

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,) Case No.: CR-04-0127-C
Plaintiff,)
vs.)
DAVID R. HINKSON,)
Defendant)
_____)

BEFORE THE HONORABLE RICHARD C. TALLMAN
JUDGE OF THE UNITED STATES CIRCUIT COURT
SITTING BY DESIGNATION
(Sitting with a Jury)

Boise, Idaho

TESTIMONY OF DAVID ROLAND HINKSON

VOLUME 1
January 20, 2005

and

VOLUME 2
January 21, 2005

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

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) Case No.
 Plaintiff,) CR-04-127-S-RCT
)
 vs.)
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 DAVID ROLAND HINKSON,)
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 Defendant.)

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXCERPT RE:
TESTIMONY OF DAVID ROLAND HINKSON
VOLUME 1 OF 2
(PAGES 1 THROUGH 175)

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I N D E X O F E X A M I N A T I O N

Witness Page Number

DAVID ROLAND HINKSON

Direct Examination by Mr. Hoyt 4

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1 (Following is an excerpt of the proceedings
2 held Thursday, January 20, 2005:)
3 . . .
4 MR. HOYT: We would call Mr. Hinkson.
5 THE COURT: All right. Mr. Hinkson, would you
6 step forward and be sworn, please?
7 . . .
8 DAVID ROLAND HINKSON,
9 having been called, sworn, testified as follows:
10 THE COURTROOM CLERK: Thank you. Please take
11 the stand. Please state your name and spell your last
12 name for the record.
13 THE WITNESS: David Roland Hinkson,
14 H-i-n-k-s-o-n.
15 THE COURTROOM CLERK: Thank you.
16
17 DIRECT EXAMINATION
18 BY MR. HOYT:
19 Q. Mr. Hinkson, you are currently residing at the
20 Ada County Jail; is that correct?
21 A. Yes. I have been incarcerated for 22 months.
22 Q. And before that, where did you reside?
23 A. In my home in Grangeville, behind the factory.
24 Q. And how long had you lived there before you
25 were placed in jail?

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1 A. Well, officially, since 1997, I believe; but I
2 was on the road and traveling full time between '97 and
3 '99, so I was really on the move.
4 Q. Where were you traveling from?
5 A. Moving supplies and equipment from Las Vegas,
6 Nevada, to Grangeville.
7 Q. And had you resided at Las Vegas?
8 A. Yes. I think we moved to Las Vegas in '82,
9 right after my brother died. We sold what we owned in
10 Colorado, and we moved to Las Vegas.
11 Q. And what type of business did you engage in in
12 Las Vegas?
13 A. I tried a little of everything. I mean, I
14 even drove taxi for a while. The type of business -- I
15 had a home for the mentally ill, and I helped my father.
16 We owned some apartment buildings; I think it was twenty
17 units. And we -- I managed those. My father was still
18 living in Colorado at the time.
19 And I got involved with Mr. Mitzel. My dad
20 mentioned him. He was an older gentleman that used to
21 own a casino, and he had a cattle ranch that was 700,000
22 acres. That's a little bit of land.
23 MR. SULLIVAN: I object to the narrative
24 nature.
25 THE COURT: Sustained.

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1 BY MR. HOYT:
2 Q. Did you provide Mr. Mitzel with some
3 assistance in reference to the cattle ranch?
4 A. Legal briefs. And I also traded land for my
5 first laundromat. I ended up with three laundromats,
6 all total.
7 Q. All right. Now, let me ask you a few
8 questions about your early years, background, and
9 education. Where were you born?
10 A. Artesia, California, in 1956.
11 Q. And how long did you reside in California?
12 A. Until I was fourteen years old.
13 Q. And did you set up a business of helping
14 others with their motorcycles?
15 A. Yes. When I was, like, eleven years old, I
16 was overhauling motorcycles; and we were racing
17 motorcycles. I had a Bultaco.
18 Q. And were you able to work on these motorcycles
19 mechanically?
20 A. Yes. I would rebuild them after every race.
21 Q. And did you, also, rebuild the motorcycles for
22 other people?
23 A. Yes, I did. And I had a mini-buggy, too, and
24 I drove that a year and --
25 Q. And then at some point, did your parents move

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1 to Colorado?
2 A. Yes. I'm not sure of the year. I think it
3 was 1969 or 1970, maybe.
4 Q. And did you reside in Colorado until you were
5 out of high school?
6 A. No, no. I joined the United States Navy on my
7 seventeenth birthday. I got my GED, and I joined. And
8 the Vietnam War was still going and that's -- I scored
9 really high on the aptitude tests for jet mechanic and
10 so --
11 MR. SULLIVAN: I object. Your Honor. It's
12 unresponsive.
13 THE COURT: Overruled.
14 BY MR. HOYT:
15 Q. And did you work on jet engines while you were
16 in the Navy?
17 A. A little bit. Because of my age, I ended up
18 doing a lot of floor mopping.
19 Q. And did you end up actually riding on any of
20 those helicopters?
21 A. Yes, I did. We would fly over the Devil's
22 Tail. It was an extremely dangerous, and we had to
23 fly a loop, climb upwards over the Devil's Tail.
24 Q. And, Mr. Hinkson, how long were you in the
25 Service?

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1 A. I think it was about two years. And the
 2 Vietnam War ended, and they cut back. They gave me a
 3 choice to get out, and I gladly accepted it at the time.
 4 Q. What did you do when -- were you honorably
 5 discharged from the military?
 6 A. Yes.
 7 Q. What did you do after you got out?
 8 A. I helped my father in Hinkson Construction.
 9 While I was still in the Navy, I got involved in a
 10 multi-level called Raleigh; and I had been very
 11 successful at it. I bought a motor home; and I was
 12 touring the country, signing people into this
 13 multi-level.
 14 Q. What type of product was being sold there?
 15 A. Cake mixes, pies, puddings, herbal things.
 16 Q. Could you explain to the jury what a
 17 multi-level is?
 18 A. I own one now, so I guess I can explain it.
 19 It's -- I guess most everybody is familiar with Amway;
 20 that would be a multi-level. You distribute and you
 21 sign up people and they sign up people and they sign up
 22 people and on and on and on.
 23 And we pay down seven layers deep, and we pay
 24 back fifty-percent commissions. Back in those days, we
 25 were getting thirty-percent commissions.

1 Q. When you say we pay "fifty-percent
 2 commissions," what do you mean?
 3 A. The multi-level I currently own pays
 4 fifty-percent commissions. I just jumped ahead in time
 5 on you there.
 6 Q. Is that affiliated with your present business,
 7 WaterOz?
 8 A. Yes, sir. That's how we market, yeah.
 9 Q. Now, moving back, when you got out of the
 10 military, you returned to Ouray?
 11 A. Yes.
 12 Q. Okay. Your mom talked about the wrecker
 13 business?
 14 A. Yeah. We owned a Texaco, and I was the
 15 mechanic. I could fix anything from transmissions to --
 16 we had bulldozers and dump trucks. And we had a logging
 17 company. It was a small town. It's hard to make a
 18 living.
 19 At that point, I ended up owning a Mexican
 20 restaurant. We had a home for the mentally ill. And me
 21 and my two brothers were partners in all of the
 22 different ventures. I hauled coal. I had a semi.
 23 MR. SULLIVAN: Object to the narrative nature.
 24 THE COURT: Mr. Hinkson, we have to do this by
 25 question and answer.

1 THE WITNESS: Okay.
 2 BY MR. HOYT:
 3 Q. Mr. Hinkson, where was the home for the
 4 mentally ill located?
 5 A. On Main Street in Olathe, Colorado, which has
 6 a population, I think, of 300 people.
 7 Q. Were there other -- was there another business
 8 associated with that?
 9 A. The Mexican restaurant was downstairs on the
 10 left and the laundromat -- that was my first
 11 laundromat -- was on the right.
 12 Q. Approximately how long did you operate those
 13 businesses?
 14 A. Oh, seven or eight years, I believe. And
 15 Marie was feeding the people. You know, she cooked the
 16 meals; and they rode the bus to mental health every day.
 17 So I was very busy.
 18 Q. Now when did you and Marie get married?
 19 A. I believe it was 1980 -- '81. Never ask a guy
 20 when he got married after twenty years.
 21 Q. She testified that you first met in 1979?
 22 A. Yeah. We started for twenty years.
 23 Q. My question is: Did you obtain any additional
 24 education beyond your GED in high school?
 25 A. Yes, I did.

1 Q. Okay. Would you tell the jury what additional
 2 education you have obtained?
 3 A. Well, I got my -- it's called a GRI, a
 4 Graduate of Real Estate Institute. It's, like, a
 5 two-year degree.
 6 If you are a real estate broker, you get a
 7 designation. I guess you have heard of a designation.
 8 It goes along with the profession. I got that from the
 9 University of Boulder.
 10 Q. University of --
 11 A. -- Colorado in Boulder. Sorry. And because
 12 of that, I was able to become a real estate broker
 13 immediately.
 14 And before that, I was an insurance broker for
 15 Farm Bureau in Idaho when I was going to Ricks College
 16 up in Rexburg, Idaho. I actually -- besides the GI
 17 Bill, I actually paid my way --
 18 MR. SULLIVAN: I object. This is all
 19 unresponsive.
 20 THE COURT: Mr. Hinkson, we have to do this by
 21 question and answer. Please don't run on.
 22 BY MR. HOYT:
 23 Q. Mr. Hinkson, what were you studying at Ricks
 24 College?
 25 A. Business, finance. And I think selling and

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1 became a very proficient welder.

2 THE COURT: The question was, "What were you

3 studying?" and not how proficient you became at it.

4 Answer the question and wait for the next question.

5 BY MR. HOYT:

6 Q. Did you study welding at Ricks College?

7 A. Yes. I got certified as a certified welder.

8 Q. And at the same time you were going to Ricks

9 College, did you obtain any employment?

10 A. Yes. I worked for Farm Bureau as a broker. I

11 ran an office.

12 Q. Which office did you run?

13 A. Driggs, Idaho, believe it or not.

14 Q. And so you had to commute between -- is it

15 Pocatello, Idaho?

16 A. No. Rexburg to Driggs. The agent that ran

17 Driggs died.

18 MR. SULLIVAN: I object.

19 THE COURT: It's not responsive. The jury

20 will disregard that last answer.

21 THE WITNESS: Okay.

22 BY MR. HOYT:

23 Q. What circumstances arose that you obtained the

24 Farm Bureau office in Driggs?

25 A. One of the agents died that was a senior

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1 agent, and they didn't have anybody to do the job; and

2 there wasn't really too much to do except for make the

3 drive every other day. I was the number-one salesperson

4 in the State of Idaho for Farm Bureau.

5 MR. SULLIVAN: I object.

6 THE COURT: Mr. Hinkson, you just have to

7 confine your answer to the question. Mr. Hoyt will ask

8 you the next question.

9 BY MR. HOYT:

10 Q. Mr. Hinkson, what was your relative position

11 as a salesman with Farm Bureau of Idaho?

12 A. I was number one in selling property and

13 casualty insurance during that time.

14 Q. And for how long a period of time did you sell

15 property and casualty insurance?

16 A. The two years I was going to Ricks College.

17 Q. Now, after you completed your studies at Ricks

18 College, did you obtain any additional education?

19 A. Oh, that's when I worked with the University

20 of Colorado; but I did that as, like, an out-study

21 program.

22 Q. And after the University of Colorado, have you

23 obtained any additional formal education?

24 A. I don't believe so.

25 Q. Did you obtain a degree from either Ricks

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1 College or from the University of Colorado?

2 A. Just the GRI from the University of Colorado

3 but I was given an honorary medical degree in 19 -- or

4 2001.

5 Q. Let me just ask you about that. In 2001, what

6 institution gave you an honorary medical degree?

7 A. It was the United States School of Naturopathy

8 in Washington, DC.

9 Q. What were the circumstances under which you

10 obtained that degree?

11 A. Well, I knew the owners of the school; that

12 really helped. And they knew that I was out giving

13 lectures on health and these issues of natural medicine,

14 and they wanted me to work in the clinics with them in

15 Russia.

16 Q. And have you worked in clinics in Russia?

17 A. Yeah. I worked with --

18 MR. SULLIVAN: Your Honor, I object.

19 THE COURT: I will allow it. Overruled.

20 THE WITNESS: I worked in a clinic in St.

21 Petersburg, Russia. I worked with Dr. Gold.

22

23 Q. What type of a clinic was it?

24 A. Well, it was a cancer clinic. And he had his

25 office in New York.

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1 Q. And what did your work in that cancer clinic

2 involve?

3 A. Mostly research and development. I had some

4 new ideas I wanted him to try, and he had moved there

5 because, basically --

6 THE COURT: Mr. Hinkson, the question is:

7 What did your work involve?

8 THE WITNESS: We just shared ideas and worked

9 with some patients that had cancer.

10 BY MR. HOYT:

11 Q. And did you utilize any of your products in

12 that work?

13 A. Yes, I did.

14 Q. And did you provide information or lectures to

15 any medical practitioners in Russia?

16 A. Yes. And in, also, the Ukraine.

17 Q. And did you work in any clinics in the

18 Ukraine?

19 A. Tuberculosis clinics.

20 Q. Were these for adults or children?

21 A. Both. In the prison, too.

22 Q. The prison in the Ukraine?

23 A. That was up in Saratov, I believe.

24 Q. Which is in what country?

25 A. That's up by the North Pole in Soviet Russia.

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1 Q. What work did you do in the tuberculosis
2 clinics?

3 A. Well, I found a new way to cure tuberculosis
4 in twenty minutes; and we were testing it.

5 Q. And what did that involve?

6 A. Liquified silver and a nebulizer. You would
7 breathe the silver vapor for twenty minutes; and the
8 silver, if it's made the right way, will destroy every
9 nitrogen-breathing pathogen and virus that's ever been
10 discovered.

11 It's non-toxic; and it's very, very fast. It
12 usually took three doses, three treatments -- twenty
13 minutes, twenty minutes, twenty minutes.

14 Q. And you mentioned the silver -- what form was
15 that silver in?

16 A. Well, it was my secret process.

17 MR. SULLIVAN: I object, Your Honor.

18 THE WITNESS: Okay.

19 THE COURT: Sustained.

20 BY MR. HOYT:

21 Q. Can you describe for the jury what products
22 you make through your secret process?

23 THE COURT: Then or now?

24 BY MR. HOYT:

25 Q. Then.

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1 A. I'm the only person in the world making a
2 bunch of this weird stuff. I have platinum water, gold
3 water, zinc water, silver water, selenium water,
4 chromium water, vanadium water.

5 I also have a heavy metal -- not "heavy.
6 metal" -- a heavy water that is a liquid enzyme. We
7 make RNA, which is Ribonucleic Acid, also.

8 Q. You have named a number of items such as
9 chromium and silver and so on. Where are these items
10 found?

11 A. Well, we buy the raw metals; and then we
12 process them with our secret process.

13 THE COURT: Counsel, are we talking about
14 Russia; or have we now moved to Grangeville and you left
15 us behind?

16 MR. HOYT: Thank you, Your Honor. Let me
17 orient.

18 Q. Were you able to use these products that you
19 made in the clinics in the Ukraine and Russia?

20 A. I need to clarify something, if I can. Do you
21 remember the affidavit by Roman --

22 THE COURT: Wait a second.

23 THE WITNESS: I'm asking him --

24 THE COURT: We are going to do this by
25 question and answer. The question is --

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1 THE WITNESS: Okay.

2 THE COURT: The question is: Were you able to
3 use these products that you made in the clinics in the
4 Ukraine and Russia?

5 THE WITNESS: Yes, I was.

6 BY MR. HOYT:

7 Q. Okay. And how is it that -- take, for
8 instance, the silver. How is it that you believe that
9 benefits the --

10 MR. SULLIVAN: Your Honor, I object on the
11 grounds of relevance.

12 THE COURT: Sustained.

13 BY MR. HOYT:

14 Q. What year was it that you were working in the
15 clinics in St. Petersburg and in the Ukraine?

16 A. 2001 and part of 2002. It was right before I
17 got arrested. I was on the road full time.

18 Q. And were you trying to establish your business
19 as an international business?

20 A. Yes, I was.

21 Q. And did you form a foreign or an international
22 corporation, company, to assist you in that regard?

23 A. Yes, I did.

24 Q. Were you ever able to implement that plan and
25 establish an international business?

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1 A. I was working on it, but it just never
2 happened because I have been -- I have been in jail.

3 Q. Mr. Hinkson, would you, please, explain to the
4 jury how it is that WaterOz came into being?

5 A. The name?

6 Q. Let's start with the name. Let's say -- where
7 were you living at the time?

8 A. Las Vegas, Nevada.

9 Q. And how is it that the name came into
10 existence?

11 A. Well, I --

12 MR. SULLIVAN: Your Honor, I object.
13 Relevance.

14 THE COURT: Overruled.

15 THE WITNESS: I discovered that there was
16 different kinds of ozone. I wanted to make an ozone
17 machine that would be a special ozone machine, so I
18 started manufacturing ozonators. And the word "WaterOz"
19 came from water, ozone, "water" and "oz."

20 BY MR. HOYT:

21 Q. And when did you start making ozone machines?
22 I would say 1990, 1991, 1992, 1993, 1994, 1995,
23 1996, 1997, 1998, 1999, 2000, 2001, 2002.

24 Q. And now did you come across the technology to
25 make an ozone machine?

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A. That's a weird one. I was trying to figure --

MR. SULLIVAN: I object, Your Honor.

THE COURT: Sustained. Mr. Hinkson, just answer the question. How did you come across the technology?

THE WITNESS: That's what I was trying to answer.

THE COURT: You characterized it with your statement, "That's a weird one." I want you to answer the question without characterizing it, okay?

THE WITNESS: Ozone -- I was investigating the fraudulent claim of the Government that there is a hole in the ozone. I started investigating ozone.

MR. SULLIVAN: Your Honor, I think he didn't follow the court's order.

THE COURT: He has not. The last statement is stricken. The jury will disregard it.

I am going to have the court reporter re-read the question to you, and I want you to answer that question only.

(Whereupon, the pending question was read back by the court reporter.)

THE WITNESS: Well, I was just investigating everything I could find out about ozone.

BY MR. HOYT:

Q. Were there other ozone machines on the market at that time?

A. Yes. There was people selling machines that were, like, \$4,000 a piece and --

Q. And upon investigating, did you determine if you could make one and sell it for a lesser cost?

A. Yes. \$300 instead of \$4,000, yes.

Q. Did you commence manufacturing these machines at some point in time?

A. Out in the Vegas desert, yes, we started assembling them.

Q. When was that?

A. 1989 or 1990, somewhere in --

Q. And what is the major purpose for an ozone machine? Why would one want to buy an ozone machine?

A. Well, we just said that water and air -- now, ozone is interesting stuff.

Q. Let me ask you this: What does an ozone machine do for water and air?

A. If you have a car that has cigarette smoke in it and the car smells really bad, you can put the little hose in the window -- we make the only ozonator in the world where the ozone is pumped out a hose.

MR. SULLIVAN: I object. Non-responsive.

THE COURT: It is non-responsive. The question was: What does an ozone machine do for --

THE WITNESS: It neutralizes all of the smells of cigarette odor, tobacco odor. You can ozonate your vegetables in the bag. It removes the bug sprays, the chemical sprays. And I did something with ozone that was really --

THE COURT: Let's wait for the next question.

BY MR. HOYT:

Q. Let me ask you this: What is unique about your ozone machine?

MR. SULLIVAN: I object. Relevance.

THE COURT: I don't see the relevancy either. Sustained.

BY MR. HOYT:

Q. At some point in time, Mr. Hinkson, did you commence manufacturing these liquid mineral products that you mentioned earlier?

