cabinet and  
17 you can have it set that you have to make a backup or it can be  
18 set when you bring up your AOL client, it will back it up.

19 In this particular machine, this machine was set to  
20 back up. By default most versions of AOL now have it that way  
21 where it automatically makes the backup for you. Generally  
22 when you make a backup, when I bring up my machine, let's say  
23 it is today 10 o'clock, I will create a backup. If I use it  
24 for three, four, five hours, my current files will be more  
25 current than my backup, because my backup was when I started

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1 and my current file will be whenever I finish.

2 In this particular case, there were multiple users on  
3 this computer, which all fell in that way except this  
4 particular one that we are talking about. In this case, the  
5 backup was three -- a date in 3/22, I think, of '07 and the  
6 current one was 2/22 of '07.

7 THE COURT: I'm sorry. I am not understanding.

8 THE WITNESS: Again, I use my email. I bring up my  
9 program and it creates a backup file.

10 THE COURT: I thought that the backup file was what I  
11 type into the computer gets put in a file so that it can be  
12 retrieved like the power goes out and I lose everything  
13 except -- but I don't lose everything except the last 10  
14 minutes because it is some called a backup file and my IT  
15 people can find it.

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C3jQann6

Koenig - Direct

1 (Continued)

2 THE WITNESS: Windows does that. It's almost called  
3 it's called a lazy write. Windows does that way, where you do  
4 something, it saves it before it finalizes it.

5 AOL doesn't do that. AOL writes to the AOL personal  
6 filing cabinet, but what it gives you an option is every time  
7 you start the program, it takes what you had and makes a backup  
8 and puts it in a second file. So if you lose what you did the  
9 last couple of minutes, you will still have everything until  
10 this point. So let's say --

11 THE COURT: Until the point that you lose it.

12 THE WITNESS: That you made your last backup.

13 THE COURT: OK. So --

14 THE WITNESS: It's not a live backup.

15 THE COURT: It's like a backup for what I did  
16 yesterday and the day before and the day before that.

17 THE WITNESS: Correct.

18 THE COURT: But it's not a backup for what I've done  
19 since I turned on the computer today.

20 THE WITNESS: Not a live backup, correct. Whenever  
21 you start up, it takes what it has already and backs it up.

22 THE COURT: All the emails I've sent already which I  
23 don't care about any more, it will back up, but what I'm  
24 working on today --

25 THE WITNESS: Won't get backed up until you start the  
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C3jQann6 Koenig - Direct  
1 program again.

2 THE COURT: OK. That's weird.

3 THE WITNESS: So right now whatever is done today gets  
4 put into the current file. So when you look at AOL folders,  
5 you will see that the backup folders are actually in the past  
6 versus the current folder for -- if I started my computer 10:00  
7 this morning, I will use the example, I would back up, I would  
8 have a last date on my backup folder for 10:00 this morning,  
9 but if I used my computer all day and I first shut it down  
10 10:00 at night, my current one would have a date at 10:00 at  
11 night.

12 THE COURT: And tomorrow morning when I turn my  
13 computer on, that stuff would get added to the backup file.

14 THE WITNESS: Correct.

15 THE COURT: All right.

16 THE WITNESS: In this case though, the backup file had  
17 a day of the 3/22 or 3/27 of '07, and the current one had a  
18 2/22 or 2/23 of '07. So that was younger or more in the past  
19 than the current which doesn't fit, if it was on this machine.

20 Now, if it was brought over from another machine and  
21 put here, that could be. But generally that would not be. And  
22 the only way that could happen on this machine is if this  
23 machine was backdated; someone went for a reason and changed  
24 the date on the computer to an earlier date, and then changed  
25 it back, this date would be prior; that wouldn't.

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Koenig - Direct

1 THE COURT: Changed the date on the computer to an  
2 earlier date.

3 THE WITNESS: But then they would have had not to use  
4 the program after that because if not, then it would have  
5 updated the actual file, so what we have over here --

6 THE COURT: The ultimate question here, Mr. Carbone,  
7 the ultimate question is, can you tell whether these emails  
8 that you were given copies of, I'm sure, that we have been talk  
9 about for the last year, can you tell whether these emails were  
10 put on the computer after the date on which they were  
11 ostensibly written? I mean, they say they were written in 2005  
12 and 2006. Can you tell from doing all this analysis, that led  
13 to this report whether those are phony emails; they were put on  
14 the computer at a later date than the date on which they  
15 purport to have been written and sent?

16 THE WITNESS: I can't say anything about these  
17 specific emails. I can say that that drawer has been tampered  
18 with in some way. It's not the way it's supposed to be. The  
19 computer is telling me that dates have been changed on this  
20 computer, and it's almost like an analogy would be if someone  
21 brings me a gun, and it's wiped down with a rag, could you find  
22 a fingerprint. I'm not going to find a fingerprint because I  
23 know it's been wiped out. Now, I could circumstantially try  
24 and make an argument of what did or didn't happen. This is  
25 what I'm at over here. The last dates that would have allowed

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C3jQann6 Koenig - Direct

1 us to say for sure was either -- which possibly, again, the  
2 expert could have done it by mistake, or the defense  
3 whatever --

4 THE COURT: So you can't even tell who did -- you  
5 think that the machine has been monkeyed with, but you can't  
6 tell who did it.

7 THE WITNESS: We know that when it was analyzed, those  
8 last dates were changed then; we know that.

9 THE COURT: When it was analyzed, the last dates were  
10 changed.

11 THE WITNESS: We know that in 2/22, 2/23, I have to go  
12 back to the reports, at those dates the computer time was  
13 changed, we know that for sure, in '07, which was a year prior  
14 to that; February/March of '07, the computers dates were  
15 changed and out of sync. Who did it, I don't know.

16 THE COURT: But not the dates on the specific emails  
17 or anything.

18 THE WITNESS: There is no dates on the -- the specific  
19 emails sit in there, and you can actually go into this file and  
20 if I were to change a word on the actual email itself or a few  
21 words, the dates in that email won't change. It's only on the  
22 container, and over here since the container's times have been  
23 tampered, I can't say for sure.

24 Q. Detective Koenig, could you explain how it is that someone  
25 could fabricate or alter an email that's within the tampered

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C3jQann6

Koenig - Direct

1 container?

2 A. Once it's in a container, the way the email sits in this  
3 filing cabinet, the header, the date and time is in plain view.  
4 Then the message itself gets compressed, and all you would need  
5 to do is to change a few words in the line, and it could be  
6 done. I'm not saying it was done. I'm saying it could be  
7 done.

8 THE COURT: Let me ask a different question then. Is  
9 there any way to know if somebody literally made up a postdated  
10 email. We all know what a postdated check is and a postdated  
11 contract is. Can somebody make up a postdated email and insert  
12 it into a file?

13 THE WITNESS: Well, you don't have to insert it over  
14 here. All you would do is the way -- think about -- take a  
15 paper out of -- I have a drawer with folders; pull out a paper,  
16 put a different paper into that folder. So the folders are  
17 there. The emails are sitting there, and you just put  
18 something else in where this was, and that would be the easiest  
19 way to do that.

20 THE COURT: Do you have any evidence that specifically  
21 that that happened --

22 THE WITNESS: No.

23 THE COURT: -- that phony emails were put in?

24 THE WITNESS: No.

25 MR. CARBONE: If I can continue.

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C3jQann6 Koenig - Direct

1 THE COURT: Sure, Mr. Carbone. I'm sorry. I'm  
2 leaping ahead.

3 MR. CARBONE: That's OK.

4 Q. The AOL file, that you do have evidence was tampered with,  
5 correct?

6 A. It's out of sync. Again, it's like the drawer, the file  
7 cabinet the files are pried open, and the files are out of  
8 sync. Something doesn't fit there.

9 Q. What other time dates are reflected on the logs in the  
10 computer?

11 A. There are multiple logs on this computer. AOL has what's  
12 called legacy logs. They used to charge for every time you  
13 would to use it. So they have built-in logs that log when you  
14 sign on. When we look at these logs, we see it goes from  
15 February to March back to February back to March. So it's  
16 showing that something was on that computer that was out of  
17 sync. The dates were changed. That's not a question. That is  
18 a definite.

19 THE COURT: That was in 2007 or 2008; not in 2005 or  
20 2006.

21 THE WITNESS: No, that's 2007.

22 Q. 2007 about --

23 THE WITNESS: From when this computer was started,  
24 which was around 2005, I think January, until 2007 there wasn't  
25 any of those changes on that computer.

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C3jQann6

Koenig - Direct

1 MR. CARBONE: Shortly after the investigation began,  
2 Judge, within a matter of weeks.

3 Q. So, can you just summarize without going through each of  
4 the different logs and registries what your analysis showed?

5 A. Again, it's basically what my report said. My report said  
6 that based on the logs, registry, times and dates on this  
7 computer, things were out of sync. Files were not where -- how  
8 they were supposed to be, where they're supposed to be. And  
9 this particular folder, which is where the emails are, were not  
10 the way they were supposed to be. If it was used under normal  
11 circumstances on this computer, the dates wouldn't be the way  
12 they were on this file.

13 Q. Now, what, if anything, did your analysis show about  
14 whether any files had been deleted from this hard drive?

15 A. On February, in that period of time, 20 and 21, there was  
16 like 6,000 --

17 Q. Of '07, just so we're clear?

18 A. February of '07, there was approximately 7,000 files that  
19 were deleted off this computer.

20 Q. And are you familiar with the term remnants?

21 A. Yes.

22 Q. What is a remnant?

23 A. Remnants is like bread crumbs. I use a joke when my kids  
24 eat, somehow there's always something left on the table, some  
25 bread crumbs. When you open files on computers, they're fairly

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C3jQann6 Koenig - Direct

1 dirty. When you open a file and look at a file, something is  
2 left over, a part, a partial, something is left over of a file  
3 if it was accessed on this computer.

4 Q. So, were you able to determine approximately the time  
5 period that this hard drive was in use?

6 A. This one was in use from 2005 through -- 2007 is when it  
7 was being used, and then 2008 was analyzed.

8 Q. Is it fair to say that if you open an email, a real email  
9 legitimately on a computer, that there will be pieces of that  
10 email spread throughout the hard drive?

11 A. Definitely multiple emails. There will be something left  
12 over, something, versus if this happened, it was copied from  
13 someplace else, there will be nothing.

14 Q. Did you determine whether there were any remnants or look  
15 for remnants of defendant's emails?

16 A. Yes, I did, and I didn't find.

17 Q. What is the significance of that?

18 THE COURT: That's of the specific emails that are  
19 Defendant's Exhibit 102 and 103?

20 MR. CARBONE: Yes.

21 A. Just that would be an indication that it was not opened on  
22 this computer.

23 THE COURT: I don't --

24 A. If it was viewed on this computer, there would have been  
25 some remnants, some pieces of this file left over in temporary

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C3jQann6

Koenig - Direct

1 space. When you look at folders, computer -- Windows  
2 creates --

3 THE COURT: That doesn't mean that it wasn't sent. It  
4 just means that the person whose computer you're analyzing  
5 didn't choose to open those emails, threw them into the spam  
6 folder.

7 THE WITNESS: If they never opened them and they never  
8 viewed them or never sent them or never replied, which is  
9 another thing -- a lot of these emails there was like one  
10 liners. Most of them weren't to and froms. It was like one  
11 liners. But if they didn't open it and didn't respond and  
12 didn't do anything with it, then there will be no remnants.

13 THE COURT: There would be no remnants.

14 THE WITNESS: There would be no remnants.

15 THE COURT: OK.

16 Q. Did you seek to determine whether -- just to be clear, the  
17 emails the defendant's emails were recovered from a deleted  
18 items folder?

19 A. They were not a deleted items folder. It's just one  
20 folder, one folder on AOL which has all the emails. They were  
21 deleted in this folder, which, again, to be deleted, they have  
22 to be looked at.

23 THE COURT: You mean when I put something in my spam  
24 folder, if I don't want to open it and then I delete everything  
25 in the spam folder, it's not deleted?

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C3jQann6 Koenig - Direct

1 THE WITNESS: It is deleted. When you put it in your  
2 spam, and then you delete it, it gets deleted.

3 THE COURT: Thank God. You know, I try to guess which  
4 ones are the viagra ads, and I try not to open them.

5 Q. Did you make any effort to determine whether there were any  
6 responses to these emails?

7 A. Yes.

8 Q. Did you find any?

9 A. The ones, whatever -- whatever had it in the mail, in  
10 the -- the ones that we were provided, had. The ones that  
11 didn't have, didn't have any responses.

12 Q. Right. But were there responses by Sandy Annabi to other  
13 Zehy Jereis emails?

14 A. Other -- there was responses to other emails. I don't  
15 remember exactly which ones.

16 Q. Now, did you also conduct an analysis of the hard drive  
17 contained in Government Exhibit 2105, which is the tower that  
18 Mr. Jereis provided on Friday?

19 A. Yes, I did.

20 Q. Can you tell Judge McMahon what you did?

21 A. There were two drives in that tower. One was connected.  
22 One was not.

23 THE COURT: Connected to what?

24 THE WITNESS: Connected to the computer. One was  
25 sitting in the computer, it was live. And one was sitting

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Koenig - Direct

1 there, but the power wasn't connected to it, so when you  
2 brought up the machine, the computer itself didn't see that  
3 drive. It couldn't see it.

4 THE COURT: OK.

5 THE WITNESS: And that drive had --

6 THE COURT: The unconnected drive?

7 THE WITNESS: The unconnected one had some problems.  
8 The connected one looked like it was the current drive which  
9 was used up until 2010 -- I'm sorry -- 2011 or '10, I'm not  
10 sure offhand. I can check the report -- no, that's the second  
11 one.

12 THE COURT: This is the new report.

13 THE WITNESS: This is the new one?

14 THE COURT: Yes. The connected drive, what period of  
15 time was the connected drive in use?

16 THE WITNESS: If I remember from memory, 2008 to 2010.

17 THE COURT: OK.

18 THE WITNESS: That didn't even have an AOL client, an  
19 AOL mail on that one.

20 THE COURT: So that had nothing to do with AOL.

21 THE WITNESS: The second one, which was from 2005 to  
22 2008, which was disconnected right now --

23 THE COURT: You connected it.

24 THE WITNESS: I was able to then connect. I made an  
25 image, looked at it. I was able to find AOL. There was

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1 actually two versions; there was Version 6 and Version 9 of AOL  
2 on that computer.

3 THE COURT: OK.

4 Q. What could you tell about whether the AOL backups were in  
5 sync on that hard drive?

6 A. On that computer, they were in sync.

7 Q. They were where they were supposed to be?

8 A. One was like 5:00, and one was like 6 something. The  
9 backup was prior to the actual one.

10 Q. When you analyzed that hard drive, were you able to  
11 determine -- first of all, what time period did the AOL folders  
12 cover?

13 A. September 2009 -- I'm sorry, September 2005 through  
14 September 2008.

15 Q. Did you review the Defense Exhibits 102 and 103 and attempt  
16 to determine whether any of those emails were in those personal  
17 file cabinets?

18 A. I checked in those personal file cabinets. There was a Z.  
19 Jereis file cabinet, and they were not in there.

20 Q. Were any of those emails -- were there other Z. Jereis  
21 emails during that time period?

22 A. Yes, sir.

23 MR. CARBONE: That's the short version of --

24 MR. HALPERIN: I'm sorry, your Honor.

25 (Pause)

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Koenig - Direct

1 Q. Did you make any effort to determine whether there were any  
2 emails or documents deleted from Mr. Jereis's hard drive?

3 A. There was approximately 4,300 deleted emails I was able to  
4 recover, but these emails weren't there.

5 THE COURT: Among the deleted or the undeleted?

6 THE WITNESS: Yes, your Honor. Yes, your Honor.

7 MR. CARBONE: Judge, that's the short version.

8 THE COURT: So, if I can summarize here. The

9 Detective Koenig is able to tell us from looking at  
10 Ms. Annabi's drive that the drive itself appears -- first of  
11 all, that somebody accessed the drive in 2008 in a  
12 non-forensically correct way, and, as a result, compromised his  
13 ability to do much of anything with it, but he can't tell from  
14 looking at that drive whether these particular emails were put  
15 on the drive after January 2007 when the investigation began or  
16 anything like that that would be helpful. From looking at  
17 Mr. Jereis's computer, he can say that the emails don't appear  
18 on -- were not written on that computer. Is that fair?

19 MR. CARBONE: Part two is fair. I think part one,  
20 what my understanding of what Detective Koenig is saying is  
21 that there is evidence that the file in which these emails are  
22 stored has been tampered with.

23 THE COURT: The file, but not these emails. He can't  
24 tie that to these emails. He told me that. Come on. He told  
25 me he couldn't tell me anything about these specific emails.

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Koenig - Direct

1 However, he can tell me something about these specific emails  
2 from the work he did over the weekend on the tower that was  
3 produced on Friday. And what he can tell me is that they don't  
4 appear anywhere on that tower.

5 MR. CARBONE: I definitely agree with the second part,  
6 but I just think there is a difference of whether -- I think  
7 what we are saying here is as to Ms. Annabi's hard drive, there  
8 are certainly strong indications that something happened to  
9 that file, the file that holds all the emails. He cannot say  
10 definitively that the emails within that file --

11 THE COURT: He can't even say whether it was  
12 intentional or unintentional. That's what it says in his  
13 report. I'm much more interested in what he found out over  
14 this weekend.

15 MR. HALPERIN: Judge, another thing I heard Detective  
16 Koenig say is that without a doubt he can say that something  
17 was changed on Ms. Annabi's computer in February of '07. As  
18 the Court knows, that's right around the time that she's first  
19 interviewed by the FBI.

20 THE COURT: Did you say that?

21 THE WITNESS: Yes.

22 THE COURT: Explain that.

23 THE WITNESS: The dates went out of sync. That's when  
24 I see the dates going out of sync. Until then, all the dates  
25 are on time; everything is good. That's when the dates go out

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C3jQann6 Koenig - Direct

1 of sync at that period of time. That's when the files are  
2 deleted; that's for sure.

3 MR. HALPERIN: I think Mr. Koenig said -- and,  
4 Detective, correct me if I'm wrong -- that around the time of  
5 February 20 and February 21 of 2007, again, within weeks of  
6 Ms. Annabi's FBI interviews, you can say that 7,000 files were  
7 deleted from Ms. Annabi's hard drive, correct?

8 THE WITNESS: 6,000.

9 MR. HALPERIN: 6,000, excuse me.

10 THE COURT: It looks like 6,000 to me. Paragraph D of  
11 the report.

12 MR. HALPERIN: In addition, you said another thing  
13 that raised concerns for you, Detective Koenig, is that usually  
14 you would find remnants of defense emails.

15 THE COURT: I've heard -- I've heard that--

16 MR. HALPERIN: OK. I think the key point I just  
17 wanted to make, Judge, I think Detective Koenig certainly said  
18 that something was changed on the computer with respect to that  
19 drawer that holds the emails in question in February of '07 and  
20 he is very certain about that fact.

21 THE COURT: Mr. Aronwald?

22 CROSS-EXAMINATION

23 BY MR. ARONWALD:

24 Q. You said that somebody analyzed the computer in April of  
25 2008?

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C3jQann6

Koenig - Cross

1 A. Yes, sir.

2 Q. You were present, were you not, Detective Koenig, when  
3 Royal Frasier was interviewed by the United States Attorney's  
4 office, correct?

5 A. Yes.

6 Q. Mr. Frasier is the one that told you that he had removed  
7 the emails from the hard drive; he was the one that analyzed  
8 it, correct?

9 A. Yes, sir.

10 Q. He told you that he did that on April 18 of 2008, didn't  
11 he?

12 A. Yes.

13 Q. So basically when you have emails, at the bottom of the  
14 emails appears a date, April 18 of 2008, correct?

15 A. Yes, sir.

16 Q. That date was put on there because that's the date that  
17 they were removed off of a hard drive, correct?

18 A. Yes, sir. But that changes the last access date. That  
19 still -- that took away -- before he did that, that was the  
20 last access date. It did take it away. I know. I'm not --

21 Q. Just so we're clear as to when you talk about somebody who  
22 didn't do it forensically correct, Royal Frasier was  
23 interviewed by the government --

24 A. I didn't want to blame someone by their name for what they  
25 did. That's why I was saying it that way.

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C3jQann6

Koenig - Cross

1 Q. In fact, you participated in the interview, didn't you?

2 A. That was not what he did.

3 Q. No, you participated in the interview of Royal Frasier came  
4 to the United States Attorney's office?

5 A. I was there yes.

6 Q. Now, let's talk about AOL.

7 Isn't it true that back in 2005, 2007 and 2008 --  
8 first off, AOL is a proprietary system, correct?

9 A. Yes, sir.

10 Q. And there was a time when if you were sending an email, and  
11 you were an AOL subscriber, you could only send an email to  
12 another AOL subscriber, correct?

13 A. Possibly. I am not sure about that. I don't think it  
14 was --

15 THE COURT: Mr. Aronwald, as an AOL subscriber, I can  
16 tell you that that time, if it ever existed, is so long ago  
17 that it has nothing to do with this lawsuit, OK?

18 Q. You would agree, would you not, that there was a time --

19 A. I think only possibly you were able to use AOL screen  
20 names, not emails, and screen names were able to go from one  
21 screen name to another. If you didn't have an AOL screen name,  
22 you couldn't do it. If you had an email address from  
23 inception, you could send an email.

24 Q. Isn't it true that there was a time when AOL, if you were  
25 an AOL subscriber, read emails would be saved, but sent emails

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Koenig - Cross

1 would not be saved unless the computer was specifically set up  
2 to save it, isn't that so?

3 A. That was on their side. Again, we're going back -- this is  
4 when they were saving it on their server; not on your computer.  
5 This is prior to --

6 THE COURT: There is a difference between saving it on  
7 their server and saving it on your hard drive?

8 THE WITNESS: There were a time when things were  
9 actually saved off originally, we're going far --

10 THE COURT: No. No. No. Are you saying there's a  
11 difference between saving it on an AOL server and saving it on  
12 your hard drive?

13 THE WITNESS: Yes, your Honor. There was a time --

14 THE COURT: The hard drive in your computer?

15 THE WITNESS: Right. There was a time when actually  
16 your AOL emails were actually sitting only on AOL; and then  
17 they slowly went into changing different -- as they went from  
18 versions 4, 5, 6, 7, as the versions went, things changed.

19 Q. Let me ask you this question: You prepared a report on  
20 February 1, 2011. You prepared a report concerning your  
21 analysis of the drive to the government, Ms. Annabi's hard  
22 drive, correct?

23 A. Yes, sir.

24 Q. Now, in your report, you indicate that you are unable to  
25 express an opinion as to whether the emails that we're talking

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C3jQann6 Koenig - Cross

1 about were authentic or not, right?

2 A. Yes, sir.

3 Q. And nothing has changed, isn't that so?

4 A. I also in that same report explained why I can't say for  
5 sure --

6 Q. That's not my question.

7 THE COURT: No. No. No.

8 Q. Sir, my question is this: Isn't it true that as you sit  
9 here now, you cannot express an opinion that these emails are  
10 not authentic. Isn't that so?

11 A. Yes, sir.

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

13 Q. And that's based upon everything that you've done up to  
14 today, correct?

15 A. That's based on this computer. On the other computer, I  
16 can say that it's not there because that -- it wasn't on that  
17 computer.

18 Q. There can be a lot of explanations. The fact that you  
19 didn't find it on that computer doesn't mean that the emails  
20 that we're talking about here are not authentic, isn't that so?

21 A. It doesn't mean -- but, understand, on the other hand, it  
22 doesn't mean that --it's circumstantial that this didn't happen  
23 on this computer.

24 Q. Detective Koenig, the emails could have been sent from any  
25 computer, isn't that so?

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C3jQann6

Koenig - Cross

1 A. Yes.

2 Q. OK.

3 A. And 24 this PFC could have come from another computer too.

4 Q. That's right.

5 A. But it didn't come from this computer.

6 Q. When you say it didn't come from this computer, you mean it  
7 didn't come from the computer you analyzed over the weekend?

8 A. No.

9 Q. But it could have come from any other computer.

10 A. That PFC does not fit on the first computer.

11 THE COURT: Sh, sh, sh, one at a time. If Mr. Jereis  
12 had sent the emails that don't appear on the tower from a  
13 computer in his office or from his Blackberry, would they show  
14 up nonetheless in his AOL account on the tower?15 THE WITNESS: They could not show up. It's possible  
16 they should not show up.

17 THE COURT: They could not show up.

18 THE WITNESS: Yes, your Honor.

19 THE COURT: So if he did the emails in some other  
20 location other than on that particular computer in his home,  
21 then --22 THE WITNESS: It's possible that it wouldn't show up  
23 at all.

24 THE COURT: It's possible it wouldn't show up at all.

25 Q. The bottom line is the fact that you didn't find the emails

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Koenig - Cross

1 on the tower you examined does not mean that the emails that we  
2 have been talking about are not authentic, isn't that so?

3 A. Correct.

4 MR. ARONWALD: No further questions, your Honor.

5 THE COURT: Mr. Siano. Mr. Siano doesn't want to ask  
6 any questions.

7 MR. CARBONE: Judge, I would just note for the record  
8 that Defense Exhibit 103 the email Bates number 0004 which is  
9 dated May 19, '05 --

10 THE COURT: Mr. Weiser is having a hard time hearing  
11 you, so why don't you -- don't speak to him. Just speak loudly  
12 enough so that The New York Times can hear you.

13 MR. CARBONE: That email says, "Hi. I just walked in  
14 my house." So the email on its face indicates that it was sent  
15 from his house, his home computer.

16 BY MR. ARONWALD:

17 Q. Detective Koenig, do you know how many computers Mr. Jereis  
18 had in his house in May of 2005?

19 A. No.

20 Q. Do you know if he had a Blackberry in May of 2005?

21 A. I asked -- all I know is I asked when I was turned over his  
22 computer --

23 THE COURT: I think we're talking about February of  
24 2007.

25 MR. ARONWALD: I know, Judge, but Mr. Carbone is  
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C3jQann6 Koenig - Cross

1 referring to the first email, which is May 1, 2005.

2 THE COURT: Mr. Carbone's allegation is that that was  
3 written in 2007; you know that.

4 MR. ARONWALD: The point is --

5 THE WITNESS: And I just asked what he was subpoenaed  
6 for a specific computer --

7 MR. ARONWALD: Detective, let the Judge speak.

8 THE COURT: That's been his allegation since the  
9 beginning, that's how this whole thing started.

10 MR. ARONWALD: I understand that.

11 THE WITNESS: All I said was, I asked -- when I was  
12 getting the computer, I asked was this particular computer  
13 subpoenaed or all computers, and I was told it was subpoenaed  
14 for all of his computers, which leads me to believe that there  
15 are no other computers.

16 BY MR. ARONWALD:

17 Q. Well, based upon all your experience, have you ever heard  
18 the situation where somebody basically replaces a computer and  
19 gets rid of the old one?

20 A. Yes, but in this case, this computer, this drive, which was  
21 bad was still in the computer, and it had dates that was going  
22 back to 2005 -- 2005. So this one was in that computer then.

23 Q. Detective, look, what I'm saying to you is, you don't know  
24 whether Mr. Jereis had another tower, another computer or a  
25 Blackberry in his house in 2005, correct?

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C3jQann6

Koenig - Cross

1 A. I don't know.

2 Q. OK. And you don't know whether or not the emails that he  
3 sent to Sandy Annabi were sent from some tower other than the  
4 one that was turned over to the government pursuant to a  
5 subpoena, correct?

6 A. I don't know.

7 MR. ARONWALD: No further questions.

8 MR. SIANO: May I, Judge?

9 THE COURT: You do want to ask a question.

10 CROSS-EXAMINATION

11 BY MR. SIANO:

12 Q. Detective, what do you mean by bad?

13 A. The drive?

14 Q. Yes.

15 THE COURT: The drive is bad.

16 A. It wasn't connected, and the reason I believe it wasn't  
17 second was when I tried to make the copy, you were hearing some  
18 clicking. What clicking says is that there's some issue with  
19 the drive, and that's possibly why it was disconnected.

20 Q. But you said it was bad. When you connected it up, what  
21 happened?

22 A. I was able to make a copy. I can make copies of a lot of  
23 drives. What happens basically when you get a drive, number  
24 one, let's say for argument's sake, there's a thousand sectors  
25 on it. When you get a brand new drive out of the box, there is

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Koenig - Cross

1 actually an industry number of how many sectors are acceptable  
2 to be bad; and actually when they create the drive, they mark  
3 those sectors bad and as long as it's below a certain  
4 threshold, the drive actually gets shipped as a brand new  
5 drive.

6 As we use it, there are certain sectors slowly --  
7 depending on the drive either working in/out or out/in, it's  
8 almost like if you think about the old record player or CD,  
9 some of the sectors start going bad. Now, depending where  
10 those bad are, if it's a track where it's either what I call,  
11 again, accounting information or --

12 THE COURT: Let me cut to what I think is the chase.  
13 By bad, you are not suggesting that bad is equivalent to  
14 tampered with?

15 THE WITNESS: No. No.

16 BY MR. SIANO:

17 Q. It just means you can't gain access.

18 A. Can't gain access.

19 Q. And sometimes they go bad with data on them?

20 A. Just on its own.

21 Q. But sometimes they go bad when they're blank or unwritten;  
22 sometimes they go bad after they're written on?

23 A. When they're blank and unwritten, they don't usually go bad.  
24 A hard drive itself just sitting there would not go -- this is  
25 not such an old hard drive to just say it went bad on its own.

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Koenig - Cross

1 THE COURT: Hang on a second. I told you he's my  
2 right arm and half of my left.

3 (Pause)

4 THE COURT: OK. So here is what it seems to me, it  
5 seems to me Detective Koenig, whom I have previously qualified  
6 as an expert, and who I would qualify as an expert in computer  
7 forensics again, has reached some conclusions that are relevant  
8 to this case. One of the conclusions that he has reached  
9 that's relevant to this case --maybe you should leave before I  
10 tell you what your conclusions are.

11 (Witness recessed)

12 THE DEPUTY CLERK: And the defense expert on this I  
13 don't know defense expert is in the room.

14 THE COURT: I understand that. One of the conclusions  
15 that he's reached is that files were deleted and that  
16 alterations of some sort were made to the computer in or about  
17 February of 2007 -- Ms. Annabi's computer, in or about February  
18 of 2007. OK. He cannot tie that specifically to these emails,  
19 but he can say that in or about that period of time some sort  
20 of changes were made on her hard drive. And he can further say  
21 that on Mr. Jereis's hard drive that was operated on that date,  
22 which may or may not have been Mr. Jereis's only hard drive, I  
23 don't know, except Mr. Carbone does have a good faith basis for  
24 arguing that at least some of the emails were created at the  
25 home, the emails do not appear. They are not there. A

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Koenig - Cross

1 suspicious fact. And I think I will let the detective testify  
2 to those. He can be cross-examined, and the cross-examination  
3 will almost certainly bring out what Mr. Aronwald brought out,  
4 which is that he is not capable of opining one way or another  
5 whether the emails are fake or are not fake, but I'm am going  
6 to let him testify.

7 MR. ARONWALD: Your Honor, may I just briefly? My  
8 understanding is that the government is offering Detective  
9 Koenig's testimony for the proposition that the emails are not  
10 authentic. Detective Koenig has told us that he has no opinion  
11 that these emails are not authentic based upon his analysis.

12 Now, Rule 702 in the advisory notes indicate that the  
13 trial judge in all cases of proper and expert testimony must  
14 find that it is properly grounded, well-reasoned and not  
15 speculative --

16 THE COURT: But it's not speculative. But it's not  
17 speculative.

18 MR. ARONWALD: It's also not an opinion.

19 THE DEPUTY CLERK: Close the door.

20 THE COURT: Please close the door. It is not  
21 speculative. He is not speculating, but he is offering an  
22 expert opinion that in February of 2007 there was some  
23 monkeying around with Ms. Annabi's hard drive. The government  
24 is not going to elicit from him an opinion that the emails were  
25 fake. It's going to probably ask the jury to draw an inference

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Koenig - Cross

1 from the fact that there was monkeying around with the computer  
2 at or about the time, coupled with the fact that they aren't on  
3 Mr. Jereis's computer at all, which I must say is an important  
4 fact to me.

5 MR. ARONWALD: I don't think that --

6 THE COURT: I think I've done what I'm required to do  
7 under 702. You have your objection. Hopefully, you'll never  
8 need to take it to the Circuit.

9 MR. ARONWALD: As I was going to say, I don't think  
10 Detective Koenig used the phrase monkeying around. He said  
11 something happened with the computer in February of '07, and he  
12 doesn't know what it is. But if your Honor is going to let him  
13 testify, then we'll do the cross-examination.

14 THE COURT: And I have told you, I have told you that  
15 you will have a surrebuttal if you want it. You will have a  
16 surrebuttal.

17 MR. ARONWALD: May I have a very short break, Judge?

18 THE COURT: You may. You are going to have to tailor  
19 your examination to what I think the man can fairly say.

20 MR. HALPERIN: Understood, Judge.

21 MR. CARBONE: Judge, just to be clear, our expert  
22 disclosure letter, we have never maintained that Detective  
23 Koenig will say that he can testify and give a definitive  
24 opinion about the authenticity of these emails.

25 THE COURT: I understand that, and I would like you

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C3jQann6

Koenig - Cross

1 to -- I remember Detective Koenig very well from the last time  
2 around. Like all computer geeks, Detective Koenig talks and  
3 talks and talks and talks and talks and talks and talks about  
4 stuff that no one can understand. I would hope that you can  
5 ask him crisp and tailored questions that go to the points that  
6 have come out that we've teased out over the last 45 minutes,  
7 which are few in number and have to do with the fact that in  
8 his opinion changes were made to Ms. Annabi's hard drive in or  
9 about February of 2007, though he cannot say exactly what was  
10 changed, and he has looked at Mr. Jereis's home computer  
11 terminal and hard drive that was in use on or about that date,  
12 and the emails about which Mr. Jereis has testified do not  
13 appear there. OK.

14 MR. HALPERIN: We will do that, Judge. With the  
15 Court's permission --

16 THE COURT: Very limited testimony.

17 MR. HALPERIN: We understand. With the Court's  
18 permission, we would like to have the custodian who came down  
19 from White Plains testify for five minutes first.

20 THE COURT: Fine. Fine.

21 MR. ARONWALD: Your Honor, with respect to the record  
22 custodian from White Plains, my understanding is the government  
23 is offering that records custodian to induce a document, which  
24 is a case initiation report, indicating that the United States  
25 Attorney's office opened its investigation in February of 2007.

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C3jQann6

Koenig - Cross

1 Our position is that it is irrelevant, and there is no  
2 probative value because the issue is not whether or not when  
3 the U.S. Attorney's office began its investigation. We know  
4 that the FBI was conducting an investigation as early as  
5 December 2005 because we have the call sheet where Rosemary  
6 Karaka, an agent of the FBI, called to speak to Sandy Annabi  
7 about Ridge Hill. That's in evidence.

8 THE COURT: Good. That's in evidence.

9 MR. ARONWALD: So I don't understand what the  
10 problem -- the government has already introduced a newspaper  
11 article, and we stipulated that the government began an  
12 investigation in February of '07.

13 THE COURT: Then at best it's cumulative.

14 MR. CARBONE: Judge, I think --

15 THE COURT: I'll let it in.

16 OK. Really, three minutes. Fast.

17 (Recess)

18 (Continued on next page)  
19  
20  
21  
22  
23  
24  
25

C3jQann6

Koenig - Cross

1 (Jury present)

2 THE COURT: Does the government wish to put in a  
3 rebuttal case?4 MR. CARBONE: Yes, your Honor. The government calls  
5 Yashema Davis.6 YASHEMA DAVIS,  
7 called as a witness by the Government,  
8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. CARBONE:

11 THE DEPUTY CLERK: Be seated. Tell us your full name.

12 THE WITNESS: Yashema Davis.

13 THE DEPUTY CLERK: Spell that.

14 THE WITNESS: Y-A-S-H-E-M-A; D-A-V-I-S.

15 THE COURT: You may inquire.

16 MR. CARBONE: Thank you.

17 Q. Ms. Davis, where are you employed?

18 A. The U.S. Attorney's office.

19 Q. How far did you go in school?

20 A. Bachelor's.

21 Q. Which U.S. Attorney's office do you report to?

22 A. The White Plains office.

23 Q. What are your duties?

24 THE COURT: Wait a minute. United States Attorney's  
25 office for?SOUTHERN DISTRICT REPORTERS, P.C.  
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C3jQann6

Davis - Direct

1 THE WITNESS: The Southern District of New York.

2 THE COURT: Southern District of New York. There are  
3 two offices. There's one down here; there's one in White  
4 Plains. You work in White Plains, is that correct?

5 THE WITNESS: Yes.

6 Q. What are your duties at the U.S. Attorney's office for the  
7 Southern District of New York in White Plains?

8 A. I'm a legal assistant.

9 Q. Have you become familiar with some of the records of the  
10 U.S. Attorney's office in the performance of your duties?

11 A. Yes.

12 Q. Can you tell the jury what a case initiation sheet is?

13 A. A case initiation form is a form that we use to open cases  
14 on investigation.

15 Q. Do you have a copy in front of you of Government Exhibit  
16 2100?

17 A. Yes.

18 Q. Is that a case initiation sheet?

19 A. Yes.

20 Q. Who does it relate to?

21 A. In Re: Annabi.

22 Q. Is that case initiation sheet kept in the regular course of  
23 business?

24 A. Yes.

25 Q. And it is the regular course of business of the U.S.

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C3jQann6 Davis - Direct

1 Attorney's office to make and keep such records?

2 A. Yes.

3 Q. Are they made at or near the date reflected on them?

4 A. Yes.

5 Q. Is the information on the case initiation sheet received  
6 from someone with knowledge of the transaction?

7 A. Yes.

8 MR. CARBONE: Your Honor, we offer Government Exhibit  
9 2100.

10 MR. ARONWALD: Can we see it, please?

11 (Pause)

12 MR. ARONWALD: No objection.

13 MR. SIANO: No objection.

14 THE COURT: Admitted.

15 (Government's Exhibit 2100 received in evidence)

16 MR. CARBONE: Please broadcast Government Exhibit  
17 2100. Maximize the top right-hand corner.

18 Q. Ms. Davis, can you tell the jury what date this case was  
19 initiated.

20 A. January 11, 2007.

21 Q. Mr. Turk, can you restore the document and maximize where  
22 it says defendant's subject names. Down the bottom.

23 Who is the subject of the investigation?

24 A. Sandy S. Annabi.

25 Q. Could you now, Mr. Turk, maximize the top of the document,

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C3jQann6 Davis - Direct

1 the top half.

2 Who is the initiating agency?

3 A. The Federal Bureau of Investigation.

4 Q. And the agent?

5 A. Michael A. Mazzuca.

6 MR. CARBONE: No further questions. Thank you very  
7 much.

8 CROSS-EXAMINATION

9 BY MR. ARONWALD:

10 THE COURT: Mr. Aronwald.

11 Q. So, if I understand your testimony correctly, the case  
12 initiation report or case initiation form indicates the date  
13 that an investigation is opened by the United States Attorney's  
14 office, correct?

15 A. Correct.

16 Q. Do you also keep records as to when investigations are  
17 started by the Federal Bureau of Investigation?

18 A. No.

19 Q. OK. You have nothing to do with that process, correct?

20 A. Correct.

21 Q. Do you know a woman by the name of Rosemary Karaka?

22 A. I do not.

23 Q. You never met a Special Agent Rosemary Karaka of the FBI?

24 A. No.

25 Q. Based upon the fact that you're a legal assistant -- how

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C3jQann6

Davis - Cross

1 long have you been working at the U.S. Attorney's office?

2 A. Two years.

3 Q. Two years. Did you have anything at all to do with filling  
4 out this particular exhibit?

5 A. I did not.

6 Q. In the two years that you've been working at the U.S.  
7 Attorney's office, you've come to know that investigations are  
8 brought to the United States Attorney's office by an  
9 investigating agency, correct?

10 A. Can you repeat the question, please?

11 Q. You are familiar with the fact that the way that  
12 investigations are initiated by the United States Attorney's  
13 office in the normal course of business is that the  
14 investigating agency will bring the investigation to the United  
15 States Attorney's office, correct?

16 A. I'm not familiar with that.

17 Q. So you don't know who brought this investigation to the  
18 United States Attorney's office, correct?

19 A. I don't.

20 Q. Well, does the fact that the report indicates that the  
21 agent assigned to the investigation is from the FBI, does that  
22 in any way assist you as to whether or not in the normal course  
23 of business the FBI conducts an investigation and then brings  
24 it to the United States Attorney's office?

25 A. No, it does not.

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C3jQann6

Davis - Cross

1 Q. So, as you sit here now, you don't know whether as of  
2 December 12, 2005, a special agent of the FBI by the name of  
3 Rosemary Karaka was conducting an investigation of Ridge Hill,  
4 do you?

5 A. I don't.

6 Q. And you don't know whether or not on December 12, 2005 in  
7 connection with that investigation, Special Agent Rosemary  
8 Karaka called Yonkers City Hall to speak to city councilwoman  
9 Sandy Annabi about Ridge Hill, do you?

10 A. I don't.

11 MR. ARONWALD: No further questions.

12 MR. SIANO: No questions, your Honor.

13 MR. CARBONE: Nothing further. Thank you.

14 THE COURT: Thank you. You may step down.

15 (Witness excused)

16 THE COURT: Call your next witness, please.

17 MR. CARBONE: Government calls Detective Shlomo

18 Koenig.

19 SHLOMO KOENIG,

20 called as a witness by the Government,

21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. CARBONE:

24 THE DEPUTY CLERK: Tell us your full name.

25 THE WITNESS: Shlomo, S-H-L-O-M-O. Koenig,

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C3jQann6 Koenig - Direct

1 K-O-E-N-I-G.

2 THE COURT: You may inquire.

3 MR. CARBONE: Thank you.

4 Q. Where do you work, sir?

5 A. I'm a detective for the Rockland County sheriff's  
6 Department, computer crime units.

7 Q. How long have you worked for the Rockland County Sheriff's  
8 Department?

9 A. '96.

10 Q. What is your rank?

11 A. I'm a detective.

12 Q. How long have you actually been a detective?

13 A. Seven years.

14 Q. Are you assigned to any particular unit?

15 A. I'm assigned to the computer crime task force in the  
16 county. I'm also assigned to both the Secret Service and FBI  
17 task force for computer crimes.

18 Q. What are your duties and responsibilities with the computer  
19 crimes task force?

20 A. Investigating computer crimes and doing forensics basically  
21 on anything that's digital. We do computers, cell phones,  
22 video recorders, anything we digitally can analyze.

23 Q. How long have you been a member of the task force?

24 A. Secret Service, '98 -- '99, and FBI 2006.

25 Q. Approximately how many investigations have you been

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C3jQann6

Koenig - Direct

1 involved in?

2 A. Hundreds.

3 Q. Do you have any training in computer forensic examinations  
4 and analysis?

5 A. Yes. I've been both trained both in private sector and  
6 government. The government side I've been through Secret  
7 Service, FBI and national white collar crime. On the private  
8 sector, I've been through SANS training, Microsoft.

9 Q. What is SANS training?

10 A. SANS is a known computer forensics. They are affiliated, I  
11 think, with Maryland College. It's a private sector training  
12 and I've been trained in both Linux, Unix, Microsoft, Apple,  
13 Macs. And I also have certification both from the private  
14 sector, government. And also some software specific, for  
15 example, like EnCase, which is a program I'm certified.  
16 AccessData is a program used, I'm certified. So basically I  
17 have a certification for the tools and a certification for  
18 methods.

19 Q. Do you have any other certifications?

20 A. Yes. CFCE, certified forensic computer examiner. I have  
21 an ENCE, which is EnCase's. I have CEH, which is certified  
22 hacker. I have CISSP, which is certified information security  
23 professional. CISM, certified information systems manager. I  
24 have multiple certifications.

25 Q. Do you also serve as a trainer to other people in the field

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C3jQann6 Koenig - Direct

1 of computer forensics?

2 A. Yes. I have trained multiple classes on computer forensics  
3 and investigation.

4 Q. Approximately how many times have you performed forensic  
5 examinations on a computer?

6 A. Hundreds.

7 Q. Have you testified in court before as an expert in computer  
8 forensic examinations?

9 A. Yes, numerous times.

10 Q. In what courts?

11 A. Both state, federal and military.

12 MR. CARBONE: Your Honor, the government offers  
13 Detective Koenig as an expert in computer forensic examinations  
14 and computer evidence recovery.

15 THE COURT: Any voir dire?

16 MR. ARONWALD: No objection.

17 MR. SIANO: No objection.

18 THE COURT: OK. So we have here an expert witness.

19 An expert witness is a witness who by virtue of his training  
20 and experience in a specialized field of knowledge understands  
21 things that are beyond the ken of most of us, and he is allowed  
22 to testify about those things, and explain them to us, and in  
23 appropriate circumstances to provide us with what's called  
24 opinion testimony.

25 An expert is no different than any other witness. I

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1 don't like the word expert because it suggests that you need to  
2 believe him or accept what he has to say. You don't. He's  
3 just like any other witness. You can choose to believe him or  
4 not believe him. But if you find his testimony to be credible  
5 and helpful to you, then you may consider it as you evaluate,  
6 apparently, some technical computer matters that are going to  
7 be placed before you by the lawyers in the course of the  
8 argument that they are going to begin to deliver tomorrow.

9 OK, Mr. Carbone.

10 BY MR. CARBONE:

11 Q. Detective Koenig, did there come a point in time where you  
12 were asked to review certain items of evidence in connection  
13 with this case?

14 A. Yes, sir.

15 Q. What generally did you do?

16 A. I was a hard drive -- I was given a hard drive by the U.S.  
17 Attorney's office. It was Sandy Annabi's hard drive. I made  
18 an image of that hard drive, and in order to not contaminate or  
19 to not make any changes to the drive, we make a copy of the  
20 drive, and then we perform our analysis on a copy, so the  
21 original nothing gets changed. There's dates and times.  
22 There's different files that basically keep track of files on a  
23 computer, and we want to preserve all those dates and times, so  
24 I made an image and then analyze the image.

25 Q. For the record, is that hard drive in front of you, and is

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C3jQann6 Koenig - Direct  
1 it marked as Government Exhibit 1550?

2 A. Yes, sir.

3 Q. Is that the copy of the hard drive?

4 A. That's a copy of the hard drive. We had to return the  
5 originals. This is a copy of the hard drive.

6 MR. CARBONE: Your Honor, we offer Government Exhibit  
7 1550 in evidence.

8 MR. ARONWALD: No objection.

9 MR. SIANO: No objection.

10 THE COURT: Admitted.

11 (Government's Exhibit 1550 received in evidence)

12 Q. Can you tell what kind of computer that hard drive came  
13 from?

14 A. The original hard drive; not this, the original --

15 Q. I'm sorry, the original.

16 A. It came from a laptop. Well, a laptop-type drive. You can  
17 technically have a laptop drive in a large computer. But that  
18 was a laptop-type hard drive.

19 Q. What were you asked to do in connection with that hard  
20 drive?

21 A. I was asked to locate emails that were provided by the  
22 defense, to locate those emails on that hard drive.

23 Q. For the record, those are the emails your Honor marked as  
24 Defense Exhibits 102 and 103.

25 Did there come a point in time then that you actually

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1 performed a forensic examination on that hard drive?

2 A. Yes, I did.

3 Q. Can you explain to the jury what steps you take when you  
4 perform a forensic examination of a hard drive?

5 A. I make a copy of a hard drive, and then we'll connect the  
6 hard drive to our forensic computers with some mechanism of  
7 blocking any writes to it. There are multiple ways, depending  
8 on the type of drive, the type of operating system. If it's  
9 Windows, Linux or Apple or Mac, but we use some method of  
10 preventing any writes that are written. By default when you  
11 connect a hard drive to a computer, especially in Windows, but  
12 even other operating system, they make certain writes to the  
13 hard drive. They'll put a temporary file on there what's  
14 called a temp file. Some will actually put what's called a  
15 recycle bin where if there is something deleted, it will go in  
16 there.

17 When we do it forensically, we connect it in a way  
18 either through hardware, software, some mechanism that will  
19 prevent writes to be written to the hard drive. And then we  
20 will analyze the drive itself and artifacts.

21 In this particular case, we were looking to authentic  
22 an email. So we're looking at emails. These emails were AOL  
23 emails that I was provided with. And, again, depending on what  
24 it is, different files are saved different ways on computers.

25 Q. Let me just interrupt you if I can. How are AOL emails

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1 stored on a computer hard drive?

2 A. AOL email are stored --

3 MR. ARONWALD: As of what time, your Honor?

4 Q. As of 2005 and -- let me rephrase the question. How were  
5 the AOL emails stored on this hard drive?

6 A. These emails on this hard drive were stored in a -- what  
7 you would call a cabinet. All the emails from AOL on this  
8 computer will go into one folder. Think of it as a drawer.  
9 When you pull out the drawer, there are multiple hanging  
10 folders. The emails just get put into it.

11 Now, generally computer files have -- they have the  
12 file itself, which is the data, and then they have what I call  
13 control information, which is like outside the data. Think  
14 about it, again, back to a drawer. There is data inside the  
15 drawer, and outside the drawer there is information -- the name  
16 of the file, the size of the file, the date of the file, the  
17 date when it's created, the date when it's last accessed, the  
18 date when it's last modified. There's multiple dates on a  
19 file.

20 In this case, all the emails go into one file, so all  
21 the dates, the control dates are only on the container or the  
22 drawer, and all the emails just get put into this one big  
23 folder. If you delete an email, it still stays in that folder  
24 until at some point where there is no more place in that folder  
25 and it needs it. But generally it stays there for a long time

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1 still in that folder, but the control and dates and time stamps  
2 of access, which is the last time you actually accessed that  
3 file or modification, made changes, creation, when it's  
4 created, is all on the container itself, not on the emails that  
5 are inside.

6 Q. So then the emails inside the folder are not their own  
7 separate files?

8 A. No, it's all one big file that all the emails sit inside.

9 Q. So if you wanted to change the content of an email, would  
10 you have to change the file?

11 A. You would have to change -- by changing the emails you are  
12 changing the file. Because there is no separate files. So  
13 everything is in that one file. Any changes that are made to  
14 that file makes changes to the big file or the drawer we would  
15 call it.

16 THE COURT: Do you mean like something in the drawer  
17 gets changed?

18 THE WITNESS: Yes, your Honor. You add an email,  
19 delete an email, take out an email, anything that -- the  
20 changes and the dates and times will all be on the file; not on  
21 the email itself.

22 Q. Did you analyze that hard drive to determine whether there  
23 was an AOL user account for Sandy Annabi at AOL.com?

24 A. Yes, there was.

25 Q. And can you tell the jury what you found?

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1 A. I found there was both a Sandy Annabi cabinet or drawer,  
2 and there was also a backup file.

3 And one of the things that AOL has where when you  
4 start up AOL, it will -- if it's configured, which most AOLs  
5 are configured that way, it will make a backup. When you start  
6 up your AOL and you start using it first thing this morning, it  
7 will take everything that's sitting in there till now, make a  
8 backup of that file, put it in a backup directory, and then you  
9 will use the current email or the current folder until whenever  
10 you shut down the computer again.

11 Again, this is for this particular version. There was  
12 an older version of AOL where things work different. But the  
13 version that was on this computer, that's how it worked. So if  
14 you, for example, went on to the computer and started up at  
15 10:00 in the morning, the backup would be created at 10:00, and  
16 then if I worked all day and first shut my machine down at 6:00  
17 at night, the second file, which was the current file, would  
18 have the last date, would be 6:00 at night, where the backup  
19 file would have been created in the morning when I started up  
20 the file; or if I have the machine on for three days, it would  
21 be a date when it was started up.

22 (Continued on next page)  
23  
24  
25

C3JUANN7

Koenig - direct

1 Q. So which file should be dated the later date?

2 A. The more current is the one that you are using the backup  
3 is the one that is the older one.

4 Q. What are the different dates associated with a computer?

5 A. There is multiple days and there are actually multiple  
6 dates for each one. There is a date when the file gets  
7 created, and that is generally on a type of file like this  
8 would be when AOL is installed. It will create -- an AOL  
9 installed creates a user; it creates this cabinet or this  
10 folder or file for this particular user.

11 Then there is a date when last written. If I write  
12 something to the file, add something to it, it will change the  
13 last written date.

14 Then there is something that is called an access date.  
15 If I go in there and look at it, anything that I do to it, that  
16 will be the last access date.

17 Then there is a modify date on the window machine and  
18 that's where I make any changes to the dates and times. So it  
19 is sort of not the file itself; it is the information about the  
20 file that gets changed.

21 And depending, for example, where this makes a  
22 difference, when you go, you either copy a file on the same  
23 machine, and in that case the machine says, I know this file  
24 already, so it is not a new creation, it is only a modification  
25 where you take a machine from one computer to the other,

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C3JUANN7 Koenig - direct

1 sometimes it sees if it is the same volume or not, it sees it  
2 is a new file -- it thinks it is a new file, so it creates, it  
3 will change that date.

4 That last access date is the date that anything was  
5 done to that computer and that's your last check and balance.  
6 That was the last thing that was done to that file and, again,  
7 those are the dates that are on the folder, the cabinet which  
8 the computer uses. Those are not the dates of the emails  
9 inside. The emails inside, when you send an email, those dates  
10 are not really controlled by the computer. The computer  
11 doesn't keep track of those dates. It only keeps track of the  
12 folder itself.

13 Q. Can you tell the jury what you found about the date of the  
14 AOL backup file?

15 A. In this case, the AOL backup was a March 20-something and  
16 the actual AOL current folder was a February 20-something which  
17 was the folder that had the actual emails was in the prior on  
18 this particular use. There were multiple users on this  
19 computer. But this one Sandy Annabi, that folder was -- the  
20 current one was older than the backup. On this computer,  
21 although the others ones didn't have it that way, it really  
22 shouldn't be that way. The current one should be the one that  
23 is being used.

24 Q. You said February and March of what year?

25 A. 2007.

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C3JUANN7

Koenig - direct

1 Q. What relevance did that fact have to your analysis?

2 A. That showed me that there is something about this folder  
3 that is not the way that it is supposed to be. The last access  
4 date was 2008, but that was at some point analyzed by the  
5 defense and it wasn't done through a forensics person so that  
6 the last date was actually changed to 2008 when that was  
7 analyzed. So that last date which tells you what the last  
8 thing is, in this case, was contaminated, so I couldn't have  
9 the last date to actually see when it was -- as a user, when  
10 the user looked at this file the last time.

11 Q. I think we need to explain that a little more. Tell the  
12 jury what happens when you access the hard drive and you don't  
13 do it forensically.

14 A. If I were to access, if I were to take this drive right now  
15 and access it, all the last access dates would be today's date.  
16 So that is not a date -- when there is multiple dates, it  
17 doesn't add another date, another date, another date. The last  
18 access date is only the last date. So if I look at it today,  
19 it is today's date. If I take the same hard drive and look at  
20 it tomorrow non-forensically, it will be tomorrow's date. When  
21 you look at that date non-forensically, you lose the value of  
22 that date because it gives you the last date of today and you  
23 don't have any way of getting back that date once it has been  
24 accessed today. So in this case, I didn't have the last access  
25 date because it was accessed when it was analyzed.

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C3JUANN7 Koenig - direct

1 Q. Do you recall approximately when that occurred?

2 A. April of 2008.

3 Q. Getting back to 2007, what were you able to determine about  
4 the hard drive as far as the dates and logs?

5 A. There were multiple logs on the Windows machine that had  
6 both Windows and AOL which keeps different logs for different  
7 reasons, but it logs times and dates.

8 And generally these logs will all be in chronological  
9 order; Every line will be the next date, next date, next date.  
10 I found multiple files on this computer where the dates between  
11 that period of time, between February and March of 2007 were  
12 out of sync. So it was going from February to March back to  
13 February back to March. So it was basically, the dates were  
14 changing and that shows, based on the logs and based on Window  
15 logs and AOL logs, that the dates on that computer at some  
16 point in that time was changed to a prior date.

17 Q. What are restore dates?

18 A. Windows also has an option where it has what is called  
19 restore points so that as you use your computer, you install a  
20 program that makes some problems, you can always go back to a  
21 restore point and click on that restore point and bring back  
22 your computer to a state that it was before. It saves it in  
23 what is called RP, restore points with numbers so, generally,  
24 every day's restore point will have the next number. Or if you  
25 are doing it every week, depending on how your computer is

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C3JUANN7 Koenig - direct

1 doing it, but for argument's sake, if I made a restore point  
2 today, so that I could have it if I needed it, today's would be  
3 number 279. Tomorrows would be 280. The next time would be  
4 281.

5 In this case, the numbers were going in chronological  
6 order, but the times and dates for those files were not. So  
7 279 would have a March and 280 could have -- I'm sorry, 279  
8 could have a February, and 280 could have a March and then 281  
9 could have back a February so the dates were not in  
10 chronological order.

11 Also, AOL had some legacy issues when they used to  
12 bill for the usage. They have multiple files that they keep on  
13 there which keeps track of when you are on and when you are  
14 off. Again, it is just entries in this one big file. Log on,  
15 log off or start or network connection, depending on which log  
16 and its chronological order.

17 Again, these computers, those dates were February  
18 March, February, March. So all of these files were showing,  
19 again, dates computer files, the operating system files, the  
20 dates were not in sync.

21 There are also events log. Basically, Windows keeps  
22 track of events, and there is what is called an application  
23 event that keeps track of different applications that you  
24 use -- you use your Word, your virus protection, different  
25 applications. And there is also system events, what the system

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C3JUANN7

Koenig - direct

1 does. Again, these events get all entered in a chronological  
2 order. In this case, their events logs were not in  
3 chronological order. There were actually entries in the event  
4 log that at the time was out of sync. So it says, I know I am  
5 supposed to be tomorrow, but I am today. But there were  
6 entries in these logs saying that they were out of sync.  
7 Q. Were you able to determine whether the text reflecting the  
8 emails that have been introduced into evidence here, Defense  
9 Exhibits 101, 102, 103 and 105 were present on this hard drive?  
10 A. They were in the cabinet itself. They were in this folder,  
11 but I didn't find it anywhere else on the drive.  
12 Q. Did you actually make copies of some of the event logs from  
13 the hard drives?  
14 A. Yes, I did.  
15 Q. Would they assist you in explaining the timing of the  
16 events for the jury?  
17 A. Yes, sir.  
18 Q. Detective Koenig, I want to show you Government Exhibits  
19 2101, 2102, 2103 and 2104 and ask you if you recognize those?  
20 MR. SIANO: Could we see those?  
21 MR. CARBONE: I provided you copies this morning.  
22 A. These are excerpts of different logs which I just discussed  
23 before -- event logs, AOL logs, Windows logs on these machines  
24 and these are just excerpts.  
25 MR. CARBONE: Government offers 2101 through 2104 in  
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1 evidence.

2 MR. ARONWALD: No objection, your Honor.

3 MR. SIANO: No objection.

4 THE COURT: Admitted.

5 (Government Exhibits 2101 through 2104 received in  
6 evidence).

7 BY MR. CARBONE:

8 Q. Detective Koenig, would you please take a look at  
9 Government Exhibit 2101?

10 A. That is an excerpt from what is called a sys event log.

11 MR. CARBONE: I would ask Mr. Turk to broadcast that.

12 THE COURT: That is helpful.

13 MR. CARBONE: If you would maximize the bottom third  
14 of the document.

15 Q. What information is contained in Government Exhibit 2101?

16 A. This is a system log and this is showing where an event log  
17 is being started and stopped where you start a computer and  
18 reboot. Generally, the dates should go in chronological order.  
19 You see over here it goes 2/21, 3/21, 3/21, 3/22, 2/22, 2/22,  
20 2/22. So it is out of sync, the dates.

21 Q. Now, let's turn to the next page.

22 A. Again over here it goes out 2/22, 2/23 and then it goes  
23 back to 3/06, March 6. So this is where this log is showing  
24 that the computer's date was out of sync.

25 Q. Please look at Government Exhibit 2102. What is 2102?

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1 A. That is the application event log. As you can see  
2 semantic, antivirus, computer system -- these are different  
3 applications that are occurring on the computer. Again, it  
4 starts off chronological -- 2/19, 2/20/07 -- and so son.

5 MR. CARBONE: Mr. Turk, could you turn to page 3,  
6 please, and maximize the middle page.

7 THE WITNESS: This is where again, it goes to 3/22 and  
8 then it goes back to 222.

9 MR. CARBONE: And turn to page 7, please, and maximize  
10 the bottom of the page, the bottom third.

11 BY MR. CARBONE:

12 Q. How do the dates change there?

13 A. Again, over here it goes from 2/24 and then it goes back to  
14 3/06.

15 Q. Now, did you also copy the AOL logs?

16 A. Yes, sir.

17 MR. CARBONE: Mr. Turk, please broadcast 2103.

18 Q. What information is contained on AOL log?

19 A. This is a client user log. Again, it is a legacy, when  
20 they were looking for times and how long people were using  
21 their computers. Again, it just has a log on, log off and it  
22 has times in chronological order.

23 MR. CARBONE: Mr. Turk, please turn to page 11.

24 A. Again, it is going down from 2/15, 2/16, 2/18, 2/19, 2/19  
25 over here.

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Koenig - direct

1 Q. Turn to page 12.

2 A. 2/20, 3/21, 3/22, 2/23, 2/24, 3/06.

3 Q. What relevance do these change dates have to your analysis?

4 A. Again, the 3/06 is after the 3/24 where, again, this  
5 computer, technically, if the last date this was on, it would  
6 be 3/24. It would be on the bottom. So this being out of sync  
7 and having 3/06 as the last date, it was possibly the last date  
8 it was on. But 3/22 is when it was possibly backdated to.

9 What it does say for sure, the dates were out of sync  
10 which is not the norm and, again, this is the only time on this  
11 computer -- the logs before, the first part of these logs,  
12 everything is in sync.

13 MR. CARBONE: Mr. Turk, please broadcast 2104 and page  
14 4.

15 THE WITNESS: This is what is called the billing user  
16 log. Again AOL used to use this for willing. Again, it is  
17 just a log -- on and off times, chronological order.

18 Again, this one starts like in 2006 and goes through  
19 2007, So these logs cover a pretty nice area of time.

20 Q. Let's turn to page 10.

21 A. Same thing, 2/21, 3/22, then 2/23, 2/24, back to 3/06. So,  
22 again, dates are not in sync the way they should be.

23 Q. What if anything did your analysis of this hard drive  
24 reveal about whether any files had been deleted?

25 A. On 2/20, 2/22 --

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Koenig - direct

1 Q. What year?

2 A. 2007, approximately 6,000 emails were deleted -- I'm  
3 sorry -- 6,000 files, not emails, 6,000 files were deleted at  
4 that time.

5 Q. What were the dates, again?

6 A. 2/20 and 2/22, including some Windows restore points files  
7 not again common or easily deleted. If you have too many  
8 sometimes it can overwrite itself. In this case, there wasn't  
9 too many, but I cannot say it was deleted from the Windows file  
10 system, but they were also part of the deletion which was  
11 surprising.

12 Q. Are you familiar with the term "remnants"?

13 A. Yes. Remnants is basically, when we go back to a file, a  
14 file is data and it has information about the data.

15 Generally when you delete a file, pieces of the file  
16 stay. When you access a file -- there are different programs  
17 that are utilized to bring up the file to look at, if it is a  
18 Windows Explorer, it is a web page, it is an email, you are  
19 using an AOL client -- so there is software that actually  
20 brings up the email, takes it from the file, presents it to the  
21 user. There are temporary files created with some operating  
22 systems. There are different ways how it presents the file to  
23 you in order to get you to see the file the fast as possible  
24 utilize the most amount of memory and so keep the machine  
25 going, so when you shut the file down or delete the file, there

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1 are almost always some kind of remnants.

2 I used the example of my kids eating. There are some  
3 kinds of remnants of a file that stays somewhere on a computer,  
4 some pieces of it.

5 Q. Is it true that when you open an email or review an email  
6 on the computer, even if you delete it, there are remnants that  
7 stay scattered throughout the hard drive typically?

8 A. Should be there, because once it is opened, the software  
9 has opened there should be some temporary file, but we are back  
10 to some remnants of the email would stay on a computer where it  
11 was actually opened.

12 Q. Were you able or did you conduct a search of this hard  
13 drive to determine whether there were any remnants of Defense  
14 Exhibits 101, 102, 103 and 105?

15 A. Yes, I did.

16 Q. And did you find any remnants at all?

17 A. No.

18 Q. Did you search the contents of the AOL file to determine  
19 whether there had been any responses written to the Defense  
20 Exhibits 101, 102, 103 and 105?

21 A. Yes.

22 Q. Were you able to find any responses by Ms. Annabi to those  
23 emails?

24 A. No responses that weren't parts of the exhibits. A few of  
25 them have the response in the email, but there wasn't any

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1 responses that weren't part of the emails that we were  
2 presented with.

3 Q. Can you tell us during what period of time this hard drive  
4 was in use?

5 A. It was installed in 2009 -- I'm sorry -- January 2005. And  
6 the last date was the March 2007 on this computer, until the  
7 April dates when it was analyzed.

8 Q. Detective Koenig, I am going to ask you whether you have  
9 ever seen Government Exhibit 2105 before?

10 A. Yesterday.

11 Q. I'm sorry. Yesterday is the first time you saw it?

12 A. Yes, sir.

13 Q. What was contained inside that tower?

14 A. In that tower there were two hard drives.

15 Q. Did you remove those hard drives and analyze them, attempt  
16 to analyze them?

17 A. Yes, sir.

18 Q. What were you asked to do?

19 A. I was asked to find the same emails on this drive that I  
20 was asked to find on the other drive.

21 MR. CARBONE: For the record, that is 2105 which is  
22 the tower produced by Mr. Jereis responsive to the trial  
23 subpoena.

24 Q. Can you tell the jury during what time period the hard  
25 drives were in use?

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C3JUANN7 Koenig - direct

1 A. There were two hard drives. One hard drive was connected  
2 and one was there, but it wasn't connected.

3 The one that was connected was approximately from 2008  
4 to somewhere, I think, the end of 2010. I don't remember  
5 exactly off my head. That was the one that was connected to  
6 the computer where it was, the one that was being used by that  
7 tower right now.

8 Then there was a drawer which had another drive in it,  
9 but there was no power connected so that was not the connected  
10 drive and that was from 2005 through 2008.

11 Q. Do you have those two hard drives in front of you?

12 A. Yes, sir. This is the one that was connected.

13 Q. When you say this, what is the exhibit number?

14 A. It is 2105A. And 2105B is the one that was not connected,  
15 had no power to it, so it was in the computer but it wasn't  
16 connected. You boot up the computer, you shouldn't see this  
17 drive.

18 Q. Did you conduct an analysis of both of those drives?

19 A. Yes, I did both. The first one was current. There was no  
20 AOL client on it or cabinet that we discussed before with the  
21 emails saved on that.

22 The second one, which wasn't connected, did have it.  
23 It actually had two versions of AOL, one was 06 and one 09 --  
24 Those are the version numbers, not years -- Version 9, Version  
25 6. They had filing cabinets which is basically the drawer for

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C3JUANN7

Koenig - direct

- 1 user Z Jereis.  
2 Q. At aol.com?  
3 A. It would be an AOL account.  
4 Q. Can you identify just for the record which one you  
5 conducted the analysis on?  
6 A. 2105B is the one that was not connected that had the AOL  
7 cabinet or the AOL folder file, if you want to call it the file  
8 where the emails are, on this drive, 2105B.  
9 Q. What kind of hard drive is that?  
10 A. That is a Hitachi Deskstar.  
11 Q. Can you tell during what time period that hard drive was in  
12 use?  
13 A. Not from here, but when I looked at it?  
14 Q. Yes.  
15 A. It was from 2005 through 2008.  
16 Q. What if anything did you find in those personal file  
17 cabinets?  
18 A. I didn't find these emails.  
19 Q. When you say "these emails," did you look specifically for  
20 the emails with the text as reflected in Defense Exhibits 101,  
21 102, 103 and 105?  
22 A. Yes, sir.  
23 Q. Can you tell the jury how you did that, conducted your  
24 search?  
25 A. Basically, the way AOL writes this file, it has a couple of

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C3JUANN7

Koenig - direct

1 pieces. Again, if we go back to the folder itself, which is  
2 the drawer and it has the times and dates outside. Then the  
3 folder itself, it has a header, AOL DM0 100. That's basically  
4 where the header of the file starts, and then as you put in  
5 emails, they fit into this folder.

6 Now, if you look at an email, there is a generally a  
7 to, a from, a date apart. In this particular version of AOL,  
8 what it does is, it saves the to, from and date in plain text.  
9 If you look at it, then you will see it.

10 Then the text of the data itself is compressed. It is  
11 not really encrypted; it is compressed. If you look at it  
12 itself, you won't see it. So you have to uncompress. So you  
13 have to take the text area, uncompress it. And then you  
14 actually see the message inside.

15 And in this case I searched both for the header part  
16 for those emails and then uncompressed the text part and  
17 searched the text part for words that were in these emails.

18 Q. You found none of the emails?

19 A. None.

20 Q. Did you find any other emails during this time period in  
21 which these emails were dated, 2005 and 2006?

22 A. There were emails starting from September of 2005.

23 Q. What if anything were you able to determine about the time  
24 stamps that you talked about with Ms. Annabi's hard drive?

25 A. The backup and the file were in correct sequence on these

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Koenig - direct

1 files.

2 THE COURT: Were in the correct sequence.

3 THE WITNESS: In the correct.

4 THE COURT: The word is not "incorrect"?

5 THE WITNESS: In the correct. In other words, the  
6 backup was in the past and the current one was more current.

7 BY MR. CARBONE:

8 Q. Just to be clear, Ms. Annabi's hard drive, the date  
9 sequences that were out of sync were in February and March of  
10 2007?

11 A. Yes, sir.

12 Q. Did you search for deleted emails on Mr. Jereis' hard  
13 drive?14 A. Yes. I recovered approximately 4300 emails but none of  
15 these.

16 Q. None of these were within the 4300 recovered?

17 A. Yes, sir.

18 MR. CARBONE: May I have a moment, your Honor?

19 THE COURT: Yes.

20 Q. When I say none of defense exhibits, I am talking about  
21 Defense Exhibits 101, 102, 103 and 105?

22 A. Yes, sir.

23 MR. CARBONE: No further questions.

24 THE COURT: We are going to break for the day.

25 I am going to see you tomorrow morning at 9:30.

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Koenig - direct

1 Don't discuss the case. Keep an open mind.

2

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(Continued on next page)

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Koenig - direct

1 (Jury not present)

2 THE COURT: I have to do a sentencing, guys.

3 Everyone needs to understand, we are going to move,  
4 move, move. If there is going to be a surrebuttal case, which  
5 I have told the defense is allowed in the circumstances, it has  
6 to happen tomorrow morning. Be ready for it. And then we have  
7 to be ready to go right into closing arguments.

8 I don't know who is doing the government's closing,  
9 but they better be ready.

10 MR. CARBONE: Judge, we will have a minute to set up  
11 the podium and the monitor?

12 THE COURT: Yes.

13 Mr. Aronwald, what I said, not realizing you had left  
14 the courtroom, is that everybody has to be ready to go as fast  
15 as humanly possible. There will be no breaks. There will be  
16 no anything. If you want to put on a surrebuttal witness  
17 tomorrow, which I told you, you can do, that person better be  
18 ready to go tomorrow morning.

19 MR. ARONWALD: And, your Honor, he will be.

20 THE COURT: I knew that you would say that.

21

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## GOVERNMENT EXHIBITS

Exhibit No.	Received
2022 . . . . .	.3195
2024 . . . . .	.3209
2100 . . . . .	.3406
1550 . . . . .	.3414
2101 through 2104 . . . . .	.3425

## DEFENDANT EXHIBITS

Exhibit No.	Received
105 . . . . .	.3312

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3439  
C3KUANN1 Trial  
1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK  
2 -----x  
2  
3 UNITED STATES OF AMERICA,  
3  
4 v. 10 CR 007 (CM)  
4  
5 SANDY ANNABI and ZEHY JEREIS,  
5  
6 Defendants.  
6  
7 -----x  
7  
8 New York, N.Y.  
8 March 20, 2012  
9 9:45 a.m.  
9  
10  
10  
11  
11 Before:  
12  
12 HON. COLLEEN MCMAHON  
13  
13 District Judge  
14  
14  
15 APPEARANCES  
15  
16 PREET BHARARA  
16 United States Attorney for the  
17 Southern District of New York  
17 JASON P.W. HALPERIN  
18 PERRY A. CARBONE  
18 Assistant United States Attorneys  
19  
19 WILLIAM I. ARONWALD  
20 Attorney for Defendant ANNABI  
20  
21 ANTHONY J. SIANO  
21 JEANNIE GALLEG0  
22 Attorneys for Defendant JEREIS  
23  
24  
25  
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C3KUANN1 Trial

1 (In open court; jury not present)

2 THE DEPUTY CLERK: Case on trial continued.

3 Government and defendants are present. Jurors are not present.

4 THE COURT: Are the jurors all here?

5 THE DEPUTY CLERK: They are.

6 THE COURT: Where is Detective Koenig?

7 MR. CARBONE: He is right outside.

8 THE COURT: Bring him in.

9 (Jury present)

10 THE COURT: Good morning, everybody.

11 Let's finish up the evidence in this case.

12 Detective, you are still on affirmation.

13 Mr. Aronwald.

14 SHLOMO KOENIG,

15 called as a witness by the government,

16 having previously been affirmed, testified as follows:

17 CROSS-EXAMINATION

18 BY MR. ARONWALD:

19 Q. Good morning, Detective Koenig.

20 A. Good morning.

21 Q. The hard drive that you examined from which you found the  
22 emails that we have been talking about, that hard drive was in  
23 damaged condition when you received it?

24 A. It wasn't in damaged condition. It was a hard drive. When  
25 you look at the drive, it is not like they are damaged or

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C3KUANN1 Koenig - cross

1 anything, but there was some bad sectors on it when we tried to  
2 image it.

3 Q. You explained to the jury yesterday what your analysis  
4 revealed, correct?

5 A. Yes, sir.

6 Q. I don't recall you being asked these questions on direct,  
7 so let me ask them.

8 After all of the analysis that you did and with all of  
9 your experience that you talked about, isn't it true that as  
10 you sit here right now, you cannot express an opinion that  
11 these emails are not authentic, isn't that so?

12 A. I cannot say --

13 THE COURT: I couldn't hear the answer. It is a yes  
14 or no question.

15 Q. The answer to that question would be yes?

16 A. Give me the question again.

17 Q. Isn't it true that as you sit here now, you cannot express  
18 an opinion that the emails that we have been talking about are  
19 not authentic, yes or no?

20 A. I can't express an opinion, no.

21 Q. You also testified that you did an analysis of the tower  
22 that was -- strike that.

23 You also testified yesterday that over this past  
24 weekend you examined the tower that had been produced by  
25 Mr. Jereis pursuant to a trial subpoena, correct?

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C3KUANN1

Koenig - cross

1 A. Yes, sir.

2 Q. And you described that there were two hard drives, one of  
3 which was not hooked up, the other one was?

4 A. Yes, sir.

5 Q. You examined the one that was for the period 2005 to 2008,  
6 correct?

7 A. Yes, sir.

8 Q. And you testified that you did not find the emails that we  
9 have been talking about on that hard drive, correct?

10 A. Correct.

11 Q. It is true, is it not, that that does not mean that the  
12 emails were not sent by Mr. Jereis to Ms. Annabi, correct?

13 A. Correct.

14 Q. The emails could have been sent from some other computer  
15 other than the one that was produced pursuant to the trial  
16 subpoena this past weekend, correct?

17 A. Yes.

18 Q. In fact the emails could have been sent using some other  
19 Internet browser such as Internet Explorer or Firefox, correct?

20 A. Not on that computer.

21 Q. I am not saying on that computer. I'm saying they could  
22 have -- strike that.

23 It is even possible, is it not, that the emails, if  
24 sent from a different computer by Mr. Jereis would not show up  
25 on his AOL account on the computer you examined, correct?

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C3KUANN1

Koenig - cross

1 A. If it was sent from another computer, it wouldn't show up  
2 on the computer that I examined, correct.

3 Q. You don't know how many other computers Mr. Jereis had  
4 access to during that time period, correct?

5 A. I don't.

6 Q. The emails could have been sent from a BlackBerry if he had  
7 one, correct?

8 A. Yes.

9 Q. And that wouldn't show up on this computer, would it?

10 A. Correct.

11 Q. The emails could have been sent from some computer that  
12 wasn't even his computer that he had access to, correct?

13 A. Correct.

14 Q. And in that case, the emails would not show up on the hard  
15 drive that you examined, correct?

16 A. Correct.

17 Q. So once again, the bottom line is that the fact that you  
18 didn't find the emails that are in evidence on the computer  
19 that you examined over this past weekend, that does not mean  
20 that these emails are not authentic, isn't that so, yes or no?

21 A. Correct.

22 MR. ARONWALD: No further questions.

23 THE COURT: Wait a minute. You are not next.

24 Mr. Siano.

25 MR. SIANO: No questions.

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C3KUANN1

Koenig - cross

1 THE COURT: I have to let him say that.

2 Mr. Carbone.

3 MR. CARBONE: Very briefly, your Honor.

4 REDIRECT EXAMINATION

5 BY MR. CARBONE:

6 Q. Good morning, sir.

7 You were asked some questions on cross about whether  
8 you could say for certain whether the emails that were  
9 recovered from Sandy Annabi's hard drive were fabricated. Do  
10 you recall that?

11 A. Yes.

12 Q. What if anything can you tell us about whether the file  
13 within which those emails were stored had been tampered with?

14 A. That file was tampered with or something happened; it  
15 wasn't the way it was supposed to be. Something was wrong with  
16 the file -- not with the email itself, but the file that  
17 contained those emails was not the way it would have been for  
18 that computer.

19 Q. And what if any event occurs in April of 2008 that hindered  
20 your ability to determine whether the emails themselves had  
21 been altered?

22 A. By accessing -- when the defense expert or defense Internet  
23 network person accessed the computer non-forensically and  
24 changed the dates on that, that prevented from me being able to  
25 say for sure whether it was or wasn't.

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C3KUANN1 Koenig - redirect

1 Q. Again, did you find any remnants of those emails out in  
2 free space of the hard drive?

3 A. No.

4 MR. ARONWALD: Objection, your Honor. Beyond the  
5 scope.

6 THE COURT: Objection sustained.

7 Q. You indicated that there was evidence that the file cabinet  
8 had been tampered with. Could you tell us what time period  
9 that would have been.

10 MR. ARONWALD: Your Honor, again, beyond the scope.

11 THE COURT: Beyond the scope. You may not redo your  
12 redirect. Once to a customer.

13 MR. CARBONE: No further questions.

14 MR. ARONWALD: No recross.

15 THE COURT: All the way from Rockland County.

16 THE WITNESS: Thank you, your Honor.

17 (Witness excused)

18 THE COURT: Mr. Carbone, what else do you have for us?

19 MR. CARBONE: Some very minor matters.

20 Michael Thompson.

21 MICHAEL THOMPSON,

22 called as a witness by the government,

23 having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. CARBONE:

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C3KUANN1 Thompson - direct

- 1 Q. Good morning, Mr. Thompson.  
2 A. Good morning.  
3 Q. Sir, where are you employed?  
4 A. JP Morgan Chase Bank.  
5 Q. How long have you been employed there?  
6 A. This is my 26th year.  
7 Q. What do you do at JP Morgan?  
8 A. I am a legal specialist.  
9 Q. Have you become familiar with the business records of JP  
10 Morgan in connection with your duties as a legal specialist?  
11 A. Yes, I have.  
12 Q. Have you reviewed Government Exhibits 780 and 788?  
13 A. Yes, I have.  
14 Q. Can you describe generally what those documents are?  
15 A. 780 represents a deposit ticket on a checking account -- or  
16 two deposit tickets on a checking account. And the packet that  
17 contains 788 represents a check from a home equity line of  
18 credit.  
19 Q. Are they kept in the regular course of business?  
20 A. Yes, they are.  
21 Q. Is it the regular course of JP Morgan Chase to make and  
22 keep such records?  
23 A. Yes, it is.  
24 Q. Are they made at or near the dates reflected on them?  
25 A. Yes, they are.

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C3KUANN1 Thompson - direct

1 MR. CARBONE: Your Honor, the government offers 780  
2 and 788 in evidence.

3 MR. SIANO: Objection. Relevance.

4 THE COURT: How long did it take today, seven minutes,  
5 eight minutes?

6 You couldn't alert me of this before?

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C3KUANN1 Thompson - direct

1 (At the sidebar)

2 MR. ARONWALD: Judge, we couldn't alert you before  
3 because we learned two minutes ago.

4 THE COURT: You were not given them half an hour  
5 before?

6 MR. ARONWALD: No. They were given to us just this  
7 minute.

8 THE COURT: Well, what are they?

9 MR. CARBONE: 780, Judge, represents the cash deposit  
10 ticket into the account of Donna Mangone and Anthony Mangone  
11 for 4,000 and 6,000 respectively on October 14, 2006. The  
12 defense called Mr. Darcy and suggested very strongly that Mr.  
13 Mangone, when he traveled to Atlantic City, the week before,  
14 gambled with markers and, therefore, could not possibly have  
15 used the cash or received the cash -- that is the logical  
16 inference.

17 THE COURT: You mean the cash that he said he gambled  
18 with?

19 MR. CARBONE: Judge, he didn't say that he gambled  
20 with it. Mr. Siano asked him very specifically --

21 THE COURT: That is for the jury. Of course we will  
22 have the transcript and, no doubt, Mr. Siano will be reading  
23 portions of it, as will you, during the course of summation.

24 MR. CARBONE: It shows he deposited cash shortly after  
25 that.

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C3KUANN1 Thompson - direct

1 MR. ARONWALD: October 14 is shortly after --

2 THE COURT: That is an argument.

3 MR. SIANO: He didn't say that he deposited the cash  
4 in the bank.

5 THE COURT: I agree.

6 MR. SIANO: It doesn't establish the relevance of  
7 these documents, and they had their witness and these are his  
8 documents.

9 MR. CARBONE: This is clear rebuttal.

10 THE COURT: Do you want to bring Mr. Mangone in and  
11 testify, I will let it.

12 MR. CARBONE: Judge --

13 THE COURT: Only if you want Mr. Mangone to get on the  
14 stand and testify that he put cash in will I allow it to come  
15 in.

16 MR. CARBONE: Judge, Mr. Darcy testified --

17 THE COURT: I know what Mr. Darcy testified --

18 MR. CARBONE: I would like to show you the transcript  
19 of Mr. Mangone's testimony. He never said, I used the cash I  
20 got from the Milios and gambled with it. What he said is, when  
21 I go to Atlantic City, I use markers because they are an  
22 interest-free loan. And what he did was take that cash --

23 THE COURT: I told you what I am prepared to allow you  
24 to do.

25 What is 788?

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C3KUANN1 Thompson - direct

1 MR. SIANO: The same thing.

2 MR. CARBONE: It is not.

3 THE COURT: No, it is not because it is different  
4 dates.

5 MR. CARBONE: These are checks to cash in and around  
6 the July date.

7 THE COURT: And the relevance of that is?

8 MR. CARBONE: The relevance is, Mr. Darcy was asked  
9 whether Mr. Mangone was gambling with cash in or around the  
10 July time period, that he said that he received the money from  
11 Mr. Milio. So these checks show that he had other sources of  
12 cash that he could have gambled with.

13 MR. SIANO: Mr. Mangone did not say he went to  
14 Atlantic City in July. He did not say he gambled with cash.  
15 He didn't say any of that.

16 THE COURT: He didn't. Mr. Darcy testified about  
17 gambling records that went back into July and August and  
18 September.

19 MR. SIANO: Yes.

20 THE COURT: And I did think that the fair import of  
21 your questioning was that Mr. Mangone got \$40,000 from the  
22 Milios which he then proceeded to use in his gambling way.

23 MR. SIANO: That is based on testimony. This is not  
24 based on testimony. Mr. Mangone does not identify these  
25 withdrawals as being used to gamble. The government identified

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C3KUANN1 Thompson - direct

1 these. Their witness can establish the relevance and the tie  
2 and he hasn't.

3 MR. ARONWALD: These are checks written from checking  
4 account, one of them just to cash and a check for \$1,000.

5 THE COURT: One is to his wife.

6 MR. CARBONE: These checks were all cashed.

7 THE COURT: So what? So what? I'm sorry. It doesn't  
8 work for me.

9 MR. CARBONE: We have another issue.

10 MR. SIANO: Yes, while we are here, the government  
11 told me this morning that they are calling an employee from  
12 Action Gas.

13 MR. HALPERIN: Atlantic Gas.

14 THE COURT: The car wash?

15 MR. SIANO: They cross-examined my client about the  
16 car wash. The car wash is not in the indictment. It is a  
17 collateral act.

18 THE COURT: It is collateral. You can't disprove his  
19 credibility with collateral matters. Can't do it. It is not  
20 doable.

21 MR. HALPERIN: Judge, this is not specific inferences.  
22 It is conduct to show --

23 THE COURT: It is a collateral matter. I'm sorry. I  
24 am not letting it in.

25 MR. HALPERIN: But, Judge, the witness testified

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C3KUANN1 Thompson - direct

1 clearly that he didn't have an off-the-books payroll and we  
2 think he clearly perjured himself.

3 MR. SIANO: That is the definition --

4 THE COURT: That is the definition of a collateral  
5 matter.

6 I'm sorry, Mr. Halperin. Absolutely not. If you want  
7 to rebut the implications of Mr. Darcy's testimony, you had to  
8 bring in Mr. Mangone because these checks could have been  
9 written for any purpose at all.

10 MR. CARBONE: Judge, the deposits --

11 THE COURT: It is over. It is over.

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C3KUANN1

1 (In open court)

2 THE COURT: The documents are not admitted. Relevance  
3 objection sustained.

4 MR. CARBONE: We have no further questions of this  
5 witness.

6 THE COURT: Thank you, sir.

7 You may step down.

8 (Witness excused)

9 MR. CARBONE: Your Honor, pursuant to a stipulation  
10 with defense counsel, the government offers 781, 783 and 786  
11 which were previously admitted subject to connection. Those  
12 are some gambling records.

13 THE COURT: Correct.

14 MR. SIANO: No objection.

15 THE COURT: You remember we accepted some of the those  
16 gambling records subject to connection I told you, and the  
17 lawyers have agreed among them that this is connected up. So  
18 those documents are admitted into evidence. You may consider  
19 them for any purpose that you find relevant.

20 (Government Exhibits 781, 783, 786 received in  
21 evidence)

22 MR. ARONWALD: Just for the record, no objection by  
23 Ms. Annabi.

24 THE COURT: OK.

25 MR. CARBONE: We also, your Honor, make formal offer  
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C3KUANN1

1 of Government Exhibits 2105, 2105A, 2105B which are the hard  
2 drives of Mr. Jereis and the tower.

3 MR. SIANO: Objection.

4 THE COURT: Why?

5 MR. SIANO: Fine. Put them in.

6 THE COURT: I'm not sure what the jury is going to do  
7 with them.

8 MR. SIANO: I am very well advised, your Honor. No  
9 objection.

10 MR. ARONWALD: No objection.

11 THE COURT: They are in.

12 (Government Exhibits 2105, 2105A, 2105B received in  
13 evidence)

14 THE COURT: I do need to tell you folks something --  
15 actually I will throw it in the charge too, but in case any of  
16 you are computer geeks and you understand these matters, these  
17 issues, you can't become the witnesses back in the jury room.  
18 The testimony in the case is the evidence in the case about  
19 hard drives and files and how they work. So just in case any  
20 of you has great expertise in computer matters, you need to  
21 keep that in mind.

22 MR. CARBONE: The government rests, your Honor.

23 THE COURT: Thank you, Mr. Carbone.

24 Will there be anything further from the defense?

25 MR. ARONWALD: Not from Ms. Annabi, your Honor.

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C3KUANN1

1 MR. SIANO: With the consent of the government,  
2 Mr. Jereis formally offers Defense Exhibit 101 which my  
3 colleague points out I omitted to offer.

4 THE COURT: Defendant's 101.

5 MR. CARBONE: No objection.

6 THE COURT: Is admitted into evidence.

7 (Defendant Exhibit 101 received in evidence)

8 MR. SIANO: Nothing further from Mr. Jereis.

9 THE COURT: We have heard the evidence, ladies and  
10 gentlemen.

11 Now I am going to send you out the room for about five  
12 minutes, truly five minutes because we have some technical  
13 stuff that we have to do and then we are going to have closing  
14 arguments.

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C3KUANN1

1 (Jury not present)

2 THE COURT: Any motions any applications?

3 MR. ARONWALD: Your Honor, at the close of the entire  
4 case, Ms. Annabi renews her Rule 29 motion for dismissal for  
5 the reasons that were went into at great length during the last  
6 Rule 29 motion conference that we had. I am not going to  
7 restate those arguments, but we renew the motion based upon  
8 those arguments.

9 MR. SIANO: Mr. Jereis so moves to dismiss the  
10 government's case.

11 THE COURT: I have reserved on those motions as to  
12 which I did not rule at the close of the government's case, the  
13 ones that I did not deny specifically, I have reserved and I  
14 continue to reserve.

15 Mr. Carbone, how long do you think that you are likely  
16 to be?

17 MR. CARBONE: I would say, your Honor, maybe two  
18 hours.

19 THE COURT: That's what I would have guessed.

20 MR. CARBONE: But as you know, I have the habit of  
21 underestimating things.

22 THE COURT: I figure that now to lunch is probably  
23 your time.

24 Just as a guesstimate, Mr. Aronwald, how long do you  
25 think that you will be?

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C3KUANN1

1 MR. ARONWALD: Your Honor, I anticipate two hours.

2 THE COURT: Well, we will see where we are as the end  
3 of the day draws near, and we will see whether we start  
4 Mr. Siano. I will be reluctant to interrupt him in mid  
5 presentation.

6 MR. SIANO: Your Honor, not out of meekness but out of  
7 fairness, I would also ask that the Court not put me to the  
8 point of speaking to them at 5:30 or 6 o'clock.

9 THE COURT: I appreciate that.

10 MR. SIANO: They have had a routine of sort of ending  
11 in the 430-ish range, and I have tried to keep my covenant --

12 THE COURT: If Mr. Aronwald really does go two hours,  
13 and I expect he will, it will be after 4 o'clock when he is  
14 done. There is no way that I would make you start.

15 MR. SIANO: Your Honor, is very fair in this regard.

16 THE COURT: As opposed to other regards?

17 MR. SIANO: This is the only thing that we are talking  
18 about, so this is the only thing I am speaking to.

19 I didn't want to make this sort of petulant argument  
20 at the end of the day.

21 THE COURT: Once upon a time I was a trial lawyer,  
22 Mr. Siano.

23 MR. HALPERIN: Judge, we have to have these cords  
24 here.

25 THE COURT: Whatever you guys have to do.

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C3KUANN1

1 Is Mr. Turk a featured player?  
2 MR. HALPERIN: No. Mr. Turk is a critical --  
3 THE COURT: Do you have everything?  
4 MR. HALPERIN: I think so. I just have to set up.  
5 (Recess)  
6 THE COURT: Are we ready?  
7 MR. CARBONE: Yes, your Honor.

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C3KUANN1

1 (Jury present)

2 THE COURT: We have now reached the point in the case  
3 where the lawyers are going to take this mass of evidence that  
4 they have introduced over the course of the last four weeks and  
5 they are going to weave it into a tapestry for you. And it  
6 will come as no surprise that each of them will weave a  
7 different looking tapestry with the same evidence.

8 We call this process closing argument or summation and  
9 it is, for my money, the best part of the case even though it  
10 is not evidence because, remember, nothing that the lawyers say  
11 is evidence. What the lawyers are going to do is, they are  
12 going to discuss the evidence with you and suggest to you  
13 conclusions that they think are warranted by the evidence. If  
14 you believe that the conclusion that the lawyer is asking you  
15 to draw is logical and is supported by evidence that you -- not  
16 the lawyer, but you -- find to be believable, then you were  
17 free to draw that conclusion.

18 If, on the other hand, you don't think the conclusion  
19 follows logically from the evidence or if it is based on  
20 evidence that you find not to be believable, don't draw that  
21 inference and instead draw your own conclusions based on the  
22 evidence that you credit. And applying your own reason and  
23 logic.

24 Now, the lawyers are immersed in this case in a way  
25 that even we are not immersed in the case. They are going to

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C3KUANN1

1 argue very fine points of evidence to you. I can tell you that  
2 they will not only interpret the evidence differently, they  
3 will remember the evidence differently. They will remember the  
4 evidence differently, even though they have all got transcripts  
5 of the evidence thanks to our amazing miraculous court  
6 reporters who have been churning this out on a daily basis. I  
7 know this is going to happen because it happened at the  
8 sidebar. It is your recollection of the evidence that  
9 controls -- not the lawyers' recollection -- your recollection  
10 of the evidence controls.

11 If you have any doubt, difference of opinion among you  
12 about what it is that the evidence showed, remember how you  
13 resolve those doubts and differences of opinion. You send out  
14 a note and you ask me to either hand you part of the transcript  
15 or to give you a readback of that evidence so that you can  
16 clear up the confusion. You can consult your own notes to jog  
17 your own memory, but remember your notes are no substitute for  
18 the official record in the case. Your notes are for your own  
19 individual use, and we allow you to take them on that basis.

20 There are rules that govern the presentation of some  
21 evidence in summation just as there are rules about asking  
22 questions, which means that the lawyers can jump up and say I  
23 object during the summation and I have to rule on those  
24 objections.

25 No ruling that I make should be interpreted by you as

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1 a suggestion about who is right and who is wrong or how I think  
2 you should vote or what conclusions I think you should reach in  
3 this case. When I make a ruling on an objection, I am acting  
4 as a disinterested arbiter, really I am. I am not sending you  
5 any kind of a semaphore signal about the case.

6 One thing that almost always happened is a lawyer will  
7 jump up and say objection, that is not what the evidence shows.  
8 Well, that is a point that the lawyer needs to make in  
9 summation because, of course, what the evidence shows is for  
10 you ultimately to decide. I cannot say, you are right, that's  
11 not what the evidence shows because then I would be doing what  
12 you are supposed to be doing which is finding the facts from  
13 the evidence in the record.

14 Remember at all times that the lawyers are not giving  
15 you evidence. So if a lawyer says something, asserts a fact  
16 that is not supported by evidence that came in during the  
17 course of the trial, there is no evidence to support that you.  
18 Have to ignore what the lawyer says because a lawyer saying it  
19 does not make it so. That is a very important thing to  
20 remember.

21 Now, the government has the burden of proof. The  
22 presumption of innocence still cloaks these defendants at this  
23 moment, even though you have heard all of the evidence, and  
24 they never had anything to prove.

25 So what we are going to do is ask the government to

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1 give you a summation. The government will argue its case to  
2 you and then Mr. Aronwald will sum up and then Mr. Siano will  
3 sum up, each on behalf of his client.

4 Then, because the government has the burden of  
5 overcoming the presumption beyond a reasonable doubt, the  
6 government's is the last voice that you will hear. The  
7 government will have the opportunity to give a short rebuttal  
8 summation to respond to points that are made during the defense  
9 summation. That's the way it is going to work.

10 Mr. Carbone will be summing up for the government.

11 Are you ready, Mr. Carbone?

12 MR. CARBONE: I am, your Honor.

13 THE COURT: You will take the floor and give it.

14 MR. CARBONE: Thank you.

15 Good morning, ladies and gentlemen.

16 I want to start this morning by thanking you all on  
17 behalf of the government. You have made an incredible  
18 sacrifice in your personal lives to come here and be here for  
19 us, listen to the evidence for the past five weeks and we  
20 really appreciate that very, very much.

21 As Mr. Halperin told you in his opening statement, the  
22 evidence would come in through the witnesses and the documents  
23 and it would sometimes come in through bits and pieces.

24 What did the evidence show in this case? Exactly what  
25 we told you in our opening statement.

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C3KUANN1

Summation - Mr. Carbone

1 Sandy Annabi and Zehy Jereis used the city council  
2 position to enrich themselves personally, that Sandy Annabi was  
3 willing to attend meetings on official business that she knew  
4 would benefit Zehy Jereis, that she accepted tens of thousands  
5 of dollars in payments from Jereis as he built up markers with  
6 Annabi that he could call on when convenient and that Annabi  
7 kept these payments concealed and did not include them on her  
8 financial disclosure forms because she knew it would reveal the  
9 corrupt arrangement she had with Jereis.

10 And you know now exactly how it worked. Zehy Jereis  
11 delivered Councilwoman Annabi to businessmen who wanted to  
12 profit from development projects in Yonkers and needed her  
13 support. He delivered her presence at meetings and he  
14 ultimately delivered her vote, and he got paid and then she got  
15 paid and no one was supposed to know. But their corrupt scheme  
16 has now been exposed by the evidence that you have seen in this  
17 court and at this trial.

18 When you begin your deliberations, the first question  
19 you should ask yourselves is, what did the public official get?  
20 What did she put in her pocket?

21 If we turn first to Government Exhibit Number 5,  
22 remember that was the wheel of fortune, Sandy Annabi's fortune.  
23 We showed you exactly what Sandy Annabi put in her pocket. The  
24 evidence shows that she took almost \$200,000 in payments.

25 She took \$50,000 for the Patton Drive house.

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C3KUANN1

Summation - Mr. Carbone

1 She took \$10,000 towards the purchase of the Bacon  
2 house.

3 She took \$7200 towards the down payment on the Rumsey  
4 Road co-op so that she could have a residence within her  
5 district.

6 She took 11,500 for the Rumsey Road closing.

7 She took over \$8,000 in payments for a car in her  
8 father's name.

9 She took \$10,000 towards the down payment on the  
10 Mercedes lease.

11 She took over \$16,000 in payments towards her student  
12 loan; and

13 Over \$14,000 in payments on the Rumsey Road mortgage;

14 Almost 21,000 in maintenance payments on the Rumsey  
15 Road co-op.

16 Almost 5,000 for cable bills.

17 Over 1,000 for Con Ed bills for the Rumsey Road; and

18 The cash in connection with the Longfellow project  
19 which she used to purchase the diamond bezel Rolex watch and  
20 the upgraded plane ticket to Jordan.

21 There is Government Exhibit 213 and 212B.

22 That is the ticket that was used. And as it indicated  
23 there, it was paid for with cash, over \$3700 in cash.

24 And going back to 213, that's the invoice that  
25 Mr. Serrao told you about where Ms. Annabi paid \$3847 in cash

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C3KUANN1

Summation - Mr. Carbone

1 for that Rolex watch.

2 So the evidence overwhelming shows that this money  
3 went into the politician's pocket after she repeatedly took an  
4 oath to faithfully serve the public.

5 So we proved unquestionably what she got. The  
6 question is, what did she take it for. That's the second issue  
7 that you have to decide today.

8 Why did Zehy Jereis provide Annabi more than \$200,000  
9 in financial benefits from the summer of 2001 shortly before  
10 she was elected to the city council up through the end of 2008?  
11 The evidence demonstrates that the purpose of the payments made  
12 by Jereis was to have influence over Annabi, influence over the  
13 issues that she paid attention to, influence over the meetings  
14 she attended, influence over the votes she cast, and influence  
15 over other City of Yonkers business.

16 Why did Annabi accept the secret payments?

17 Because she could and she enjoyed the jewelry and the  
18 other benefits they provided. And the only thing she ever  
19 really gave Jereis in return was the influence that he  
20 sought -- influence over the issues she paid attention to,  
21 influence over the meetings she attended, influence over the  
22 votes she cast and influence over the business of the Yonkers  
23 City Council.

24 Ladies and gentlemen, that is the essence of a corrupt  
25 agreement.

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C3KUANN1

## Summation - Mr. Carbone

1 Now, Zehy Jereis told us that he wanted her body and  
2 not her action as a member of the city council when he provided  
3 her with these tens of thousands of dollars in benefits. Let  
4 me tell you why that doesn't make sense and why it is in this  
5 case largely irrelevant, as you will learn when Judge McMahon  
6 instructs you on the law.

7 Corrupt payments received by Sandy Annabi can't be  
8 justified on the basis of some friendship or relationship  
9 between Annabi and Jereis. Who better to enter into a corrupt  
10 relationship with than someone you know, someone you can trust  
11 to keep your secret like the defendants did in this case?  
12 Everybody knows that you don't go out and approach a total  
13 stranger and offer that total stranger bribe payments.

14 There was overwhelming testimony that this was very  
15 difficult to even get near Sandy Annabi unless you went through  
16 Zehy Jereis first.

17 The evidence demonstrated that the real purpose of  
18 these payments, again, was to have influence over Annabi, the  
19 issues that she paid attention to, the meetings she attended  
20 and the votes she cast on Yonkers business.

21 Listen closely to the instruction that Judge McMahon  
22 gives you. Even if you find that part of the reason Jereis  
23 made these payments to her and for her was out of some  
24 unrequited infatuation. There is no question that these  
25 payments and financial benefits were at least in part to

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C3KUANN1

Summation - Mr. Carbone

1 influence her conduct and actions as city council member -- and  
2 that makes those payments corrupt payments and unlawful. Even  
3 payments only partially motivated by an attempt to influence  
4 the conduct of a city council member are corrupt. Friendship  
5 doesn't get you off the hook.

6 Ladies and gentlemen, when you look at all the  
7 evidence and you listen to all the witnesses and read the  
8 documents, there is only one explanation that is supported by  
9 the evidence in this case -- these payments were not motivated  
10 solely by friendship if at all. When Zehy Jereis made these  
11 payments, he was motivated overwhelmingly to influence and  
12 reward Sandy Annabi, to buy her influence, access and favors,  
13 to place down, as I said, markers for use when he could  
14 capitalize on them in some way, to reward her for favors that  
15 he was doing for her.

16 When Sandy Annabi received the benefits, she knew full  
17 well that there was a connection between the payments and the  
18 access, the official actions she was providing. In short, the  
19 only love that these two shared was the love of money.

20 How do we know that? In a nutshell, if you had to  
21 look at one piece of the government's proof, one piece of the  
22 case and say, how do we know that these payments were not  
23 purely gifts from a friend to another, it would be concealment  
24 aspect of the proof, the hiding of the payments that you saw  
25 throughout this case. Look at the overwhelming evidence of

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C3KUANN1                      Summation - Mr. Carbone

1       concealment in this case.

2                Remember Mr. Aronwald got up here in his opening  
3       statement and he told you that this was a case of transparency.  
4       He clearly had this case confused with some other.    When you  
5       begin your deliberations, take a look at Sandy Annabi's  
6       financial disclosure forms.    She lied about receiving the money  
7       from Jereis, year after year.    She intentionally chose to  
8       conceal these payments.    Remember, she was described by various  
9       people in this case as someone who was smart, who was savvy, as  
10       someone who certainly knows how to report gifts.

11               This is Government Exhibit 16, page 4, the 2006  
12       disclosure form.    When Sandy Annabi filled this out in her own  
13       handwriting on question 11A, she reported a fruit basket and a  
14       bottle of wine.    She knew how to report a fruit basket and a  
15       bottle of wine, but she didn't report one cent of the over  
16       \$200,000 that Jereis gave her.

17               Postal money orders.    Remember Mr. Jereis paid her  
18       mortgage at times with these postal money orders.    Do friends  
19       use postal money orders to make gifts to friends?    Why?    The  
20       answer is that a guilty conscience needs no accuser.    You use  
21       postal money orders to make payments because you know it is  
22       wrong and you want to try to hide it.    Why lie to the FBI?  
23       Sandy Annabi had every opportunity to be upfront.    You heard  
24       that she was interviewed three times.    She could have come  
25       clean.    And what did she say when asked about the diamond bezel

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C3KUANN1

Summation - Mr. Carbone

1 Rolex watch? I don't remember how I paid for it. And it  
2 wasn't until she was specifically asked did she admit that Zehy  
3 Jereis "may" have helped her pay for it and then the interview  
4 was abruptly ended.

5 Why lie on the loan applications about the money that  
6 Mr. Jereis gave her?

7 Why lie to the other city council members?

8 Remember, their witness, Mr. Chuck Lesnick came in  
9 here and he specifically asked her and she denied ever  
10 receiving financial benefits from Jereis or anyone else for  
11 that matter.

12 The false reports, the investigation becomes public.  
13 You know that Ms. Annabi was interviewed on January 30. You  
14 know that there was a news story on March 8 and the  
15 investigation is public.

16 What does Jereis do? He produces those laughable  
17 backdated reports to hide the fact that he had a no-show job  
18 That was, as we say in legal terms, his modus operandi. You  
19 are going to hear the judge use that expression. It just means  
20 that's the way he did things. That's what he did best.

21 Remember the consulting agreement that he had with the  
22 chamber of commerce. When news of the investigation broke, he  
23 did the exact same thing he did with Forest City Ratner. He  
24 filed phony reports to cover up his no-show job.

25 Why all of the concealment, these machinations, these

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C3KUANN1

Summation - Mr. Carbone

1 false statements if they didn't think that they were doing  
2 anything wrong? Why go through all of this?

3 The answer is simple. Because they know what everyone  
4 else knows. You cannot give a public official money when she  
5 is doing things to help you. And everybody on the planet knows  
6 it. They knew it, or they wouldn't have concealed it.

7 How about the nature of the payments? The second most  
8 compelling piece of evidence that proves that the payments were  
9 not purely out of friendship. Let's look at the nature of the  
10 payments and the relationship, and this is where your common  
11 sense comes in handy.

12 Here is a suggestion. When you begin your  
13 deliberations, take a piece of paper and draw a line down the  
14 middle. What goes in the direction of Sandy Annabi?  
15 Approximately \$200,000 in financial benefits. And what goes  
16 back the other way? Besides the bottle of cologne that  
17 Mr. Jereis talked about, maybe a watch -- absolutely nothing  
18 legal goes back the other way. What went back the other way is  
19 official action. We are not here because a friend gave a  
20 friend a few gifts or a married man who was unsuccessful in  
21 pursuing the love of his life over a six-year period. We are  
22 here because the Yonkers power broker latched onto a candidate  
23 to get influence and control. He then gave her repeated  
24 concealed payments so that she would be there when he needed  
25 her. And when he needed her, she agreed to place Jereis'

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C3KUANN1

Summation - Mr. Carbone

1 interest over the interests of the people of the City of  
2 Yonkers and that's exactly what happened. You heard Zehy  
3 Jereis explain that the payments here started only after, after  
4 she becomes a candidate. It was then and only then did he  
5 notice her in that beautiful powder blue dress. She was, as  
6 repeatedly we heard, his political creation. He got her  
7 elected. He got her reelected. He knocked other candidates  
8 off the ballot. Is that friendship? Is that a love  
9 relationship or is it business or politics?

10 This is where you have to draw on your everyday  
11 experiences. True friendship or love is reciprocal. You buy  
12 me a beer, I buy you a beer. Maybe we exchange sweaters at  
13 Christmas.

14 Look at Government Exhibit 5. Remember that? There  
15 is absolutely nothing comparable going back in the other  
16 direction. We know that there was no love going back in the  
17 other direction. And we know that there were no financial  
18 benefits going back in the other direction. It was official  
19 action. And when money flows one way, as I said, an official  
20 action flows in the other, that is called a corrupt payment  
21 because you cannot mix friendship with official action because  
22 that's where you cross the line into corrupt intent.

23 Zehy Jereis was a political operative. He became the  
24 head of the Yonkers Republican party. Paying Sandy Annabi was  
25 just the cost of doing business for Zehy Jereis, and Zehy

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C3KUANN1

Summation - Mr. Carbone

1 Jereis Enterprises. Look carefully at all of the checks, the  
2 postal money orders and the bank drafts. Look at the memo  
3 section on those checks. I guarantee you nowhere on there will  
4 you see the word "gift."

5 Zehy Jereis doesn't do things out of the goodness of  
6 his heart. He paid those benefits to get something in return,  
7 and the overwhelming evidence shows that that something wasn't  
8 love -- it was influence and access. And that, in a nutshell,  
9 is how we know that the payments were corrupt payments  
10 motivated by something other than pure friendship.

11 Now, before we begin to review the indictment and the  
12 evidence in this case, there are a couple of points I want to  
13 make that you hopefully will find useful as you hear the  
14 arguments today and consider the evidence.

15 The first issue that I would like to address were some  
16 of the arguments made in opening statements by the defense  
17 counsel. As we all recognize, this is an adversary system of  
18 justice, but these lawyers said a lot of things that didn't pan  
19 out or had nothing to do with this case. And it is going to be  
20 critically important as part of your job to make sure that you  
21 keep separated what relevant evidence came in during the trial  
22 and what one of the defense attorneys told you happened in  
23 openings or through suggested happenings through  
24 cross-examination.

25 Here's an example, and I just alluded to it earlier.

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C3KUANN1

Summation - Mr. Carbone

1 Remember Mr. Aronwald told you in his opening  
2 statement that the city council works with transparency, and  
3 that is a quote. He said that "the City of Yonkers government  
4 is transparent." I submit to you, ladies and gentlemen, that  
5 is a very loose use of the word "transparent."

6 The evidence in this case overwhelmingly shows that  
7 the deal for the Ridge Hill project was struck in a couple of  
8 restaurants and a few phone calls over a week or so period and  
9 that Zehy Jereis was the man who was negotiating a contract on  
10 behalf of himself, while at the same name negotiating the Ridge  
11 Hill terms -- the government of Zehy Jereis, by Zehy Jereis and  
12 for Zehy Jereis.

13  
14 (Continued on next page)  
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25

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C3kQann2

Summation - Mr. Carbone

1 MR. CARBONE: That's not transparency. The public had  
2 a right to know. The Longfellow deal was made in a phone call  
3 and email that Anthony Mangone wrote to Franco Milio while he  
4 was on the phone with Zehy Jereis. That's not transparency.

5 Sandy Annabi filed at least seven financial disclosure  
6 reports with the city of Yonkers which didn't give a hint that  
7 she had received almost \$200,000 from Zehy Jereis. That's not  
8 the kind of transparency that good government is made of. It's  
9 not the kind of transparency that honest and faithful public  
10 servants provide to the public.

11 Remember, Mr. Aronwald told you in his opening  
12 statement about the consulting contract and what the Forest  
13 City Ratner witnesses would say? Let me read to you what he  
14 said.

15 He said, "They will tell you that at no time did they  
16 view that consulting agreement as anything but an arm's length  
17 consulting agreement where what they were retaining Mr. Jereis  
18 to do and it was not to get Sandy Annabi to vote for the  
19 project but to provide consulting services to Forest City  
20 Ratner."

21 What did the witnesses actually say about that  
22 contract? Remember Scott Cantone and Bruce Bender came in for  
23 Forest City Ratner and they told you about their discussions  
24 with Mr. Jereis. Scott Cantone:  
25 "Q. Why were you putting him off?

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C3kQann2

Summation - Mr. Carbone

1 "A. We didn't feel -- internally we spoke about that. We  
2 didn't think that it was appropriate at this period of time to  
3 hire Zehy Jereis for a number of reasons.

4 "Q. And what, if any, concerns did you have about how it would  
5 look if Zehy Jereis was given a job before the vote took place?

6 "A. We thought optically it would look bad if we were to give  
7 him a consultant contract at this time. We also really had  
8 just met Zehy Jereis. We were unsure of what value he would  
9 have had to us going forward.

10 "Q. What, if any, concerns did you have if you did not hire  
11 him that Sandy Annabi would withdraw her support for the  
12 project?

13 "A. That was certainly a concern that we had."

14 And Bruce Bender similarly when he was asked:

15 "Q. Did you agree to meet with him? Why didn't you agree to  
16 meet with him sooner?

17 "A. It was just an uncomfortable feeling. Just the whole  
18 dynamic of the situation was uncomfortable. On the one hand,  
19 we finally got to meet Councilwoman Annabi, and, on the other  
20 hand, you know, he was asking for a consulting contract. It  
21 just didn't feel good.

22 "Q. What, if any, pressure did you feel when he was asking for  
23 a consulting contract?

24 "A. The pressure that I felt corporately was that it took  
25 months to finally get a meeting with the councilwoman, and the

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C3kQann2

Summation - Mr. Carbone

1 person who brought her to the table could easily, you know,  
2 take that away. So we were caught between a rock and hard  
3 place."

4 Mr. Jereis asked at the end of the June 9 meeting for  
5 the consulting contract and then he repeatedly sent emails,  
6 sent his rsum repeatedly, and he sent requests and he called.

7 Does that sound like an arm's length negotiation?  
8 Absolutely not.

9 Let's begin to review the charges in this case. This  
10 is Exhibit 2125 which is just a sort of a summary chart of  
11 what's charged in the indictment. It's like a roadmap. It's a  
12 table of contents. This may look like a lot, but in reality  
13 most of the same conduct that you heard evidence about supports  
14 Counts One through Six. Broadly, Counts One through Six are  
15 called the corruption counts. As you can see, Count Seven,  
16 Eight and Nine are the false statements on a loan application.  
17 Counts Ten and Eleven are the tax counts. We will talk about  
18 the specific things or ingredients that you have to have for  
19 each of those charges, but you should generally know before we  
20 begin that the main difference on some of the Counts One  
21 through Six is the degree of what's called the corrupt intent  
22 that's required to convict on each count. By corrupt intent, I  
23 mean what the defendants intended or had in their mind when the  
24 payments were made or received.

25 Again, Judge McMahon will instruct you on the law in  
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C3kQann2

Summation - Mr. Carbone

1 detail later, but I want to give you an idea of what to look  
2 for. Count One and Count Two, as you can see, charge what we  
3 call conspiracies. They're very similar except that the  
4 conspiracies are to violate different sections of the law; but  
5 they are both the same substantively in that they charge that  
6 the payments were made for favorable action and access, as you  
7 can see on the right there, specific opportunities arose.

8 Counts Three, Four and Five charge violation of what  
9 we call Section 666, which is a federal law that prohibits the  
10 making or receiving of corrupt payments to a local official.  
11 As you can see, Count Three charges Sandy Annabi and Zehy  
12 Jereis with receiving corrupt payments in connection with the  
13 Longfellow project. Count Four charges that Zehy Jereis gave  
14 Sandy Annabi corrupt payments from 2002 through 2008. Count  
15 Five charges that Sandy Annabi received corrupt payments from  
16 Zehy Jereis between 2002 and 2008.

17 Count Six charges what we call extortion under color  
18 of official right in connection with the Longfellow project.  
19 Now, the extortion that's charged there is not the kind of  
20 extortion that you typically read about or see in the movies.  
21 It's not the kind of extortion that occurs when someone sticks  
22 a gun in your ribs and takes your money. In this case the  
23 defendants are charged with something called extortion under  
24 color of official right. Instead of using a gun or weapon, the  
25 extortion occurs when someone uses an elected office as a

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C3kQann2

Summation - Mr. Carbone

1 weapon to get money from someone. They don't have to threaten  
2 anything. The threat is sort of implied by the public office.  
3 They just have to receive something knowing that it was in some  
4 way tied to official action, any official action.

5 You will hear that with respect to Count Six we have  
6 to prove that there was some effect, however slight, on  
7 something called interstate commerce. On this point you heard  
8 the testimony of Franco Milio, and he told us that Milio  
9 Management buys materials that traveled in interstate commerce.  
10 It purchases goods that were either manufactured outside of the  
11 state or outside of the country, and that is interstate  
12 commerce.

13 With regard to the 666 counts, that's, again, Three,  
14 Four and Five, the emphasis on what you have to find is a  
15 little different. Here, the emphasis is whether the payments  
16 were offered or solicited or received with the intent to  
17 influence or reward official action; and, again, any official  
18 action.

19 With respect to Count Two, this charges that the  
20 defendants had an agreement or understanding to engage in a  
21 scheme to deprive the city of Yonkers and its citizens of the  
22 honest services of Sandy Annabi; was there any connection  
23 between any of the payments and any understanding that they had  
24 about whether she would be expected to take official action as  
25 specific opportunities arose.

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C3kQann2

Summation - Mr. Carbone

1 Now, I want to pause for a minute to explain something  
2 about the conspiracy counts that you would never know from the  
3 defendant's opening statements or the questions that were asked  
4 on cross-examination. It's important to understand here that,  
5 for the most part, these payments that are charged -- again,  
6 they're not what you see on TV where a suitcase full of cash is  
7 passed on in a dark alley or the back of a limousine, with the  
8 exception of the Longfellow charge. In fact, that's not how  
9 corrupt payments are typically made. Two people don't sit down  
10 in a room and say, "I'll give you this suitcase full of cash if  
11 you give me that contract." They're made with a nod and a wink  
12 between people who trust each other and know each other and  
13 have an understanding of what's being given and what is  
14 expected in return. And that is why common sense is so  
15 important here.

16 The agreement or the scheme that's charged in Counts  
17 One and Two are what we call conspiracies. It's not that Sandy  
18 Annabi had some written formal express agreement with Zehy  
19 Jereis to receive any specific payments in exchange for any  
20 specific official action, like voting in favor of a specific  
21 project.

22 To say it just a little bit differently, the charge  
23 here is that these payments were made and received by Sandy  
24 Annabi to influence or reward her for official action, as you  
25 see the words as specific opportunities arose, specific kinds

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C3kQann2

Summation - Mr. Carbone

1 of acts, but not any one particular act. There is no charge  
2 here that there was any express agreement. That means that  
3 they're not charged with, and you don't have to find, that they  
4 ever agreed that: I will give you this specific amount of  
5 money if you give me this specific official act. That's not  
6 the charge here. So you don't have to find that the payments,  
7 with the exception of Three and Six, were linked to any  
8 particular act. There you have to find that the payments were  
9 linked in some way to the Longfellow project.

10 I want to just repeat and say it in a little bit of a  
11 different way because it's such an important point. You don't  
12 have to find that the payments that Sandy Annabi received were  
13 linked to any particular act. Again, specifically with Counts  
14 One, Two, Four and Five, they charge that he made the payments,  
15 Zehy Jereis made the payments to influence or reward Sandy  
16 Annabi for any official action as specific opportunities arose.  
17 We gave you a couple of examples of specific opportunities in  
18 this case, like Ridge Hill and Longfellow, but you don't have  
19 to find that she explicitly agreed to flip her vote on either  
20 one of those projects, although we believe that's what the  
21 evidence actually shows.

22 So when you hear the defendants talk today about how  
23 some of the payments were not close in time to the Ridge Hill  
24 projects or the Longfellow projects or that we didn't prove  
25 that Sandy Annabi expressly agreed to flip her vote because of

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C3kQann2

Summation - Mr. Carbone

1 the payments, you will know that that doesn't really matter  
2 because that's not what she's charged with, that's not what  
3 Zehy Jereis is charged with, and the government doesn't have to  
4 prove that any particular payment ties to any particular act.

5 The question that you have to decide is what was their  
6 intention when the payments were made and received? Here  
7 again, it's charged that the payments were made and received to  
8 influence and reward her for favorable action, any action as  
9 specific opportunities arose.

10 You also don't have to find that Sandy Annabi's  
11 official action in and of itself was illegal. Remember the  
12 cross-examination of Bruce Bender and Scott Cantone? They were  
13 asked whether Forest City Ratner believed that they were  
14 bribing anyone. Totally irrelevant. They are not charged with  
15 the bribery. Zehy Jereis is charged with bribery. Remember,  
16 they told you that Zehy Jereis was relentlessly hounding them  
17 for a job at a time when he was secretly paying her; and he got  
18 that job; and they got their meeting. There again, attending a  
19 meeting is an act in and of itself that is not illegal but it's  
20 official action.

21 You don't even have to find that defendants made any  
22 money on this deal. You may hear some talk from Mr. Siano  
23 today about how this would have been the worst investment in  
24 the world by Zehy Jereis because all he got out of it was  
25 \$15,000 in payments from Forest City Ratner before the

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C3kQann2

Summation - Mr. Carbone

1 investigation began. No one is charging that Mr. Jereis is a  
2 smart crook. Had the scheme continued, he would have gotten  
3 his additional money from Forest City Ratner, and it would have  
4 been a better financial deal for him.

5 But you don't have to find that it was a good  
6 financial deal, and you don't have to find that he actually  
7 made money on his investment with Sandy Annabi, and it's also  
8 totally irrelevant whether the projects in some way benefited  
9 the public.

10 You heard so much endless cross-examination about how  
11 good the Ridge Hill project was for the community, how good the  
12 Longfellow project was for the community, and about why to the  
13 public Sandy Annabi represented that she changed her vote.  
14 There are two key points here. Mr. Halperin told you in his  
15 opening, the merits of the projects are not in issue. Listen  
16 carefully to the Judge's instruction on this point. The  
17 question is what was in their minds when the money passed?  
18 What was their intent?

19 Second, you don't have to find that Sandy Annabi  
20 actually flipped her vote because of the payments she received.  
21 Why she actually voted in favor of the project or whether she  
22 would have voted in favor of the project anyway is no defense  
23 to receiving corrupt payments. Why? Because it's what's in  
24 her mind when she accepts the money. The question is whether  
25 she accepted any of that money with the intent to be influenced

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C3kQann2

Summation - Mr. Carbone

1 or rewarded.

2 As I said, we gave you two examples of instances where  
3 Zehy Jereis called upon Sandy Annabi, and that was Ridge Hill  
4 and Longfellow. Those were just instances or examples of times  
5 where Zehy Jereis called in the markers. You don't have to  
6 find that there was any express bribe with the exception,  
7 again, in connection with Three and Six, Counts Three and Six.  
8 Even with those counts you don't have to find any express  
9 bribe. You just have to show there was a linkage; find that  
10 there was a linkage between the project and the money.

11 The remaining charges Seven, Eight, Nine, Ten and  
12 Eleven on our table of contents here all relate to Sandy  
13 Annabi. Counts Seven, Eight and Nine, as you heard, relate to  
14 false statements that Sandy Annabi made on three loan  
15 applications in connection with her purchase of the two  
16 residential properties and then the cooperative apartment, all  
17 of which she bought with the financial assistance of Zehy  
18 Jereis. Again, you will recall that that is the house on  
19 Patton Drive, the house on Bacon Place which was purchased  
20 three days later, and then the Rumsey Road co-op was purchased  
21 six months later.

22 Counts Ten and Eleven, the final counts, charge that  
23 Sandy Annabi failed to report income that she had received from  
24 Jereis and that she took a false deduction on her 2005 tax  
25 return based upon the nonexistent 2005 loan that she had

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C3kQann2

Summation - Mr. Carbone

1 allegedly made to her father and that he supposedly defaulted  
2 on.

3 Let's start with Counts One and Two, the conspiracy  
4 charges. As I said, Counts One and Two charge that there was  
5 conspiracy between Sandy Annabi and Zehy Jereis, and Anthony  
6 Mangone is also indicated in there as a co-conspirator. Count  
7 One charges that they conspired or agreed to commit the crime  
8 of making and receiving corrupt payments as charged in Counts  
9 Three and Five.

10 Count Two charges that they agreed to commit the crime  
11 of mail and wire fraud; that is, to deprive the city of Yonkers  
12 and its citizens of the right to the honest services of Sandy  
13 Annabi.

14 Now, since these are conspiracy charges to commit  
15 other crimes, we have to first talk about what the other crimes  
16 are. As I said, with respect to Counts Two, Three, Four and  
17 Five, those charged Section 666. As I said, that's a law  
18 designed to protect the federal government's interest in the  
19 integrity of federally funded programs.

20 The conspiracy charged in Count One has two goals:  
21 The making and the receiving of corrupt payments. The law  
22 prohibits, as I said, what's called a corrupt payment, and,  
23 that is, a corrupt payment is a payment that's made to  
24 influence or reward a public official for official action.  
25 It's to influence -- and the word to influence means that you

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C3kQann2

Summation - Mr. Carbone

1 give the politician money for a future act and to reward the  
2 politician for a past act, kind of like a tip.

3 There are a couple of special things you need to know  
4 about this law that I want to alert you to so that when you  
5 hear Judge McMahon's instructions, you will know how we've  
6 proven it. You have to find four things: You have to find  
7 here that they acted with corrupt intent. You have to find  
8 that the payments were given or offered with the intent to  
9 influence or reward Sandy Annabi in her capacity as a local  
10 official. And that means as to Zehy Jereis, were the payments  
11 that were made designed to influence or reward favorable  
12 official action. Was he in any way intending to reward her by  
13 giving her a gratuity or a tip, like a thank you for her help?  
14 Here's \$10,000 in cash. Go buy yourself a Rolex watch or a  
15 business class ticket to Jordan.

16 You also have to find that the conduct sought to be  
17 influenced was the connection with any business, transaction or  
18 series of transactions of the local government agency involving  
19 \$5,000 or more. In other words, the payment must relate to  
20 some transaction valued at \$5,000 or more within a 12-month  
21 period. That can be measured in any one of a number of ways.

22 You can look at amount of the payments. Here, the  
23 payments that were made by Zehy Jereis totaled \$200,000, and in  
24 any given year always totaled more than \$5,000. So you can  
25 find that element met by measuring to the payments.

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C3kQann2

Summation - Mr. Carbone

1           The consulting contract in and of itself that Jereis  
2       convinced Forest City Ratner to give to him, that was worth  
3       \$60,000.

4           The Milios gave him \$20,000.

5           Second, what was the transaction that the Yonkers City  
6       Council was considering worth? You look at that.

7           Forest City Ratner project, \$600 million.

8           Longfellow, although it was far less substantial, that  
9       project was worth many million dollars as well.

10          So that element is not something that's an issue.

11          The other unique thing that you have to find is that  
12       the local government or agency received more than \$10,000 from  
13       the federal government within a one-year period before or  
14       during the commission of the offense. You heard from Carl  
15       Maniscalco from the city of Yonkers. He put his budgets in  
16       evidence and he testified that the city of Yonkers received  
17       millions and millions of dollars each year from the federal  
18       government. So that element is not really an issue.

19          Let's talk now about the mail fraud. The conspiracy  
20       charged in Count Two is a little different than the one charged  
21       in Count One. In Count Two, the defendants are charged with  
22       conspiracy to violate the mail and wire fraud statutes by  
23       giving and receiving unlawful payments.

24          In simple terms, mail and wire fraud is exactly what  
25       it sounds like. You commit some kind of fraud or a scheme to

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C3kQann2

Summation - Mr. Carbone

1 defraud, and you use the United States mails or interstate wire  
2 communications to further the fraud. When you hear the Judge's  
3 instructions on this count, you will see that we have  
4 overwhelmingly proven our case. We've proven fraud, that it  
5 was committed knowingly, and that they used the U.S. mails or  
6 private or interstate carrier or a foreign wire communication  
7 to further the fraud. All you have to find is that the use of  
8 the mails or wires were reasonably foreseeable.

9 Here the fraud scheme that's charged is that the  
10 defendants engaged in a scheme involving the corrupts payments;  
11 that is, that Sandy Annabi received a stream of financial  
12 benefits in return for official action as specific  
13 opportunities arose.

14 How do you know we've met our burden? When a  
15 politician like Sandy Annabi is taking money failing to  
16 disclose it on her financial disclosure forms while at the same  
17 time taking official action with corrupt intent, that is a  
18 violation of a mail and wire fraud statutes. Why? Because  
19 we're not getting the honest services that we're entitled to  
20 from a public official when she is secretly taking payments and  
21 concealing them from the public and giving official action.  
22 There is no requirement on this count that the city of Yonkers  
23 had to lose any money, just the honest services of an employee,  
24 and the evidence overwhelmingly shows that there was a scheme  
25 to defraud, and that these two defendants participated in that

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C3kQann2

Summation - Mr. Carbone

1 scheme.

2 Nor is it an issue that they were aware of any  
3 particular mailing or interstate wire communication. You just  
4 don't have to find that. Only, again, that the use of the  
5 mails were reasonably foreseeable. You heard testimony on this  
6 point, and you saw the documents. You saw mailing after  
7 mailing in connection with the ConEdison payments, the student  
8 loan payments. Both of those custodians told you that those  
9 payments were mailed. So the U.S. mails were in fact  
10 repeatedly used.

11 You also heard a fair amount of discussion about the  
12 email that Sandy Annabi sent to Debbie Kayal when she was in  
13 Jordan. That's Government Exhibit 770. We will come back to  
14 Government Exhibit 770.

15 Counts One and Two, as I said, charge a conspiracy.  
16 What is a conspiracy? It's an agreement or an understanding to  
17 commit another crime. So the question is, what do we have to  
18 prove to get there to find that there was a conspiracy? As to  
19 Count One, we have to prove an agreement, membership by each  
20 defendant in the agreement, and then, third, that there was one  
21 overt act committed after the agreement was entered into.

22 Count Two is just a little bit different because we  
23 don't have to charge -- we haven't charged and we don't have to  
24 prove any overt acts.

25 Count One alleges that there were 26 overt acts. We

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Summation - Mr. Carbone

1 only have to prove one. You are going to get those overt acts  
2 listed on your verdict sheet, and you will have to check off  
3 whether any one or more of those overt acts were committed or  
4 whether there were any other overt acts committed.

5 This is what's known as an interstate foreign wire  
6 communication. How do we know? Because when Debbie Kayal sent  
7 Sandy Annabi an email in Jordan asking about the Longfellow  
8 project and whether it should be put on, look what Sandy Annabi  
9 writes back: "As of today, I may not be back for the  
10 August 15th meeting. I may extend my trip. Do not put Milio  
11 on just yet. If I'm back by then, we can put it on. Also call  
12 Z and let him know that the process was not outlined in the  
13 legislation and it should be. They have to rewrite it."

14 We know that it's a foreign wire communication because  
15 we know she was in Jordan when she sent this to Debbie Kayal.

16 Getting back to the conspiracy, what kind of an  
17 agreement do you have to find? You have to find a corrupt  
18 agreement or conspiratorial agreement. What is a  
19 conspiratorial agreement? It's like any other agreement that  
20 you've all made thousands of times in your everyday life. Like  
21 every agreement, it has parties and it has terms. The thing  
22 that's different with a corrupt agreement is that you never see  
23 the terms written down like a regular contract. You will never  
24 see an instrument or document that says: I, Zehy Jereis, agree  
25 to make corrupt payments. And Sandy Annabi: I, Sandy Annabi

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Summation - Mr. Carbone

1 agree to receive corrupt payments. That's not, as we discussed  
2 earlier, the way a corrupt agreement works.

3 But what you will see is the overwhelming and powerful  
4 circumstantial evidence that documents the corrupt agreement.  
5 Start again by reviewing all of the underlying exhibits, the  
6 Government Exhibit 5, the wheel of fortune. Remember Agent  
7 Dennehy told you that he created this PowerPoint, and within  
8 the PowerPoint are all the backup documents, references to all  
9 the exhibits that support the payments.

10 Here are a few checks. That's the \$50,000 check for  
11 the Patton Drive property. It has signatures. Look at the  
12 front and back of the check. That is an agreement. How do you  
13 know? You have the parties to the agreement -- Zehy Jereis and  
14 Sandy Annabi. You have the defendants' signatures on the  
15 agreement. You have Zehy Jereis's signature on the check and  
16 Sandy Annabi endorsing the check. After all, when you think  
17 about it, what is a check other than an agreement? It's an  
18 agreement to have money change hands, transferring money from  
19 one person to another. So you start by knowing when you look  
20 at these checks that there was an agreement, and you know who  
21 the parties to the agreement are.

22 The question then becomes what are the terms of the  
23 agreement? What are the terms of a normal business agreement?  
24 Again, payment is crucial. Now, what we have here, and we've  
25 shown you all the payments -- and, again, that's Agent

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Summation - Mr. Carbone

1 Dennehy's wheel of fortune, they're all summarized in  
2 Government Exhibit 5. And remember Agent Dennehy told you  
3 there were over 212 payments made? So we have a public  
4 official getting approximately \$200,000. Again, here you're  
5 talking about a corrupt agreement. So the next thing you are  
6 going to have to find will be official favors. Not some  
7 criminal acts in and of themselves, official favors.

8 You don't need to find that Zehy Jereis actually  
9 influenced Sandy Annabi to act differently, although we submit  
10 the evidence overwhelmingly shows that that's exactly what  
11 happened. You only have to find that Zehy Jereis intended to  
12 influence or reward Sandy Annabi for official actions; and as  
13 to Sandy Annabi, you have to find that she intended to be  
14 influenced or rewarded in some way for official action.  
15 Remember we talked about at the beginning if any part of the  
16 payment was for the purpose of influencing or rewarding  
17 official action, they don't get a pass just because they happen  
18 to be friends.

19 So, what did Sandy Annabi do for Zehy Jereis? Let's  
20 look at the things initially, and we'll ask ourselves each step  
21 of the way whether her actions were transparent, as  
22 Mr. Aronwald suggested, and whether this was open and honest  
23 government or it was a corrupt act. Let's look at the time  
24 line. Look at the nature of the payments.

25 Now, before we cover what was actually done in these

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Summation - Mr. Carbone

1 projects, let me make an obvious point. These projects are not  
2 so simple to understand. You heard a lot of talk about the  
3 projects in their original form, the changes, the nature of the  
4 projects, all the political machinations that were going on.  
5 You heard about the lawsuits, you heard about supermajorities  
6 and majorities. You heard a lot about the process that has to  
7 be followed to get a \$600 million project approved by various  
8 state and local agencies.

9 If you felt overwhelmed by that, you're not alone.  
10 The people who testified about the projects spend their entire  
11 lives immersed in these projects. No one -- and I mean no one  
12 -- can learn all the stuff that it takes to understand these  
13 projects in a few short weeks. Everyone understands that. And  
14 they get even further complicated by these long rambling  
15 cross-examinations designed to make it more complicated than  
16 they even are.

17 Remember all that wide-ranging cross-examination?  
18 Remember Mr. Siano showed you the picture of a pole in the  
19 middle of the field in Ridge Hill? And then the picture of  
20 Stew Leonards that he sarcastically referred to as that little  
21 milk store across the street? What does that have to do with  
22 whether Sandy Annabi took corrupt payments from Zehy Jereis?  
23 The details of these projects are just not that important.

24 So keep there a critical point in mind as you're  
25 reviewing the evidence. It's not critical. It's not important

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C3kQann2

Summation - Mr. Carbone

1 whether you understand details of these projects. Whether  
2 Ridge Hill and Longfellow were good projects for the community  
3 or whether they changed in some way is not important to your  
4 deliberations.

5 What's relevant in the case and the issue you have to  
6 decide is what was in Sandy Annabi's mind and what was in Zehy  
7 Jereis's mind when that \$200,000 passed? Purely friendship?  
8 Or was any part of it political or business? That's what you  
9 have to decide.

10 So, how do these two projects fit into the case?  
11 Remember again what Jereis is charged here is with making a  
12 stream of payments over the years to influence and reward  
13 Annabi. These are just two of the specific opportunities that  
14 arose, that we have proven have arisen. And when he needed  
15 her, he called upon her, she was there in a flash, and she  
16 flipped her vote when needed.

17 On this point the evidence shows that Sandy Annabi did  
18 in fact vote for Ridge Hill after her long-held opposition.  
19 How do we know she had long-held opposition? Look at the  
20 position she took before Zehy Jereis set up that meeting on  
21 June 9. Dee Barbato told you that the project was in her  
22 district. She told you that Sandy stood shoulder to shoulder  
23 with her. She was staunchly opposed to the project. Both Dee  
24 Barbato and John Murtagh explained that Sandy told them that  
25 she would not flip her vote until all of the concerns of the

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C3kQann2

Summation - Mr. Carbone

1 project were met. She even sued the city when the project was  
2 approved in December of 2005.

3 What was going on during this time period? We know  
4 that Zehy Jereis, the political operative, was secretly giving  
5 her financial benefits, and he was also seeking a consultant  
6 agreement with Forest City Ratner. How do we know that?  
7 Remember Dee Barbato told you that she spoke with Zehy Jereis  
8 about Ridge Hill before he saw the light about what a good  
9 project it was?

10 What did Zehy Jereis say about the project? Well, a  
11 couple of things. First, he said only Democrats live in  
12 apartments, and that was bad for him because that meant that  
13 that district would have more Democrats in it. And he was a  
14 Republican. For that reason alone he opposed it.

15 What else did he say? Mike Spano told us that Zehy  
16 Jereis asked him where the jobs are for the Republican  
17 leadership. After all, if you're a Republican Party chair,  
18 aren't you entitled to a no-show job if a project is going to  
19 get approved in the city of Yonkers? So we know that Zehy  
20 Jereis made no secret of the fact that he was seeking a  
21 consulting contract, and that he felt he was entitled to that  
22 consulting contract with Forest City Ratner.

23 Anthony Mangone told us that Zehy Jereis asked him to  
24 help by going to Al Pirro who was Forest City Ratner's  
25 consultant. Anthony Mangone obliged. He went to Al Pirro and

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C3kQann2

Summation - Mr. Carbone

1 told him that Zehy Jereis wanted that consulting contract, but  
2 he wasn't able to help him.

3 How do we know that Anthony Mangone actually did that?  
4 Remember Councilman Roberston who favored the project, he  
5 testified about his meeting with Al Pirro where he went to talk  
6 to him about some political matters. What did Al Pirro say?  
7 He told him that they were not concerned about Ridge Hill  
8 because they would just get Sandy Annabi's critical fifth vote  
9 by giving Zehy Jereis a job.

10 Let me read to you what Mr. Roberston said.

11 "All he has to do is give Zehy Jereis a consulting  
12 contract and we can get her vote.

13 "Q. When he said 'we'll give Zehy Jereis a consulting  
14 contract,' what did you understand him to mean about the word  
15 we?

16 "A. Forest City Ratner, the developer.

17 "Q. After your conversation with Al Pirro, did you tell Sandy  
18 Annabi about what Pirro had said?

19 "A. I did.

20 Q. How much later after your conversation with Al Pirro did  
21 you talk to Councilwoman Annabi about what he had said?

22 "A. It was probably the same day. I don't recall it was, but  
23 I certainly very obviously -- I was upset and I'm reminded I  
24 added that Mr. Pirro -- that I wasn't here to discuss Ridge  
25 Hill, and I was already in favor of it."

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C3kQann2

Summation - Mr. Carbone

1           Then a couple of lines later, here is the question  
2           that Mr. Halperin asked of Mr. Roberston:

3           "Q. And when you spoke to Ms. Annabi, what did you say to her  
4           about the conversation?

5           "A. Exactly what I just told you. All I told her this is what  
6           he said, you know, that -- that that's not right that he would  
7           say that.

8           "Q. What was Annabi's response about what you told her what Al  
9           Pirro had said?

10          "A. She didn't respond. She just stared at me. Didn't really  
11          engage in any conversation regarding it."

12          So we know that the evidence is overwhelming that  
13          Sandy Annabi knew what was widely known; and, that is, that  
14          Zehy Jereis had been out there seeking his seat at the table.  
15          He wanted to be fed. And she helped him get that seat at the  
16          table. Again, even if you find that Sandy Annabi would have  
17          voted the way she did anyway, the question is what was in their  
18          minds when the money passed. In this case the evidence  
19          overwhelmingly shows that Sandy Annabi took these payments to  
20          be influenced and rewarded. And that's a fact that there can  
21          be little dispute about.

22          Again, getting back to the timing of the payments, if  
23          you could, Mr. Turk, go to the first slide of the screen. You  
24          heard events about how Zehy Jereis was involved in the  
25          political process. He was the ward leader. He then became the

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C3kQann2

Summation - Mr. Carbone

1 Republican Party chair. Again, he gets her elected. He gets  
2 her reelected. He knocks other Republican candidates off the  
3 ballot, and at the same time she becomes a candidate for public  
4 office, the payments start.

5 Take a look at the payments in 2002. He starts paying  
6 her student loan. He starts paying her car loan for her  
7 father. The next year the payments go up. More payments on  
8 the student loan. More payments for the car loan to her  
9 father. And then in 2004 the big money starts rolling in. You  
10 see the \$50,000 for the Patton property, the Bacon property  
11 payments and the Rumsey Road payments. They slowly begin to  
12 increase as we get closer to the official action of the two  
13 specific opportunities that we've given you examples of. As we  
14 get closer to 2006, the payments increase.

15 Can you go back to 2004 for a minute, please? Now, in  
16 2004 you see that Ms. Annabi buys not one, but two, houses and  
17 she also buys the Rumsey Road property. Why does Zehy Jereis  
18 buy that cooperative apartment on Rumsey Road? Well, you heard  
19 John Bond tell you, the lawyer, he was a real estate attorney.  
20 He told you that he was buying that property because she needed  
21 a place within her district. Sandy Annabi couldn't hold office  
22 unless she had a residence in the second district, and she  
23 wasn't living in the second district because neither the Patton  
24 nor the Bacon properties were in the second district. Zehy  
25 Jereis was happy to oblige because what he was doing here was

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What is the first thing he does when he meets with Mangone? He criticizes Mangone for coming in so low because Mangone only asked for a \$20,000 success fee. Remember, Jereis asked for a hundred thousand dollars for him and Annabi. What happens at the same time that the Longfellow project is made? Sandy Annabi spends almost over \$3,800 on this diamond bezel Rolex watch in cash and the upgraded ticket to Jordan in cash, \$3,800 at the same time she is getting cash in connection with the Longfellow project.