A. Yes. The first one was silver. I attempted to make silver.

Q. When was that?

A. I believe, 1988.

Q. Did you produce any other liquid mineral products besides silver?

MR. SULLIVAN: I object, Your Honor.

THE COURT: Sustained.

BY MR. HOYT:

Q. Does the termed "colloidal" have a significance in your business?

MR. SULLIVAN: I object.

THE COURT: Sustained.

BY MR. HOYT:

Q. How do you make silver into a liquid form?

MR. SULLIVAN: I object.

THE COURT: Sustained.

BY MR. HOYT:

Q. Mr. Hinkson, how many products does WaterOz sell at this time?

A. I believe, 188, I think.

Q. How many products did WaterOz sell in the year 2003?

A. 188.

Q. Are all of those products mineral waters and ozone machines?

A. No, no, no, no.

Q. What other products besides ozone machines and mineral waters does your company sell?

A. Frankincense, sprays, energy essential oils, you can imagine.

Q. In your business practice?

1 A. Yes. It runs about a seventy-percent profit.

2 Q. Have others tried to take your business away

3 from you?

4 A. Multiple. About six take-over attempts.

5 Q. Could you tell the jury the names of those

6 individuals who have attempted to take over your

7 business?

8 A. The first one, I think, was Ron Allen. And

9 after Ron Allen, there was Leland Lucas and Goose and

10 Stacy Kofahl who filed complaints against me. And, of

11 course, there is Bellon, Swisher, and Lonnie. I think

12 I'm missing some there.

13 Q. And how is it that --

14 A. I said Annette, didn't I?

15 Q. Annette Hasalone?

16 A. Yeah. That was the big one.

17 Q. And of these parties, have any of them filed

18 lawsuits against you in order to try to take over your

19 business?

20 A. Annette Hasalone sued me for \$600,000 and

21 twenty percent of the business.

22 Q. And Mr. Bellon?

23 A. He sued me for fifty percent.

24 Q. And did Mr. Swisher file a counterclaim

25 against you?

1 A. For \$522,000, yes.

2 Q. Now, you indicated that you moved -- you were

3 moving to Idaho in 1997. Can you describe for the jury

4 what you did in order to locate the business here, in

5 terms of physical facilities?

6 A. Well, it was very difficult because I built

7 the factory in the middle of a cow field; and there was

8 no power, no water. It was impossible, but I did the

9 impossible. Like "The Field of Dreams," I put this

10 factory where nobody would have ever dreamed of putting

11 a factory.

12 Q. What was your reasoning? Why did you do that?

13 A. Because Idaho County doesn't have a lot of

14 very oppressive government controls, as far as building

15 permits and things; and I wanted to build it the way I

16 wanted to build it. And I wanted freedom.

17 Q. And does the factory have electrical wiring

18 and plumbing in it?

19 A. Everything is code, yes. Lots of it, all in

20 conduit.

21 Q. And how many square feet, total, in the

22 factory at this time?

23 A. It's exactly 53,000 square feet.

24 Q. Do you need all of that square footage for the

25 business of WaterOz at this time?

1 A. No. I'm only using about fifty percent of the

2 space.

3 Q. Were you building for expansion?

4 A. Yes.

5 Q. Now, Mr. Hinkson, when you located WaterOz in

6 Idaho County, how large was the facility that you

7 started with there?

8 A. 9,600 square feet.

9 Q. And what funded the building of the full

10 53,000 square feet?

11 A. I financed my house.

12 Q. And over what period of time?

13 A. Can you clarify that question?

14 Q. Over what period of time did you go from 9,600

15 square feet to 53,000?

16 A. From 1997 to 2001. My construction company

17 worked full time at it.

18 Q. You said, "my construction company." Would

19 you please tell the jury what you are referring to?

20 A. Well, we purchased a lot of garbage equipment;

21 and we had a couple of mechanics that fixed it. A

22 grinder, three bulldozers, I have a D-7, a D-8,

23 four semi-trail trucks, a rock crusher, an old one. We

24 fixed that, too. Basically, I have lots of

25 old-but-fixed-up equipment.

1 Q. And what is it that this construction company

2 did?

3 A. I never worked for anybody but us. We built

4 an office building in Grangeville, and we did these

5 additions. Dan Vaughn stood up the red iron; that was

6 his contribution. He also built the building in

7 Grangeville.

8 MR. HOYT: And I would like to show the jury

9 what has been marked as Exhibit C-28. Let's see.

10 Before I show it to the jury, I would ask that the

11 witness review the exhibit and identify it.

12 Is it coming up?

13 THE COURT: Do you want him to see it on the

14 screen, or shall I have Ms. Longstreet hand him the

15 book?

16 MR. HOYT: I'm trying to get it up on the

17 screen, Your Honor. It's beeping but it's not --

18 THE COURT: It's not on either the witness's

19 or mine.

20 MR. HOYT: Let me try putting it on the photo

21 screen here, on the Elmo, and see if that will work.

22 THE COURT: That did it.

23 MR. HOYT: That did it?

24 THE COURT: Now you just turned it off.

25 MR. WALSH: I just put it on the screen.

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THE COURT: We are fine now. Thank you.

MR. HOYT: It's actually on the screen.

THE COURT: Leave the lights down.

BY MR. HOYT:

Q. You have before you what has been marked as Exhibit No. C-28. Can you identify that for us, please?

A. Yes. Dan Vaughn put up the actual red iron structure. My construction company finished it.

Q. Is it, in fact, a photograph of something?

A. Yeah, my office building.

Q. And that office building you have indicated is near the town of --

A. Grangeville.

MR. HOYT: And I would like to show you what is -- well, let's see. I would move the admission of C-28.

THE COURT: Any objection?

MR. SULLIVAN: No objection, Your Honor.

THE COURT: Exhibit C-28 is admitted.

(Whereupon, Defendant's Exhibit No. C-28 was received in evidence.)

MR. HOYT: May I publish, Your Honor?

THE COURT: You may.

BY MR. HOYT:

Q. And what year was it that the office building

near Grangeville, as depicted in Exhibit C-28, was built?

A. Well, over a period of two and a half years. I think it was nearing completion, pretty much completion, right before I got arrested the first time.

Q. What was the date that you were arrested the first time?

A. November 21, 2002.

Q. Has the building depicted in Exhibit C-28 ever been occupied?

A. No.

MR. HOYT: At this time, Your Honor, I would like to show the witness what has been marked as Exhibit No. C-24.

THE COURT: Very well.

BY MR. HOYT:

Q. I'm sorry. C-26. I misspoke. It's C-26. Mr. Hinkson, do you see, on your screen in front of you, what has been marked as Exhibit C-26?

A. Yes, I do.

Q. And can you identify that, please?

A. It's my handywork. It's the first floor of the three floors of the office building.

Q. Of the Grangeville office building we just saw in Exhibit C-28?

A. Yes.

MR. HOYT: And we would move the admission of Exhibit C-26.

MR. SULLIVAN: No objection.

THE COURT: C-26 is admitted.

(Whereupon, Defendant's Exhibit No. C-26 was received in evidence.)

MR. HOYT: May I publish?

THE COURT: You may.

BY MR. HOYT:

Q. And what is the -- what objective were you trying to accomplish by the little corrals or pens that are depicted in Exhibit C-26?

MR. SULLIVAN: Objection.

THE COURT: Overruled.

THE WITNESS: This is a call center where people can call in and place their orders; but it, also, could be used as a telemarketing building. You could run Amazon.com out of this building.

It's got fiberoptic trunk line going across the property. It's a versatile building. The third floor is used for the... and has this building -- any of this building...

A. No.

Q. How do I just take this off the monitor? Now, Mr. Hinkson, while you were living in Las Vegas, did a time come when you made a decision regarding Federal Income Taxes?

A. Yes. 1994, I believe. '95.

Q. And what was that decision?

A. Well, at the time, I knew that the --

MR. SULLIVAN: I object, Your Honor. It is non-responsive, first.

THE COURT: It is not responsive. Just briefly tell the jury what your decision was, Mr. Hinkson.

THE WITNESS: Well, I knew, at the time, that there --

BY MR. HOYT:

Q. Mr. Hinkson, what was your decision?

A. My decision? My decision was that nobody was required to file a tax return, based upon the current tax law as written.

Q. Did you make a decision not to file tax returns from that point forward?

A. Yes, I did.

Q. And what was the basis on which you made that decision?

A. Supreme Court rulings.

32

1 MR. SULLIVAN: Objection, Your Honor.

2 THE COURT: Sustained. It's irrelevant.

3 THE WITNESS: I'm sorry.

4 BY MR. HOYT:

5 Q. Now, once you made that decision, did you, in

6 fact, cease to file personal tax returns?

7 A. Yes, I did.

8 Q. And at some point in time after that, were you

9 notified by the Internal Revenue Service that they

10 wanted to investigate your case civilly?

11 A. Yes.

12 Q. And when did that occur?

13 A. Was it '97? I don't have the notes in front

14 of me, but I think it was '97 or eight.

15 Q. Okay. And was an investigation brought

16 against you starting in that year?

17 A. Yes, civil.

18 Q. Who was in charge of that investigation, to

19 the best of your knowledge?

20 A. A guy named Vernon Morgan.

21 Q. Was there anyone else involved in that

22 investigation?

23 A. I think it got turned over to Steven Hines in

24 '98, didn't it? I don't have that information in front

25 of me, but that's my guess.

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1 Q. Now, did you welcome that investigation in

2 order to try and establish your position with respect to

3 taxes?

4 MR. SULLIVAN: I object, Your Honor.

5 THE COURT: Just a minute, Mr. Hinkson.

6 MR. SULLIVAN: The form of the question and

7 relevance.

8 THE COURT: Sustained.

9 BY MR. HOYT:

10 Q. Did you write a letter to Mr. Vernon, asking

11 him if his investigation was criminal or civil?

12 A. Yes.

13 Q. And did Mr. Vernon from the IRS respond to

14 your letter?

15 A. Yes.

16 Q. And what did he say to you?

17 A. Civil.

18 Q. Once he informed you that his investigation

19 was civil, did you write another letter to Mr. Vernon?

20 A. 1,200 pages worth.

21 MR. SULLIVAN: I object, Your Honor.

22 THE COURT: Counsel, wasn't this the subject

23 of an exhibit that the jury has already received in

24 evidence? Are we talking about the letters that are

25 contained in that packet that was marked earlier?

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1 MR. HOYT: Your Honor, I believe that those

2 letters that are marked as Exhibit P-8, which are

3 admitted, were with Agent --

4 THE COURT: Hines?

5 MR. HOYT: -- Hines after the civil

6 investigation concluded.

7 THE COURT: All right. I will allow the

8 question and the answer.

9 MR. HOYT: Would you read back the question?

10 (Whereupon, the last question and answer were

11 read back by the court reporter.)

12 BY MR. HOYT:

13 Q. Mr. Hinkson, did you ask Mr. Vernon -- strike

14 that. Did you inform Mr. Vernon that you wanted to set

15 your case for a civil trial?

16 A. Yes, I did.

17 Q. And why did you want a civil trial?

18 A. Because I believe in the Constitution.

19 MR. SULLIVAN: Objection, Your Honor.

20 THE COURT: Sustained.

21 Counsel, I think this might be a good point to

22 break for our noon recess.

23 Ladies and gentlemen, we will be in recess

24 until 1:15. Remember: Don't discuss the case, keep an

25 open mind; don't do any independent research.

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1 We will see you back here at 1:15.

2 (Whereupon, the jury was excused from the

3 courtroom, and the following proceedings were held:)

4 THE COURT: Mr. Hoyt, I trust we are not going

5 to relitigate the tax case because it sure sounds like

6 that's where we are going with this line of questioning.

7 MR. HOYT: Not at all, Your Honor. I think

8 that it's important for the jury to be familiarized with

9 Mr. Hinkson's perspective of the relationship that he

10 had with Agent Vernon, Agent Hines and, subsequently,

11 Agent Long; and this is his defense.

12 THE COURT: I'm certainly going to allow it

13 with regard to Agent Hines, Agent Long, and so on. I

14 will allow you a little bit of leeway with regard to the

15 fact that he had this long exchange of correspondence

16 with Agent Vernon.

17 I would like to bring it up into the criminal

18 investigation, to the point in time when it was handed

19 over to Agent Hines. I think that's what is really

20 relevant.

21 MR. HOYT: Thank you, Your Honor. I think

22 that's all I'm trying to do, to try a criminal case.

23 THE COURT: I was concerned with the fact that

24 we are going on and on. I don't think we need it on the

25 civil aspect of it.

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1 MR. NOLAN: I think that civil to criminal was
 2 a triggering, and then it goes from there.
 3 THE COURT: That's why I think -- that's what
 4 I want to get to.
 5 MR. NOLAN: Yes, right.
 6 THE COURT: I'm going to allow you to lay the
 7 foundation. What I don't want to re-open is two weeks
 8 of testimony in the criminal tax case with regard to his
 9 understanding of Supreme Court authority and questioning
 10 the authority of Agent Vernon to conduct a civil
 11 investigation. That's just not --
 12 MR. HOYT: We are not going to go into those
 13 issues. But I am going to ask him, "Did you do
 14 research?"
 15 THE COURT: Yes.
 16 MR. HOYT: And did he base his decisions upon
 17 research?
 18 THE COURT: That's all right.
 19 MR. HOYT: We are not going to go into which
 20 case and Cheek this and --
 21 MR. NOLAN: We are not talking about the
 22 fringe on the flag, Judge.
 23 THE COURT: I will see you at 1:15.
 24 (Lunch recess.)
 25

1 And, Mr. Hinkson, you can resume the witness
 2 stand.
 3 Okay. H -- I have it -- H-3?
 4 MR. NOLAN: Yes.
 5 THE COURT: And you want to start at page 2?
 6 Excuse me. Where do you want to start?
 7 MR. NOLAN: Page 2. We don't need the, "I'm
 8 coming up; it's great." We don't need that.
 9 THE COURT: Yes.
 10 MR. NOLAN: But it does establish that there
 11 is nothing between that and the first part, so I don't
 12 think it's prejudicial to put that other stuff in.
 13 THE COURT: I don't either. Let me just
 14 review this quickly. Up through what, Mr. Nolan?
 15 MR. NOLAN: Up through 6, line 6. It's 2, 2
 16 to 6, 6.
 17 THE COURT: Well, let's see. This is the
 18 discussion between Mr. Hinkson and Mr. Harding about
 19 Annie Bates? Is that it?
 20 MR. NOLAN: Right. And it's relatively -- I
 21 cut it at the point where it turns to foreign women, or
 22 I don't know. I don't want to bring in anything that
 23 I don't know. I don't want to bring in anything that
 24 I don't know. I don't want to bring in anything that
 25 I don't know. I don't want to bring in anything that

1 (Whereupon, the following proceedings were
 2 held outside the presence of the jury:)
 3 THE COURT: Mr. Nolan?
 4 MR. NOLAN: Briefly, Your Honor, on the
 5 transcript and the tape of the J. C. Harding tape.
 6 Because of the testimony by J. C. Harding that, at the
 7 beginning of that interview, he, Mr. Hinkson, looked at
 8 where it was and hesitated, et cetera, et cetera, I am
 9 proposing to ask to admit pages 2 to page 6, line 6.
 10 I have it on my computer. I don't have a tape
 11 recording to pull it out, to clip it out, and to make it
 12 an exhibit yet.
 13 But I gave this to the Government yesterday.
 14 Just as of the break, they said they were going to
 15 object to it. I wanted to alert the court so the court
 16 could determine whether those pages are appropriate to
 17 play.
 18 THE COURT: The only portion I have before me
 19 is the actual Exhibit 4-A.
 20 MR. NOLAN: Defense Exhibit H-3 is the entire
 21 transcript.
 22 THE COURT: Volume Two or One?
 23 MR. NOLAN: Volume One. At least -- I'm
 24 sorry. It may not be Volume One.
 25 THE COURT: I think it's Volume Two.

1 THE COURT: Mr. Sullivan or Mr. Taxay?
 2 MR. SULLIVAN: Your Honor, we don't see
 3 anything material or relevant about that portion at all.
 4 THE COURT: I mean, that's the problem. As I
 5 understood Mr. Harding's testimony, what Harding saw
 6 isn't going to be recorded aurally, a-u-r-a-l-l-y, on
 7 the tape recording.
 8 So I'm not sure this proves anything. And it
 9 does introduce hearsay that's not relevant to the point
 10 you are trying to establish.
 11 MR. NOLAN: Two things:
 12 1. I think if the court -- I would hope, if
 13 the court reviews the testimony of Mr. Harding at some
 14 point, you will find that he said there was a pause of
 15 some time where nothing was said by either party.
 16 THE COURT: Where do you contend that that
 17 pause occurs?
 18 MR. NOLAN: According to Mr. Harding's
 19 testimony, at the moment he walks into the room. That's
 20 my recollection.
 21 THE COURT: Point to me on the transcript
 22 where you think that is.
 23 MR. NOLAN: I'm sorry. I'm sorry. The
 24 transcript of his testimony in the courtroom, which he
 25 said that Mr. -- Mr. Harding said that.

1 THE COURT: I understand. Can you point to me
 2 where you think the pause will be heard on the tape?
 3 MR. NOLAN: If it existed -- it doesn't exist.
 4 See, I'm trying to establish it doesn't exist, that that
 5 scenario is a lie.
 6 If you listen to the beginning of the tape,
 7 there is no indication whatsoever that there are any
 8 pauses, hesitations, or anything.
 9 So it is the jury being able to hear that
 10 there is nothing to indicate that he knew or thought
 11 that it was recorded. He did testify something happened
 12 right at the beginning and that there was this gap.
 13 THE COURT: Okay. Let me just make sure I'm
 14 with you. Is it page 2, about line 21 or so, he pulls
 15 into the yard and then there must be Mr. Hinkson's dogs?
 16 MR. NOLAN: Right.
 17 THE COURT: That's who he is referring to when
 18 he said, "Hi, babies"?
 19 MR. NOLAN: "Hi, babies." If you listen to
 20 the tape -- I can play it right now or at the break. I
 21 have it right here. I can play it.
 22 THE COURT: I don't want to take too much time
 23 on this. It seems to be fairly innocuous. I see the
 24 point that you are trying to make. I think it's a fair
 25 point. I'm sorry. Again, give me the cut-off.

1 MR. NOLAN: I cut it at page 6, line 6.
 2 THE COURT: I will allow it.
 3 MR. NOLAN: I will put it together. Thank
 4 you.
 5 THE COURT: You are welcome.
 6 MR. SULLIVAN: We would like -- we would like
 7 to see this reference to Mr. Hinkson's testimony in the
 8 transcript.
 9 THE COURT: The point is it's not in the
 10 transcript.
 11 MR. SULLIVAN: No. I'm talking about --
 12 THE COURT: That's what I understand.
 13 MR. NOLAN: It's Mr. Harding's reference.
 14 MR. SULLIVAN: Mr. Harding's reference.
 15 MR. NOLAN: If we have the transcript yet, I
 16 can thumb through and find it. I remember it.
 17 THE COURT: Are we going to get to this before
 18 the afternoon recess?
 19 MR. NOLAN: I don't think so. I don't think
 20 so. It was just a quick --
 21 THE COURT: If we do, just signal me and we
 22 will take a recess.
 23 MR. NOLAN: If they have the Harding
 24 transcript, I can do this.
 25 THE COURT REPORTER: They both have it, Judge.