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C3kQann2

Summation - Mr. Carbone

1 the penalty for rescheduling the trip? That's right, it was  
2 Zehy Jereis. Remember Jereis asked Forest City Ratner to make  
3 the payment for the penalty in front of Sandy Annabi who was at  
4 the meeting. Forest City Ratner said they'd consider it, and  
5 they got back to Zehy Jereis and said we can't do it for  
6 ethical reasons, and he said don't worry about it, maybe I'll  
7 pay it.

8 When Forest City Ratner says no, look what happens?  
9 Sandy Annabi's credit card is credited for the \$1,400 payment  
10 that she had, and then she spends \$3,700, three times the price  
11 of the original ticket in cash. And remember what her  
12 financial picture was like during this time period. She has  
13 two mortgages, a Mercedes lease, and she has a modest paycheck  
14 because the city of Yonkers because council members are part  
15 time. So she's got a modest paycheck from the city of Yonkers  
16 and a modest paycheck from St. Joseph's Hospital. And as Agent  
17 Dennehy explained when he reviewed Sandy Annabi's bank accounts  
18 and the credit card statements for that period, there was no  
19 \$7,500 in cash withdrawn from her account. The money didn't  
20 come from her bank accounts. And there is no mystery here  
21 about where that money came from. It came from Zehy Jereis,  
22 and it went right across the table to Sandy Annabi. Why?  
23 Because he was getting his payday on the Longfellow project and  
24 he was about to get his big payday on the Forest City Ratner  
25 project.

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C3kQann2

Summation - Mr. Carbone

1           Then remember also that Sandy Annabi goes out and buys  
2 the diamond cross for \$3,251. Remember Agent Dennehy explained  
3 that he reviewed her credit card charges, and in only three  
4 other instances in six years did she ever make a charge over a  
5 thousand dollars or \$1,500. It's only when she's flipping her  
6 vote on these two projects, and that Zehy Jereis is getting  
7 paid from Forest City Ratner and the Longfellow project does  
8 Sandy Annabi go out and buy the diamond cross, the diamond  
9 bezel Rolex watch and the upgraded ticket.

10          Let's talk for a minute about the Forest City Ratner  
11 project. The evidence shows that Sandy Annabi has lied many  
12 times in this case. She's lied in her disclosure forms to the  
13 banks and to the IRS, but there is one thing that you heard  
14 that she was truthful about. Please pay Ridge Hill.

15          (Videotape played)

16          MR. CARBONE: Now, Sandy Annabi was right about that.  
17 The project did get approved by crook. It got approved  
18 crookedly because Zehy Jereis at the same time he was hounding  
19 Forest City Ratner for a job was paying Sandy Annabi. She was  
20 absolutely right about that.

21          Let's look at Government Exhibit 6-A. That's the  
22 13-day timeline of Ridge Hill. Again, you heard the testimony  
23 from the Forest City Ratner witnesses, Scott Cantone and Bruce  
24 Bender. They told you about the \$73 million that they had  
25 already sunk into the Ridge Hill project. They tried many

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C3kQann2

Summation - Mr. Carbone

1 times to meet with Sandy Annabi one on one so that they could  
2 discuss her concerns. They couldn't even get a one-on-one  
3 meeting. Then all of a sudden when the project is in its  
4 darkest hour with \$73 million invested, when they needed five  
5 votes to get it approved, who miraculously shows up at the  
6 Marco Polo meeting? The man who was looking for a seat at the  
7 table -- Zehy Jereis, and he says he can help. Where did he  
8 come from? He didn't fall out of the sky and fall into Marco  
9 Polo restaurant. His timing was perfect. He then gets a  
10 council member who he has been secretly paying to almost  
11 immediately show up at a meeting. He had done something that  
12 all those lobbyists couldn't do, and what do you know? Within  
13 a week after that meeting, the \$600 million project that was  
14 doomed just a week earlier is on the road to approval.  
15 Al Pirro couldn't get it done. Mike Spano couldn't  
16 get it done. No one could get it done. Zehy Jereis got it  
17 done. That alone, her attendance at that June 9 meeting and  
18 the June 10 Madison's meeting, is extraordinary official  
19 action. Where were the other council members, Dee Barbato and  
20 John Murtagh, at this meeting? Why is Zehy Jereis asking for a  
21 consultant job at the meeting that Sandy Annabi knew about?  
22 Why is she at the same meeting? Why is Jereis at that meeting  
23 negotiating for the city of Yonkers after the meeting. That's  
24 not transparency, that's corruption.

25 Al Pirro knew at the end of the day, and he was right,

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C3kQann2

Summation - Mr. Carbone

1 that when he needed Sandy Annabi's vote, all they had to do was  
2 give Zehy Jereis a job. Arm's-length agreement? He was  
3 hounding Forest City Ratner for that consulting agreement, and  
4 these two guys sat there in the restaurant, Bruce Bender and  
5 Scott Cantone, knowing that \$73 million had been invested.  
6 What choice did they have? It's an example of how Zehy Jereis  
7 controlled Yonkers politics with an iron fist. After Al Pirro  
8 gets shot down, he shows up at a meeting with Forest City  
9 Ratner when the project is in its most vulnerable state. What  
10 does he say to Bruce Bender when he's introduced: "You're  
11 hiring the wrong people."

12 What about the Longfellow project? The Milio family  
13 also had put a lot of money into the project. They hired Al  
14 DelBello, the former lieutenant governor. Despite his high  
15 price tag, he had been working on the project for over nine  
16 months and it went almost nowhere. The Milios at that point  
17 had invested almost a million dollars in the project. Remember  
18 Sandy Annabi's words in 2005 right before the Milios hired Al  
19 DelBello at a city council meeting? Let's listen to what she  
20 said.

21 (Videotape played)

22 MR. CARBONE: She would never support the project. It  
23 was a slap in the face to the taxpayers, and they should be  
24 outraged. We now know that her statement that property was  
25 going to be sold for a dollar was ultimately false. The city

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Summation - Mr. Carbone

1 was giving up two decrepit old schools and the developers were  
2 giving up in exchange some other valuable property so that the  
3 road could be widened. Utterly false. She was just squeezing  
4 them. Then later she said the project doesn't fit in the  
5 neighborhood. Maybe the project didn't fit in the  
6 neighborhood, but we won't ever know because those two schools  
7 are still rotting in the center of Yonkers. But we do know  
8 that the \$20,000 and the diamond bezel Rolex watch fits Sandy  
9 Annabi just fine.

10 Defense counsel have suggested that the project had  
11 fundamentally changed and that's why she changed her vote.  
12 There was only one very important change to this project: And  
13 he's sitting over there. Zehy Jereis got involved. That's  
14 what changed this project. Remember how he shows up at that  
15 meeting in Mangone's office. He just happened to be wandering  
16 by one of his weekly visits to Anthony Mangone. Even he admits  
17 that at the end of that meeting he said "Let me know what I can  
18 do to help."

19 He speaks with Anthony Mangone after that meeting and  
20 criticizes him for only taking a \$20,000 success fee. He says  
21 he wants a hundred thousand dollars. That's just what he was  
22 doing on the Ridge Hill project. At the very same time that  
23 the Longfellow project is happening, he's going to Anthony  
24 Mangone demanding his cash at the same time he was repeatedly  
25 meeting and calling and sending emails to the Forest City

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Summation - Mr. Carbone

1 Ratner people asking for a consulting agreement. It just so  
2 happens that Forest City Ratner which is a \$12 billion  
3 corporation does things a little more formally, but they gave  
4 him that contract because he asked for it. Anthony Mangone and  
5 the Milios gave him the cash because he asked for it.

6 Now, the Milios weren't all that excited initially  
7 about bringing Anthony Mangone on as a consultant. We know  
8 that Sandy Annabi spoke directly with Franco Milio and  
9 suggested to him it would be a good idea to bring Anthony  
10 Mangone on board. Here is what Sandy Annabi said to Franco  
11 Milio right after the June 21, 2006 real estate meeting when  
12 she again shot project down: Franco Milio was asked  
13 specifically by Mr. Halperin whether he had a conversation with  
14 Sandy Annabi after that meeting. And here is what he said: "I  
15 was in the rear. It was after the meeting. It was towards the  
16 rear of the meeting. Towards the rear of the building.

17 "Q. Was it a private conversation?

18 "A. It was.

19 "Q. And who was there in the conversation?

20 "A. Myself and Sandy Annabi.

21 "Q. What did the two of you discuss?

22 "A. We were discussing the project. Anthony's name came up at  
23 that point.

24 "Q. When you say Anthony --

25 "A. I'm sorry, Anthony Mangone, about using him, his name came

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Summation - Mr. Carbone

1 up, and she was just at that point -- I remember her telling  
2 me, I can use him. She'd also told me I didn't have to use  
3 him, but I could use him. Pretty much that was the nuts and  
4 bolts of the conversation.

5 "Q. How would you describe her reaction?

6 "A. She was -- my reaction was she was very much in favor."

7 But remember the June 20, 2006 real estate meeting  
8 consistent with what she'd done all along, she shot the project  
9 down again. So the Milios went back, and they talked to  
10 Anthony Mangone again because Anthony Mangone was down in  
11 Florida, and he got the call from Milio, and said, "Look, I  
12 want to go with you on the project."

13 And then look what happens. Look at the phone  
14 contact. Let's take a look at Government Exhibit 1531 which is  
15 the phone contact on June 20 and 21. Anthony Mangone and  
16 Franco Milio have several lengthy discussions on the night of  
17 the 20th. Then on the night of the 21st there are a flurry of  
18 calls and activity between Jereis and Annabi. Jereis calls T&R  
19 Jewelers, then he calls Annabi, and then the very next call is  
20 to Anthony Mangone. Jereis to Mangone. Jereis to Annabi.  
21 Milio to Mangone. Mangone to Milio. Jereis to Annabi. 5:52.  
22 6:24. 8:12. 8:13. 8:23. And, again, the Jereis to Annabi  
23 text. Powerful corroboration of what happened that day. Zehy  
24 Jereis called Sandy Annabi immediately after he spoke with  
25 Anthony Mangone. Remember, Milio called Mangone and said he'd

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C3kQann2

Summation - Mr. Carbone

1 had it. He wanted to bring Mangone formally on board. Mangone  
2 speaks to Jereis. Jereis speaks to Annabi.

3 And then remember what happened on July 10, the day  
4 before the board vote for the Longfellow project? Let's take a  
5 look at Government Exhibit 700. Mangone told Jereis that the  
6 Milios were on board with getting him involved, and Jereis told  
7 him how much cash it would take to get Annabi to flip her vote.  
8 The cash is paid, and then remember the day before July 11.  
9 Remember, on July 11, that's the day of the Ridge Hill vote and  
10 the Longfellow vote. Anthony Mangone writes an email to Franco  
11 Milio. This is really important. Look at the time of the  
12 email. It's at 4:20 in the afternoon, Monday, July 10. This  
13 is Anthony Mangone telling Franco Milio in an email what the  
14 conditions are as Mangone spoke with Jereis.

15 And what are the conditions? 20 percent offered below  
16 market housing. The city council will have an independent  
17 appraisal conducted and look what he says about that. The  
18 appraisal is being done for her own selfish political gain so  
19 that when people in her district ask if she conducted one and  
20 she said she would then she has cover. Remember the political  
21 parachute that Scott Cantone talked about at the Madison  
22 meeting. She needed a way to cover the fact that she was so  
23 staunchly opposed to this project and now she was flipping her  
24 vote. Then the third condition is that there will be a period  
25 of six months exclusive marketing to seniors.

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Summation - Mr. Carbone

1 Now, I asked you to remember the time, July 10, 2006  
2 at 4:20 p.m. Let's take a look now at Government Exhibit 1530.  
3 This is a summary of the phone contact of that day. Jereis  
4 calls Annabi at 4:01. And then look who talks at exactly the  
5 same time, 4:20 p.m. Mangone calls Jereis. They're on the  
6 phone for four minutes at the very same time that Mangone is  
7 writing that email to Franco Milio describing the terms and  
8 conditions of the deal, the very same time. That again is  
9 powerful corroboration of what Anthony Mangone told you; and,  
10 that is, that Sandy Annabi had agreed to come on board in  
11 exchange for the cash; these are the conditions; and those  
12 conditions were conveyed to him at the very same time he typed  
13 an email to Franco Milio.

14 Right after they hang up, he sends an email, Milio  
15 calls Mangone, and then Mangone calls Jereis later in the day,  
16 and then apparently -- can I have this maximized -- there were  
17 a couple of short calls or messages from Mangone to Sandy  
18 Annabi.

19 (Continued on next page)  
20  
21  
22  
23  
24  
25

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Summation - Mr. Carbone

1 MR. CARBONE: Now, how did the Longfellow project  
2 change? Let's talk about that for a minute because you are  
3 going to hear a lot about that today. You are going to hear  
4 about how that was the reason she agreed to come on board, not  
5 because of this behind-the-scenes cash payment.

6 Of course, she has to tell the public something as  
7 indicated in Anthony Mangone's email, it is for her own selfish  
8 political cover. How did the project change? A small number  
9 of affordable units and it had be to be marketed to seniors.

10 You heard about how the Milios felt about that. It  
11 was really nothing. If those were the conditions that she  
12 would have agreed to a year earlier, then those projects would  
13 have been completed by then. Why would they care whether the  
14 units were marketed to seniors or anyone else when, for the  
15 most part, it is market rate housing? Why would they care? It  
16 doesn't matter.

17 It was a slap in the face, and she wouldn't support  
18 the project even if the whole community did.

19 Al DelBello worked on the project for eight months and  
20 didn't get it approved. Jereis shows up, gets a financial  
21 stake in the outcome and it is approved in a snap

22 Again, how do we know that there was an agreement that  
23 the project would be approved on July 11 as Anthony Mangone and  
24 Franco Milio testified to? Let's take a look at Government  
25 Exhibit 3707. It was an email sent by Joan Deierlein from the

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Summation - Mr. Carbone

1 city of Yonkers, to all of the council members and all of the  
2 interested parties, and this is on July 11th. And they are  
3 talking about whether the Longfellow project would be put on  
4 the agenda.

5 "Dear colleagues, with your consent, I would like to  
6 add to tonight's special council meeting agenda, the Milio  
7 project for School 6 and Longfellow. It appears that Council  
8 Member Annabi has reached an understanding with the developer  
9 and Council Member McDow has no objections. If you have any  
10 concerns, please advise."

11 Remember, Anthony Mangone tells you that after that  
12 vote, and it didn't happen that night because John Murtagh and  
13 Dee Barbato were upset because Sandy Annabi had flipped her  
14 vote on the Forest City Ratner, so they refused to permit --  
15 you needed unanimous consent of all of the council member to  
16 add a project for a resolution that is late, and they blocked  
17 it and Longfellow couldn't be voted on on July 11 because of  
18 Dee Barbato and John Murtagh.

19 But what happens right after the vote? Zehy Jereis  
20 calls Anthony Mangone, and consistent with the emails and phone  
21 contact the day before, tells them that they produced and they  
22 want to be paid. And that was the first \$10,000 payment.

23 Now, what happens after the July 11th vote as to the  
24 scheduled time of the meeting? Again, going back to Government  
25 Exhibit 770, and we looked at this earlier, but let's look at

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Summation - Mr. Carbone

1 what Debbie Kayal writes on July 22 to Sandy Annabi. Joan has  
2 advised of a special council meeting that will be held on  
3 August 15th at 7 p.m. Saunders High School. The agenda is not  
4 out yet and she was inquiring whether she should be putting the  
5 Milio Management new and changed Longfellow legislation on it.  
6 As you know, it was changed by DelBello, and Joe Madden had  
7 reviewed it in which the one you received Tuesday, July 11th,  
8 however, weren't here for that meeting, she would like to  
9 circulate the new legislation before the meeting as a reminder.  
10 She wanted to know if you wanted to do that.

11 Look at Sandy Annabi's response. If Zehy Jereis was  
12 not involved in this project, why would she write back from  
13 Jordan and say, Call Z and let him know that the process was  
14 not outlined in the legislation and it should be. They have to  
15 rewrite it.

16 If she didn't know, as indicated in that email the day  
17 before the July 11th vote, that Zehy Jereis was the one  
18 communicating the terms of the new legislation, why is she  
19 telling her secretary to call Zehy Jereis?

20 The answer is simple, because Zehy Jereis was  
21 involved. He did get the cash and she did agree to flip her  
22 vote for the cash. That is why she is telling her secretary to  
23 have Zehy Jereis call Al DelBello.

24 Here's what Anthony Mangone had to say about what  
25 happened after he got the call from Franco Milio when he was in

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Summation - Mr. Carbone

1 Florida.

2 "A I returned from Florida and I had a meeting with  
3 Mr. Jereis.

4 "Q Where did the meeting take place?

5 "A At my office.

6 "Q Please describe the substance of your discussions with  
7 Mr. Jereis at this meeting.8 "A Zehy came to my office and said that he could be helpful  
9 with bringing Ms. Annabi on board. Then said he needed money,  
10 that Ms. Annabi had been hounding him for money and he needed  
11 money to get her on board.12 "Q Did you discuss how much money he needed to get her on  
13 board?

14 "A Yes.

15 "Q What did he say?

16 "A At first he had suggested 100,000.

17 "Q What if anything did you say when he suggested 100,000?

18 "A I said it was never going to happen because they were only  
19 paying me 2,000 a month and a \$20,000 success fee. They were  
20 never going to pay that kind of money.21 "Q Did you reach any kind of agreement during this discussion  
22 on the amount of the bribe that would be paid to get the  
23 project approved?24 "A I said I would bring forward the same amount of money,  
25 \$20,000.SOUTHERN DISTRICT REPORTERS, P.C.  
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Summation - Mr. Carbone

1 "Q What if anything did Zehy Jereis say he would do in return  
2 for the \$20,000?

3 "A Get Ms. Annabi to vote for the project."

4 And then, again, a few questions later:

5 "Q Now, after the meeting, what if any discussions did you  
6 have with Zehy Jereis about the vote?

7 "A Zehy Jereis had contacted me either that evening or early  
8 the next day saying that they had delivered, that the project  
9 was ready to be voted on and approved but for Murtagh and  
10 Barbato holding it up and as a result they deserved the  
11 payment."

12 And then we know what happens after that. They meet  
13 just outside of Trotter's Tavern in White Plains.

14 How is Anthony Mangone's testimony corroborated on to  
15 point? Here is his American Express receipt, or the American  
16 Express statement. And it shows on 7/13, which is two days  
17 after the July 11th meeting, that he paid for a dinner at  
18 Trotter's Tavern.

19 Let's again look at the phone contact. This is  
20 Exhibit 1526. Anthony Mangone told us that he spoke with  
21 Jereis and arranged for Jereis to come by and pick up the cash.  
22 Looks what happens. Remember how Anthony Mangone explained how  
23 this whole thing went down. He is in Trotter's. He gets a  
24 call. Zehy Jereis is out front. He goes out. He gets into  
25 the white Mercedes. He gets in. They have very little

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Summation - Mr. Carbone

1 discussion. He gives the cash and Zehy Jereis takes the cash  
2 and goes off and he goes back into Trotter's.

3 Let's look at the phone contact.

4 You have calls from Mangone to Jereis early in the  
5 day.

6 You have calls with Jereis and Annabi.

7 Then you have Jereis calling Mangone at 5:32 for one  
8 minute. What happens? Mangone gets up. He comes out. He  
9 gets in the car. He turned the cash over and comes back in.

10 Now look what happens three minutes later. Who is the  
11 very first person Zehy Jereis calls after he gets the \$10,000  
12 in cash? Sandy Annabi, three minutes later, and he speaks to  
13 her for six minutes, and he is driving a white Mercedes.

14 Now, is it possible they are talking about the  
15 weather? Anything is possible. Is it likely given this  
16 overwhelming circumstantial evidence that they were talking  
17 about the cash that Mr. Jereis just received from Mr. Mangone?

18 Absolutely. Why else would Jereis be calling Anthony  
19 Mangone right after the vote? Why else would he be calling  
20 Sandy Annabi right after he picks up the cash?

21 And why, getting back to Government Exhibit 770, would  
22 Sandy Annabi, while she is in Jordan, be telling her secretary,  
23 Debbie Kayal, to have Z, Zehy Jereis, contact the developers to  
24 revise the legislation? She is not directing them to call the  
25 Milios. She is directing her to call Z.

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Summation - Mr. Carbone

1           What happens on the date of the vote on September 26?

2           You know that Jereis and Annabi had made the deal.

3       They carried out their end of the bargain and they wanted to be  
4       paid.

5           Remember as I said earlier, the issue that you have to  
6       decide on the Longfellow transaction is whether Sandy Annabi  
7       received any financial benefits intending to be influenced or  
8       rewarded for any official action. We don't have to prove that  
9       she actually flipped her vote in exchange for the cash --  
10      although we submit that's exactly what the evidence  
11      overwhelmingly shows. But what was in her mind when she took  
12      the cash and the other financial benefits that Jereis was  
13      giving to her? Influence and access. That's what Jereis paid  
14      for, and that's what he got.

15           Is that transparent to you or open and honest  
16      government? That's the official action that took place on just  
17      two of the opportunities, two of the specific opportunities.

18           You heard about other opportunities during the course  
19      of the trial, the School 13 project. Do you remember that?

20           There was also powerful evidence that Zehy Jereis took  
21      advantage of his investment in Annabi for this other project as  
22      well.

23           Remember the testimony of Council Members Barbato,  
24      Murtagh and Robertson about School 13. There was a development  
25      project at another school in Yonkers that was in Sandy Annabi's

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Summation - Mr. Carbone

1 district. And this was the one where Mr. Jereis testified he  
2 owned some property right near the project. The project was  
3 being held up because, in order for it to be approved they  
4 needed additional parties and Sandy Annabi was adamantly  
5 opposed to taking a parking lot across the street by eminent  
6 domain. The project wasn't even in her district but she was a  
7 very, very vocal on the project.

8 Now, you heard a lot about the nuances about how if a  
9 project is in a particular council member's district, they are  
10 the ones who really have to approve it or be on board and for  
11 the most part the other council members sort of defer to that  
12 council member. It is in their district.

13 Both John Murtagh and Dee Barbato told us that Zehy  
14 Jereis came to them directly about the School 13 project.  
15 Jereis almost never called them directly on a policy issue, but  
16 he called them about School 13. He wanted to make sure that  
17 they weren't going to support the eminent domain, the taking of  
18 this parking lot.

19 Dennis Robertson, whose district the project was in,  
20 did support the project. Council Member Robertson told us that  
21 when he learned that Zehy Jereis was involved in the project,  
22 he got concerned because Sandy Annabi was giving him such a  
23 hard time about getting the project approved. So he went to  
24 Sandy Annabi and said, I hope you are not holding up the  
25 project because Zehy has an interest in this -- yet another

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Summation - Mr. Carbone

1 example of how Zehy Jereis was using his influence, picking up  
2 the markers that he laid down to get Sandy Annabi to give him  
3 official favors.

4 How about some of the other opportunities?

5 You heard David Medranda, defense witnesses, tell us  
6 that it was part of his official duties as Sandy Annabi's  
7 secretary to keep Zehy Jereis in the loop on official City of  
8 Yonkers business and political matters.

9 Remember he testified about a series of emails  
10 relating to these generators. He spoke with Sandy Annabi who  
11 directed him to call a number of buildings in her district and  
12 check and see if they had generators. Zehy Jereis wrote David  
13 Medranda an email, said that Sandy was on board with this and  
14 he told David Medranda to keep it hush. So they put the wheels  
15 in motion, Sandy did, to get the city to buy generators.

16 It is another opportunity. Why is Zehy Jereis getting  
17 this Yonkers city council member to buy generators? Why? Why  
18 is he getting the City of Yonkers to buy anything. Why is he  
19 getting the City of Yonkers to buy metal detectors? He is a  
20 political guy. He was the head of the Republican Party. He is  
21 not in charge of facilities and operation in the City of  
22 Yonkers. Why does he have access to Sandy Annabi's staff like  
23 that?

24 Do you remember David Medranda, also, who worked on  
25 Sandy Annabi's campaign, told us that he was required not to

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Summation - Mr. Carbone

1 just keep Zehy Jereis in the loop on City of Yonkers business,  
2 but he was also required to keep him in the loop on political  
3 matters as well. Why? Because Zehy Jereis needed to protect  
4 his political creation.

5 So getting back to our sort of recipe for corrupt  
6 intent, you need benefits, you need payment, you need  
7 concealment. And we have talked about that a little bit.

8 I just want to drill down on that a little bit.

9 The concealment term of the corrupt agreement is  
10 pervasive in this case.

11 Let's look at some of the concealment that took place.

12 Sandy Annabi's financial disclosure forms -- again,  
13 this is another example of where common sense is key. Remember  
14 the testimony of Helen Henkel, it was early in the trial. She  
15 is from the City of Yonkers board of ethics. She explained the  
16 rules to us about what a public official could accept and what  
17 had to be reported. And the rule just restates what we all  
18 know, and that is, if you take money from people, you have to  
19 report it -- not a difficult concept.

20 Mr. Aronwald would have you believe there were  
21 questions on cross-examination, there was some kind of  
22 confusion, Sandy Annabi didn't think she had to report those  
23 \$200,000 in payments. It was too complicated a concept for  
24 her. Does that make any sense? Ms. Annabi is educated. She  
25 is very savvy. She is very sharp. She signs off on very

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Summation - Mr. Carbone

1 substantial City of Yonkers business, budgets, legislation.  
2 Presumably, she reads them and understands them. It is an  
3 assault on your common sense to suggest that she didn't know  
4 that she had to report all of that money she was receiving.

5 Those forms are riddled with false statements.

6 Despite all of the benefits on Government Exhibit 5  
7 which is the wheel of fortune, she discloses absolutely  
8 nothing.

9 Let's take a look at some of the forms.

10 Here is the 2002 form, Government Exhibit 12. Every  
11 single one of these were forms were filled out and signed by  
12 Sandy Annabi in her handwriting certifying under penalty of  
13 perjury that the information is true to the best of her  
14 knowledge.

15 Now, Mr. Aronwald asked some questions of Ms. Henkel  
16 about what the penalties are for failing to file.

17 This, ladies and gentlemen, this and all of the  
18 financial disclosure forms that follow were signed by her under  
19 penalty of perjury.

20 Let's take a look at question 4G on page 4.

21 Other income: Identify the source and nature of any  
22 other income in excess of \$1,000. Zero.

23 Let's go to the gift question, page 5. Was the source  
24 of all gifts aggregating in excess of \$200 received during the  
25 last year by you, your spouse, your dependent children,

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Summation - Mr. Carbone

1 excluding gifts from relatives. The term gift includes gifts  
2 for cash, property, personal items, payments to third parties  
3 on your behalf, forgiveness of debts, honorariums or any other  
4 payments that are not reportable as income.

5 Sandy Annabi, in her handwriting, wrote none. We know  
6 from Government Exhibits 5, 6, she had received thousands of  
7 dollars. We know from Mr. Jereis' own testimony that she had  
8 received thousands of dollars.

9 Let's take a look -- we will jump ahead to the 2004  
10 year. Government Exhibit 14, page 5, gifts and honorariums.

11 This is not just a question that was left blank. This  
12 is Sandy Annabi filling this out in her own handwriting  
13 deliberately writing none, none, none and writing dashes below  
14 it. So there could be no misunderstanding. She is telling the  
15 world that she received no gifts in excess of \$200.

16 Let's take a look at question 6 on the 2004 form.

17 Remember, there is this \$60,000 loan, you see the  
18 promissory note on it.

19 Question 7: Identify and describe the source of any  
20 third party reimbursement.

21 Let me go to question 7. Debt. Describe all debts of  
22 you, your spouse, dependent children in excess of \$5,000.

23 Sandy Annabi, we know -- let's look at what she writes  
24 here. First of all, there is no mention of the Patton  
25 property. Why? Because she didn't want anybody to know that

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Summation - Mr. Carbone

1 Zehy Jereis had loaned her that \$60,000 on the Patton property  
2 for the down payment.

3 We know that what should be listed here is both the  
4 Patton mortgage and the \$60,000 promissory note which was  
5 signed by her, Government Exhibit 470. June, 8, 2004, \$60,000,  
6 Jereis is the maker, and it is signed by Sandy Annabi. There  
7 was no dispute about that.

8 So she doesn't disclose the Patton property. She  
9 doesn't disclose the Patton debt, the mortgage, and she doesn't  
10 disclose the loan.

11 Your Honor, would this be a good time for a  
12 five-minute break?

13 THE COURT: You are amazing, Mr. Carbone. I would  
14 have asked for one a long time ago.

15 Don't discuss the case. Keep an open mind.

16 (Recess)

17 THE COURT: Let's continue.

18 MR. CARBONE: Thank you.

19 Before we broke we were talking about how you need  
20 these three things for corrupt agreement -- you need financial  
21 benefits which we covered. You need the official action. And  
22 the third prong or element is this element of concealment.

23 We were talking about the financial disclosure forms  
24 and we reviewed the forms that showed that Ms. Annabi clearly  
25 didn't disclose one penny of the payments that she received

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Summation - Mr. Carbone

1 from Mr. Jereis.

2 Let's take look now, we were on this 2004 disclosure  
3 form. What does Ms. Annabi say about the investments that she  
4 has in real property?

5 First of all, where is the Patton Drive house?  
6 Nowhere to be found. Why? Because as the City of Yonkers and  
7 the public is looking at this form, one may ask how someone on  
8 a modest salary could possibly afford three different  
9 mortgages. One may ask how it was paid for. And that was  
10 something that Ms. Annabi wouldn't want to disclose and didn't  
11 disclose that the Patton house was paid for by Zehy Jereis.

12 Look what she does say about the Bacon property. It  
13 is an investment property. Now it is an investment property,  
14 but when she was applying for a mortgage it was a residential  
15 property.

16 Let's see whether she says anything about rental  
17 income from Patton.

18 Other income: Absolutely nothing.

19 Just so it was clear, Ms. Annabi wrote in none and  
20 wrote in dashes, clearly showing she understood and read the  
21 question and made sure that she completely answered the  
22 question.

23 Let's take a look at her 2004 tax return, page 7 of  
24 the tax return. This is a document called a Schedule E that  
25 you heard Mr. Crowley and Mr. Dennehy talk about a little bit.

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Summation - Mr. Carbone

1 It is something that if you have rental property that you have  
2 to attach to the tax return.

3 Look what Ms. Annabi says here. She has a rental  
4 property at 13 Patton, and she is getting rental income from 13  
5 Patton that results in a \$15,000 loss for that year. But yet  
6 when you go back to Exhibit 14, as I mentioned, the financial  
7 disclosure form, no mention of the Patton house, no mention of  
8 any rental income.

9 What is the takeaway from that? Ms. Annabi will say  
10 whatever she needs to say, depending on the audience. Those  
11 are flatly black-and-white contradictory statements.

12 Another form of concealment, the lies to the agents.  
13 Remember, Ms. Annabi was interviewed not once but three times.  
14 What did she say about the Rolex watch? She was specifically  
15 asked how she paid for it. She said, well, she couldn't  
16 remember. A \$3800 watch that she paid for in cash and she  
17 couldn't remember how she paid for it. And not until she is  
18 pressed does she say, maybe Zehy Jereis helped her -- although  
19 we learned yesterday from Mr. Jereis that he didn't pay for  
20 that watch.

21 Ms. Annabi said that she didn't know why the  
22 Longfellow project was put off. You just saw that there was an  
23 agreement circulating on July 11th, the night of the vote,  
24 indicating that she had reached an agreement and that they  
25 couldn't get it on the agenda. That's exactly why it was put

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Summation - Mr. Carbone

1 off. They are related. They are not related.

2 Then what did she say about all of the financial  
3 benefits? She didn't put them on her financial disclosure  
4 reports because she didn't think they were benefits to her.  
5 She thought that they were loans from Mr. Jereis to her father.

6 The Mercedes-Benz that she is driving was a loan from  
7 Mr. Jereis to her father, who, by the way, I tell you on my  
8 2005 tax return, defaulted on a loan to me and is bankrupt.  
9 The father was going to repay all of these financial benefits,  
10 while he is in bankruptcy and, at the same time, she tells the  
11 agents that he never gave her a penny. None of it makes sense  
12 why make all of these false statements if you don't have  
13 anything to hide?

14 Those backdated reports, again, remember the timing.  
15 We talked about this a little bit earlier. Sandy Annabi is  
16 approached on January 30. The news public reports of the  
17 investigation break on March 8 of '07. Jereis submits the  
18 reports days later on March 12.

19 This is Government Exhibit 381. This is the email  
20 that he sent to Scott Cantone. The date is March 12, 4:06  
21 p.m., please see the attached reports. The reports are dated  
22 and indicate that work was done, August report, a September  
23 report, backdated because news of the investigation broke --  
24 four days after that article appeared. Sound familiar? That's  
25 exactly what happened in connection with the chamber of

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Summation - Mr. Carbone

1 commerce -- the other no-show job.

2 If it is all on the up-and-up, why hide things? Why  
3 do you have to lie to the agents? Why do you have to file  
4 false financial disclosure reports? Why do you have to scurry  
5 around and try and justify and create reports and make it  
6 appear as if you were actually doing work?

7 We heard from Forest City Ratner and the chamber of  
8 commerce. He added zero value. If it is all on the up-and-up,  
9 why do all of this? It is consciousness of guilt. They knew  
10 they had something to hide. And that, again, is where common  
11 sense comes in. Is it circumstantial evidence of the agreement  
12 or understanding that these two had and it is overwhelming.

13 So that's what we have to prove and how we proved it.

14 Now, Judge McMahon mentioned a number of times during  
15 this trial that defendants have no burden, the burden is on the  
16 government and, of course, we welcome that burden, but they did  
17 put forth a defense. They raised issues during the trial --  
18 most of which had nothing to do with this case. But let's just  
19 spend a minute talking about some of the defenses that were  
20 raised.

21 Remember, if they are going to put on a defense, they  
22 have to say something, so let's look at what they did. It is  
23 the core of the case is the intent of the benefits.

24 What did they do? They floated a bunch of balloons in  
25 the air and they tried to distract you and take your attention

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Summation - Mr. Carbone

1 away from the facts, and the fact are that she received  
2 \$200,000. There is overwhelming evidence of concealment and  
3 she took official action. They wanted to take your eye off the  
4 ball. How do they do that?

5 The love defense. The main defense is that the  
6 payments were made out of lust, love or some kind of affection.  
7 And there is no claim -- because there can't be -- that the  
8 admiration was reciprocal. So when you apply your good  
9 old-fashioned common sense to this defense, this is going to be  
10 a very easy issue for you to resolve.

11 In addition to all of the other reasons we talked  
12 about earlier, why is it that this defense is so nonsensical  
13 and desperate. Consider a few things.

14 First, you are a married man. You have a family. You  
15 are attracted to a woman and you want to tell her that you love  
16 her. There are a lot of ways you could to that. A lot of ways  
17 it is traditionally done -- some say it with flowers, maybe a  
18 dozen long-stemed roses, maybe it is chocolates that softens  
19 the heart so you go out and you buy her a box of Godivas, maybe  
20 some perfume -- most women would be pleased to death to get  
21 \$100 bottle of Chanel Chance or maybe if you are on a budget,  
22 some Jean Nate. If you are a little more excited, maybe you  
23 take her away on a romantic vacation or a weekend in the B and  
24 B up in Vermont. Maybe your idea of romance is a night or two  
25 in Atlantic City or a show on Broadway, the movies, an opera or

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Summation - Mr. Carbone

1 a ballet. Now that would make sense. That's how you show  
2 someone that you are interested in a romantic relationship.

3 There is no evidence that any of that happened here.  
4 Their idea of a romantic time is double date with Forest City  
5 Ratner executives at Jake's Steakhouse so that Zehy Jereis can  
6 get a job. That is not romance. That is corruption.

7 The only thing that changed hands here was money and  
8 official actions. The money went from that side of the table  
9 to this side right here and official action went back the other  
10 way. There was not a shred of evidence that there was any kind  
11 of mutual romance or involvement other than, of course,  
12 Mr. Jereis' statements -- I believe it was on redirect -- about  
13 him thinking that she was his girlfriend. And there was some  
14 suggestion about some undescribed thing for sexual contact.

15 To the contrary, Jereis was married, supporting a wife  
16 and two children in Scarsdale, New York on a modest income.

17 Remember Government Exhibit 7, that was the comparison  
18 that Agent Dennehy did of Zehy Jereis' reported income as  
19 compared to the financial benefits he was giving to Sandy  
20 Annabi.

21 In 2006, you have to kind of adjust a little bit  
22 because that's the year he not only had the no-show job with  
23 Forest City Ratner, but the chamber of commerce. Look at his  
24 reported income in '02, '03, '04 and '05, as compared to the  
25 financial benefits he is giving to Sandy Annabi. This is not

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1 Donald Trump. This is not a billionaire. This is a guy who is  
2 reporting less than \$100,000 a year -- 70, 78 thousand -- an  
3 average of \$70,000 a year.

4 Does it make any sense that, to court this woman, you  
5 would be giving her \$75,000 a year in financial benefits,  
6 30,000 a year in '05; 32,000 in '06? It makes absolutely no  
7 sense.

8 Does it make sense that Zehy Jereis, a man like him  
9 who is a tough brawling politico from Yonkers would fork over  
10 almost \$200,000 and get nothing in return?

11 He had rental properties you heard. He had cash  
12 available. He was a married man, and he was trying to hide  
13 this from his wife, would he have written over 200 checks from  
14 a bank account? Think about it. Ms. Jereis opens the bank  
15 account and sees these hundreds of checks in her account and  
16 says, honey, what is this for? And his response is going to  
17 be? Oh, I have been trying unsuccessfully to be intimate with  
18 Sandy Annabi for the past five years. I have given her  
19 \$200,000 in benefits, but don't worry, if it doesn't happen  
20 soon, I will stop paying her. Does that make any sense?  
21 Absolutely not. The story is ludicrous on its face.

22 Only after he finds out that she is a candidate for  
23 office -- he has known her, he has seen her around for years --  
24 only after he finds out that she is a candidate for office does  
25 he notice the powder blue dress and it is love at first sight.

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Summation - Mr. Carbone

1 Let's assume for the sake of argument that he did want  
2 to have a romantic relationship with her. That's not the way  
3 she described it in her statement to the agents. In fact, we  
4 heard that she specifically denied it.

5 And as Judge McMahon will tell you, when you are  
6 deliberating, you have to consider these two defendants  
7 separately -- what was in her mind, what was in his mind. You  
8 heard evidence, although highly incredible evidence, of what  
9 was in his mind. You also heard what was in her mind through  
10 her statement to the agents. He wasn't my boyfriend. I had no  
11 romantic interest in him at all -- not a hint, not even a claim  
12 that she took the payments because she had any romantic  
13 interest in him. She wasn't the slightest bit interested in  
14 him.

15 We heard that not just from her, but Maria Chousa who  
16 told us that she told her that Zehy Jereis was not her type.

17 We also know from Dennis Robertson and others that  
18 Zehy Jereis advertised publicly to the world that he had access  
19 and control over her.

20 You heard that from Anthony Mangone as well. You go  
21 to get to Sandy Annabi, you go through Zehy Jereis.

22 You heard that from Forest City Ratner. All roads to  
23 Sandy Annabi lead through Zehy Jereis. And the best evidence  
24 that he had more than just this bizarre interest in her is the  
25 overwhelming evidence that he was in fact out there selling his

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Summation - Mr. Carbone

1 influence.

2 We know from Bruce Bender and Scott Cantone, the very  
3 first thing that he said at the meeting was, you are hiring the  
4 wrong people. He admits that he agreed to get her to come to a  
5 meeting -- even he admits that.

6 Anthony Mangone told you about how he said, he can get  
7 Sandy on board for the Longfellow project.

8 What about these hard drives and about these emails?

9 Sandy Annabi is interviewed on January 30. As  
10 Detective Koenig told you, within weeks, massive deletions from  
11 a hard drive. Is that consistent conduct with someone who  
12 wants to preserve evidence that she thinks will exculpate here,  
13 show her innocence?

14 Ridiculous.

15 Those emails which, coincidentally, as Mr. Jereis  
16 testified, he produces. That Tower right there in response to  
17 a subpoena after he testified -- Detective Koenig analyzed that  
18 hard drive over the weekend, and he found no evidence of those  
19 emails on that hard drive. He didn't find them because there  
20 weren't any and those emails are about as authentic as  
21 Mr. Jereis' testimony.

22 How about the defense that Forest City Ratner, didn't  
23 bribe -- remember Mr. Aronwald cross-examined the witnesses,  
24 Pantone and Bender, about whether they thought that they were  
25 bribing Sandy Annabi. There was no quid pro quo, they say.

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Summation - Mr. Carbone

1 Totally irrelevant. That is not the charge in this case. It  
2 has nothing to do with this case because the charge is that  
3 Zehy Jereis was bribing Sandy Annabi and at the same time he is  
4 selling his access to her. That is exactly what the evidence  
5 shows -- overwhelming.

6 I want to talk now about for a moment about  
7 credibility of witnesses.

8 You heard from a lot of government witnesses, and you  
9 have to evaluate their credibility, and you know how to do that  
10 because you do that every day. Most importantly, their motive.  
11 You know how to determine when somebody is telling the truth.

12 And there are three government witnesses that you  
13 should obviously take a hard look at -- and I am talking about  
14 Anthony Mangone, Franco Milio and Antonio Milio.

15 The first thing you have to keep in mind today,  
16 especially when the defense lawyers get up here and attack  
17 these witnesses, is that the government don't get to pick its  
18 witnesses. We take the evidence as we find it. We don't get  
19 to pick who the defendants chose to commit crimes with.

20 Broadcast Government Exhibit 805. That is Mr. Mangone  
21 and Ms. Sandy Annabi in happier times. We know that Mr. Jereis  
22 and Mr. Mangone were fairly close, they socialized. They were  
23 friends.

24 We have an old saying, swans don't swim in the sewer.  
25 Of course, we would have loved to have called Mother Teresa to

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Summation - Mr. Carbone

1 tell you about these crimes. They didn't choose to commit the  
2 crimes with Mother Teresa. They chose to commit crimes with  
3 the people that they were most comfortable and familiar with.

4 Ladies and gentlemen, Anthony Mangone was a blight on  
5 the legal profession. He was charged with these defendants and  
6 he chose to cut his losses and plead guilty. That was his  
7 right. Has he lied in the past? Yes. Should he have ever  
8 been licensed to practice law? Obviously not. Is he a bagman  
9 of course he is, but he is their bagman. That's what you have  
10 to keep in mind and keep focused on. That's the kind person  
11 who you choose to shake people down with, to act as a bagman  
12 for bribes. Criminals commit crimes, Mother Teresa doesn't.  
13 That is why Anthony Mangone was involved in this case, and  
14 that's why they chose him, and that's why we called him as a  
15 witness.

16 So when the lawyers get up here and they complain  
17 about Anthony Mangone and accuse the government of getting into  
18 the bed with Anthony Mangone, think to yourself, what does that  
19 say about them. When they dump all over Anthony Mangone, they  
20 are dumping on their clients because they chose Anthony  
21 Mangone.

22 Think about the substance of his testimony. If  
23 Anthony Mangone was going to fabricate a story, come in here  
24 with a story, wouldn't he have done a better job? As he told  
25 you, the only way he helps himself is to tell the truth.

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Summation - Mr. Carbone

1 We went through his plea agreement. If he was going  
2 to lie, wouldn't he have gotten up here and said, I spoke  
3 directly to Sandy Annabi about this bribe. He didn't do that,  
4 even though there was some indication on the phone records that  
5 there was some phone contact. He didn't do that because that  
6 wouldn't be consistent with his obligations under the plea  
7 agreement. He told you that he was charged with these  
8 offenses.

9 He also, in the first indictment, he told you he knew  
10 exactly what the Milios had to say about the timing of the  
11 payments and the amounts of the payments from the first  
12 indictment. He didn't come in here and tell us a story that  
13 was tailored to fit what the Milios said. He told you what he  
14 recalls about the way it happened and the way it went down, and  
15 he did that even though he knew, as he told you, that his  
16 recollection differed from the Milios.

17 That is not what someone does who is trying to come in  
18 here and lie to you and sell you a bill of goods. That's what  
19 a witness does when he believes that the only way he can  
20 benefit is by telling the truth.

21 Remember all of those provisions in his plea  
22 agreement, if he gets caught lying, if he lies, his plea  
23 agreement gets ripped up and he gets sentenced on the  
24 underlying crime and for lying. Remember, did he lie before he  
25 came in to cooperate? Absolutely. But once he came in to

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Summation - Mr. Carbone

1 cooperate, he told us exactly how he recalls it happening, and  
2 he came in here and told you exactly how he recalled it  
3 happening, even though he knew that it differed from the  
4 Milios.

5 So how did the testimony actually differ? First, they  
6 differed on the timing of the payment. The Milios say  
7 basically that there were two payments on the same day --  
8 30,000 for Annabi, 10,000 for Mangone. And they say that  
9 Antonio brought the 30,000 and gave Anthony Mangone 10,000 for  
10 legal fees, basically on the same day.

11 Mangone's recollection differs. He says there is a  
12 \$10,000 payment on July 13, the day after the vote that didn't  
13 happen because they were prepared to produce. And then he says  
14 there was another payment on or about September 27th after the  
15 actual date. It is obviously an inconsistency that you have to  
16 evaluate.

17 Defense counsel, I expect, will make much of the fact  
18 that the Milios were out of the country. They were in Mexico  
19 from September 24 through October 1.

20 And you heard Anthony Mangone tell you that that was  
21 his recollection, and that's why told you what he did.

22 Could the recollections have been off?

23 could either one of the recollections been off about  
24 the timing of the payment, the actual amount -- remember  
25 Mangone was supposed to get 20,000 as a success fee, some of it

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C3KUANN3

Summation - Mr. Carbone

1 was legal fees. Could they have been off about who he handed  
2 the cash over from the Milio family to Mangone, when it was  
3 handed over? Absolutely. But one thing they were consistent  
4 about was that the cash was paid to Jereis and Sandy Annabi in  
5 exchange for her support of the Longfellow project. That they  
6 are consistent about.

7  
8 (Continued on next page)  
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C3kQann4

Summation - Mr. Carbone

1 MR. CARBONE: (Continued) I submit to you, ladies and  
2 gentlemen, that there are differences in recollection between  
3 Mangone and the Milios; that they are honest differences in  
4 recollection, and that these differences and recollections are  
5 the hallmark of truth. If they had come in here and told you  
6 the exact same story, then you'd have to be worried; then  
7 you've have to be concerned. But when they differ like this,  
8 it is the hallmark of truth when you have this kind of  
9 different recollection. Anthony Mangone didn't admit to  
10 helping the Milios pay bribes and help them get bribes for his  
11 health. He pled guilty, lost his license to practice law  
12 answer livelihood because, as he told you, he is guilty.

13 If he was going to lie about what their roles were, as  
14 I said before, wouldn't he have given them different roles?  
15 Wouldn't he have been more detailed about what it is that they  
16 said. Wouldn't he have said that he had phone conversations,  
17 phone contact with Sandy Annabi? It would have been very easy  
18 for him to lie about that. Why wouldn't he tell you that he  
19 gave the money directly to Sandy Annabi?

20 Now, you know that Anthony Mangone and the Milios do  
21 have cooperating plea agreements, and that they hope to receive  
22 a benefit from their cooperation. We ask that you keep a  
23 couple of things in mind when evaluating the testimony:

24 First, remember that they are obligated under that  
25 agreement -- you have it in evidence; you can look at it --

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C3kQann4

Summation - Mr. Carbone

1 they are obligated to tell the truth. Not only can they be  
2 prosecuted for the underlying offenses, but they can be  
3 prosecuted for lying, and they will go to jail for a longer  
4 time because of that. If they lie, they lose. So ask  
5 yourselves whether it makes sense that they would risk losing  
6 their agreement by lying. And, remember, it's Judge McMahon,  
7 the Court, not the government, who determines whether a witness  
8 will receive leniency at sentencing.

9 Finally, and most importantly here, when you evaluate  
10 the testimony, look carefully and see whether their statements  
11 were corroborated. Is their testimony way out there or is it  
12 inconsistent with the documents and other witnesses? The  
13 testimony of the Milios and Mangone, I submit, as we talked a  
14 little bit about today was highly corroborated. They're  
15 corroborated by phone records; they're corroborated by credit  
16 cards records by emails like the one Mangone sent to Franco  
17 Milio as he was on the phone with Zehy Jereis; they're  
18 corroborated by the email that Sandy Annabi sent to her  
19 secretary while she was in Jordan telling her to get Z to go to  
20 the developers and revise the legislation.

21 You heard testimony about the prior inconsistent  
22 statements. As Agent Karaka and Agent Mazzuca explained, 302s  
23 are not verbatim transcripts of what's said. They don't  
24 write down everything that's said. There is no tape-recorder.  
25 They don't take shorthand. It's their notes. And then

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C3kQann4

Summation - Mr. Carbone

1     sometime thereafter they type up a report. That's what it is.  
2     Witnesses make mistakes. Again, as I said before, if  
3     everything matched perfectly, that's more reason to be  
4     concerned than honest differences in recollection.

5             Let's take a look at Government Exhibit 1517. Look at  
6     some of the other corroborating evidence. Now, do Sandy Annabi  
7     and Zehy Jereis talk on a regular basis? Yes. What happens  
8     during the month of June 2006? 623 contacts. When all this is  
9     going down, both the Longfellow meetings and the meetings on  
10    Forest City Ratner. 623 contacts. Over ten times as many as  
11    the month before.

12            Exhibit 1518 -- and you will have these in evidence to  
13    look at in the jury room. 1518 is just another way of saying  
14    the same thing. It's a comparison. Again, the second most  
15    number of contacts is Election Day. The most number of  
16    contacts are in June when Forest City Ratner and Longfellow  
17    projects are going down. What does that say about the nature  
18    of the relationship, when Election Day and bribe days are the  
19    days that they talk the most? And look at the most contacts in  
20    a single day of the year, the number one number of contacts on  
21    June 9, 2006, the day of the Jake's Steakhouse meeting --  
22    number one number of contacts, 81 contacts that day. Again, 77  
23    on Election Day, and 55 on primary day.

24            Remember, on the 15th, the day that Sandy Annabi  
25    issues a press release announcing support for the project,

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Summation - Mr. Carbone

1 again, does this phone contact suggest a romantic relationship  
2 or one based in politics and city Yonkers government?

3 Zehy Jereis was obligated to provide those reports.  
4 He was obligated to report to Scott Cantone, Bruce Bender and  
5 Rich Pesin. You heard Scott Cantone and Bruce Bender tell you  
6 that they spoke with Zehy Jereis two or three times during the  
7 entire time period that he was allegedly working for them. He  
8 had never been to the Forest City Ratner offices. They met  
9 once when Bruce Bender and Scott Cantone were up in Yonkers on  
10 another matter and they called Zehy Jereis, and they met with  
11 him at a Dunkin' Donuts or something. One time. One time.  
12 And then they asked him for something. They asked him for  
13 reports, and they asked him to follow up on one piece of  
14 property he mentioned. And you heard what Bruce Bender and  
15 Scott Cantone told you. He never even responded to that one  
16 single request for information about tax information on a lot.  
17 Is that someone who is providing services or is that someone  
18 who got a job that he knew was a no-show job and never planned  
19 to provide any value?

20 How about Zehy Jereis's statement to Scott Cantone  
21 that he's shepherding a project through the city council, the  
22 Longfellow project? Again, powerful corroboration. This is a  
23 witness who had nothing to do with Longfellow. Scott Cantone  
24 is Forest City Ratner. In one of the very few conversations he  
25 had with the \$60,000 a year consultant after he was hired, Zehy

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Summation - Mr. Carbone

1 Jereis was excited because he was shepherding the Longfellow  
2 project through the city council. That's consistent with  
3 Ms. Annabi's email while she was in Jordan telling her  
4 secretary to have Zehy get the legislation redrafted. It's  
5 consistent with the phone contact, and it's consistent with the  
6 email that Anthony Mangone wrote to the Milios while he was on  
7 the phone with Zehy Jereis describing what the terms and  
8 conditions were.

9 How about Tony Serrao? Remember him? That was a  
10 witness long ago as well. You heard the jeweler testify about  
11 the cash purchase Sandy Annabi made for the diamond bezel Rolex  
12 watch. That's Exhibit 213. They cross-examined Mr. Serrao at  
13 length about whether he made up the receipt and was testifying  
14 falsely. Did any of that cross-examination make any sense  
15 whatsoever? What on earth did Tony Serrao have to gain or lose  
16 by testifying one way or the other at this trial? He had no  
17 axe to grind with Sandy Annabi or Zehy Jereis. In fact, they  
18 were customers, or at least Sandy Annabi was. He was a  
19 completely disinterested witness. And what the single,  
20 most-important fact that tells you that that cross-examination  
21 was so pointless, Sandy Annabi admitted in her interview that  
22 the watch was for her, and that she bought it. Now, granted,  
23 she couldn't remember how she paid for it until pressed, and  
24 then maybe Zehy Jereis helped her, but what were they trying to  
25 establish through all that cross-examination of Tony Serrao

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Summation - Mr. Carbone

1 suggesting that he lied. Lied about what? It was a simple  
2 transaction. Sandy Annabi went in, bought this diamond bezel  
3 Rolex watch, and paid cash for it. There was all that  
4 cross-examination because they know that that was a very  
5 damning witness, and it hurt, so they had to ask him something.

6 How about Bruce Bender and Scott Cantone, they told  
7 you about how persistent and aggressive the efforts of Zehy  
8 Jereis were to hold them up and to get a contract. Absolutely  
9 no reason whatsoever to disbelieve their testimony. What  
10 possible incentive did Bruce Bender or Scott Cantone have to  
11 come in here and lie to you? If anything, they were motivated  
12 to tell you that the consulting contract was, as Mr. Aronwald  
13 mistakenly put in his opening, an arm's-length negotiation.  
14 That would make them look better. They didn't tell you that,  
15 because that's not the way it happened. They told you what  
16 happened. Zehy Jereis was hounding them from the minute he got  
17 Sandy Annabi to that meeting on June 9th, he was hounding them  
18 for a job -- multiple emails, multiple phone calls, and he did  
19 that before she actually flipped her vote.

20 John Murtagh, Dee Barbato, Mike Spano, Dennis  
21 Roberston, all of these witnesses were on the same political  
22 stage. Was Mike Spano unsuccessful in getting Annabi to  
23 support the project? Yes. Each of those witnesses in their  
24 own way provided damning testimony against Annabi. Not because  
25 they disagreed on political issues, but because they were

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C3kQann4

Summation - Mr. Carbone

1 obligated to tell the truth, and they came in here under oath  
2 and did just that. Consider whether you think those are the  
3 kind of people who are going to come in here and testify  
4 falsely against Sandy Annabi and Zehy Jereis. What's their  
5 motive? They have absolutely none.

6 So that brings us to the false statement on the loan  
7 application counts. As I said before, the rest of the  
8 indictment Counts Seven through Nine relate to Sandy Annabi  
9 only. Counts Seven through Nine charge Sandy Annabi with  
10 making false statement on a series of loan applications related  
11 to the purchase of the Patton Drive and the Bacon Place house  
12 and the cooperative apartment on Rumsey Road that Zehy Jereis  
13 gave her the money to purchase and then paid for.

14 As you heard and saw, Sandy Annabi made numerous false  
15 statements in connection with these three different loan  
16 applications. The testimony and the evidence supporting these  
17 counts is clear, straightforward and overwhelming. You saw the  
18 many false statements and the numerous phony documents that  
19 were created and submitted, and we are just going to review a  
20 couple of them here. Let's first talk about the Patton Drive  
21 house. The lie there was that whether any part of the down  
22 payment was borrowed, whether she intended to live there, and  
23 what her rent was.

24 Remember what happened here: First Sandy Annabi  
25 decides she wants to buy a house on Patton Drive, far outside

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Summation - Mr. Carbone

1 of her district. She puts a down payment down. That's May 3,  
2 May 4, two checks for \$50,000. Those are down payment checks.  
3 But look where she gets the \$50,000 -- Zehy Jereis, and it gets  
4 deposited right into her account on 5/4, the same day that she  
5 writes the check for the down payment. She submits her  
6 application, gets approved for the loan, and the Patton house  
7 closes as scheduled.

8 Let's take a look at some of the documents submitted  
9 to the bank. She submits pay stubs. She submits W-2 forms to  
10 prove her income. Now, we know from the testimony of Ken  
11 Bicknese and the documents you saw that the W-2 forms and the  
12 pay stubs that she submitted on the first application were  
13 actually accurate. Why? Because she didn't have to lie in  
14 connection with that application. That's the first mortgage  
15 she's applying for. So she gives them accurate and truthful  
16 W-2 forms and pay stubs, and she accurately discloses the  
17 income on the loan application. But what she doesn't  
18 accurately do is disclose where the money came from for the  
19 down payment. So we know there's no problem on the first loan  
20 with respect to the financial information she submits.

21 And remember the testimony of Kenneth Bicknese. He's  
22 a very important witness in connection with these three counts  
23 because he told you that Sandy Annabi came to him at some point  
24 and said, "What if I apply for a second mortgage? How can I do  
25 that?" And he said, "Well, you can't apply for two residential

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C3kQann4

Summation - Mr. Carbone

1 mortgages, primary residence mortgages at the same time. You  
2 have to apply for the second one as an investment property,"  
3 which is a far less favorable rate. So he never hears from her  
4 again. Why not? Because Sandy Annabi then went to her friend  
5 Sam Hattar at Columbia Equities and did exactly -- she took  
6 Mr. Bicknese's advice. She knew that if she was going to apply  
7 for two mortgages to the same broker, through the same bank,  
8 one has to be a primary residence and one has to be an  
9 investment property. So she went to another broker and applied  
10 for a second mortgage as a primary residence simultaneously at  
11 the very same time as the Patton property. She signs a form at  
12 the closing which take place three days apart, certifying that  
13 the information she provided was truthful. This is the  
14 document she submitted in connection with the Patton property.  
15 "Everything I say is truthful." That's what it says in  
16 paragraph two.

17 Let's look at Exhibit 458. This is the occupancy  
18 affidavit that she submits in connection with the Patton  
19 property. 7/27/04, three days before the Bacon property  
20 closing. She is going to occupy the premises as a principal  
21 residence. We know that's her signature. There's no dispute  
22 about that. And there is a certification. Sound familiar?  
23 Just like the ones on her financial disclosure forms, just like  
24 the certifications on her tax returns.

25 Now, we know that Sandy Annabi pays attention to these

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Summation - Mr. Carbone

1 Now, let's talk about Bacon. It closes within a  
2 matter of three days later. As we know, Sandy Annabi had to  
3 finance \$440,000 for the Patton property. We know that through  
4 Kenneth Bicknese and the documents. Then she went to Mr.  
5 Hattar. Again, Mr. Bicknese described Sandy Annabi as  
6 sophisticated, she understood the process, she asked all the  
7 right questions.

8 So let's take a look at her relationship with Sam  
9 Hattar. Government Exhibit 535. This is a reference letter  
10 that she submits from Sam Hattar in connection with her  
11 application for the co-op.

12 "To whom it may concern: I'm a loan officer with  
13 Columbia Equities. I have known Sandy Annabi for over four  
14 years. During that time we had collaborated on various  
15 business transactions."

16 Well, they sure did. They collaborated on the Bacon  
17 property application and the Rumsey Road application. And we  
18 are going to review those documents now.

19 Let's take a look at 2126. This is a PowerPoint just  
20 highlighting some of the false statements on the Bacon property  
21 application. Once again, three days after the closing at the  
22 Patton property she is telling this bank that Bacon will be her  
23 primary residence. That's the face of the application.

24 Now, let's look at the income.

25 THE COURT: You really need to bring this to a close

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1 Mr. Carbone. It's now been three hours.

2 MR. CARBONE: Judge, I'm almost finished.

3 THE COURT: Good. You have ten minutes to get done  
4 with everything.

5 MR. CARBONE: In that case --

6 THE COURT: Yes, I must tell you, having told me two  
7 and even making allowances, you are at three, so let's bring it  
8 to a close.

9 MR. CARBONE: All right. Mr. Turk, would you please  
10 broadcast the pay stubs submitted in connection with the Bacon  
11 property application and the pay stubs with the W-2s provided  
12 by St. Joseph's Hospital.

13 Consistent with the information that she put on the  
14 loan applications for Rumsey Road and Bacon, 484-F, those are  
15 the W-2 forms for 2002 and 2003 she submits W-2 forms  
16 indicating that she has wages, tips and other compensation from  
17 St. Joseph's Hospital to the tune of \$92,106. The one on the  
18 right is the one that came in evidence that we received from  
19 St. Joseph's Hospital \$49,106. Pay stubs were fake, the W-2s  
20 were fake and the bank statement was fake that reflected the  
21 deposit of the phony paychecks. That's the Bacon property, and  
22 then the same misrepresentations were made in connection with  
23 the Rumsey Road application.

24 So that brings us to Counts Ten and Eleven, the tax  
25 stuff. I'm sure that it comes as no surprise to you all that

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Summation - Mr. Carbone

1 Sandy Annabi didn't report the corrupt payments that she  
2 received to the IRS since she didn't report them at all on her  
3 financial disclosure forms or anywhere else for that matter.

4 That brings us to Counts Ten and Eleven, false tax  
5 returns charged in connection with 2005 and 2006 years.  
6 Overwhelming evidence that Ms. Annabi signed the '04 and '05  
7 return. Please broadcast 611, page 4. That's her actual  
8 signature right above where it says "under penalty of perjury"  
9 on the return.

10 In 2006, the return was filed electronically, but  
11 there was also a document that she signed, which as the IRS  
12 representative told you, is the document which shows that she  
13 was swearing to the return under penalty of perjury. That  
14 would be Government Exhibit 622.

15 None of the payments on Government Exhibit 8, which is  
16 the summary that Agent Dennehy provided of all the financial  
17 benefits that were provided by Zehy Jereis in 2005 and 2006 are  
18 reflected in the tax returns. If you can broadcast Government  
19 Exhibit 8. So you have a total of \$30,700 and \$32,687 for the  
20 two years.

21 The false tax statement on the tax return that was  
22 charged as a false casualty loss. Let's take a look at  
23 Government Exhibit 611, page 10. This is Sandy Annabi's tax  
24 return. It's the Schedule 4684. As indicated there, she is  
25 telling the IRS that she received a loan from her father on --

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Summation - Mr. Carbone

1 I'm sorry -- made a loan to her father on February 11, 2003 in  
2 the amount of \$50,000. There is no suggestion here that  
3 Mr. Farhat made up the amount. There is no suggestion he made  
4 up any of the factual representations that Sandy Annabi made.  
5 The suggestion is that he should have used a different form and  
6 claimed this as a bad debt instead of a casualty loss. Totally  
7 irrelevant.

8 It's a false statement on the tax return. How do we  
9 know that? Remember the testimony of Agent Dennehy told us  
10 that it could have been deducted as a bad debt and not as a  
11 casualty loss. Did Mr. Farhat get it wrong? Yes. But, again,  
12 it's not important. Why? Because Agent Dennehy also told you  
13 that he looked at her financial records, and there was no such  
14 loan; a completely fictitious deduction that wiped out her  
15 income for that entire year.

16 In conclusion, ladies and gentlemen, please keep your  
17 eye on the ball. I am almost done. Before I sit down, I just  
18 want to remind you of two things: First, this trial lasted  
19 over four weeks, and if you are unsure, please don't hesitate  
20 to have testimony read back, and don't be afraid to specify  
21 which portions. You can ask for the direct. You can ask for  
22 the cross. You don't have to sit through half a day of cross  
23 to get a piece of the direct.

24 Second, the citizens of the second district of the  
25 city of Yonkers elected someone who they believed would

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1 faithfully serve their interest. Those citizens had a right to  
2 expect that their councilwoman would make decisions about their  
3 future free from unlawful influence. They had a right to  
4 expect that important decisions about their community would be  
5 made openly and not by someone who was receiving money. Shame  
6 on anyone who suggests anything to the contrary. Shame on  
7 anyone who suggests that it's OK to take and receive repeated  
8 concealed financial benefits while you're taking official  
9 action to help someone.

10            So with that, I ask you to review the evidence. Use  
11 your common sense. Follow the oath you took as jurors. Follow  
12 the law. And if you do that, you will return the only verdict  
13 consistent with the evidence in this case, and that is a  
14 verdict of guilty on all counts.

15            Thank you.

16            THE COURT: Get lost for now. OK? Take a nice lunch  
17 break. Don't discuss the case. Keep an open mind.

18            (Luncheon recess)

19  
20            (Continued on next page)

C3KUANN5

Summation - Mr. Aronwald

A F T E R N O O N S E S S I O N

2:20 p.m

(In open court, jury present)

THE COURT: I hope everyone has had a chance to clear their head.

Mr. Aronwald.

MR. ARONWALD: Thank you, your Honor.

May it please the Court, members of the jury, as I am sure you know by now, my name is William Aronwald. And as I am sure you know by now, I am a lawyer and I represent Sandy Annabi.

This is my opportunity to speak to you concerning what I believe the evidence in this case shows and equally important, what I believe that the evidence in this case does not show. But at the outset, as Mr. Carbone did on behalf of Sandy Annabi, I want to express our appreciation and thanks for your attentiveness, paying attention, your patience, your good humor and the investment of your valuable time in this process.

And in the heat of battle sometimes lawyers do or say things that may be offensive to some people. And if there was any occasion during this trial where I did or said anything which struck you as being somewhat offensive, I want you to hold that against me and don't hold it against my client.

Now, in the play As You Like It, describing life and the human experience, Shakespeare wrote, all the world is a

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Summation - Mr. Aronwald

1 stage and all the men and women merely players, they have their  
2 exits and their entrances. His words certainly describe this  
3 setting. In place of a stage, we here have a courtroom and  
4 each of us have our own roles to play.

5 The prosecutors are charged with the responsibility  
6 and obligation to prove each and every element of the crimes  
7 charged in this case beyond a reasonable doubt. As only then,  
8 if ever, is the presumption of evidence, as Judge McMahon told  
9 you, overcome.

10 Indeed as Judge McMahon told you back on February  
11 16th, to overcome the presumption of innocence that cloaks  
12 Ms. Annabi and that cloaks Mr. Jereis, the government must  
13 convince all of you beyond a reasonable doubt that the  
14 presumption is wrong.

15 Mr. Siano and I, as the attorneys for Zehy Jereis and  
16 Sandy Annabi, are charged with the solemn responsibility of  
17 defending our clients to the best of our ability and to place  
18 into question the credibility of prosecution witnesses and to  
19 establish that the prosecution has not met its burden of  
20 proving each and every element of the crimes charged beyond a  
21 reasonable doubt.

22 As Judge McMahon has said repeatedly, the defendants  
23 have no burden of proof and by cross-examining witnesses and  
24 placing documents in evidence and even calling witnesses in a  
25 defense case, we do not assume and are not assuming any burden

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Summation - Mr. Aronwald

1 of proof.

2 Only Judge McMahon gets to rule on the questions of  
3 law. Her job and obligation is exceedingly important. Her job  
4 is to make sure that all the parties -- the government and the  
5 defense -- get a fair trial. And to do that, she rules on all  
6 questions of law. You have seen her sustain objections,  
7 overrule objections, have countless sidebars to discuss issues  
8 of law. That is Judge McMahon's function. And Ms. Annabi and  
9 I appreciate Judge McMahon for her efforts throughout this  
10 trial to make sure that my client gets a fair trial.

11 Throughout this trial, you have heard the phrase "all  
12 roads lead to." Well, all roads to a fair verdict, based only  
13 on the evidence rather than speculation, guesswork or  
14 conjecture lead to you. Just as Judge McMahon is supreme on  
15 issues of law, you jurors are supreme on issues of facts. You  
16 alone decide the facts in this case. Just as the lawyers and  
17 Judge McMahon have our roles. That is your role.

18 The jury selection process which began on February 15  
19 may have struck you as tedious and intrusive, however, given  
20 how important your role as jurors, the triers of the fact is to  
21 this process, the jury selection process is designed to make  
22 certain that only those 12 citizens who strike the lawyers on  
23 both sides as being best able to be completely fair and  
24 impartial and able to decide this case only upon the evidence  
25 are selected to serve. That's why you are here, because you

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1 struck the lawyers on both sides as being able to give both  
2 sides a fair and impartial trial.

3 As Mr. Carbone said, common sense is the hallmark of a  
4 good juror. For example, at some point Judge McMahon will in  
5 her legal instructions explain to you how you go about  
6 assessing the credibility of witnesses.

7 The one thing I am not going to do during my closing  
8 argument is explain to you what the elements of proof are or  
9 what needs to be proven. That is Judge McMahon's function, but  
10 what I will do is give you some examples.

11 In terms of the credibility of the witnesses, Mr.  
12 Carbone, basically was talking about the Milios and Anthony  
13 Mangone. There are three particular witnesses that you need to  
14 pay close attention to and need to assess their testimony and  
15 the credibility of their testimony with great care. We agree.

16 Let me give you an example of how you assess  
17 credibility.

18 Let's assume you go into a restaurant and you order a  
19 steak dinner and the waiter brings the steak. You cut into the  
20 steak and you find it is molded and it is green; it is rancid.  
21 You call the waiter over, you point it out to him and the  
22 waiter says, no problem let me just cut that molded piece out  
23 and the rest of the steak is fine.

24 What are you going to do? Are you going to eat the  
25 rest of the steak or are you going to tell the waiter, I reject

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Summation - Mr. Aronwald

1 this piece of meat. Bring me another or I am leaving.

2 If in fact you find that Anthony Mangone knowingly  
3 willfully and deliberately directly lied when he gave testimony  
4 in this case, you have the right to reject all of his testimony  
5 as a rancid piece of meat -- The same with respect to Antonio  
6 Milio and Franco Milio. And I will be discussing them as we go  
7 through this closing argument.

8 In the final analysis, we spent the last four weeks  
9 getting to this point, and this is the point where I make my  
10 exit. As Judge McMahon told you, the order of summation is  
11 such the government gets the first summation, the rebuttal  
12 summation. But once I am finished and I sit down and you will  
13 not hear from me again -- at least throughout this trial.

14 And Judge McMahon has told you whatever the lawyers  
15 say in opening arguments or opening statements or in closing  
16 arguments is not evidence. What we said in opening statement  
17 was simply a road map through the evidence as Judge McMahon  
18 described it, a teaser, something to orient you so that as the  
19 evidence comes in, you have some form of reference.

20 Now, in his opening, Mr. Halperin said -- and I am  
21 quoting from the transcript at pages 328 and 329: "This case  
22 is about a flagrant betrayal of the public trust by the  
23 defendant Sandy Annabi, a former city councilwoman in Yonkers.  
24 When Sandy Annabi got elected, she took an oath to faithfully  
25 and honestly represent the best interests of the people of the

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Summation - Mr. Aronwald

1 second district in Yonkers, but what the people got instead was  
2 government that served the financial interests of Sandy Annabi  
3 and Zehy Jereis.