1 THE COURT: The court reporter said she's
 2 already given it to you.
 3 MR. NOLAN: I will go through it. Thank you.
 4 THE COURT: Go ahead, Mr. Hoyt.
 5 MR. HOYT: As you can see, on the edge of
 6 defense table, there are three bottles that are samples
 7 or exemplars of products made by WaterOz.
 8 THE COURT: If you want to mark those, I will
 9 let you mark them.
 10 MR. HOYT: All right. Very good.
 11 THE COURT: You can introduce those through
 12 Mr. Hinkson.
 13 MR. HOYT: That's what I would like to do.
 14 Rather than having a lot of commotion back and forth in
 15 front of the jury --
 16 THE COURT: Let's pre-mark them now.
 17 THE WITNESS: Yes. If you put white paper
 18 behind them, the color shows up. That gold is actually
 19 a gold color.
 20 THE COURT: I think we have some colored
 21 exhibit tags that we can put on them
 22 THE COURT: W. CLERK: They will be marked as
 23 Defendant's Q, R, and S.
 24 MR. NOLAN: Mr. Taxay, if you find the trial
 25 log is done. As soon as I find it, I will call you.

1 MR. HOYT: Let's just put the sticker right
 2 above the word "WaterOz" on each one of them, if you
 3 please.
 4 THE COURTROOM CLERK: S is the silver water.
 5 MR. HOYT: That makes sense to me.
 6 THE COURTROOM CLERK: Q is the dietary
 7 supplement.
 8 MR. HOYT: "Water of Life" it's called.
 9 THE COURTROOM CLERK: And R is is the gold.
 10 MR. HOYT: We can have it Q, R, S and have it
 11 in alphabetical order.
 12 THE COURT: I don't think I gave the
 13 Government a chance. Do you want to make an objection
 14 to these three samples of the water?
 15 MR. SULLIVAN: I would just like an
 16 opportunity to look at them; that's all.
 17 THE COURT: Sure. Let's do that now.
 18 MR. SULLIVAN: What time frame are we talking
 19 about?
 20 MR. HOYT: When were those bottles
 21 manufactured?
 22 MR. SULLIVAN: My recollection is that the
 23 boxes, in -- the one I'm holding, the silver, says -- it
 24 has a typical label on the front, and then it says, "I
 25 do. Indeed, these statements have not been established

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1 by the Food and Drug Administration. This product is
2 not intended to diagnose, treat, or prevent any
3 disease." I don't think that statement was on there
4 until much later.

5 THE COURT: How about if we do this?
6 Mr. Hinkson can use them as demonstrative exhibits to
7 illustrate his testimony, but they will not be admitted
8 into evidence to go back to the jury room. So the jury
9 doesn't ever need to read the representations on the
10 label.

11 MR. HOYT: That's fine with us.

12 THE COURT: Is that acceptable, Mr. Hoyt?

13 MR. HOYT: It is.

14 THE COURT: Does that cure your problem,
15 Mr. Sullivan?

16 MR. SULLIVAN: It may. I will have a few
17 questions about --

18 THE COURT: We will just have to take it as it
19 goes. Just be forewarned, if you question too far, they
20 may come into evidence for all purposes.

21 MR. SULLIVAN: Yes.

22 THE COURT: All right.

23 THE COURTROOM CLERK: Are you admitting them
24 as illustrative?

25 THE COURT: They are admitted for the limited

1 purpose of demonstrative exhibits to illustrate
2 Mr. Hinkson's testimony.

3 (Whereupon, Defendant's Exhibits Q, R, and S
4 were received in evidence as demonstrative exhibits.)

5 THE COURT: Anything else?
6 Marshal, could you open the door for the jury,
7 please?

8 (Whereupon, the following proceedings were
9 held in the presence of the jury:)

10 THE COURT: Mr. Hoyt, you may continue.

11 MR. HOYT: Thank you, Your Honor.

12 Q. Before the break, Mr. Hinkson, I asked you
13 about sending some papers to Agent Vernon indicating
14 that you wanted to have a civil trial regarding the tax
15 issue?

16 A. Yes. Yes, I did.

17 Q. And had you actually prepared a complaint to
18 be filed concerning the issues you wanted to raise?

19 A. Yes, I did. But I did not file it at that
20 time.

21 Q. And were you -- how soon after that were you
22 notified that this matter was referred -- strike that.

23 Were you told that you were going to have a
24 meeting regarding the civil investigation by the IRS?

25 A. Yes, I was.

1 Q. And what happened to that meeting?

2 A. The Government Agent cancelled it for some
3 reason.

4 Q. Did he later tell you what the reason was?

5 A. I think he found out I was threatening to sue
6 him, so he decided to cancel the civil investigation.

7 Q. And was the civil investigation --

8 MR. SULLIVAN: That was not responsive.

9 THE COURT: It was not responsive. The jury
10 will disregard the last answer. Sustained.

11 BY MR. HOYT:

12 Q. Was the civil investigation cancelled, to the
13 best of your knowledge?

14 MR. SULLIVAN: I object. I think counsel is
15 mispeaking.

16 THE COURT: You can find out if the meeting
17 ever occurred.

18 MR. SULLIVAN: He is saying civil
19 investigation, I think you said civil meeting.

20 THE COURT: The meeting with the Revenue
21 Agent, is that what you are asking?

22 BY MR. HOYT:

23 Q. Was the meeting with Agent Vernon cancelled?

24 A. Yes, it was.

25 Q. And did you ever file your civil complaint?

1 A. No, sir.

2 Q. And at some point in time, did you become
3 aware that a criminal investigation was proceeding
4 against you?

5 A. Yes. Steven Hines sent me a letter stating
6 that.

7 Q. And would you describe for the jury, briefly,
8 what that criminal investigation entailed?

9 A. He just said I was being investigated
10 criminally and that I had the right to remain silent, if
11 I remember right, and not incriminate myself.

12 Q. And how did you respond to Agent Hines'
13 statement that you were being criminally investigated?

14 A. I think I originally sent him a letter
15 explaining to him and asking him some questions like
16 where he got his authority from to do this, and I also
17 told him he had my name wrong on the paperwork.

18 Q. And did you have communication from -- further
19 communication from Mr. Hines?

20 A. I'm not sure. It seemed to me that he started
21 summoning bank records at that time.

22 Q. And did you have communication from Mr. Hines
23 summons for bank records?

24 A. Well, the banks would call me, believe it or
25 not, and Hines, Steven Hines, sent me a letter and

1 summons.

2 Q. And during this period, did you file any

3 objections to these summonses?

4 A. Yes. I filed an objection with each bank that

5 he summoned, and I sent an objection to Steven Hines.

6 And the basis of the -- should I stop there?

7 THE COURT: Yes.

8 MR. SULLIVAN: I would object, Your Honor.

9 THE COURT: Overruled.

10 BY MR. HOYT:

11 Q. Now, Mr. Hinkson, you have talked about a lot

12 of correspondence. You have talked about a complaint

13 that you filed. What was the basis on which you were

14 taking issue with both the civil and the criminal

15 investigation?

16 A. Can you just break that into two questions?

17 Because there's different issues, I mean --

18 Q. I understand. Rather than getting into the

19 specific issues, did you formulate your positions based

20 upon research?

21 A. Yes, research of the law and some Supreme

22 Court rulings. But the letter --

23 THE COURT: That's enough. Wait for the next

24 question.

25

1 BY MR. HOYT:

2 Q. For how long a period of time had you

3 researched these issues?

4 A. About six years.

5 Q. And did you come to an understanding of the

6 law that was different than the IRS?

7 A. Yes, I did. And my understanding was

8 different than --

9 THE COURT: Wait for his next question.

10 BY MR. HOYT:

11 Q. Exhibit F -- do you have that exhibit book in

12 front of you?

13 A. Yes, I think I do.

14 Q. Exhibit F-8, which has been admitted into

15 evidence, is that --

16 A. F-A, you said?

17 THE COURT: F-8.

18 MR. HOYT: F-8.

19 THE WITNESS: There's F-7.

20 THE COURT: Counsel, can you give us a Bates

21 stamp number? Is it 0245, Mr. Hoyt?

22 MR. HOYT: Your Honor, I cannot tell.

23 THE WITNESS: It's close.

24 MR. HOYT: Is there --

25 THE WITNESS: I found it, with "r-i-g-h-t," at

1 the top right.

2 THE COURT: Yes. That's what I have,

3 Mr. Hoyt. Did you find it?

4 BY MR. HOYT:

5 Q. All right. I'm sorry. I want to go back a

6 step to Exhibit F-7. Do you have that, as well,

7 Mr. Hinkson?

8 A. Yes, I do.

9 MR. TAXAY: Counsel, what page?

10 MR. HOYT: That would be --

11 THE WITNESS: I wrote it so I know the --

12 THE COURT: Let's make sure everybody is on

13 the same page.

14 THE WITNESS: 00173?

15 MR. HOYT: Your Honor, I misspoke earlier. I

16 said that F-8 had been admitted. In fact, I think it's

17 F-7 that has been admitted.

18 THE COURT: Thank you, counsel.

19 BY MR. HOYT:

20 Q. Referring now to F-7, Mr. Hinkson, what is

21 Exhibit F-7?

22 A. It's an Administrative Motion of Carl F. ...

23 Due Process Rights and Requests for Additional Response

24 with Attached Affidavit. That's the heading of it.

25 Q. Who was it addressed to?

1 A. Steven Hines.

2 Q. What was the purpose for sending this letter

3 dated October 2002 -- excuse me -- year 2000 to

4 Mr. Hines?

5 A. To put him on notice and to ask him questions

6 because the law that he quoted when he sent the law to

7 the banks does not match what is in the Congressional

8 Record or the law books.

9 MR. SULLIVAN: I object to him giving his

10 legal opinions, Your Honor.

11 THE COURT: I think the document will speak

12 for itself.

13 THE WITNESS: Yes.

14 BY MR. HOYT:

15 Q. And, basically, you were trying to notify

16 Agent Hines of your position in the matter; is that

17 correct?

18 A. Exactly.

19 Q. I want to stop there for a second because,

20 from the time standpoint -- this is October 2000 -- you

21 had some other legal matters that had been pending as of

22 that time, specifically re: ...

23 right?

24 A. Yes.

25 Q. If we can -- if we can stop back just a little,

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1 bit to bring up the Annette Hasalone matter to the same
2 time period, so that we are running the two in tandem,
3 would you please advise -- tell the jury who she is?

4 Has she been a former employee of yours?

5 A. Yes, she was a former employee. And I heard
6 about her --

7 THE COURT: That's the answer to the question.
8 Let him ask another question.

9 BY MR. HOYT:

10 Q. Was she related to Bobbi Eve?

11 A. Yes and no. She was dating Bobbi's son, Mark.
12 They were living together. They were not married so --

13 Q. Do you remember her testifying in the tax case
14 that she was a fugitive from justice when she came and
15 applied for work at WaterOz?

16 A. Yes. That was in a deposition. I don't think
17 she -- I don't know if she said that during the trial
18 but in the deposition --

19 MR. SULLIVAN: Objection, Your Honor.

20 THE COURT: Sustained.

21 THE WITNESS: Okay.

22 BY MR. HOYT:

23 Q. Now, what year was it that Ms. Hasalone came
24 to work for WaterOz?

25 A. I believe it was 1999.

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1 Q. And, actually, would it refresh your
2 recollection to know that her lawsuit was filed in 1999?

3 A. Then it would have been 1998.

4 Q. Actually, do you recall the trial date of her
5 lawsuit, Mr. Hinkson?

6 A. August of '99 or 2000. It was in August; I
7 know that.

8 Q. Mr. Hinkson, what was your understanding of
9 the allegations in Ms. Hasalone's lawsuit against you?

10 A. She said that I promised her twenty percent of
11 WaterOz, \$600,000, a cabin with a septic system, and a
12 Dodge diesel pickup truck. I think that's it.

13 Q. And when that lawsuit was over, there was a
14 jury verdict against you; isn't that correct?

15 A. Yes.

16 Q. Did the jury find in favor of her on her claim
17 for twenty percent of WaterOz?

18 A. No.

19 Q. Did it find in favor of her on her claim for a
20 cabin?

21 A. No.

22 Q. Or real property?

23 A. No.

24 Q. Or the Dodge pickup truck?

25 A. No.

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1 Q. Did it find in her favor for past wages due?

2 A. Yes.

3 Q. And what was the amount of the judgment, if
4 you recall?

5 A. I think it was \$95,000.

6 Q. Did you pay that judgment?

7 A. Not voluntarily but, yes.

8 Q. Who was Ms. Hasalone's attorney?

9 A. Dennis Albers.

10 Q. And what was it about that case that gave you
11 concern with Mr. Albers?

12 A. Well, that's my first trial I've ever been to;
13 let me say that. And there was five people that
14 testified against me during this trial.

15 MR. SULLIVAN: Your Honor, I am going to
16 object. We are going to go into his opinion about what
17 happened in the trial.

18 THE COURT: I am going to sustain the
19 objection.

20 BY MR. HOYT:

21 Q. Now, would it refresh your recollection --

22 MR. SULLIVAN: I object.

23 THE COURT: Sustain the objection. Let me ask the
24 witness. I think he's trying to surmount his objection
25 to the witness's article about Mr. Albers. I think

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1 that's a fair question.

2 Go ahead.

3 BY MR. HOYT:

4 Q. I was trying to set a time frame. Would it
5 refresh your recollection if the jury verdict was
6 entered on September 14, 2000?

7 A. Yes.

8 Q. Now, as a result of that trial, what were your
9 feelings against Mr. Albers?

10 A. Well, I was angry, very, very angry for one
11 reason. My anger came from the fact --

12 MR. SULLIVAN: I object to what his reasons
13 were, Your Honor.

14 THE COURT: Sustained. The question was
15 "feelings," and he has answered that question.

16 BY MR. HOYT:

17 Q. And I would like to ask the witness: What
18 were your reasons for being angry?

19 MR. SULLIVAN: I object. Rule 403.

20 THE COURT: Let me see counsel at sidebar.

21 (Whereupon, the following sidebar discussion
22 was held outside the presence of the jury:)

23 MR. SULLIVAN: This is an intent case, and I
24 think some latitude should be given because of the
25 circumstantial nature of his testimony. I think the jury should

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1 conclude that he overreacted or -- I mean, from my
2 theory -- or they may -- he may argue he had every right
3 to be that way.

4 I think the jury should have some
5 understanding because I don't think that it's going to
6 be anything highly prejudicial to the Government or
7 anybody.

8 THE COURT: What is he going to say in
9 response to this question?

10 MR. HOYT: I believe he is going to say that
11 Mr. Albers had a number of people testify that didn't
12 know him, didn't know Hasalone, and that they didn't
13 know the situation at all.

14 And as a result of that, they were providing
15 personal testimony of things that they didn't know,
16 couldn't know; and he was shocked by the whole process.
17 He felt that people had lied against him, and it was an
18 orchestrated attempt just to take money.

19 THE COURT: And that it was Mr. Albers who had
20 endorsed all of these witnesses and, basically, caused
21 all this to happen?

22 MR. HOYT: Yes.

23 THE COURT: The objection is overruled.

24 (Whereupon, the following proceedings were
25 held in open court, in the presence of the jury:)

1 BY MR. HOYT:

2 Q. Mr. Hinkson, what was your reason for being
3 angry?

4 A. The only reason was that, out of the five
5 people that testified against me, I didn't even know
6 three of them. They all committed perjury against me
7 for three straight days.

8 There wasn't one shred of anything true that
9 was said about me, and I almost had a nervous breakdown
10 over it. I was so upset.

11 Q. What did you feel was the source of the five
12 people who testified in that fashion?

13 A. Albers coached them in how to lie properly.

14 Q. And that was as of September 2000? Was there
15 an election in November of 2000?

16 A. Yes, there was.

17 Q. And was Mr. Albers running for a public
18 office?

19 A. Yes, he was.

20 Q. And did you become involved in that political
21 campaign?

22 A. Yes. I started a campaign called the "Unelect
23 Dennis Albers Campaign."

24 Q. Why did you do that?

25 A. Because he told me that I belonged in jail and

1 he was going to put me there, and he was running for
2 prosecutor.

3 MR. SULLIVAN: I object and move to strike.
4 Hearsay.

5 THE COURT: Overruled.

6 Ladies and gentlemen, you may not consider the
7 answer that Mr. Hinkson gave for the truth but only as
8 to Mr. Hinkson's state of mind at the time, with regard
9 to his feelings toward Mr. Albers.

10 BY MR. HOYT:

11 Q. As a result of your feelings toward Mr. Albers
12 at that time, Mr. Hinkson, what did you do in the
13 Unelect Dennis Albers Campaign?

14 A. Well, I knocked on a few doors but not too
15 much of that, really. It was mostly Brit Groom's idea.
16 He stated that --

17 MR. SULLIVAN: I object.

18 THE COURT: Sustained.

19 BY MR. HOYT:

20 Q. Who were the other candidates who were running
21 for Prosecutor in Idaho County at that time?

22 A. Brit Groom was one of them.

23 Q. Was he your attorney at that time?

24 A. Yes.

25 Q. And who else?

1 A. There was Jeff -- Jeff Payne; right?

2 Q. And Mr. Albers?

3 A. And Mr. Albers, yes.

4 Q. Just the three of them?

5 A. That's my recall, yes.

6 Q. Now, Mr. Hinkson, what is it that you did with
7 reference to the Unelect Dennis Albers Campaign?

8 A. Well, I heard that --

9 MR. SULLIVAN: Your Honor, I object.

10 THE COURT: Overruled. I think he can testify
11 as to what he did in connection with it.

12 MR. SULLIVAN: He said, "I heard," in his
13 answer.

14 THE COURT: I'm sorry. You are correct.

15 We want to know what you did. You are not
16 permitted to testify to rumors.

17 THE WITNESS: Well, I've got a copy of --

18 MR. SULLIVAN: Your Honor --

19 THE COURT: No. What did you do?

20 THE WITNESS: I'm trying to explain it.

21 MR. SULLIVAN: May we go to sidebar?

22 (Whereupon, the following sidebar discussion
23 was held outside the presence of the jury:)

24 MR. SULLIVAN: Your Honor, I'm going to lead
25 leading to the point of trying to sell it or to sell

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1 volunteer that he got a letter that reprimanded
2 Mr. Albers for some misconduct back when he was the
3 prosecutor of Mr. Swisher, twenty years or more before,
4 that Mr. Nolan has already elicited once.

5 THE COURT: Go ahead and finish your
6 statement.

7 MR. SULLIVAN: And I want to prohibit him from
8 talking about the contents of this letter because the
9 information relates back to this twenty years.

10 MR. HOYT: Your Honor, I think I understand
11 what counsel's objection is. If I'm reading that letter
12 correctly, which we intend to introduce into evidence,
13 which is Exhibit F-4, that letter does not refer to
14 Mr. Swisher by name.

15 I think it does refer to the Supreme Court
16 reprimand, although it doesn't go into great detail. It
17 is a sample of his writing in a highly emotionally
18 charged situation and how he conducted himself.

19 THE COURT: How who conducted himself?

20 MR. HOYT: How Mr. Hinkson conducted himself
21 when he was angry with somebody and how he prepared this
22 letter and mailed it out and how he organized the
23 campaign to do that and so on.

24 I don't believe -- it's not my intention to go
25 into any allegations against Mr. Swisher as a result of

1 whatever kind of case it was. It was a criminal case
2 back in the '80s, and it's purely to show how he
3 responded to Mr. Albers.

4 MR. NOLAN: In other words, we are going to
5 establish that he wrote this and he sent this out; and
6 we are offering it but not going into the details of why
7 he said this and that in the letter. So you can look at
8 the letter, it is F-4.

9 THE COURT: Let me take a look at the letter
10 while we are here.

11 MR. HOYT: Have you read F-4?

12 MR. SULLIVAN: Actually, I have not.

13 I object to the admission -- I object to the
14 admission of that document, Your Honor. It's a
15 full-page letter with many allegations. First of all, I
16 object to smearing Mr. Albers, you know, any further
17 than he's done already.

18 I don't see any need for this letter to prove
19 that he acted in a particular way that excluded
20 violence, so I move to exclude this letter.

21 MR. NOLAN: The problem is he's charged with
22 soliciting to kill, under 404(b), Mr. Albers. To show
23 his behavior and attitude towards Mr. Albers in
24 exercise of the First Amendment is the crux of the case.

25 Did he cross over the line of the First

1 Amendment? It shows his behavior. As far as -- I mean,
2 we are not here to offend Mr. Albers, but he hasn't
3 testified as a witness and, unfortunately, this -- I
4 mean -- anyway --

5 THE COURT: Having reviewed Exhibit F-4, the
6 proposed letter, I am going to admit it.

7 I am, however, looking at Exhibit F-5. Are we
8 going to go to that one next?

9 MR. HOYT: Yes.

10 THE COURT: I think that one does contain more
11 than just claims against Mr. Albers. It contains
12 statements with regard to Jeff Payne, Bill Clinton,
13 statements with regard to Ms. Hasalone's potential
14 criminal background.

15 I will let you get in F-4, but I think F-5 is
16 going too far and that its probative value is outweighed
17 by its prejudicial impact. The Government's objection
18 to F-4 is overruled.

19 MR. NOLAN: May we establish that he also
20 wrote something called "Corruption in the County" and
21 sent it out? It contains many allegations -- or words
22 to that effect?

23 THE COURT: Sure. I will allow that.

24 MR. HOYT: What I will do, Your Honor, is it's
25 my job to let him testify F-4 and talk about it.

1 we will move its admission, counsel can object, and you
2 can sustain.

3 THE COURT: No. I have ruled at sidebar. We
4 will do it the way Mr. Nolan suggested, which makes it
5 less likely to give Mr. Hinkson a chance to blurt out
6 the contents of F-5, which I'm trying to avoid. That's
7 my ruling.

8 MR. NOLAN: I don't think he was going to say
9 anything about F-4. We will make sure he doesn't.

10 MR. HOYT: Do you mean F-5?

11 MR. NOLAN: Oh, yes, F-5.

12 (Whereupon, the following proceedings were
13 held in open court, in the presence of the jury:)

14 BY MR. HOYT:

15 Q. Mr. Hinkson, do you have Exhibit F-4 in front
16 of you?

17 A. Yes.

18 Q. Who was the author of F-4?

19 A. Me, David Hinkson.

20 Q. And without going into detail as to the
21 precise -- all of the statements, because it can be read
22 by the jury itself, can you tell us, generally, the
23 purpose for the letter, F-4?

24 A. I'm pointing out the fact here that Dennis
25 Albers, in the past, has prosecuted innocent people for

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1 personal and financial gain.

2 MR. HOYT: And, Your Honor, we move the

3 admission of Exhibit P-4.

4 THE COURT: Based upon the court's ruling at

5 sidebar, Exhibit P-4 is admitted.

6 (Whereupon, Defendant's Exhibit No. P-4 was

7 received in evidence.)

8 BY MR. HOYT:

9 Q. Mr. Hinkson, at some point, did you mail out a

10 letter to the voters of Idaho County prior to the

11 election and to the year 2000?

12 A. Actually, Joe Swisher mailed most of them. I

13 mailed a few. It was three days before the elections,

14 to be exact. Halloween Eve.

15 Q. And was Mr. Swisher interested in seeing that

16 these letters went out?

17 A. Yes.

18 MR. SULLIVAN: Objection, Your Honor.

19 Irrelevant.

20 THE WITNESS: Yes, he was.

21 THE COURT: Overruled. The question and

22 answer may stand.

23 BY MR. HOYT:

24 Q. And to whom did you mail the letters?

25 A. Like I said, I didn't physically mail them but

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1 they were addressed -- okay. I think that's the

2 question you are asking.

3 They were addressed to every registered voter

4 in the county, and my secretaries hand-addressed every

5 single envelope so that they would look like local mail.

6 Q. And what was the effect of this letter?

7 A. A total desecration of Mr. Albers' legal

8 career.

9 Q. Was he elected?

10 A. The vote went from the Gallup pole, to 30

11 positive to 30 minus.

12 MR. SULLIVAN: Objection.

13 THE COURT: Was he elected or not?

14 BY MR. HOYT:

15 Q. Was he elected?

16 A. No. It was a landslide against him at that

17 point.

18 THE COURT: The jury will disregard the

19 testimony with regard to the Gallup pole.

20 BY MR. HOYT:

21 Q. Now, Mr. Hinkson, prior to that time, had you

22 been involved in an issue down in Arizona?

23 A. No. It was Las Vegas.

24 Q. Thank you. Las Vegas. I'm sorry. Mental

25 block.

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1 Mr. Hinkson, just briefly, what was the issue

2 you were involved in in Las Vegas?

3 A. I exposed fraud.

4 THE COURT: Counsel, there is an objection, I

5 believe.

6 Go ahead, Mr. Sullivan. Is it the same

7 objection you made yesterday?

8 MR. SULLIVAN: It is.

9 THE COURT: The ruling is the same. The

10 objection is sustained.

11 BY MR. HOYT:

12 Q. Mr. Hinkson, was the letter regarding

13 Mr. Albers the first time you were involved in political

14 activity?

15 A. No, sir.

16 Q. Had you been involved in political activity

17 previously?

18 A. I did a similar letter in Vegas, yes.

19 Q. And without going into any of the content of

20 the letter or what the campaign was about, were you

21 concerned about corruption?

22 A. Yes.

23 THE COURT: Counsel, if this relates to the

24 Las Vegas matter, I have ruled several times. Move on

25 to a new subject matter.

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1 The jury will disregard the last question and

2 the answer.

3 BY MR. HOYT:

4 Q. Have you ever done any legal work?

5 A. Yes.

6 Q. And what kind of legal work have you done

7 previously?

8 A. Legal work against different federal agencies

9 for different people, one of them being the orangutans

10 for the Client Eastwood movie with the orangutans.

11 Q. Without going into detail, were you a

12 paralegal?

13 A. Yes.

14 Q. Were you working with a law office?

15 A. Yes. I was, yes, sir.

16 Q. And generally, what were your efforts, your

17 legal efforts as a paralegal for --

18 THE COURT: Counsel, I think you are trying to

19 go through the back door to do what I have now ruled

20 three times you may not do. Adhere to my ruling.

21 MR. HOYT: Your Honor, I appreciate the

22 court's ruling. What I had understood the court's

23 ruling to be --

24 THE COURT: Let me see you at sidebar.

25

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(Whereupon, the following sidebar discussion was held outside the presence of the jury:)

MR. HOYT: I am trying to establish that this man has experience in the legal field; that he has done legal research under an attorney, in fact, in Las Vegas; that he worked with clients who were trying to save their properties, et cetera, in a very general way; that he had written letters and communicated that he not -- not politically -- I understood the court -- I thought the court's ruling yesterday was that that witness couldn't go into it.

I didn't realize that the defendant couldn't go into what happened in Las Vegas. Understanding that to be the court's ruling at this time, with reference to political matters -- I thought the door was still open and he could talk about his experience.

One of the things that I think the jury needs to know is that he has, at least in his view, a rational basis for making these opinions and conclusions and engaging people such as Mr. Albers in these issues. He may not be right, but there is a lot of lawyers out there that aren't even right.

MR. SULLIVAN: Your Honor, I don't think more need be said. His early career as a paralegal doesn't shed any light on the issues in this case.

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THE COURT: Mr. Hoyt, if there was something unclear in my ruling yesterday, I apologize; but I will make it clear now.

I don't want you to be asking questions as you are doing now in a way that simply serves as a platform for Mr. Hinkson to testify to the details of the matters that I excluded yesterday. That's exactly what is happening here.

So I have no problem with your eliciting the fact that he had some legal training as a paralegal and worked in a lawyer's office.

I do have a problem with your asking what kind of matters he worked on because that becomes his invitation to go into areas the court has excluded. I don't know how to say this any more clearly, but we are wasting time here. That might solve the problem.

(Whereupon, the following proceedings were held in open court, in the presence of the jury:)

BY MR. SULLIVAN:

Q. Mr. Hinkson, when you were working with a law office, did you learn about legal research?

A. Yes, sir. I used a legal research foundation.

Q. Did you learn about preparing legal briefs?

A. Yes. I was taught.

Q. And did you learn about stating legal issues

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such as in correspondence?

A. Yes, I did.

Q. And was that in connection with the attorney's representation of clients?

A. I was always pro bono. I never -- we never charged the people I was helping.

MR. SULLIVAN: Move to strike, Your Honor.

THE COURT: The jury will disregard the last question and the answer.

BY MR. HOYT:

Q. Was it in connection with the representation of clients?

A. I would say "yes" then.

Q. After the October 10th letter to Mr. Hines, did you continue to communicate with him in writing?

A. Yes, I did.

Q. And what was the subject of your continued communications?

A. Well, every time I sent a letter out complaining about him to the Inspector Treasury General or the Postmaster General, I would send him a copy.

Q. Did he respond back?

A. He has never responded to any of my correspondences.

Q. After a period of time, did you learn that

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there was a Grand Jury that was considering your case?

A. Yes, I did.

Q. And how did that information come to your attention?

A. I believe one of the workers at WaterOz mentioned that they had been summonsed, that it was supposed to be a secret.

Q. Did you do anything to block or prevent that or any other person from attending the Grand Jury?

A. No.

Q. And what, if anything -- what information did you learn of the Grand Jury investigation?

MR. SULLIVAN: Objection. No foundation.

THE COURT: Sustained.

BY MR. HOYT:

Q. Did you ultimately obtain copies of the Grand Jury testimony?

A. Yes, I did.

Q. And did you read those Grand Jury transcripts?

A. Yes, I did.

MR. SULLIVAN: May I have a date, Your Honor?

THE COURT: Yes.

Counsel, please establish a time frame.

BY MR. HOYT:

Q. And do you know when those Grand Jury meetings

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1 took place?

2 THE COURT: No, counsel. That was not the

3 objection. The objection was -- when did Mr. Hinkson

4 receive the Grand Jury transcripts to review?

5 BY MR. HOYT:

6 Q. Mr. Hinkson, when did you obtain copies of the

7 Grand Jury transcripts, to the best of your

8 recollection?

9 A. It was after I was arrested in November. I

10 was released on O.R.; and about a month after that,

11 that's when I was -- Nancy Cook had sent me copies of

12 them to read.

13 Q. And in reading them, did you find statements

14 in there that were untrue?

15 A. Yes.

16 MR. SULLIVAN: Objection.

17 THE COURT: Sustained.

18 BY MR. HOYT:

19 Q. Did you perceive, in reading those

20 transcripts, that there were statements contained in

21 there which were untrue?

22 A. Yes, I did.

23 MR. SULLIVAN: I object, Your Honor.

24 THE COURT: Overruled.

25

1 BY MR. HOYT:

2 Q. And without going into great and lengthy

3 detail, would you tell the jury if Mr. Phil Kofahl --

4 was he allowed to make statements in the Grand Jury?

5 MR. SULLIVAN: Objection. Objection.

6 THE COURT: Sustained.

7 MR. HOYT: Your Honor, is this a prohibited

8 area?

9 THE COURT: No. It's a prohibited way that

10 you are asking the question, counsel.

11 BY MR. HOYT:

12 Q. Mr. Hinkson, what was the nature of the

13 statements that were made in the Grand Jury testimony

14 that you perceived was untrue?

15 MR. SULLIVAN: I object to going into the

16 details of what he perceived.

17 THE COURT: I think he can testify as to what

18 he thought.

19 THE WITNESS: After I read it, there was three

20 or four things that jumped out at me. Phil Kofahl said

21 that my products had killed people.

22 BY MR. HOYT:

23 Q. Had your products killed people?

24 A. No, sir. I never had a complaint with any

25 government agency or not even a lawsuit.

1 Q. Had you ever learned that anybody had died as

2 a result of taking your products?

3 A. No. Just lots of happy customers.

4 Q. Anything else?

5 A. Yeah. Annette Hasalone testified that I had

6 murdered Art Bell's son.

7 Q. Who is Art Bell?

8 A. A famous late-night talk show host. She said

9 that I killed him.

10 Q. Had you killed him?

11 A. No.

12 Q. Did he die?

13 A. No. He is alive and well.

14 MR. SULLIVAN: Your Honor, I object. Now he

15 is trying to --

16 THE COURT: The jury will disregard the last

17 question and answer. Sustained.

18 BY MR. HOYT:

19 Q. Was there anything else in the Grand Jury

20 testimony that you perceived to be untrue?

21 A. Yes. I was -- Hines accused me of being an

22 international machine gun dealer, head of two militias,

23 and ordering hits to murder people.

24 Q. Was there any truth to that?

25 A. No.

1 Q. Did you find out that, as a result of these

2 Grand Jury meetings, an indictment was issued against

3 you?

4 A. I didn't find out until November when they

5 came and attacked my house. I didn't know. When I

6 filed my lawsuit, I didn't know.

7 Q. Let's go back to April 16th of the year 2002.

8 Do you recall filing a lawsuit on that date?

9 A. Yes, I do.

10 Q. And who did you name in that lawsuit?

11 A. Nancy Cook, Steven Hines, and Gerald Morgan.

12 Q. Did you also name Dennis Albers?

13 A. Oh, yes, I did. Yes.

14 Q. Why did you name Dennis Albers?

15 A. Because I had evidence that he, basically, was

16 in cahoots with them.

17 Q. Now, you have used the name Gerald Vernon. Is

18 that -- I'm sorry -- Gerald Morgan. Is he also the same

19 as --

20 A. Yes.

21 THE COURT: Mr. Hinkson, wait for your

22 attorney to finish the question.

23 THE WITNESS: Okay.

24 BY MR. HOYT:

25 Q. Is he also the same person as Mr. Gerald

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1 Vernon?

2 A. Yes. He has aliases.

3 Q. Morgan and Vernon are the same person?

4 A. Yes.

5 Q. And what information had you received that

6 made you believe that Mr. Albers was in cahoots with

7 them?

8 A. The questions that were asked during the

9 civil --

10 MR. SULLIVAN: I object to going there.

11 THE COURT: Sustained.

12 THE WITNESS: Okay.

13 BY MR. HOYT:

14 Q. Mr. Hinkson, were you notified that there was

15 an administrative summons for records that was delivered

16 to Mr. Albers by Mr. Vernon?

17 A. Yes. And the court had ordered it sealed.

18 Q. And did you learn what had happened to the

19 records that were requested pursuant to that summons?

20 A. He turned it over immediately.

21 MR. SULLIVAN: I object.

22 THE COURT: Doesn't this go to the turning

23 over of the tax records?

24 MR. SULLIVAN: I believe it does, Your Honor.

25 THE COURT: I am going to permit it.

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1 Overruled.

2 BY MR. HOYT:

3 Q. And you indicated earlier, when summons were

4 sent to banks or other financial parties, that you had

5 received a notice from Mr. Hines and you had received a

6 notice from the bank telling you that the summons had

7 arrived; correct?

8 A. Correct, correct.

9 Q. And is there a notice period in which you were

10 allowed to take some action if you wanted to, to the

11 best of your knowledge?

12 A. There was supposed to be a certain time that

13 you have to respond.

14 Q. Do you remember how much time there was?

15 A. I think it's twenty days or fifteen days. I'm

16 not really sure at this point.

17 MR. HOYT: There is no foundation showing for

18 what he thinks on these particular matters. I object to

19 going into it.

20 THE COURT: The objection is overruled. It

21 goes to the defendant's state of mind. I thought we

22 covered this at sidebar. Overruled.

23 BY MR. HOYT:

24 Q. Mr. Hinkson, I want you to think about the

25 time that you were notified that Mr. Vernon had sent an

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1 administrative summons to Mr. Albers. Do you recall

2 receiving a notice giving you a time period, whether it

3 was fifteen or twenty days, in which to respond?

4 A. Yes, I do.

5 Q. And did you attempt to respond to that?

6 A. Yes, I did.

7 Q. What was your response?

8 A. I sent a letter to the person who got the

9 summons; and I sent a letter to the person that issued

10 the summons, Mr. Hines, explaining why the summons was

11 fraudulent.

12 Q. Did you mention the court order to them that

13 you just mentioned a few moments ago?

14 A. I'm sure I did.

15 Q. And to the best of your knowledge, what did

16 you perceive that court order said?

17 A. Well, the court ordered that the records in

18 the civil case be sealed, especially tax returns and

19 other matters; and Albers immediately turned it over on

20 the spot, without even giving anybody a chance to

21 object.

22 Q. And did that increase your anger towards

23 Mr. Albers?

24 A. I had already established what he was.

25 THE COURT: Just answer the question.

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1 THE WITNESS: Yes.

2 BY MR. HOYT:

3 Q. Did that happen before or after the election

4 campaign of November 2000?

5 A. This all happened after the election.

6 Q. Okay. All right. Now, Mr. Hinkson, in --

7 A. It was before the election. I'm sorry.

8 Q. You believe it was before the election?

9 A. Yeah. I'm trying to remember. The election

10 is the last thing I ever did, as far as defense.

11 Q. Then you filed a lawsuit of April 16, 2002?

12 A. Correct.

13 Q. Now, did you check with the Clerk for the

14 Grand Jury in Coeur d'Alene regarding the status of the

15 Grand Jury before you filed that lawsuit of April 16,

16 2002?

17 A. Yes, I did.

18 Q. And what information did you obtain?

19 A. The Grand Jury had been disbanded, and there

20 was no indictment.

21 Q. Then did you proceed with the preparation and

22 filing of the lawsuit?

23 A. Actually, Rich Bellon created it. I was so

24 busy doing other things. He was acting as a total

25 paralegal-legal guy, and he did all of the work on it.

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1 Q. And was he working with Mr. Groom's office at
2 that time?

3 A. Not initially, no. He claimed he had a
4 Harvard Law professor helping him.

5 Q. And is that a lawsuit -- I believe it's
6 Government Exhibit 1. Is that a lawsuit that you
7 actually filed in the Federal District Court?

8 A. Yes. It had my name on it, yes.

9 Q. It's called a Bivens action?

10 A. Yes, Bivens.

11 Q. Can you explain to the jury, briefly, what a
12 Bivens action is?

13 A. Okay. A Bivens action is an action when you
14 sue for constitutional law violations. I was hoping,
15 mostly, just to get them to stop --

16 THE COURT: No, that's not responsive. The
17 question is: Can you explain to the jury what a Bivens
18 action is, not what you were hoping.

19 THE WITNESS: It's just a lawsuit to enforce
20 civil rights crimes.

21 BY MR. HOYT:

22 Q. Did you believe that civil rights crimes had
23 been committed against you at that point?

24 A. Yes, I did.

25 Q. Then did you have any more contact with either

1 Mr. Albers or with Mr. Hines at that time? That would
2 have been April of 2002.

3 A. I think it was just -- yeah, communications
4 with -- there was 100 motions between the two of us. We
5 were filing back and forth motions.