4 As I will explain shortly, and as I explained in my  
5 opening statement, the undisputed evidence in this case,  
6 evidence from the government proves otherwise. In fact as I  
7 told you in my opening statement, if you take a step back and  
8 look at Ridge Hill and look at Longfellow and look at all of  
9 the other evidence, the evidence in this case proves that Sandy  
10 Annabi lived up to her oath and faithfully and honestly  
11 represented the best interests of the people in the city of  
12 Yonkers -- not only the people in her district, the Second  
13 District.

14 As the evidence shows, and this is from the testimony  
15 of Bruce Bender, Scott Cantone and even Franco Milio and  
16 Antonio Milio that the people of Yonkers got with respect to  
17 Ridge Hill first was \$10 million more in tax revenue from  
18 Forest City Ratner and money for a traffic mitigation study.

19 In his opening, Mr. Halperin described the \$10 million  
20 as "peanuts." Well, \$10 million may be peanuts in the world  
21 that Mr. Halperin lives in, but in the world I live in and I am  
22 sure the world you live in \$10 million is definitely not  
23 peanuts, and it certainly was not peanuts to people of the city  
24 of Yonkers and the second district.

25 As you heard throughout the trial from the testimony

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Summation - Mr. Aronwald

1 of Dennis Robertson, Dee Barbato, John Murtagh, Chuck Lesnick,  
2 Yonkers is comprised of six districts. The most affluent  
3 districts are the districts in which Mr. Murtagh and Ms.  
4 Barbato lived; the poorest district is the district in which  
5 Sandy Barbato lived and which she represented.

6 As you heard, the second district was the district  
7 with the highest unemployment rate, the highest crime rate, the  
8 highest rate of people on public assistance, the district which  
9 made the most of public services such as fire, police.

10 You will recall that even Dee Barbato, a staunch  
11 opponent of the Ridge Hill project, agreed that \$10 million was  
12 not, in her words, chump change or peanuts. But without Sandy  
13 Annabi's efforts, that \$10 million would not have been put on  
14 the table by Forest City Ratner.

15 How do you know that? Because until the meeting on  
16 June 9 when she met with Forest City Ratner and when she got  
17 into a confrontational discussion with Richard Pesin. So  
18 confrontational, if you remember the testimony of Scott  
19 Cantone, he kicked Bruce Bender under the table as a signal to  
20 get Pesin out of the room because the meeting was going south  
21 quickly. It wasn't going anywhere because Sandy was making her  
22 case for the concessions and Pesin was telling her, you are not  
23 going to get them.

24 And Sandy's reaction to that, according to the  
25 testimony was that she didn't appreciate being pressured or

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Summation - Mr. Aronwald

1 bullied. This was during her lunch hour, so she left and went  
2 back to her hospital job at St. Joseph's Hospital. Pesin soon  
3 followed. Mr. Jereis recalls that Mr. Pesin left first.  
4 Bender and Cantone recall that it was Sandy who left first.

5 It doesn't make a difference. What makes a difference  
6 is that when Sandy Annabi and Richard Pesin were out of the  
7 room, the only people left were Zehy Jereis, Bruce Bender and  
8 Scott Cantone. And as to what ensued when the three of them  
9 were left in the room alone is not disputed. Bender and  
10 Cantone are not saying it was one thing and Zehy Jereis didn't  
11 testify it was something else. What they all agreed to was  
12 that after Sandy and Richard Pesin left, Zehy Jereis told  
13 Bender and Cantone, if you want her to vote for this project,  
14 you are going to have to make the concessions that she wants.  
15 If you don't make the concession, you are not going to get her  
16 vote.

17 And what did Bender and Cantone respond? What they  
18 said was OK, we will think about it. Let's go back and talk to  
19 our people and then we will get back to you. And from that  
20 meeting, from that discussion, from Mr. Jereis telling them, if  
21 you want her vote, you are going to have to make the  
22 concessions, what came out of that was \$10 million on the table  
23 in additional tax revenues which wasn't there before, and that  
24 was the engine driving the train.

25 Mr. Carbone says that the details of the project are

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Summation - Mr. Aronwald

1 not all that important. Well, to the people of the city of  
2 Yonkers and to the people of the second district, the district  
3 that Sandy Annabi represented, those details are very  
4 important.

5 Dee Barbato told you, a government witness, she told  
6 you that the city of Yonkers was in very bad financial shape --  
7 very bad financial condition. When asked to explain she said,  
8 we were in bad financial condition because there was a huge  
9 budget shortfall. She explained that the budget shortfall was  
10 the result of some issues with respect to the federal  
11 government funding the education system in the city of Yonkers  
12 because there was a dispute as to the progress that was being  
13 made with respect to desegregating the school system. Whatever  
14 the cause there was a budget shortfall. And in Dee Barbato's  
15 words, it was not insignificant, it was substantial, it was  
16 huge. So that \$10 million, while to Mr. Carbone is an  
17 unimportant detail, ask yourselves whether to the people of the  
18 city of Yonkers, the taxpayers of the city of Yonkers was \$10  
19 million -- according to the emails it was \$10.8 million --  
20 whether that is an unimportant detail.

21 The traffic mitigation, you heard testimony that at  
22 the June 9 meeting, Sandy Annabi said, what about if you reduce  
23 the size of the project? Reduce it by 30 percent. And Pesin  
24 went wild. Pesin said, that is not going to happen. We can't  
25 do that. Bender and Cantone said, if we reduce the size of the

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Summation - Mr. Aronwald

1 project, then it becomes less economically feasible.

2 Sandy was proposing back on the size of the project  
3 because that would eliminate some of the traffic. That would  
4 be traffic mitigation. That was the principal objection that  
5 John Murtagh had, traffic mitigation. He was from Greenburgh.  
6 He wanted a direct access road into Ridge Hill, off of the  
7 Sprain. You saw the pictures of Ridge Hill.

8 Dee Barbato, with all due respect to Dee Barbato, she  
9 didn't want that project in her neighborhood any more than some  
10 people want a drug rehab center in their neighborhood. She  
11 just didn't want it. People don't want a sex offender living  
12 in their neighborhood. Dee Barbato didn't want Ridge Hill in  
13 the neighborhood. You heard her. She said, I see the lights  
14 coming into my bedroom every night, come to my house and I will  
15 show you the lights from Ridge Hill. She didn't want it. The  
16 people in her district didn't want it.

17 Sandy's concerns were different. Yes, Sandy was  
18 opposed to it. Mr. Carbone played tapes, some snippets of the  
19 tapes of the Ridge Hill meeting and a snippet of a meeting with  
20 respect to Longfellow.

21 Time is short. You folks have been sitting here all  
22 day. You have been sitting here for five weeks. I don't want  
23 to take up your time playing tapes for you now.

24 When you get into the jury room to deliberate, as  
25 Judge McMahon will tell you, you can have some of the exhibits

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Summation - Mr. Aronwald

1 all of the exhibits. You can have any of the exhibits. It is  
2 up to you.

3 I urge you to do one thing, listen to the tapes.  
4 Don't listen to the snippets that the government wanted you to  
5 hear. Listen to what actually happened at that meeting. Hear  
6 what Sandy Annabi had to say about why she was opposed to Ridge  
7 Hill. She wasn't opposed to Ridge Hill because it was in her  
8 neighborhood. She was opposed to Ridge Hill because she didn't  
9 want Forest City Ratner to get tax abatements

10 You heard the phrase, payment in lieu of taxes, a flat  
11 payment which is paid every year, no matter how much money or  
12 revenue is being generated by the project to the developer.

13 And what Sandy Annabi made very clear at that meeting,  
14 she was not going to give tax abatements or pilots to Forest  
15 City Ratner because with all of the money that Forest City  
16 Ratner was going to be making on this property -- 66 acres --  
17 she felt that the City of Yonkers could do better, that the  
18 taxpayers of the City of Yonkers were entitled to better. That  
19 is what she fought for. That is what she said during the tape.  
20 That was in 2005. There was no investigation going on at the  
21 time of that meeting. But the point is, that's what she said.

22 The government has the burden of proving a corrupt  
23 agreement. I will get to that in a minute, but let's not  
24 ignore the facts. Let's focus on what really is important.  
25 Let's focus on the evidence that mitigates against a finding

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Summation - Mr. Aronwald

1 that there was a corrupt agreement. Ask yourself this using  
2 your common sense. If this corrupt agreement existed, why did  
3 Sandy Annabi have to fight for \$11 million in additional tax  
4 revenues? She could have settled for 2 million.

5 She could have said, you know what, I have rethought  
6 my position. I think with the budget shortfall, even a pilot  
7 or a tax abasement is going to be good for the people of the  
8 city of Yonkers.

9 I represent a district which has the highest  
10 unemployment rate in the entire city of Yonkers. If I approve  
11 Ridge Hill, it is going to result in jobs, and those jobs will  
12 probably go to the people in my district.

13 She could have come up with any one of a number of  
14 reasons why she was going to flip her vote or change her vote  
15 and it didn't have to take all the time from 2005 until July 11  
16 of 2006 to get her to do that. If the corrupt agreement was in  
17 place, according to the government, the corrupt agreement began  
18 in 2001. That's when the payments began.

19 By the way, the payments in 2001, you didn't learn of  
20 those from the government in this case; you learned of those  
21 from the defense in this case. Those payments began in 2001.  
22 Jump ahead now to 2005. Ask yourself, common sense, with all  
23 of the payments that were being made, do you think that Sandy  
24 Annabi had to wait for 10 million? Do you think that she had  
25 to fight for \$10 million in additional tax revenues in order to

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1 come up with a plausible explanation as to why she was changing  
2 her vote?

3 Common sense tells you no. Common sense tells you  
4 that she was sincere when she said, I want more money for the  
5 people of the city of Yonkers. If you don't give me more money  
6 for the people of the city of Yonkers, I will continue to  
7 oppose your project. That's what the evidence shows. There is  
8 no two ways about it. It is not maybe, if -- it is there.  
9 Listen to the tape and follow the evidence and follow the  
10 timeline on the chronology which I will be getting into in a  
11 moment.

12 With respect to Longfellow, what did the people of the  
13 city of Yonkers get? Again, don't listen to the snippet.  
14 Let's go back and hear what that tape is. This is my  
15 recollection -- your recollection controls.

16 Yeah, Sandy Annabi basically held up a Coke bottle and  
17 said, I hear that Milio was paying one dollar for this parcel  
18 of property. It cost me a dollar 25 to buy this bottle of soda  
19 upstairs before I came into this meeting. I am not going to  
20 support this project if Milio is only getting this property for  
21 one dollar.

22 And she may have been mistaken because she didn't know  
23 the details about the land swap, but there is no indication or  
24 evidence that she did not honestly think at the time she said  
25 that, that it was only going to be one dollar. She said on the

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Summation - Mr. Aronwald

1 tape that she had asked the Corporation Counsel's office to  
2 explain to her or tell her how much the property being sold  
3 for, how much was Milio paying for it. And she got stonewalled  
4 by the Corporation Counsel. Well, we don't know. It is not  
5 important we will get to it later on.

6 Well, to her it was an important thing because she was  
7 faithfully performing her duties to the city of Yonkers to make  
8 sure that the developer was not getting some sweetheart deal  
9 where he was getting a very valuable piece of property for a  
10 dollar, but that meeting went on from there, I think you will  
11 recall.

12 Sandy Annabi -- as I told you in my opening -- said to  
13 Milio Management, and they were at the meeting. How do you  
14 know they were at the meeting? When Sandy Annabi was talking  
15 about her understanding that they were only paying a dollar for  
16 the property, you heard the Milios, Antonio Milio, not in  
17 Italian but in English say no, that's not true. That's not  
18 what you heard. And that's what the Milios testified about.

19 What Sandy then said -- and Franco Milio agreed with  
20 this -- sandy Annabi said, listen, you have a good reputation  
21 as developers. I think this would be a great project anywhere  
22 else in my district except Longfellow, and this is the reason  
23 why. I have seniors living in that area, and your proposal  
24 will displace my seniors. And if you remember, on the tape,  
25 the seniors were present. Sandy makes reference to the fact

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Summation - Mr. Aronwald

1 that the seniors were there. She appreciates their coming.  
2 They were bused over.

3 And she says on the tape to the Milios, you want to be  
4 designated the developer. It would be unfair for us to  
5 designate you the developer because you are going to come back  
6 in a year with the same project, and I am going to vote against  
7 it for the same reasons I am not going to designate you a  
8 developer now. What were those reasons? I want affordable  
9 rate housing for the seniors. If you are willing to do that,  
10 come back and we will talk. But if you are not, then I am not  
11 going to approve it. I am not going to designate you the  
12 developer.

13 How much fairer can she have been. Franco Milio  
14 agreed. He said, listen, if she had designated us the  
15 developer, if we had been designated, we would have spent a  
16 large amount of money. We would have had to do architectural  
17 plans. We would have had to do environmental impact studies.  
18 We would have had to do all of that and that costs a  
19 substantial amount of money. If we had laid out that money and  
20 come back and she said no, we are not going to approve the  
21 project, we would not have been out of that money. There was  
22 no dispute about that.

23 Franco Milio described the meeting that Sandy was  
24 giving them the runaround, but when we went through it stage by  
25 stage, step by step, I asked him, when she told you that it

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Summation - Mr. Aronwald

1 would be unfair to designate you the developer because you  
2 would spend all of this money and when you come back and if the  
3 project was what you proposed it to be, she was going to vote  
4 no.

5 Is that the truth?

6 Yes.

7 Did you interpret that as giving you the runaround?

8 No.

9 When Sandy Annabi said to you, she would approve your  
10 project, she would vote to designate you the developer if you  
11 put this project anywhere else in her district, did you  
12 consider that a runaround?

13 No.

14 When Sandy Annabi ended by saying, if you come back to  
15 us, if you want to come back and talk about housing for the  
16 seniors, I will see you. Did you consider that a runaround.

17 No.

18 Ladies and gentlemen, that's all that she said at that  
19 meeting. If you have any doubts about that, play the tape.  
20 The tape is important with respect to Ridge Hill and with  
21 respect to Longfellow.

22 In both instances, as conclusively proven by the  
23 evidence, as I told you in my openings, Sandy Annabi changed  
24 her votes only when Forest City Ratner with respect to Ridge  
25 Hill, Milio Management with respect to Longfellow did what she

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1 publicly said that they would have to do in order to get her  
2 vote. In the case of Forest City Ratner, additional tax  
3 revenues, and in the case of Longfellow, housing for seniors.

4 Now, going back over the evidence, there is no  
5 evidence that Sandy Annabi ever asked for or even discussed  
6 with any representative of Forest City Ratner or the Milios the  
7 payment of anything of value in exchange for changing her vote.  
8 To the contrary, just as I told you in my opening, the evidence  
9 proves that between the time she opposed the two projects and  
10 the time she voted for it, the nuts and bolts of the project  
11 each had changed substantially. And in each instance, the  
12 interests of the people of Yonkers were served -- not as the  
13 prosecutors claim, the financial interests of Sandy Annabi or  
14 Zehy Jereis.

15 Now, there is no dispute that for a period of years,  
16 Zehy Jereis was making payments on behalf of Sandy Annabi,  
17 however, the government has not presented any evidence that  
18 these payments or the stream of financial benefits -- and this  
19 is what is important -- the judge will instruct you on this --  
20 were the result of an understanding from in or about 2002 to in  
21 or about 2009 that in exchange for those payments and benefits  
22 she would perform official acts at Zehy Jereis' behest as and  
23 when opportunities arose.

24 I don't know how many of you remember the movie The  
25 Godfather. One of the opening scenes in The Godfather is at

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Summation - Mr. Aronwald

1 Don Corleone's daughter's wedding and he is in his study and an  
2 undertaker comes in to see him and the undertaker wants to ask  
3 him for a favor. The favor he wants to ask him is, he wants to  
4 have a young man killed because the young man had impregnated  
5 his daughter. And Don Corleone said, I will do you this favor.  
6 And his consigliere, played by Robert Duvall tells the  
7 undertaker at some point in return for this favor, the  
8 godfather may ask you a favor, and at that time you will be  
9 obligated to do the favor.

10 That's really when this when and as opportunities  
11 arose scenario is, except in this case there is no evidence  
12 that there was ever any understanding or any discussion between  
13 Zehy Jereis and Sandy Annabi where Zehy Jereis said to her,  
14 look I'm going to make these payments for you, I am going to  
15 give you this stream of financial benefits, but there will come  
16 a time when and as opportunities arise and I am going to ask  
17 you to do a favor for me, I am going to ask you to vote the way  
18 I want you to vote and you will be obligated to do that.

19 There is no evidence in this record that any such  
20 understanding existed. It doesn't make any difference whether  
21 Zehy Jereis intended that these payments would give him  
22 political sway over Sandy Annabi because as the judge will tell  
23 you, in order for there to be an agreement there has to be a  
24 meeting of the minds. Both parties have to have a mutual  
25 understanding, and in this case, there is no evidence that

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1 Sandy Annabi ever knew at the time that these payments or  
2 benefits were being made by Zehy Jereis on her behalf that she  
3 was expected or that she even acknowledged that she was under  
4 any obligation at any time in the future to vote the that Zehy  
5 Jereis wanted her to.

6 And on that note, did you hear any witness, did you  
7 hear any evidence that Zehy Jereis ever at any time told Sandy  
8 Annabi to vote for Ridge Hill or told her to vote for  
9 Longfellow?

10 Mr. Carbone said, it doesn't make any difference  
11 whether it was Ridge Hill or Longfellow, it is really  
12 irrelevant. Those are just two instances, but there are other  
13 opportunities.

14 What did he allude to? He alluded to the fact that  
15 there were some emails where Zehy Jereis was encouraging Sandy  
16 Annabi that the city of Yonkers should buy generators. Buy  
17 generators for who? Buy generators for the seniors living in  
18 buildings that did not have generators so if there was an  
19 electrical outage, the seniors would be left without any power,  
20 without any electricity.

21 Remember the metal detectors were for? The metal  
22 detectors were because there had been shootings in schools and  
23 Zehy Jereis recommended to Sandy Annabi that the city of  
24 Yonkers invest in metal detectors to safeguard the children who  
25 go to those schools so that illegal weapons -- guns and knives

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Summation - Mr. Aronwald

1 and the like -- would not be brought into the school. Those  
2 are the opportunities that Mr. Jereis had in mind when he was  
3 giving this dream of financial benefits to Sandy Annabi. Mr.  
4 Carbone wants to talk about common sense. Is that common  
5 sense?

6 Do you think that anybody looking at this reasonably  
7 would say, I don't want generators for seniors, let them free.  
8 Power goes out, too bad for them. They shouldn't be seniors,  
9 they should be younger. They shouldn't have to live in that  
10 kind of house.

11 Metal detectors? I don't have any kids. What do I  
12 care if guns and knives are brought into the school? It is not  
13 my problem. Let the parents search their kids before they go  
14 to school. Make any sense?

15 This stream of financial benefits, this was not an  
16 opportunity. This was, as Mr. Jereis said, good press for  
17 Sandy Annabi. It would be good for her politically to be out  
18 front on the issue of generators for seniors and metal  
19 detectors for kids that go to schools in the city of Yonkers  
20 are safe and they are not subjected to other kids coming in  
21 with illegal weapons -- something that would be in the  
22 interests of all of the people of the city of Yonkers.

23 Now, Mr. Carbone talks about concealment. Sandy  
24 Annabi did not reflect these payments on her financial  
25 disclosure forms.

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Summation - Mr. Aronwald

1 Mr. Carbone referred back to the testimony of Helen  
2 Henkel. If you look at the forms, Helen Henkel told you, these  
3 forms are mandated by New York State. She also told you that  
4 New York State never comes down to look at them or audit them.  
5 nobody really looks at them. We just make sure that everybody  
6 has submitted them. But that is really not what is important.

7 What is important is that if you look at the forms,  
8 and these include the forms that Mr. Carbone put on the screen  
9 for you, you do have to report any gifts from relatives. You  
10 heard that Sandy and Zehy were cousins. Helen Henkel told you  
11 that the term "relative" was not defined in those early years,  
12 it was just relative without definition. But if you are  
13 looking at concealment, doesn't strike you common sense wise  
14 that it doesn't really do any good if only one person to the  
15 scheme is concealing the payment. Wouldn't you think if you  
16 are looking to conceal them, you don't want anybody to know  
17 about corrupt scheme, corrupt payment. Both parties are going  
18 to engage in concealment.

19 Where was the concealment by Zehy Jereis? The  
20 government points to four money orders. You have seen the  
21 payments, all by check. You have a \$50,000 check to Sandy  
22 Annabi. Zehy Jereis didn't go to the closet and come up with  
23 five \$10,000 bundles of hundred dollar bills wrapped in rubber  
24 bands the way Franco and Milio did. He wrote a check. And  
25 what could be more transparent than that? What creates a

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Summation - Mr. Aronwald

1 better paper trail than that? You have any doubts that it is a  
2 paper trail? The government found the checks. There's your  
3 paper trail.

4 This isn't a situation where Zehy Jereis was giving  
5 cash to her where she was basically doling it out to pay her  
6 mortgage expenses or anything else. You look at all of the  
7 expenses that the government claims that he was paying for or  
8 on her behalf, they are all evidenced by checks, signed by him,  
9 right out in the open. You couldn't leave a better paper  
10 trail. There was no concealment as to benefits. The Con Ed  
11 bills, the mortgage payments, the Cablevision bills, all of  
12 them are checks signed by him.

13 Mr. Carbone talks about \$200,000. Well, \$20,000 of  
14 which the government didn't know about, apparently, until  
15 Mr. Jereis took the stand, but I don't know whether the  
16 government had access to the 2001 bank accounts. They said  
17 they did.

18 Do the math. 2001, the payments begin. They continue  
19 into 2008, seven years. 2009, 194,000 of which 60,000 was a  
20 loan that was repaid. There is no dispute about that. That  
21 brings you down to you 134,000. 20,000 is the money that  
22 Anthony Mangone said he gave to Zehy Jereis but he doesn't know  
23 what Zehy Jereis did with the money or gave the money to  
24 anybody. Just as you have as Franco and Antonio Milio said,  
25 they don't know what Anthony Mangone used with the money they

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Summation - Mr. Aronwald

1 gave him. For all they know, he could have used it to gamble.  
2 They don't know. They just know that they gave it to Mangone.  
3 And Mangone says, all I know is that I gave it to Zehy Jereis.

4 You take the 20 out, and it is 114,000. Divide  
5 114,000 by seven years, you come up with what, 13, 14, 15,000 a  
6 year? So when you look at it in that context, it is like a  
7 thousand a month. It looks a lot different when you think of  
8 it in those numbers and not just \$200,000 which is the number  
9 that Mr. Carbone kept throwing out.

10 Even the down payment to Mercedes-Benz, \$9500 down  
11 payment, written by Zehy Jereis.

12 Mr. Carbone said, well, it doesn't make any sense.  
13 His wife would look at the checking account. She would see all  
14 of these checks. What would he tell her?

15 You take a look at the checks, it is not a joint  
16 account. It is Zehy Jereis' account. It was ZJ Enterprises.  
17 There's no evidence that his wife had any access to that  
18 account or that or that she ever saw any of the checks or that  
19 his wife saw the bank statements. Don't speculate. You cannot  
20 draw an inference on a check drawn by Zehy Jereis in his own  
21 name on his own account and that that was an account that his  
22 wife had any access to. So it is \$1,000 a month, maybe a  
23 little more, over the period of these years.

24 With the chart, Government Exhibit 6, that was the  
25 chart that was supposed to fairly and accurately summarize the

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MR. CARBONE: Government Exhibit 5.

I just don't see any spokes going back out from Sandy Annabi to Zehy Jereis showing that that \$60,000 was repaid. Maybe the spokes are just one-way streets.

What evidence is there that actually connects Zehy Jereis' payments for and on behalf of Sandy Annabi to the four-year scheme charged in Counts 1 and 2 that some day in case it would ever be needed, that Sandy Annabi would vote the way Zehy Jereis told her to vote?

You heard from Mr. Jereis that he was in love with Sandy, that he wanted her, he wanted to be with her and that these payments were meant to take care of her and to win her

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Summation - Mr. Aronwald

1 affection.

2 Now, Mr. Carbone can wish all he wants that the emails  
3 were fake. The government called Detective Koenig as a  
4 witness. You heard him yesterday and you heard him this  
5 morning. With all of his expertise, with all of his  
6 background, with all of his experience, with all of his  
7 training others on how to do forensic analysis of computers,  
8 the bottom line is trying to do everything with respect to his  
9 analyzing the hard drive from which these emails were lifted to  
10 be produced in court, he said that he cannot say that those  
11 emails are not authentic. He cannot say that they are fake.

12 Now, the government, recognizing that they have this  
13 problem with respect to his telling you -- he can't say that  
14 these emails are not authentic, that they are fake. The  
15 government basically has him testifying that he examined a hard  
16 drive, one hard drive that was produced pursuant to a trial  
17 subpoena by Zehy Jereis and he didn't find the emails on that  
18 hard drive.

19 That was basically all that was elicited by the  
20 government in its direct examination of Detective Koenig. So  
21 it was only on cross-examination that you heard Detective  
22 Koenig tell you that if those emails were sent from any other  
23 computer that Mr. Jereis had access to other than that one hard  
24 drive, the emails would not show up on the hard drive that he  
25 examined.

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Summation - Mr. Aronwald

1 He also told you that he doesn't know whether there  
2 were other computers in the house to which Mr. Jereis had  
3 access or whether the computers he access to at his home or his  
4 office. He also told you that if Mr. Jereis had a BlackBerry  
5 and sent the emails from his BlackBerry, they wouldn't show up  
6 on that hard drive. So the net effect of it is, Detective  
7 Koenig's examination of the hard drive is really irrelevant.

8 It is only relevant if he examined all of the  
9 computers to which Mr. Jereis had access and found no evidence  
10 of emails on that hard drive, but that's not what he did. He  
11 only looked at the one. And what he did, he acknowledge and  
12 told you each and every one of you, the fact that he did not  
13 find those emails on the one hard drive that he examined, does  
14 not mean that those emails are not authentic.

15 Mr. Carbone says, you know, look, you're a man, you  
16 are married, kids, you are infatuated with another woman, you  
17 want to court her, you buy her a \$100 bottle of perfume, box of  
18 chocolates, some roses, some flowers, you take her to dinner,  
19 you go away for a romantic weekend, yeah, that is undoubtedly  
20 true.

21 That is not the way that Zehy Jereis was trying to buy  
22 her affection. He was trying to buy her affection by basically  
23 paying the expenses she had because as he told you, she was in  
24 need and he wanted to take care of her.

25 But it didn't stop there, though. It wasn't just the

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Summation - Mr. Aronwald

1 money that he was paying for her mortgage and other things.  
2 What else did Mr. Jereis Do?

3 You saw the photographs in evidence. He told you he  
4 lost almost 200 pounds. He lost almost 200 pounds to make  
5 himself more physically attractive to her. He had his teeth  
6 fixed. He went through surgery to have loosened skin removed  
7 to make himself more attractive.

8 That is not stream of financial benefits. He didn't  
9 have to do that if there was this corrupt scheme, if he was  
10 just paying her because they had this understanding that these  
11 payments were intended to make her available to vote the way he  
12 wanted her to when and where the opportunity arose, to go  
13 through that type of physical labor, to go to that extent?

14 What is making himself more attractive have to do with  
15 a corrupt agreement to influence her official action? The two  
16 just doesn't go together. And common sense tells you that the  
17 fact that he did all of those other things speaks volumes to  
18 the fact that these emails were emails that he sent from the  
19 heart expressing his feelings for Sandy Annabi.

20 Now, there are all sorts of indications that those  
21 feelings were not reciprocated. And you may decide that Sandy  
22 Annabi was taking unfair advantage of Zehy Jereis. She was  
23 allowing him to continue to make these payments on her behalf.  
24 He was allowing her to be, for want of a better expression, her  
25 sugar daddy -- pay her mortgage, pay her Con Ed bills, loan her

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So what I am asking you to do is, I'm asking you to, in the event that you have those feelings that she took unfair advantage of him in a moment of weakness and knowing that he had these feelings for her and certainly she had to know that because of the emails that she was getting from him, I am asking you to please do not hold that against her in deciding the charges in this case, because that has no relationship to the charges and she is not charged with that.

While the government may ridicule his explanation for why he made those payments, the photographs are in evidence as Defense Exhibits 88 and 89, and I would ask you to take a look at those if you have any doubt whatsoever as to what his physical appearance was back in those days.

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Summation - Mr. Aronwald

1 April 2005, Forest City Ratner hires Albert Pirro as a  
2 lobbyist and he is tasked, according to the testimony of Bender  
3 and Cantone, with getting either Annabi, Murtagh or Barbato to  
4 vote for the project.

5 According to Scott Cantone's testimony in 2005, forest  
6 City Ratner asked its lobbyists, including Al Pirro and Mike  
7 Spano to reach out to Sandy to see if Forest City Ratner could  
8 set up a meeting with her to discuss the merits of the project.

9 For those of you taking notes, that is at transcript  
10 page 1005.

11 Mr. Cantone explained that he approached Sandy on the  
12 floor of the city council one day and asked if she would be  
13 willing to meet with him to discuss Ridge Hill.

14 Mr. Cantone testified that she responded, "You heard  
15 my objections to the projects. There is really no reason to  
16 meet." That is at transcript page 1007.

17 July 7, 2005, Westchester County planning board  
18 rejects the proposed zoning plan. If you recall, because this  
19 property abutted county land, Forest City Ratner needed a  
20 zoning law change to allow for mixed use development. Local  
21 law required that the Westchester County planning board approve  
22 the changes because the property was abutting against county  
23 parkway.

24 Westchester County planning board rejects the  
25 proposal, the zoning law change. That is Government Exhibit

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Summation - Mr. Aronwald

1 355.

2 September 26, 2005, there is an email from Bruce  
3 Bender to Scott Cantone.

4 Do you have the defense exhibit scanned in there?  
5 Defendant Exhibit 38, that's the email from Bruce  
6 Bender to Mike Spano expressing frustration and demanding that  
7 he get his brother, State Senator Nick Spano, to get Sandy on  
8 board.

9 Could I just have one minute, your Honor?  
10 THE COURT: Yes, you may.

11 (Pause)

12 MR. ARONWALD: Could I get that put up.

13 That was September 26, 2005 at 1:46 in the morning,  
14 Bruce Bender: "Just left emergency room. My wife needs  
15 surgery tomorrow. No fucking around. Get Sandy on board.  
16 Tell your brother we need help now. I have to close this and  
17 take care of my family."

18 "Your brother," if you recall refers to Senator Nick  
19 Spano, Mike Spano's brother.

20 Thank you.

21 November 22, 2005, the majority of the city council  
22 decides to do an end run in order to be able to get Ridge Hill  
23 passed by a simple majority vote. But you heard testimony that  
24 because the Westchester County planning board rejected the  
25 zoning change, that meant that Yonkers needed a super majority,

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Summation - Mr. Aronwald

1 five out of the seven votes in order to get the zoning change  
2 approved.

3 So on November 22, 2005, four of the seven Yonkers  
4 council members vote to override the Westchester County  
5 planning board vote requiring a super majority or they vote to  
6 override the super majority requirement.

7 Sandy Annabi, John Murtagh, Dee Barbato oppose the  
8 resolution.

9 Ladies and gentlemen, the tape of that meeting is in  
10 evidence. It is Government Exhibit 358-R. It is somewhat  
11 lengthy.

12 I don't want to take your time. I am just saying to  
13 you, if you listen to that tape, Sandy indicated she was not  
14 going to approve or go through the zoning change not just  
15 because of the tax issues, but also because she was opposed to  
16 the process, the process being that the four people on the City  
17 Council were trying to do away with the super majority  
18 requirement.

19 She was faithfully and honestly performing what was  
20 expected of her for the people of the city of Yonkers because  
21 the law was in effect, a super majority was required, that four  
22 people try to overturn that super majority requirement that  
23 Sandy was opposed to.

24 The very next day, November 23, 2005, Sandy Annabi is  
25 the lead plaintiff in an action filed in Westchester County

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Summation - Mr. Aronwald

1 Supreme Court for a declaratory judgment declaring the City  
2 Council vote to eliminate the super majority requirement  
3 illegal and invalid. Murtagh, Barbato and at the time  
4 non-council member Chuck Lesnick and others joined the lawsuit.

5  
6 (Continued on next page)  
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C3kQann6

Summation - Mr. Aronwald

1 MR. ARONWALD: (Continued) The papers in that lawsuit  
2 are also in evidence.

3 December 9, 2005, while that lawsuit is pending, and  
4 you will recall that John Murtagh testified that when he filed  
5 the papers for that lawsuit, he also sought a temporary  
6 restraining order which would prevent the city council from  
7 trying to ram-rod through the Ridge Hill project, and Judge  
8 Colabella did not issue the temporary restraining order. So,  
9 on December 9, 2005 while that lawsuit was pending, the city  
10 council votes four-to-three to approve the Ridge Hill project.  
11 Once again, Annabi, Murtagh and Barbato are opposed to the  
12 project.

13 Then something very significant happens. Mr. Carbone  
14 in his closing argument said, well, Sandy Annabi is smart,  
15 she's educated, she's savvy; and, indeed, Mr. Bicknese said  
16 that she was very savvy, smart. Well, on December 12, 2005  
17 what happened? Can we have Defense Exhibit 65 put up? I think  
18 it's 76, I'm sorry.

19 Next page, please. Rosemary Karaka, December 12, 05.  
20 This is a call sheet that was prepared by Sandy's secretary  
21 David Medranda, that one of his responsibilities was to do the  
22 call sheet. He recorded -- he took the call on December 12,  
23 2005 from Rosemary Karaka from the FBI in White Plains.  
24 Telephone number 914-989-6506. Wants to meet with you. Said  
25 Wednesday is best or maybe Thursday morning regarding Ridge

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After December 12, 2005 -- when did the vote pass? July 11. When did she meet with Forest City Ratner, June 9 of 2006. And, by the way, talk about concealment? The meeting took place at a steakhouse in broad daylight. In Yonkers. Do you think people in the city of Yonkers wouldn't recognize her in a restaurant? And she's meeting with Forest City Ratner. Where is the concealment? If there was this corrupt scheme and

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C3kQann6

Summation - Mr. Aronwald

1 Zehy Jereis wanted her to meet with Forest City Ratner and vote  
2 for this project, is she going to do it out in the open?  
3 Couldn't they have come up with a better place where they would  
4 be hidden from public view? No. It was right out in the open.  
5 No attempt to disguise it. Except, of course, by Scott Cantone  
6 who expensed it, or was it Bruce Bender? One of them expensed  
7 it as lunch with consultants. And when asked, Cantone said  
8 "Well, my secretary did it." He signed the form.

9 So, in any event, December 12, 2005 is probably the  
10 most important date that you've heard in this case because what  
11 that does is that evidence, it shows when you look at that and  
12 you can ask yourself does it make any sense to me as a juror  
13 that knowing the FBI is investigating Ridge Hill and wants to  
14 speak to me, Sandy Annabi about Ridge Hill, within a few months  
15 thereafter I'm going to basically change my vote because I am  
16 in some corrupt agreement with Zehy Jereis? It doesn't make  
17 any sense. It's illogical. She wasn't smart up to  
18 December 11, 2005 and then all of a sudden takes a stupid pill  
19 on December 12, 2005, and that's the way she was for the rest  
20 of the time on.

21 David Medranda told you that he considered the call so  
22 important that he called Sandy at her job to tell her, to relay  
23 the message to her. And, ladies and gentlemen, the government  
24 has the burden of proof. They welcome their burden of proof.  
25 How is it that you didn't hear about this call during the

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Summation - Mr. Aronwald

1 government's case? The government put Rosemary Karaka on the  
2 stand. How come they didn't elicit from Rosemary Karaka the  
3 fact that she had made this call on December 12, 2005? You  
4 heard about this through the defense cross-examination. Not  
5 even the cross-examination. You heard about this through David  
6 Medranda. That's how you heard about it.

7 Moving on with the time line. May 2, 2006 Judge  
8 Colabella issues a rule invalidating the city council's vote,  
9 restoring the supermajority requirement, and invalidating the  
10 city council's December 9 vote approving the Ridge Hill  
11 project.

12 May 18, 2006, the heat is on. Al Pirro is a lobbyist.  
13 Al Pirro is getting paid a lot of money by Forest City Ratner.  
14 He had all full court presses on. They got to get that vote.  
15 And so on May 18 of '06 Pirro arranges a meeting at Westchester  
16 Country Club between Bender, Cantone, Murtagh and Barbato.  
17 Now, Murtagh and Barbato recall that Sandy Annabi was at that  
18 meeting. Bender and Cantone say she definitely was not at that  
19 meeting. According to all four -- Bender, Cantone, Murtagh,  
20 and Barbato -- the meeting was non-productive. There was no  
21 movement being made. Forest City Ratner wasn't offering any  
22 concessions. Back to square one. In Murtagh's mind, he  
23 described it as a non-event, a waste of time.

24 Now, we know that Sandy Annabi was not at that meeting  
25 on May 18 of '06. How do we know that? Move forward to

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Summation - Mr. Aronwald

1 June 9, 2006 when she meets with Forest City Ratner, and if you  
2 remember the testimony of Mr. Bender and Mr. Cantone and  
3 Mr. Jereis, what they said was the meeting started out with  
4 Bender asking her why is it that we haven't been able to meet  
5 with you before today? There's no dispute about that. Both  
6 Bender and Cantone describe that. So it's clear that Sandy  
7 Annabi was not at the Westchester Country Club meeting on  
8 May 18 of 2006. Now, Murtagh and Barbato did testify that  
9 there were other meetings that took place with Al Pirro. Dee  
10 Barbato couldn't recall whether Sandy was at any one of those  
11 meetings, but the fact of the matter is she wasn't at May 18  
12 Westchester Country Club meeting. Now, according to Dennis  
13 Roberston -- Mr. Carbone referred to this before -- he told you  
14 that he met with Al Pirro basically to try to get Al Pirro's  
15 support and get on the independent line because at the time  
16 Roberston was considering running for city council president.  
17 During the meeting, Pirro began discussing Ridge Hill and said  
18 he wasn't worried about getting Sandy's vote because they would  
19 just offer Zehy a consulting agreement.

20 OK. Common sense. Al Pirro was getting paid a lot of  
21 money. He was tasked with getting Sandy Annabi or Dee Barbato  
22 or John Murtagh to change the vote. According to Dennis  
23 Roberston, this meeting occurred, I forget what date it was,  
24 but according to Roberston, he told Pirro, well, you know, I  
25 don't want to discuss Ridge Hill. I want to discuss my being

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Summation - Mr. Aronwald

1 in the independent line. Well, as it turned out, Dennis  
2 Roberston told you that he never reported that conversation to  
3 the city council. He thinks he may have mentioned it to Liam  
4 McLaughlin, but he didn't report it to the city council  
5 president. At any city council meeting concerning Ridge Hill,  
6 Dennis Roberston never got up on the floor of city council and  
7 questioned whether or not Forest City Ratner had gotten Sandy's  
8 vote by giving Zehy Jereis any type of a contract or consulting  
9 agreement.

10 But even beyond that, if Al Pirro believed that all he  
11 had to do to get Sandy Annabi's vote was to give Zehy Jereis a  
12 consulting agreement, then why didn't Al Pirro contact Zehy  
13 Jereis directly to meet with him and offer him a consulting  
14 agreement and that would have short-circuited the process  
15 considerably. And so at that point if that's all that it would  
16 have taken, Al Pirro could have delivered the bacon to Forest  
17 City Ratner. You heard no testimony about that because it  
18 never happened. And because it never happened, it tells you  
19 that Dennis Roberston wasn't being completely truthful to you  
20 when he described that conversation.

21 If Al Pirro believed that all he would have to do to  
22 get Sandy Annabi's vote was to give Zehy Jereis a consulting  
23 agreement, well, doesn't it make common sense that he would  
24 have contacted Bruce Bender or Scott Cantone and said, "Hey,  
25 you really want a vote, all you got to do is get this guy Zehy

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Summation - Mr. Aronwald

1 Jereis in, he's close to her. We'll offer him a job and then  
2 he'll get the vote." No evidence about that because it never  
3 happened.

4 Al Pirro certainly being a lobbyist presumably was  
5 savvy enough to know that if he wanted to please Forest City  
6 Ratner and not get fired, all he had to do was let them know if  
7 you want Sandy's vote, let's set up a meeting with Zehy, offer  
8 him a job, and he will deliver Sandy's vote.

9 And, again, in terms of faithfully discharging your  
10 obligation, common sense says that if a conversation Roberston  
11 claims he had with Al Pirro actually occurred, Roberston would  
12 have been under an obligation to report that to the city  
13 council, and he never did. You also heard evidence that -- it  
14 didn't come out on direct but on cross -- Roberston  
15 acknowledged that basically he was also looking for Al Pirro to  
16 throw business -- Al Pirro's clients to persuade them to throw  
17 business to the company that Roberston had an interest in.

18 Moving ahead. June 2, 2006, State Assemblyman Joe  
19 Lentol arranges for his friend Joseph Galimi to bring Zehy to a  
20 meeting with Bender, Cantone and Pesin at the Marco Polo  
21 restaurant in Brooklyn. Bender, Cantone and Pesin want to know  
22 why they couldn't get a meeting with Sandy, and they ask if  
23 Zehy can arrange to meet with her. Again, from this alone, we  
24 know that she wasn't at the Westchester Country Club meeting on  
25 May 18. That testimony came not from Zehy Jereis. That

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Summation - Mr. Aronwald

1 testimony as to what happened at the June 2 meeting came from  
2 Bender and Cantone.

3 On direct examination of Mr. Cantone, Mr. Carbone  
4 asked him at page 954 of the transcript:  
5 "Q. Did Zehy Jereis ever say" -- referring to that meeting --  
6 "that he could get Sandy Annabi to support the project?"

7 Cantone responded, "He said that he would certainly  
8 talk to Sandy about the project and see if he can arrange a  
9 meeting."

10 We know from the evidence that there was no discussion  
11 about a possible job for Zehy Jereis at that June 2 meeting.

12 June 9 is the meeting at Jake's Steakhouse. Both  
13 Bender and Cantone agree, as confirmed by Mr. Jereis's  
14 testimony, that the meeting began of Bender complaining that  
15 Sandy had not agreed to meet with them before. The meeting is  
16 very confrontational because Pesin and Sandy go toe-to-toe as  
17 to the concessions she wanted, and Pesin saying you aren't  
18 going to get them. According to Bender and Cantone, it was  
19 only at the end of the meeting after Sandy had left as they  
20 were in the parking lot that Zehy Jereis asked them or told  
21 them that he would be interested in some sort of a position  
22 with the company.

23 Now, ladies and gentlemen, what's important to realize  
24 in terms of this consulting agreement is this: There is  
25 absolutely no dispute. All of the witnesses who testified

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Summation - Mr. Aronwald

1 about it agree -- Bender, Cantone, Zehy Jereis -- Sandy Annabi  
2 was never present at any discussion between Zehy Jereis and any  
3 representative of Forest City Ratner concerning the possibility  
4 of a possibility or a job with Forest City Ratner. Moreover,  
5 they all agree that Sandy Annabi was not copied on any of the  
6 emails back and forth between Zehy Jereis and Forest City  
7 Ratner concerning the consulting agreement.

8 There is simply no evidence in the record -- no  
9 testimony, no documents, no evidence whatsoever -- that Sandy  
10 Annabi ever knew that Zehy Jereis was engaged in discussions  
11 with Forest City Ratner about a job or, more importantly, that  
12 they had hired him. There is no evidence that as of July 11,  
13 2006, the day when she voted for the project, that she had any  
14 inkling or any idea whatsoever that Zehy Jereis and Forest City  
15 Ratner were negotiating a consulting agreement or had agreed to  
16 any consulting agreement. There was some testimony that  
17 Mr. Carbone alluded to as to whether this was an arm's-length  
18 negotiation between Forest City Ratner and Zehy Jereis  
19 concerning the consulting agreement.

20 I think Mr. Cantone or Mr. Bender testified they felt  
21 uneasy about giving him a job before the vote because it  
22 wouldn't look good, so they were concerned about that.  
23 Mr. Carbone suggested that had they known that Zehy had been  
24 making these payments on her behalf, that they would not have  
25 moved forward. Ask yourself this: You heard Bender's

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Summation - Mr. Aronwald

1 testimony. You heard Cantone's testimony. You saw the email  
2 that Bender sent to Mike Spano. Do you think it would have  
3 made a difference to Bruce Bender or Scott Cantone if they knew  
4 that Zehy Jereis was making these payments on Sandy Annabi's  
5 behalf? Do you think they would have said, oops, we're giving  
6 this project up. Forget about it. We're not interested in it.  
7 We're walking away because it doesn't look good. You heard  
8 their testimony. As far as they were concerned, it was the  
9 bottom line and the bottom line was getting this project  
10 approved. It wouldn't have made any difference to them. For  
11 the government to suggest otherwise is just silly. You heard  
12 the testimony. This project was a multimillion dollar project,  
13 and they were intent on making whatever concessions they needed  
14 to make at the last minute in order to get this project  
15 approved, and that's exactly what they did.

16 Then on June 9, the meeting ends with Sandy making  
17 clear what concessions she wanted and them saying after she  
18 left that they were going to caucus and see what they could do.

19 You have an email, Defense Exhibit 39, could you put  
20 that up on the screen, please, on the Elmo. June 9, the bottom  
21 one. This is from Bender to his boss, Bruce Ratner, on June 9  
22 at 6:30 in the evening. Subject: Yonkers. The second  
23 sentence: "We had a good meeting with Sandy. We offered  
24 10 million over three years in tax dollars. We are 2 million  
25 short to make the deal or 700,000 more for three years. I

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Summation - Mr. Aronwald

1 release does not mention the 10.8 million only because "We had  
2 to get our ducks in order with the city of Yonkers and we could  
3 not put the 10.8 million in there off the bat. And I also  
4 explained the problems we had with mentioning traffic  
5 mitigation changes due to EIS concerns." Environmental impact  
6 study is EIS. That testimony is pages 962 to 964 of the  
7 transcript.

8 Here are some other interesting things: June 15 of  
9 2006, city council president chuck Lesnick issues a press  
10 release announcing his support for the project and the steps he  
11 is taking as city council president to legally eliminate the  
12 need for supermajority so that the project could be approved by  
13 a simple majority. That's Defense Exhibit 73.

14 June 19, at the direction of Mr. Lesnick, the Yonkers  
15 city clerk sends a letter to the Westchester County Planning  
16 Board asking whether the city of Yonkers could opt out of the  
17 supermajority requirement. That's Defense Exhibit 77.

18 July 10, 2006, Mr. Lesnick sends an email to Forest  
19 City Ratner counsel Henry Hocherman with copies to Mr. Pesin  
20 and John Swagerty regarding the \$10 million that Sandy  
21 negotiated. The payment of which "starts now." That's Defense  
22 Exhibit 79.

23 Then on July 11, the Westchester County Planning Board  
24 responds by letter, Defense Exhibit 78, advising that the  
25 planning board has no issue with the city of Yonkers opting out

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Summation - Mr. Aronwald

1 of the supermajority requirement as it is "a matter for local  
2 determination in accordance with the city of Yonkers planning  
3 and zoning policies." Defense Exhibit 78.

4 That's very significant. Why is it significant?  
5 Because Mr. Lesnick testified and told you that that cleared  
6 the way to eliminate the supermajority requirement to do  
7 legally what the previous city council had tried to do  
8 illegally.

9 Mr. Lesnick told you at page 2846 of the transcript  
10 "We were prepared to drop the requirement from a supermajority  
11 to a simple majority if we had to, but that was not my  
12 preference."

13 According to Mr. Lesnick's testimony, if a project was  
14 not approved at the July 11, 2006 meeting, as of August 1,  
15 2006, a simple majority would have been sufficient to approve  
16 the project, and that tells us that as of August 1, Sandy  
17 Annabi's vote would be irrelevant. They no longer needed her  
18 vote. They no longer needed Barbato's vote. They no longer  
19 needed Murtagh's vote. All they needed were the four votes  
20 they already had.

21 July 11, 2006, the city council approves the Ridge  
22 Hill project.

23 Now, if in fact the project had not passed on July 11,  
24 if in fact Forest City Ratner had not agreed to make those  
25 \$10 million in tax revenue concessions that Sandy Annabi

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Summation - Mr. Aronwald

1 insisted on and fought for, as of August 1 Ridge Hill would  
2 have been approved, but it would not have included that  
3 \$10 million. That \$10 million was only on the table because  
4 Sandy Annabi fought for it. So if Sandy Annabi had not  
5 succeeded in getting Forest City Ratner to pay the \$10 million  
6 as of August 1 without the \$10 million the project still would  
7 have passed because they had the four votes necessary to pass  
8 it all along. That's what you heard in the testimony by  
9 Murtagh, Barbato and Roberston. There was no dispute about  
10 that.

11 So if we look at all the evidence, there is no  
12 evidence linking Sandy Annabi's vote on July 11, 2006 to the  
13 stream of financial benefits from Zehy Jereis, nor is there any  
14 evidence that those benefits were the engine driving the train  
15 in terms of her vote. There is just no evidence of it. The  
16 government and Mr. Carbone can say there's overwhelming  
17 evidence until he's blue in the face, but wishing it so doesn't  
18 make it so.

19 You have to consider the evidence. And with all due  
20 respect, I challenge you to search this record and find any  
21 evidence, any evidence at all linking her vote on July 11 to  
22 the stream of financial benefits from Mr. Jereis. I challenge  
23 you to find any evidence that there was a meeting of the minds  
24 between Zehy Jereis and Sandy Annabi beginning in 2001 that  
25 these payments were being made with the explicit express

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Summation - Mr. Aronwald

1 understanding that in return for those payments Sandy Annabi  
2 would vote the way Zehy Jereis wanted her to as and when  
3 specific opportunities arose; and if you find no such evidence,  
4 then there is no such agreement, and you must find not guilty  
5 with respect to those charges.

6 Longfellow. Once again, there's no evidence of any  
7 link between the stream of financial benefits she received from  
8 Zehy Jereis and her September 26, 2006 vote to designate Milio  
9 Management the developer, a resolution that incidentally passed  
10 by a vote of seven-to-nothing.

11 Now, interestingly enough, during the testimony of  
12 Anthony Mangone, Mr. Carbone --

13 THE COURT: Do you want to take a break for five  
14 minutes?

15 MR. ARONWALD: That would be fine, Judge. Thank you.

16 THE COURT: You're getting a little raspy. Let's take  
17 a five minute stretch break. Don't discuss the case. Keep an  
18 open mind.

19 (Recess)

20 (In open court)

21 THE COURT: Mr. Aronwald, you may continue.

22 MR. ARONWALD: Thank you, your Honor.

23 Just getting back for a moment to Forest City Ratner,  
24 there was one thing -- two things I overlooked -- and at my age  
25 it's a good thing I only overlooked two -- but the conversation

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Summation - Mr. Aronwald

1 that Mr. Roberston claimed to have had with Mr. Pirro, I  
2 believe he said it was in April of 2005. So I thought I would  
3 just give you that for whatever assistance it gives you.

4 The other thing is that if you remember, during the  
5 cross-examination of Mr. Bender and Mr. Cantone, they had  
6 expressed, or at least one of them had expressed, some concerns  
7 as to whether or not Sandy might have withdrawn her support for  
8 Ridge Hill if they didn't give Zehy Jereis a consulting  
9 agreement. And I remember asking them on cross-examination,  
10 one or both, whether or not they ever went to Sandy Annabi and  
11 asked her whether or not her support for the project was  
12 contingent upon them giving Zehy Jereis a consulting agreement,  
13 and both of them said the answer to that was no, they never  
14 did.

15 It would seem to me that if Forest City Ratner was at  
16 all concerned that Sandy's vote for the project was contingent  
17 upon giving Zehy Jereis a consulting agreement, they wouldn't  
18 have put it off, but certainly what they would have done is  
19 they would have taken the issue up with her. There would be no  
20 reason for them to hide the fact that there was a consulting  
21 agreement being discussed from her. Obviously the two were  
22 totally unrelated, and they knew the two were totally  
23 unrelated.

24 Getting back to Longfellow, according to Franco and  
25 Antonio Milio, at no time during their interaction with Sandy

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Summation - Mr. Aronwald

1 Annabi did she ask for, or even suggest that, she would vote in  
2 favor of the designated developer resolution only if they  
3 agreed to pay for her vote. They both testified that they  
4 fully understood what her objections to the project were. She  
5 wanted housing for the seniors. She wanted it at affordable,  
6 not market rate, and they understood that that's what she was  
7 insisting upon, and that was the way it was.

8 Also, everybody that's testified in this case from the  
9 city council agreed that the only lawyer that they knew who  
10 ever represented Milio Management in connection with the  
11 Longfellow project was former lieutenant governor, Al DelBello,  
12 who testified before you. Even Anthony Mangone acknowledged  
13 that he never spoke to Sandy Annabi or any other city council  
14 member concerning Longfellow, never spoke to the corporation  
15 counsel concerning Longfellow, never attended any real estate  
16 committee meetings concerning Longfellow, never attended any  
17 city council meetings concerning Longfellow.

18 Now, there is a huge discrepancy between the testimony  
19 of the Milios and the testimony of Anthony Mangone as to how  
20 and when they delivered the money to him. More importantly,  
21 the Milios told you that it was Anthony Mangone who raised the  
22 subject of paying money, ostensibly, to have this resolution  
23 passed. The subject was never discussed by them with anyone  
24 but Anthony Mangone. They never discussed it with Zehy Jereis.  
25 As they told you, they never discussed it with Sandy Annabi.

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Summation - Mr. Aronwald

1 This was just something that Mangone told them.

2 Now, I liken Mangone to the rancid meat that I spoke  
3 about earlier. Mr. Carbone was kind when he said Anthony  
4 Mangone was a blight on the legal profession. Anthony Mangone  
5 is morally bankrupt. You know that from his testimony. He has  
6 no boundaries. He does and says whatever he feels he needs to  
7 do to advance his cause. The government holds him out as a  
8 credible witness, and they say, well, he's obligated to tell  
9 you the truth, and we know that because he signed an agreement  
10 where he understands that he needs to tell the truth.

11 I was from the old school. I would have thought that  
12 taking the oath to tell the truth is sufficient to obligate you  
13 to tell the truth; not some cooperation agreement. And if you  
14 have the agreement -- and it is in evidence before you -- if  
15 you take a look at the language, the language is very clear,  
16 the government writes a letter on his behalf for a more lenient  
17 sentence only if the government believes that he provided  
18 substantial assistance, only if the government believes that  
19 his testimony was truthful. It doesn't make any difference  
20 what the jury thinks. It's what the government thinks.

21 Now, common sense: Is there any greater incentive for  
22 Anthony Mangone to testify the way the government wants him to  
23 testify but for that cooperation agreement?

24 Let's take a look at Anthony Mangone. Anthony Mangone  
25 years ago was involved in a forgery scheme where he forged

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Summation - Mr. Aronwald

1 absentee ballots so that he wrote in Nick Spano's name. The  
2 matter was investigated by the Westchester County District  
3 Attorney's office. Anthony Mangone was interviewed by an  
4 assistant DA investigating and prosecuting the case. He was  
5 asked whether or not Senator Nick Spano was aware of what was  
6 going on, whether he knew about it. Without batting an  
7 eyelash, Anthony Mangone looked at the assistant DA in the face  
8 and said no.

9 Anthony Mangone later appeared before a grand jury.  
10 He walked into the grand jury room, no judge present, just DA,  
11 the grand jurors, and the reporter and took an oath -- the same  
12 oath he took her to tell the truth, the whole truth and nothing  
13 butt truth. He looked those grand jurors in the eye, and when  
14 asked whether Senator Nick Spano knew what he was doing with  
15 respect to those ballots, without batting an eyelash, he looked  
16 at them and lied and said no.

17 Months later, Anthony Mangone walked into a courtroom  
18 in Westchester County, with a jury consisting of 12 people,  
19 much like yourselves, took that same oath, looked that jury in  
20 the eye and without batting an eyelash told the same lie:  
21 Senator Nick Spano was not aware. The grand jury obviously  
22 believed him and the trial jury obviously believed him.

23 The fact of the matter is that Anthony Mangone's oath  
24 means nothing to him. He has proven that at least twice: Once  
25 when he testified in the grand jury and once when he testified

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Summation - Mr. Aronwald

1 before a trial jury, and he did it again in this courtroom. He  
2 testified to two things that are simply impossible, and you  
3 know they're impossible from the other evidence in this case.  
4 He told you that he received the second payment -- not as  
5 Mr. Carbone says, on or about September 27 -- he said  
6 September 27 of 2006, the day after the Longfellow designated  
7 developer resolution was passed seven-to-nothing. That's when  
8 he said he got the second \$10,000. But you know from the  
9 stipulation that between September 24 and October 1 of 2006  
10 Franco and Antonio Milio were outside the country in Mexico.  
11 It was physically impossible for them to have met with Anthony  
12 Mangone on September 27 to deliver \$10,000. It just could not  
13 have happened.

14 Anthony Mangone also lied to you when he said that in  
15 July 2006 Zehy Jereis gave him the consulting agreement with  
16 Forest City Ratner to review. We know that could not have  
17 happened. It was impossible. Why do we know that? The  
18 consulting agreement, according to the testimony of Mr. Bender  
19 and Mr. Cantone, was not even written until October 2006. Two  
20 lies about things that are just physically impossible. They  
21 could not have happened.

22 Anthony Mangone was not simply a perjurer. Anthony  
23 Mangone was a thief. Anthony Mangone was a lawyer who  
24 represented the county of Putnam. He and his firm had a  
25 retainer agreement with Putnam County to provide legal

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Summation - Mr. Aronwald

1 services. There was a cap as to the amount that they could  
2 earn in any one year, I think it was \$375,000, maybe a little  
3 bit more than that, but it was against the hours that they  
4 worked. In other words, it wasn't a guarantee. That figure  
5 wasn't guaranteed. That was the top limit that the county of  
6 Putnam would be obligated to pay, but in order to get paid, the  
7 firm had to submit bills on a monthly basis showing their  
8 billable hours. What Mangone told you was that, yes, he and  
9 his firm overbilled the Putnam County. They billed the county  
10 of Putnam for work that was never done. They exaggerated the  
11 number of hours, and they did that because they wanted to reach  
12 that threshold amount, the cap. So Putnam County paid for more  
13 work than Mangone and his law partners provided to the county  
14 of Putnam. The cooperation agreement that he has with the  
15 government does not require Anthony Mangone to make restitution  
16 to the citizens and taxpayers of Putnam County for the money he  
17 stole from them. So we know he did that.

18 We know that he did a disservice to his client Franco  
19 Milio and Antonio Milio because when they got the grand jury  
20 subpoena, he referred them to his former law partner, Michael  
21 Santangelo, who was not aware of the money. And so when the  
22 Milios mentioned it to Santangelo, Santangelo excused himself.  
23 The next thing that happened is Mangone meets with the Milios  
24 and asks why they told Santangelo about the money that he  
25 claims he gave to Zehy Jereis. Mangone then says to Milios,

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Summation - Mr. Aronwald

1 you need to get another lawyer and he gives them the name of a  
2 lawyer, Lawrence Digiansante, from the Bronx and told them go  
3 see him. The Milios asked him, "Should we tell DiGiansante  
4 about the money?" Mangone says, "Absolutely no."

5 Now Mangone admitted when he was on cross-examination  
6 that in order for a lawyer to adequately or effectively  
7 represent his client, it's important that the lawyer and the  
8 client trust each other, and that the client tell the lawyer  
9 everything so that the lawyer knows what type of professional  
10 advice to give the client. Anthony Mangone put his own  
11 self-interest ahead of his client's interest by telling the  
12 client don't mention anything to your new lawyer about the  
13 money that I gave to Zehy Jereis. That was an act of  
14 dishonesty, and it was unethical on the part of Mangone to do  
15 that.

16 Mangone was also involved in money laundering. He  
17 told you about that. And then we have Senator Libous. Senator  
18 Libous's son was hired by Mangone's law firm as a favor to  
19 Senator Libous. And you remember the dialogue, the dialogue  
20 was pay him \$50,000 a year. OK, we'll do that. Well, you  
21 know, the kid really needs a hundred thousand a year. OK,  
22 we'll do that. No, really 150,000 would be better. Oh, gee,  
23 we can't do that. Don't worry about it. Not a problem. Just  
24 bill HIFFA Consulting up in Putnam County for legal services  
25 for \$50,000. They'll pay, and then you can use that money to

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Summation - Mr. Aronwald

1 pay Matt, my son. So they did that. Again, they created false  
2 records. They billed HIFFA for work that was not really done,  
3 legal services. That's another act of dishonesty. They were  
4 engaged in money laundering.

5 In fact, they were engaged in money laundering with  
6 the Milios. That's how the last part about the money  
7 laundering when the Milios were exchanging large sums of money  
8 for cash, for checks, that's how Anthony Mangone knew that they  
9 had cash on hand. And so what happens? June 14, 2005 is the  
10 city council meeting at which Sandy Annabi explains her  
11 opposition to the resolution designating Milio Management as  
12 the developer. That's Government Exhibit 741-R1, R2 and R3.  
13 It's a tape. Again, time restraints being what they are, you  
14 make a note of that exhibit, Government Exhibit 741-R1, R2 and  
15 R3. I commend you to listen to that tape.

16 That's when she says she'll approve the project; that  
17 they build the apartments anywhere else in the district. She  
18 wants housing for the seniors in the district. She wants  
19 affordable, not market rate, housing. And she wants to know  
20 what they're paying for the property.

21 June 20, 2006, Mr. DelBello appears at a real estate  
22 committee meeting. And at the real estate committee meeting,  
23 contrary to what Mr. Carbone told you, Mr. Carbone told you  
24 that Sandy Annabi shoots the project down at the June 20 real  
25 estate committee meeting. That's not what happened. That's

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Summation - Mr. Aronwald

1 not what Mr. DelBello said. Mr. DelBello said that he reported  
2 to the real estate committee that he had discussions with Sandy  
3 Annabi, and they were close to working out a compromise, and  
4 that the developer, meaning his client, the Milios, were  
5 willing to prepare to provide for some senior housing and a  
6 four-month window of exclusivity, that the number of units  
7 would be about 40 units, and there was some disagreement as to  
8 whether it would be four months or six months, but they were  
9 working on it.

10 Mr. DelBello also told you that in the city of  
11 Yonkers, especially in the second district, there really was  
12 very little difference between market rate and affordable rate  
13 because the rents were so low in the second district, what  
14 would be market rate would almost be the same as affordable  
15 rate, so it really became a non-issue.

16 Now, if you remember, Franco Milio was asked whether  
17 or not after he told Anthony Mangone that Mangone was going to  
18 be their guy, a fact that was never disclosed to Al DelBello,  
19 by the way, he was asked whether he had a conversation with  
20 Anthony Mangone in which he said to Anthony Mangone -- pardon  
21 the language -- "What the fuck do we need to do to get this  
22 woman on board? Does she need anything?" Mr. Milio denied  
23 that he made that statement to Anthony Mangone.

24 Special Agent Rosemary Karaka was called to testify as  
25 to when she interviewed Franco Milio on March 19, and according

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Summation - Mr. Aronwald

1 to her testimony, as reflected in the reports that she made,  
2 the 302 reports, Franco Milio did say that he had asked Anthony  
3 Mangone precisely that. And within a few days of that, Anthony  
4 Mangone comes to Franco Milio and says, "For \$30,000 we can get  
5 this project approved."

6 Remember, initially when the Milios met with Mangone,  
7 it was not with respect to Longfellow. They had a lawyer.  
8 Their lawyer, Frank Cocozza, had retired and they were now  
9 looking for a new general counsel. That was the reason they  
10 met with Mangone on the recommendation of someone else. During  
11 that meeting they started discussing some of the projects they  
12 were involved in. When they mentioned Ridge Hill, Mangone  
13 says, "Well, I think Sandy's dicking you around."

14 Now, bear in mind, Anthony Mangone had a pipeline into  
15 Sandy's office all along. You know what the pipeline was --  
16 his sister-in-law, Debbie Kayal, was Sandy Annabi's secretary,  
17 legislative assistant. Debbie Kayal told you that she was  
18 close to her sister, Donna Mangone, Anthony Mangone's wife;  
19 that there was a period of time when she and her husband were  
20 homeless because they sold their house and for a period of time  
21 they moved in and lived with Anthony and Donna Mangone. You  
22 know from common sense and experience when family gets  
23 together, you discuss a number of things. One of the things  
24 you discuss is work. How are things going at work? What are  
25 you doing? What's happening here. So, he had a pipeline into

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Summation - Mr. Aronwald

1 Sandy Annabi's office, and he knew exactly what was going on  
2 with respect to the various projects, including Longfellow.

3 So Anthony Mangone goes and asks for the \$30,000 and  
4 he doesn't remember whether it was 20,000 or 30,000, but, in  
5 any event, that's the conversation he had.

6 So, let me tell you what happened. Ultimately, what  
7 happens is based upon what Mr. DelBello told you, the Milios  
8 make the concessions necessary to satisfy Sandy. In other  
9 words, that only seniors would be able to apply for housing for  
10 six months. Some of that would be affordable rate, some would  
11 be market rate, but as DelBello told you, there's really no  
12 difference. And Franco Milio acknowledged that what that  
13 really means is, it means that, yes, only seniors would have  
14 gotten the housing if 40 seniors had applied for the units  
15 because they would have gotten them as long as they met  
16 Westchester County's financial material -- not any financial  
17 material unilaterally set by Milio Management.

18 The project never got off the ground for reasons  
19 totally unrelated to the designated developer vote. The Milios  
20 told you it was no longer economically feasible, but the bottom  
21 line, the bottom line is that Sandy Annabi fought for and got  
22 the concession, and that's why she decided to change her vote.

23 And Mangone told you another thing that's not true.  
24 He told you that there was no way to get that resolution out of  
25 the real estate committee unless Sandy Annabi okayed it because

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Summation - Mr. Aronwald

1 the tradition was that the city council member whose district  
2 the project was in had to go along with moving it out of the  
3 real estate, otherwise it would stay there.

4 Chuck Lesnick told you that's not entirely correct.  
5 Chuck Lesnick told you as the city council president he is the  
6 chairman of all committees, including the real estate  
7 committee, and in his capacity as chair for the real estate  
8 committee as well as city council president, he had the  
9 authority unilaterally to move any legislation or any bill out  
10 of the real estate committee to the floor of the city council  
11 even if the other six members were opposed to it, and it was  
12 his intent to do that with Longfellow if it didn't get voted  
13 out of the real estate committee when it was.

14 (Continued on next page)  
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Summation - Mr. Aronwald

1 MR. ARONWALD: Now, we jump forward.

2 Franco Milio gets a grand jury subpoena and he is  
3 basically told by Anthony Mangone to see Michael Santangelo.

4 Then there comes a point where Franco Milio wants to  
5 meet with Anthony Mangone. And Anthony Mangone told you that  
6 he felt at the time that Franco Milio was wired. How would he  
7 know that?

8 Well, he knew there was a grand jury subpoena. He  
9 knows that the government was going to talk to Franco Milio and  
10 he is being super cautious, so he doesn't admit to anything on  
11 the tape. He denies everything because he is afraid that he is  
12 being tape-recorded. OK.

13 Then what happens? He is indicted. But he wants to  
14 get out of the indictment. He knows that he faces 40 years in  
15 jail. He doesn't want to do 40 years in jail. He doesn't want  
16 to do a day in jail. He doesn't want to do 40 minutes in jail.

17 So he basically begins negotiating with government for  
18 a plea disposition under a cooperation agreement, but he knows,  
19 he knows that the government has charged that he took money  
20 from his client, Milio Management, upon the representation that  
21 that was money was going to be paid to Zehy Jereis to give to  
22 Annabi.

23 So Anthony Mangone is between a rock and a hard place.  
24 What do I do? If I tell the government that I was ripping off  
25 my client but I wasn't giving any money to Zehy Jereis but I

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Summation - Mr. Aronwald

1 knew that they had bundles and bundles of cash around and I  
2 figured that this was a good opportunity to get some of that,  
3 what deal am I going to get? I am just saying that I stole  
4 money from my client.

5 So what do I do? What I do is, if I tell the  
6 government, yeah, I took this money from my client, I gave it  
7 to Zehy Jereis with the understanding that he was going to give  
8 it over to Sandy Annabi, well, that will get me the deal. And  
9 that was the rock and hard place that he was confronted with.

10 Now, a great American playwright Arthur Miller wrote a  
11 play called The Crucible. It was basically about the Salem  
12 witch trial, but it was really that was just sort of a cover  
13 for it; it was the McCarthy era. None of you are old enough to  
14 remember. I am the only one in this courtroom old enough to  
15 remember it, and I do.

16 And there is a scene in The Crucible, there is a witch  
17 hunt going on and people were basically coming in and saying  
18 that they saw so-and-so associating with the devil. And on the  
19 strength of that, people were burnt at the stake.

20 And so in The Crucible there is a scene in which women  
21 who when confronted by the prosecutor are saying, do you know  
22 of anybody who was a witch, tell us and save yourself, they  
23 would basically give names of people and say, I think she is a  
24 witch. I saw her practicing witchcraft. So in a scene from  
25 The Crucible, the prosecutor in explaining why he is going

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Summation - Mr. Aronwald

1 after these women who have been accused said that, if there are  
2 witnesses who have confessed to dealing with the devil and they  
3 are the ones we are relying on to go after other witches, then  
4 the other person he is speaking to responds to him, why not, if  
5 they must hang for denying it? There are them that will swear  
6 to anything before they will hang. Have you ever thought of  
7 that?

8 That was Anthony Mangone's solution to the rock and  
9 hard place that he found himself. The only way that he could  
10 get the benefit of the deal was basically tell them the story.

11 The fact is, that Franco and Antonio Milio told you,  
12 the only person who ever mentioned money to them was Mangone.  
13 They gave Mangone the money. They don't know what Mangone did  
14 with the money after he received it.

15 Anthony Mangone says -- and he is the only testimony,  
16 the only evidence -- that he gave the money to Zehy Jereis. He  
17 doesn't say that he gave the money to Sandy Annabi. Nobody  
18 says anything about giving money to Sandy Annabi. There is no  
19 evidence of any money going to Sandy Annabi with the exception  
20 of those financial benefits that began in 2001 with Zehy  
21 Jereis. And so all you have, basically, is Anthony Mangone's  
22 testimony that there was ever any discussion about money with  
23 Zehy Jereis and that he gave the money to anyone and doesn't  
24 know what Zehy Jereis did with the money that he gave him.