6 Q. In that case?

7 A. In that case, yeah. It was a very active
8 case.

9 Q. Were you asking for discovery?

10 A. Proof that there was no Grand Jury.

11 Q. Did you ever obtain any proof that there was
12 or was not a Grand Jury?

13 A. They refused to provide any discovery in that
14 case.

15 Q. Ultimately, what happened to that Bivens
16 lawsuit?

17 A. It was ultimately dismissed.

18 Q. And do you recall who it was that dismissed
19 the case initially?

20 A. I think it was Judge Lodge.

21 Q. Do you know if the case was worked on by
22 another judge, such as Magistrate Boyle?

23 A. Yes. Boyle always ruled very good. He is a
24 very good Magistrate.

25 THE COURT: That's not responsive.

1 THE WITNESS: Yes, Boyle.

2 THE COURT: The jury will disregard the
3 answer.

4 Ask the question again, counsel.

5 BY MR. HOYT:

6 Q. Do you know if Judge Boyle entered any rulings
7 in that case?

8 A. Yes, he did.

9 Q. Now, as a result of the dismissal of that
10 case, what action did you take?

11 A. I appealed with the Ninth Circuit, I ordered
12 books on how to appeal, and I ordered all of the stuff
13 to teach myself how to appeal.

14 Q. Now, in the summer -- strike that.

15 It's my understanding that the indictment in
16 the tax case is, also, an exhibit of the People, of the
17 Government, in this case. When was the first time you
18 saw that indictment?

19 A. I believe it was November 21st they threw it
20 in front of me in the back seat of Hines' Suburban -- or
21 Tahoe.

22 Q. That was the day of the raid?

23 A. Yes.

24 Q. I want to go back in time with you. After you
25 filed the Bivens lawsuit and before the raid -- so that

1 would be in the time period from April 16th of 2002
2 until November 21st of 2002 -- can you advise the jury
3 whether you were inside or outside of the United States?
4 Did you travel?

5 A. Yes. I was pretty much gone a lot, yes.

6 Q. And where were you traveling?

7 A. I was in Russia, the Ukraine, Egypt,
8 Venezuela, Mexico. I even went to Africa.

9 Q. And can you tell what period your travel
10 spanned?

11 A. After -- 1999 to 2001 or 2002, somewhere in
12 there, before I got arrested.

13 Q. You were -- do you recall the day of the raid,
14 November 21, 2002?

15 A. Yes, I do. Yeah.

16 Q. Had you been outside of the country during the
17 few months before that? That is my question.

18 A. Yes. I was in the Ukraine.

19 Q. And why were you in the Ukraine?

20 A. I got engaged to get married, and I fell in
21 love, and I was trying to work with the Ukrainian
22 doctors there at the Infectious Disease Center because
23 we were doing testing on our silver product for
24 tuberculosis and we had AIDS testing going, a product
25 that would cure AIDS.

1 Q. And at the time of your arrest -- that is the
2 raid of November 21st -- did you have any plans to leave
3 the country again?

4 A. Yes, I did. I had already purchased tickets
5 back to the Ukraine, and my fiancée had bought tickets
6 from there to Egypt, and then we were going to Africa.

7 Q. I take it --

8 A. I'm sorry. It was to Bangkok, Thailand, and
9 then to Africa. It was kind of a --

10 Q. Mr. Hinkson, did you go on those trips that
11 had been scheduled?

12 A. No. I lost my money for the tickets.

13 Q. Mr. Hinkson, who were you going to see when
14 you went to the Ukraine?

15 A. Well, I was going to get Tonya, pick her up,
16 first.

17 Q. Tonya being your fiancée?

18 A. She's my wife now, yes.

19 Q. All right. And you were going to pick her up
20 first. Who else were you going to see in the Ukraine?

21 A. Roman.

22 Q. Who is Roman.

23 A. Roman Polankio (phonetic). I still can't
24 pronounce his last name. He is my employee in the
25 Ukraine.

1 Q. Who else were you going to see in the Ukraine?

2 A. Just the infectious disease doctors. We were
3 going back there to give them enough samples to start
4 the testing.

5 Q. How many of those doctors were there?

6 A. I think there was, like, twenty.

7 Q. Mr. Hinkson, in November of 2002, you have
8 heard the testimony that the FBI came in very early in
9 the morning into your house. Do you recall that
10 testimony?

11 A. Yes, I do.

12 Q. What time of day was it that they entered your
13 house, to the best of your recollection?

14 A. It seemed like it was just a hair before 6:00.

15 Q. 6:00 o'clock Pacific time?

16 A. Grangeville is on a different time schedule
17 than here so, yeah, Pacific.

18 Q. And that would have been in the morning?

19 A. Yes, early.

20 Q. And you have heard the testimony that there
21 was a bull horn and announcements made from the outside.
22 Did you hear any of those announcements or statements
23 over the bull horn?

24 A. No.

25 Q. What had gone on the night before or in the

1 early morning hours before the FBI entered your home?

2 A. Well, where I live there is a lot of elk and
3 the dogs get to barking; so I had ear plugs on the
4 headboard because they wake me up.

5 They were barking at the agents, but I didn't
6 know this. I turned on the fan and put the ear plugs in
7 my ears because I was trying to sleep still for a few
8 more hours.

9 Q. Let's talk about your schedule. What kind of
10 a work schedule did you have at WaterOz?

11 A. I usually worked till 3:00 in the morning or
12 later, and I usually got up at 9:00 or 10:00 or 11:00.

13 Q. What type of -- what type of work were you
14 doing?

15 A. I was in the laboratory. I spent my time in
16 the laboratory, not running WaterOz.

17 Q. Who handled the business end of things of
18 WaterOz at that time?

19 A. Jeri Gray was in charge of everything.

20 Q. And did you have other employees?

21 A. Charlie was the bookkeeper, yeah. There was
22 forty workers, all together, I think, at one point.

23 Q. And what were you doing until 3:00 o'clock in
24 the morning?

25 A. Oh, I invented a non-toxic hand lotion and I

1 was working on a new soap -- just a variety of
2 experiments.

3 I developed a -- you will think this is crazy,
4 but I developed a machine that powers cars. A gallon of
5 water will power a car for one year with no fuel needed.
6 I actually had a working model of this.

7 Q. Anything else you were working on until 3:00
8 o'clock in the morning?

9 A. I had a motor that would run with magnets and
10 no electricity needed. I also had a machine that would
11 heat a house for about five cents a month. I had an
12 ozonator. I invented a new kind of ozonator that could
13 be used for toxic waste clean-up.

14 Q. A commercial grade?

15 A. Yes. It used, like, a milli amp of
16 electricity but made 100 grams of ozone an hour. A
17 solar panel would run it, and you could clean up toxic
18 waste with it.

19 Q. Going to November 21, 2000, when was the first
20 time you were aware that there were federal agents on
21 your property?

22 A. November -- I woke up when they kicked down my
23 door and they were screaming, "Freeze, MF."

24 Q. "MF" being the initials of a cuss word; is
25 that right?

1 A. Yes, sir.

2 Q. What did you see?

3 A. I saw Steven Hines come into the room holding

4 a silver-plated handgun.

5 Q. How was Mr. Hines dressed?

6 A. Plaid jacket, like a sports jacket, and

7 slacks, kind of a gray slacks.

8 Q. Were there other individuals in the room with

9 him?

10 A. Yeah. It seemed like there was seven or eight

11 people with body armour and ski masks on.

12 Q. What color were their outfits?

13 A. It seemed like black or very dark green, a

14 very dark color.

15 Q. What were you told to do at that point?

16 A. "Freeze."

17 Q. Did you freeze?

18 A. Oh, yeah. I said, the gun -- excuse me. They

19 asked me, "Where is the gun? Where is the gun?" I

20 didn't know if they were talking to me. Somebody

21 screamed, "Where is the gun? Where is the gun?".

22 Q. How did you respond?

23 A. "It's on the headboard."

24 Q. What gun was on the headboard?

25 A. I had a .45 semi-automatic.

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1 Q. And what type of a weapon is that?

2 A. It's a handgun for protection.

3 Q. Who was living with you at that time?

4 A. That night, nobody. Normally, my children

5 stay with me three days a week.

6 Q. And did you normally keep a handgun on the

7 headboard?

8 A. Yes, for years.

9 Q. Did you have any other weapons in the house?

10 A. I had one hunting rifle, but it only got fired

11 once because it hurt so much when I fired it. It about

12 took my shoulder off.

13 Q. Did you have a BB gun in the house?

14 A. Yes.

15 Q. Did you have any other weapons besides that?

16 A. Yeah. There was a .22 pistol in the gun

17 cabinet and a .22 target-shooting rifle.

18 Q. Now, Mr. Hinkson, after you said, "It's on the

19 headboard," what happened next?

20 A. It seems like Steve Hines grabbed the gun and

21 unloaded it.

22 Q. Now, you indicated that he was dressed

23 differently than the other people?

24 A. Yes. He was dressed in, like, regular

25 civilian clothes, you know, a sports jacket and slacks.

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1 Q. And were you handcuffed?

2 A. Yeah, immediately handcuffed. They pulled --

3 they pulled a shirt over my head but wouldn't let me put

4 my arms in the sleeves.

5 Q. And what did they do with you at that point?

6 A. They took me outside and put me into the back

7 of Hines -- Hines' Tahoe, a Chevy Tahoe.

8 Q. On November 21st, what was the temperature

9 like outside?

10 A. Cold.

11 Q. Frost on the ground?

12 A. Yes. Snow, a little bit of snow.

13 Q. Did you resist them in any way?

14 A. No, I did not.

15 Q. Were you aware that they had broken down doors

16 in your house or factory?

17 A. No.

18 Q. Did you offer a --

19 MR. SULLIVAN: Objection, Your Honor. Facts

20 not in evidence.

21 THE COURT: Sustained. The jury will

22 disregard the last question and answer.

23 BY MR. HOYT:

24 Q. At some point in time, did you become aware

25 that they had broken down doors in your house and your

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1 factory?

2 A. Yeah, when I got back, when I got back from

3 court.

4 Q. That morning, when they put you in Mr. Hines'

5 vehicle, did you offer them your keys?

6 A. Yes.

7 Q. Did they accept the offer?

8 A. No.

9 Q. When you got back that night, how many doors

10 did you find had been broken?

11 A. They battering-rammed ten doors.

12 Q. Did you have communication with Mr. Hines at

13 that point?

14 A. Yes.

15 Q. You are in the back of his car. What was the

16 communication?

17 A. I only asked him where the affidavit was for

18 the search warrant; and he said, "You'll get it later."

19 Q. Was there an affidavit attached to the search

20 warrant?

21 A. No.

22 Q. What happened next?

23 A. I just sat there for about an hour, and then I

24 think somebody got in the back seat next to me, and

25 Hines drove me up to Moscow.

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1 Q. And did you appear in front of a Judge by
2 video conference?

3 A. Yes. It was Williams, I believe.

4 Q. Judge Williams?

5 A. Yes. He is a Magistrate. He's not a Judge.

6 Q. So you appeared in front of Magistrate
7 Williams?

8 A. Yes.

9 Q. And what was the purpose for that appearance,
10 to the best of your knowledge?

11 A. He asked me to make a plea.

12 Q. And did you enter a plea?

13 A. No.

14 Q. What did you tell him?

15 A. That I didn't understand the nature and the
16 cause of the complaint and that I don't accept this as a
17 settlement offer for the lawsuit.

18 Q. What lawsuit were you referring to?

19 A. My civil one.

20 Q. The Bivens lawsuit?

21 A. Yes, sir.

22 Q. Was it still pending at that time?

23 A. Oh, yeah.

24 Q. It had not been dismissed at that time?

25 A. No.

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1 Q. And were you released that day?

2 A. Yes. I was only in custody a couple of hours,
3 and I got released.

4 Q. Were you put in jail at that time?

5 A. Yes, just for a couple of hours.

6 Q. And when you were released, where did you go?

7 A. They released me on O.R., because I was not a
8 threat or a danger, and I went home.

9 MR. SULLIVAN: Judge, I move to strike the
10 first part.

11 THE COURT: Yes. The jury will disregard the
12 last answer.

13 MR. HOYT: Your Honor, this might be an
14 appropriate break time.

15 THE COURT: Take a break? All right. We will
16 be in recess for fifteen minutes.

17 (Recess.)

18 THE COURT: Mr. Hinkson, why don't you resume
19 the stand?

20 Proceed, Mr. Hoyt.

21 MR. HOYT: Thank you, Your Honor.

22 Q. Mr. Hinkson, I think that the last thing we
23 talked about was the arrest and that you were released
24 on your own recognizance, is that right?

25 A. Yes, sir.

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1 Q. All right. And did you return to your home in
2 Grangeville?

3 A. Yes, I did.

4 Q. And what did you find when you returned home?

5 A. The first thing I noticed was that my workers
6 had stolen about \$100,000 worth of my stuff when they
7 found out I was in jail, and then I noticed all of the
8 damage.

9 Q. What stuff was stolen?

10 A. Every hand tool I had, a couple of welders, an
11 acetylene tank. It was like a big feast. People were
12 loading trucks with my stuff to leave with it.

13 Q. Did you ever get that stuff back?

14 A. Yes. I got it all back.

15 Q. What about the damage done by the Government?
16 You mentioned ten doors that were knocked down.
17 Anything else?

18 A. Well, there was muddy footprints all over, and
19 a bunch of the agents took a whiz in my bathtub.

20 MR. SULLIVAN: I move to strike, Your Honor.
21 No foundation.

22 THE COURT: I will allow the question. He can
23 certainly testify to what he says he saw. Overruled.

24 BY MR. HOYT:

25 Q. Did you see it?

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1 A. Yes, I did.

2 Q. Was the drain closed and --

3 THE COURT: I see what your objection is,
4 Mr. Sullivan. I am going to move -- I'm going to direct
5 the jury to disregard his answer.

6 You can have him testify, Mr. Hoyt, to what he
7 found; but in terms of who was responsible for it, I
8 don't see how he is competent to say that.

9 BY MR. HOYT:

10 Q. All right. When you got into your house and
11 looked in the bathroom, did you find that there was
12 urine standing in the bathroom?

13 A. Yes, in the bathtub.

14 Q. In the bathtub. Mr. Hinkson, did you, at that
15 point, notice that there were any missing records from
16 your factory?

17 A. Well, there was things missing from the house
18 and the factory.

19 Q. What was missing from the house?

20 A. Well, initially, I didn't know what was
21 missing. I have so much stuff that it's really hard to
22 know what's missing. But later, in discovery, there
23 were things that were in the house that appeared to be
24 on the discovery list.

25 Q. Like what?

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1 A. A UCC form. I don't really believe in the UCC
2 stuff but it's where everybody -- you UCC everything you
3 own to yourself or to some phony name. I don't know if
4 you understand what I'm trying to say.

5 THE COURT: What's the relevancy of this?

6 BY MR. HOYT:

7 Q. Mr. Hinkson, let me go a different direction
8 here. You noticed that there were some things missing;
9 correct?

10 A. Yes.

11 Q. Were there some things missing off of your
12 hard drive at the house?

13 A. Yes. Somebody erased all of my books and
14 records.

15 MR. SULLIVAN: I object to this line of
16 questioning. It's irrelevant.

17 THE COURT: I think it is. Sustained.

18 MR. HOYT: Is it not proper me, Your Honor, to
19 ask about books and records that were taken out of the
20 factory?

21 THE COURT: Let me see you at sidebar.

22 (Whereupon, the following sidebar discussion
23 was held outside the presence of the jury:)

24 MR. SULLIVAN: Your Honor, again, I just don't
25 see the relevance of what he thinks -- whether or not

1 something was taken out of his house that ended up on
2 the discovery list and he received it in discovery has
3 nothing to do with this case, whether it's true or not.

4 MR. HOYT: Well, Your Honor. I didn't know he
5 was going to say it was on the discovery list. I know
6 there were a number of items taken out of his house and
7 out of the factory.

8 I wanted to establish the manner in which his
9 property was treated by the Government agents. I think
10 that's relevant to his state of mind.

11 MR. SULLIVAN: Your Honor, it's just to accuse
12 agents of doing something bad. It's bad character
13 evidence that he says, therefore, affects his state of
14 mind.

15 Well, if they are going to deny that he made
16 these threats, why are they putting in evidence to his
17 state of mind, other than to back door evidence of bad
18 character?

19 THE COURT: The concern that the court has is,
20 as I understand the testimony, Mr. Hinkson is now
21 alleging that either agents damaged and/or took property
22 or his own employees took property while he was taken to
23 Moscow for his initial appearance on November 21st.

24 This is a collateral issue. We are never
25 going to be able to resolve who did what or who was

1 responsible for it, and I do think it's not relevant to
2 any of the issues. The jury is going to have to decide.
3 I will sustain the objection.

4 MR. HOYT: The reason I confined my question
5 to the books and records in the factory is because of
6 the testimony that there was a moving truck out there
7 and I know -- I have seen the stuff, and it would fill a
8 moving truck. I just wanted to establish that.

9 THE COURT: I don't think there is any dispute
10 that they took boxes and boxes of records away. I just
11 don't see where this is getting us.

12 Is Dr. Doke available tomorrow at 3:00
13 o'clock?

14 MR. HOYT: Yes.

15 THE COURT: I will tell the jury at 4:30, to
16 give them a head's up, that our schedule tomorrow will
17 end at 3:00 and they can plan on starting the weekend at
18 3:00.

19 MR. NOLAN: For the court's information, we
20 have two other witnesses available tomorrow if, by
21 chance, the defendant is off and those two witnesses are
22 able to get on.

23 Based upon the fact that we have already
24 started eliminating, we probably wouldn't mind letting
25 the jury go early. In other words, I thought we'd have

1 the defendant's testimony and two more witnesses.

2 THE COURT: If we are going to let them go
3 early, I want to get in testimony from 9:00 to noon and
4 1:00 to 3:00.

5 MR. NOLAN: What I meant was, if, by chance,
6 with the defendant and the two witnesses, we are through
7 before 3:00, that's not a problem.

8 THE COURT: Why can't we have a couple extra
9 witnesses?

10 MR. NOLAN: We don't have any more witnesses.

11 MR. HOYT: They are flying in on Monday.

12 THE COURT: Let me ask you this: If we do
13 finish a little early, would the testimony of Dr. Doke
14 be available earlier than 3:00 o'clock?

15 MR. NOLAN: I am meeting with him at 5:00.
16 If, by chance, we are through -- I have no idea how much
17 longer direct is going to go and how much cross is going
18 to go. Usually, it takes quite a bit of time. And we
19 have two more witnesses. I'm giving the court a head's
20 up.

21 MR. TAXAY: We are asking Dr. Engle to appear
22 at 3:00 o'clock. He's got patients all day. To my
23 knowledge -- I won't be able to chat with him before
24 evening as to his availability prior to 3:00.

25 THE COURT: Keep in mind, if we can, if we

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1 have to let the jury go early tomorrow, I would like to
2 start the hearing earlier than 3:00 o'clock.

3 The only reason is I just want to have some
4 time so that I can think about the testimony and take a
5 look at the case authority so I can get you an
6 intelligent ruling over the weekend in time so you can
7 frame the rest of your case.

8 MR. NOLAN: I want to indicate that the last
9 plane out of town is 6:30 tomorrow night, if by chance
10 anybody was going to consider my getting home tomorrow
11 night.

12 THE COURT: Another reason to start earlier
13 than 3:00.

14 (Whereupon, the following proceedings were
15 held in open court, in the presence of the jury.)

16 BY MR. HOYT:

17 Q. After you got home, Mr. Hinkson, did you get a
18 phone call from Mr. Swisher?

19 A. Yes, yes. He called me that evening.

20 Q. And did you have any communication with him
21 regarding the products?

22 A. Yeah. He called to tell me --

23 MR. SULLIVAN: I object to the hearsay, Your
24 Honor.

25 THE COURT: Sustained.

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1 MR. HOYT: Your Honor, this line of
2 questioning is designed to point out the bias of
3 Mr. Swisher, and it is not offered for the truth of the
4 matter asserted.

5 THE COURT: Okay. With that representation, I
6 will allow you to proceed. Overruled.

7 BY MR. HOYT:

8 Q. All right. What was the nature of that
9 communication?

10 A. Point on point, he said he had come by the
11 factory; he had picked up samples; he had tested
12 everything; and, now, nothing matched on the labels.
13 The product didn't match the labels anymore.

14 Q. And had his representations and test reports
15 indicated that the product PPM did match the labels
16 previous to that?

17 A. Yes. He said everything was perfect.

18 Q. Now, what is "PPM"?

19 A. "PPM" is "parts per million."

20 MR. SULLIVAN: I object.

21 THE COURT: I think I will allow it.

22 MR. SULLIVAN: This isn't going to show bias,
23 as was proffered.

24 THE COURT: It is being offered for
25 impeachment purposes. I will allow him to go into it

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1 for that reason.

2 THE WITNESS: Go back a question, can you,
3 about what was missing?

4 THE COURT: No, we are not going to go into
5 it. What we are going to talk about is parts per
6 million.

7 THE WITNESS: I thought of something that was
8 really important.

9 THE COURT: You can talk with your lawyer
10 about that later. Let's talk about parts per million.

11 BY MR. HOYT:

12 Q. What is parts per million?

13 A. Parts per million is how many parts per
14 million of something is in the water.

15 Q. And you have in front of you there -- on the
16 little table in front of the jury, there are three
17 bottles which have been marked as Exhibits Q, R, and S.
18 Do you see those exhibits?

19 A. Yes, I do.

20 Q. Can you identify them for the jury, please?

21 A. Well, we've got Water of Life, the first one,
22 which is actually a liquid rock from Winnemucca, Nevada.
23 It has everything in it, all of the minerals.

24 And the second one, I believe, is Gold. And
25 it's a yellow color because it actually has real gold in

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1 it.

2 And the third one is, actually, Silver.
3 There's over 150 parts per million silver in the Silver.
4 I think there's 60 parts per million gold in the Gold
5 and about 3,000 parts per million of liquid rock in the
6 Water of Life.

7 Q. What size are the particles?

8 A. They are down to the molecule or half a
9 molecule.

10 Q. And is it your process that breaks them down
11 to this molecular, half molecular size?

12 A. Yes.

13 Q. And does that small size have some advantage
14 to a person who takes it?

15 A. Yes. This stuff is already pre-digested so
16 that the body doesn't have to do anything except for use
17 it as a building block material to fix things, to help
18 your health.

19 Q. How absorbable is it?

20 A. 100 percent, in the upper stomach.

21 Q. Now, the minerals that Mr. Swisher called you
22 about and said that the labeling did not accurately
23 reflect what was in the product, what did you do as a
24 result of that?

25 A. Well, he suggested that we have a meeting

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1 immediately.

2 MR. SULLIVAN: I object, Your Honor. It's

3 still hearsay.

4 THE COURT: I think it's leading up to the

5 impeachment.

6 MR. HOYT: Your Honor, it takes a little bit

7 to tell the story.

8 THE COURT: I can tell that. I'm instructing

9 the jury, with regard to this testimony, again, it's

10 being admitted for purposes of trying to impeach

11 Mr. Swisher's testimony.

12 You are not to consider it for the truth of

13 what Mr. Swisher and Mr. Hinkson talked about on that

14 particular occasion.

15 MR. SULLIVAN: Your Honor, Mr. Swisher was

16 never questioned about this, so there can't be an

17 impeachment.

18 THE COURT: Well, counsel, I have made my

19 ruling. I think I heard enough of Mr. Swisher's

20 testimony to understand the relevance.

21 Go ahead, Mr. Hoyt.

22 BY MR. HOYT:

23 Q. Thank you. And a meeting was suggested. Did

24 you, in fact, have a meeting with him?

25 A. Yes, I did.

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1 that you asked Lonnie. Would that be Lonnie Birmingham?

2 A. Yes.

3 Q. The gentleman who testified here previously?

4 A. Yes, sir.

5 Q. And another individual and you created samples

6 of your products; is that correct?

7 A. All of the products and all of the tank

8 sampling, yes.

9 Q. And did you -- who went -- did you go over to

10 Mr. Swisher's place?

11 A. Lonnie and I, yes, went to Mr. Swisher's house

12 the day after the raid. It might have been two days

13 after the raid. I think it was the next day.

14 Q. And did you take those samples with you?

15 A. Yes. And a report of the PPMs and also pH

16 reports.

17 Q. Was there a problem with the pH for potassium?

18 A. Yes. It readed 10 point -- it read 10.5.

19 Q. Now, "pH," what does that stand for?

20 A. It's the amount of hydrogen in a product. If

21 something is very acidic, that means it has an abundance

22 of hydrogen. If something is very alkaline, it means it

23 has a shortage of hydrogen. Anything over 10 would be

24 harmful to you if you swallowed it. Baking powder and

25 baking soda has a pH of 10, for example.

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1 Q. Before that meeting, did you pull samples of

2 your product?

3 A. Yes, I did. Lonnie and Scooter -- not

4 Scooter.

5 THE COURT: That's not the question. Did you

6 pull samples of the product? "Yes" or "no"?

7 THE WITNESS: There was three of us. We

8 pulled them together, sort of.

9 BY MR. HOYT:

10 Q. Let's do that. What was the purpose of

11 getting samples of your products?

12 A. Well, we wanted to have Swisher test them

13 again and test the tanks and the products to see where

14 this problem might have arisen from.

15 Q. Okay. And was this the first time Mr. Swisher

16 informed you that there was a problem with the products?

17 A. Actually, no. There was actually an earlier

18 time, and I think it's mentioned in his affidavit.

19 Q. And once you knew that there was a problem,

20 did you attempt to correct it previously?

21 A. Yes. And we had a letter from Mr. Swisher

22 saying that it was now fixed and everything was up to

23 par again. That was July, I believe.

24 Q. So, now, we are in November of 2002; and you

25 and Swisher are about to have a meeting. You indicated

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1 Q. What does pH measure?

2 A. The parts of hydrogen in the product.

3 Q. Do you regulate the parts hydrogen in your

4 products as part of your business?

5 A. Yeah. It's falls under the word "buffering."

6 Like, if you buy buffered aspirin, it means that they

7 buffered the hydrogen in the aspirin so it won't upset

8 your stomach. All of the products are buffered.

9 Q. Having the potassium with a pH, or parts

10 hydrogen, of 10 was something that was undesirable?

11 A. 10.5. It was a big worry because the

12 Government had been in the factory, and we did not know

13 why it was reading 10.5.

14 Q. What should it have been reading if it was in

15 proper form?

16 A. 6 or 7, somewhere in the middle, neutral

17 range.

18 Q. And what, if anything, did Mr. Swisher tell

19 you about the pH of the potassium?

20 A. Well, he smelled it. He looked at it, smelled

21 it, you know. He didn't taste it. He just smelled it;

22 and he goes, "I smell -- it smells like sodium cyanide

23 to me."

24 I smelled it, and I couldn't smell anything.

25 I've got a pretty good nose. I was very alarmed at this

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1 point.

2 Q. Why were you alarmed if there was cyanide in
3 the product?

4 A. Well, I mean, we are shipping out product and,
5 I mean, if there is cyanide in it, we are going to have
6 lots of dead people. I mean, it's a major worry. Why
7 would there be cyanide?

8 Q. And so as a result of that, did you leave all
9 of the samples with Mr. Swisher that day to be tested?

10 A. Yes. We left every sample there with him
11 under the understanding that Lonnie --

12 THE COURT: You have answered the question.

13 BY MR. HOYT:

14 Q. Did you also leave Lonnie with him to
15 participate in the testing?

16 A. Yes, that was the agreement. Lonnie was going
17 to stick with him and work for two reasons.

18 Q. What were those reasons?

19 A. Well, first, Joe Swisher's health was so bad
20 that he wasn't able to walk, and he had an assistant in
21 the laboratory that was going to work with Lonnie. I
22 can't think of his name. Sellers, maybe. Doug Sellers;
23 is that right?

24 Q. An assistant in the lab?

25 A. Right. That's Swisher's assistant. He works

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1 with the lab work, is that correct?

2 A. Yes. I wasn't sure who to trust, and so I
3 wanted Lonnie, because I trusted Lonnie, to stay right
4 there and see every test kit done. Yes, high speed.

5 Q. How long had Lonnie worked for you at that
6 point?

7 A. I think, since either the end of '99 or the
8 beginning of 2000. He was there quite a while.

9 Q. Did Lonnie -- what were Lonnie's credentials
10 when he came to you?

11 A. Well, I met him at church. I thought he was
12 an honest, hard-working young man with a nice family
13 and, you know, he had three children and --

14 THE COURT: Counsel, can we move on?

15 BY MR. HOYT:

16 Q. At that time, did Lonnie show any signs of
17 disloyalty to you?

18 A. No. No, he did not.

19 Q. Mr. Hinkson, did you get a phone -- did you go
20 back to the factory, yourself?

21 A. Yes, I did. I left Lonnie there. We drove
22 separate cars.

23 Q. Now, did you get a phone call from Mr. Swisher
24 the next day regarding that sample of potassium?

25 A. No. No, I didn't. It was -- we didn't hear

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1 out of his lab. His lab is in his house.

2 Q. He needed some additional assistance?

3 A. Well, he couldn't -- he was so crippled at
4 that time that he couldn't even walk. He did, with a
5 crutch, go four feet, and then he'd collapse in his
6 chair.

7 Q. Do you know why he was crippled?

8 A. He had just had open heart surgery.

9 Q. Had you previously been on the telephone with
10 him when he had his attack?

11 A. He died -- he literally died when I was
12 talking to him. He fell off the porch, unconscious.

13 MR. SULLIVAN: Your Honor, how can the witness
14 testify to that if he was talking to him on the phone?

15 THE COURT: The jury will disregard that last
16 statement.

17 BY MR. HOYT:

18 Q. In any event, you are aware that he had had
19 some heart surgery; is that correct?

20 A. Well, before that, he had some problems, too.
21 He was very --

22 MR. SULLIVAN: Objection, Your Honor.

23 THE COURT: Sustained.

24 BY MR. HOYT:

25 Q. Mr. Hinkson, you left Lonnie there to assist

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1 back from him about that till the end of December, I
2 believe, or the first of January.

3 Q. And when he called you back on that sample of
4 potassium, what did he say?

5 MR. SULLIVAN: I object to the hearsay.

6 THE COURT: Again, ladies and gentlemen, it's
7 being offered not for the truth but for Mr. Hinkson's
8 state of mind.

9 THE WITNESS: Let me --

10 THE COURT: Just answer the question.

11 THE WITNESS: I answered the last one.

12 MR. HOYT: Please let the judge finish his
13 ruling.

14 THE COURT: Let's re-read the question so that
15 Mr. Hinkson has it in mind.

16 MR. HOYT: May I restate it or just rephrase?

17 THE COURT: Please do.

18 BY MR. HOYT:

19 Q. Mr. Hinkson, at some point, did Mr. Swisher
20 contact you regarding that sample of potassium?

21 A. Yes.

22 Q. What did he tell you about the potassium?

23 A. He told me that the potassium tested at 30,000
24 parts per million sodium cyanide.

25 Q. How large a sample was it?

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1 A. I think it was a 16-ounce bottle.

2 Q. And 30,000 parts per million of cyanide?

3 A. That's what he claimed, yes.

4 Q. Did he send it out for independent testing?

5 A. Yes, he did.

6 Q. Mr. Hinkson, what did he tell you about his
7 finding that he had cyanide in the sample?

8 A. Well, he said it was 30,000; but the problem
9 was we brought him the sample and the sample --

10 THE COURT: That's not responsive.

11 Mr. Hinkson, that's not responsive. The question is:
12 What did he say? It's not what you brought him.
13 Please, answer the question.

14 BY MR. HOYT:

15 Q. Mr. Hinkson --

16 THE COURT: Confine your answer to those
17 questions.

18 BY MR. HOYT:

19 Q. The question is: What did he tell you about
20 those samples, in terms of your business?

21 A. You are talking about the first meeting, the
22 only --

23 Q. No. I'm talking about the telephone call.
24 What did he tell you on the phone?

25 A. He said -- this was the 4th of January, just

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1 to clarify. Okay. On the 4th of January, he said that
2 he wanted to be fifty-percent owner of WaterOz or he was
3 going to testify against me to the Food and Drug
4 Administration that I was sending out sodium cyanide to
5 my customers.

6 Q. Did you make him fifty-percent partner in your
7 business?

8 A. I hung up on him.

9 Q. Did you ever determine why the potassium had a
10 higher factor of pH?

11 A. I did, actually, yes.

12 Q. What was the cause of that?

13 A. My people made it wrong.

14 Q. And did your product ever have sodium cyanide
15 in it?

16 A. No.

17 Q. Mr. Hinkson, given that 30,000 parts per
18 million of cyanide in that sample which Mr. Swisher had
19 tested, how much sodium cyanide would you have had to
20 add to the vat of product that it was taken from in
21 order to achieve that?

22 A. About a --

23 MR. SULLIVAN: Objection. Irrelevant.

24 THE COURT: I think he can answer that
25 question.

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1 THE WITNESS: It would take a 55-gallon ball
2 of sodium cyanide to bring a 1,500-gallon tank to 30,000
3 parts per million. A whole bunch. Enough where a
4 teaspoon would kill you dead.

5 BY MR. HOYT:

6 Q. Is sodium cyanide a product used in the mining
7 industry?

8 THE COURT: Counsel, you are flogging a dead
9 horse here. You have established the point. Move on.

10 BY MR. HOYT:

11 Q. Mr. Hinkson, after you returned to the factory
12 on your own recognizance from Moscow, were you invited
13 to speak at a forum in Southern California?

14 A. Yes.

15 Q. And who invited you?

16 A. I think her name was Wendy something or
17 another. There was two speeches I gave.

18 Q. And who arranged the trip?

19 A. Well, Jeri Gray had arranged it with this
20 woman. Her name is Wendy. I know you know her name. I
21 just don't know it.

22 Q. Does the name "Edrington" refresh your memory?

23 A. Yes, that's her name.

24 Q. Now, with reference to the trip before -- when
25 did you go to Southern California?

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1 A. I think it -- just going from memory, it seems
2 like it was a couple weeks after I was released on O.R.
3 that I flew down to the Los Angeles Airport.
4 Q. Before you flew down there, did you get a
5 telephone call from somebody in Southern California
6 regarding the accommodations?
7 A. Yes, I did.
8 Q. And who was that?
9 A. His name was Mark --
10 MR. SULLIVAN: Objection, Your Honor.
11 THE COURT: Sustained.
12 BY MR. HOYT:
13 Q. Did someone arrange for a limousine to meet
14 you at the airport?
15 A. Yes. His name was Mark Glover, or glow-ver
16 (phonetic).
17 Q. And, actually, does that person's voice appear
18 on the tape of the body wire taken by Mr. Harding?
19 A. Yes.
20 Q. There was a telephone call in the middle of
21 that where Mr. Glover spoke to the two of you?
22 A. Yes.
23 Q. Now, is this something that you arranged for,
24 yourself?
25 A. No. I really didn't want to go.

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1 Q. What subject were you to be speaking on at the
2 Granada forum?
3 A. Health. Just health.
4 Q. Do you remember the name of the other forum?
5 A. I don't. One was Granada; I remember that.
6 Q. And when you got down there, did you speak on
7 health at the Granada forum?
8 A. Yes, both locations.
9 Q. And what topics did you speak on, generally?
10 A. Health, the products, diseases.
11 Q. And did you -- were you transported by
12 limousine from place to place?
13 A. It's the nicest limousine I have ever seen.
14 He said it was one hundred and --
15 THE COURT: Mr. Hinkson, for the umpteenth
16 time, answer the question and don't run on like this.
17 BY MR. HOYT:
18 Q. Had you ever ridden in a limousine before
19 that?
20 A. No.
21 Q. When you got to the Granada forum, who
22 introduced you?
23 A. Anthony Hilder.
24 Q. And was there something about that
25 introduction that you thought was unusual?

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1 A. Yes.
2 MR. SULLIVAN: Objection. Relevance.
3 THE COURT: Sustained.
4 MR. HOYT: Your Honor, there is an issue I
5 think we have to take up at sidebar.
6 THE COURT: Counsel, just move to another
7 area. We can talk about it at the end of the day. Go
8 on.
9 BY MR. HOYT:
10 Q. After you spoke at the forum, were you -- did
11 you go out to some kind of a restaurant for something to
12 eat?
13 A. Yes, I did.
14 Q. And what vehicle did you ride in?
15 A. The limousine.
16 Q. And how many people were in the back of the
17 limousine?
18 A. Three, I think. Three -- three or four.
19 Q. Do you recall who those people were?
20 A. Well, I remember just Annie Bates sitting
21 there next to me.
22 Q. Do you remember if Mr. Hilder was there with
23 his wife, Geneva?
24 A. He was not there at that time.
25 MR. SULLIVAN: Objection. Facts not in

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1 evidence.
2 THE COURT: Sustained. The jury will
3 disregard the last question and answer.
4 BY MR. HOYT:
5 Q. And did you go out to a restaurant?
6 A. Yes, we did.
7 Q. And did you get acquainted with Ms. Anne Bates
8 at that time?
9 A. Not really, no.
10 Q. Did you -- at some point that evening, did you
11 get acquainted with her?
12 A. She just introduced herself; that's all.
13 Q. Did she indicate to you that she was moving to
14 North Idaho?
15 A. Yes, she did. Yes.
16 Q. And what did she tell you she wanted to do in
17 North Idaho?
18 A. She wanted to move to Boise, and she asked if
19 it would be okay if she came by to see my factory and
20 see what I do.
21 Q. Did she indicate to you that she wanted to be
22 the plant manager of your factory?
23 A. No.
24 MR. SULLIVAN: I object to the following
25 questions.

1 THE COURT: Sustained. It is leading.
 2 MR. HOYT: I think it goes to impeachment.
 3 THE COURT: Sustained, counsel.
 4 BY MR. HOYT:
 5 Q. What did Ms. Bates tell you she wanted to do?
 6 A. Just to come and visit and tour the factory.
 7 She wanted to see this WaterOz factory; and she was
 8 moving to Boise, anyway. That's about it. She was
 9 interested in the product.
 10 Q. Did she seem to have any interest in you,
 11 personally?
 12 A. Yeah. She kept trying to snuggle up to me in
 13 the back of the limousine.
 14 Q. And did you inform her that you were engaged
 15 at that time?
 16 A. Yes, I did.
 17 Q. And did she, at that time, indicate to you
 18 that she wanted to come and stay in your house?
 19 A. No, she did not.
 20 Q. She did come and she did stay in your house;
 21 is that right?
 22 A. She did, yes.
 23 Q. How did that come about?
 24 A. Well, she came up to take her tour; and she
 25 had Harding with her. They arrived in a vehicle with no

1 roof on it; and it was freezing cold outside, very, very
 2 cold. It was in the middle of winter. And they spent
 3 the night; and the next day, about 10:00 or 11:00, they
 4 left.
 5 Q. And you have heard the testimony of both
 6 Mr. Harding and Ms. Bates. Ms. Bates says that that
 7 night you pulled a wad --
 8 MR. SULLIVAN: I object to the form of the
 9 question.
 10 THE COURT: I will permit it.
 11 Go ahead, counsel.
 12 BY MR. HOYT:
 13 Q. You pulled a wad of money out and showed it to
 14 Mr. Harding? Mr. Harding says that, the next morning,
 15 you pulled a wad of money out and showed it to him?
 16 THE COURT: Counsel, let's not do it in a
 17 compound fashion. Let's do it one incident at a time.
 18 Why don't you just ask him what he remembers?
 19 BY MR. HOYT:
 20 Q. Mr. Hinkson, why don't you tell the jury what
 21 you remember about that first visit by Mr. Harding and
 22 Ms. Bates?
 23 A. Well, I had the flu; and I talked to them for
 24 a little bit, and then they wanted to go work out at a
 25 gym. They wanted to borrow one of my cars.