25 Once again, just as with respect to Ridge Hill, what

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Summation - Mr. Aronwald

1 we know from the evidence is that, yes, Sandy Annabi was  
2 opposed to designating Milio Management as the developer for  
3 Longfellow, but we also know why she was opposed to it because  
4 the tapes tell us why she was opposed to it.

5 When I spoke about transparency in my opening  
6 statement, I believe what I said was, it was transparency  
7 because everything was on tape. The city council meetings were  
8 a matter of public record. They are recorded on video and  
9 audio. The real estate committee meetings are public meetings.  
10 They are recorded on audio and, in some cases, on video. And  
11 that's what I meant when I said transparency.

12 And the fact of the matter is, that that was true then  
13 and it is true now. The tapes are in evidence. You can listen  
14 to them and you can see for yourself. And if compare what  
15 Sandy said on the tapes to the final resolutions and you listen  
16 to the testimony from the developers as to the concessions that  
17 were made to get that vote, you will see that the evidence in  
18 this case overwhelmingly and conclusively establishes that  
19 Sandy Annabi changed her vote only when the nuts and bolts of  
20 the two resolutions changed to the point where she was able to  
21 get for the people of the city of Yonkers the concessions that  
22 she insisted on for both projects from Day 1. And to that  
23 extent, she was fulfilling her sworn obligation to serve the  
24 interests of the people of the city of Yonkers.

25 Even Franco Milio testified at transcript 1417 that Al

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Summation - Mr. Aronwald

1 DelBello was the person that got this proposal or resolution  
2 passed. And you will see, because it is in evidence, the email  
3 that Al DelBello sent to Milio on September 27 telling him that  
4 the resolution had passed the night before and congratulating  
5 him.

6 Now, with respect to the Milios, very briefly, they  
7 pled guilty to tax evasion. They have admitted that they  
8 understated their income taxes by \$2 million as a result of  
9 their failure to report cash rental receipts. Interestingly  
10 enough, they could not even give you an estimate as to how much  
11 unreported income there was because there was just so much of  
12 it. Franco Milio said that there was so much cash lying  
13 around, if he took \$10,000 that his father and his uncle would  
14 never know about it. That's how much cash was lying around.

15 They couldn't tell you what the \$2 million in  
16 understated taxes translated to in terms of unreported income,  
17 but it was certainly far, far in excess of the \$2 million in  
18 taxes.

19 They aided and abetted their employees, some of whom  
20 were illegal aliens, by paying them in cash which the Milios  
21 never reported to the Internal Revenue Service in the form of  
22 W-2s and 1099s, thus they knew that their employees were not  
23 filing tax returns or paying taxes out of the money they  
24 received from the Milios in cash.

25 Antonio Milio told you about the fact that he

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Summation - Mr. Aronwald

1 illegally possessed a handgun which he never used before, but  
2 he had 131 bullets, kept in his safe. Kept it for protection,  
3 but didn't carry it when he delivered the \$40,000 in cash to  
4 Mr. Mangone.

5 They were involved in money laundering and, by the  
6 way, Anthony Mangone asked as to who he got this gun from, he  
7 says this good friend but he couldn't remember this good  
8 friend's last name.

9 They were engaged in money laundering. They were  
10 engaged in real estate deals and for purchases in which they  
11 paid cash and in one case as much as \$330,000 in cash under the  
12 table to the seller so that the sales documents would show a  
13 lower purchase price resulting in what, a lower real property  
14 transfer tax.

15 As part of that plea agreement, although it is not  
16 spelled out in the agreement, it is their understanding that  
17 the other family members that were involved in the scheme with  
18 them, including Franco's sister Carmela will not be prosecuted  
19 nor is there any state prosecution by the Westchester County DA  
20 of Antonio Milio for his illegal possession of a gun.

21 Now, Mr. DelBello's billing records are in evidence.  
22 So if you have any question or any doubt as to whether or not  
23 he was actually talking to Sandy Annabi and discussing the  
24 project with her, you can ask for those billing records. They  
25 go from the beginning of time when he was first hired by them

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Summation - Mr. Aronwald

1 until he was terminated.

2 You will recall that although Franco Milio said that  
3 he called Al DelBello and asked him whether or not he was  
4 willing to work with Anthony Mangone, Al DelBello told you that  
5 that never happened and that the first he learned Anthony  
6 Mangone was working for the Milios was after September 26 when  
7 some months had gone by and he called Franco Milio to remind  
8 him that they had to get some things to done in order to get  
9 the necessary approvals to move the project forward, and only  
10 at that point was he told that his services were no longer  
11 necessary and they were going in a different direction and they  
12 had hired Anthony Mangone.

13 So, as I anticipated, Mr. Carbone told you that the  
14 government takes their witnesses where they find them. Well,  
15 in the case of Anthony Mangone, given his background, given his  
16 history, they should have looked the other way.

17 I ask you this question. Knowing everything you know  
18 about Anthony Mangone, having watched him on the witness stand,  
19 having heard his testimony, knowing all of the misdeeds, would  
20 you rely on his word to make a decision of extreme importance  
21 in your own life? Would you find him credible enough to rely  
22 on him on a matter affecting your own life and your family?

23 If the answer to that question is no, then how can you  
24 rely on his testimony in deciding this case?

25 The government made a big issue about 53 Linden

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Summation - Mr. Aronwald

1 Street. She never lived there. It was all bogus. It was a  
2 sham. It was just because she had to live in the district.  
3 She was living at 45 Bacon Place.

4 That's what the government told you. And they bring  
5 on Maria Chousa. Maria Chousa is Sandy's former best friend or  
6 good friend, depending on who you are talking to Maria Chousa  
7 starts on direct examination by saying that she was best of  
8 friends with Sandy before they had a falling out and that they  
9 would see each other all the time. They would see each other  
10 two or three times a week and then on the weekends. That's  
11 what she testified to, if you remember. She lived in  
12 Tarrytown. Sandy lived in Yonkers.

13 Ultimately what it came down to is the two or three  
14 times a week and then on the weekends came down to one day a  
15 week, and that was on a weekend. And she would see Sandy at 45  
16 Bacon Street.

17 You heard from Dee Barbato or from Debbie Kayal that  
18 Sandy was a mommy's girl, a daddy's girls and she spends a lot  
19 of time with her family.

20 And you heard from Deana Rabadi, a cousin, that she  
21 actually stayed with Sandy at 53 Linden Street. She stayed  
22 there three or four nights a week but on the weekends they  
23 would each go to their respective parents' home.

24 You heard testimony that 53 Linden Street was a  
25 troubled neighborhood -- those were her words. When asked to

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Summation - Mr. Aronwald

1 explain, she said gangs, drugs, shootings -- it was just not a  
2 nice neighborhood to live in. So she stayed with Sandy.

3 She described the apartment to you. She walked you  
4 through the apartment. She told you that there are two phones  
5 in the apartment -- only one of which was a line she was  
6 permitted to use because the other line was a city council  
7 phone that was installed for the use of Sandy as a city  
8 councilwoman. That was her testimony.

9 She told you that were times when David Medranda would  
10 drop off city council documents.

11 Then you heard from David Medranda. David Medranda is  
12 the person who took the Rosemary Karaka call sheet. He told  
13 you that he was the one that made the arrangements to have the  
14 city council phone installed at 53 Linden Street, just as he  
15 later did at 245 Rumsey Road. He told you that, yes, he  
16 dropped off documents at 53 Linden Street.

17 Then you have the email from Zehy Jereis which is in  
18 evidence. It said that in December of 2004, he stayed all  
19 night outside of 53 Linden Street and he explained that he was  
20 doing because it was a bad neighborhood and Sandy was afraid to  
21 live there by herself.

22 Mr. Halperin made a point, understandable that in the  
23 email the next day he went and put the down payment on 245  
24 Rumsey Road. And Mr. Halperin pointed out that was actually in  
25 December, not September. The email that we are talking about I

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Summation - Mr. Aronwald

1 think was an email that was written in 2005 and going back some  
2 point in time.

3 Mr. Jereis may have been off by a series of a few  
4 weeks, but the fact of the matter is that there was nothing to  
5 indicate that he did not park outside of 53 Linden street which  
6 is really what the issue is.

7 The government mentioned nothing about 53 Linden  
8 Street in their closing argument. I suspect that the reason  
9 for that is that they now recognize that the evidence is  
10 overwhelming that for that six-month period from August of 2004  
11 until the end of 2004, Sandy Annabi was in fact living at 53  
12 Linden Street, just as she was required to.

13 Counts 7, 8 and 9 are the mortgage counts, false bank  
14 statement counts.

15 Now, when Sandy Annabi was interviewed by the FBI, she  
16 told them that the documents that they showed her with respect  
17 to 45 Bacon Place and 245 Rumsey Road had wrong information on  
18 it. That was not the information she provided. She didn't  
19 make that much money. She wasn't making that much money at St.  
20 Joseph's. She said the documents just were not true. She  
21 would never be foolish enough to submit documents knowing that  
22 they were not true.

23 Unfortunately, with respect to 45 Bacon Place and 245  
24 Rumsey Road, the original documents don't exist. You heard  
25 testimony from the records custodian -- and these are the

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Summation - Mr. Aronwald

1 successor banks that took over the loans or the loans were sold  
2 to -- you heard testimony from them that the only original  
3 document they have is the mortgage note itself. The other  
4 documents are imaged or scanned and once they were imaged or  
5 scanned, they are discarded.

6 But what is important is that in each case, the record  
7 custodian, one of which was Mr. Jenik, I think, testified that  
8 they don't know whether or not the documents that were imaged  
9 or scanned are the documents and information that Sandy Annabi  
10 actually provided.

11 From Mr. Bicknese you heard that loan officers get  
12 paid on the percentage of loans approved. If the loan is not  
13 approved, they don't get paid. So the greater the amount of  
14 the loan, the more they get a paid.

15 The common denominator between 45 Bacon Place and 245  
16 Rumsey Road is Sam Hattar. Sam Hattar was the loan officer.  
17 Both records custodians testified that they don't know whether  
18 the information that was scanned into the system is actually  
19 the information that Sandy Annabi provided to the loan officer.  
20 They don't know whether Sam Hattar falsified or altered the  
21 documents provided by her in an effort to make her more  
22 creditworthy so that the loan would be approved. They don't  
23 even know if the signature on the loan applications is Sandy's  
24 signature or the handwriting on the document is hers.

25 Now, as to the primary residence affidavit signed by

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Summation - Mr. Aronwald

1 Sandy, both of them indicated she intended to move in and the  
2 time was within 60 days of closing. The affidavit excuse the  
3 borrower from residing there if there are any extenuating  
4 circumstances, a term which is also undefined in the affidavit.

5 There is no evidence that at the time she signed the  
6 affidavit that she did not have any intention to live there.  
7 But what is important is the government has the burden of  
8 proof, and the government did not call Sam Hattar to testify.

9 Sam Hattar would be the one who could testify whether  
10 the information on the loan documents that he processed and  
11 submitted was the information that a Sandy gave him or whether  
12 the W-2s or 1099s or bank statements were documents that he  
13 altered by making -- you will remember that there was a  
14 difference between the W-2 forms that St. Joseph's really uses  
15 and the W-2 form that was in evidence as part of the loan  
16 application.

17 So I suggest to you that there's been a failure of  
18 proof to establish each of the elements necessary to prove  
19 Sandy Annabi guilty beyond a reasonable doubt of Counts 7, 8  
20 and 9 and that Sam Hattar, not having been here or not being  
21 called as a witness by the government so that they can satisfy  
22 their burden of proof is an important fact.

23 Counts 10 and 11 are the income tax documents. Well,  
24 the one thing that we are clear about because you heard it from  
25 Mr. Dennehy, you heard it from Mr. Rocco, if the payments or

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Summation - Mr. Aronwald

1 benefits that Mr. Jereis was providing to Sandy Annabi were  
2 either gifts or loans, they are not reportable because they are  
3 not income. That is what they both told you.

4 So if you find that the payments or benefits from Zehy  
5 Jereis to Sandy Annabi were in fact gifts, then certainly with  
6 respect to the \$60,000, the loan, then in those instances, she  
7 was not required to report that because it does not constitute  
8 income and does not need to be reported.

9 With respect to the casualty loss deduction on the  
10 2005 return, while Walid Farhat seemed like a nice enough guy,  
11 but he is to accounting what Anthony Mangone is to telling the  
12 truth -- simplest way I could put it.

13 Walid Farhat holds himself out as an accountant.  
14 That's how he described himself on direct examination. It  
15 turns out on cross-examination, that although he testified that  
16 he was an accountant, he holds no accounting degrees. He said  
17 that he went to college for three years, but it was a four-year  
18 program. It wasn't here, it was in Lebanon and he didn't  
19 complete college.

20 He was asked whether or not he had any licenses, his  
21 answer was I don't need a license to do public accounting. OK.  
22 But a degree in accounting would help.

23 When Sandy Annabi met with him -- you didn't hear any  
24 testimony that he told her, listen, I am not really an  
25 accountant. I just prepare taxes.

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C3KUANN7

Summation - Mr. Aronwald

1 He told you that he was self-taught. He read books on  
2 accounting. That qualifies him. That's all you need to do to  
3 be an accountant, just read books. Suppose if somebody like  
4 Farhat wanted to be a neurosurgeon, all he had to do was read  
5 some books and that would qualify him.

6 But with respect to the casualty loss, the testimony  
7 was very striking. He admitted he told you, Sandy Annabi told  
8 him she had loaned her father money over the years and had not  
9 been repaid and she wanted to know if she was entitled to a  
10 deduction. According to his testimony, she never used the  
11 words "casualty loss."

12 As it turns out, as you recall, he testified that he  
13 felt uncomfortable. As it turned out, he was uncomfortable  
14 because in Middle Eastern culture, in Arab culture children do  
15 not lend their parents money, they take care of their parents  
16 and that bothered him. The notion that she had loaned her  
17 father upset him -- not enough that he refused to take the  
18 deduction, but it bothered him enough that he asked for proof.

19 He told you she gave him a promissory note and she  
20 showed him her father's bankruptcy discharge. Both the  
21 bankruptcy discharge and the bankruptcy petition are in  
22 evidence, I think, as 64 and 64A. In the bankruptcy petition,  
23 you will see that Sandy Annabi lists Sami as a creditor,  
24 \$35,000.

25 Now, what is important is, according to Mr. Farhat, he

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Summation - Mr. Aronwald

1 doesn't even prepare the returns. He uses a computer  
2 programmer. He just basically puts in the information and then  
3 the computer basically produces a return.

4 He is the one that is responsible for the casualty  
5 loss deduction appearing on the return. In fact, although he  
6 said he didn't retain copies of anything, you will recall that  
7 when he testified about the New York State letter questioning  
8 the item, it was he who sent New York State both the bankruptcy  
9 papers and the promissory note.

10 Mr. Farhat testified that he doesn't even know what a  
11 casualty loss is. He doesn't know the difference between a  
12 casualty loss and a bad debt loss. He was not aware that the  
13 casualty loss is defined in the Internal Revenue Code, you will  
14 recall, a loss to property from earthquake, fire, hurricane,  
15 flood. That's how the term is defined in the Internal Revenue  
16 Code. And he does not know and did not know that a casualty  
17 loss can only be claimed in the year that the loss is incurred.

18 So while a nice fellow, he obviously is not qualified  
19 to practice accounting. And Sandy Annabi relied on him based  
20 upon his holding himself out as an accountant. And what he did  
21 was he never even reviewed the return with her. He sent it to  
22 her and said, look at it, review it and file it.

23 So how you can hold Sandy Annabi responsible for a  
24 casualty loss deduction on a tax return when the accountant  
25 that she went to, thinking that he was an accountant, prepared

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Summation - Mr. Aronwald

1 the return, took the deduction. If she knew what the  
2 difference is, then she didn't need to go to Walid Farhat to  
3 prepare the return.

4 So with respect with respect to that item on the tax  
5 return, I would suggest to you and urge you to agree that Sandy  
6 Annabi cannot be held responsible for taking a casualty loss on  
7 her return when the person she relied on didn't know the  
8 difference between a casualty loss and a bad debt loss.

9 And by the way, I believe that the testimony was that  
10 you cannot take a full deduction for a bad debt loss. You have  
11 to basically offset the bad debt against your capital gains, so  
12 under no circumstances would she have been entitled to a  
13 \$50,000 bad debt loss.

14 If you look at the return -- it was put up on the  
15 screen -- in the casualty loss item in the form, how is it  
16 described? Walid Farhat, the return that he generated out of  
17 the computer described it as a loan. On its face it is not  
18 eligible for a casualty loss deduction because it was not a  
19 casualty loss, it was a loan.

20 THE COURT: I assume you are getting to the end, Mr.  
21 Aronwald.

22 MR. ARONWALD: I am, your Honor.

23 Ladies and gentlemen, as I told you at the outset of  
24 my closing argument, this is the last that I will have an  
25 opportunity to speak to you. Mr. Siano will make his closing

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Summation - Mr. Aronwald

1 argument tomorrow and then the government will make what the  
2 judge has described as a short rebuttal. The government has  
3 the last word.

4 And I would simply ask that as the government responds  
5 to what we have told you and what I am saying to you now, that  
6 you can, based upon what I have told you and based upon my  
7 invitation to review the evidence, that you give serious  
8 consideration to any disagreements that the government and I  
9 might have as to our views of the evidence and that you  
10 reconcile those disagreements in the most expedient way  
11 possible, and that is by looking at the evidence in the form of  
12 readbacks of testimony or in the form of the exhibits  
13 themselves.

14 And, again, I urge you to please, please, please,  
15 please, look at the videos of the city council meetings that  
16 are in evidence with respect to Ridge Hill and Longfellow and  
17 listen very carefully to what Sandy Annabi says are concessions  
18 she is insisting on for these projects to get her votes and  
19 look at the final resolution and you will see that she got  
20 exactly what she told them they would have to do in order to  
21 get her to vote for this project.

22 There is no evidence of any meeting of the minds  
23 between Sandy Annabi and Zehy Jereis, and in exchange for these  
24 moneys that she understood at the time that they were being  
25 made that she was going to be expected to vote the way Zehy

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Summation - Mr. Aronwald

1 Jereis wanted her to when and as opportunities arose.

2 I thank you again for your careful attention to this  
3 trial for the last several weeks, and I have nothing else to  
4 say except that I suspect and urge that on the consideration of  
5 the evidence, the only fair verdict warranted by the evidence  
6 is a not guilty verdict.

7 Thank you again.

8 THE COURT: OK, a long day.

9 We have another tomorrow. We will begin at 9:30 or as  
10 soon thereafter as we are all assembled and we will hear from  
11 Mr. Siano first and then, I believe, from Mr. Halperin --

12 MR. HALPERIN: Yes.

13 THE COURT: -- on behalf of the government for the  
14 rebuttal summation.

15 At that point, which I imagine it will be about 1  
16 o'clock, we will break for lunch. And then tomorrow afternoon  
17 I will deliver the charge.

18 Do not discuss the case tonight. Keep an open mind.

19 You worked really hard today. I have been watching  
20 you. You've been listening. You have been focused. You have  
21 to do that again tomorrow.

22 And it is hard work to try to assimilate all of this  
23 information as it gets thrown to you by the lawyers and  
24 eventually by me. So get a good night's rest. You have to do  
25 something very enjoyable tonight.

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C3KUANN7

Summation - Mr. Aronwald

1 Don't discuss the case. Keep an open mind. Don't  
2 look at the press. Don't look on the Internet, don't look  
3 anywhere, and I will see you.

4 (Proceedings adjourned until 9:30 a.m., March 21,  
5 2012)

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C31Qann1 Trial

1 UNITED STATES DISTRICT COURT

1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

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3 UNITED STATES OF AMERICA,

3

4 v. 10 CR 007 (CM)

4

5 SANDY ANNABI and ZEHY JEREIS,

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6 Defendants.

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7 -----x

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8 New York, N.Y.

8 March 21, 2012

9 9:45 a.m.

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11 Before:

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HON. COLLEEN MCMAHON

District Judge

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C31Qann1

Trial

1 (Trial continued; in open court)  
2 THE DEPUTY CLERK: Case on trial continued.  
3 Government and defendants are present. Jurors are not present.  
4 We were still down two jurors a moment ago. I'll check again.  
5 MR. HALPERIN: Good morning.  
6 MR. CARBONE: Good morning.  
7 MR. ARONWALD: Good morning.  
8 THE COURT: Are you ready?  
9 MR. SIANO: Good morning.  
10 THE COURT: Are you ready, Mr. Siano? Good morning.  
11 MR. SIANO: Oh, yes.  
12 THE COURT: I hope I don't interrupt you.  
13 You all saw what I did with that --  
14 THE DEPUTY CLERK: 42.  
15 THE COURT: -- page 42 of the charge which was the  
16 only page that we really left open?  
17 MR. CARBONE: I don't think we've seen that.  
18 MR. SIANO: No, Judge, I've not seen it.  
19 THE COURT: You've got it. You just haven't looked at  
20 it. OK. If you haven't seen it, we'll talk about it later.  
21 (Jury present)  
22 THE COURT: Good morning.  
23 THE JURY: Good morning.  
24 THE COURT: I hope you got a good night's sleep and  
25 you're ready to go.

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C31Qann1

Trial

1 Mr. Siano, are you ready to go?

2 MR. SIANO: Yes, your Honor.

3 THE COURT: The floor is yours.

4 MR. SIANO: May it please the Court, Judge McMahon,  
5 Mr. Carbone, Mr. Halperin, Mr. Aronwald, Ms. Gallego. Good  
6 morning, ladies and gentlemen. I told you some weeks ago that  
7 you could predict when things were nearing an incremental  
8 finish when I came to the lectern. I wasn't completely  
9 accurate with regard to most of the witnesses because sometimes  
10 I got up before Mr. Aronwald. I am accurate today that we are  
11 very near the end, and that after I speak there is but one  
12 lawyer that you will hear, and you will hear the Judge.

13 Before I proceed further and start, I would like to  
14 take a moment and thank today the person who has behaved  
15 impartially and very helpfully to all of us.

16 Mr. Turk, thank you for your help.

17 Now, it's customary in these things to thank you and  
18 for me to stand here and offer my thanks. I won't be doing  
19 that. Although Ms. Gallego and I have watched and admired the  
20 way in which you've been here on time and you've worked hard,  
21 you have the greatest part of your work yet to come. Indeed,  
22 over 40 years I have said to juries the responsibility of  
23 jurors is the single greatest responsibility of a citizen to  
24 his or her country in time of peace because in this duty that  
25 you swore to perform, you, and only you, are the judges of the

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C31Qann1

Summation - Mr. Siano

1 facts; and what you must judge is very clear. Zehy Jereis, my  
2 client, is accused of six crimes, and you, all of you  
3 collectively, must judge whether the government has proven  
4 their case beyond a reasonable doubt.

5 Now, that phrase embedded in our constitution and in  
6 our laws and in our culture has become almost an everyday term  
7 of speech, but you must listen to Judge McMahon and see if she  
8 provides to you a way to quantify that term, see if she offers  
9 to you some guidance, and I think you may hear that you must  
10 determine whether or not you have a rational basis for  
11 hesitating as you would as to something of importance in your  
12 own life, and if you do, that is a reasonable doubt; and if you  
13 have that doubt, your oath requires that you find Mr. Jereis  
14 not guilty.

15 Now, it's never pleasant to do a hard duty, it's never  
16 pleasant to stand up to authority, and it's never pleasant to  
17 tell the supposed good guys they are not right. No one ever  
18 suggested to you when you got that summons and when you went  
19 downstairs to the first floor and when you were funneled up  
20 here on a variety of days that this would be easy, and I am not  
21 going to tell you it's easy now. But I submit that a fair  
22 review of the evidence makes what I think you should do  
23 clearer, if not easier. I submit because the evidence in its  
24 entirety does not support these charges beyond a reasonable  
25 doubt, that the performance of your duties requires you to find

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C31Qann1

Summation - Mr. Siano

1 Mr. Jereis not guilty.

2 Now, what can I do to help you back there in the jury  
3 room? And I will, as the other lawyers have told you, that  
4 your collective recollection of the evidence controls, and you  
5 have heard at least two recitations of this story yesterday.  
6 So what I am going to try to do is offer to you a coherent path  
7 to decision-making. I will refer to evidence as I do that, and  
8 if my recollection of the evidence is accurate, you may choose  
9 to follow my path. If my recollection of the evidence is  
10 inaccurate, then you are free to follow your own path, and you  
11 should not make something evidence because I say it is.

12 Now, let me begin in offering to you a way to decide  
13 this case. Let me begin with what I believe is the most  
14 interesting witness you had before you over these many days and  
15 weeks. I believe that Anthony Mangone is the most interesting  
16 witness the government presented. Now, you may be saying to  
17 yourself, Mr. Siano, having finally taking leave of your  
18 senses -- raising your voice and speaking in harsh terms --  
19 you've finally flipped. No, I didn't say Anthony Mangone was  
20 the most credible witness, but I do think that the way  
21 Mr. Mangone testified and what he said to you is  
22 extraordinarily helpful specifically because what he said to  
23 you was so comprehensibly and obviously unworthy of belief just  
24 because he's not credible doesn't mean you can't make use of  
25 him back there.

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C31Qann1

Summation - Mr. Siano

1           When Mr. Mangone took the witness stand in this case  
2 at the call of the government, he was a two-time admitted  
3 perjurer. Now, we lawyers get caught up in words, and perjury  
4 is lying up there. Up there in the grand jury 2001 Mr. Mangone  
5 lied. Up there in a trial jury 2002 Mr. Mangone lied. That  
6 was known before the government brought him here to you. He  
7 had lied to the government repeatedly on matters of importance  
8 in this case. And we managed to cajole that information --  
9 that's my word -- draw it out of him in cross-examination. He  
10 had committed tax fraud. He had betrayed his own clients,  
11 bribed public official, cheated his law partners in a myriad of  
12 ways, and before he took the witness stand, the government knew  
13 that the story he was about to tell you had been contradicted  
14 by the Milios and by witnesses from Forest City Ratner. And  
15 that's the man that got on the stand and lied to you.

16           Among those lies he told was a set of lies so obvious  
17 and so easily established that it sets a benchmark for your  
18 evaluation of him and of the government's case. Mr. Mangone  
19 told us five separate times -- according to my colleague from  
20 her review of the transcript, and according to mine, six  
21 separate times, but, again, that's in the evidence -- that he  
22 received money from the Milios in three packages: One in July  
23 and two separate packages in September, and he fixes the date  
24 as immediately after the approval vote for the Longfellow  
25 project. And although he changes the cast of Milios, Franco is

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C31Qann1

Summation - Mr. Siano

1 in all of his recitations as to the first passage of cash,  
2 which is really the second payment, the payment immediately  
3 after the vote, Franco, et al. as I call it -- and other  
4 Mili-ae -- show up and give Mangone \$20,000 the day of the  
5 approval. And either that afternoon or the next day Antonio  
6 shows up and gives another \$10,000. And he said, I took my  
7 share of the 20, I split it with my partner, and I took my  
8 share and went to Atlantic City and gambled.

9 Now, as I established at length, there were massive  
10 conflicts between Mr. Mangone's interview April 30, 2008 and  
11 his interview March 19, 2010. It was a trifle tedious, I  
12 accept responsibility for that, but there were conflicts.

13 Now, the first interview Mr. Mangone piously, "I was  
14 lying." But then in 2010, "I was trying to cooperate." All  
15 right. If you listen to the evidence on those two interviews,  
16 you will see that the payments in September did not materially  
17 change. What changed was who he blamed. In 2008, pursuant to  
18 what he self-describes as a brilliant defense, he was calling  
19 Zehy Jereis a consultant; but then after he was indicted,  
20 brought to court and made to answer, his epiphany was that he  
21 had given Zehy Jereis bribe money for the express purpose of  
22 passing it to Sandy Annabi. But what didn't change was that  
23 the second and third payment took place on the 26th, 27th,  
24 28th, in that window, and despite many inconsistencies from one  
25 story to the next, in the core of that portion of his

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16 Now, why do I say that? Because as came out in one of  
17 the last exhibits the government and the defense stipulated to  
18 was that the Milios were in Mexico. The Department of Homeland  
19 Security keeps meticulous records of all us citizens as we  
20 travel in and out of this country, and with the push of a  
21 button spits back where everyone was. And the casino records  
22 show that Mr. Mangone gambled on the 29th on credit. He didn't  
23 push cash through the windows.

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C31Qann1

Summation - Mr. Siano

1 other reasons, but on this matter what Mr. Mangone said about  
2 the Milios giving him cash was not only untrue; it was  
3 impossible. It could not have happened. And that information  
4 was at the fingertips of the government of the United States of  
5 America before Mr. Mangone got on the witness stand. The  
6 evidence that Mr. Mangone had not taken \$10,000 to Atlantic  
7 City to gamble on September 29 was a short drive down the  
8 Garden State Parkway, and if I can find it, I submit to you the  
9 government could find it.

10 The fact that Mr. Mangone told you so obvious a  
11 fairytale while he was testifying here confirms what the rest  
12 of his life already establishes; and, that is, that he is  
13 comprehensibly a dishonest person who was looking out for  
14 himself when he chose to sign his cooperation agreement with  
15 the government. And, interestingly enough, Mr. Mangone gives  
16 that second interview before they sign him up. They sign him  
17 up at the end of 2010. He gives the interview when he says  
18 something better than the 2008 interview in March of 2010.  
19 Mr. Carbone offers you this agreement as if it's some magic  
20 wand for the acquisition of truth. What it was for Mr. Mangone  
21 was a ticket out of his indictment.

22 Now, the one thing we know about Mr. Mangone is that  
23 he is a risk-taker. I don't want to make it seem that when I  
24 questioned him about these amounts of money that he was  
25 gambling that I did not perceive that these were staggeringly

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C31Qann1

Summation - Mr. Siano

1 large sums, and it doesn't make any difference whether it was  
2 over \$300,000 in 2006 or \$325,000 or \$200,000; any one of his  
3 trips to Atlantic City in 2006 was a very large amount of  
4 money. Taken together they represent a lifetime of money, and  
5 the fact that Mr. Mangone was a degenerate gambler by his own  
6 testimony from 2004 to 2008 tells you something significant.  
7 And when you add to it that he was bribing no less than three  
8 public officials in 2006, along with his partners, and he was  
9 an alcohol abuser and a drug abuser, I submit to you that you  
10 can find that Mr. Mangone had better uses for whatever money he  
11 got out of the Milios than passing it along to anybody else.

12 Back to why I think Mr. Mangone is a very helpful  
13 witness to you. Number one, he's comprehensibly dishonest.  
14 There were no Milios. He didn't use cash. And this plea  
15 agreement doesn't guarantee anything. It has some significant  
16 provisions in it I will speak to you about in a few minutes,  
17 but this is not sort of absolution and a guarantee of truth.

18 The second part is that he's unworthy of your belief.  
19 He did not earn your trust on that witness stand, I submit.

20 And, third -- and this is the most important part --  
21 without Anthony Mangone's testimony, you do not have to spend  
22 any time paying any attention to the Longfellow project because  
23 only his testimony ties it in to the rest of the government's  
24 case; and the significance of Anthony Mangone to their case is  
25 somewhat indicated by the fact that I counted yesterday 77

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C31Qann1

Summation - Mr. Siano

1 We are not going to spend any time going down these  
2 lines making up what the conversation was. What's important is  
3 they are offering you a chart on events on the 26th and 27th of  
4 September when Mangone's testimony is a fairytale. We didn't  
5 hear them hold this chart up to their ears and speculate as to  
6 discussions of money passing. No, they backed off a little on  
7 that exhibit. We didn't get to see it again, but it's there  
8 among the thousands of pieces of paper they chose to offer to  
9 you.

10 Thank you, Mr. Turk. That's all I needed.

11 Now, if they're going to offer that chart, and if they  
12 are going to go back and find, as they are free to do, my  
13 client's plea allocution for a misdemeanor in 1998, and his  
14 notary application in 2000, wouldn't you expect in the  
15 performance of your duties that they would go find where the  
16 Milios were and where Mr. Mangone was and what he did with the  
17 money? Hmm.

18 And if you think that they are giving you an honest  
19 appraisal of the proof, ask yourself, do you think that Agent  
20 Mazzuca actually believes that Anthony Mangone is trying to  
21 tell the truth? What they wanted from Anthony Mangone and what  
22 they bought with their plea agreement was the pointing of  
23 fingers at Zehy Jereis and Sandy Annabi; and when they got what  
24 they paid for, they stopped looking at Mangone critically. You  
25 don't have that luxury. That's one of the reasons why this job

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C31Qann1

Summation - Mr. Siano

1 is hard for you, and it's one of the reasons why occasionally  
2 Mr. Siano got a trifle irate because in carrying its burden of  
3 proof, I submit to you, that these men represent the United  
4 States of America, and when they talk about passion, look at  
5 not just my client's misguided passion, but look at the lust  
6 that's being --

7 MR. CARBONE: Judge, I object to the personal attacks.

8 THE COURT: Sit down, Mr. Carbone.

9 MR. SIANO: -- look at the lust they demonstrated.  
10 They so lusted to point the finger at Zehy Jereis and Sandy  
11 Annabi on a project where their main witness told you a  
12 fairytale that they didn't check him.

13 Let's talk for a minute about how the Milios can help  
14 you. You saw that I spent a fair amount of time  
15 cross-examining Franco and then Antonio Milio, and you saw that  
16 the Milios did acknowledge and take a plea for some aspect of  
17 their wrongdoing. I'm not going to argue with you about the  
18 efficacy about taking a two-year plea agreement or a three-year  
19 plea agreement when the witness says I've been cheating for 40  
20 years. It's not my decision to make. The Milios are not on  
21 trial.

22 What is important is look at the Milios business  
23 model. Huh? Once again Mr. Siano takes a slightly different  
24 approach to the evidence. What do we know about the Milios'  
25 business model? We know that the Milios love to get an edge.

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C31Qann1

Summation - Mr. Siano

1 They love getting an advantage, cutting a corner. Do you  
2 remember that poor parking meter? That's my favorite part of  
3 that story. Mr. Milio is also in the country, what, an hour  
4 and a half in the 1970s, putting a driveway in his house, and  
5 there's a parking meter that offends him. He graciously  
6 provided a gratuity to a city councilman and the parking meter  
7 was executed, gotten out of the way; and from that point  
8 forward, any time using cash for 40 years allowed the Milios to  
9 get an edge, they used cash. \$300,000 in hundred dollar bills.  
10 That's a lot of hundreds in a suitcase on one real estate  
11 closing; and they did it many times. Workers in cash -- 40 for  
12 40 years. High water mark 25, 30 and 40 -- 25, 30 and 40  
13 years. Consistent diversion of cash.

14 And my personal favorite, Joe Smiley and his dad Tony  
15 Ricciardi resorting to the use of a money launderer so as to be  
16 able to turn the cash into checks at real estate closings.  
17 Why? Because the Milios knew how to gain an edge.

18 Now, why is this significant? Because when the Milios  
19 came to meet Anthony Mangone, Mr. Mangone sang them a song of  
20 his great influence. Listen and hear. He showed them Nick  
21 Spano. He showed them Vincent Leibell, two paradigms of ethics  
22 and probity. You've heard the evidence. Mr. Leibell was  
23 getting cash regularly from Servino, Santangelo & Randazzo,  
24 Mr. Spano chips at the casino, and Mr. Mangone introduced them  
25 to the money launderers -- Joe Smiley, Tony Ricciardi. What

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C31Qann1

Summation - Mr. Siano

1 better way to impress? And they introduced him at their  
2 meeting about Longfellow to my client.

3 Mr. Mangone was having his own little beauty pageant  
4 to persuade the Milios he could get them an edge. And the  
5 Milios showed Mr. Mangone that they had cash. He talked about  
6 using the Ricciardi to turn cash into checks for a real estate  
7 closing. Oooh, the Milios were a little in over their depth.  
8 This is a place they reached for a sharp edge, and they're the  
9 ones that got cut.

10 There's a saying in the legal business: If God didn't  
11 want you sheared, he wouldn't have made you a sheep. In this  
12 case, the Milios thought they were getting an edge by bringing  
13 on Anthony Mangone. What happened, in fact, as the evidence  
14 reflects is Mangone sheared them. They're not victims.  
15 They're businessmen who wanted an edge and happily threw money  
16 at Mangone.

17 Now, how do you know they were happy, Mr. Siano? You  
18 know, Mr. Antonio Milio said, "It was the only choice I had."  
19 Well, you want to see an example of an edge? Antonio Milio on  
20 the witness stand. Now, I don't want to speak ill of  
21 Mr. Milio, but, really, did anybody doubt that he understood  
22 the questions in English? Let's be serious now. Why did he do  
23 that? It gave him an edge here, he thought. He thought he  
24 could hear the questions twice -- once in English, once in  
25 Italian -- and get more time to answer. It's a little hard to

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Summation - Mr. Siano

1 do here. And he revealed that he could actually speak English,  
2 as if we weren't going to ask him if all those other  
3 transactions took place in Italian, which clearly they didn't.  
4 That's why he did that. And that's, frankly, why I treated him  
5 as harshly as I did, because it's important to understand what  
6 they were thinking.

7 They weren't victims. They had a legitimate lawyer  
8 with impeccable credentials who came here and told you, "The  
9 first time I learned about Anthony Mangone was after we got  
10 approval and they fired me." And we can thank Mr. DelBello for  
11 something else, something very significant that I want to deal  
12 with very quickly.

13 When you as jurors listen to evidence, sometimes the  
14 evidence that comes at you from this side has significance on  
15 something else. What do you mean, Mr. Siano? Mr. Carbone:  
16 All roads to Sandy Annabi went through Zehy Jereis. Huh? Did  
17 you listen to Mr. DelBello? Mr. DelBello, a lawyer, handling a  
18 project for the Milios in, of all places, the Yonkers City  
19 Council.

20 Mr. Aronwald: Did you talk to Ms. Annabi?

21 Yes.

22 Can I look at your billing records and see how often?

23 Yes.

24 The billing records are in evidence. It does not say  
25 on the road to Sandy Annabi I went through Zehy Jereis.

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Summation - Mr. Siano

1 Mike Spano. Oh, yes, there's much ado about whether  
2 or not Zehy Jereis was nice to Mike Spano in the car and not so  
3 nice to him at the Annabi house. Mike Spano went to see Sandy  
4 Annabi.

5 Now, there's also evidence that Ms. Annabi's boss got  
6 to see Ms. Annabi -- this isn't so helpful to the government --  
7 and kindly told her, I'm your employer; I like Ridge Hill.  
8 Now, there's a public policy discussion. Does anyone in this  
9 jury box appreciate how much pressure that puts on someone  
10 who's a part-time public official? Your full-time employer  
11 says to you "I'm behind this project." Nope. Not what the  
12 government chooses to focus on. Because what they focus on is  
13 all roads to Sandy Annabi go through Zehy Jereis. They need  
14 that part of their fairytale so they say it over and over again  
15 and hope that you will focus on something else.

16 Now, I told you the most important reason why I  
17 focused on Mr. Mangone and what the government could have or  
18 should have known was that it could help you evaluate the rest  
19 of the case. I'm going to make that point one more time and  
20 then move on.

21 Now, you have an absolute right, I would submit, a  
22 responsibility to your oath, to discard Mangone's testimony,  
23 and the notion that you are going to save a little tiny piece  
24 of it to help Mr. Carbone and Mr. Halperin, if you're going to  
25 do that and if you're going to look at Ridge Hill after you

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C31Qann1

Summation - Mr. Siano

1 dispose of Longfellow, I suggest you evaluate the argument that  
2 we didn't know. We're doing the best we can. You know, that  
3 whole swans and sewers thing I got a little lost in it, but I  
4 think it means, you know, the government takes their witnesses  
5 where they find them. We don't have the choice of picking and  
6 choosing who we want. I can assure you that argument, that  
7 argument is one-size-fits-all. That's not the question. The  
8 question is, who cares where your witnesses came from?

9 What's important is they put a witness on the stand  
10 who is a proven liar, and they didn't give you the tools to  
11 appraise him. Their weak explanation is a distraction. Until  
12 you consider the people that offered the explanation as much as  
13 the explanation, I submit you are not doing your job. To test  
14 whether to listen to them on Ridge Hill, ask yourself whether  
15 or not their explanation for not knowing what the hell the  
16 truth was as to Mangone makes sense. Were they negligent? Did  
17 they decide not to look? Or could they just be building a  
18 fictional story with the pieces of the truth they had at hand?

19 These are trained professionals behind me. They have  
20 virtually unlimited resources. They knew Mangone was an  
21 important witness, and they knew he had lied to them. Do you  
22 not check? Do you not check? And when I gave Agent Mazzuca  
23 the opportunity to say I called Mangone to account, his answer  
24 was "I believed he was doing his best. I believed he was  
25 trying." The appraisal of the government's case goes beyond

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C31Qann1

Summation - Mr. Siano

1 Mangone to the people that give you that kind of answer.

2 Now, the government made a deal with Anthony Mangone.  
3 They bought him. They paid for him. And their deal with  
4 Mr. Mangone has some very important terms. Page 3, you will  
5 see the page: It is understood -- and it's signed by both  
6 sides -- that the defendant shall truthfully and completely  
7 disclose all information with respect to the activities of  
8 himself and others concerning all matters about which the  
9 office -- that's them -- inquires of him, which information can  
10 be used for any purpose.

11 And here it gets better: Shall cooperate fully with  
12 this office, shall attend all meetings at which this office  
13 calls for his presence, shall provide to this office upon  
14 request any document.

15 That's the definition of a pet. He signed a contract  
16 to be their pet. And when you have a pet, you are responsible  
17 if the pet gets loose and does violence, and that's the  
18 evaluation that needs to be made about Mr. Mangone; not the pet  
19 at the end of the leash, but the hand that did not control the  
20 leash.

21 As I said to you, evaluate Mangone. Evaluate the  
22 Milios' attitude. There is no payoff at Longfellow. Mr.  
23 Mangone fleeced the Milios. He took the money.

24 Now, let me spend a minute on July, July 13th  
25 Trotter's. If you look at that Trotter's bill, there is no

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23 Now, I want to turn my attention to Ridge Hill and  
24 since Mr. Aronwald cited great works of literature, Arthur  
25 Miller and Shakespeare, I myself wish to point you at a great

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C31Qann1

Summation - Mr. Siano

1 work of fiction. Last night I was contemplating a great work  
2 of fiction, and I brought some excerpts with me. Before we  
3 turn our energies to Ridge Hill, Mr. Halperin's opening  
4 statement, a narrative work of what the evidence in the case  
5 would show. One would have a reasonable degree of confidence  
6 that the party with the burden of proof might want to tell you  
7 what his case was about -- oh, excuse me -- their case was  
8 about.

9 330. Annabi had previously been a staunch opponent of  
10 both projects. She's spoken strongly against both projects.  
11 She had denounced Ridge Hill developer, and she had mocked the  
12 Longfellow project; but suddenly about the same time in the  
13 summer of 2006, Councilwoman Annabi publicly reversed her  
14 long-standing opposition and voted in favor of them.

15 331. And voted in favor of them. This trial, ladies  
16 and gentlemen, will be about what the public never knew at the  
17 time. At this trial you will learn the untold story behind  
18 Annabi's vote flips.

19 Continuing, we wouldn't want to hold Mr. Halperin  
20 responsible for something said in the heat of the moment,  
21 perhaps once in passing.

22 Page 340. Ladies and gentlemen, that is how Ridge  
23 Hill project was approved, without the public knowledge behind  
24 closed doors. Councilwoman Annabi fiercely opposed the project  
25 in 2004, 2005, and the first half of 2006 denouncing the

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C31Qann1

Summation - Mr. Siano

1 developer and filing lawsuits. But the evidence will show that  
2 once Jereis had something to gain financially, once he began  
3 lining himself up for a job with the developer, all it took was  
4 13 days from June 2 to June 15 for Annabi to change her vote  
5 after years of vigorous opposition.

6 Finally, page 344: You will see photos from the city  
7 council September 26 when Annabi reversed herself and voted in  
8 favor of the Longfellow project, and in these photos guess what  
9 Annabi is wearing? Her brand new 18-carat gold white-diamond  
10 cross and necklace.

11 Did you hear an opening statement where they tell you  
12 that going to Jake's or Madison was what their case is about?  
13 Now, they're free to argue anything they choose to argue, but  
14 on the way to the new work of fiction could someone at least  
15 say to you it's not about the vote flips any more? What it's  
16 about is it's Anthony Mangone at Ridge Hill. We take pieces of  
17 information, and we cobble them together.

18 Now, there has been a lot of proof about these  
19 projects. I am not going to go through it day by day, step by  
20 step, meeting by meeting. I am going to focus on what I think  
21 is a particularly salient way in which the events happened  
22 going forward; and, as I said, I'm going to stay on Ridge Hill.

23 What happens in Yonkers. 81 acres a massive  
24 undeveloped piece of land. Now, whatever you think of the  
25 politicians and whatever you think of the debate, whatever you

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C31Qann1

Summation - Mr. Siano

1 think of Yonkers, it's pretty clear that this developer  
2 believed in the project. They put in a massive amount of time.  
3 They met with every group and every person, everyone they could  
4 to try to gain approval. Now, they hired lots of people to  
5 influence it. And in most of the world when you have a seven  
6 vote deliberative body, and four votes are in favor of the  
7 project, you have what we call majority rule. And they had  
8 four votes. There's never any question about that.

9 But not in Yonkers, because in Yonkers there was this  
10 quirky supermajority provision, and because the people who were  
11 in the majority cut a corner -- and that's what they did, no  
12 question about it -- a judge said that procedurally, remember,  
13 you heard that word a lot, process. It was about the process.  
14 Because they cut a corner, there was a lawsuit, a whole bunch  
15 of plaintiffs, whole bunch of defendants, whole bunch of  
16 crossfire back to a supermajority provision and changes in who  
17 was elected.

18 Now, I heard Mr. Carbone say yesterday it was a doomed  
19 and desperate project. I didn't have the time to blow up that  
20 piece of fiction for you. A doomed and desperate project.  
21 When you want something as much as these men want to persuade  
22 you, they will sometimes say some things that are just plain,  
23 flat-out silly. And that comment I suggest to you, the  
24 evidence showed you, was silly. Why? Not because of anything  
25 the government offered to you. Because it really wasn't in the

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C31Qann1

Summation - Mr. Siano

1 government's overall thematic approach to Ridge Hill to show  
2 you what was going on. They didn't want you to see the  
3 project.

4 Now, I will admit it took us a long time to find  
5 Tuckahoe Road, but we found the neighbors and we found the  
6 buildings with a relative degree of ease, and what we find is  
7 that Forest City Ratner continued to try to persuade all three  
8 people who voted no. They continued to do that despite the  
9 fact that every witness, except Dee Barbato, told you that Dee  
10 Barbato was never changing her mind. And every witness, except  
11 John Murtagh, John Murtagh is never changing his mind.  
12 Nevertheless, they continued to talk to people and they  
13 continued to try to make the project go. And two witnesses  
14 took two completely independent actions that set in motion what  
15 happened in June 2006. And the important part for me is Zehy  
16 Jereis did not set either of these events in motion. The  
17 government of Zehy Jereis, by Zehy Jereis, for Zehy Jereis.

18 Well, let's talk about these two events because, once  
19 again, I'm trying to help you figure out how you look at these  
20 events as they were happening. A new city council president,  
21 Mr. Lesnick. Mr. Lesnick got elected running against one of  
22 the fours, one of the four votes for. Mr. Martinelli is voted  
23 out; Mr. Lesnick is voted in. There's a little political  
24 by-play in the testimony about who backed Lesnick, was Lesnick  
25 going to be against it. And what did Lesnick say? I was

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C31Qann1

Summation - Mr. Siano

1 against the process. That is a politician's way of saying "I  
2 changed my mind." He got in against the process, and then he  
3 holds -- I love that word -- charrette. He did not hold a cart  
4 with French paintings in it; he held a meeting and he started a  
5 process of getting people talking without the rancor, and  
6 Mr. Lesnick told you that as of June, he put everybody on  
7 notice in simple non-politician speak: We're going to try to  
8 get five votes in June and July; and if we can't, we're doing  
9 away with the supermajority provision in August.

10 Now, you can read that long press release. It's in  
11 evidence. You can read the rest of the documents, but all of  
12 those politicians -- sandy Annabi, Dee Barbato and John  
13 Murtagh -- were on notice. You can hold out forever. You  
14 remember Ms. Barbato told you about, we were going to hold out,  
15 and we were going to get hundreds of millions of dollars.  
16 Hundreds of millions of dollars. Why didn't Ms. Barbato tell  
17 you that as of August first the project was going to be  
18 approved and no one was going to talk to her again? Why didn't  
19 Mr. Murtagh tell you that? Well, they weren't asked that. The  
20 government put them on the witness stand and chose to present  
21 this as a doomed and desperate project needing five votes. The  
22 city council president talked to the government, and they chose  
23 not to call him because Mr. Lesnick set in motion a process and  
24 told the participants to the Ridge Hill debate, we are going to  
25 work for five votes in June or July, and then in August we're

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2 Now, you are going to hear about quid pro quo. One of  
3 those Latin expressions again. Lawyer speak. Something in  
4 exchange for something. None of their witnesses in these  
5 transactions testified, raised their hand and swore to tell the  
6 truth and told you there was a quid pro quo for anything.  
7 Bender asks, "Could you set up a meeting?"

9 Now the fact that Ms. Annabi went to the meeting is  
10 the case? There still has to be an agreement or understanding  
11 to effect a corrupt purpose, evil intent. Maybe it wasn't what  
12 they said. Maybe it's a new theory. Maybe they're going to  
13 make it simpler for you. They had lunch at Marco Polo, and the  
14 events rolled forward as they do.

18 And in case you think that it wasn't important to  
19 Forest City Ratner, you have that exchange of emails where  
20 Bender goes to the boss. I don't know how it is in everybody's  
21 world, but in my world when I go to the boss, it's important,  
22 and when I get the boss's approval, it's real. And that's what  
23 Mr. Bender did, and that's what he said, and that's what the  
24 email shows. The money was real, and the money was obtained  
25 while the clock was ticking on Mr. Lesnick's clock. And there

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C31Qann1

Summation - Mr. Siano

1 is no proof from any witness that there was anything else that  
2 drove Ms. Annabi's decision.

3 Now, Mr. Jereis wanted a job. Mr. Jereis wanted to  
4 work for a \$11 billion company. Are we startled that he did  
5 not want to continue to work for Mr. Cacace? Mr. Cacace who  
6 said repeatedly "I had no contract with Zehy Jereis. He wasn't  
7 a very good worker. He didn't do a whole lot for me. I had no  
8 obligation to keep him. And I kept paying him." OK.

9 (Continued on next page)

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C3LUANN2

Summation - Mr. Siano

1 MR. SIANO: When pressed, Mr. Cacace admitted the  
2 enemies of my enemies are my friends. They wanted Mr. Jereis  
3 to break the logjam for funding. Mr. Jereis so testified. Mr.  
4 Cacace so admitted. He was unsuccessful. Having heard how  
5 deeply passions run in Yonkers, is anyone surprised this wasn't  
6 a wholly successful relationship?

7 Mr. Cacace admitted, I ran for office against the  
8 mayor's right-hand man and I lost and then, surprisingly, they  
9 cut the money off. Hmmm. It didn't dawn on you that that  
10 might be what happened? Maybe Mr. Cacace should have left the  
11 chamber of commerce. Maybe Mr. Cacace should have fired Zehy  
12 Jereis. But when you evaluate Mr. Jereis, evaluate him in the  
13 context of what other people did. And Mr. Cacace admitted,  
14 when the article in the newspaper came out, I pressed for  
15 reports, and Mr. Jereis gave them to me. They were late.

16 Did you fire him?

17 No.

18 Did you stop paying him?

19 No.

20 Now, as to the attempt to get a job with Forest City  
21 Ratner, I heard yesterday that my client bullied Forest City  
22 Ratner, bullied Forest City Ratner.

23 I am going to give you what seems like an easy  
24 decision, but I know the answer, so don't spend too much time  
25 looking for the word "bullied." Nobody said bullied. Nobody

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C3LUANN2

Summation - Mr. Siano

1 said bullied. "Persistent" -- this is the word I think we  
2 heard seven or eight times. He was persistent.

3 I would imagine that if someone wants a job and they  
4 are not persistent, they don't manifest a real interest in the  
5 job.

6 And as far as what the job was, why don't we look at  
7 the people who offered him the job. We look at it only in the  
8 government's eyes from the perspective of Mr. Jereis.

9 What did Forest City Ratner do? Forest City Ratner  
10 knew how to say no. They said no to Joe Galimi. They knew how  
11 to say yes. They said yes to Al Pirro, millions. They said  
12 yes to Michael Carey, hundreds of thousands. They said yes to  
13 Patricia.

14 They said, we don't know. Send us a resume. They  
15 asked for a resume, he sent a resume.

16 Give us your biographical information. He gave them  
17 the biographical information.

18 They say to him, we want you on as of August 1.

19 Now, he is on as of August 1 and doesn't see a writing  
20 until October. And that is Mr. Jereis' evil intentions. Where  
21 is that in the evidence? Where is that walking forward in  
22 2006?

23 And when the contract comes, Mr. Cantone drafts it and  
24 sends it to him and changes the shape of it. What do I mean by  
25 that?

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C3LUANN2

Summation - Mr. Siano

1 FC Acquisitions, LLC. Mr. Cantone made up a business,  
2 made up an entity. Why did he make up the entity? That's his  
3 state of mind, not my client's state of mind.

4 And long before anybody demanded reports, the people  
5 at Forest City Ratner were asking and demanding and insisting  
6 that my client get paid. Where's the check. Where's the  
7 money?

8 Government Exhibit 389I. They are the ones that are  
9 pressing for payment internally. No CCs from, to, around,  
10 with. They are pressing, pay Mr. Jereis. The only amount of  
11 money they paid him -- I won't bother to show you the work of  
12 fiction that was Mr. Halperin's opening statement where he told  
13 you that the money stopped after the news about the subpoenas.  
14 The money began and stopped with one check -- December 15,  
15 \$15,000.

16 Now, I want to spend a few minutes talking about  
17 Mr. Jereis' relationship with Ms. Annabi.

18 Now, I don't know. I don't think Jean Nate is going  
19 to do it when you weigh 400 pounds. I don't think that at all.

20 Now, Mr. Jereis, in the year 2001, was an immense  
21 human being, not particularly attractive, not particularly  
22 personal. He was in fact married and had at least one child.  
23 He meets Ms. Annabi and he starts losing weight -- improving  
24 his choice in suits took a little time.

25 Now, the government wants to focus on when the money

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C3LUANN2

Summation - Mr. Siano

1 got spent. I ask you, call upon your life experience and ask  
2 yourself why would someone lose 150 pounds, get their teeth  
3 capped and have flesh sliced from their body in order to  
4 control a first-term city councilwoman in Yonkers?

5 This is something a person deliriously in love does.  
6 I did not say wisely in love. I did not say appropriately in  
7 love. But when you contemplate the relationship between  
8 Ms. Annabi and Mr. Jereis from the perspective of Mr. Jereis --  
9 the government wants you to look at the checks and not look at  
10 him.

11 Now, a very large not particularly attractive man who  
12 is married, who has property and has money and has expertise in  
13 an area of interest of interest to a young attractive woman  
14 from his own community, what would you expect him to do? You  
15 would expect him to attempt to impress her, and he did exactly  
16 that.

17 Now, I want to say one thing before I go any further,  
18 and if you take nothing else from my summation, take this.

19 Ms. Annabi owes us no explanation for what she chose  
20 to do with my client, the attention she chose to give him or  
21 not give him. He undertook the romance of this woman with a  
22 full understanding of his situation and of hers. He chose to  
23 spend this money on her, and he spent it on the ways most  
24 likely to impress.

25 This was a young woman in need. He helped her. There

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C3LUANN2

Summation - Mr. Siano

1 were presents. There is no question there were presents.

2 We supplied to you the fact that this relationship  
3 starts out in 2001.

4 The government shows you all of these checks -- checks  
5 which I told you in opening statements you would see.

6 Now, that's a trifle bit of distortion in their  
7 mathematics, and I am going to talk about that in a few  
8 minutes. But understand, Mr. Jereis was attempting to impress  
9 Ms. Annabi.

10 Now, the fact that Mr. Jereis was fat and heavy and  
11 unattractive, that's who he was. He made himself less fat,  
12 less unattractive. He dressed better. He lost weight. He had  
13 surgery. He did all of these things.

14 Are any of these things consistent with the  
15 government's theory of the case?

16 Remember, only they have a burden of proof. Unlike  
17 the surgeon that sliced away pieces of Mr. Jereis, you do not  
18 have the luxury of choosing to ignore these facts. You can  
19 decide their importance, but they happened.

20 Now, as far as why someone might find Mr. Jereis  
21 attractive, I think that we have all heard that joke, I know I  
22 have. You see a very tall, attractive woman with a very short  
23 boyfriend and there are comments made about what is that  
24 relationship about and you hear the remark, he is a lot taller  
25 when he stands on his checkbook.

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C3LUANN2

Summation - Mr. Siano

1 Well, in this case, maybe Mr. Jereis was a lot thinner  
2 when he stood on his. And everyone in this case describes them  
3 as close -- everyone -- close, very close, together morning,  
4 noon and night.

5 What they are complaining about was the fact that  
6 there was at least a modicum of discretion in their  
7 relationship, the fact that Mr. Jereis didn't advertise his  
8 relationship with her, that he didn't proselytize his  
9 relationship with her, that he didn't merchandise his  
10 relationship with her shows that there was at least a touch of  
11 discretion in him.

12 Why he was discreet? There is no evidence as to that.

13 Now, we have put before you a series of emails in  
14 which Mr. Jereis expresses himself during this relationship.  
15 And the government, as part of their approach of taking some  
16 facts they have and cobbling them into fiction brought before  
17 you Detective Koenig. Detective Koenig.

18 Now, Detective Koenig is an expert on computers.

19 I am not an expert on computers. I am an expert on  
20 what computers do wrong. That's what most people are experts  
21 in. You turn the computer on one day, it works. You turn it  
22 on the next day, and there is some ad you can't get to stop.  
23 You turn it on one day and your notes are there and the next  
24 day they are not. And what do you do? Well, we can't hire  
25 Detective Koenig. He is a specialist. He comes when they

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C3LUANN2

Summation - Mr. Siano

1 call. So you hire somebody who has some expertise and they  
2 look at your computer for some period of time, rattling around  
3 on the floor, they take it with them and they come back and you  
4 ask them what's wrong and you get a Detective Koenig speech.  
5 It is broken. Those two are broken.

6 And the government asked him questions right up to the  
7 point where you want to ask the question, so are the emails  
8 fake? Don't ask that question. Mr. Aronwald had to ask that  
9 question.

10 Well, there were remnants.

11 What? It is like when you ask about your computer,  
12 what's wrong?

13 Well, the framous and the this and that and there were  
14 bits and fragments.

15 He looked at two broken computers and determined that  
16 they were broken, and he couldn't say the emails were fake.

17 Listen carefully to the rebuttal as they explain to  
18 you why they are fake, and then go find the evidence that  
19 anybody said they are fake.

20 I will submit to you that the government despises that  
21 evidence because it corroborates what Mr. Jereis was doing at  
22 the time. And what was he doing? He was behaving like a  
23 lovesick fool.

24 And if you want corroboration, remember, I am here to  
25 help. I want to take a disparate piece of testimony that came

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C3LUANN2

Summation - Mr. Siano

1 to you in a big rush of documents and see if we can ferret out  
2 some corroboration for the emails that Detective Remnant could  
3 not say were fake.

4 Mr. Jereis told you, he got a little message -- slow  
5 learner -- got a little message. First he got the message when  
6 he wanted the keys and she wouldn't give him the keys. It  
7 wasn't enough.

8 He got a little message in August. In August he calls  
9 the apartment because he is off running an errand for the  
10 Ms. Annabi. And it is there in the email. Defendant's Exhibit  
11 101, August 26, 2005. Remember, her brother was in a little  
12 trouble. He runs off to take care of the brother. He calls  
13 the apartment. A man answers -- I think there was a movie that  
14 had that title -- but that is definitely a warning sign.

15 You know that apartment you're paying for that she  
16 won't give you the keys on, guess what? There's a man in it.  
17 Wrong number. Boom.

18 You would think that there were a number of different  
19 ways to approach that. Apparently, didn't get the message.  
20 Look at the Government Exhibit 206 -- Ms. Annabi has a friend.  
21 Dr. Lowei. He is a dentist out in New Jersey, July and August  
22 2005. He described himself as Ms. Annabi's friend, before,  
23 during and after the events involved in the apartment.

24 If you are looking for corroboration, you have two  
25 disparate pieces of proof that are consistent. I am not

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C3LUANN2

Summation - Mr. Siano

1 telling you it was the doctor that was in the apartment. No.  
2 I am telling you, Ms. Annabi had another male friend  
3 sufficiently significant to go with her to spend my client's  
4 money. That doesn't make my client particularly discerning in  
5 his personal relationships, but it does support the fact that  
6 my client had a personal relationship with Ms. Annabi and that  
7 that personal relationship had the characteristics of exactly  
8 that -- it was one sided, it was unrequited. It may have been  
9 stupid, but it was a personal relationship.

10 Your Honor, I would ask the Court for a break.

11 THE COURT: A break you shall have.

12 Don't discuss the case. Keep an open mind.

13 (Recess)

14  
15 (Continued on next page)

C3LUANN2

Summation - Mr. Siano

1 (Jury not present)

2 THE COURT: How much more longer?

3 MR. SIANO: 30.

4 THE COURT: Mr. Siano, could I ask you to move the  
5 podium back a little farther from the jury box and remain more  
6 or less behind it.

7 Counsel, can I see you at the sidebar?

8 (At the sidebar)

9 THE DEPUTY CLERK: Judge, when I went to get the jury  
10 from the jury room, I was approached by several of the jurors  
11 kind in a group and they asked how close is counsel allowed to  
12 come to the jury box and --

13 THE COURT: Be fulsome. I want every word they said  
14 on the record.

15 THE DEPUTY CLERK: Someone else chimed in, we are  
16 concerned about spitting and it is offensive on multiple  
17 levels.

18 MR. SIANO: It is a criticism and that's fair.

19 MR. HALPERIN: Just for the record we don't think that  
20 Mr. Siano is doing anything wrong.

21 THE COURT: The problem is we are professionals and  
22 they are not.

23 MR. HALPERIN: I understand. I just want to make it  
24 clear that the government doesn't think that Mr. Siano's  
25 conduct was in any way wrong.

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C3LUANN2

Summation - Mr. Siano

1 THE COURT: We are professionals. They are not. And  
2 they are reacting --

3 MR. SIANO: It is fair.

4 THE COURT: And I don't want it held against  
5 Mr. Siano's client.

6 I wanted to make a record.

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8 (Continued on next page)

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C3LUANN2

Summation - Mr. Siano

1 (In open court, jury present)

2 THE COURT: Mr. Siano, would you continue, please.

3 MR. SIANO: I would like to spend a few moments on the  
4 mathematics.

5 Mr. Turk, if I could ask you for Government Exhibit 6.

6 If you listen to the judge's instructions -- as I know  
7 you will -- you will come to hear that no specific dollar  
8 amount is an element of the government's case.

9 Now, why do I focus on the fact that that is not part  
10 of their proof? Because I suggested to you about an hour ago  
11 that you look at the way the government chooses to present  
12 their proof to you.

13 And in this particular instance, if you would be kind  
14 enough to look at the first half of Government Exhibit number  
15 6, you will see the bottom line number that they choose to  
16 offer to you, expands extraordinarily in the year 2004.

17 Now, Mr. Halperin in his opening statement said to you  
18 that my client gave -- he used the word twice -- "gave," a verb  
19 of donation. In fact, a word that was resisted by Mr. Dennehy  
20 when I asked him about what constitutes a gift. Gave  
21 Ms. Annabi \$60,000 for two houses in the year 2004.

22 I submit to you when you evaluate the way the  
23 government presents its case and they are going to present you  
24 with this number of \$74,000 and since the number is not an  
25 element of their proof, would it not have been fair for them to

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C3LUANN2

Summation - Mr. Siano

1 put the \$60,000 that was paid back somewhere in the  
2 calculation?

3 You saw a \$23,000 check, a \$37,000 check within a  
4 matter of moments.

5 You saw the promissory note and you saw that  
6 Ms. Annabi paid the money back.

7 No question that the money was loaned but, equally,  
8 there is no question that the money was paid back.

9 Could we move to the second half, please.  
10 Thank you.

11 Now, here we have a more interesting mathematical  
12 calculation. Here in 2006, we have a very large dollar sign.  
13 Mangone and Jereis gave money to sandy Annabi.

14 First of all, that is nowhere in the evidence. Mr.  
15 Mangone said that he gave the money to Mr. Jereis to give it to  
16 Ms. Annabi.

17 And, secondly, what do you think that, since the  
18 calculation isn't essential to their proof there would be the  
19 smallest acknowledgment that perhaps Mr. Mangone did something  
20 else with the money?

21 Now, why do I point to the mathematics? Because if  
22 you take the money with a fair deduction for Mr. Mangone's  
23 fundamental incredibility and if you take out the \$60,000, you  
24 see that in virtually every year -- not all of them, but in  
25 virtually every year -- the amount of money my client was

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C3LUANN2

Summation - Mr. Siano

1 spending on Ms. Annabi was a little more than about a 1,000 to  
2 1,500 dollars a month -- 15, 12, 14,000 dollars a year.

3 Could we go to chart 7, please.

4 Now, here, again, this is a particular chart that Mr.  
5 Dennehy and I had some words about. Clearly, this is another  
6 one of these argument charts. It has no independent  
7 evidentiary value, but in putting it together, Mr. Dennehy  
8 admitted he took line 22 of my client's tax returns.

9 And to the extent anybody is a tax return buff and  
10 wants to go to the returns, if you look carefully as we did  
11 during Mr. Dennehy's cross-examination, the line says taxable  
12 income; it does not say gross income. In fact the tax return  
13 several lines down lower says adjusted gross.

14 This figure on the tax return is confined to lines 7  
15 through 21. And as Mr. Dennehy acknowledged, this does not  
16 reflect money. This does not reflect the assets, the  
17 liquidity, the cash flow that Mr. Jereis had.

18 This chart, I submit to you, is emblematic of the  
19 government's approach. They are suggesting to you that there  
20 is a nefarious purpose associated with Mr. Jereis' expenditures  
21 on Ms. Annabi because he didn't have the money.

22 Now, that argument is particularly absurd. Why?

23 The government put into evidence two loan applications  
24 in which there was no allegation that Mr. Jereis was inaccurate  
25 in which he disclosed \$3 and a half million in assets.

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C3LUANN2

Summation - Mr. Siano

1 And if you do look at the tax returns that are in  
2 evidence courtesy of the government -- and I am sorry to have  
3 to do this -- Schedule E, the amount of revenue Mr. Jereis was  
4 getting, the money, was over \$350,000, because of his  
5 properties -- and he told you he owned properties, rental  
6 properties, throughout the years of this chart.

7 And in addition, the checks showed, and Mr. Jereis  
8 testified that from time to time he used his credit line. The  
9 dollar amounts are not necessary for the government's case but  
10 when they put together this chart, they chose to cobble  
11 together disparate pieces of fact to generate a fiction that my  
12 client couldn't pay the money and, therefore, his purpose was  
13 nefarious.

14 Thank you, Mr. Turk.

15 I want to spend a couple of minutes, not a lot of  
16 time, but a couple of minutes on what I call the big 3 of  
17 purchases.

18 Again, we have the Mangone methodology at work in  
19 terms of what the government offers us.

20 We have an upgraded airline ticket.

21 We have a Rolex watch.

22 And we have a cross.

23 I am going to say something that is going to frighten  
24 me.

25 Relying on Mr. Mangone, he got the money in July. The

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C3LUANN2

Summation - Mr. Siano

1 Milios say the money was paid in June. But Mr. Mangone said he  
2 got the money in July.

3 If you give the government's theory some credit, there  
4 wasn't any cash to upgrade the airline ticket from Mangone to  
5 Jereis in June. And we have the upgrade of the ticket and we  
6 have the little stamp that it was on the 26th. And there is  
7 20-some-odd hundred dollars that was the delta -- not the  
8 airline, but the difference between what the coach ticket was  
9 and the business class ticket was.

10 Mr. Jereis told you on the witness stand, right around  
11 her birthday, the family took up a collection. It was short --  
12 not a big surprise, all things considered. And he put the rest  
13 in and went down and purchased the ticket. He expended money  
14 on Ms. Annabi and he so testified.

15 Now, the Rolex watch. We spent a lot of time on this  
16 Rolex watch at the beginning of the case.

17 Whatever we think of Mr. Serrao, the government did  
18 not establish because they did not ask. They chose not to ask  
19 Mr. Serrao: When the watch was paid for, what form was the  
20 money in?

21 Now, in an ordinary and normal world, someone coming  
22 in and buying a once a year purchase -- remember Mr. Serrao  
23 said he sold the one Rolex watch a year to lady in the movie,  
24 the lady on TV, the same lady that brought the cross, paid in  
25 cash.

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C3LUANN2

Summation - Mr. Siano

1           Where are the \$100 bills? There are no \$100 bills.  
2           Whether the government chose not to ask Mr. Serrao, or  
3 they chose not to tell you, the evidence does not tie this  
4 purchase to Mr. Milios' \$100 bills. It just doesn't.  
5           The necklace is paid for on a credit card.  
6           Now, I think any person that has a credit card has  
7 normal level expenses, gasoline, maybe one particular  
8 restaurant. My daughter is Applebee's we go to. Routine  
9 expenses. And everybody's credit cards has high --  
10 out-of-the-ordinary expenditures.  
11          The government points out looking at the credit card  
12 bills, this was a large expenditure.  
13          There is no tie to Mr. Milio's money. This is an  
14 attempt to cobble together three purchases of completely  
15 independent origin and movement in order to do what?  
16          Corroborate Anthony Mangone.  
17          The fact that they don't corroborate Anthony Mangone  
18 is not surprising. Why? Because Anthony Mangone says, I got  
19 money from the Milios and I gave it to Zehy Jereis.  
20          Mr. Mangone is actually spending a very large sum of  
21 money in Atlantic City in July.  
22          If Mr. Milio got money from the Milios and if it  
23 happened at the end of June and the beginning of July, doesn't  
24 a degenerate gambler with illicit money who is making three  
25 corrupt payments at the same time in 2006 and who has a

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C3LUANN2

Summation - Mr. Siano

1 longstanding and admitted gambling habit as well as drug abuse  
2 and an alcohol abuse problem, doesn't that evidence support the  
3 conclusion that he went to Atlantic City and spent the money?

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5 (Continued on next page)  
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C31Qann3

Summation - Mr. Siano

1 MR. SIANO: (Continued) But because the government  
2 wants their witness to persuade you, they cobble together  
3 corroboration and make an argument. The evidence does not  
4 support argument if you take the evidence on its face and give  
5 it a fair examination.

6 I want to spend a few moments, only a few, on the  
7 politicians. What are you going to do? I have to talk about  
8 them. They came, way back at the beginning. Remember  
9 Mr. Murtagh? My favorite part about Mr. Murtagh is his  
10 testimony was clear as a bell on direct, then there were 83 I  
11 don't remembers, I don't recalls, I don't remember thats on  
12 cross-examination, including with Mr. Murtagh, my personal  
13 favorite, he did not remember even having campaign literature  
14 in front of him, that he had run a piece of literature, a  
15 mailer in which he had my client's picture with the word  
16 "indicted" written across it. You may conclude that  
17 Mr. Murtagh was a fair-minded witness. You may decide to give  
18 him some weight for his evidence. But Mr. Murtagh also  
19 attempted to vigorously deny that he had had a political  
20 association with my client and had relied upon him when it  
21 served his purposes.

22 Now, why would he do that? He did that because  
23 Mr. Murtagh got on the stand as a politician, and he got off  
24 the stand as a politician. And when his law partner came here  
25 and testified, he told you "I knew this man as my partner for

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C31Qann3

Summation - Mr. Siano

1 nine years, and my opinion is he's not truthful." Whether or  
2 not he needed Mr. Lunney is an interesting question. But,  
3 remember, Mr. Murtagh is one of these people that puts Sandy  
4 Annabi in a meeting that the person Murtagh and Barbato say she  
5 was meeting with. Bender says she wasn't there. Murtagh and  
6 Barbato said we had a Forest City Ratner meeting, it was the  
7 Three Musketeers, and it was Cantone and Bender and Cantone,  
8 and Bender said nope, didn't have a meeting with Sandy Annabi.  
9 Murtagh and Barbato. Yes.

10 Dee Barbato: Dee Barbato invited me to her bedroom.  
11 I remember this vividly. I have not so far acted upon that  
12 invitation. That's not evidence.

13 Ms. Barbato expressed her opinion about the Forest  
14 City Ratner project. Now, the politicians can have whatever  
15 opinion they want about Forest City Ratner. But in evaluating  
16 them as a witness, I submit to you that Ms. Barbato should have  
17 told you what everyone else told you; and, that was, I was  
18 never going to vote for that project, no matter how much taxes  
19 I talked about and traffic studies and drainage. My  
20 homeowners' associations were stacked up against it, it was  
21 right next to my district. No way; no how.

22 Instead, what she chose to present was this air of  
23 reasonability as a way of making it appear that Ms. Annabi was  
24 doing something nefarious by actually listening and changing  
25 her mind. It's all right that Ms. Barbato was intractably

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C31Qann3

Summation - Mr. Siano

1 unalterably opposed to this project. That's between  
2 Ms. Barbato and her voters. But when she comes here and paints  
3 a reasonable face on herself, you need to look carefully at her  
4 testimony.

5 And Ms. Barbato my favorite point with Ms. Barbato  
6 was, "Ms. Barbato, are you a Spano Republican?"

7 "No, I'm not a Spano Republican."

8 "You recognize that picture?"

9 "Yeah, that's my husband," with a tattoo on his arm.

10 That's another piece of campaign literature. When it  
11 serves the politicians purposes they turn and ask for help from  
12 Mr. Jereis. When they stick their finger in the wind and find  
13 it serves their purposes to disavow Mr. Jereis, they did that.  
14 And when Bender and Cantone tell you politics in Yonkers is  
15 crazy, you've got to look at it.

16 Finally, Mr. Roberston. Mr. Roberston who said, "Oh,  
17 I told Sandy Annabi not to talk to that Jereis fellow. I told  
18 her he was a shady character."

19 Oh, by the way, I, Dennis Roberston, had no problem  
20 sitting down with a convicted felon; 29 felonies and a prison  
21 sentence for Mr. Pirro, but I needed money and I wanted to run,  
22 so I sat down with Al Pirro, and he was boasting. What the  
23 government does with these politicians is they take bits and  
24 snippets of recollections of events, whether they ever told  
25 anybody about them, whether they ever did anything about them,

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C31Qann3

Summation - Mr. Siano

1 and they used them as a substitute for what they're arguing  
2 they proved. The fact that Mr. Pirro boasted doesn't come out  
3 of my client's mouth, and it wasn't said to Ms. Annabi. It was  
4 said to Mr. Roberston.

5 What the government here has is a seven-year time  
6 period -- it's actually a six-year investigation -- but they  
7 claim it's a seven-year conspiracy, seven years in which there  
8 was a corrupt agreement, and that that corrupt agreement  
9 provided that Mr. Jereis would provide these benefits, these  
10 corrupt payments so that Mr. Jereis could advance his own  
11 interest as opportunities arose. Seven years of investigation.  
12 There's no single conversation. There's no single email.  
13 There's no single document. There's no single eye witness to a  
14 wink, a nod, a gesture. The government here attempts to cobble  
15 together disparate events that happened in a context and  
16 sequence of events that they did not present to you to try to  
17 show you that corrupt agreement.

18 I submit to you, that there is no agreement. They  
19 have not proven an agreement, and as I told you at the  
20 beginning of my summation, it is the government's, and the  
21 government's burden alone, not to raise a suspicion of an  
22 agreement, not to raise a specter of an agreement, but to  
23 establish a corrupt agreement or understanding beyond a  
24 reasonable doubt.

25 Now, I'm a little will shorter than most of the other

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C31Qann3

Summation - Mr. Siano

1 lawyers, and I'm getting close to the end. If I've offended  
2 anybody, if I've intruded on your personal space, I apologize.  
3 That's from me, and I apologize. I trust you will attribute  
4 that to me and my enthusiasm and obviously not my client.

5 I will say to you as follows: I want to comment on  
6 Mr. Jereis. Mr. Jereis bore no obligation to testify. He  
7 chose to take the witness stand, and he testified. It comes  
8 late in the trial because that's where we are. And he got on  
9 the witness stand, I want to say warts and all, but in this  
10 context that might be taken offensively. He told you about the  
11 failures in his past life. He answered the questions that were  
12 asked of him. And on the events involving the charges against  
13 him, I submit to you, that his testimony is corroborated by the  
14 emails and is corroborated by his actions. He described to you  
15 himself, his intent.

16 Now, the way this works is I do not get up and get a  
17 chance to respond when Mr. Halperin speaks, and Mr. Halperin  
18 will no doubt have a different view of my client. Mr. Jereis  
19 is not on trial because on one application among several he  
20 neglected to put down that he had been convicted of a  
21 misdemeanor; nevertheless, he put it on four other  
22 applications. He's not on trial for having cash workers which  
23 he admitted on the witness stand. He's not on trial because he  
24 witnessed three signatures incorrectly in the 1990s and  
25 acknowledged it in open court and pleaded guilty to a

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C31Qann3

Summation - Mr. Siano

1 misdemeanor.

2           Mr. Jereis got on the witness stand, he testified to  
3 you. He answered the questions asked of him, and I submit to  
4 you, you are entitled to evaluate his credibility just as you  
5 do every other witness; and just as you evaluate every other  
6 witness, in those aspects of his testimony in which his  
7 testimony is true, had the ring of truth and was corroborated,  
8 you are entitled to give his testimony such weight as you think  
9 is appropriate.

10           He is not on trial for being a married man carrying on  
11 with a single woman. He is not on trial for having  
12 extraordinarily poor judgment in his personal life. He did  
13 that. Whether he was a fool for love, he was misguided, or  
14 whether he acted in accord with his affections as he saw them,  
15 is not the issue in the case.

16           The issue in the case is has the government  
17 established that there was a corrupt agreement over the course  
18 of 2002 through 2008. I submit to you, as I said at the  
19 beginning of this case, the evidence in this case does not  
20 establish that. The government has not proven that beyond a  
21 reasonable doubt.

22           Now I've come to the end of my remarks. I do not get  
23 a chance to respond when Mr. Halperin speaks. I'm sure I will  
24 find his remarks illuminating.

25           When you go back in the jury room, remember, your

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C31Qann3

Summation - Mr. Siano

1 responsibility is to do justice. Your responsibility is to  
2 hold the government to proof beyond a reasonable doubt, and  
3 because having been through this trial and having done all I  
4 can to bring out proof, because I submit to you the government  
5 has failed to do that, I ask you now on behalf of Zehy Jereis  
6 to find him not guilty of the six charges brought against him.

7 Thank you

8 THE COURT: Mr. Halperin.

9 MR. HALPERIN: Your Honor, could we have a two minute  
10 break to set the courtroom up?

11 THE COURT: Set it up.

12 MR. HALPERIN: Thank you, your Honor.

13 THE COURT: Thank you, Mr. Halperin.

14 MR. HALPERIN: Good morning, ladies and gentlemen.

15 Let me cut through some of the distractions and remind  
16 you what this case is really about. This case is about Sandy  
17 Annabi, a public official, who sold her office for expensive  
18 jewelry, luxury cars, and real estate; and this case is about  
19 Zehy Jereis, a political operative, who paid her for years to  
20 influence and control her and then cashed in for himself when  
21 he saw the chance.

22 As a Yonkers city councilwoman, Annabi received nearly  
23 \$200,000 of financial benefits from Zehy Jereis, and she hid  
24 all of those payments and benefits by not reporting them on her  
25 financial disclosure forms as she was legally required to do.

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C31Qann3

Rebuttal - Mr. Halperin

1 She attended meetings with developers who had business before  
2 the city of Yonkers, meetings arranged by Jereis at the same  
3 time Jereis was asking for one developer for a job and shaking  
4 down another developer for a cash payoff. She switched her  
5 vote on development projects at a time when she was continuing  
6 to receive secret payments by and from Zehy Jereis. And she  
7 lied about the source of those benefits when confronted by FBI  
8 agents.

9 Zehy Jereis delivered Sandy Annabi to developers so  
10 that he could personally and financially benefit, and Sandy  
11 Annabi was willing to be delivered because it ensured that  
12 continuing stream of benefits from Jereis. So when you apply  
13 your common sense, rather than the fairytale of the blue dress  
14 and love at first sight, that is first sight after Ms. Annabi  
15 became a candidate for office, it's clear that the purpose of  
16 the payments by Jereis was to have influence, hidden, secret,  
17 misunderstood and mysterious influence over Annabi, influence  
18 over the issues she paid attention to, influence over the  
19 meetings she decided to attend, influence over the votes she  
20 cast, and that secret mysterious influence over the issues that  
21 came up before the Yonkers City Council.

22 And you know from sitting through the trial for the  
23 past five weeks why Annabi accepted these secret payments:  
24 Because she could and because she enjoyed the cars, the houses,  
25 the jewelry, and other benefits that she was getting. And you

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C31Qann3

Rebuttal - Mr. Halperin

1 know that the only thing she ever gave to Mr. Jereis was the  
2 influence he sought -- influence over the issues, influence  
3 over the meetings she attended and influence over her vote.  
4 That, ladies and gentlemen, is the essence of a corrupt  
5 arrangement.

6 This case wasn't about love. It was all about the  
7 money. I'm not going to address all the points counsel talked  
8 about over the last two days, both because Mr. Carbone has  
9 already addressed many of them and because you've been very  
10 patient already, but on behalf of the government, let me thank  
11 you one final time for your careful attention throughout this  
12 trial.

13 Ladies and gentlemen, as you know, you get to decide  
14 the facts -- not the government, not the defense, and with the  
15 greatest respect, not even the Judge. You get to decide the  
16 facts. And I submit to you that the evidence you heard is  
17 overwhelming that the defendants committed the charged crimes.  
18 What the evidence showed beyond dispute is three things:

19 First, that from the time Annabi began running for the  
20 city council in mid 2001 through almost her entire eight years  
21 on the city council, Zehy Jereis gave her nearly \$200,000.

22 Second, the evidence showed example after example of  
23 concealment. Both Annabi and Jereis consistently lied and hid  
24 things on documents or in conversations with other witnesses  
25 whom you heard testify.

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C31Qann3

Rebuttal - Mr. Halperin

1 And, third, the evidence showed overwhelmingly how  
2 Annabi took official action at the request of Jereis. Put it  
3 all together and what you saw at this trial was that the  
4 relationship between Annabi and Jereis was corrupt to its core.

5 Now, ladies and gentlemen, obviously you can  
6 deliberate on the counts in any order you choose to do, but one  
7 approach I would like to ask you to consider is dealing with  
8 Counts Seven through Eleven first. These are the three false  
9 bank statement counts against Annabi and the two false  
10 statement counts for her 2005 and 2006 tax returns. I'm only  
11 going to spend a few minutes responding to the arguments of  
12 counsel. And I submit to you that you can dispose of these  
13 five counts against Ms. Annabi very quickly when you deliberate  
14 because the proof is absolutely overwhelming.

15 These three mortgage applications are busting at the  
16 seams with false statements, lies about Annabi's income, lies  
17 about what her primary residence will be, lies about whether  
18 she's getting any rental income from the Patton property, and  
19 lies about whether any part of the down payment is borrowed.

20 The Bacon Place application contains numerous fake  
21 documents, fake W-2 forms for Annabi falsely enhancing her  
22 income making her look like a more attractive applicant to the  
23 bank, fake bank statements and fake pay stubs.

24 Mr. Aronwald claimed that perhaps Ms. Annabi's friend,  
25 Sam Hattar, may have made up these documents. That's absurd.

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Rebuttal - Mr. Halperin

1 She signs them. She was at the closings. She reviews them,  
2 and she initials page after page. And when Annabi was  
3 interviewed in 2007, remember what she told the agents about  
4 how those fake documents got into her file? Agent Karaka said  
5 when she was asked about that, Ms. Annabi said, transcript,  
6 page 2313: "Sandy surmised that the problem with the  
7 information found in these mortgage documents may be related to  
8 her political position, and that someone placed these documents  
9 in here file to 'set her up.' Sandy suggested that the phony  
10 documents were 'planted' in her mortgage file. Sandy suggested  
11 that the false information was planted in her file after the  
12 deal was completed to make it look as if she had done something  
13 wrong. Sandy suggested that someone may have 'had it out for  
14 me' unquote and placed the phony documents into her mortgage  
15 file."

16 Now, ladies and gentlemen, this one statement is quite  
17 possibly the single most ridiculous, far-fetched thing you have  
18 heard over the past six weeks, and I say that even though I  
19 realize you all sat through Zehy Jereis's testimony. When  
20 confronted with these fake documents in her loan file that  
21 falsely make her income seem much, much higher than it was,  
22 Annabi lies and what a whopper she tells; that somehow her  
23 political enemies in Yonkers got together and conspired with  
24 some document custodian at some bank outside of New York State  
25 to somehow damage her politically. Does that make any sense to

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1 these things because he was in love with her? Not that he  
2 wanted anything from her but that Jereis "wanted her" as he  
3 testified. But, ladies and gentlemen, here is the problem with  
4 that: As you know, you actually heard the evidence in this  
5 trial. This was not a relationship based on love. It was  
6 based on politics. Jereis himself testified that he never  
7 started giving Annabi any money or benefits until after she  
8 started running for office in 2001. That's when he opened up  
9 the checkbook. That's when he started laying down his markers  
10 with her. You see, it's not just that he started defining her  
11 and running her campaigns. Nothing would be wrong with that in  
12 and of itself, of course, but what happened is that he is  
13 secretly giving her all these benefits. And then in 2006 he  
14 cashes in for himself with the Ridge Hill and Longfellow  
15 projects.

16 Now, when counsel argues that Jereis gave her these  
17 things because he loved her, remember that the only evidence  
18 you heard at this trial that Zehy Jereis gave nearly \$200,000  
19 to Sandy Annabi because he loved her was from Mr. Jereis  
20 himself.

21 Now, ladies and gentlemen, let's be clear. As Judge  
22 McMahon has already told you, the burden of proof is always on  
23 the government, and we embrace it, and Mr. Jereis had every  
24 right to testify; but now that he has decided to testify, you  
25 have every right to scrutinize his testimony and ask yourself:

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Rebuttal - Mr. Halperin

1 Did it ring true? Did it hold up? Did it match up with all  
2 the other evidence you heard in this case?

3 And, ladies and gentlemen, I submit to you that when  
4 Mr. Jereis took that witness stand, his testimony was riddled  
5 with lies, contradictions and false statements. Consider all  
6 of the damaging things that other witnesses who had no motive  
7 to lie said about Jereis that Jereis simply denied had  
8 happened.

9 One, Jereis denied saying to Mike Spano, "Where are  
10 the jobs for the Republican leadership?" meaning himself, of  
11 course. Trial transcript 3252.

12 Jereis also denied saying to Mike Spano that Annabi  
13 was his "political creation."

14 Jereis denied saying to Bruce Bender at their first  
15 meetings at Marco Polo, "Maybe you're just hiring the wrong  
16 people."

17 Jereis denied showing Joe Galimi Annabi's press  
18 release on his computer when she announced her change in vote  
19 on Ridge Hill.

20 Jereis disagreed with the Forest City Ratner  
21 representatives who said he was very persistent in asking for a  
22 job.

23 Scott Cantone testified that Jereis told him he was  
24 "quarterbacking the Longfellow project in the city council for  
25 Annabi" but, again, when asked about this, Jereis said "I did

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1     not say that to Mr. Cantone."

2             Jereis not only claimed that Forest City Ratner asked  
3     him for the monthly reports in March 2007, only after the news  
4     reports appeared, despite the fact that as you saw it was  
5     written into his contract on the very first page of a  
6     three-page contract; but then he also claimed that he had never  
7     filed most of his chamber of commerce reports until 2007  
8     because the chamber president Kevin Cacace had also not asked  
9     him for monthly reports. This is despite that Mr. Cacace  
10    testified that he constantly prodding Mr. Jereis to give him  
11    those monthly reports.

12            Are you noticing a pattern here? The list goes on and  
13    on. Jereis just denies, denies, denies all this damaging  
14    testimony. None of these witnesses had cooperation agreements  
15    but they were all wrong, these five or six different witnesses.  
16    According to him, they are the ones that had their facts wrong.

17            Now, you heard counsel argue that Jereis gave her  
18    these things because he was in love with her, but the evidence  
19    showed he didn't give her these things simply because of their  
20    friendship. It was not just because of their romance or his  
21    supposed desire for her. First of all, there can't be any  
22    dispute that Annabi had no romantic feelings for Jereis. Her  
23    old friend Maria Chousa told you that. Annabi told councilman  
24    Dennis Robertson the same thing when he asked. And, most  
25    importantly, Annabi herself told the agents that when they

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Rebuttal - Mr. Halperin

1 interviewed her in 2007. She said they were just friends.

2 Second, think about the nature of the items he gives  
3 her. Their relationship is hardly the stuff of the great  
4 romances. This is not Romeo and Juliet on Humphrey Bogart and  
5 Ingrid Bergman in Casablanca. Honey, you're the love of my  
6 life. This month let me pay the ConEd bill.

7 You don't have to check your common sense at the door  
8 when you walk into this courthouse, ladies and gentlemen. It's  
9 simply absurd. Jereis is paying Annabi's cable bills, her  
10 ConEd bills, her monthly maintenance, he's paying her student  
11 loans. This is not flowers and chocolates and perfume. And  
12 even with the jewelry, he doesn't buy her jewelry in 2006.  
13 Jereis himself said he did not buy Annabi the Rolex watch with  
14 that mother of pearl diamond bezel dial. He just gives her  
15 cold, hard cash, and then she buys the \$3,800 watch for herself  
16 in cash.

17 How else do you know that this case had very little,  
18 if anything, to do with love? Think about that Rumsey Road  
19 apartment. Jereis bought her an apartment in her city council  
20 district. Why did he do that? You know why? If she was going  
21 to keep serving on the council, if she was going to keep being  
22 in a position to deliver for him when he needed her to, she  
23 needed to have that apartment. She couldn't be living in Bacon  
24 Place in northeast Yonkers when she represented the southern  
25 part of Yonkers.

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Rebuttal - Mr. Halperin

1 Now, Jereis claimed in his testimony that he got her  
2 the apartment because he wanted a special place just for the  
3 two of them. You know that's not case. Without the Rumsey  
4 Road apartment, she could not deliver when Jereis needed her  
5 to. And when counsel claims Jereis gave her the money because  
6 he loved her, also think about the types of things they talked  
7 about.

8 Now, we agree with what Mr. Siano just told you; that  
9 their relationship was very close, no doubt about it. And  
10 think about how their close relationship revolved around  
11 Annabi's role as a city council member. Annabi's friend, Maria  
12 Chousa, testified that Jereis would often show up when she and  
13 Annabi were out together. And when asked what Annabi and  
14 Jereis would discuss, Chousa said, "It was never anything else  
15 other than political stuff." Well, this matches up with all  
16 the other witness testimony you heard. Jereis himself  
17 testified that he helped "define Annabi politically." Yonkers  
18 Mayor Mike Spano said Jereis told him Annabi was Jereis's  
19 political creation. Debbie Kayal, Annabi's administrative aid  
20 said that Jereis was Annabi's guru. Former councilman Dennis  
21 Roberston testified that Sandy Annabi told her that Jereis  
22 taught her "everything she knew about politics." The  
23 relationship between Annabi and Jereis was a relationship based  
24 on her office, not her body.

25 You heard from many witnesses about how Jereis was

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Rebuttal - Mr. Halperin

1 trying to advance Annabi's political career. Dee Barbato and  
2 John Murtagh both testified about how Jereis was focused on  
3 getting Councilwoman Annabi a leadership position on the  
4 council. Joe Galimi testified that at one point Jereis asked  
5 him what he thought Annabi's chances were of becoming the mayor  
6 of Yonkers. And Jereis himself acknowledged that that  
7 conversation did in fact take place. Think about why. Why was  
8 Jereis, the Republican Party chairman, so interested in the  
9 fortunes of the Democratic councilwoman? Because he knew he  
10 could use her to add to his own fortunes, that's why. He knew  
11 that the farther she went up the ladder in Yonkers politics,  
12 the more influence he would have, the more opportunities he  
13 would have to call in those markers, to call in those big  
14 favors from her.

15 Now, as you heard at this trial, ladies and gentlemen,  
16 Jereis found a big opportunity to call in a favor in 2006 --  
17 the Ridge Hill project. Now, I'd like to thank Mr. Siano for  
18 his dramatic interpretation of my opening statement, and I  
19 submit to you, that the evidence you saw at this trial makes  
20 clear exactly what we said in the opening statement. It was  
21 time in 2006 for Jereis to start collecting on those markers.  
22 Defense counsel argued that the reason Annabi flipped her vote  
23 was because the Ridge Hill project changed; the same thing for  
24 Longfellow. Counsel says both projects changed.

25 Well, to some extent we agree. The two projects did

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Rebuttal - Mr. Halperin

1 change because by July 2006 the Ridge Hill project now  
2 contained the promise of a \$60,000 consulting contract for Zehy  
3 Jereis. That's a change. By the summer of 2006, there was now  
4 \$20,000 in cash for Annabi and Jereis. Now the Longfellow  
5 project included luxury plane tickets and very expensive  
6 jewelry. That's a change. You heard counsel argue that Annabi  
7 flipped her vote on Ridge Hill because she got \$10 million more  
8 from Forest City Ratner. And, again, as we said at the  
9 beginning of this trial, whether or not Ridge Hill or  
10 Longfellow were good things for the city of Yonkers is not an  
11 issue you have to decide. But what is a fair question for you  
12 to consider is whether Annabi's claim makes sense. Does it  
13 hold up? And the answer is clearly no.

14 Remember all the different witnesses who told you  
15 that -- council members who were opposed and in favor of the  
16 project. What is beyond dispute is that Sandy Annabi was a  
17 strong, outspoken opponent of the Ridge Hill project for a long  
18 time before she flipped her vote. She denounced Forest City  
19 Ratner saying the company was robbing the city blind. And what  
20 you heard from a number of witnesses was that Sandy Annabi said  
21 repeatedly that she would never support the Ridge Hill project  
22 until councilwoman Dee Barbato, the councilwoman from that  
23 sixth district, supported the project and until Barbato felt  
24 that the concern of her community had been met. You heard that  
25 from at least four different witnesses who testified before

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Rebuttal - Mr. Halperin

1 you: Dee Barbato and John Murtagh, opponents; and Dennis  
2 Robertson and Mike Spano, proponents of the project. And you  
3 heard that as of July 11, 2006 when Annabi changed her vote and  
4 provided that critical fifth vote in favor, Dee Barbato's  
5 concerns and those of her community still had not been met.

6 So it's not that the project changed that caused  
7 Annabi to flip her vote. It's because by June 2006 Zehy Jereis  
8 had started meeting with Forest City Ratner. And on June 9,  
9 2006 by his own admission Zehy Jereis asked a wealthy  
10 \$11 billion developer for a job. So, now, Zehy Jereis had a  
11 stake in the matter. So when counsel tells you that the  
12 \$10 million more Annabi got from the developer was a major  
13 concession that she was able to negotiate, you know that that's  
14 not the case. The \$10 million figure wasn't anywhere near the  
15 tax revenues to the city that the opponents were looking for.

16 Dee Barbato told you she and the community opponents  
17 were looking for \$300 million, \$10 million a year for 30 years.  
18 John Murtagh said the same thing calling the \$10 million a drop  
19 in the bucket on a \$600 million project.

20 Guess what else? Even councilman Dennis Robertson,  
21 who supported the project from the very beginning, thought that  
22 this amount of money from a developer was quote "peanuts" and  
23 nothing was changed about traffic or the environmental  
24 concerns. Council members Barbato, Murtagh and Roberston all  
25 told you that.

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C31Qann3

Rebuttal - Mr. Halperin

1           You know who else told you that? Forest City Ratner  
2     itself. John Swagerty, one of the three officials from Forest  
3     City Ratner who testified. He was asked, "What, if any,  
4     changes were made regarding traffic from the fall of 2005 when  
5     Annabi voted against the project to July of 2006 when she voted  
6     in favor?"

7           And you know what Swagerty answered? "None." The  
8     Same answer about the environmental issues. Swagerty told you  
9     that \$10 million as compared to the cost of the \$600 million  
10    project amounted to about one and a half percent. The  
11    developer made no significant concessions at all. And this was  
12    the same exact project.

13          As Scott Cantone testified, this supposed concession  
14    was a "political parachute" for Annabi.

15          When Forest City Ratner met with Annabi and Jereis on  
16    June 14 and they were talking about her press release, they  
17    needed to find her that political parachute, an explanation.  
18    How could she explain this sudden and inexplicable vote flip on  
19    the highest profile issue facing Yonkers at that time?

20          Now, counsel has suggested that there is nothing to  
20    show that Annabi knew that Jereis had asked for the job with  
21    Forest City Ratner. Well, first of all, this is just another  
21    distraction, ladies and gentlemen. We don't have to prove that  
22    Annabi knew that Jereis had asked for the job. But in any  
22    event, you have every right to infer based on the facts, based  
23    on the closeness of their relationship that of course Annabi  
23    knew Jereis had asked for a job.

24          MR. HALPERIN: As you know, Annabi and Jereis first  
25    met with Bruce Bender, Scott Cantone and Richard Pesin on June

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C3LUANN4

Rebuttal - Mr. Halperin

1 9, 2006 at Jake's Steakhouse. After the meeting when Jereis  
2 and Cantone were alone outside in the parking lot, Jereis  
3 turned to Cantone and asked for a job for himself.

4 Here's the first page of the daily contact totals  
5 between Jereis and Annabi phones in 2006.

6 Which day has the highest number in the entire year of  
7 2006, ladies and gentlemen? 81 phone calls on June 9, 2006,  
8 the day that Jereis asked for the job, the day that Annabi and  
9 Jereis first had that meeting with Forest City Ratner. That is  
10 not a coincidence. Their relationship centers on her job a  
11 city council member. That is why they talked so much on  
12 Election Day, the second highest number of calls.

13 This relationship centered on her office -- not on  
14 love -- not on romance. Where is the spike on Valentine's Day?  
15 How many calls on Valentine's Day? 4. Job fair day for  
16 Jereis? 81. You can all do the math, folks.

17 Some of the best proof that this vote change, this  
18 glaring official action wasn't about any supposed important  
19 concessions is this. 13 days. 13 days. 13 days from June 2  
20 to June 15, 2006. After Annabi had fiercely opposed the  
21 project for two years, all it took was 13 days for Zehy Jereis  
22 to turn her around.

23 Three meetings -- June 2, Marco Polo restaurant, enter  
24 Zehy Jereis, first meeting with the developer. Bruce Bender  
25 asked Jereis at the meeting why he is opposing the project and

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C3LUANN4

Rebuttal - Mr. Halperin

1 how Jereis, quote, is the one who is holding it up. Now note  
2 that Bender doesn't say that Councilwoman Annabi, the one who  
3 actually, officially on paper has the vote on the city council  
4 is the one holding it up. Why is Jereis the one holding it up?  
5 He has no vote on the city council.

6 Right out of the gate, Jereis responds by telling  
7 Bender, "Maybe you just hired the wrong people." You know what  
8 that means? You know who he is talking about there?

9 And then on June 9, Jake's Steakhouse, the first  
10 meeting between Annabi and Jereis and Forest City Ratner, and  
11 Jereis asked for the job. Five days later, they are hammering  
12 out the deal, working on the press release.

13 So when you hear counsel talk about the supposed  
14 concessions that the developer made, think about that lightning  
15 fast 13-day timetable. Sandy Annabi said she would never  
16 support the Ridge Hill project until the community supported  
17 it. So what changed in those 13 days? Only one person changed  
18 his position on the project during that time. Zehy Jereis now  
19 supported Ridge Hill and Sandy Annabi would too.

20 Zehy Jereis had secretly negotiated a job for himself  
21 with the developer, the secret deal for the \$60,000 contract  
22 that would not be finalized, by the way, until after Annabi  
23 officially voted in favor.

24 So when it comes to Ridge Hill, it is not that the  
25 project changed, ladies and gentlemen; Zehy Jereis' position on

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C3LUANN4

Rebuttal - Mr. Halperin

1 the project changed, because now he had a personal financial  
2 stake in the matter.

3 Let's turn to Longfellow in response to some of  
4 counsel's arguments.

5 Counsel suggests that Annabi changed her position  
6 because she was able to extract significant concessions from  
7 the developer, Milio Management. And by now you have seen  
8 these three conditions.

9 We will briefly go over Government Exhibit 700 which  
10 is the email from Anthony Mangone to Franco Milio on July 10.

11 You heard Franco Milio testify that he viewed these  
12 conditions as "minor changes" -- and they were. As Mangone  
13 noted in the email about number 2; "The appraisal is being done  
14 for her own selfish political gain" so "she has cover." Once  
15 again, Annabi wanted cover.

16 Franco Milio explained why these three conditions did  
17 not really affect the project at all.

18 Condition 1, 20 percent of the units will be offered  
19 below market rate housing. Ok. So 80 percent are going to be  
20 offered at market rate housing. In addition, as Franco Milio  
21 testified, this has nothing to do with how much below market  
22 rate housing he has to offer them. On a \$1,000 apartment, he  
23 could have offered it \$25 below.

24 Next, when Milio was asked about the appraisal,  
25 Mangone told him not to worry about it and that Jereis would do

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C3LUANN4

Rebuttal - Mr. Halperin

1 the appraisal.

2 For the third condition, Mangone said potential  
3 tenants would be referred to Milio and that Milio could screen  
4 them for eligibility. These changes were totally  
5 insignificant. They were simply window dressing but, again,  
6 Annabi needed cover

7 Now, you have heard a lot by defense counsel in  
8 argument about Al DelBello.

9 Counsel suggested that DelBello was the attorney of  
10 record for the Milios on the Longfellow project before of the  
11 city council. He was the one that would show up at the real  
12 estate meetings for the Milios. But remember those three  
13 conditions from Mangone's July 10 email. They all ended up in  
14 the final city council resolution passed on September 26, 2006.

15 And DelBello told you that he had never seen that  
16 email. DelBello actually testified that he was only aware of  
17 one of those three conditions. The emails and the evidence  
18 that you saw and heard made clear that Mangone was much more in  
19 the loop on the details of the project than DelBello was.

20 Now, after that initial meeting with Mangone, Jereis  
21 and Milio on April 21, 2006 in Mangone's office, the rest is  
22 history. And now things move fast because Mangone and Jereis  
23 knew how to get this deal done. So just like with Ridge Hill  
24 and those key 13 days in June 2006, once Jereis gets involved  
25 in Longfellow, Annabi's vote is delivered, and quickly. The

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C3LUANN4

Rebuttal - Mr. Halperin

1 Milios had been trying for three years to get this project  
2 approved. They had spent about \$1.5 million already. And by  
3 April of 2006, they had been paying Al DelBello, their  
4 attorney, for almost a year, but Al DelBello couldn't get it  
5 done. Once Jereis comes along, it takes only a little over two  
6 months to get a deal in place. You know that by that July 10  
7 email that we just looked at for Mangone, they think that the  
8 Longfellow project will be approved the next day, on July 11,  
9 even though the vote doesn't actually end up happening until  
10 September.

11 Let's examine this whole argument by counsel that  
12 DelBello is really the one who officially represents the  
13 Milios.

14 As I said, the evidence makes clear that DelBello  
15 wasn't getting it done. Look, let's be clear, it wasn't Al  
16 DelBello's fault. He was trying to get this project approved  
17 the old fashioned way, on the merits, by arguing why it was a  
18 good project. He was trying to convince Councilwoman Annabi to  
19 support the project on its merits, but what he didn't know was  
20 that arguing for a project on the merits was not the way to get  
21 things done with Councilwoman Annabi. Zehy Jereis and Anthony  
22 Mangone, Annabi's co-conspirators, knew better.

23 Of course, Al DelBello had no idea about the demand  
24 for the cash pay-off. Of course he had no idea his clients had  
25 made a cash pay-off of tens of thousands of dollars to Sandy

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C3LUANN4

Rebuttal - Mr. Halperin

1 Annabi. He testified that had he known that fact, he would  
2 have "run for the hills."

3 Ladies and gentlemen, I submit to you that when Al  
4 DelBello said that he would run for the hills, that's makes  
5 perfect sense. You heard all about his incredibly impressive  
6 resume -- lieutenant governor of the State of new York,  
7 Westchester County Executive, mayor of Yonkers, city councilman  
8 of Yonkers, expert in real estate law.

9 Ladies and gentlemen, when you want a blue chip top  
10 flight attorney for real estate matters in Westchester County,  
11 Al DelBello is the perfect attorney for you. But when you want  
12 to dance in the shadows, then you deal with Anthony Mangone  
13 because Mangone knew just how to use his political contacts and  
14 you heard that the first thing Mangone did, when the Milios  
15 came to him, was call in Zehy Jereis, because Mangone knew,  
16 like everybody else, that you had to get to Zehy if you wanted  
17 to get to Sandy.

18 Let me pose a question for you.

19 Do you think in a million years Zehy Jereis and Sandy  
20 Annabi would have felt comfortable asking Al DelBello for a  
21 \$20,000 bribe? Of course not. And when you think of it like  
22 that, the point is very clear -- not in your life. If Zehy  
23 Jereis had raised the subject with DelBello of demanding that  
24 the Milios pay cash to get Annabi's vote, Al DelBello would  
25 have said, get the hell out of my office. He would have

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C3LUANN4                      Rebuttal - Mr. Halperin  
1      reported them to the FBI.

2              Remember when Jereis first talked to Mangone about the  
3      cash, Jereis told Mangone that they should hit the Milios up  
4      for a really big number like 100,000.

5              Mangone says no, I am getting a \$20,000 success fee if  
6      the project is approved so you can ask for \$20,000 for you and  
7      Annabi, and Jereis agreed.

8              So when counsel now tries to attack Mangone's  
9      credibility, focus on the relationship between Mangone and  
10     Jereis at the time these things were happening. Focus on the  
11     fact that there was such a close relationship of trust between  
12     Mangone and Jereis in 2006. That's a critical fact.

13             Jereis admitted on cross that he and Mangone were very  
14     close in '05 and '06. They talked all the time.

15             They were both key assistants or aides to Senator Nick  
16     Spano. They were in his inner circle. For years they had  
17     worked together in government on Senator Spano's staff.

18             And Mangone testified that this wasn't the only bribe  
19     scheme that he and Jereis had going on at this time. They also  
20     paid 5,000 cash to Jereis' cousin John Cater so that a  
21     candidate would not challenge Senator John Spano in the 2006  
22     election. That's a close relationship, ladies and gentlemen.

23             So when counsel now calls Mangone everything under the  
24     sun like a rancid piece of meat, remember who was eating that  
25     meat in 2006. Remember what the relationship was between

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C3LUANN4

Rebuttal - Mr. Halperin

1 Mangone, Jereis and Annabi was when all of this stuff was going  
2 down.

3 Let's talk about Mangone and Annabi for a moment.

4 Remember a critical little piece of Franco Milio's  
5 testimony. On June 21, 2006, he attended a real estate  
6 committee meeting on the Longfellow project. And after the  
7 meeting, he spoke privately with Councilwoman Annabi. And the  
8 subject of the Milios hiring Mangone came up and Franco Milio  
9 testified that Councilwoman Annabi thought that the hiring of  
10 Mangone by them would be a very good idea. That's direct proof  
11 that Annabi knew Mangone was involved in the Longfellow  
12 project.

13 Right around the time of that June 21 meeting, Franco  
14 Milio got that phone call from Mangone talking about the need  
15 for them to pay up some serious cash.

16 Ladies and gentlemen, when counsel now tries to say  
17 all of these horrible things about Mangone, just remember this,  
18 Government Exhibit 805, cheek to cheek, best pals. A picture  
19 says a thousand words, and this picture says it all. Annabi  
20 emailed this picture to Mangone in December 2005 -- only six  
21 months before June 2006. This is what the relationship was  
22 like between Annabi and Mangone during the key time frame of  
23 the Longfellow events.

24 Ladies and gentlemen, let's be clear. As we told you  
25 from the very beginning of this trial, Anthony Mangone is now a

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Rebuttal - Mr. Halperin

1 convicted criminal. He has a ton of baggage. He carries more  
2 baggage than an airplane. But the key question for you is who  
3 chose to fly on Air Mangone. The defendants did -- sandy  
4 Annabi and Zehy Jereis did. And how did they do it? Not in  
5 coach. Business class seat, 1A and a ticket paid in cash, cash  
6 that was extorted from the Milios, for her vote.

7 These defendants were the ones who chose to do  
8 business with Anthony Mangone -- not the government. They  
9 chose to work with him on Longfellow, and that's why he came  
10 here to testify before you.

11 Now, you heard counsel try to make much out of the  
12 fact that there are discrepancies between Mangone's  
13 recollection and the Milios' recollection of certain facts. To  
14 some degree that is true.

15 First, let's remember what the testimony actually was.

16 Franco Milio testified he got a phone call from  
17 Mangone in late June 2006 in which Mangone said, it is going to  
18 cost you \$30,000 in cash for Annabi to get the Longfellow  
19 project approved. Mangone said the same thing about the timing  
20 of that phone call.

21 Then Antonio Milio testified that in late June or  
22 early July 2006, he brought \$40,000 in cash to Mangone in  
23 Mangone's office -- \$30,000 for the bribe for Annabi and 10,000  
24 for Mangone's legal fees.

25 Mangone testified that in July, Antonio brought him

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Rebuttal - Mr. Halperin

1 \$10,000 in cash. So both the Milios and Mangone testified that  
2 they gave Mangone at least \$10,000 in cash in July. Mangone  
3 then told you how he gave that \$10,000 to Zehy Jereis outside  
4 of Trotter's restaurant on July 13, the day before Sandy Annabi  
5 flew to Jordan.

6 And when Mangone gave Jereis the \$10,000, Jereis said  
7 we -- meaning himself and Annabi -- better not get screwed out  
8 of the other 10.

9 And you saw those phone records showing that right  
10 after Jereis met with Mangone and picked up the \$10,000 in  
11 cash, the first thing Jereis did was call Annabi.

12 Then in September, Mangone recalled that he got  
13 another \$30,000 from the Milios, first 20,000, and then Antonio  
14 came back later that day with another 10,000. And Mangone  
15 testified that he got that 30,000 from the Milios on about  
16 September 27th. Now, clearly, he was off by a few days because  
17 the Milios were out of the country from September 24th to  
18 October 1st.

19 But that doesn't mean that Mangone was wrong about  
20 when he, in turn, gave that second payment of \$10,000 to  
21 Jereis, which he said was on or about September 27. That  
22 certainly could have happened. There was no indication that  
23 Jereis was out of the country. That is why the phone chart  
24 that Mr. Siano just showed you from September 26 and September  
25 27 is relevant. It shows all the phone contacts between

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Rebuttal - Mr. Halperin

1 Mangone, Jereis and Annabi on those days. But Mangone was  
2 clearly off by a few days when he said that he got the second  
3 delivery of cash from the Milios on about September 27.

4 What is ironic, ladies and gentlemen, is that when  
5 Mangone is off by a few days, the defense yells, he is a liar,  
6 that rancid piece of meat.

7 Do you remember seeing this, one of these supposed  
8 Jereis emails? This is Defendant Exhibit 103-008.

9 Yesterday you heard Mr. Aronwald talk about how Jereis  
10 was confronted on cross with the date in this email. The email  
11 you see on top is supposedly written in July of 2005. And  
12 Jereis' lovesick email to Annabi says that in late December of  
13 2004, I once stayed parked outside of 53 Linden all night  
14 because I was worried about you, and the next day I put the  
15 offer on 245 Rumsey Road.

16 Well, you saw and heard during the cross-examination  
17 of Mr. Jereis, that Mr. Jereis was off by at least an entire  
18 month, because on November 30, 2004 was when he paid that 7200  
19 down payment on the Rumsey Road apartment.

20 Now, Mr. Aronwald said Mr. Jereis may have gotten  
21 confused when he wrote late in December in 2004 in that email,  
22 because he was writing the email seven months later,  
23 supposedly.

24 Ladies and gentlemen, let me get this straight. When  
25 Jereis is off by an entire month, where something is a factual

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Rebuttal - Mr. Halperin

1 impossibility, then counsel chalks it up to an innocent  
2 misrecollection, but when Anthony Mangone, that rancid piece of  
3 meat, is off by three days when he testifies five and a half  
4 years later, he is a liar.

5 I think you all see the point of this. It is just  
6 silly. It is just a smoke screen to distract you. The Milios  
7 and Mangone do have some different recollections about whether  
8 the Milios brought the \$40,000 total in one or two payments to  
9 Mangone and about which members of the Milio family were there.  
10 But counsel argues unpersuasively that these different honest  
11 recollections are a basis not to believe them. And that is  
12 just absurd. Everyone is consistent about the big points, that  
13 the Milios gave \$40,000 in cash to Mangone, and everyone agrees  
14 that at least \$20,000 was a cash bribery to Annabi to get her  
15 to flip her vote on the Longfellow project. That's all you  
16 need to know. And the exact dates and the exact dollar amounts  
17 do not matter.

18 The judge will instruct you, I hope, that all that you  
19 have to find is a substantial similarity.

20 By the time Anthony Mangone came in to cooperate in  
21 March of 2010, two months after he was indicted, he testified  
22 that he had already seen that initial indictment that charged  
23 him too. He knew exactly what the Milios' recollection was and  
24 he certainly could have, if he wanted to, tailor his story  
25 perfectly to match theirs, but he didn't. And these differing

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Rebuttal - Mr. Halperin

1 recollections about some details show that all three witnesses  
2 are giving you their best honest recollection of how these  
3 events took place almost six years ago.

4 Both Mangone and the Milios know that they have to  
5 tell the truth under the terms of their cooperation agreement.

6 And when counsel tries to demonize Mangone in  
7 particular, remember to place his role in this case in context.  
8 He is an easy target. But don't forget that the \$20,000 cash  
9 payment to Jereis and Annabi for Longfellow is only a  
10 relatively small part of this case. That's only about 10  
11 percent of the roughly \$200,000 Jereis gave Annabi during the  
12 course of this conspiracy.

13 Now, you would never know that by the amount of time  
14 they spent in their arguments criticizing Mangone. But, of  
15 course, counsel would want to blow Mangone's importance grossly  
16 out of proportion. What they want you to overlook is that  
17 Mangone was 1 of 45 or so witnesses who testified before you.

18 What could they say about Dee Barbato who told you how  
19 utterly ridiculous Annabi's claim was that Annabi had to flip  
20 her vote on Ridge Hill?

21 What can they say about Odilon Mejia, the landlord at  
22 51 Linden Street who said that Annabi never ever paid the rent,  
23 that the rent was no more than \$550 rather than the \$950 that  
24 Annabi had claimed, and that Annabi never lived at 53 Linden  
25 Street after she moved out of 51 Linden Street?

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Rebuttal - Mr. Halperin

1           What can they say about Jereis' friend Joe Galimi who  
2       said Jereis denied to him two or three times that Jereis had  
3       gotten a job at Forest City Ratner?

4           What can they say about the many document custodians  
5       you saw and heard from through whose testimony a devastating  
6       paper trail was put into evidence that uncovered so many lies  
7       and false statements? None of these witnesses testified  
8       pursuant to a cooperation agreement. Please ignore the  
9       distractions.

10          You also heard Mr. Siano go on at length about  
11       Mangone's gambling. That is a fair point to make that the  
12       gambling activity is relevant to show that he had a need for  
13       money. But beyond that it has no relevance.

14          The fact that Mangone gambled with markers in his late  
15       September trip is a complete red herring. Mangone testified  
16       that he gambled with markers most of the time because he used  
17       them as an interest-free loan, and then he would deposit the  
18       money into his account and pay off the mortgage. He never  
19       testified that he used the money he got from the Milios to  
20       gamble with.

21          Mr. Siano certainly knows how to ask questions, but he  
22       never specifically asked Mangone whether he actually used the  
23       cash that he got from the Milios to go gambling.

24          Now, let's consider some of the other defense  
25       arguments you heard yesterday and today.

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C3LUANN4

Rebuttal - Mr. Halperin

1           You heard counsel argue yesterday and you heard  
2 lengthy cross at trial about where Sandy Annabi used to live on  
3 Linden Street was a poor neighborhood with lot of crime and  
4 unemployment and high welfare rates. Now, how in the world is  
5 this relevant? Don't rich and poor people have the same right  
6 to their council member's honest services?

7           Didn't Annabi's constituents have a right to know that  
8 she, unlike them who were actually living in the district,  
9 owned three residences at the same time, drove a Mercedes-Benz,  
10 wearing a \$3800 Rolex watch with a mother of pearl diamond  
11 bezel?

12           Was she acting as a crusader for the poor when she had  
13 her political benefactor secretly give her a Mercedes? Of  
14 course not.

15           Counsel argued yesterday that Annabi may have accepted  
16 all of these benefits "in a moment of weakness." A moment of  
17 weakness over eight years, more than 200 separate payments from  
18 Jereis. She accepted these things because she enjoyed getting  
19 the money and these benefits, the real estate, the Mercedes and  
20 all of the rest it.

21           In his summation, counsel told you that the account  
22 out of which Zehy Jereis made these payments to Sandy Annabi  
23 were not accounts he held jointly with his wife. Well, that's  
24 not right. The account is in evidence in the 11 binders Agent  
25 Dennehy analyzed. That account was a joint account.

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Rebuttal - Mr. Halperin

1 Here is Government Exhibit 185, top left corner, Zehy  
2 Jereis, Sada Jereis. Does it make any sense that a married man  
3 would make these payments out of a joint account he holds with  
4 his wife. That is nonsense, ladies and gentlemen.

5 You also heard counsel claim that Special Agent  
6 Rosemary Karaka had supposedly left a phone message for Sandy  
7 Annabi in December 2005.

8 Yesterday, counsel showed you Defense Exhibit 76. But  
9 if you remember, yesterday you didn't get to see Defense  
10 Exhibit 76A which you saw at trial.

11 As Mr. Carbone pointed out, David Medranda, who is  
12 Ms. Annabi's assistant, that on page 1 of Defense Exhibit 76A,  
13 as opposed to on Defense Exhibit 76, it says modified on March  
14 25, 2009. When Medranda was asked why in the world would he  
15 have gone back three and a half years later to modify a phone  
16 log of Ms. Annabi, he said something about needing to correct  
17 something about snow shovels. What? Did Medranda plan to send  
18 this phone log to the National Archives in Washington?

19 I submit to you that you can place no confidence in  
20 the authenticity of that supposed phone line from Annabi's  
21 office.

22 You also saw that form showing that the government's  
23 investigation started on January 11, 2007. I think that is  
24 government 2100. So it was a three-year investigation, not a  
25 seven-year investigation as Mr. Siano said.

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C3LUANN4

Rebuttal - Mr. Halperin

1 Counsel claimed yesterday that there's been no  
2 evidence linking Annabi's vote to her receipt of benefits. But  
3 as Mr. Carbone pointed out repeatedly, the government does not  
4 have to prove that she received any specific benefit in  
5 exchange for her vote on the Ridge Hill project.

6 Listen very carefully to Judge McMahon's instructions  
7 on the law. And on this point -- on all points but especially  
8 on this point -- all we have to show is that the payments were  
9 made or received with the understanding that Annabi would  
10 provide official action as specific opportunities arose.

11 You also heard the defense argue that nobody ever puts  
12 the money directly into Annabi's pocket. First of all, let's  
13 be clear. There is no doubt that we put \$174,000 in her  
14 pocket.

15 Zehy Jereis himself admitted that every one of the  
16 line items on Agent Dennehy's summary chart was true but,  
17 obviously, he disputed the \$20,000 cash payment from the  
18 Milios. But even still there is no dispute that Jereis gave  
19 Annabi a string of financial benefits from 2001 to 2008 that  
20 totaled about \$174,000.

21 So when counsel says neither the Milios nor Mangone  
22 could say for certain that the money made it all the way to  
23 Annabi, that may be literally true, but think about the  
24 devastatingly powerful circumstantial evidence. Annabi spends  
25 \$11,000 from late June to August 2006 on that flight, the Rolex

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C3LUANN4

Rebuttal - Mr. Halperin

1 watch and the diamond necklace. And out of that total, she  
2 spent 7800 in cash during that time. But Agent Dennehy said  
3 that his analysis showed Annabi made no cash withdrawals during  
4 this time. So where did the cash come from? It came from the  
5 Milios. That's where it came from.

6 How about Jereis's story about the plane ticket, the  
7 \$3800 in cash needed for the plane ticket. Annabi's parents,  
8 uncles and aunts got together \$2300 in cash and gave it to him  
9 in an envelope, and then he put in the other \$1500 for the  
10 plane ticket. Now, mind you, Ms. Annabi's father had filed for  
11 bankruptcy the year before. These stories make no sense.

12 Mr. Siano just talked about beyond a reasonable doubt  
13 standard. We certainly agree that that's the standard. We  
14 embrace it. And as you know, the beyond a reasonable doubt  
15 standard is the same one applied by juries everyday in every  
16 courtroom across the country. When you apply it here in this  
17 case, you will find that these defendants are guilty of the  
18 crimes charged beyond a reasonable doubt.

19 Counsel just attacked the Milios and noted that in  
20 1973 or 1974, a council member helped Antonio Milio remove a  
21 parking meter, and after that Antonio gave him some money. He  
22 forgot to mention in his summation that Antonio Milio did admit  
23 to you that he gave the man \$50 in cash 40 years ago.

24 Now, the Milios admitted they paid employees in cash,  
25 but the only other time they gave cash to an elected official,

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C3LUANN4

Rebuttal - Mr. Halperin

1 as they testified, was for Councilwoman Sandy Annabi in 2006.

2 Again, ignore the distractions.

3 Next, ladies and gentlemen, there is no proof at all  
4 that in August 2006, the super majority requirement would  
5 definitely be removed. Chuck Lesnick certainly hoped so. But  
6 it is absolutely undisputed by everyone, the council members,  
7 the Forest City Ratner representatives and by Zehy Jereis  
8 himself that, as of July 11, 2006, that super majority  
9 requirement was in effect. Forest City Ratner needed five  
10 votes. That's why they had to work so hard to get that fifth  
11 council member on board. This is simply white noise, this  
12 argument.

13 Yesterday and today you heard a bunch of discussion  
14 about whether Sandy Annabi attended that May 18, 2006 meeting  
15 at the Westchester Country Club with Forest City Ratner.  
16 Again, different recollections. Barbato and Murtagh remember  
17 that she was. Ms. Annabi says for the agents that she was, but  
18 Forest City Ratner doesn't remember that she was. OK. Not a  
19 big deal. Not a fact that you have to decide. Different  
20 witnesses have different recollections on that point.

21 Now, counsel has argued in this case that there was no  
22 corrupt intent. But, remember, the best proof of corrupt  
23 intent on the part of these two defendants is the concealment.  
24 Annabi lies on her financial disclosure forms over and over --  
25 not because she and Jereis are cousins. Annabi told the agents

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C3LUANN4

Rebuttal - Mr. Halperin

1 and Dennis Robertson that she and Jereis are not cousins. And  
2 getting benefits from a distant cousin does not allow you to  
3 not disclose nothing on the forms say that. They are in  
4 evidence.

5 Annabi lies when Chuck Lesnick, a defense witness  
6 asked her if she ever got anything from Jereis. She told him,  
7 I never got anything from anybody.

8 As we mentioned, Jereis lies a couple of times when  
9 Joe Galimi, his friend, asked him if he ended up getting a  
10 contract with Forest City Ratner. Jereis said, absolutely not.

11 Annabi lies on her mortgage documents

12 She lies on her taxes. She does not list on her taxes  
13 all of the secret benefits Jereis gives her.

14 When Annabi was interviewed by the FBI in December  
15 2009, she admitted that that Rolex watch was for her, but then  
16 at first she said she does not recall who paid for it. Then a  
17 minute later she says, maybe Jereis paid for it. But you heard  
18 Jereis testify that he didn't buy her the watch. So somebody  
19 is lying.

20 And think about the coverup that happens after Jereis  
21 and Annabi learn about the investigation. Annabi is first  
22 interviewed on January 30, 2007, then again on February 7,  
23 2007. Six days later, Government Exhibit 650, February 13,  
24 2007, Annabi sends her brother Samir to Walid Farhat's office  
25 to pick up all her tax returns. Why? The agents haven't even

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Rebuttal - Mr. Halperin

1 asked about her taxes in the first two interviews.

2 Second, Detective Koenig testified that 6,000 files  
3 were deleted from Annabi's hard drive on February 20 and 22,  
4 2007 -- only a few weeks after she is interviewed by the FBI.  
5 And while he could not say for certain whether the supposed  
6 email from Jereis were real or fake, he could say with  
7 certainty that the digital drawer containing the emails had  
8 been tampered with in late February 2007 and that things in  
9 that drawer were not the way that they should have been.

10 Where are the email responses from Annabi. Detective  
11 Koenig couldn't find any remnants of the emails on her hard  
12 drive which, normally, he said he would have. He didn't find  
13 any of the supposed emails on Jereis' hard drive he analyzed  
14 it. All of these facts raise serious doubts about the  
15 authenticity of those emails.

16 Remember how Jereis tried to cover his own tracks.  
17 March 8, 2007, front page of the Journal News, an article about  
18 an FBI investigation into Yonkers and Ridge Hill. Suddenly  
19 four days later, Jereis sends his monthly reports to Forest  
20 City Ratner for the very first time. He does the same thing  
21 with his no-show with the chamber of commerce.

22 Remember Councilman John Murtagh's testimony. In the  
23 fall of 2006, Jereis told him, Jereis told John Murtagh that  
24 Jereis gets his car swept regularly for bugs, for listening  
25 devices.

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C3LUANN4

Rebuttal - Mr. Halperin

1 Ladies and gentlemen, what person with an innocent  
2 state of mind does that? That is insane. Why all of this  
3 hiding if you believe you have done nothing wrong? Why conceal  
4 things repeatedly if you think that what you are doing is  
5 completely innocent? The answer is simple. They did not.  
6 Annabi and Jereis knew what they were doing was corrupt. It  
7 reeked and they knew it and they did not want it exposed.

8 Ladies and gentlemen, we submit that when you apply the  
9 law from Judge McMahon to the facts in this case, you will  
10 reach one inescapable conclusion, a verdict of guilty for both  
11 defendants on all counts.

12 One final thought. This trial was not about boy meets  
13 girl. If the story of this trial were simply boy meets girl  
14 and boy gives girl money with no strings attached then we all  
15 never would have met, there never would have been any trial.  
16 But you know that's not what happened here.

17 This trial was about a political operative who met a  
18 candidate for public office. The operative got her elected and  
19 started paying her as soon as she became a candidate for  
20 office. And once she was elected, the operative paid her time  
21 and time again over the course of eight years to the tune of  
22 \$200,000.

23 And what did the public official do when she got all  
24 of these benefits that she greatly enjoyed getting? She hid  
25 them. She lied to people about having gotten them. She

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C3LUANN4

Rebuttal - Mr. Halperin

1 THE COURT: Yes.  
2 MR. CARBONE: Particular investigative techniques.  
3 THE COURT: Denied.  
4 MR. CARBONE: Based upon the arguments of counsel --  
5 THE COURT: I am aware of why you doing it. Mr.  
6 O'Neill sent me an email saying, do you think that they will  
7 ask and I sent an email back saying it will be denied.  
8 THE COURT: A couple of little changes of some pages  
9 out of order, a sentence in, two sentences out. So spend your  
10 lunchtime reading it in case there is a problem with it.  
11 I will see you.  
12 If you are OK with it, just initial it now.  
13 (Luncheon recess)  
14  
15 (Continued on next page)  
16  
17  
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24  
25

C31Qann5

Charge

AFTERNOON SESSION

2:00 P.M.

(Jury present)

THE COURT: OK, get comfy. You don't have to take notes. You don't have to take notes because we are in the process of breaking every photocopy machine in the building so you will have copies of the charge with you in the jury room. Some of you have been jurors in other courts where they don't allow that. Very strange practice. I was Judge in one of those courts, and I always thought it was a very strange practice. But here we don't use such strange practices.

So, ladies and gentlemen, now that you have heard all of the evidence received here at the trial and each of the arguments of counsel, it becomes my duty to give you the final instructions of the Court as to the law that is applicable to this case, the law that will guide you in your decision.

All of the instructions of law that I have given you during the trial -- the ones I gave you at the beginning of the trial, the ones I've given during the trial, and these final instructions -- are to guide and govern your deliberations.

It is your duty as jurors to follow the law as stated in all of the instructions of the Court and to apply these rules of law to the facts as you find them from the evidence that was received during the trial.

Counsel have referred to some of the applicable rules

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C31Qann5

## Charge

1 of law in their closing arguments to you. If what counsel said  
2 about the law differs from what I say about the law, you are to  
3 follow the instructions given to you by the Court.

4 You are not to focus on any single instruction, but  
5 you must consider my charge as a whole in reaching your  
6 decisions.

7 And you are not to be concerned with the wisdom of any  
8 rule of law stated by the Court. Regardless of any opinion you  
9 may have about what the law ought to be, it would be a  
10 violation of your sworn duty to base any part of your verdict  
11 upon any other view or opinion of the law than the one that's  
12 given in the instructions of this Court, just as it would be a  
13 violation of your sworn duty as the judges of the facts to base  
14 your verdict on anything other than the evidence received in  
15 the case.

16 As I told you at the beginning of the trial, an  
17 indictment is not evidence. It merely describes the charges  
18 that were made against the defendants. An indictment is a  
19 formal method of bringing a case into court for trial and  
20 determination by a jury. No inference of any kind may be drawn  
21 from the indictment. And under our law, a person who has been  
22 accused of a crime is presumed to be innocent. Therefore, you  
23 may not consider the fact that the defendants were indicted as  
24 evidence of their guilt.

25 When you retire to deliberate, you must keep in mind

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C31Qann5

## Charge

1 that you are actually sitting as jurors on two separate  
2 trials -- one against Sandy Annabi and one against Zehy Jereis.  
3 What that means is that you must consider the evidence  
4 presented by the government separately as to each defendant.  
5 In order to find a defendant guilty of any given count, you  
6 must be satisfied that the government has proved beyond a  
7 reasonable doubt that that defendant is guilty of that count.

8 In fact, just so this is very clear, your verdict with  
9 respect to one defendant is your verdict with respect to that  
10 defendant, not the other defendant. You must consider the  
11 matters separately as to each defendant even when they are  
12 charged on the same count, and you have to consider each count  
13 separately as to each defendant. Your verdict on Count Two  
14 doesn't necessarily mean you're going to come to the same  
15 verdict on Count Four. All right?

16 The fact that the prosecution is brought in the name  
17 of the United States of America entitles the government to no  
18 greater consideration than that accorded to any other party in  
19 this litigation. By the same token, the government is entitled  
20 to no less consideration. In your deliberations, you are to  
21 perform your duty without bias or prejudice either to the  
22 government or to the defendants. Remember that all parties,  
23 the government and individuals alike, stand as equals before  
24 this court of justice.

25 In a criminal case, the burden is at all times upon

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1 the government to prove every element of a crime charged. This  
2 burden never shifts to the defendant, which means that a  
3 defendant has no obligation to prove anything or call or  
4 cross-examine any witnesses, or to offer any evidence. You and  
5 I, as judges of the facts and the law, respectively, have  
6 throughout this trial been presuming the defendants to be  
7 innocent. They have nothing to prove. The government has to  
8 convince you that the presumption is wrong before you can find  
9 otherwise. And the government can only convince you that the  
10 presumption is wrong if it proves beyond a reasonable doubt all  
11 of the elements of the crimes charged in the  
12 indictment -- nothing more and nothing less.

13 So the question that must arise in your minds is what  
14 is a reasonable doubt? Well, it's a doubt based on reason and  
15 common sense that would cause a reasonable person, such as  
16 yourselves, to hesitate to act in a matter of importance in  
17 your own personal life. Proof beyond a reasonable doubt is  
18 proof of such convincing character that a reasonable person  
19 would not hesitate to rely and act upon it in the most  
20 important of his or her own affairs.

21 A doubt is only reasonable if it is based on the  
22 evidence, or on a lack of evidence. A doubt is not reasonable  
23 if it's based on a caprice or a whim or on speculation or on  
24 suspicion. And a reasonable doubt is not something that you  
25 dream up as an excuse to avoid the performance of an unpleasant

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1 duty. A reasonable doubt is never the product of sympathy.

2 You will find the facts from one thing only -- the  
3 evidence, which in this case consists of the sworn testimony of  
4 the witnesses as given to you in this courtroom; all the  
5 exhibits that have been received regardless of who produced  
6 them. We have a number of Government Exhibits; we have some  
7 defense exhibits. As long as I said admitted, they are in  
8 evidence. And a number of facts or bits of testimony have been  
9 stipulated or agreed to among the parties. You are to regard  
10 those stipulated facts as proved.

11 Now, everything else is not evidence. So nothing I  
12 say is evidence. Nothing any of the lawyers has said is  
13 evidence. The questions that they asked by themselves are not  
14 evidence. The objections that they from time to time uttered  
15 are not evidence. And, remember, you have to disregard any  
16 evidence that I ordered stricken and any evidence as to which  
17 an objection was sustained.

18 Remember that I am neutral in this matter. I do not  
19 decide the factual issues of the case. That is not my job; it  
20 is yours, and I leave it entirely to you. My function was to  
21 get the trial concluded as fairly and promptly as possible, and  
22 now to explain the law to you. The decision in the case is  
23 yours. So, please don't get any notion that I have some kind  
24 of an attitude or a view about how you should come out in this  
25 case. I do not. I frequently say to my juries, you will tell

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1 me what my verdict is.

2 In making your findings based on the evidence  
3 received, you are permitted to draw reasonable inferences from  
4 the facts that you find to have been proved from the testimony  
5 and the exhibits and the stipulations. Inferences are simply  
6 deductions or conclusions that reason and common sense lead you  
7 to draw from the evidence received in the case.

8 You should consider the evidence at trial in the same  
9 way that any reasonable and careful person would treat any very  
10 important question that involves facts, opinions and evidence.  
11 You are expected to use your good sense in considering and  
12 evaluating the evidence in the case only for those purposes for  
13 which it's been received, and to give that evidence a  
14 reasonable and fair construction in the light of your common  
15 knowledge of the natural tendencies and inclinations of human  
16 beings.

17 There are two types of evidence that you may properly  
18 consider in deciding whether the government has proved that the  
19 defendants are guilty beyond a reasonable doubt.

20 One type of evidence is called direct evidence.  
21 Direct evidence is evidence given by a witness who testifies  
22 about what she saw, heard, or observed, of her own knowledge  
23 acquired by virtue of her own senses. I saw the car go through  
24 the red light. I heard the squeal of brakes and the sound of  
25 breaking glass. I smelled smoke. I tasted something acrid in

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1 the air. I felt a hand grab my shoulder. Direct evidence.

2 Circumstantial evidence is direct evidence of one fact  
3 or several facts that prove a disputed fact as to which there  
4 is no direct evidence. It's evidence that tends to prove a  
5 disputed fact by proof of other facts. Direct evidence of fact  
6 B from which you can include that fact C exists.

7 A simple example of circumstantial evidence that is  
8 often used in courts: Assume that when you came in to the  
9 courthouse this morning, the sun was shining -- it was of  
10 course not shining, but let's assume it was shining -- and it  
11 was a nice day. And assume that this room is hermetically  
12 sealed off from the outside world. We can't see out. We can't  
13 hear out. We have no direct evidence and have no way of  
14 acquiring direct evidence of what the weather is like this  
15 afternoon. We have no way of knowing if the weather has  
16 changed.

17 Let's assume that over the course of the afternoon  
18 people walk in to the courtroom having business that I must  
19 conduct later, and they're carrying umbrellas and they're  
20 wearing raincoats, and they have their hair plastered down to  
21 their heads, and their umbrellas are wet and they're shaking  
22 water out of them. You would have direct evidence of what you  
23 saw. You would have no direct evidence of what the weather was  
24 like outside, but from what you saw, you could draw the  
25 conclusion that the weather had in fact changed and it had

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1 begun to rain outside. Therefore, the direct evidence of what  
2 those people look like and were carrying as they came into the  
3 courtroom is circumstantial evidence of a change in the  
4 weather.

5 That is all there is to circumstantial evidence. You  
6 infer from an established fact the existence or the  
7 non-existence of some other fact on the basis of your reason,  
8 experience and common sense.

9 Circumstantial evidence is of no less value than  
10 direct evidence. In fact, it is a general rule that the law  
11 makes no distinction between direct and circumstantial  
12 evidence. It is simply required that before convicting a  
13 defendant, the jury must be satisfied of that defendant's guilt  
14 beyond a reasonable doubt from all of the evidence in the case.

15 The government and Mr. Jereis have presented evidence  
16 in the form of charts, summary charts. I will characterize  
17 these as demonstrative charts. These demonstrative charts were  
18 shown to you in order to make other evidence more meaningful  
19 and to aid you in considering that evidence. The information  
20 on each of the demonstrative charts is based on other exhibits  
21 that are in evidence and on testimony that was presented during  
22 the case. The sources of the information for the demonstrative  
23 charts are noted on each chart.

24 Now, the underlying evidence, the underlying exhibits,  
25 the testimony you've heard, is available for you to look at.

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1 The demonstrative charts aren't better than the testimony and  
2 the documents on which they are based, and they are not  
3 themselves independent evidence. So you are to give no greater  
4 consideration to these demonstrative charts than you would give  
5 to the evidence on which they are based.

6 Furthermore, it is for you to decide whether or not  
7 the demonstrative charts correctly present the information  
8 contained in the testimony and the exhibits on which they are  
9 based. You are entitled to consider the demonstrative charts  
10 only if they conform to the underlying evidence, and then if  
11 you find that they help you in analyzing and understanding that  
12 underlying evidence.

13 You as jurors are the sole judges of the credibility  
14 of the witnesses and the weight their testimony deserves. Now,  
15 in making those decisions, you may be guided by the appearance  
16 and the conduct of a witness or by the manner in which the  
17 witness testified, or by the character of the testimony given,  
18 or by evidence you find to be credible that is contrary to the  
19 testimony given.

20 You should carefully scrutinize all the testimony that  
21 you have heard, the circumstances under which each witness  
22 testified, and every matter in evidence that tends to show  
23 whether a witness is worthy of belief. Consider each witness's  
24 intelligence, motive, state of mind, and demeanor while on the  
25 stand. Consider the witness's ability to observe the matters

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1 about which he testified, whether he impresses you as having an  
2 accurate recollection of these matters. Consider any relation  
3 that a witness may bear to either side of the case, the manner  
4 in which the witness might be affected by the verdict, and the  
5 extent to which, if at all, each witness's testimony is  
6 supported or contradicted by other evidence in the case.

7 Inconsistencies or discrepancies in the testimony of a  
8 witness; that is, internal inconsistencies or discrepancies,  
9 may cause you to discredit a person's testimony. And so may  
10 inconsistencies between the testimony of different witnesses.  
11 But inconsistencies do not necessarily indicate that a witness  
12 is lying. Two or more persons who witness an incident or  
13 transaction may see or hear it differently; and innocent  
14 misrecollection, like failure of recollection, is not an  
15 uncommon experience. In weighing the effect of a discrepancy,  
16 consider whether it pertains to a matter of importance or to an  
17 unimportant detail and whether you believe it results from  
18 innocent error or intentional falsehood.

19 After making your own judgment, you should give the  
20 testimony of each witness such weight, if any, as you think it  
21 deserves.

22 You heard evidence during the trial that the witnesses  
23 have discussed the facts of the case and their testimony with  
24 the lawyers before the witnesses appeared in court.

25 Although you may consider this fact when you are

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1 evaluating a witness' credibility, there is nothing either  
2 unusual or improper about a witness meeting with a lawyer  
3 before testifying, so that the witness can be aware of the  
4 subjects he will be questioned about, focus on those subjects  
5 and have an opportunity to review relevant exhibits before  
6 being questioned in court. Such consultation helps to save  
7 your time and the Court's time.

8 You heard testimony from witnesses who work in the law  
9 enforcement field. Remember, the fact that a witness is  
10 employed by a government agency as a law enforcement official  
11 does not mean that his or her testimony is necessarily  
12 deserving of more or less consideration or that you should give  
13 it greater or lesser weight than that of any other witness.

14 And you heard testimony from Detective Koenig whom I  
15 qualified as an expert. You remember that I told you I didn't  
16 like that term. Expert witnesses are witnesses who, by  
17 education or experience, have acquired learning in a science or  
18 a specialized area of knowledge. In Detective Koenig's case,  
19 it was computer technology. Such witnesses are permitted to  
20 give their opinions about relevant matters in which they  
21 profess to be experts and to give the reasons why they reach  
22 those opinions. Expert testimony is presented to you on the  
23 theory that someone who is experienced in a field, like a  
24 technical field, can assist you in understanding the evidence  
25 or in reaching an independent decision on the facts.