1 Q. Did you say "work at a gym"?
 2 A. They wanted to go and work out. They didn't
 3 stay very long. And I didn't feel real good that night,
 4 so I watched a movie and they left. So there really was
 5 no communication, you know.
 6 Q. Was there an older gentleman there discussing
 7 your products with you that evening?
 8 A. I don't remember an older gentleman.
 9 Q. And they indicated that you all went out to
 10 dinner at, possibly, a Chinese food restaurant. Do you
 11 recall doing that?
 12 A. No. I definitely wouldn't go to the Chinese
 13 place.
 14 Q. So your recollection is that they borrowed
 15 your car and they said they wanted to go to --
 16 A. Lewiston.
 17 Q. -- Lewiston? How far away is Lewiston,
 18 time-wise?
 19 A. It's about an hour's drive.
 20 Q. And were you aware when they came back that
 21 evening?
 22 A. I was asleep, and I think they went to the car,
 23 opened the door for them, and then I went back to sleep.
 24 Q. And about what time was it that they came
 25 back?

1 A. I would say it was 1:00 in the morning.
 2 Q. Now, Ms. Bates claims that sometime that
 3 evening you pulled a wad of money out of someplace and
 4 offered it to Mr. Harding. Do you recall doing that?
 5 A. No, sir.
 6 Q. Did that happen?
 7 A. No, absolutely not.
 8 Q. The next morning, Mr. Harding claims that you
 9 pulled a wad of money out and offered it to him. Do you
 10 recall doing that?
 11 A. No.
 12 Q. Did that happen?
 13 A. No, absolutely not.
 14 Q. Did you ever offer money to Mr. Harding for
 15 any purpose?
 16 A. No. He wanted a job, but Jeri Gray refused to
 17 hire him.
 18 Q. Did he want to sell your products?
 19 A. Yeah. He talked us into that. He said he
 20 would do some shows, yes.
 21 Q. What does it mean to do some shows?
 22 A. That's like the product on a stage and sell it
 23 up in a room. That really wasn't discussed the first
 24 time he visited. It was just there to use the factory
 25 Q. Now, if you arrange for them to use the

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1 factory?

2 A. They toured the factory. I think Debbie
3 Morley gave them a tour the next morning. I wasn't
4 involved in the tour.

5 Q. And then did they leave in this car that had
6 no top?

7 A. Yes, they did.

8 Q. How many total times did Mr. Harding come to
9 your home and factory near Grangeville?

10 A. I remember four times.

11 Q. And would you please tell us those four times?

12 A. Well, the first time they spent the night; and
13 I probably talked to them a total of an hour on that
14 first trip. Then they went back to Boise. But they
15 went on to go and get their stuff in Arizona, too. So
16 that was the first time.

17 Q. Now did you arrange to pay for Ms. Harding's
18 (sic.) U-Haul to bring her stuff?

19 A. No, I didn't arrange it. She called up from
20 the road, desperate. She said they were broke, said she
21 had no money at all and couldn't get her stuff out of
22 the mini storage in Arizona. She begged me to loan her
23 the \$500 or \$600, whatever it was, for the storage fees.

24 Q. And how about the U-Haul charges?

25 A. It was the same deal. That was, I think, four

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1 or 500 additional dollars.

2 Q. And how did you loan her the money?

3 A. I gave her my credit card, Wells Fargo
4 account, over the phone. It was -- she said she would
5 pay it back.

6 Q. Did she ever pay it back?

7 A. No.

8 Q. Now, did she ultimately bring her stuff to
9 Boise?

10 A. Yes, she did. She rented a U-Haul and drove
11 it all the way to Boise and Harding -- I guess Harding
12 drove it. She just rode with him.

13 Q. And when she got to Boise, was there an
14 incident over a Bowflex?

15 A. Yes. She called me to tell me that a neighbor
16 had a Bowflex and was selling it for half price, and she
17 wanted to know if I wanted it.

18 Q. And what did you do?

19 A. I drove to Boise and went and got it.

20 Q. And was it a good buy?

21 A. I thought so.

22 Q. Did you have any communications with Ms. Bates
23 at that time?

24 A. I did, just for a few minutes. She introduced
25 me to the guy that was selling it. We drove to his

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1 storage unit. We loaded it up. I said, "Good-bye." As
2 I was leaving, I saw Harding unloading the U-Haul; but
3 I didn't stop and talk to him.

4 Q. Now, that was actually the second time you had
5 seen Mr. Harding in Idaho; is that right?

6 A. Right.

7 Q. Now, when was the next time you saw
8 Mr. Harding in Idaho?

9 A. He showed up at my house with an Anthony
10 Hilder.

11 Q. Was this the same person you had met down in
12 Southern California at the Granada forum?

13 A. Yes, the same exact person.

14 Q. Did you have a radio talk show while you were
15 in Las Vegas?

16 A. Yes. I broadcasted on the WWCR. It's the
17 World Wide Christian Radio Network.

18 Q. Did you ever have Mr. Hilder on any of your
19 programs?

20 A. I would guess, three or four, at least. He
21 was a good speaker.

22 Q. Did you ever see him personally?

23 A. No, I guess not.

24 Q. How did he -- how was he able to be on your
25 radio program but you didn't meet him personally?

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1 A. Well, I don't really have a radio station; so
2 he would call in and we had what is called a Gentner.

3 Q. A what?

4 A. A Gentner. It's like a circuit board, and
5 twelve different phone lines can all come in at one
6 time. So you can have -- line one is caller one.

7 Basically, you can put together people to do
8 talk shows; and it goes on a phone line to a satellite;
9 and from the satellite, it went to Nashville, Tennessee,
10 and broadcast it over the shortwave.

11 Q. So when you met Mr. Hilder down at the Granada
12 forum in early December of 2002, that was your first
13 meeting?

14 A. Yes. It was my first meeting, yes.

15 Q. Now, you said that Mr. Harding showed up at
16 the factory with Mr. Hilder?

17 A. Yes. They showed up together, yes.

18 Q. What was the purpose of their coming together?

19 A. Hilder wanted to make a video.

20 MR. SULLIVAN: I object to the hearsay.

21 THE COURT: Sustained. Can we establish a

22 direct link, Mr. Hoyt?

23 BY MR. HOYT:

24 Q. Yes. When was that?

25 A. I believe, February 2003. It's just a guess

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1 I mean, the phone records would prove exactly when.
 2 THE COURT: Of what year?
 3 MR. SULLIVAN: Move to strike.
 4 THE COURT: I think it's fine if we can just
 5 establish a year.
 6 BY MR. HOYT:
 7 Q. Was this -- what year was this?
 8 A. 2003.
 9 Q. And did Mr. Hilder -- strike that.
 10 Did Mr. Harding say that he was participating
 11 with Mr. Hilder in the making of this video?
 12 A. Yes.
 13 MR. SULLIVAN: I object. Relevance and
 14 hearsay.
 15 THE COURT: Sustained on both grounds. The
 16 jury will disregard the question and the answer.
 17 BY MR. HOYT:
 18 Q. And did you have any communications with
 19 Mr. Harding at that time?
 20 A. No. He was mostly an observer.
 21 MR. SULLIVAN: I would object. I move to
 22 strike the answer to the question.
 23 THE COURT: The answer is, "No." The jury
 24 will disregard the remainder of the answer.
 25

1 BY MR. HOYT:
 2 Q. Approximately how long was Mr. Harding there
 3 at WaterOz in that February meeting?
 4 A. I would say, two hours.
 5 Q. And then what happened?
 6 A. Well, you know, I was told they were partners.
 7 THE COURT: No, no, no. Hearsay. The jury
 8 will disregard that.
 9 THE WITNESS: What happened was he wanted to
 10 hire himself. He wanted me to give him \$10,000.
 11 MR. SULLIVAN: I object.
 12 THE COURT: Mr. Hinkson --
 13 THE WITNESS: I'm trying to answer the
 14 question.
 15 THE COURT: No, you are not answering the
 16 question.
 17 Counsel, why don't you ask a leading question
 18 so you can get a "yes" or "no" answer.
 19 BY MR. HOYT:
 20 Q. Mr. Hinkson, did you have Mr. Anthony Hilder
 21 escorted off the property?
 22 MR. SULLIVAN: I object. Relevance.
 23 THE COURT: Sustained.
 24 MR. HOYT: May we approach?
 25 THE COURT: Sure.

1 (Whereupon, the following sidebar discussion
 2 was held outside the presence of the jury):
 3 MR. HOYT: Your Honor, part of our defense in
 4 this case is that Mr. Anthony Hilder hired Mr. Harding
 5 to go to Mr. Hinkson and to create a rouse and to have
 6 contact with him so that he could claim that Mr. Hinkson
 7 was making threats against people, murder-for-hire
 8 threats.
 9 And part of our case in this defense is that
 10 Mr. Hilder conspired with Mr. Ted Gunderson in order to
 11 hire Mr. Harding for this purpose.
 12 And this particular meeting where they were
 13 doing the video was a part of the rouse that they were
 14 setting up in order to get close to Mr. Hinkson, to have
 15 contact with him, to try to make friends with him so
 16 that they could get close to say that we were -- that
 17 is, Mr. Harding and his companion, Ms. Bates -- and to
 18 make these false accusations against him that he was
 19 allegedly trying to hire Mr. Harding to commit a murder
 20 and that Mr. Hinkson was allegedly making threats
 21 against the children of IRS people.
 22 And it is the conspiracy of Mr. Hilder and
 23 Mr. Gunderson, as spawned by their connection with
 24 Annette Hasalone, that will become the -- you are
 25 laughing, but it is not a laughing matter. This is what

1 they did, and we have proof that they did it. And they
 2 were trying to set up Dave Hinkson for their purposes.
 3 And the purpose that Annette Hasalone was
 4 trying to set up Mr. Hinkson for was to take him out of
 5 circulation, have him thrown in jail, get him convicted
 6 of murder for hire so that he would spend the rest of
 7 his life in jail, so that she could steal his market
 8 share and, thus, his business.
 9 MR. SULLIVAN: Your Honor, because that's
 10 their claimed defense doesn't vacate the hearsay rules.
 11 They could -- if this was their defense, I don't know
 12 why they didn't ask J. C. Harding some questions to set
 13 it up. They certainly had the opportunity.
 14 It's co-counsel's fault? All right.
 15 Nevertheless, they can't get in, through this
 16 witness, what a whole bunch of different people told him
 17 unless there is some exception to the hearsay rule.
 18 Just because it's part of their defense doesn't mean
 19 it's an exception to the hearsay rule.
 20 THE COURT: The court's concern is not that
 21 you can't establish a defense, although I have to admit
 22 that this is a surprise to the court. I did not know
 23 that I have heard about this aspect of the defense.
 24 The concern I have is the way that you are
 25 trying to prove it and you are doing it -- the question is

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1 elicit hearsay statements from Mr. Hinkson.

2 There is no exception under the Rules of
3 Evidence to have him testify in the manner that you are
4 having him testify, as to what was said to him on this
5 occasion. I just don't know of any exception that
6 covers it, Mr. Hoyt.

7 MR. HOYT: Your Honor, I would like to proceed
8 on this line and just simply have Mr. Hinkson testify as
9 to his perception of what happened, in terms of the
10 attempt to take video footage at his place, and that he
11 was solicited for \$10,000 to purchase or pay for the
12 video that Mr. Hilder wanted to do, subject to
13 connecting it when we have Mr. Hilder and other parties
14 testify next week.

15 THE COURT: Well, I'm going to allow you to
16 elicit the fact that Hilder took a videotape because the
17 jury has already heard testimony to that effect. And
18 you can certainly have him testify as to what Hilder
19 said to him with regard to the \$10,000.

20 Beyond that, the hearsay objection is
21 sustained.

22 (Whereupon, the following proceedings were
23 held in open court, in the presence of the jury:)

24 BY MR. HOYT:

25 Q. Mr. Hinkson, when Mr. Hilder arrived with

1 Mr. Harding, were you aware that he was taking video
2 footage of your factory?

3 A. No, I wasn't.

4 Q. Did he ask for your permission before he took
5 the video footage?

6 A. No.

7 Q. At some point, did he solicit you for \$10,000
8 to make a video movie of your experience of being raided
9 by the U.S. Government?

10 A. Yes, that was his proposal.

11 Q. Did you accept his proposal?

12 A. No, I did not.

13 Q. And did you have him escorted off the
14 property?

15 A. Rich Bellon escorted him off the property.

16 Q. Is that because he became adamant in his
17 demand?

18 A. Yes, sir.

19 MR. SULLIVAN: Objection, Your Honor.

20 THE COURT: Sustained. The jury will
21 disregard the last question and answer.

22 BY MR. HOYT:

23 Q. Why did you have him escorted off the
24 property?

25 MR. SULLIVAN: Objection. Relevance.

1 THE COURT: Sustained.

2 BY MR. HOYT:

3 Q. Now, at that time, did Mr. Harding leave with
4 Mr. Hilder?

5 A. Yes.

6 Q. Was Ms. Bates working at the factory at that
7 time?

8 A. According to my recollection, yes.

9 Q. And did you have any communication with
10 Mr. Harding about murder for hire on that occasion,
11 approximately February 20, 2003?

12 A. No.

13 Q. Had Mr. Hilder brought up the topic?

14 A. I'm just not sure how to answer this.

15 THE COURT: Let's try "yes" or "no."

16 THE WITNESS: Well, the topic was mentioned,
17 yes.

18 BY MR. HOYT:

19 Q. By whom?

20 A. They asked what it was about.

21 THE COURT: Who asked?

22 THE WITNESS: They asked whether it was about

23 MR. SULLIVAN: Your Honor, I object. We need

24 BY MR. HOYT:

25 THE COURT: The objection is sustained. It's

1 a completely unintelligible statement.

2 Counsel, can you help us with a question?

3 BY MR. HOYT:

4 Q. Who asked you?

5 A. Anthony wanted me to explain the story that he
6 was offering to create a video about.

7 MR. SULLIVAN: Judge, I object to this.

8 THE COURT: Well, it does call for hearsay. I
9 am going to sustain it, based upon our discussion at
10 sidebar.

11 BY MR. HOYT:

12 Q. May I ask you this: You mentioned that
13 Anthony -- meaning Anthony Hilder; is that right?

14 A. Yes.

15 Q. My question is: Did Mr. Harding talk to you
16 about the subject of murder for hire?

17 A. No. He was angry that we wouldn't hire
18 Harding -- I mean, Hilder --

19 MR. SULLIVAN: Objection.

20 THE COURT: Sustained. The jury will
21 disregard everything after the answer, "No."

22 THE WITNESS: Yes.

23 BY MR. HOYT:

24 Q. What was your perception of the purpose for
25 the meeting when Mr. Harding and Mr. Hilder came to you?

1 factory in approximately February 20, 2003?
 2 THE COURT: Mr. Sullivan?
 3 MR. SULLIVAN: I object to the speculation and
 4 opinion.
 5 THE COURT: Sustained.
 6 BY MR. HOYT:
 7 Q. Mr. Hinkson, when was the next time you saw
 8 Mr. Harding?
 9 A. He showed up to get a load of products to take
 10 to the show. He claimed he was visiting Anthony Hilder
 11 up in Coeur d'Alene, and he was coming by.
 12 MR. SULLIVAN: Objection, Your Honor.
 13 Unresponsive.
 14 THE COURT: It is unresponsive. The answer is
 15 stricken.
 16 BY MR. HOYT:
 17 Q. Do you know approximately when that was?
 18 A. I thought I answered that already. Oh, when
 19 he came by, it would have been, I think, the first week
 20 in March, maybe.
 21 Q. Did you sell him some product on credit?
 22 A. Yes, consignment. Jeri Gray gave him \$1,000
 23 worth.
 24 Q. And did he promise to pay for that product?
 25 A. Yes, he did.

1 Q. To your knowledge, did he ever pay for it?
 2 A. No, he has not.
 3 Q. To your knowledge, what did he do with that
 4 product?
 5 A. He sold it to another one of my distributors.
 6 Q. And where is that other distributor based?
 7 A. California.
 8 Q. When was the next time -- now, strike that.
 9 When Mr. Harding came and visited you and
 10 picked up product in approximately the first week of
 11 March -- that would be 2003?
 12 A. Yes.
 13 Q. Did you discuss murder for hire with him?
 14 A. No, no. No, sir.
 15 Q. Did he -- well, let me ask you this: When was
 16 the next time you saw Mr. Harding?
 17 A. I guess it was the 27th of March.
 18 Q. And there has been a tape recording of a
 19 communication that you had with Mr. Harding that
 20 evening. Do you recall hearing that tape recording?
 21 A. Yes, I do.
 22 Q. Was that the fourth visit that we are talking
 23 about here?
 24 A. Yes.
 25 Q. And that was March, you said, 27th of '03?

1 A. I believe that was the date of the wire, yes.
 2 Q. Did Mr. Harding notify you that he was coming
 3 to visit you before he arrived?
 4 A. There was a message on my answering machine.
 5 He said he was going to come by to pay me.
 6 Q. And did he pay you?
 7 A. No.
 8 Q. We have heard a good portion of that wire that
 9 was tape recorded. Did you know that Mr. Harding was,
 10 actually, wearing a tape recorder and transmitter that
 11 evening?
 12 A. No, because I talked pretty stupid on the
 13 wire.
 14 Q. What do you mean by "stupid"?
 15 A. Just a BS session. I was depressed; and I was
 16 venting, you know.
 17 MR. SULLIVAN: I object, Your Honor. There is
 18 no question pending. Unresponsive.
 19 THE COURT: I think the jury -- that answer
 20 can stand.
 21 BY MR. HOYT:
 22 Q. Mr. Hinkson, there was one question in the
 23 wire about children who were dying. Do you remember
 24 that discussion with Mr. Harding?
 25 A. Yes, I do.

1 Q. What were you referring to that evening?
 2 A. Well, I was -- what was in my mind was I was
 3 thinking about the fact that we were bombing Iraq and
 4 innocent children were being injured, and he was trying
 5 to guide me there. And I said I was sorry, on the wire,
 6 and then I corrected my statement.
 7 Q. So in terms of the subject matter that
 8 evening, were you and Mr. Harding on the same plane
 9 throughout the evening?
 10 MR. SULLIVAN: Object.
 11 THE COURT: The jury is going to have to make
 12 that determination.
 13 Mr. Hinkson, the objection by Mr. Sullivan is
 14 sustained.
 15 MR. HOYT: I will withdraw that question.
 16 Q. The body wire of the 27th of March, at page
 17 131 -- the jury had the privilege of seeing the
 18 transcript -- starts with the phrase, "I've never been
 19 rich before." What did you mean by that?
 20 A. Well, I have had a lot of really crazy things
 21 happen to me when people perceive me with money. I
 22 mean, it's like winning the lottery.
 23 Q. Page 131. And what were the conditions that
 24 you were living on when you were born in Las Vegas?
 25 A. I had a mobile home, just a simple video lot

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1 we lived out in the desert.

2 Q. And when was it that you started making good
3 money?

4 A. When we started in Las Vegas. But every penny
5 went to Idaho to try to get the factory opened.

6 Q. And as you have gone along in your business,
7 where have you put the profits that you have made?

8 A. It all went back into construction, to create
9 the jobs and the infrastructure.

10 Q. Do you own a yacht?

11 A. No. I wish I did.

12 Q. Now, Mr. Hinkson, in reviewing this tape
13 recording between you and Mr. Harding that evening, you
14 mentioned to him that you were angry with certain
15 people, federal officials and others, is that right?