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1           Your role in judging credibility applies to experts as  
2 well as to other witnesses. That's why I don't like the term,  
3 because I think the term expert suggests it's someone you must  
4 believe, but that's not true. You should consider the experts'  
5 opinions that were received in evidence and give them as much  
6 or as little weight as you think they deserve. If you decide  
7 that the opinion of an expert was not based on sufficient  
8 education, experience or data, or if you should conclude that  
9 the trustworthiness or credibility of an expert is questionable  
10 for any reason, or if the opinion of the expert was outweighed  
11 in your judgment by other evidence in the case, then you might  
12 disregard the opinion of the expert entirely or in part.

13           On the other hand, if you find that the opinion of an  
14 expert is based on sufficient data, education and experience,  
15 and other evidence does not give you reason to doubt his or her  
16 conclusions, you would be justified in placing reliance on what  
17 the expert says to you.

18           On a related note, let me remind you of the caveat  
19 that I gave while Detective Koenig was on the stand, or maybe  
20 after he just got off. It may be that one or more of you  
21 enjoys some degree of advanced understanding of the workings of  
22 computers including the intricate processes by which emails are  
23 sent and stored. I don't know if you know anything about that.  
24 There are people in this world who do who are not necessarily  
25 workers in the computer field. I instruct you that it is the

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1 evidence adduced at trial alone that you must consider when  
2 evaluating these issues, not some extra evidentiary insight  
3 from one of your fellow jurors.

4 So, for example, when considering the providence of  
5 the emails produced in evidence, you may consider only the  
6 evidence introduced at trial on that issue, both testimonial  
7 and documentary, not the basis of some specialized knowledge of  
8 one of your fellow jurors which is not supported by the  
9 evidence adduced at the trial. As with all the factual issues  
10 in the case, you must base your verdict solely on the evidence  
11 that was introduced during the trial.

12 You heard testimony from a witness, Anthony Mangone,  
13 who testified that he was actually involved in carrying out one  
14 of the schemes that's charged in the indictment -- the one  
15 relating to Longfellow. There has been a great deal said about  
16 this so-called accomplice witness in the summations of counsel  
17 regarding whether or not you should believe him. That's up to  
18 you.

19 The law allows the government to use accomplice  
20 testimony to prove its case, so such testimony is properly  
21 considered by the jury. Indeed, in federal courts, the  
22 testimony of an accomplice may be enough in and of itself for a  
23 conviction as long as the jury finds that the testimony  
24 establishes guilt beyond a reasonable doubt; and like the  
25 testimony of any other witness, an accomplice's testimony

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1 should be given such weight as it deserves in light of all the  
2 facts and circumstances. However, the nature of accomplice  
3 testimony means that it must be scrutinized with great care and  
4 viewed with special caution. Let me say a few things you may  
5 want to consider during your deliberations on the subject of  
6 accomplices.

7 The fact that a witness is an accomplice should be  
8 considered by you as bearing on his credibility. It does not  
9 follow that a person is incapable of giving a truthful version  
10 of what happened just because he has admitted participating in  
11 one or more of the crimes charged. You should consider whether  
12 his testimony was motivated by reward or self-interest or by  
13 hostility to the defendant. Ask yourself whether the so-called  
14 accomplice would benefit more by lying or by telling the truth.  
15 Do you think he made up any of his testimony because he thought  
16 he would receive more favorable treatment by testifying  
17 falsely? Or do you think he believed that his interest would  
18 best be served by testifying truthfully?

19 If you believe that the witness was motivated by  
20 personal gain, was the motivation one that would cause him to  
21 lie, or one that would cause him to tell the truth? Did his  
22 self-interested motivation color his testimony?

23 Obviously, you should reject the testimony of an  
24 accomplice if you think it was false. However, if after a  
25 cautious and careful examination of the testimony and the

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1 witness's demeanor, you are satisfied that the testimony is  
2 true, you should accept it and act on it accordingly.

3 You may also accept some parts of an accomplice's  
4 testimony and reject other parts, as you may with any other  
5 witness. I will explain more about that shortly.

6 You heard testimony and arguments about agreements  
7 that the government entered into with Anthony Mangone and also  
8 with Franco Milio and Antonio Milio, cooperation agreements.  
9 It is no concern of yours why the government made agreements  
10 with these witnesses. Your sole concern is to decide whether  
11 the witnesses have given truthful testimony in this courtroom  
12 in front of you. And you should look to all the evidence in  
13 deciding what credence and what weight, if any, you will give  
14 to the testimony of the accomplice witness, Anthony Mangone, or  
15 the other cooperating witnesses, Franco and Antonio Milio.

16 Ms. Annabi did not testify in this case. Under our  
17 constitution, a defendant has no obligation to testify or to  
18 present any evidence because it is the government's burden to  
19 prove the defendant guilty beyond a reasonable doubt. I hope  
20 I've said it enough times that you've really internalized it.  
21 The burden has remained with the government throughout the  
22 trial. It has never shifted to the defendant. A defendant is  
23 never required to prove that she is innocent.

24 You may not attach any significance to the fact that  
25 Ms. Annabi did not testify. None. No adverse inference

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1 against her may be drawn by you because she did not take the  
2 witness stand. You may not consider this against Ms. Annabi in  
3 any way in your deliberations in the jury room.

4 Now, Ms. Annabi's co-defendant did take the witness  
5 stand. Just as you cannot draw any adverse inference against  
6 Ms. Annabi from the fact that she did not take the stand, you  
7 also cannot draw any adverse inference against her from the  
8 fact that Mr. Jereis did take the stand. That's of no  
9 relevance to you in deciding whether the government has met its  
10 burden of proof. None.

11 In this case, Mr. Jereis decided to testify. You  
12 should examine and evaluate his testimony just as you would the  
13 testimony of any witness with an interest in the outcome of the  
14 case. But you should not disregard or disbelieve Mr. Jereis'  
15 testimony simply because he is charged as a defendant in the  
16 case.

17 Earlier I talked to you about the credibility or the  
18 believability of the witnesses. I suggested some things for  
19 you to consider in evaluating each witness's testimony. You  
20 should consider those same things in evaluating Mr. Jereis's  
21 testimony.

22 Remember, by taking the stand Mr. Jereis did not  
23 assume any burden of proof. It remains the government's burden  
24 to overcome the presumption of innocence, to prove that  
25 Mr. Jereis is guilty beyond a reasonable doubt. He is not

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1 required to prove that he is innocent, and he assumed no such  
2 burden by taking the stand.

3 If you find that any witness, any witness, including  
4 an accomplice or cooperating witness or any other witness, has  
5 testified falsely as to any material fact, the law permits you  
6 to disregard the entire testimony of that witness.

7 Put in different language: If someone lies to you on  
8 the stand about a fact that you deem important in deciding this  
9 case, then you can just throw out his entire testimony on the  
10 theory that somebody who lies to you about one important thing  
11 just should not be trusted in anything. You may do that if you  
12 wish. You have that right. However, the issue of credibility  
13 need not be decided in an all-or-nothing fashion. You may  
14 accept as much of the testimony of a witness who lies to you as  
15 you deem to be true and disregard just the parts that you think  
16 are false. You can do that too. How you decide to view the  
17 testimony of a witness who lies to you is up to you.

18 You may not draw any inference, favorable or  
19 unfavorable, toward the government or toward either of the  
20 defendants from the fact that any persons other than these two  
21 individuals are not on trial here. You may not speculate about  
22 why other people are not on trial here. Those matters are  
23 wholly outside your concern. They have no bearing on your  
24 function as jurors.

25 In reaching your decision about whether the government

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1 has sustained its burden of proof, it would be absolutely  
2 improper for you to consider any personal feelings that you  
3 have about the defendants' race, their religion, their national  
4 origin, their gender or their age. It would be equally  
5 improper for you to allow any feelings you might have about the  
6 nature of the crimes charged to interfere with your  
7 decision-making process. Any sort of bias, prejudice or  
8 sympathy for or against either side has no relevance to the  
9 matter before you and may not be considered by you in reaching  
10 your verdict.

11 The question of what punishment would be meted out if  
12 you were to decide that the government had met its burden of  
13 overcoming the presumption of innocence is of no concern to  
14 you, and it should not enter into or influence your  
15 deliberations in any way. The duty of imposing sentence rests  
16 exclusively with me. It is one of the few things I have to do  
17 in this case. Your function is to weigh the evidence in the  
18 case and determine whether the government has proved either of  
19 the defendants guilty of any of the charges or all of the  
20 charges that have been lodged against them beyond a reasonable  
21 doubt solely on the basis of the evidence.

22 You will then tell me what my verdict is, and then  
23 I'll worry about whether there is going to be any punishment  
24 and what it's going to be. That just is no concern of yours.  
25 Wipe it out of your head, all thoughts of it.

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## Charge

1 During some of the testimony I told you that you could  
2 consider two areas of evidence for specific limited purposes;  
3 that I was admitting it for limited reasons. I am going to  
4 repeat those instructions.

5 Mr. Mangone testified about an alleged scheme to bribe  
6 a potential candidate not to run for state office. This  
7 evidence was offered by the government and has been admitted  
8 solely with the purpose of explaining the relationship and the  
9 mutual trust that the government alleges existed between the  
10 defendant Zehy Jereis and Anthony Mangone. You may not  
11 consider the evidence for any other purpose. And you may not  
12 consider it for any purpose against Sandy Annabi. It doesn't  
13 relate to her. It has not been admitted against her, and you  
14 may not even think about it when you are deliberating on the  
15 charges against Ms. Annabi.

16 Second, you heard testimony about a consulting  
17 agreement that the defendant Zehy Jereis had with the Yonkers  
18 Chamber of Commerce. The government introduced evidence about  
19 this contract to prove that after this investigation became  
20 public, Mr. Jereis submitted reports that it contends were  
21 backdated to the Yonkers Chamber of Commerce. As you know, the  
22 government contends in matters that are strictly relevant to  
23 this case that Mr. Jereis submitted backdated reports to Forest  
24 City Ratner.

25 You may consider the Yonkers Chamber of Commerce

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1 evidence only on the question of whether the defendant Zehy  
2 Jereis was acting pursuant to a modus operandi, a way of doing  
3 things, or whether he acted with criminal intent in connection  
4 with these charges, the charges in this case. He is not on  
5 trial for committing uncharged acts. He is not on trial for  
6 anything having to do with the Yonkers Chamber of Commerce or,  
7 for that matter, for any candidate who didn't run for office.  
8 He's not on trial for those things. And you may not consider  
9 that evidence as substitute evidence for proof that he  
10 committed the crimes he's actually charged with in this case.  
11 Nor may you consider this evidence as proof that he has a  
12 criminal personality or a bad character. The evidence of the  
13 similar acts was admitted for a much more limited purpose, and  
14 you may consider it only for that limited purpose.

15 If you determine that Mr. Jereis committed the acts  
16 charged in the indictment, and decide that he did these similar  
17 acts as well, then you may -- you need not, you don't have  
18 to -- but you may draw an inference that in doing the acts that  
19 were charged in the indictment, Mr. Jereis acted knowingly and  
20 intentionally, and not because of some mistake, accident or  
21 other innocent reason.

22 Now, evidence of similar acts may not be considered by  
23 you for any other purpose. Specifically -- and I have to say  
24 this more than once -- you may not use this evidence to  
25 conclude that because Mr. Jereis committed some similar act, he

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1 must also have committed the acts charged in the indictment.  
2 It does not work that way.

3 Remember, this evidence was not introduced against  
4 Ms. Annabi. It was introduced for the limited purpose only  
5 against Mr. Jereis. You may not consider any of this evidence  
6 against Ms. Annabi for any purpose. It does not relate to her.  
7 It has not been admitted as to her, and you may not consider it  
8 as against her.

9 There is one additional evidentiary limiting  
10 instruction that I need to remind you about. You heard  
11 testimony that Ms. Annabi made statements to FBI agents and  
12 Assistant United States Attorneys who are prosecuting this  
13 case. You may consider those statements only as you deliberate  
14 on the charges against Ms. Annabi. You must cast them out of  
15 your mind when you are deliberating on the charges against  
16 Mr. Jereis. What that means is that when you're deciding  
17 whether the government has proved beyond a reasonable doubt  
18 that Ms. Annabi committed the crimes with which she's charged,  
19 you may consider Ms. Annabi's statements to agents and  
20 prosecutors and rely on them as much or as little as you think  
21 proper. You may not, however, consider -- or even discuss --  
22 Ms. Annabi's statements to the agents and prosecutors when you  
23 are considering whether the government has proved the charges  
24 against Mr. Jereis.

25 All right. Counts One and Two are conspiracy counts.

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## Charge

1 The crime charged is conspiracy, the crime of conspiracy.  
2 Count One charges both of the defendants with conspiring to  
3 violate Title 18 of the United States Code, Section  
4 666(a)(1)(B) and (a)(2). Those sections prohibit the making  
5 and receiving of corrupt payments. So Count One charges the  
6 defendants with conspiring to violate the law that prohibits  
7 the making and receiving of corrupt payments.

8 The first element of the crime of conspiracy is the  
9 existence of a conspiracy. The government must prove beyond a  
10 reasonable doubt that two or more persons came to an agreement  
11 or understanding that they would try to accomplish some  
12 unlawful purpose.

13 Conspiracy to commit an illegal act is a separate and  
14 distinct offense from actually committing the illegal act that  
15 is the object of the conspiracy. The defendant need not commit  
16 the illegal act or acts that are the object or objects of the  
17 conspiracy in order to be found guilty of the separate and  
18 independent crime of conspiracy.

19 A conspiracy is an agreement or an understanding to  
20 violate the law. A conspiracy is an agreement or an  
21 understanding to violate the law. The government must prove  
22 beyond a reasonable doubt the existence of such an agreement or  
23 understanding. However, in order to prove a defendant guilty  
24 of the crime of conspiracy, the government is not required to  
25 show that two or more people sat around a table and entered

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1 into a solemn pact, orally or in writing, stating that they  
2 agreed to violate the law and setting forth the details of the  
3 plans or means by which the unlawful project that they agreed  
4 to do is going to be carried out or the part that's to be  
5 played by each conspirator. Common sense will tell you that  
6 when people enter into a criminal conspiracy, much is left to  
7 their unexpressed understanding. Conspirators do not usually  
8 reduce their agreements to writing or acknowledge them in front  
9 of a notary public; neither do they publicly broadcast their  
10 plans. From its very nature, a conspiracy is almost always  
11 secret, both in its origin and in its execution. It is,  
12 therefore, sufficient if the government proves beyond a  
13 reasonable doubt that two or more persons arrived at a common  
14 understanding that they were going to violate the law in some  
15 way or manner, either explicitly or by implication.

16 (Continued on next page)  
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## Charge

1 THE COURT: It is not necessary that any particular  
2 number of people join together in order the government to prove  
3 that a conspiracy existed. You need to find only that two or  
4 more persons entered into the unlawful agreement that is  
5 alleged in the indictment in order for you to find that a  
6 conspiracy existed.

7 In deciding whether the government has proved the  
8 existence of a conspiracy beyond a reasonable doubt, you may  
9 consider whether the alleged co-conspirators did anything that  
10 tended to carry out an apparently criminal purpose. The adage  
11 "actions speak louder than words" applies here. Sometimes, the  
12 only evidence available to demonstrate the existence of an  
13 agreement to violate the law is evidence about seemingly  
14 disconnected acts; but when considered in connection with each  
15 other, these acts can show that an agreement was reached to  
16 bring about a particular result. Evidence of this sort can  
17 prove the existence of a conspiracy as satisfactorily and  
18 conclusively as more direct proof.

19 So in deciding whether the conspiracy charged in Count  
20 1 actually existed, you may consider not just what the alleged  
21 co-conspirators said, but also their acts and their conduct.

22 Finally, a conspiracy requires an object -- some  
23 illegal thing that the members of the conspiracy agree that  
24 they will try to accomplish.

25 The conspiracy alleged in Count 1 had as its object

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## Charge

1 the making and receiving of corrupt payments. The law defines  
2 a "corrupt" payment as a payment that is made or received with  
3 evil intent -- that is, with the improper motive of violating  
4 the law, by being wrongfully rewarded. The classic examples of  
5 corrupt payments are bribes, kickbacks. In this case, the  
6 government contends that Ms. Annabi and Mr. Jereis came to an  
7 understanding, from in or about 2002 to in or about 2009, that,  
8 in exchange for various financial benefits that Mr. Jereis  
9 would from time to time give Ms. Annabi, Ms. Annabi would  
10 perform official acts at the behest of Mr. Jereis, as and when  
11 opportunities presented themselves.

12 Now, I realize that the law uses the word "and," and  
13 not the word "or;" it criminalizes the making and receiving of  
14 corrupt payments. However, the government only needs to prove  
15 that the conspirators agreed to accomplish one of those two  
16 things -- that is, either the making or the receiving of  
17 corrupt payments with what was agreed to. In other words,  
18 "and" means "and/or," for our purposes.

19 So "and" may mean "and/or" but -- this is very  
20 important -- in order for you to return a unanimous verdict all  
21 12 deliberating jurors must agree on what the conspirators  
22 agreed to accomplish, whether that be the making or the  
23 receiving of corrupt payments. If six of you were to conclude  
24 at that the government had proved that the conspirators agreed  
25 to make a corrupt payment and the other six concluded that the

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## Charge

1 conspiracy had agreed to receive corrupt payments, you would  
2 not have come to a unanimous verdict, even though all 12 of you  
3 agreed that the government had proved something. You must all  
4 12 agree that the government proved the same thing.

5 If you conclude that the government has proven beyond  
6 a reasonable doubt that there existed a conspiracy for the  
7 purpose of accomplishing the making or receiving of corrupt  
8 payments -- or both -- you must next consider whether the  
9 government has proved the second element of the crime, which is  
10 that each defendant joined the conspiracy, and did so knowingly  
11 and with an intent to further an unlawful objective. You must  
12 consider this question separately for Ms. Annabi and  
13 Mr. Jereis.

14 I should say, it follows that if you conclude that the  
15 government has not proven beyond a reasonable doubt the  
16 existence of an agreement or understanding reached for the  
17 purposes of accomplishing the making or receiving of corrupt  
18 payments, as alleged in the indictment, the government hasn't  
19 proven that, then you are done with Count 1 because the minute  
20 the government fails to prove one element of a crime, that's it  
21 for that crime. You go on to the next one.

22 A defendant can indicate his intent to join a  
23 conspiracy in many ways. No particular form of words or type  
24 of action is required, as long as he demonstrates a conscious  
25 aim and objective to further the unlawful purpose of the

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## Charge

1 conspiracy.

2 "Knowingly" means to act consciously and voluntarily,  
3 rather than by mistake or accident or mere inadvertence. Now,  
4 a person doesn't have to know everything about the conspiracy  
5 in order to be a member. A person can become a member of a  
6 conspiracy even if he is not fully informed about all of its  
7 details, or does not know the full extent, or is not acquainted  
8 with all of the other people in the conspiracy -- but he has to  
9 become a member knowingly, consciously and voluntarily rather  
10 than by mistake, accident or inadvertence.

11 Merely associating with a member or members of a  
12 conspiracy is not enough to make a person a member of a  
13 conspiracy. That is true even if the person who associates  
14 with conspirators knows that something illegal is afoot. In  
15 other words, knowledge of the existence of a conspiracy without  
16 participation is not sufficient to make you a member of a  
17 conspiracy.

18 A person can become a member of a conspiracy even if  
19 he does not join it at the beginning. A person can join a  
20 conspiracy at any time while it is in progress. Once a  
21 person joins a conspiracy, he is responsible for everything  
22 that was done before he joined, and everything that is done  
23 from and after the time he joined.

24 The law does not require that each conspirator have an  
25 equal role in the conspiracy. Even a single act of

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## Charge

1 participation may be sufficient to draw a defendant within the  
2 ambit of a conspiracy.

3 With respect to Count 1, the next thing the government  
4 has to prove beyond a reasonable doubt is that at least one of  
5 the co-conspirators committed at least one overt act in  
6 furtherance of the conspiracy. Now, a particular defendant can  
7 be found guilty of the crime of conspiracy even if he isn't the  
8 person who commits the overt act; but somebody who is a member  
9 of the conspiracy has to commit an overt act, that is, an act  
10 that furthers the conspiracy's illegal purposes.

11 The overt act does not need to be a crime in and of  
12 itself. It can be as innocent on its face as attending a  
13 meeting; writing or sending a letter, an email, a note or a  
14 fax; depositing, cashing, transferring or issuing a check, or  
15 placing a telephone call. But it must be an act that furthers  
16 or leads to the accomplishment of the illegal plan that is the  
17 object of the conspiracy.

18 Now, in the indictment, in Count 1, the government  
19 actually lists 26 separate overt acts that it alleges were  
20 committed in furtherance of the corrupt payments conspiracy.  
21 You are going to have a verdict sheet back in the jury room and  
22 those 26 acts are listed on the verdict sheet. If the  
23 government has proved the other elements of the conspiracy,  
24 then all 12 deliberating jurors have to agree on which act or  
25 acts were committed by a member of the conspiracy in

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## Charge

1 furtherance of the conspiracy, and that's why we have listed  
2 the ones that are in the indictment on the verdict sheet.

3 It is not necessary for the government to prove that  
4 all of the overt acts alleged in the indictment were committed.  
5 In fact -- I will grant you this is weird -- the government  
6 doesn't need to prove that any of the overt acts that are in  
7 the indictment were committed if it proves that some other  
8 overt act was committed, and all 12 of you agree on what that  
9 act is, that is enough. The government only has to prove  
10 beyond a reasonable doubt that one of the conspirators  
11 knowingly committed some overt act during the life of the  
12 conspiracy, for the purpose of furthering the goal or goals of  
13 the conspiracy.

14 And to re-enforce that, on the verdict sheet, after  
15 the 26 overt acts are listed it says "other," and if you find  
16 some other overt act, you just write it on there if all 12 of  
17 you agree.

18 Stand up and take a stretch break.

19 Now in Count 2, the defendants are charged with being  
20 a member of a second and different conspiracy -- a conspiracy  
21 to use the United States mails or the interstate wire  
22 communications to execute something called a "scheme and  
23 artifice" to defraud and to deprive the City of Yonkers and its  
24 citizens of their intangible right to Ms. Annabi's honest  
25 services. The "scheme and artifice" that is alleged is the

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## Charge

1 paying and receiving of corrupt payments by Mr. Jereis and  
2 Ms. Annabi.

3 The first two elements of the conspiracy that are  
4 charged in Count 2 are, with one exception, identical to the  
5 elements of conspiracy that are charged in Count 1, so I am not  
6 going to repeat what I just said about the definition of the  
7 word "conspiracy," "agreement" or "understanding" to violate  
8 the law, "corrupt payments" or what it means to become a  
9 "member" of a conspiracy and to do so "knowingly." You just  
10 apply to Count 2 what I told you about Count 1.

11 Now, the difference is that there is no overt act  
12 requirement for the conspiracy that is charged in Count 2.  
13 That's just the way Congress wrote the law, so you can ignore  
14 the portion of my charge on Count 1 that relates to overt acts  
15 when you are deliberating on Count 2.

16 The big difference between Count 1 and Count 2 is that  
17 the object of the conspiracy charged in Count 2 is different  
18 from the object charged in Count 1. So I need to define for  
19 you some other terms -- "mail fraud," "wire fraud," "scheme or  
20 artifice" and "depriving of honest services."

21 The indictment charges that the object of the  
22 conspiracy alleged in Count 2 was the commission of the crime  
23 of mail fraud and wire fraud, for the purpose of depriving the  
24 City of Yonkers and its citizens of their right to the honest  
25 services of Sandy Annabi.

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## Charge

1           Now, it is alleged that the conspiracy was the  
2 commission of mail fraud and wire fraud and, again, it is "and"  
3 but they mean "or" not "and;" they mean "and/or." So if the  
4 government proves beyond a reasonable doubt that the  
5 conspirators agreed to accomplish at least one of the  
6 objectives charged in the indictment -- either mail fraud or  
7 wire fraud -- the illegal purpose element will be satisfied.  
8 The government does not need to prove both mail fraud and wire  
9 fraud were intended to be committed. This is just another of  
10 those situations where "and" really means "and/or."

11           Mail fraud and wire fraud are similar but distinct  
12 offenses. Mail fraud involves the use of the U.S. Mails or a  
13 private carrier like Federal Express or UPS, to further a  
14 scheme to defraud; wire fraud involves the use of interstate  
15 wire communications, like telephones.

16           The first element of mail and wire fraud that the  
17 government must prove beyond a reasonable doubt -- those words  
18 somehow got left out and it should say that the government must  
19 prove beyond a reasonable doubt -- is that there was a scheme  
20 or artifice to defraud the City of Yonkers and its citizens of  
21 the intangible right to the honest services of Sandy Annabi.

22           A "scheme or artifice" is a plan for the  
23 accomplishment of an object.

24           A "scheme to defraud" is any plan, device, or course  
25 of action, the purpose of which is to deprive another of, in

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## Charge

1 this case, the intangible right of honest services.

2 The government need not prove that the scheme was  
3 successful, only that it existed. And the scheme to defraud  
4 need not be shown by direct evidence; it may be established by  
5 all the facts and circumstances.

6 To prove that a defendant has committed honest  
7 services fraud, a scheme to deprive another of the intangible  
8 right to honest services, the government must prove beyond a  
9 reasonable doubt that a defendant made or received a corrupt  
10 payment -- remember a payment that is made or received with  
11 evil intent, a bribe or a kickback -- as a quid pro quo for  
12 taking some official action -- a quid pro quo, this for that --  
13 for taking some official action. A public official owes a duty  
14 of honest and faithful service to the public she serves and to  
15 her public employer. When a public official receives a corrupt  
16 payment for or because of official action taken, the official  
17 has breached her duty of honest and faithful disinterested  
18 service, and the public is not receiving what it expects of it  
19 and is entitled to receive, namely, its right to the public  
20 official's honest and faithful service.

21 In order to establish a quid pro quo, the government  
22 must prove beyond a reasonable doubt that a public official has  
23 obtained a payment or benefit to which she was not entitled by  
24 virtue of her office, knowing that the payment or benefit was  
25 made for or because of official acts, rather than being given

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## Charge

1 voluntarily or for reasons unrelated to the defendant's  
2 official position. The defendant need not have initiated the  
3 payment or asked for the payment, but she must have known that  
4 the payment was made for or because of official action that she  
5 either had taken or agreed to take.

6 You do not have to determine whether the defendant  
7 public official -- in this case, Ms. Annabi -- could or did  
8 actually perform the services, or whether she actually had a  
9 duty to do so.

10 The term "official act" includes the decisions or  
11 actions generally expected of a public official. Those  
12 decisions or actions do not need to be specifically described  
13 in any law, rule, or job description in order to be considered  
14 an "official act." Official action includes any acts of any  
15 nature whatsoever that are taken by a public official under  
16 color of his or her office.

17 The government does not have to prove that the public  
18 official made an explicit promise to perform a particular act  
19 at the time of the payment. It is sufficient if the defendant  
20 understood that she was expected, as a result of the payment,  
21 to take some official action on behalf of the payor, as  
22 specific opportunities arose -- is the phrase that is used by  
23 the government in the indictment -- or that she accepted the  
24 payment for or on behalf of some action that she previously  
25 took.

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## Charge

1           The improper benefit may consist of money or any other  
2 financial benefit -- whether given on a one-time basis or as a  
3 stream of payments to the public official.

4           If you find beyond a reasonable doubt that the  
5 defendant has violated the duty to provide honest services, by  
6 soliciting or receiving corrupt payments, alone or with the  
7 help of others, then you may find this element to be satisfied.

8           Now, the defendant you are considering has to have  
9 participated in the scheme to defraud the citizens of Yonkers  
10 of Sandy Annabi's honest and faithful service, knowingly,  
11 willfully and with specific intent to defraud.

12           "Knowingly" means to act voluntarily and to act  
13 deliberately, rather than mistakenly or inadvertently.

14           "Willfully" means to act knowingly and purposely, with  
15 an intent to do something the law forbids, which is to say,  
16 with a bad purpose either to disobey or to disregard the law.

17           "Intent to defraud" means to act knowingly and with  
18 the specific intent to deceive, for the purpose of, in this  
19 particular case, depriving someone else, the City and the  
20 citizens of Yonkers of their intangible right to honest  
21 services.

22           The question of whether a person acted knowingly,  
23 willfully, and with intent to defraud is a question of fact.  
24 So you would have to decide it, just as you have to decide all  
25 of the questions of fact. But it is the kind of question of

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## Charge

1 fact that requires you to make inquiry into the defendant's  
2 state of mind.

3 Under the mail and wire fraud statutes, false  
4 representations or statements, or omissions of material fact,  
5 do not amount to fraud unless they are made with fraudulent  
6 intent. However misleading or deceptive a plan may be, it is  
7 not fraudulent if it was devised or carried out in good faith.  
8 An honest belief in the truth of the representations made by a  
9 defendant is a good defense, however inaccurate the defendant's  
10 statements may turn out to be.

11 Indeed, since an essential element of the crime that  
12 is the object of the conspiracy charged in Count 2 is intent to  
13 defraud, it follows that good faith on the part of a defendant  
14 is a complete defense to a charge of mail or wire fraud. And  
15 the defendant has no burden to establish the defense of good  
16 faith. The burden is on the government to prove fraudulent  
17 intent, so the government has to prove lack of good faith  
18 beyond a reasonable doubt.

19 The third and final element of the mail and wire fraud  
20 offenses that are charged as objects of the Count 2 conspiracy  
21 is the use of the mails or interstate wire transmissions in  
22 furtherance of the fraudulent scheme.

23 The phrase "use of the mails," as I am using it here,  
24 includes sending material through the United States Postal  
25 Service or a private or commercial carrier, like Federal

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Charge

1 Express, UPS, DHL -- one of those are alternative Postal  
2 Services.

3 The "mail" that is sent need not travel interstate --  
4 that is, from one state to another. You can send it from  
5 Brooklyn to Queens, for example, or from 94th Street to 125th  
6 Street.

7 The phrase "wire transmission" includes writings,  
8 signals or sounds. It does include emails.

9 Now, the wire transmission, unlike the mail, it must  
10 travel interstate. It must cross state lines. Although the  
11 government does not have to prove that the defendant knew that  
12 the wire transmission would cross state lines.

13 The mailed matter or wire transmission need not  
14 contain a fraudulent representation or purpose or request for  
15 money. It must, however, further or assist in the carrying out  
16 of the scheme to defraud which in this case the scheme to  
17 defraud the City of Yonkers and the citizens of Yonkers by  
18 virtue of the giving and receiving of corrupt payments.

19 It is not necessary for the defendant or a  
20 co-conspirator to become directly or personally involved in the  
21 mailing or transmitting the interstate wire, as long as the  
22 defendant you are considering could reasonably foresee that the  
23 mail or interstate wires would be used in the execution of the  
24 alleged scheme to defraud. It is sufficient if the defendant  
25 or a co-conspirator caused the mailing or the use of interstate

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## Charge

1 wires by someone else. This does not mean that the defendant  
2 or co-conspirator must specifically have authorized someone  
3 else to send the mail or send this email, or make this phone  
4 call, but when a person does something, knowing that the use of  
5 the mails or the wires will follow in the ordinary course, or  
6 where such use of the mails or wires can reasonably be foreseen  
7 (even though if it is not actually intended), then he causes  
8 the mails or wire communication to be used.

9 Because Count 2 charges Ms. Annabi and Mr. Jereis with  
10 conspiring, that is, reaching an understanding or an agreement  
11 to commit these crimes of mail or wire fraud, as long as the  
12 government proves the elements of the conspiracy as I have  
13 instructed you, you need not find that the government proved  
14 that any mailing or wire communications in furtherance of the  
15 alleged fraud actually occurred, only that they conspired to  
16 have it occur.

17 Count 3 of the indictment charges Ms. Annabi with  
18 receiving corrupt payments in violation of a federal law that  
19 prohibits the receipt of unlawful payments by state and local  
20 officials where there is a federal interest at stake. This is  
21 not a conspiracy count. She is charged with receiving an  
22 unlawful payment and this count, Count 3, specifically and  
23 solely concerns the Longfellow project, the bribe that  
24 allegedly came from the Milios through Mangone. Mr. Jereis is  
25 charged in Count 3 with aiding and abetting Annabi's commission

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## Charge

1 of the offense of receiving an unlawful payment.

2 Count 4 charges that Mr. Jereis made a stream of  
3 corrupt payments to Sandy Annabi for the purpose of influencing  
4 and rewarding her as specific opportunities arose. And Count  
5 5, that is the flip count, it charges Ms. Annabi with receiving  
6 a stream of corrupt payments from Zehy Jereis and others to be  
7 influenced and rewarded as specific opportunities arose.

8 Again, I am not talking about conspiracy here. I am  
9 not talking about agreements or understanding. We are talking  
10 about the making of payments, the receiving of payments.

11 These counts relate to the various financial benefits  
12 allegedly or admittedly made by Mr. Jereis to Ms. Annabi  
13 between 2002 and 2008. These counts do not relate to what we  
14 will call, for purposes of this charge, the Milio/Mangone  
15 bribe.

16 Now, Counts 3, 4 and 5 have a number of common  
17 elements. That's why I am charging them together, to save  
18 time.

19 The first element of each of these counts that the  
20 government must prove beyond a reasonable doubt is that at the  
21 time the alleged in the indictment, defendant Sandy Annabi was  
22 an agent of the City of Yonkers, specifically, a member of the  
23 Yonkers City Council. You don't have to deliberate on that  
24 issue because counsel has agreed that it is true. It has been  
25 stipulated to.

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## Charge

1           The second element that the government must prove  
2 beyond a reasonable doubt on each of these counts, 3 through 5  
3 is that in a one-year period, the City of Yonkers and/or the  
4 Yonkers City Council received federal benefits in excess of  
5 \$10,000.

6           To prove this element, the government must establish  
7 that the City of Yonkers or the Yonkers City Council received,  
8 during any one-year period, beginning no more than 12 months  
9 before the defendant committed the acts charged in Count 1 of  
10 the indictment and ending no more than 12 months after the  
11 defendant committed the acts charged in Count 1, benefits in  
12 excess of \$10,000 under a federal program involving a grant,  
13 contract, subsidy, loan, guarantee, insurance or some other  
14 form of federal assistance. This does not include legitimate  
15 valid bona fide salary, wages, fees, or compensation paid or  
16 expenses paid or reimbursed in the ordinary course of business.

17           The government is not required to prove that the  
18 benefits were paid directly to the Yonkers City Council by the  
19 federal government; but it must prove that any funds paid to  
20 the City of Yonkers and/or the Yonkers City Council through an  
21 intermediary government, like say, in the State of New York,  
22 actually originated as federal benefits. If some of the funds  
23 paid to the City of Yonkers and/or the Yonkers City Council  
24 originated with the federal government and some from the state  
25 government, the government must prove which funds originated

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## Charge

1 with the federal government, which ones were federal benefits  
2 and whether the federal benefits exceeded \$10,000. That's what  
3 gives these alleged crimes a federal interest. That's why they  
4 are being prosecuted in federal court. The government has to  
5 prove that there's a federal interest in these matters.

6 Now, the government does not have to prove that Sandy  
7 Annabi had the authority to administer these benefits. Nor  
8 does the government have to prove any nexus between the  
9 allegedly unlawful payments that are the subject of this case  
10 and the federal funding that is received by the City of Yonkers  
11 and/or the Yonkers City Council.

12 As to Count 3, as to both defendants, and as to Count  
13 5 for Sandy Annabi -- Mr. Jereis is not a defendant on Count  
14 5 -- the third element that the government must prove beyond a  
15 reasonable doubt is that Ms. Annabi accepted (or agreed to  
16 accept or solicited or demanded) something of value as alleged  
17 in the indictment. Similarly, as to Count 4, which is only  
18 against Mr. Jereis, the government must prove that Zehy Jereis  
19 gave (or offered or agreed to give) something of value to  
20 Ms. Annabi, or to a third party on her behalf, as alleged in  
21 the indictment.

22 Payments made on behalf of a public official, and  
23 loans made to a public official, are "things of value" as used  
24 in this instruction.

25 The statute makes no distinction between accepting a

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## Charge

1 corrupt payment, agreeing to accept one, soliciting one or  
2 demanding one. It makes no distinction between offering  
3 corrupt payment or agrees to give a equipment payment or  
4 actually giving. Simply soliciting, demanding or offering a  
5 corrupt payment is a violation of the statute.

6 The payment need not be made directly to the public  
7 official. If the public official accepted, solicited or  
8 demanded (or the payment was made or offered to) a third party,  
9 intending that Sandy Annabi be influenced or rewarded by the  
10 payment, that is enough to satisfy this element.

11 The fourth element that the government must prove  
12 beyond a reasonable doubt in connection with Count 3, 4 and 5  
13 is that the defendant you are considering acted with corrupt  
14 intent.

15 The specific corrupt intent that Jereis and Annabi are  
16 alleged to have had is the intent to influence as to  
17 Mr. Jereis, or to be influenced as to Ms. Annabi. The intent  
18 to reward as to Mr. Jereis, or the intent to be rewarded as to  
19 Ms. Annabi, for actions that Annabi either took or agreed to  
20 take in her capacity as a Yonkers City Councilwoman.

21 Remember, to act corruptly means to act voluntarily  
22 and intentionally with an improper motive or purpose to reward  
23 or be rewarded. Corruption involves conscious wrongdoing, a  
24 bad or evil state of mind. It is the defendant's intent to be  
25 influenced or rewarded, or in the case of Mr. Jereis, to

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Charge

1 influence or reward that is important, not his or her  
2 subsequent actions. For that reason, the government does not  
3 have to prove that Sandy Annabi actually received any corrupt  
4 payment, or that the corrupt payment actually influenced her in  
5 any way.

6 The government can prove the requisite intent even if  
7 Annabi had no actual authority to take the action contemplated  
8 by the person who offered or made the corrupt payment.

9 And the government can prove the requisite intent  
10 whether the payment was offered or solicited or made or offered  
11 before the alleged action took place or after the alleged  
12 action took place.

13 Remember, in connection with Count 3, the alleged the  
14 action is specifically the Longfellow project and other stuff  
15 is Counts 4 and 5.

16 The fifth element the government must prove on Counts  
17 3, 4 and 5 beyond a reasonable doubt is that the value of the  
18 transaction to which the payment or payments related was at  
19 least \$5,000. So for Count 3, the government has to prove that  
20 the value of the Longfellow project was at least \$5,000.

21  
22 (Continued on next page)  
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24  
25

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Charge

1 THE COURT: (Continued) To establish this element, the  
2 government must prove that the defendant intended to be  
3 rewarded in connection with any business or transaction or  
4 series of transactions from the city of Yonkers and/or the  
5 Yonkers City Council involving anything of value of \$5,000 or  
6 more. Count Three relating to Longfellow; Counts Four and Five  
7 to everything else.

8 If you find that the business or transaction in  
9 question had a value of at least \$5,000, this element is  
10 satisfied. The government need not prove that the defendant  
11 received at least \$5,000. It's the value of the business or  
12 transaction in connection with which the unlawful payment was  
13 solicited and accepted (or offered and made) that is important  
14 for purposes of this element.

15 In determining whether the business or transaction was  
16 valued at \$5,000, do not include legitimate valid or bona fide  
17 wages, salaries, fees or other compensation paid or expenses  
18 paid or reimbursed in the ordinary course of business.

19 Now, in Counts Three and Five, Sandy Annabi is charged  
20 as a principal and Zehy Jereis in both counts is charged as an  
21 aider and abettor.

22 Under the aiding and abetting statute, the government  
23 need not show that the defendant -- in this case it's  
24 Mr. Jereis -- physically committed the crime with which the  
25 defendant is charged in order for you to find him guilty.

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## Charge

1 Thus, if you do not find beyond a reasonable doubt that the  
2 defendant himself committed the crime charged, you may, under  
3 certain circumstances, still find him guilty of that crime as  
4 an aider and abettor.

5 A person who aids or abets somebody else to commit an  
6 offense is just as guilty of that offense as if he had  
7 committed it personally. So you may find the defendant Jereis  
8 guilty of the substantive crimes that are charged against  
9 Ms. Annabi in Counts Three and Five if you find beyond a  
10 reasonable doubt that the government has proved that Ms. Annabi  
11 actually committed the crime, and that Mr. Jereis aided and  
12 abetted her in the commission of the offense.

13 The first requirement for aiding and abetting is that  
14 somebody else has committed an alleged crime. Nobody can be  
15 convicted of aiding and abetting a criminal act if no crime was  
16 committed in the first place. So if you acquit Ms. Annabi on  
17 Count Three and/or Count Five, you can't consider whether  
18 Mr. Jereis aided and abetted her. There was no crime proved  
19 beyond a reasonable doubt. There can be no aiding and abetting  
20 proved beyond a reasonable doubt.

21 If, on the other hand, you were to conclude that a  
22 crime was committed that led to the indictment in Count Three  
23 and Five, then you have to consider whether Mr. Jereis aided or  
24 abetted the commission of that crime. When you aid and abet  
25 the commission of a crime, you willfully and knowingly

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## Charge

1 associate yourself in some way with that crime, and you  
2 willfully and knowingly seek by some act to help make the crime  
3 succeed.

4 Participation in a crime is willful if the action is  
5 taken voluntarily and intentionally, or, in the case of a  
6 failure to act, with the specific intent to fail to do  
7 something that the law requires to be done. In either case,  
8 the action must be undertaken with a bad purpose, either to  
9 disobey or to disregard the law.

10 The mere presence of a defendant where a crime is  
11 being committed, even coupled with knowledge by the defendant  
12 that a crime is being committed, or the mere acquiescence by a  
13 defendant in the criminal conduct of other people, even if he  
14 had guilty knowledge that it's going on, is not sufficient to  
15 establish aiding and abetting. An aider and abettor must have  
16 some interest in the criminal venture.

17 In determining whether a defendant aided and abetted  
18 the commission of a crime with which the defendant is charged,  
19 ask yourself these questions: Did the defendant -- we're  
20 talking about Jereis here; he's the only person charged as an  
21 aider and abettor -- did Mr. Jereis participate in the crime  
22 that's charged against Ms. Annabi as something that he wished  
23 to bring about? Did he associate himself with the criminal  
24 venture knowingly and willfully? And did he seek by his  
25 actions to make the criminal venture succeed?

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## Charge

1           If the defendant Jereis did all these things, then he  
2     qualifies as an aider and abettor. If the government proves  
3     this beyond a reasonable doubt, then he is guilty as an aider  
4     and abettor of the offenses charged in Counts Three and Five.

5           If, however, the defendant Jereis did not do all of  
6     those things, if the government does not prove all of that  
7     beyond a reasonable doubt, then he is not an aider and abettor,  
8     and he is not guilty as an aider and abettor on Counts Three  
9     and Five even if Ms. Annabi were to be found guilty on those  
10    counts.

11           Both defendants, both defendants are charged in Count  
12    Six with committing the crime of extortion induced under color  
13    of official right in violation of a statute that's known as the  
14    Hobbs Act. That's Title 18 U.S. Code, section 1951. Extortion  
15    under official right is the use of one's position as a public  
16    official or the authority of public office to obtain money or  
17    services that are not due to the official or to his or her  
18    public office.

19           Count Six, just like Count Three, relates only to  
20    Longfellow. Only to Longfellow; not Ridge Hill.

21           The first element that the government must prove  
22    beyond a reasonable doubt on Count Six is that at the time of  
23    the events charged in the indictment, defendant Sandy Annabi  
24    was a public official or she held public office. That's  
25    stipulated. You don't have to worry about that.

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## Charge

1           The second thing the government has to prove beyond a  
2 reasonable doubt is that Sandy Annabi obtained money, goods or  
3 services that were not legitimately owed to the office she held  
4 or represented. The government has to prove beyond a  
5 reasonable doubt that the goods or services were not due or  
6 owing -- the legal phrase, due or owing -- to the office that  
7 the defendant represents, which is to say, Ms. Annabi was not  
8 entitled to receive the goods and services as compensation or a  
9 beneficence of her office.

10          The third element the government must prove beyond a  
11 reasonable doubt is that Ms. Annabi used the authority of her  
12 office or her position to obtain the money, goods or services  
13 that she received.

14          To satisfy this element, the government must prove  
15 that Sandy Annabi obtained a payment to which she was not  
16 entitled by use of her office, knowing that the payment was  
17 made in return for official acts rather than being given  
18 voluntarily or for reasons unrelated to the defendant's  
19 official position. Now, Ms. Annabi need not have asked for or  
20 solicited the payments she received, but she must have known  
21 that they were being made in exchange for the specific exercise  
22 of her official power; that quid pro quo thing again.

23          The government does not have to prove that Ms. Annabi  
24 could or that she actually did perform the service or that she  
25 had any duty to do so.

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## Charge

1           The government also need not prove that Ms. Annabi  
2       made an explicit promise to perform a particular act at the  
3       time of the payment.

4           Now, if the government has met its burden of proving  
5       the first three elements beyond a reasonable doubt, then you  
6       have to decide whether this action would have any actual or  
7       potential effect on commerce between any two or more states, or  
8       between a state and the District of Columbia, or between a  
9       state and a U.S. territory or possession, like the Virgin  
10      Islands or Guam, or on commerce within one state that goes  
11      through anyplace outside of that state. Any effect at all on  
12      interstate commerce satisfies this element. The effect can be  
13      minimal.

14          You do not have to decide whether the effect on  
15      interstate commerce was harmful or beneficial to a particular  
16      business or to commerce in general. The government satisfies  
17      its burden of proving an effect on interstate commerce if it  
18      proves beyond a reasonable doubt any effect, whether harmful or  
19      not.

20          The defendant need not have consciously intended or  
21      anticipated that her actions would have an effect on interstate  
22      commerce. You may find the effect to be a natural consequence  
23      of his or her actions.

24          In all of Counts One through Six, there are certain  
25      instructions that relate generally to elements of those

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## Charge

1 charges. Some of those counts require you to find the  
2 existence of an agreement. You may infer that a corrupt  
3 agreement existed from evidence that money, property or other  
4 valuable things were received to benefit a public official  
5 directly or indirectly from evidence that an official favor was  
6 done or contemplated by the public official, or from behavior  
7 indicating a consciousness of guilt. Evidence indicating  
8 consciousness of guilt may include false denials or false  
9 statements about the nature of benefits received, including  
10 false explanations about benefits received in order to conceal  
11 the acceptance of corrupt benefits, or the filing of false and  
12 misleading disclosure documents. Whether or not you decide to  
13 infer from such evidence that it proves an agreement is up to  
14 you. You don't have to draw that inference. You are entitled  
15 to draw that inference.

16 Now, the government need not prove that Sandy Annabi's  
17 intent in receiving or Zehy Jereis's intent in making or  
18 offering the unlawful payments -- if you find there to have  
19 been unlawful payments -- you need not prove that the intent of  
20 these people was entirely corrupt, entirely fraudulent or  
21 entirely deceptive. A defendant may be found to have the  
22 requisite corrupt intent or the requisite intent to defraud  
23 even if he or she possessed a dual intent; that is, partly a  
24 corrupt or fraudulent or deceptive intent and partly an  
25 innocent intent. A valid purpose, like friendship, that

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## Charge

1 partially motivates a payment does not insulate the  
2 participants in an unlawful transaction if any part of their  
3 motivation was corrupt, fraudulent or deceptive.

4 By the same token, the government must prove beyond a  
5 reasonable doubt that some part of their motive was corrupt,  
6 fraudulent or deceptive.

7 Finally, it is no defense that the payment was made or  
8 received to influence an official act that the act was lawful,  
9 or the act was desirable, or the act was beneficial to the  
10 public welfare. In addition, it is immaterial if the giver  
11 paid for something to which he was entitled anyway, or if the  
12 recipient/public official did only what she was obligated to  
13 do, or that there was no pecuniary injury, no money injury to  
14 the local or state government or agency. Even if the official  
15 acted as she normally would have if the corrupt payment had not  
16 been offered or given, the crime has still been committed.  
17 Payment was made or received for the purpose of influencing an  
18 official act.

19 The rest of the charge relates just to Ms. Annabi, and  
20 what I would like to do is take a bathroom break now and come  
21 back in about seven minutes and talk to you about false  
22 statements and the tax counts, and that's much shorter.

23 Don't discuss the case. Keep an open mind.

24 (Jury not present)

25 THE COURT: I have a question for you guys. Are there  
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C31Qann7 Charge

1 any charges as to which if they acquit, they have to acquit on  
2 Count Two? Any other charges as to which if they acquit, they  
3 must acquit on Count Two?

4 MR. CARBONE: No, your Honor.

5 THE COURT: If the mail fraud conspiracy and the  
6 object of the conspiracy is mail or wire fraud but mail or wire  
7 fraud for the purpose of making corrupt payments -- and I don't  
8 know, it's very hard to deliver the charge when I'm trying to  
9 think this through. So I'm taking a break, you think it  
10 through.

11 (Recess)

12 THE COURT: Case on trial continued. The parties are  
13 present. Jurors are not present.

14 Folks, I was specifically told, and I specifically  
15 told the jury, that Jereis, an aider and abettor, charged as  
16 aid and abettor on Count Five. I was specifically told that at  
17 the conference, and it's in there, and I just charged them.  
18 It's not on the verdict sheet. It's wrong one place or  
19 another. I'm going to correct it now in front of the jury or  
20 we are going to change the verdict sheet. What's going on  
21 here? Mr. O'Neill's brilliance. Would anyone like a copy of  
22 the indictment?

23 MR. HALPERIN: We have it, Judge. And could I trouble  
24 Mr. O'Neill just for a copy of the verdict sheet, so I can see  
25 it? But Mr. Jereis is not charged in Count Five. So it seems

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1 like it's correct on the verdict form.

2 THE COURT: Then I have to undo what I just did.

3 MR. HALPERIN: Yes. We apologize for that. This is  
4 correct on the verdict form, so he is not charged in Count  
5 Five.

6 MR. CARBONE: Judge, if I misspoke at the charge  
7 conference --

8 THE COURT: We were all tired, Mr. Carbone.

9 MR. CARBONE: But I think it's Count Six. It's Count  
10 Three and Six, the other Longfellow count.

11 THE COURT: But he's charged as an aider and abettor,  
12 all right. That makes more sense somehow.

13 MR. HALPERIN: Just to be clear, Count Six is charged  
14 both with the substantive Hobbs Act in Count Six as well as an  
15 aider and abettor.

16 (Jury present)

17 THE COURT: I screwed up. And Mr. O'Neill caught it.  
18 That's why I have him.

19 Mr. Jereis is not charged as an aider and abettor on  
20 Count Five, which actually makes a lot of what I said make more  
21 sense, and I will change this written text.

22 Ms. Annabi is charged as a principal and Mr. Jereis is  
23 charged as an aider and abettor on Count Three.

24 Mr. Jereis is charged and Ms. Annabi is not charged on  
25 Count Four.

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## Charge

1 Ms. Annabi is charged and Mr. Jereis is not charged in  
2 any capacity on Count Five.

3 Count Six was just like Count Three, and it relates  
4 only to Longfellow. Ms. Annabi is charged as a principal, and  
5 Mr. Jereis is charged both as a principal and, in the  
6 alternative, if you were not to find him as a principal, as an  
7 aider and abettor. So he's charged with aiding and abetting  
8 Counts Three and Six, the ones that relate only to Longfellow,  
9 and that symmetry makes it easy for me to correct this text,  
10 and I will correct the written text. The elements that I told  
11 you are the same. I told you it was Count Five, and it's not  
12 Count Five. It's Count Six. OK? And I apologize.

13 Now, Counts Seven, Eight and Nine charge Ms. Annabi  
14 with making false statements -- Count Seven to Fremont  
15 Investment and Loan. Count Eight to Columbia Equities Limited  
16 and Count Nine to National City Bank -- in order to influence  
17 those lenders to give her loans.

18 Mr. Jereis is not a defendant on these counts, and the  
19 verdict sheet which the parties have put together -- and of  
20 course they didn't make any mistakes. I made the mistake.  
21 They didn't make the mistake on their verdict sheet -- makes  
22 that very clear. But there's only a box for Sandy Annabi where  
23 you check guilty or not guilty. There's no box for Zehy  
24 Jereis.

25 The elements are the same. It's just the victims, the

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## Charge

1 alleged victims who are different on the three counts. The  
2 first element that the government must prove beyond a  
3 reasonable doubt is that Ms. Annabi either made a false  
4 statement or report to a bank in connection with an application  
5 for or an extension of credit, or that Ms. Annabi caused such a  
6 false statement to be made.

7 A false statement, you will be shocked to learn, is a  
8 statement that is not true.

9 The government need not prove that the defendant  
10 personally made or physically wrote the statement that you find  
11 to be false. It is sufficient to satisfy this element if the  
12 government proves that the defendant caused somebody else to  
13 make the statement and that the statement was untrue when it  
14 was made.

15 Now, if the government does not prove beyond a  
16 reasonable doubt that the defendant Annabi made or caused a  
17 false statement to be made to the relevant bank, and your  
18 verdict is obviously not guilty and you don't even have to go  
19 on and consider the other elements, OK; but should the  
20 government prove beyond a reasonable doubt that Ms. Annabi made  
21 or caused to be made a false statement to whichever bank you're  
22 considering, depending on the count, then the government has a  
23 second element to prove beyond a reasonable doubt, and that is  
24 that the defendant knowingly made the statement that you found  
25 to be false or knowingly caused the statement that you found to

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## Charge

1 be false to be made.

2 It is not a crime to make a false statement  
3 inadvertently or negligently. That's not a crime. So, before  
4 you can find that the government has established the second  
5 element beyond a reasonable doubt, you must be satisfied that  
6 the defendant in making or causing the statement to be made  
7 acted deliberately, intentionally, which is to say  
8 purposefully, and with understanding that she knew what she was  
9 doing; that she knew the statement was false at the time she  
10 either made it or caused someone else to make it.

11 The third element the government must prove beyond a  
12 reasonable doubt is that the defendant made or caused the false  
13 statement to be made for the purpose of influencing in any way  
14 the bank's action in its lending activities. The words pretty  
15 much define themselves. When you act for the purpose of  
16 influencing a bank, it means the person who made the statement  
17 intended that the bank would take action based on the statement  
18 in reliance on the statement.

19 Now, as I previously instructed you, the government  
20 need not prove that the bank actually relied on the alleged  
21 false statement. What the government has to prove is that the  
22 defendant made the false statement with the intent that the  
23 bank would rely on it. It's the defendant's intent that the  
24 government must prove; not the bank's actual reliance.

25 The fourth element that the government must prove

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## Charge

1 beyond a reasonable doubt is that the false statement was made  
2 to a bank, the deposits of which were at that time insured by  
3 the Federal Deposit Insurance Corporation, the FDIC.

4 Counts Ten and Eleven of the indictment charge  
5 Ms. Annabi with filing false or fraudulent tax returns in 2005,  
6 that's Count Ten, and in 2006, that's Count Eleven. Again,  
7 Mr. Jereis has nothing to do with these charges.

8 Now, the elements are the same for the two counts; the  
9 only difference is the year in question. 2005 is Count Ten;  
10 2006 is Count Eleven.

11 As to each count, the first element that the  
12 government must prove beyond a reasonable doubt is that Sandy  
13 Annabi subscribed and filed a tax return. A tax return is  
14 subscribed at the time it is signed. Most of you will have  
15 filed tax returns, and you know you have to sign them. You are  
16 subscribing to a tax return when you sign it.

17 A tax return is filed at the time it is delivered to  
18 the Internal Revenue Service. Now, the Internal Revenue Code  
19 provides that the fact that an individual's name is signed on a  
20 return is evidence that the return was actually signed by that  
21 individual. You may also consider evidence you have heard from  
22 witnesses who identified Ms. Annabi's signature in deciding  
23 whether she signed the returns in question.

24 If the evidence leads you to conclude beyond a  
25 reasonable doubt that Ms. Annabi signed the tax return 2005

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## Charge

1 (Count Ten) and 2006 (Count Eleven), you may also draw the  
2 inference that the defendant had knowledge of the contents of  
3 the return.

4 The second element on these counts that the government  
5 must prove beyond a reasonable doubt is that the return  
6 contained a written declaration that it was made under penalty  
7 of perjury.

8 Perjury is making a material false statement under  
9 oath.

10 To satisfy this element, the government must prove  
11 that on the face of the tax return there appeared a statement  
12 indicating that the return was made under penalty of perjury.  
13 You will make this determination by looking at the tax returns.  
14 Either the statement is there or it is not.

15 The third element that the government must prove  
16 beyond a reasonable doubt is that the defendant did not believe  
17 the return to be true and correct as to every material matter.  
18 To prove this element, the government must establish beyond a  
19 reasonable doubt both that the return was materially false and  
20 that the defendant, Sandy Annabi, knew that it was materially  
21 false.

22 The false statement in the return must be material.  
23 The word material has a very specific definition in connection  
24 with the Internal Revenue Code. A false statement in a tax  
25 return is material if the information that should have been

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## Charge

1 reported on a particular line could influence or impede the IRS  
2 in verifying or auditing the return. The test of materiality  
3 for this particular crime is whether the information required  
4 to be reported on the tax return was needed in order to  
5 evaluate the accuracy of the tax return.

6 Now, the indictment in this case charges that  
7 Ms. Annabi's 2005 and 2006 tax returns were false in that they  
8 failed to report income she received from Zehy Jereis and  
9 others; namely, the Milios. The indictment alleges that these  
10 items constituted income that Annabi should have reported as  
11 income.

12 It also charges with respect to the 2005 year, that  
13 Ms. Annabi falsely stated that she claimed a casualty loss --  
14 let me strike this because I have some multiple words here.

15 With respect to 2005, it charges that Ms. Annabi  
16 falsely claimed a casualty loss based on a \$50,000 loan that  
17 was allegedly made to her father in 2003. It charges that she  
18 took an unlawful deduction for this item which had the effect  
19 of reducing the taxes owed.

20 Now, please note that the alleged \$60,000 payment from  
21 Mr. Jereis to Ms. Annabi which the government, as you know,  
22 contends was an illegal financial benefit and the defense  
23 contends that it was a loan that was paid back and you've heard  
24 all the arguments about that; that that payment is not part of  
25 the tax counts. That payment is not part of the tax counts.

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## Charge

1 Whether that payment was a loan -- and so not income -- or a  
2 benefit -- and so income -- is something that you can consider  
3 in connection with Counts One, Two, Four and Five but not in  
4 connection with Counts Ten and Eleven, not part of the tax  
5 counts.

6 The government must prove beyond a reasonable doubt  
7 that Sandy Annabi knew that the statements that the government  
8 alleges are false in her tax return were in fact false. A  
9 person acts knowingly when she acts intentionally and  
10 voluntarily and not because of ignorance, mistake, accident or  
11 carelessness. Whether a defendant acts knowingly is proved by  
12 the defendant's conduct and all the facts and circumstances  
13 surrounding the case. You should apply my earlier instructions  
14 about assessing knowledge when you consider whether Ms. Annabi  
15 knew that particular statements on her tax return were false.

16 Although the government must show that the false  
17 statement was made as to a material matter, the defendant need  
18 not have known that the matter was material -- only that she  
19 knew it wasn't true.

20 The fourth element the government must prove beyond a  
21 reasonable doubt is that the defendant acted willfully.

22 For the government to prove this element, it must  
23 establish beyond a reasonable doubt that the defendant acted  
24 voluntarily and intentionally with the specific intent and  
25 purpose of making the statement that the defendant knew was

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## Charge

1 false when it was her legal duty to answer truthfully; and the  
2 defendant must have known that it was her legal duty to answer  
3 truthfully.

4 Willfulness is a subjective standard. It is not  
5 proven if the defendant is negligent or careless, even if she  
6 is grossly negligent. To prove willfulness in this context,  
7 the government must demonstrate beyond a reasonable doubt a  
8 deliberate intent to file a false tax return.

9 Now, the government need only prove that one statement  
10 in a particular tax return was false in order for the defendant  
11 to be found guilty. The indictment for 2005, Count Ten charges  
12 two alleged falsehoods: The failure to report as income the  
13 benefits received from Mr. Jereis and the claim of a false  
14 deduction for the alleged loan made to her father and not  
15 repaid.

16 For 2006, it also charges two falsehoods: Failure to  
17 report income received from Mr. Jereis and failure to report  
18 income received from the Milios.

19 The government does not have to prove for either year  
20 that both items charged were false. It only has to prove that  
21 one item was false in order to obtain a conviction. You must,  
22 however, all 12 of you, unanimously agree about what was false.  
23 If four of you think one thing was false and eight of you think  
24 the other thing was false, that's not a unanimous verdict. All  
25 12 must agree that the same statement was false.

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Charge

1 Now, in proving that the defendant filed a false tax  
2 return, the government does not have to prove that there was  
3 tax due and owing for the year at issue. Whether the  
4 government has or has not suffered a monetary loss, a pecuniary  
5 loss, as a result of the alleged false return is not an element  
6 of the crime. The crime is making the false statement.

7 (Continued on next page)  
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C3LUANN8

Charge

1 THE COURT: With regard to your consideration of  
2 whether the receipt of benefits that Ms. Annabi is alleged to  
3 have received and failed to report, it may be useful for you to  
4 know some of the provisions of the tax code that you may find  
5 relevant.

6 One is gross income. The Internal Revenue Code treats  
7 all benefits received from whatever source derived as gross  
8 income unless that benefit is specifically, expressly excluded  
9 by some other provision of the Internal Revenue Code. So all  
10 the money and the stuff that you receive from whatever source  
11 is gross income unless you can find some specific provision in  
12 the Internal Revenue Code that says that's not part of gross  
13 income.

14 A true gift is not income under the Internal Revenue  
15 Code. In order to be considered a gift, the benefit given and  
16 received must be motivated by detached and disinterested  
17 generosity. Giving a benefit motivated by some other purpose  
18 is not a gift under the Internal Revenue Code. If you find  
19 that there were corrupt payments given and/or received in this  
20 case, corrupt payments are not gifts. They are considered  
21 income.

22 You have heard testimony that the defendants made  
23 statements in which they claimed that their conduct was  
24 consistent with innocence and not with guilt. The government  
25 claims that these statements, these exculpatory statements were

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C3LUANN8

## Charge

1 in fact false.

2 If you find that a defendant gave a false statement to  
3 divert suspicion, you may infer that this defendant believed  
4 that he or she was in fact guilty. You may not, however, infer  
5 on the basis of a false exculpatory statement alone that a  
6 defendant is in fact guilty of any crime. In other words, a  
7 false exculpatory statement, while it may be considered by you  
8 as some evidence of guilt, it is not sufficient evidence to  
9 prove guilt beyond a reasonable doubt.

10 Whether the evidence as to a defendant's statements  
11 shows that the defendant believed that he or she was guilty,  
12 and the significance, if any, to be attached to such evidence,  
13 are matters for you, the jury, to decide. And by if any, I  
14 mean if you decide that there was a false exculpatory statement  
15 and you choose not to consider it as evidence of guilt, that's  
16 your call. You make those decisions.

17 Now, with respect to each Count, 1 through 11, there  
18 is one more thing the government has to prove. It has to prove  
19 with respect to each count considered individually whether any  
20 part of the crime occurred within the Southern District of New  
21 York.

22 The Southern District of New York is comprised of the  
23 following counties: New York County -- Manhattan, the Bronx,  
24 Westchester, Putnam, Rockland, Dutchess, Orange and Sullivan  
25 counties. I charge you that Yonkers, the city of Yonkers which

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## Charge

1 is located in Westchester County is located within the Southern  
2 District of New York.

3 The government doesn't have to prove that all of the  
4 conduct charged in the indictment occurred in the district. As  
5 to each count, venue turns on whether any part of the crime  
6 charged was committed within the district. And I wish this was  
7 not true because it is confusing -- moreover, the government  
8 does not need to prove venue beyond a reasonable doubt. It is  
9 the only thing that the government does not have to prove  
10 beyond a reasonable doubt. It just has to prove venue by a  
11 preponderance of the evidence which means it is more likely  
12 than not as to each count that something happened in the  
13 Southern District of New York. But if the government does not  
14 prove by a preponderance of the evidence as to any count that  
15 something happened in the Southern District of New York, then  
16 you have to acquit the defendant.

17 The indictment charges that certain acts occurred on  
18 or about a specific date. Count 1 charges a conspiracy from in  
19 or about 2002 until in or about 2009. Some other counts charge  
20 more specific dates -- usually they say "in or about." It does  
21 not matter if the evidence you heard at trial indicates that a  
22 particular act occurred on a different date, but the law  
23 requires that there be a substantial similarity between the  
24 dates alleged in the indictment and the dates established by  
25 the evidence, whether the dates shown by the evidence are

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Charge

1 substantially similar to the dates alleged in the indictment,  
2 it is up to you whether you think they are substantially  
3 similar. Your call to make.

4 Also, the indictment alleges certain dollar amounts.  
5 Again, the law only requires a substantial similarity between  
6 the indictment and the proof. So if you find that the evidence  
7 indicates that, in fact, a different amount than the amount  
8 alleged in the indictment was involved, it is for you to  
9 determine whether those amounts are substantially similar or  
10 whether there is a material difference between the amount  
11 alleged in the indictment and the amount actually proved.

12 The verdict must represent the considered judgment of  
13 every juror. Now, our law is that in order to return a  
14 verdict, 12 jurors must agree unanimously that the government  
15 has proved all the elements of a charged crime beyond a  
16 reasonable doubt.

17 I don't know what you all are thinking in your 12 --  
18 actually, 16 individual heads. I would not be surprised if not  
19 all of you were thinking exactly the same thing.

20 To reach a verdict, it is your duty to consult with  
21 each other, with a view to reaching an agreement. What do I  
22 mean when I say you consult, you deliberate -- that's what we  
23 mean when we say deliberate. You consult with each other with  
24 a view to reaching an agreement.

25 Deliberating jurors do two things. You talk. You

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## Charge

1 tell the other people in the room what you think the evidence  
2 shows and whether you think it shows it beyond a reasonable  
3 doubt. That's just half of it. A deliberating juror sits back  
4 and listens respectfully and with an open mind, a mind that is  
5 capable of being persuaded to what the other people in the room  
6 think.

7       You may have very strong views about what you think  
8 the evidence does or does not establish beyond a reasonable  
9 doubt. You are entitled to your opinion. But if you go into  
10 that jury room and you are unwilling to test your own  
11 conclusions against the views of the other people in the room  
12 and to allow for the possibility that maybe what that person's  
13 view of the evidence is makes more sense than what you  
14 initially thought, you are not willing to undergo that  
15 exercise, then you are not willing to deliberate and then I can  
16 guarantee you that you will not reach a verdict.

17       And in all of the years I have been doing this, I have  
18 really only had one jury, one that was doomed from the get-go,  
19 where one of the jurors went into the jury room and, as I later  
20 learned, said, I have heard the evidence. This is what I  
21 think. My way or the highway. Wouldn't talk. Wouldn't  
22 reason. Wouldn't listen. Eventually turned his chair back to  
23 the wall and started reading the newspaper. That jury did not  
24 reach a verdict because there was a juror who would not  
25 deliberate.

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## Charge

1 Part of your oath requires you to deliberate with each  
2 other. In the end, of course, each of you has to make your own  
3 decision, but you can only do that after you impartially and  
4 fairly consider the evidence with the other people in the room.  
5 In the course of your deliberations, do not hesitate to change  
6 your mind if others in the room convince you by force of their  
7 argument that your original view of the evidence is not the  
8 best view.

9 By the same token, do not surrender your honest  
10 opinion just because you are tired, you want it to be over, you  
11 are in the minority. It is your honest view, it is your honest  
12 view.

13 Remember at all times, you are not in this as  
14 partisans. You are in there as judges. I told you at the  
15 beginning of the case, you are just as much judges as I am; you  
16 are the judges of the facts.

17 Now, let's talk about logistics because it is the end  
18 of the day.

19 Tomorrow morning, when you arrive, Jurors Number 1  
20 through 12, you will go to the jury room. When all 12 of you  
21 are there, you will knock on the door. Jim will stick his head  
22 in. You will say, we're ready to go. Jim will say, get  
23 started.

24 And the first thing you will do is you will elect one  
25 of you to be your foreperson. The foreperson will preside over

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Charge

1 your deliberations. I don't know what that means. It means  
2 whatever you want it to mean. There are juries that have  
3 forepersons who organize the room and call on people as they  
4 raise their hand. There are juries that are much more casual,  
5 eat what you want. But the foreperson has a role to play for  
6 me because there is some administratrivia that goes along with  
7 being a deliberating jury -- things like signing notes and  
8 making requests and, at the end of the case, delivering the  
9 verdict, and the foreperson does that.

10 The foreperson doesn't have any more of a vote, any  
11 more of an opinion. His or her views aren't any more important  
12 than those of anybody else in the room. It is just that we  
13 need somebody to be in charge of the administrative detail and  
14 to provide whatever organizational structure you guys want  
15 provided. You'll pick who that is going to be.

16 Now, if it becomes necessary during your deliberations  
17 for you to communicate with me, you have to send out a note.  
18 It is to be signed by the foreperson. If the foreperson goes  
19 on strike, which has happened a few times, like the foreperson  
20 didn't like the question and refused to sign the note, the  
21 foreperson goes on strike some other juror signs the note but,  
22 ordinarily, the foreperson signs the note, put the date, put  
23 the time, knock on the door. Jim will take the note.

24 Don't ever try to talk to me about anything except by  
25 sending me a note. And I won't talk to you except by writing a

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Charge

1 response on the note and putting my initials on it and one of  
2 the prosecutors will put initials on it, Mr. Aronwald will put  
3 initials on it, Mr. Siano and Ms. Gallego will put initials on  
4 it and we will send it back to you, or we will bring you out  
5 here, put you in your chairs and we will chat.

6 Now, in any note that you send me, just ask a  
7 question. Don't offer any gratuitous information, in  
8 particular, please don't tell me what the vote is on any count.  
9 Judge, we have a question about Count 4. We are nine to three  
10 for acquittal and we would like to know -- don't do that. I am  
11 not supposed to know. It screws everything up when I find out.  
12 So just ask the question. The only vote I care about is when  
13 you send out a note that says, we have reached a verdict. Then  
14 I will know that the vote is 12 to nothing, and that's the only  
15 vote I am supposed to hear.

16 Now, I am about to administer an oath to  
17 Mr. O'Neill --

18 THE DEPUTY CLERK: The court security officer is here  
19 as well, Judge.

20 THE COURT: -- and to the court security officer.  
21 (Deputy clerk and marshal sworn)

22 THE COURT: What that means is that you are  
23 sequestered in the federal sense, which means you are going to  
24 be in the jury room all day every day until you reach your  
25 verdict. And one of the two of them is going to be out here

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Charge

1 with you to accept those knocks on the door. They are not  
2 allowed to talk to you about anything other than administrative  
3 matters like, we would like to have a smoking break now. We  
4 can't stand each other anymore so could we spend 15 minutes  
5 apart? Can we have our lunch early today? Those kinds of  
6 things, not the merits of the case, OK.

7 When you to into the jury room tomorrow, you will find  
8 that sitting there are carts containing all of the exhibits.  
9 The parties have been through them. We know they are the real  
10 deal. We know they are all in evidence. And we are sending  
11 them back to you. So you can rifle through them at your  
12 pleasure, look at whatever you want to look at. We are not  
13 sending back the videotapes. If you want to watch the  
14 videotapes, we will bring you out here and we will show you  
15 whatever you want to see on the videotapes, but to set up  
16 equipment in there is just impossible.

17 If you want to go over the testimony of a witness and  
18 you have talked and you have exhausted your collective  
19 recollection and you have a disagreement about what a witness  
20 said or you can't remember some particular detail, you send me  
21 a note and you ask for whatever testimony you want. And one of  
22 the lawyers mentioned it yesterday. You can ask for a piece of  
23 cross-examination without direct. You can ask for direct  
24 without cross. You can ask for all of the testimony by a  
25 particular witness on a particular matter or just one piece of

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Charge

1 testimony. Ask for whatever you want.

2 We will then swing into action. We have to find that  
3 testimony, to find it in the transcript. We have to hope that  
4 the transcript is clean. We have to go through it. We have to  
5 take out the objections. We have to take out the sidebars. We  
6 have to see if there is a disagreement over does this really  
7 respond to the note? I have to resolve that disagreement.

8 In other words, it will not be instantaneous that you  
9 get your testimony. We will most likely, physically, send it  
10 back, physically send back the portion of the transcript. I  
11 have an option to bring you out here and let you read it, but  
12 recently I have been able to physically send back the portion  
13 of the transcript that you are interested in and jurors tend to  
14 like that better, and I tend to like to do what jurors like  
15 better. So that is probably how I will respond to those  
16 requests.

17 The court reporters are the most astonishing people in  
18 this entire system. You have to give them time to find the  
19 testimony. So if you ask for testimony, understand that it  
20 will take us some time and go on to some other matter.

21 Now, it is a rule of law that jurors will always ask  
22 for testimony five minutes after we left for lunch. It is just  
23 a rule. It always happens. But we will have somebody here and  
24 we will do our best to respond to those requests as fast as  
25 humanly possible.

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## Charge

1           You are going to have copies of my charge. I had to  
2 make some changes because, as you know, I found out that I made  
3 a mistake in my charge and I have to conform that mistake to my  
4 correction. But you will have copies of the charge in the jury  
5 room. That doesn't mean I won't answer questions about the  
6 charge. Jurors tell me that they find it helpful to have it,  
7 and I am happy to provide it, but sometimes even after you read  
8 it, it is not clear what it was that I intended to say, and I  
9 have been known to better the second time around or the third  
10 time around. So just because I am sending the charge back  
11 doesn't mean that I am not going to answer your questions. I  
12 will answer your questions if you have any and, in fact, until  
13 such time as you reach a verdict, the most important thing I  
14 have to do, the most important call on my time is to give you  
15 whatever assistance I can to help you reach your verdict.

16           So I need to have one last sidebar.

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18           (Continued on next page)

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C3LUANN8

Charge

1 (At the sidebar)

2 THE COURT: Mr. Halperin, what do you think we are  
3 here for?

4 MR. HALPERIN: No objections.

5 Judge, I am so tired.

6 THE COURT: Mr. Aronwald.

7 MR. ARONWALD: Judge, there is just one.

8 THE COURT: Yes.

9 MR. ARONWALD: On page 63, I think where it says in  
10 that last paragraph, whether that payment was a loan (and so  
11 not income) or a benefit (and so income) -- it is the second  
12 parentheses that I think is wrong. It would still be a benefit  
13 but it is not income. The fact that if it is loan -- I think  
14 Mr. Halperin's point is that even though it was a loan, it was  
15 still a benefit, but it wasn't income. So it could still be a  
16 loan which is not income for tax purposes, but it will be a  
17 benefit in the government's theory of the case.

18 THE COURT: He is absolutely right.

19 MR. ARONWALD: It has nothing to with 10 and 11.

20 MR. CARBONE: You want a reference to make sure that  
21 it doesn't have --

22 MR. ARONWALD: What the judge has done here the  
23 parentheses and so income --

24 THE COURT: You know what, it should say whether that  
25 payment was a loan and so not income for tax purposes or is

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1 income for tax purposes is something that you may consider.

2 MR. ARONWALD: That's right. Although that is not  
3 part of Counts 10 and 11.

4 THE COURT: You may consider in connection with Counts  
5 1, 2, 4 and 5 but not in connection with --

6 MR. ARONWALD: That was it.

7 THE COURT: That's great.

8 MR. SIANO: No exceptions. No objections.

9 THE COURT: I am proposing to have the alternates come  
10 in tomorrow in case someone is hit by a bus. We have Judge  
11 Rakoff's jury room -- he doesn't need it anymore -- and we can  
12 put them there for the morning. I will get them breakfast, and  
13 we will see what happens as the morning goes on.

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15 (Continued on next page)

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Charge

1 (In open court)

2 THE COURT: I have a correction to make, another  
3 correction to make.

4 Remember I talked about that \$60,000 payment that the  
5 defense says is a loan and the government says is an illegal  
6 financial benefit. That is not part of the tax count. And  
7 then I kind of made a mess of explaining why it wasn't part of  
8 the tax count. It is not part of the tax count. So whether it  
9 was a benefit or not a benefit is something you can consider in  
10 connection with Counts 1, 2, 4 and 5, but there is no issue  
11 about whether it is a loan and so it is not taxable income  
12 because a loan is not taxable income. So you don't consider  
13 that 60,000 -- don't even think about the \$60,000 in connection  
14 with Counts 10 and 11. Don't even think about the \$60,000 in  
15 connection with Counts 10 and 11. That is the easiest way to  
16 say it. Don't think about it.

17 Deliberate, jurors, only when you are all together.  
18 If somebody is not in the room, if somebody is using the  
19 facilities, if somebody is out on a smoking break -- I hope  
20 nobody smokes but some people do and you cannot smoke in the  
21 jury room so you have to leave the jury room -- if you are not  
22 all 12 there, you never know when somebody is going to say the  
23 thing that will cause the penny to drop and everyone will say  
24 yes, of course, that's right, that's it. So only deliberate  
25 when you are all there.

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## Charge

1           If you do happen to want to get out of the room for a  
2   few minutes or somebody smokes and they need to leave the room  
3   because you cannot smoke in the jury room, you have to knock on  
4   the door and tell Jim or the court officer who will arrange for  
5   anybody who wants to leave to go outside and breathe some fresh  
6   air.

7           Don't take it upon yourselves to leave the room. That  
8   too only happened to me once. It was a disastrous afternoon.  
9   It was like ants getting out the ant farm and we could not find  
10  some of the jurors for a while. All was well that ended well,  
11  but I make a big point in saying do not leave the jury room on  
12  your own. If you need to leave the jury room, we will help you  
13  to accomplish that purpose.

14          Alternates, Jurors Number 13, 14, 15 and 16, first of  
15  all, I can honestly say I have never gotten through a trial of  
16  this length without having at least one alternate already  
17  seated -- absolutely astonished. But it ain't over until it is  
18  over and it's not over.

19          So here's what I want you to do tomorrow morning.  
20  First of all, tonight when you are leaving, I want you to say  
21  goodbye to your buddies. I know it is so sad.

22          And then tomorrow I would like for you to come too to  
23  court. And I would like you not to go into the jury room, but  
24  I would like you instead to come in here and have a seat and  
25  Mr. O'Neill will take you someplace elsewhere where you will

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Charge

1 spend a few hours, because what if somebody gets hit by a bus  
2 tonight? And I wouldn't want to try to chase you down  
3 tomorrow. So if you will do me the kindness, the four of you,  
4 of coming into court for a short period of time. If we need to  
5 avail ourselves of your services, we will do so. If we don't,  
6 then certainly by the middle of the day, we will put you on  
7 telephone notice and we will excuse you, although with very  
8 clear instructions that you are not to discuss the case and  
9 keep an open mind and please, God, don't talk to the press and  
10 those sorts of things.

11 You are going to work harder tomorrow than you have  
12 ever worked so, please, please, have a restful evening. It has  
13 been a long two days.

14 I want to thank the lawyers for what I think was  
15 extraordinarily helpful summations. When it takes this long to  
16 put in the evidence, it is exceedingly important to have the  
17 summations put it all together from the various perspectives  
18 that you need to consider.

19 And thank you for being so attentive during a long and  
20 tedious charge.

21 I won't see you tomorrow until you tell me you want to  
22 be seen, but know that you can call on me anytime you like.

23 So Jurors Numbers 1 through 12 are free to begin  
24 deliberating when Mr. O'Neill says start tomorrow morning. At  
25 that moment, you may begin, finally, to discuss the case and

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1 you may start closing your minds -- not until then.

2 And tonight, don't discuss the case, keep an open

3 mind.

4 Alternates, the same goes for you. I will probably

5 see you relatively early in the morning.

6 Look forward to it.

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8 (Continued on next page)

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1 (Jury not present)

2 THE COURT: Do you guys have the exhibits?

3 MS. GALLEG0: With locked through it and there are a  
4 few issues.

5 THE COURT: There are issues. That's what I am here  
6 for.

7 MR. CARBONE: I think it really may come down to one  
8 issue, and we gave the court reporter the sheet, the page where  
9 we think there could be typo. It relates to Government Exhibit  
10 611 which is the 2005 tax return. The transcript is unclear,  
11 we think, about whether it was formally admitted -- I should  
12 say the defense things whether it was formally admitted.

13 THE COURT: I think it was formally admitted.

14 MR. CARBONE: It is a document that the transcript,  
15 where the parentheses appear it says admitted, it is not  
16 consistent with the rest of the transcript. So the court  
17 reporter is going to check it, and if we can resolve it to Mr.  
18 Aronwald's satisfaction, I think that's the only exhibit.

19 MR. ARONWALD: It is just a question the transcript  
20 indicates that the exhibit was not admitted and Mr. Carbone  
21 thinks it may be a typo --

22 THE COURT: It sounds like a typo to me because I am  
23 positive that I admitted it.

24 MR. HALPERIN: Judge, we are too, in fact it was  
25 obviously shown and discussed with Mr. Farhat at length --

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1 MS. GALLEGO: It was, but in the testimony it actually  
2 was specifically excluded, 611, which was why I raised it.

3 THE COURT: I will deal with it.

4 MS. GALLEGO: The next one is Government Exhibit 1203  
5 which is the signature page of the HBB account committee to  
6 elect Sandy Annabi. Now this was offered and admitted early  
7 on, however, it became an issue when we realized that the  
8 government was seeking to introduce this related to a 403 --

9 MR. CARBONE: This is separately marked and it doesn't  
10 have to go in.

11 THE COURT: Doesn't have to go in, fine. That solves  
12 that problem.

13 MS. GALLEGO: The next one, I believe, is 3519-B1  
14 which is a portion of Antonio Milio's grand jury testimony.

15 Mr. Halperin, I believe it was, that offered page 9,  
16 line 17 through page 11, and in the description they want to  
17 make it shorter.

18 MR. HALPERIN: Judge, could I have a moment to check,  
19 because I remember at the next break I clarified?

20 THE COURT: Normally, 3500 material --

21 MR. HALPERIN: I think that we are offering it under  
22 the rule of completeness because counsel had offered a portion  
23 because counsel wanted to offer a separate portion.

24 If I could have a moment to check the transcript so  
25 that I can clarify which pages we were seeking to offer, and I

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1 think it was page line 9, 17 through 21.

2 MS. GALLEGO: You did clarify it to put it on the  
3 record, however, your Honor said it is on the record but she  
4 didn't officially --

5 THE COURT: Well, guess what, that is official. For  
6 me, Ms. Gallego, that is official.

7 MS. GALLEGO: Also Exhibit 201-A.

8 MR. CARBONE: No objection, Judge, we don't have to  
9 have that in.

10 THE COURT: Talk it out.

11 MS. GALLEGO: Also, Mr. Siano offered 3526A which is a  
12 portion of the grand jury testimony of Mr. Serrao. Your Honor  
13 admitted a portion of it, in order so that the jury can  
14 determine if it was inconsistent with his statement here before  
15 the Court and Mr. Turk brought it to my attention as something  
16 to be discussed.

17 MR. HALPERIN: Judge, can we have a moment to look at  
18 the transcripts?

19 MS. GALLEGO: It is 2/21, page 512. February 21st is  
20 the date and the page is 512.

21 Would your Honor like a copy?

22 THE COURT: I would like to find out what is in the  
23 transcript.

24 And what seems to be the problem with this? I  
25 remember the testimony vividly.

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1 MR. HALPERIN: Judge, looking at the transcript pages  
2 513 and 514 --

3 THE COURT: Read me the disputed testimony.

4 MR. HALPERIN: Page 513, it sounds like -- I don't  
5 know if this is -- I think it is Mr. Siano's cross-examination  
6 of Antonio Serrao. And starting at line 7 he says: "Mr.  
7 Serrao, you testified that someone name Zehy referred Sandy  
8 Annabi to your store."

9 THE COURT: Right.

10 MR. HALPERIN: It certainly looks like the portion  
11 down to line 20, the Court did receive.

12 THE COURT: I certainly did.

13 MR. HALPERIN: I think the issue is that I think the  
14 defense wants to get in a portion from the next page of the  
15 grand jury testimony as well. We don't have any objection to  
16 the portion that the Court received which is page 32. And I  
17 can hand it up to Mr. O'Neill. So we have no objection to the  
18 first page of this document, but we are unclear on why the  
19 second page.

20 THE COURT: The second page is admitted because your  
21 objection was we don't see how it is inconsistent and I ruled  
22 that that was an improper objection.

23 MR. HALPERIN: Judge, I don't think that they even  
24 offered the second page of that two-page excerpt I just handed  
25 up to the Court which Mr. O'Neill has.

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1 THE COURT: I have the two-page excerpt too.  
2 "When Sandy Annabi came in bringing the 8 by 10  
3 picture of the watch did Zehy come with her?"  
4 "No."  
5 I heard it and I didn't hear it at sidebar.  
6 MR. HALPERIN: Judge, I don't see where that is even  
7 offered by the defense as a prior inconsistent statement. That  
8 is our point. The defense clearly offered on page 513 of the  
9 transcript what is on the first page of the document, page 32  
10 from the grand jury transcript, but I don't see any offer of  
11 page 33 in the transcript.  
12 THE COURT: Offer in evidence second abstract, your  
13 Honor, bottom of page 513.  
14 MR. HALPERIN: I think that is referring --  
15 MR. SIANO: Judge, on page 511 is a specific reference  
16 to page 33 of the transcript. I think I sort of flopped in my  
17 inquiry.  
18 THE COURT: They are both in.  
19 MR. SIANO: Thank you, Judge.  
20 MS. GALLEG0: Just one more matter. Your Honor was  
21 going to rule on the admissibility of Franco Milio 3500  
22 material portion.  
23 MR. SIANO: The portion where he describes who knew --  
24 THE COURT: Show me where it is in the transcript.  
25 MR. CARBONE: Your Honor, if you want, we can consult  
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C3LUANN8

1 and try to work them out.

2 THE COURT: It has to be done tonight so that this  
3 stuff can be ready to go tomorrow.

4 MS. GALLEG0: It is February 28.

5 MR. SIANO: 1344 of the transcript, your Honor.

6 THE COURT: What am I looking at?

7 Page 1344, he looked at something. He said it  
8 refreshed his recollection. It doesn't come into evidence.  
9 The prior statement doesn't come into evidence. He said it  
10 refreshed his recollection. He is then questioned. The  
11 statement that was offered to refresh his recollection, the  
12 statement that was shown to him to refresh his recollection is  
13 not in evidence. It is not in evidence.

14 MR. SIANO: Judge, I'm sorry, 348 into 349.

15 THE COURT: I am at page 1344.

16 MR. SIANO: 1348.

17 MR. HALPERIN: Is this where they were going to offer  
18 the co-conspirator statement against the government? I don't  
19 see how it comes in.

20 THE COURT: It doesn't come in.

21 I forgot that I hadn't made that official.

22 MR. HALPERIN: 611 is in?

23 THE COURT: What is 611?

24 MR. HALPERIN: It is the 2000.

25 THE COURT: It is in.

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1 (Government Exhibit 611 received in evidence)  
2 MR. HALPERIN: I wasn't sure.  
3 THE COURT: If it is not in, I don't know why because  
4 everybody closed on it.  
5 (Proceedings adjourned until 9:30 a.m., March 22,  
6 2012)

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GOVERNMENT EXHIBITS

Exhibit No.	Received
611 . . . . .	.3805

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C3mQann1 Trial

1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

2  
3 UNITED STATES OF AMERICA,

3  
4 v.

10 CR 007 (CM)

4  
5 SANDY ANNABI and ZEHY JEREIS,

5  
6 Defendants.

6  
7 -----x

7  
8 New York, N.Y.

8 March 22, 2012

9 10:15 a.m.

9  
10  
10  
11 Before:

11  
12 HON. COLLEEN MCMAHON

12  
13 District Judge

13  
14  
15 APPEARANCES

15  
16 PREET BHARARA

16 United States Attorney for the

17 Southern District of New York

17 JASON P.W. HALPERIN

18 PERRY A. CARBONE

18 Assistant United States Attorneys

19  
19 WILLIAM I. ARONWALD

20 Attorney for Defendant ANNABI

20  
21 ANTHONY J. SIANO

21 JEANNIE GALLEG0

22 Attorneys for Defendant JEREIS

23  
24  
25 SOUTHERN DISTRICT REPORTERS, P.C.  
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C3mQann1

Trial

1 (In open court; jury not present)

2 THE DEPUTY CLERK: Case on trial continued. The  
3 government and defendants are present. The jurors are in the  
4 jury room. The alternates are in a separate room.

5 MR. HALPERIN: Good morning, your Honor.

6 THE COURT: Good morning.

7 So here is what we did: We found three pages -- and  
8 they were page 39, page 45 and page 47 -- in the written charge  
9 which was originally given. I'm not sure this is even true,  
10 because I have the charge as given.

11 We've made a change so that the written charge says:  
12 Neither defendant is charged as an aider and abettor in  
13 connection with Counts Four or Five. That's not because I said  
14 something wrong on page 39 the first time. It's to clarify  
15 something that I said wrong later which we caught later. Page  
16 45 had originally said: "In Counts Three and Six" -- it now  
17 says or when we get rid of the extraneous S -- "In Count  
18 Three." The reason it says in Count Three is because of where  
19 it appears in the charge, and I think that is where the error  
20 crept in. The aiding and abetting charge should have been  
21 after Count Six. For some reason, it was after Count Five. My  
22 mistake. My bad. That's the only change to page 45.

23 Count Six page 47, I said, "In this count Ms. Annabi  
24 is charged as a principal and Mr. Jereis is charged in the  
25 alternative either as a principal or as an aider and abettor."

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C3mQann1

Trial

1 Those are all relatively simple little clean-ups and that's  
2 exactly what I said to the jury yesterday when we cleaned up.

3 You should have been given proposed page 51A which I  
4 will bring the jury out and read it to them. Page 51A, which  
5 Mr. O'Neill will give me a copy of -- because I don't have a  
6 copy of it because my computer is not working -- is a separate  
7 page that explains: On Count Six Mr. Jereis is charged in two  
8 ways. He is charged as a principal, and he is also charged as  
9 aiding and abetting Ms. Annabi who was charged only as a  
10 principal. My instructions on aiding and abetting, which I  
11 gave you in connection with Count Three, apply equally to Count  
12 Six. The only difference between Count Three and Count Six is  
13 that Mr. Jereis is charged only as an aider and abettor on  
14 Count Three, but he is charged in the alternative as either a  
15 principal and an aider and abettor on Count Six. So if you  
16 decide the government has proven Ms. Annabi's guilt beyond a  
17 reasonable doubt on Count Six but has not proven beyond a  
18 reasonable doubt that Mr. Jereis is guilty as a principal on  
19 Count Six, you should consider whether the government has  
20 proven beyond a reasonable doubt that Mr. Jereis aided and  
21 abetted Ms. Annabi's commission of the offense of extortion as  
22 charged in Count Six. Remember, just as with Count Three, if  
23 Ms. Annabi did not commit the offense charged in Count Six,  
24 Mr. Jereis cannot be convicted of aiding and abetting her in  
25 the commission of Count Six."

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C3mQann1

Trial

1 MR. HALPERIN: We have no objection.

2 THE COURT: Does that work?

3 MR. ARONWALD: No objection.

4 MR. SIANO: No objection.

5 THE COURT: I need all jurors including the  
6 alternates.

7 THE DEPUTY CLERK: Before you do that, Mr. Aronwald  
8 asked about page 63 striking the word "income."

9 THE COURT: Is there a typo on page 63?

10 MR. ARONWALD: You were going to strike out the word  
11 "income" in the second parentheses if you remember, Judge.

12 THE COURT: I changed it entirely.

13 MR. ARONWALD: OK.

14 THE COURT: This is not the way it should be. I don't  
15 have the current version. I don't have the version I marked up  
16 last night.

17 MR. ARONWALD: Does the Judge want to see my copy?

18 THE COURT: No page.

19 MR. ARONWALD: 63.

20 THE COURT: There is no 63. It goes from 62 to 64, so  
21 it was taken out.

22 MR. ARONWALD: I believe it was page 62 of the  
23 original charge.

24 THE COURT: Here it is. It had better be in there.  
25 Please note that the alleged \$60,000 from Mr. Jereis

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C3mQann1 Trial

1 to Ms. Annabi which the government contends was an illegal  
2 financial benefit, and defense contends it was a loan, it is  
3 not part of the tax count. Whether that payment was or was not  
4 a benefit is something you may consider in connection with  
5 Counts One, Two, Four and Five, but you may not consider it at  
6 all in connection with Counts Ten and Eleven.

7 MR. ARONWALD: That's fine, your Honor. That's not  
8 the wording I have on page 63 I was just handed.

9 THE COURT: In that case, it was not appropriately  
10 corrected, and it will have to be re-corrected.

11 THE DEPUTY CLERK: Very good.

12 MR. ARONWALD: Thank you, your Honor.

13 (Jury present)

14 THE COURT: Warm greetings. Good morning. I couldn't  
15 live without you. Actually, you remember that yesterday I made  
16 a couple of mistakes which I corrected. So in preparing the  
17 written charge to send back to you, I wanted to make those  
18 corrections very clear.

19 As a result, I added a page, and I changed a paragraph  
20 on another page from the written charge, and the rule is I have  
21 to have you in the seats, and I have to read it to you. All  
22 right? So I know this is out of context, and it's a little bit  
23 silly, but there is going to be a page 51A in the charge that  
24 you get. I didn't read this page to you yesterday because I  
25 wrote it ten minutes ago. I did tell you these things

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C3mQann1

Trial

1 yesterday.

2 Mr. Jereis is charged on Count Six in two ways. He is  
3 charged as a principal and he is also charged as aiding and  
4 abetting Ms. Annabi who is charged only as a principal. Now,  
5 my instructions on aiding and abetting, which I gave you in  
6 connection with Count Three -- of course yesterday I said Three  
7 and Five, but we know that's not right because I corrected  
8 that -- my instructions on aiding and abetting which I gave you  
9 in connection with Count Three apply equally to Count Six. The  
10 only difference between Count Three and Count Six is that  
11 Mr. Jereis is charged only as an aider and abettor, only as an  
12 aider and abettor on Count Three, but he is charged in the  
13 alternative as either a principal or an aider and abettor on  
14 Count Six.

15 So, speaking directly to Count Six, if you decide that  
16 the government has proven Ms. Annabi's guilt beyond a  
17 reasonable doubt on Count Six, but has not proven beyond a  
18 reasonable doubt that Mr. Jereis is guilty as a principal on  
19 Count Six, then you should consider whether the government has  
20 proven beyond a reasonable doubt that Mr. Jereis aided and  
21 abetted Ms. Annabi's commission of the offense of extortion as  
22 charged in Count Six.

23 Remember, just as with Count Three, if Ms. Annabi did  
24 not commit the offense charged in Count Six, Mr. Jereis can't  
25 be convicted of aiding and abetting her in the commission of

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C3mQann1 Trial

1 Count Six.

2 Now I've read that to you.

3 The other change that we made was in connection with  
4 the tax count. I now need my handwritten notes because this is  
5 not what this says. This is when I told you about the \$60,000  
6 loan payment, that that's not part of the tax count. All  
7 right?

8 So the alleged \$60,000 payment from Mr. Jereis to  
9 Ms. Annabi, which the government contends was an illegal  
10 financial benefit, and the defense contends was not, is not  
11 part of the tax counts. Whether that payment was or was not an  
12 illegal financial benefit is something you may consider in  
13 connections with Counts One, Two, Four and Five, but you may  
14 not consider it at all in connection with Counts Ten and Eleven  
15 OK? Now I've read you that.

16 Now you can wave good-bye to your friends again, and  
17 you can go back and you can resume your deliberations, and as  
18 soon as we get this photocopied, we'll send you back the  
19 charge.

20 (Recess pending verdict)

21 (In open court; jury not present)

22 THE DEPUTY CLERK: Case on trial continued the  
23 government and defendants are present. The jurors are not  
24 present.

25 THE COURT: OK. I think it's time to let the  
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C3mQann3 Deliberations

1 alternates go.

2 MR. CARBONE: Agreed, your Honor.

3 MR. ARONWALD: Your Honor, what is your procedure in  
4 terms of having them on telephone alert?

5 THE COURT: Well, my procedure is I will have them on  
6 telephone alert, but I have never called them back. The  
7 Circuit authorizes us and prefers that we go with eleven and  
8 not start deliberations over again, and that's what I do.

9 MR. ARONWALD: OK.

10 THE COURT: Indeed, that's what I've done.

11 MR. ARONWALD: My only concern, obviously, is we've  
12 been at this for five weeks and can always expect the  
13 unexpected. If we lose two, it means we're back to square one  
14 and have to do this all over again.

15 THE COURT: Dear God if we lose two.

16 MR. ARONWALD: I hope not.

17 THE COURT: I hear what you are saying. If we lost  
18 two, I guess I'd have to rethink my procedure. When we got to  
19 the second one, I think I'd have to rethink my procedure. As  
20 little as you want to redo this, Mr. Aronwald, I don't want to  
21 do it again either.

22 MR. ARONWALD: Judge, I can tell. I know.

23 THE COURT: No offense meant. I've had a great time.  
24 Once was enough.

25 THE DEPUTY CLERK: Alternate jurors entering.

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C3mQann3

## Deliberations

1 (Alternate jurors present)

2 THE COURT: I miss you guys already.

3 OK. So here is what we are going to do: As you could  
4 tell, nobody got hit by a bus last night, and they have been at  
5 it for a couple of hours now, and they seem to be chatting away  
6 amicably. All 12 them are still in there. So I am going to  
7 let you guys go.

8 Jim has contact information if something were to come  
9 up and we would need to contact one or more of you, you would  
10 hear from him.

11 So, I am going to ask you to adhere to your juror oath  
12 as you leave today and not to talk to the lawyers about the  
13 case and not to talk to the press about the case or if you are  
14 of course hanging around, not to talk to anybody about the  
15 case. It's a little harder on you because they're talking  
16 about the case, but you can't talk about the case yet. But  
17 until we get a verdict, I am going to ask you to keep that open  
18 mind and don't discuss the case and don't start trolling the  
19 internet yet to find out all the press stories that you missed  
20 or look up anything. Just remember that you are still jurors.  
21 But otherwise you can go about your business.

22 We will call you as soon as there is a verdict. I  
23 cannot think of four people who have more of a right to know  
24 what it is than the four of you. I wasn't kidding. This  
25 really is the first trial that I have had anywhere close to

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C3mQann3

## Deliberations

1 this length where all 12 jurors were still there at the end of  
2 the trial and I hadn't replaced anybody with an alternate.  
3 It's really an extraordinary phenomenon. And I had such  
4 wonderful alternates, and I have special feelings in my heart  
5 for you alternates in criminal cases. In civil cases the  
6 alternates get to deliberate now, but in criminal cases they  
7 don't. We are still stuck statutorily with 12 jurors. So you  
8 really are the ready reserve, and it is the hardest job I can  
9 think of since you do all the work and then you have none of  
10 the experience of actually threshing out and resolving the  
11 issues that you've been presented with and thinking about for,  
12 lo, these many weeks.

13 But it is such an important job and you were so good  
14 natured about it. I can't remember alternates who have been as  
15 obviously interested in the case as the four of you. So I know  
16 if we would have to call any one of you at any time in the next  
17 couple of days, you would be right there.

18 Jim has your notebooks. Don't worry. We won't get  
19 rid of those pages until the case is over.

20 Thank you very much from me and from all the parties.  
21 I know that the lawyers thanked you earlier. They meant it,  
22 and I mean it. Your service has been really, really  
23 remarkable.

24 Now go back to your every day pursuits and we'll keep  
25 you informed.

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C3mQann2

## Deliberations

1 be a problem. We just need a few minutes to pull it and  
2 consult with counsel.

3 I did just want to ask the Court in terms of the index  
4 issue, obviously technically it's true that right now there is  
5 no index. There is an exhibit list, and I wondered if the  
6 Court--

7 THE COURT: There is a government exhibit list.

8 MR HALPERIN: Which includes defense exhibits as well.  
9 So I wondered if the Court is so inclined, we could try to  
10 quickly go downstairs and put together a list of exhibits which  
11 may save the jury time or make it easier for them back there,  
12 and we would show it to defense first.

13 THE COURT: That's up to you. If the defense doesn't  
14 want it, I'm not going to do it.

15 MR HALPERIN: OK.

16 (Recess pending verdict)

17 (In open court; jury not present)

18 THE COURT: Can I have the jury's note please. Can I  
19 have a copy of Government Exhibit 511, please?

20 THE DEPUTY CLERK: Case on trial continued the  
21 government and defendant are present. The jurors are not  
22 present.

23 THE COURT: I have a request to transcript pages  
24 relating to Government Exhibit 511. The following transcript  
25 pages are agreed to by all parties: Page 1945 of the

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C3mQann2

## Deliberations

1 transcript/line 2 through page 1948/line 3 are agreed to by the  
2 parties.

3 Also agreed to by the parties are page 1956/line 8  
4 through page 1959/line 11. Those sections will be provided to  
5 the jury.

6 The following will be provided to the jury in  
7 addition: The defense have asked for page 1950/line 18 through  
8 page 1953/line 19. The jury will receive page 1951/line 6  
9 through page 1951/line 20; page 1951/line 25 through page  
10 1952/line 22; page 1953/line 4 through page 1953/line 19 which  
11 is most, but not all, of what defense requested, and none of  
12 what the government requests of pages 1959 and 1960.

13 That takes care of that. Thank you.

14 MR. ARONWALD: Your Honor, I don't know whether your  
15 Honor looked at page 1956 through 1959 was also highlighted in  
16 yellow in the margin.

17 THE COURT: But it's also highlighted in blue. I said  
18 it was in.

19 MR. HALPERIN: The Judge said it was in.

20 MR. ARONWALD: 1956/line 8 -- OK, I'm sorry.

21 THE COURT: That was in on consent.

22 MR. ARONWALD: I'm sorry.

23 MR. SIANO: Thank you, your Honor.

24 MR. HALPERIN: Judge, one thing, we do think that the  
25 half page portion of the redirect is relevant in response --

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C3mQann2

## Deliberations

1 THE COURT: I've said it's not, Mr. Halperin.  
2 I've made my ruling. That's that.  
3 (Recess pending verdict)  
4 (In open court; jury not present)  
5 MR. SIANO: Court 3, your Honor?  
6 THE DEPUTY CLERK: Four.  
7 MR. SIANO: What went in was 3.  
8 THE COURT: Case on trial continued. The parties are  
9 present. The jurors are not present.  
10 Before I bring the jurors out, they have expressed in  
11 biblical terms their desire to leave for the day. My schedule  
12 tomorrow is a little weird because I had no idea this trial was  
13 going to take this long. I am the keynote speaker at the New  
14 York Intellectual Property Lawyer's Association dinner tomorrow  
15 evening, and I must be at the Waldorf Astoria by 3:00 p.m. for  
16 things like sound check, VIP reception.  
17 Off the record.  
18 (Discussion off the record)  
19 THE COURT: Anyway, so I can let them deliberate  
20 tomorrow until 2:00 p.m.  
21 MR. SIANO: OK.  
22 MR. HALPERIN: That's fine.  
23 THE COURT: I normally let people deliberate all day  
24 Friday and treat it like a normal day. I apologize, but bring  
25 them out.

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C3mQann5

## Deliberations

1 (Jury present)

2 THE COURT: Well, you figured out who's really in  
3 charge, haven't you? Yes. OK. This case now belongs to you.

4 So you want to go home, and home you shall go. Here  
5 is the deal: Fridays are not court days except, as I told you  
6 at the beginning, they are deliberation days because I can work  
7 while you are deliberating.

8 Now, if there is some reason why you guys would rather  
9 put this off until Monday because you had made other plans,  
10 retire to the jury room and let me know. Otherwise, I am  
11 expecting you to be in here tomorrow and deliberate until 2:00,  
12 and the reason for the 2:00 p.m. is me because I have to give a  
13 speech to 3,000 lawyers at the Waldorf Astoria tomorrow night  
14 and I have to be there by 3:00.

15 I would really like you to come in tomorrow morning  
16 and deliberate. I really would. But I'll tell you what: Go  
17 back in the jury room and talk about it among yourselves.  
18 Because if you were not planning on tomorrow and you really  
19 would rather come back fresh on Monday, as I said, you figured  
20 out who's in charge right now. OK?

21 (Recess)

22 (Jury present)

23 THE COURT: At least you are still smiling at each  
24 other. What's your verdict on your schedule?

25 JUROR: With all due respect, your Honor, we would

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C3mQann5 Deliberations

1 choose to take tomorrow off.

2 THE COURT: Then I will see you Monday morning at 9:30  
3 you will be back in that jury room. As soon as you are all  
4 together, you start to deliberate. Knock on the door; let us  
5 know you are all there. I think Monday I'll arrange to have  
6 breakfast treats for you.

7 Don't discuss the case over the weekend. Keep an open  
8 mind. Please take extra special care of yourselves over the  
9 week end. I don't need to have anything happen to anybody over  
10 the weekend. OK.

11 I appreciate, Ms. Annabi, and, Mr. Jereis, that this  
12 is a tremendous burden for you, and for all counsel, but I  
13 think we're better off to let them have the three days.

14 MR. ARONWALD: Agreed. Thank you, your Honor.

15 MR. SIANO: Thank you, your Honor. See you on Monday.

16 THE COURT: See you Monday.

17 (Adjourned to March 26, 2012 at 9:30 a.m.)  
18  
19  
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25

C3QUANNF Trial

1 UNITED STATES DISTRICT COURT

1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

3 UNITED STATES OF AMERICA,

4 v.

10 CR 007 (CM)

5 SANDY ANNABI and ZEHY JEREIS,

6 Defendants.

7 -----x

8 New York, N.Y.

8 March 26, 2012

9 12:30 p.m.

11 Before:

12 HON. COLLEEN MCMAHON

13 District Judge

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

21 ANTHONY J. SIANO

21 JEANNIE GALLEG0

22 Attorneys for Defendant JEREIS

25 SOUTHERN DISTRICT REPORTERS, P.C.  
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C3QUANNF

Trial

1 (In open court, jury not present)

2 THE DEPUTY CLERK: Case on trial continued. The  
3 government and the defendants are present. The jurors are in  
4 the jury room deliberating.

5 There is a note, Judge, Court Exhibit Number 5.

6 THE COURT: Hi. Hope you had a wonderful weekend.

7 I have very little voice and I am supposed to be on an  
8 enforced vocal rest. It doesn't work in this profession.

9 So the jurors, having been given a holiday, now wish  
10 to take a lunch outside.

11 Mr. O'Neill actually had a very good idea which was to  
12 allow them to have access to the terrace on the eighth floor if  
13 they wish to eat outside in the company of a court officer who  
14 will take care that no one approaches them. And I think it is  
15 a good idea because it will at once respond in a friendly and  
16 positive way to their request to get out of the room and  
17 reaffirm that they are deliberating jurors even though it is  
18 the lunch hour.

19 Does anyone have an problem with Mr. O'Neill's  
20 brilliant solution?

21 MR. HALPERIN: No, your Honor.

22 MR. ARONWALD: No, your Honor.

23 MR. SIANO: No, your Honor.

24 THE COURT: The answer was implied.

25 Good. Excellent.

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C3QUANNF

Trial

1 (Time noted 12:35 p.m., jury present)

2 THE COURT: I figured that I had gone long enough  
3 without seeing you. I miss you.

4 I got your note and here's how we are going to respond  
5 both to your concerns and your obvious desire to get out of  
6 that room for a while and our need to honor the fact that you  
7 are sequestered and, quote, jurors during the court day while  
8 you are here and deliberating. As you know, when somebody goes  
9 out on a smoke break, you are accompanied by one of the court  
10 officers. So we are going to have a court officer take anybody  
11 who wants to go outside to lunch outside to lunch.

12 We have a fabulous terrace on the eighth floor of the  
13 building, nice view, out of doors, benches. And if anybody  
14 wants to go out there or any group of you want to go out there  
15 and have lunch outside and get away from the room for a few  
16 minutes and take a break, maybe a couple of you want to sit in  
17 a clump over here and a couple of you want to sit in a clump  
18 over there, that's fine, as long as you are with the court  
19 officer. So that's the limitation I have to place on an  
20 otherwise yes answer to your request, but I know how hard you  
21 are working. I appreciate it.

22 So that is what we will arrange, to have somebody who  
23 can take anybody who wants to go out, down there to that  
24 terrace area where you can have some time in the sun. OK.

25 THE DEPUTY CLERK: Return around 1 o'clock?

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C3QUANNF Trial

1 THE COURT: Yes.  
2 THE DEPUTY CLERK: Very good, Judge.  
3 Jurors.  
4 (Time noted 12:40 p.m., jurors not present)  
5 THE COURT: We can go off the record and you can come  
6 up here and we can talk about scheduling for the next 24 hours.  
7 (Sidebar discussion off the record)  
8 (Recess)  
9 (Time noted: 5:00 p.m., jurors not present)  
10 THE DEPUTY CLERK: Case on trial continued. The  
11 government and defendants are present. The jurors are  
12 deliberating in the jury room.  
13 There is a note, your Honor, Court Exhibit Number 7.  
14 THE COURT: The note is that the jury wants to go  
15 home.  
16 Bring the jurors out and send them home.  
17 THE DEPUTY CLERK: Judge, just for the record, Court  
18 Exhibit 6 we did not put on the record.  
19 THE COURT: Court Exhibit 6 was a note in which the  
20 jurors asked for 11 additional copies of the verdict form.  
21 (Time noted: 5:05 p.m., jurors present)  
22 THE COURT: Jurors, don't get comfy. Go home.  
23 Don't discuss the case. Keep an open mind.  
24 See you tomorrow, 9:30, usual time. Bye.  
25 (Proceedings adjourned until 9:30 a.m., March 27,  
2010)

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C3RUANNF Trial  
1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK  
2 -----x  
2

3 UNITED STATES OF AMERICA,  
3

4 v.  
4

10 CR 007 (CM)

5 SANDY ANNABI and ZEHY JEREIS,  
5

6 Defendants.  
6

7 -----x  
7

8 New York, N.Y.  
8 March 27, 2012  
9 11:40 a.m.  
9

10  
10  
11 Before:  
11

12 HON. COLLEEN MCMAHON  
12

13 District Judge  
14

15 APPEARANCES  
15

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

19 WILLIAM I. ARONWALD  
20 Attorney for Defendant ANNABI  
20

21 ANTHONY J. SIANO  
21 JEANNIE GALLEGGO  
22 Attorneys for Defendant JEREIS  
23

24  
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C3RUANNF

Trial

1 (In open court; jury not present)

2 Court Exhibit 8:

3 "We the jury request:

4 "1. The direct and cross of Zehy Jereis and Anthony

5 Mangone.

6 "2. 5 p.m. dismissal.

7 "3. Lunch outside and phone access."

8 Court Exhibit 9:

9 "Dear Jurors:

10 "Good morning.

11 "We will be breaking at 2:30 this afternoon. Sorry.

12 Must do.

13 "I cannot allow you access to your cell phones during  
14 the deliberation day. Sorry. Not permitted. As the day is  
15 going to be shorter today, you will be able to make calls  
16 earlier than usual this afternoon.

17 "Finally, just to advise you: There will be no  
18 further days off (including Fridays) until your deliberations  
19 are concluded.

20 "I am here if you need me.

21 "Colleen McMahon, U.S.D.J."

22 THE COURT: Case on trial continued. Parties are  
23 present. Jurors are not present.

24 We have a note from the jury. They ask for  
25 Mr. Mangone's and Mr. Jereis' testimony.

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C3RUANNF

Trial

1 Are we ready to send that back?

2 MR. HALPERIN: We now have counsel's few suggestions  
3 on Mr. Mangone's testimony. I don't think that the government  
4 has any objections to their suggestions so we just need to  
5 go --

6 THE COURT: I don't understand what the suggestions  
7 are. It is an objection and a ruling on an objection. Every  
8 question, every answer that wasn't objected to is in.

9 MR. ARONWALD: Judge, there were just some objections  
10 or rulings that your Honor made that were overlooked by them,  
11 so we just pointed that out and they are deleting those, but  
12 every question and answer is going in.

13 THE COURT: While you do that, Mr. Carbone, we have  
14 Mr. Halperin in the courtroom, we will also be sending back --  
15 which counsel have all seen -- Court Exhibit 9 which is a note  
16 that addresses the jury's other two issues about access to  
17 their cell phones at lunchtime and the time of dismissal for  
18 the day.

19 MR. ARONWALD: Yes. When Jimmy has the time, if he  
20 could give us copies of Court Exhibit 9.

21 THE COURT: All right. He has to give you copies of  
22 note number 9.

23 (Recess)

24 (Time noted: 2:30 p.m., jury not present)

25 THE DEPUTY CLERK: Case on trial continued.

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C3RUANNF Trial

1 Government and defendants are present. The jurors are in the  
2 jury room deliberating.

3 THE COURT: Let's discharge the jury for the day.

4 (Jury present)

5 THE COURT: Again, don't get comfy.

6 Don't discuss the case and keep an open mind. Get a  
7 good night's sleep.

8 I'll See you sometime in the morning.

9 THE DEPUTY CLERK: 9:30?

10 THE COURT: The usual.

11 (Proceedings adjourned until 9:30 a.m., March 28,  
12 2012)

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C3SUANNF Trial  
1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK  
2 -----x  
2

3 UNITED STATES OF AMERICA,  
3

4 v.  
4

10 CR 007 (CM)

5 SANDY ANNABI and ZEHY JEREIS,  
5

6 Defendants.  
6  
7 -----x  
7

8 New York, N.Y.  
8 March 28, 2012  
9 12:55 p.m.  
9

10  
10  
11 Before:  
11

12 HON. COLLEEN MCMAHON  
12  
13

District Judge  
13  
14  
14

15 APPEARANCES  
15

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

21 ANTHONY J. SIANO  
21 JEANNIE GALLEG0  
22 Attorneys for Defendant JEREIS  
23  
24  
25

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C3SUANNF

Trial

1 (In open court; jury not present)

2 THE COURT: Case on trial continued. The parties are  
3 present. The jurors are not present.

4 We have a note. The jury asks if it needs direct  
5 proof of the FDIC membership of Columbia Equities, a division  
6 of OceanFirst Bank, to prove the fourth element of Count 8.

7 The jury then goes on to discuss evidence they have  
8 looked at in Counts 7 and 9 and, apparently, it finds in review  
9 of the evidence -- which is the only review of the evidence  
10 that matters -- no analogous evidence on Count 8.

11 The answer to the question, of course, is no. You  
12 don't need to have direct evidence. You need to have direct  
13 and/or circumstantial evidence to prove beyond a reasonable  
14 doubt that Columbia Equities/OceanFirst is an FDIC insured  
15 bank.

16 Answer to the question, right?

17 Mr. Aronwald, is that not the answer to the question?

18 MR. ARONWALD: I think it is, your Honor.

19 THE COURT: Mr. Carbone, is that not the answer to the  
20 question?

21 MR. CARBONE: Well --

22 THE COURT: I certainly can't tell them where the  
23 evidence is, Mr. Carbone, and neither can you.

24 MR. CARBONE: Well, Judge, they are clearly confused  
25 about --

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C3SUANNF

Trial

1 THE COURT: Tough, Mr. Carbone.

2 MR. CARBONE: The witness testified that the FDIC --

3 THE COURT: They have to find the evidence. I can't  
4 tell them where it is and you can't tell them where it is.

5 MR. CARBONE: They are obviously confused; they think  
6 it is in the document, and it may well be.

7 THE COURT: All I can say to them is, they need direct  
8 and circumstantial proof from all the evidence in the case --  
9 testimony and documents and stipulations. I cannot tell them  
10 if it is there or not and you can't tell them if it is there or  
11 not.

12 MR. CARBONE: Are they asking for these exhibits --

13 THE COURT: They are asking a question: Do they have  
14 to have direct proof. The answer to that question is no.  
15 Circumstantial evidence is enough, but you must have proof  
16 beyond a reasonable doubt from all the evidence in the case,  
17 whatever the nature of that evidence may be.

18 MR. CARBONE: My question is, on the bottom lefthand  
19 corner of the note, are they asking for those --

20 THE COURT: Exhibits? No. They have every exhibit in  
21 the room.

22 MR. CARBONE: I understand, but the identification of  
23 those exhibits, is that part of their note?

24 THE COURT: You know what? I cannot discuss  
25 individual items of evidence with the jurors nor do I intend

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C3SUANNF Trial

1 to -- nor do I intend to.

2 MR. ARONWALD: I don't think that your Honor can do  
3 any more than what your Honor has proposed to do which is to  
4 give them that instruction.

5 THE COURT: That's correct.

6 And some dry erase markers.

7 Bring in the jurors.

8 MR. SIANO: Judge, we are shy a copy of the note.

9 THE COURT: We will get you one -- not that it has a  
10 whole lot to do with your client, Mr. Siano.

11 MR. CARBONE: Mr. Halperin is on his way up.

12 THE COURT: I am not waiting. I have a government  
13 lawyer. I am not waiting. I have a 1 o'clock meeting.

14 There is Mr. Halperin. He has his little cart that we  
15 don't need.

16 THE DEPUTY CLERK: Jury entering.

17 (Time noted: 1:05 p.m., jury present)

18 THE COURT: I have your note which is Court Exhibit  
19 11. It says: "Need we have direct proof of the FDIC  
20 membership of Columbia Equities, division of OceanFirst Bank,  
21 to prove the fourth element of Count 8?"

22 And then you go on to say that you seem to have found  
23 something that says "member FDIC" in evidence relating to  
24 Counts 7 and 9, but nowhere is it listed in the evidence that  
25 Column Equities or OceanFirst is an FDIC member.

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C3SUANNF

Trial

1           Here is how I can answer your question. I told you,  
2   you need to have proof beyond a reasonable doubt of every  
3   element of the case. You have to have proof, either direct,  
4   circumstantial or both from all the evidence in the case -- the  
5   testimony, the documents, and the stipulations -- that  
6   satisfies you beyond a reasonable doubt that Columbia Equities,  
7   division of OceanFirst Bank, is an FDIC insured bank. It is  
8   what you have to have. I can't tell you where to look for it.  
9   All I can do is tell you, you have all the evidence --  
10   testimony, documents, stipulations -- available to you. OK.

11           (Recess)

12           (Time noted: 5:05 p.m., jury not present)

13           THE DEPUTY CLERK: Case on trial continued. The  
14   government and defendants are present. The jurors are not  
15   present.

16           THE COURT: Get them.

17           (Jury present)

18           THE COURT: Do you want to go home?

19           Go home.

20           See you.

21           Don't discuss the case. Keep an open mind.

22           Remember no social media, no Internet, no anything.

23           (Proceedings adjourned until 9:30 a.m., March 29,

24   2012)

25

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C3TUANNF Trial

1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

2  
3 UNITED STATES OF AMERICA,

3  
4 v.

10 CR 007 (CM)

4  
5 SANDY ANNABI and ZEHY JEREIS,

5  
6 Defendants.

6  
7 -----x

7  
8 New York, N.Y.  
8 March 29, 2012  
9 11:45 a.m.  
9

10  
10  
11 Before:

11  
12 HON. COLLEEN MCMAHON

12  
13 District Judge

13  
14  
15 APPEARANCES

15  
16 PREET BHARARA

16 United States Attorney for the  
17 Southern District of New York

17 JASON P.W. HALPERIN

18 PERRY A. CARBONE

18 Assistant United States Attorneys

19  
19 WILLIAM I. ARONWALD

20 Attorney for Defendant ANNABI

20  
21 ANTHONY J. SIANO

21 JEANNIE GALLEG0

22 Attorneys for Defendant JEREIS

23  
24  
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C3TUANNF

Trial

1 (In open court; jury not present)

2 THE DEPUTY CLERK: Case on trial continued. The  
3 government and defendants are present. The jury is not  
4 present.

5 Judge, there is a note from the jury.

6 THE COURT: There is a note from the jury. Unusual  
7 formulation. It says: "We, the jury, have finished  
8 deliberating." I assume that means they have reached a  
9 verdict. We shall soon find out.

10 Mr. O'Neill, the courtroom is yours now.

11 (Jury present)

12 THE COURT: Good morning.

13 Ladies and gentlemen, I have a note from you. It  
14 says: "We, the jury, have finished deliberating."

15 Mr. O'Neill.

16 THE DEPUTY CLERK: Will the foreperson please rise.  
17 Defendants, please rise.

18 Has the jury agreed upon a verdict on all counts?

19 THE FOREPERSON: We have.

20 THE COURT: As to Count 1, conspiracy to make and  
21 receive corrupt payments, how do you find the defendant Sandy  
22 Annabi, guilty or not guilty?

23 THE FOREPERSON: Guilty.

24 THE DEPUTY CLERK: As to the defendant Zehy Jereis,  
25 guilty or not guilty?

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C3TUANNF Trial

1 THE FOREPERSON: Guilty.

2 THE DEPUTY CLERK: With respect to Count 1, what overt  
3 acts have you found, please give me the letter?

4 THE FOREPERSON: R.

5 THE DEPUTY CLERK: Are there any other overt acts that  
6 the jury found?

7 THE FOREPERSON: P.

8 THE DEPUTY CLERK: Any more?

9 THE FOREPERSON: I.

10 THE DEPUTY CLERK: More?

11 THE FOREPERSON: No.

12 THE DEPUTY CLERK: Moving on to Count 2, conspiracy to  
13 deprive the City of Yonkers and its citizens of Sandy Annabi's  
14 honest services, how do you find the defendant Sandy Annabi,  
15 guilty or not guilty?

16 THE FOREPERSON: Guilty.

17 THE DEPUTY CLERK: How do you find the defendant Zehy  
18 Jereis, guilty or not guilty?

19 THE FOREPERSON: Guilty.

20 THE DEPUTY CLERK: Count 3, receiving corrupt  
21 payments, Longfellow, Sandy Annabi, guilty or not guilty?

22 THE FOREPERSON: Guilty.

23 THE DEPUTY CLERK: Defendant Zehy Jereis, guilty or  
24 not guilty?

25 THE FOREPERSON: Guilty.

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C3TUANNF

Trial

1 THE DEPUTY CLERK: Count 4, making corrupt payments,  
2 how do you find the defendant Zehy Jereis, guilty or not  
3 guilty?  
4 THE FOREPERSON: Guilty.  
5 THE DEPUTY CLERK: Count 5, receiving corrupt  
6 payments, defendant Sandy Annabi, guilty or not guilty?  
7 THE FOREPERSON: Guilty.  
8 THE DEPUTY CLERK: Count 6, extortion under color of  
9 official right, Longfellow, how do you find the defendant Sandy  
10 Annabi, guilty or not guilty?  
11 THE FOREPERSON: Guilty.  
12 THE DEPUTY CLERK: Defendant Zehy Jereis, guilty or  
13 not guilty?  
14 THE FOREPERSON: Guilty.  
15 THE DEPUTY CLERK: Count 7, false statement to a bank,  
16 Patton Drive, defendant Sandy Annabi, guilty or not guilty?  
17 THE FOREPERSON: Guilty.  
18 THE DEPUTY CLERK: Count 8, false statement to a bank,  
19 Bacon Place, Sandy Annabi, guilty or not guilty?  
20 THE FOREPERSON: Guilty.  
21 THE DEPUTY CLERK: Count 9, false statement to a bank,  
22 Rumsey Road, Sandy Annabi, guilty or not guilty?  
23 THE FOREPERSON: Guilty.  
24 THE DEPUTY CLERK: Count 10, subscribing to false tax  
25 return, 2005, Sandy Annabi, guilty or not guilty?

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C3TUANNF

Trial

1 THE FOREPERSON: Guilty.

2 THE DEPUTY CLERK: Count 11, subscribing to a false  
3 tax return, 2006, Sandy Annabi, guilty or not guilty?

4 THE FOREPERSON: Guilty.

5 THE DEPUTY CLERK: You may be seated.

6 THE COURT: Do you want to get that verdict sheet.

7 THE DEPUTY CLERK: Yes.

8 THE COURT: Mr. Aronwald, Mr. Siano, do you want the  
9 jury polled?

10 MR. SIANO: Yes, your Honor.

11 MR. ARONWALD: Yes, your Honor.

12 THE COURT: Ladies and gentlemen, hearken to your  
13 verdict as it stands recorded. You and each of you find the  
14 defendants Sandy Annabi and Zehy Jereis guilty on Count 1 and,  
15 specifically, you unanimously find that Overt Acts I, P and R  
16 were committed. And you do not unanimously find that any other  
17 overt acts were committed. You unanimously find that  
18 defendants Annabi and Jereis are guilty on Count 2, defendants  
19 Annabi and Jereis are guilty on Count 3, that the defendant  
20 Jereis is guilty on Count 4, that defendant Annabi is guilty on  
21 Count 5, that defendants Annabi and Jereis are guilty on Count  
22 6, and that defendant Annabi is guilty on Counts 7, 8, 9, 10  
23 and 11.

24 Juror Number 1, is that your verdict?

25 JUROR NUMBER 1: Yes.

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C3TUANNF

Trial

1 THE COURT: Juror Number 2, is that your verdict?  
2 JUROR NUMBER 2: Yes.  
3 THE COURT: Juror Number 3, is that your verdict?  
4 JUROR NUMBER 3: Yes.  
5 THE COURT: Juror Number 4, is that your verdict?  
6 JUROR NUMBER 4: Yes.  
7 THE COURT: Juror Number 5, is that your verdict?  
8 JUROR NUMBER 5: Yes.  
9 THE COURT: Juror Number 6, is that your verdict?  
10 JUROR NUMBER 6: Yes.  
11 THE COURT: Juror Number 7, is that your verdict?  
12 JUROR NUMBER 7: Yes.  
13 THE COURT: Juror Number 8, is that your verdict?  
14 JUROR NUMBER 8: Yes.  
15 THE COURT: Juror Number 9, is that your verdict?  
16 JUROR NUMBER 9: Yes.  
17 THE COURT: Juror Number 10, is that your verdict?  
18 JUROR NUMBER 10: Yes.  
19 THE COURT: Juror Number 11, is that your verdict?  
20 JUROR NUMBER 11: Yes.  
21 THE COURT: Juror Number 12, is that your verdict?  
22 JUROR NUMBER 12: Yes.  
23 THE COURT: So say you and so say you all.  
24 When I came up here, I should have gotten you  
25 breakfast every day.

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C3TUANNF

Trial

1           It is hard to say goodbye after this much time. This  
2 trial took longer than any of us had reason to think that it  
3 would. The fact that you have deliberated for as many days as  
4 you have is just the last in a long line of indications of the  
5 care that you have given to the consideration of the evidence  
6 that is a rather massive amount of evidence that has been  
7 placed in front of you since the middle of February. And you  
8 have acquitted yourselves in a difficult task with which you  
9 were entrusted -- ahh, I see what the problem is.

10          The problem is that the verdict sheet does not  
11 indicate what the foreman and all of the jurors have confirmed,  
12 which is that the only three overt acts that were found  
13 unanimously were Overt Act I, Overt Act P and Overt Act R.  
14 That is to say, no overt act is checked on the verdict sheet.

15          I need, first of all, the foreperson to confirm that  
16 those three overt acts were found?

17           THE FOREPERSON: Confirmed.

18          THE COURT: Let me read each overt act, and I am going  
19 to poll each juror individually.

20          I am sorry I didn't give you good enough instructions,  
21 apparently, on filling this form out.

22          Overt Act I is: On or about March 29, 2005, May 12,  
23 2006, May 15, 2007 and May 14, 2008, Annabi submitted financial  
24 disclosure statements to the City of Yonkers that failed to  
25 disclose her receipt of financial benefits from Jereis, Mangone

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C3TUANNF                      Trial  
1     and others.

2             Did you find that overt act?  
3             Juror Number 1?  
4             JUROR NUMBER 1: Yes.  
5             THE COURT: Juror Number 2?  
6             JUROR NUMBER 2: Yes.  
7             THE COURT: Juror Number 3?  
8             JUROR NUMBER 3: Yes.  
9             THE COURT: Juror Number 4?  
10            JUROR NUMBER 4: Yes.  
11            THE COURT: Juror Number 5?  
12            I need you to speak.  
13            JUROR NUMBER 5: Yes.  
14            THE COURT: Juror Number 6?  
15            JUROR NUMBER 6: Yes.  
16            THE COURT: Juror Number 7?  
17            JUROR NUMBER 7: Yes.  
18            THE COURT: Juror Number 8?  
19            JUROR NUMBER 8: Yes.  
20            THE COURT: Juror Number 9?  
21            JUROR NUMBER 9: Yes.  
22            THE COURT: Juror Number 10?  
23            JUROR NUMBER 10: Yes.  
24            THE COURT: Juror Number 11?  
25            JUROR NUMBER 11: Yes.

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C3TUANNF

Trial

1 THE COURT: Juror Number 12?

2 JUROR NUMBER 12: Yes.

3 THE COURT: Overt Act P: On or about July 25, 2006,  
4 Annabi sent an email to her administrative assistant directing  
5 her not to put the Longfellow legislation on the list yet and  
6 to call "Z" [Jereis] and let him know that the Longfellow  
7 legislation had to be revised.

8 Did you find this overt act?

9 Juror Number 1?

10 JUROR NUMBER 1: Yes.

11 THE COURT: Juror Number 2?

12 JUROR NUMBER 2: Yes.

13 THE COURT: Juror Number 3?

14 JUROR NUMBER 3: Yes.

15 THE COURT: Juror Number 4?

16 JUROR NUMBER 4: Yes.

17 THE COURT: Juror Number 5?

18 JUROR NUMBER 5: Yes.

19 THE COURT: Juror Number 6?

20 JUROR NUMBER 6: Yes.

21 THE COURT: Juror Number 7?

22 JUROR NUMBER 7: Yes.

23 THE COURT: Juror Number 8?

24 JUROR NUMBER 8: Yes.

25 THE COURT: Juror Number 9?

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C3TUANNF

Trial

1 JUROR NUMBER 9: Yes.  
2 THE COURT: Juror Number 10?  
3 JUROR NUMBER 10: Yes.  
4 THE COURT: Juror Number 11?  
5 JUROR NUMBER 11: Yes.  
6 THE COURT: Juror Number 12?  
7 JUROR NUMBER 12: Yes.  
8 THE COURT: Overt Act R: On or about June 9, 2006,  
9 Annabi and Jereis met with representatives of Developer Number  
10 2 at a restaurant.  
11 Did you find this overt act?  
12 Juror Number 1?  
13 JUROR NUMBER 1: Yes.  
14 THE COURT: Juror Number 2?  
15 JUROR NUMBER 2: Yes.  
16 THE COURT: Juror Number 3?  
17 JUROR NUMBER 3: Yes.  
18 THE COURT: Juror Number 4?  
19 JUROR NUMBER 4: Yes.  
20 THE COURT: Juror Number 5?  
21 JUROR NUMBER 5: Yes.  
22 THE COURT: Juror Number 6?  
23 JUROR NUMBER 6: Yes.  
24 THE COURT: Juror Number 7?  
25 JUROR NUMBER 7: Yes.

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C3TUANNF

Trial

1 THE COURT: Juror Number 8?  
2 JUROR NUMBER 8: Yes.  
3 THE COURT: Juror Number 9?  
4 JUROR NUMBER 9: Yes.  
5 THE COURT: Juror Number 10?  
6 JUROR NUMBER 10: Yes.  
7 THE COURT: Juror Number 11?  
8 JUROR NUMBER 11: Yes.  
9 THE COURT: Juror Number 12?  
10 JUROR NUMBER 12: Yes.  
11 THE COURT: Does any member of the jury, and I will  
12 ask you individually, believe that any other overt acts were  
13 found by all 12 of you unanimously?  
14 Juror Number 1?  
15 JUROR NUMBER 1: No.  
16 THE COURT: Juror Number 2?  
17 JUROR NUMBER 2: No.  
18 THE COURT: Juror Number 3?  
19 JUROR NUMBER 3: No.  
20 THE COURT: Juror Number 4?  
21 JUROR NUMBER 4: No.  
22 THE COURT: Juror Number 5?  
23 JUROR NUMBER 5: No.  
24 THE COURT: Juror Number 6?  
25 JUROR NUMBER 6: No.

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C3TUANNF

Trial

1 THE COURT: Juror Number 7?  
2 JUROR NUMBER 7: No.  
3 THE COURT: Juror Number 8?  
4 JUROR NUMBER 8: No.  
5 THE COURT: Juror Number 9?  
6 JUROR NUMBER 9: No.  
7 THE COURT: Juror Number 10?  
8 JUROR NUMBER 10: No.  
9 THE COURT: Juror Number 11?  
10 JUROR NUMBER 11: No.  
11 THE COURT: Juror Number 12?  
12 JUROR NUMBER 12: No.  
13 THE COURT: Thank you for that clarification.  
14 Thank you, Mr. O'Neill.  
15 There was a very famous judge who sat in this  
16 courthouse for many, many years; his name was Edward Weinfeld  
17 and he was in every way the prototype of what one would hope  
18 and expect a federal judge would be in his demeanor, in his  
19 mien, in his brilliance, in his devotion to duty. And he is an  
20 icon for all of us who sit on this bench, and we try to emulate  
21 him in most things.  
22 There is only one thing in which I do not quite  
23 deliberately emulate Judge Weinfeld. When this moment came at  
24 the end of a trial, he was famous for looking at his jurors and  
25 saying, I suppose you are waiting to be thanked. Well, you

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1 will wait in vain for thanks from me, he said, because you,  
2 like I, must take your satisfaction in knowing that you have  
3 done your duty to the best of your ability.

4 There is truth in Judge Weinfeld's words, that is the  
5 ultimate satisfaction for you -- knowing that you have done  
6 your duty to the best of your ability. But the fact is that  
7 back on the 14th of February or whatever day it was when we  
8 first gathered in this courtroom, there were people who were  
9 not sitting here from the beginning because they had found some  
10 reason not to be present.

11 And there were people -- and you saw the line-up of  
12 them who came up to us in the back -- and told us why they  
13 could not take time out of their busy lives to serve on a jury  
14 that we then thought was only going to be three to four weeks.  
15 And you saw them.

16 And there were other people who found ways to answer  
17 questions to make sure that they would look like unattractive  
18 candidates to serve on a jury, most of those people having  
19 already tried to get out of it by saying they were too busy.  
20 And you remember that as well.

21 Well, you twelve folks and your four friends who were  
22 the alternates are no less busy and your time is no less  
23 valuable than the time of all of those people who for one  
24 reason or another found a way not to serve.

25 If we did not have citizens who like you were willing

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1 to suspend your own lives for a period of time that turned out  
2 to be longer than we thought it was and to listen to evidence  
3 and weigh carefully evidence involving people that you don't  
4 know, have never heard about, are never going to see again, our  
5 society, literally, could not function. You are a linchpin  
6 and, arguably, the linchpin of the civilized society in which  
7 we live. So I think it is completely appropriate to thank you  
8 for having taken this time and acted with this care and this  
9 deliberation. The parties, their attorneys have already  
10 thanked you; I thank you as well.

11 You are now discharged as jurors in the case. Jim  
12 will take you back into the jury room. I would like to come  
13 back and shake your hands and say a personal goodbye before you  
14 go.

15 You are now also free to discuss the case with anyone  
16 you like. I have no doubt that because in certain places there  
17 is some press attention that has been given to this case,  
18 people may try to contact you or waylay you on the way out of  
19 the courthouse. If you don't want that, we will arrange to  
20 have you escorted out of the courthouse if you would prefer.

21 The lawyers may wish to speak to you, I don't know.  
22 You don't have to speak to them. You don't have to speak to  
23 anybody. The reason that jurors deliberate in a closed room  
24 with a court officer standing outside is because those  
25 deliberations are supposed to be secret. And I am not one of

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1 those judges who believe in letting juries have press  
2 conferences in the courtroom. I think that is totally  
3 inappropriate. But you are free to make those decisions for  
4 yourself.

5 Ladies and gentlemen, you are discharged.

6 (Jury discharged)

7 THE COURT: So we are going to need to set a briefing  
8 schedule for the reserved motions and I rather imagine,  
9 especially in light of Count 1, that there will be some new and  
10 interesting aspects to those motions and that there will be  
11 some posttrial motions as well.

12 Mr. Aronwald, Mr. Siano, you have ten days to make  
13 them or ask for the additional time. Do you want to do it now?

14 MR. ARONWALD: Yes, your Honor. We would like to ask  
15 until May 4th. I am going to be away from April 4th to April  
16 18th. That will give us time also. We can try to see whether  
17 we can also --

18 THE COURT: Do me a favor and make your motion orally  
19 right now.

20 MR. ARONWALD: Rule 29, you mean?

21 THE COURT: Yes, your motion to set aside the verdict.

22 MR. ARONWALD: Your Honor, at the end of the entire  
23 case, we would, on behalf of Ms. Annabi, renew our Rule 29 for  
24 all of the reasons briefly stated.

25 MR. SIANO: On behalf of Mr. Jereis, at the close of  
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1 all evidence, as to the verdict, I renew my Rule 29 motion.

2 THE COURT: And both of you request an extension to  
3 file motions to set aside the verdict or for a new trial?

4 MR. SIANO: Yes, Judge, until May 4th.

5 THE COURT: May 4th is fine.

6 Mr. Halperin.

7 MR. HALPERIN: The government would ask for four weeks  
8 to respond.

9 THE COURT: What is four weeks after May 4th?

10 MR. ARONWALD: June 1st.

11 MR. HALPERIN: That is fine.

12 THE COURT: Ten days thereafter, gentlemen?

13 MR. ARONWALD: That would be fine.

14 MR. SIANO: Yes, Judge.

15 THE COURT: Fine.

16 I assume that we can continue the bail status.

17 MR. HALPERIN: Your Honor, as the Court knows, under  
18 Title 18, United States Code, Section 3143(a)(1), that sets  
19 forth that the Court shall remand the defendant unless the  
20 Court finds by clear and convincing evidence that the defendant  
21 is not a risk of flight or a danger to the community. And  
22 although the statute creates this presumption of detention, we  
23 are not seeking detention now for defendant Annabi, although we  
24 are seeking enhanced bail conditions. And currently  
25 Ms. Annabi's bail package is a \$300,000 bond secured by the

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1 equity in what was then her two properties, the Bacon house  
2 which is now in foreclosure and the Rumsey apartment with one  
3 co-signer.

4 According to the government's preliminary  
5 calculations, Ms. Annabi now faces a sentencing guidelines  
6 range of 12 to 15 years in prison which, of course, creates a  
7 serious risk of flight. So from now until sentencing, we would  
8 respectfully request strict pretrial services supervision for  
9 Ms. Annabi including electronic monitoring with home detention.

10 And we would ask for an increase from one to three  
11 co-signers on the bond. We would ask that the bond be  
12 increased from \$300,000 to \$500,000 with at least \$100,000 of  
13 the bond secured.

14 And we would suggest seven days for Ms. Annabi to meet  
15 these bail conditions.

16 MR. ARONWALD: Your Honor, I would ask that the bail  
17 conditions that were previously set be continued.

18 Ms. Annabi has been here every day.

19 She has been fully compliant with pretrial services.

20 The government has her passport.

21 All of her roots are here. Her parents are here. Her  
22 relatives are here. Her brothers are here.

23 So I don't think there is any reason to suspect that  
24 she is at all a risk of flight, and I would ask that the bail  
25 conditions previously set by your Honor be continued.

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1 THE COURT: Ms. Annabi's bail is continued.

2 MR. ARONWALD: Thank you, your Honor.

3 MR. HALPERIN: Your Honor, in terms of Mr. Jereis, the  
4 government seeks remand for defendant Jereis. We believe that  
5 there is no way that Jereis can show by clear and convincing  
6 evidence that he is not a risk of flight.

7 Pursuant to our preliminary calculations Mr. Jereis  
8 now faces a guidelines range sentence of 14 to 17 years in  
9 prison which, again, creates a serious risk of flight.

10 In addition, the government submits that Jereis  
11 committed perjury repeatedly during his testimony at trial  
12 which shows an inability to respect the Court and the judicial  
13 process.

14 He repeatedly denied that he had made certain  
15 statements to at least five to six other witnesses who  
16 testified about his statements at trial. None of these other  
17 witnesses had cooperation agreements with the government.

18 He also lied about his knowledge of the off-the-books  
19 cash payroll at his car wash, about how the business had  
20 cheated on its taxes for years and about how the car wash had  
21 hired illegal aliens.

22 And the government submits that not only did he  
23 perjure himself, but he also continued to commit crimes well  
24 after he was indicted in the case in January 2010 in the ways I  
25 just specified. As the Court knows, at the initial bail

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1 hearing, Mr. Jereis was ordered by this Court not to engage in  
2 any further crimes. We submit he blatantly disregarded that  
3 order of the Court.

4 So all of these facts create serious concerns about  
5 Jereis' risk of flight and also, to a lesser extent, his danger  
6 to the community because the Second Circuit has held that  
7 continuing economic harm can constitute danger to the  
8 community. That is United States v. Madoff, 316 Fed. Appx. 68.

9 THE COURT: Surely we are not equating Mr. Jereis with  
10 Mr. Madoff.

11 MR. HALPERIN: No, absolutely not, your Honor.

12 THE COURT: I have been slapped down repeatedly by  
13 representatives of your office for suggesting that persons who  
14 have done a lot more than Mr. Jereis and a lot less than  
15 Mr. Madoff represent a danger to the community.

16 Everybody's bail conditions are continued pending  
17 sentencing.

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