16 A. Yes.

17 Q. And for you, what did it mean to be angry with
18 these people?

19 A. Well, I was actually very frightened because
20 of the things they were saying about me.

21 Q. In fact, at one point, you say, "It's not what
22 I say; it's what they say I said"?

23 A. Yes. That's correct.

24 Q. Why were you concerned about what they say you
25 said?

1 A. Well, since the year 2000, there's been --
2 literally, the gossip about me being a machine gun
3 dealer, a hit man, and the head of two militias has been
4 roaring through the little gossip town of Grangeville.

5 Q. Have you ever been to a militia meeting?

6 A. No, sir.

7 Q. Have you ever held a machine gun in your hand?

8 A. No. I have never even held one, no.

9 Q. Now, Mr. Harding repeatedly asks you on this
10 wire if you want to kill or do away with certain people.
11 Do you recall that those questions were asked of you?

12 A. Yes. Actually, no. I wasn't really paying
13 much attention to him. I have read it since then.

14 Q. Well, what were you doing at the time that you
15 communicated with Mr. Harding on March 27th?

16 A. Well, he is not really a conversationalist.
17 So I would say I was venting and just talking to myself
18 outloud, pretty much.

19 Q. There is a statement here by Mr. Harding where
20 he says, "For \$6,000 I'll kill her," on page 133.

21 A. I don't think I responded because I don't
22 think I even heard it. But the mention of \$6,000 came
23 from one of my workers.

24 Q. You had been talking earlier that evening
25 about \$6,000?

1 A. Yes.

2 Q. What had happened with that \$6,000?

3 A. Well, one of the girls in the office who I had
4 just fired -- basically, as I walked by, jokingly said,
5 "Those people that robbed you in Mexico, if you give me
6 \$6,000 --"

7 THE COURT: Counsel, the jury will disregard
8 that portion of the answer. Let me see counsel at
9 sidebar.

10 THE WITNESS: Okay.

11 (Whereupon, the following sidebar discussion
12 was held outside the presence of the jury:)

13 MR. SULLIVAN: The Government objects to going
14 into any explanation of what happened in Mexico. It has
15 to then follow that Ms. Raff's name will come up, and
16 where it goes after that, I'm not sure. I don't think
17 there are any good areas.

18 MR. HOYT: I didn't think we were going to get
19 into Mexico.

20 THE COURT: You asked the question with regard
21 to the \$6,000, and the only connection I know to \$6,000
22 is the name that you gave him, Mr. Raff. What
23 ask him a different question, and let's get away from
24 this.

1 (Whereupon, the following proceedings were
2 held in open court, in the presence of the jury:)

3 BY MR. HOYT:

4 Q. Did you think it was a little odd that
5 Mr. Harding kept alluding to the hit man topic on March
6 27th?

7 A. No, I didn't think it was really odd because
8 that was a subject with him and Hilder at the previous
9 meeting.

10 MR. SULLIVAN: I move to strike, Your Honor.

11 THE COURT: I will allow that question and
12 answer to stand.

13 BY MR. HOYT:

14 Q. And he kept bringing up the subject, and your
15 response was that you were suing people?

16 A. Yeah, that's what I'm doing. At least, I used
17 to be.

18 Q. Now what are you doing?

19 A. Just rotting in jail.

20 Q. At one point, he says "To me, you've made
21 it." I'm now on page 133. "I mean --"
22 And you said, "I want to talk about it with
23 them."
24 What did you mean when you said, "I want to
25 talk to me," and, "I'm suing them"?

1 A. Just what I said; I'm suing the people that
 2 were picking on me.

3 Q. And how did you want to hurt them?

4 A. By suing them.

5 Q. So you believed that just merely by suing
 6 somebody you would be hurting them?

7 A. Yes.

8 Q. Now, you mentioned that -- page 134, lines 6
 9 through 10 -- "I mean, how would you like it if they
 10 said you were a head of two militia and buying and
 11 selling machine guns and you're whacking people, all
 12 lies with no proof at all, and they're up there in front
 13 of the grand juries telling them all of these terrible
 14 things about you." What were you talking about?

15 A. I told Anthony Hilder the story about how they
 16 had been accusing me of all of these things since the
 17 year 2000.

18 MR. SULLIVAN: I object.

19 THE COURT: Sustained. I think you can ask
 20 him what he meant in his conversation with Mr. Harding.
 21 The answer that he gave is not responsive.

22 BY MR. HOYT:

23 Q. Mr. Hinkson, what did you mean to Mr. Harding
 24 when you made that statement?

25 A. Can you re-ask the question?

1 Q. Do you remember the statement that I just read
 2 to you, or should I read it again?

3 A. Read it again.

4 Q. At page 133, pages 6 -- excuse me -- lines 6
 5 through 10, the transcript reflects that you said:
 6 "I mean, how would you like it if they said
 7 you were a head of two militia and buying and selling
 8 machine guns and you're whacking people, all lies with
 9 no proof at all, and they're up there in front of the
 10 grand juries telling them all of these terrible things
 11 about you."

12 The question is: What did you mean when you
 13 were talking to Mr. Harding on March 27th by making that
 14 statement?

15 A. I was talking about all of the accusations
 16 that they were telling the Grand Jury because I had just
 17 read the Grand Jury Minutes.

18 Q. Now, on page 135, lines 2 and 3, Mr. Harding
 19 asked you this question: "The three feds that you
 20 hate?"

21 And you responded: "Oh, I hate them."
 22 What did you mean by that?

23 A. Well, they have been having endless Grand Jury
 24 tribunals against me. It doesn't make me really happy.
 25 I mean --

1 Q. And, at that time, did you have an active
 2 Bivens lawsuit against them?

3 A. Yes, I did.

4 Q. Then you said -- Mr. Harding made the
 5 following partial statement: "So I mean, that's -- "
 6 You stated: "They kicked my door down and put
 7 machine guns in my face."
 8 What were you referring to there?

9 A. I was lamenting the fact of what they had done
 10 to me.

11 Q. On what occasion?

12 A. The raid, when they came in with their armed
 13 forces or whatever.

14 Q. And then he said to you: "Right, but, I mean,
 15 I know that you told me. For me I just go, oh, that's
 16 just Dave. He's ranting and raving but you got to stop
 17 saying it to people or people are going to take it
 18 seriously."

19 And your response was: "They tried to murder
 20 me for real."
 21 What did you mean by that?

22 A. Well, I didn't know what it meant, but,
 23 basically, I think I'm the target here.

24 Q. And why do you think someone tried to murder
 25 you for real?

1 A. Because, when Hines came in my bedroom, he was
 2 holding a silver-plated handgun. And I think when he
 3 asked, "Where's the gun? Where's the gun?" I think that
 4 they weren't prepared for me to say, "On the headboard."
 5 I think they were going to shoot me and plant it in my
 6 hand; that is what I believe.

7 Q. And then you said -- you were asked the
 8 following question at lines 14 and 15, page 135: "So
 9 you're going to murder them? What are you going to do?
 10 What can you do?"

11 And you responded: "I'm going to sue them."
 12 Do you recall that?

13 A. Yes, I do.

14 Q. And what did you mean when you said, "I'm
 15 going to sue them"?

16 A. Just what I said; I'm going to sue them. I am
 17 suing them. I really thought I could win in court.

18 Q. So you believed, at that time, that you had
 19 been the target --

20 MR. SULLIVAN: I object to the summarization
 21 by counsel.

22 THE COURT: Sustained.

23 MR. HOYT: I'm trying to get a state of mind.
 24 THE COURT: I think he has testified to that.
 25 It's cumulative, and you're leading.

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1 BY MR. HOYT: 147
2 Q. All right. Mr. Hinkson, after you had this
3 conversation with Mr. Harding on March 27th, did you
4 have any more communication with him?
5 A. No, sir.
6 Q. Now, during the time that Ms. Bates was at
7 your place, do you recall having any discussions with
8 her regarding the murdering of children?
9 A. No, sir.
10 Q. She testified that she overheard a
11 conversation that you were having with a third party in
12 which you talked about murdering children. Do you
13 recall that she said those things from the witness
14 stand?
15 A. I recall her saying that, yes.
16 Q. Was there ever a time that you had a
17 conversation with anyone at your home, as she described,
18 in which you talked about murdering children?
19 A. Well, I have never talked about that; but
20 there was a conversation on the deck with one person who
21 did visit during that period of time. Harding mentioned
22 it in his testimony, also.
23 Q. All right. What was that conversation?
24 A. Patrick Johnson had come by.
25 Q. And what was that conversation?

QNA COURT REPORTING (208) 484-6309

1 THE COURT: Mr. Hoyt, can we elicit whether or 149
2 not the topic of conversation with Mr. Johnson on that
3 occasion had anything to do with murdering the children
4 of federal officers?
5 BY MR. HOYT:
6 Q. Mr. Hinkson, on that occasion when you were
7 talking with Patrick Johnson on the deck, do you recall
8 the topic of murdering the children of federal officers
9 coming up?
10 A. No, sir. Just car repair.
11 Q. Was there ever a time when Ms. Bates either
12 stayed in your house -- or after she moved out of the
13 house, to her apartment in Grangeville, was there ever a
14 time when you had a conversation with a third party
15 about murdering the children of federal officers?
16 A. No. No, sir. Never.
17 Q. Now, Mr. Hinkson, do you recall the testimony
18 of Mr. Swisher?
19 A. Yes, I do.
20 Q. And Mr. Swisher alleges that you --
21 MR. SULLIVAN: I object to prefacing the
22 point with this testimony.
23 THE COURT: Well, let's just elicit as to his
24 response to Mr. Fisher's statement on the witness stand.
25 MR. HOYT: Thank you, Your Honor.

QNA COURT REPORTING (208) 484-6309

1 A. He wanted to take -- 148
2 MR. SULLIVAN: Objection. Hearsay.
3 THE COURT: I am going to allow the witness to
4 identify, if possible, the date on which it occurred and
5 if the subject of murdering children was part of that
6 conversation.
7 BY MR. HOYT:
8 Q. Do you recall the date that Mr. Patrick
9 Johnson came by?
10 A. Well, it was a -- it was just one of those
11 four visits of -- it was one of the four visits of
12 Harding. I would guess it would be the second visit.
13 Q. And what do you recall of that conversation?
14 A. Well, Patrick had brought an older gentleman
15 with him. There was two of these people. And Hilder
16 was there with Patrick Johnson, and Patrick Johnson was
17 there to pick up the red Mustang because it had a dent
18 in it. He does body work.
19 And that pretty much -- oh, the older
20 gentleman that was with him was a paralegal. And I
21 handed, at that time, a legal brief I did, the one about
22 the public lands, and I gave that --
23 MR. SULLIVAN: Object.
24 THE WITNESS: -- to Patrick Johnson.
25 MR. SULLIVAN: There is no relevance.

QNA COURT REPORTING (208) 484-6309

1 Q. Mr. Hinkson, according to Mr. Swisher's 150
2 testimony, on a number of occasions you approached him
3 and asked him to murder federal officials?
4 A. I have never approached him. I don't know
5 where I would approach him; but, no, I have never talked
6 to him about hurting anybody.
7 Q. Did you cut off communications with
8 Mr. Swisher after the incident over the cyanide?
9 A. Yes. That was January 3rd or 4th.
10 Q. Of 2003?
11 A. Yes, sir.
12 Q. Did you have any communication with him after
13 that time?
14 A. No. I wouldn't take his calls.
15 Q. Did you ever meet with him personally after
16 that time?
17 A. No. I have never met with him.
18 Q. Now, Mr. Swisher stated that shortly after the
19 lawsuit by Annette Macalone that you talked to him for
20 the first time about killing Dennis Albers? Do you
21 remember that testimony?
22 A. Yes, I remember that.
23 Q. And he included your ex-wife, Anne, in that?
24 Do you recall that?
25 A. Yes. He said I was going to hurt Marie.

QNA COURT REPORTING (208) 484-6309

1 Q. Did you have such a communication with
 2 Mr. Swisher?
 3 A. Never. I love Maria. I still love Marie.
 4 Q. Mr. Hinkson, Mr. Swisher indicated that he had
 5 been solicited by you on a number of occasions and that
 6 he indicated that he was going to -- he said -- he was
 7 going to have to bring the hammer down, I think, is what
 8 he said. Do you recall that he said that in his
 9 testimony?
 10 A. In his testimony? Yeah.
 11 Q. Mr. Hinkson, did you ever have a communication
 12 with Mr. Swisher where you asked him to murder anyone?
 13 A. No, sir.
 14 Q. Do you remember the evening that Mr. Swisher
 15 went to Mr. Bellon's house with you for dinner?
 16 A. Yes, I do.
 17 Q. And I believe there was testimony that that
 18 occurred in approximately September of '02?
 19 A. Yes, just before his open heart surgery.
 20 Q. Was it before the raid?
 21 A. Yes.
 22 Q. And there was someone who came to dinner that
 23 night? Who was that?
 24 A. Roman Polankio from the Ukraine.
 25 Q. And did Mr. Polankio obtain any samples of

1 product from you at that time?
 2 A. No. He got them the day before because Roman
 3 went to his lab with Lonnie. I'm sorry. Strike that.
 4 Chris Paitreyot took Roman to Swisher's lab.
 5 Q. Let's see if we can tell the jury. Who is
 6 Chris Paitreyot?
 7 A. Oh, I didn't realize it was an alias name till
 8 I heard his middle name; but he was a guy that made the
 9 minerals before Lonnie. He disappeared three days
 10 before the raid. He just, flat, disappeared.
 11 Q. Were you concerned about him when he
 12 disappeared?
 13 A. Yeah. Yeah.
 14 MR. SULLIVAN: I object. Relevance.
 15 THE WITNESS: I was concerned.
 16 THE COURT: The jury will disregard the
 17 question and the answer.
 18 BY MR. HOYT:
 19 Q. Did you file a missing persons report?
 20 A. Yes, I did. I filed a missing persons report
 21 because --
 22 THE COURT: Mr. Hinkson?
 23 THE WITNESS: -- I just couldn't figure out
 24 where he went.
 25 THE COURT: Mr. Hinkson?

1 THE WITNESS: Yes.
 2 BY MR. HOYT:
 3 Q. What was Mr. Chris Paitreyot's role?
 4 A. He manufactured the minerals -- I taught him
 5 how -- and every time he made a bunch, he would drive to
 6 Swisher's house, drop it off.
 7 And then a few days later, Swisher would fax
 8 it over; or, when he picked up more samples, he would
 9 verify the test to make sure the product was in
 10 compliance with the Food and Drug Administration.
 11 Q. Did Mr. Chris -- what was Mr. Chris
 12 Paitreyot's middle name?
 13 A. John.
 14 Q. So it was Chris John --
 15 A. Chris John Paitreyot, like "christian patriot"
 16 (phonetic). Ha-ha.
 17 Q. If that was his alias name, what was his real
 18 name?
 19 A. Carl Waterman, as I found out later. Carl
 20 Waterman.
 21 Q. Did you do a background check on this
 22 Mr. Chris Paitreyot?
 23 A. No.
 24 MR. SULLIVAN: Object on relevance, Your
 25 Honor.

1 THE COURT: I'm not sure what the relevance is
 2 either, counsel. Sustained.
 3 BY MR. HOYT:
 4 Q. Looking at that September meeting now, do you
 5 recall being there with Mr. Swisher and at Mr. Bellon's
 6 house and with Mr. Roman Polankio?
 7 A. Yes, I do.
 8 Q. What was Mr. Roman Polankio going to do with
 9 the samples that he took?
 10 A. He was taking them to the laboratory in Russia
 11 to get it tested, and Swisher was supposed to make sure
 12 the product was perfect for the testing samples so that
 13 we would be approved in the Soviet Union to market these
 14 products.
 15 Q. Do you recall that Mr. Swisher brought a gun
 16 with him that evening?
 17 A. Yeah. I believe it was --
 18 MR. SULLIVAN: I object, Your Honor.
 19 Relevance.
 20 THE COURT: I am going to sustain the
 21 objection as to the form of the question. It is
 22 irrelevant and unduly confusing and the relevance
 23 is nil.
 24 BY MR. HOYT: It was brought up by Mr. Swisher in
 25 his direct testimony that he brought a gun and they shot

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1 skeet.

2 THE COURT: Is that that occasion? If that's

3 the case, then I will overrule the objection and allow

4 you to go into it.

5 MR. HOYT: Thank you.

6 Q. Do you recall that evening?

7 A. Yes, I do.

8 Q. Okay. Did Mr. Swisher tell you that evening

9 that he had killed lots of people before?

10 A. No, sir.

11 Q. Who fired the gun that evening?

12 A. I'm not really interested in guns, and I shot

13 it twice. Mostly, Joe shot from his chair because he

14 had a hard time standing. He was pretty sick.

15 Q. Did Roman use the weapon?

16 A. Oh, yeah. Roman was very excited. You are

17 not allowed guns in Soviet Russia.

18 Q. Soviet Russia? It's not Soviet Russia.

19 A. Well, it's Russia. He was taking the samples

20 to Russia, but he lives in the Ukraine. Let me clarify

21 that.

22 Q. Now, Mr. Hinkson, did you then, after the --

23 after that meeting, did you ultimately get the results

24 from Russia regarding the testing of the product?

25 A. About two days after Mr. Waterman disappeared,

1 Roman sent me an e-mail; and he was very angry.

2 Q. Why was he angry?

3 A. Because none of the samples matched the label.

4 It was a complete failure.

5 MR. SULLIVAN: Judge, I move to strike based

6 on hearsay.

7 THE COURT: I agree. It's completely

8 irrelevant. The motion to strike is granted. The jury

9 will disregard all testimony with regard to the testing

10 in Russia and the results.

11 BY MR. HOYT:

12 Q. And did you ultimately purchase a machine to

13 test your own products?

14 A. Yes, an ICP machine.

15 Q. What does "ICP" stand for?

16 A. Inductively Coupled Plasma. I sent Lonnie to

17 school to learn to run it.

18 Q. And what does this machine do?

19 A. It tests the whole periodic table. You put

20 one sample in, hit the button, and it gives a complete,

21 certified read-out.

22 Q. What is the periodic table?

23 A. It's the elements.

24 MR. SULLIVAN: Judge, I object.

25 THE COURT: The objection is sustained.

1 BY MR. HOYT:

2 Q. Did Mr. Swisher try to sell you a testing

3 machine?

4 A. Yes.

5 Q. When was that?

6 A. In the month of January. He kept insisting

7 that we buy it for \$10,000.

8 Q. Had you already purchased the ICP machine?

9 A. I had made a contract to purchase it. It was

10 a lease with a buy-out at the end.

11 Q. Did Mr. Swisher insist on selling you his

12 machine?

13 A. He did.

14 MR. SULLIVAN: I object, Your Honor. Move to

15 strike. Irrelevant.

16 THE COURT: Overruled. I will permit it.

17 BY MR. HOYT:

18 Q. Now, in relationship to January 4th, was it

19 before or after the communication regarding the cyanide?

20 A. Say it again.

21 Q. In relation -- the offer to sell you his

22 testing machine for \$10,000, was that before or after

23 the January 4th --

24 A. Yeah. He started mentioning it at the first

25 meeting. He said we needed our own machine, and he kept

1 hinting that we were to buy it.

2 Q. Now, that was back in November?

3 A. November, yes.

4 Q. And then did you ever inform Mr. Swisher that

5 you had already purchased another machine?

6 A. I never would talk to him after the 3rd; and

7 so, no, I never informed him. I sent Rich Bellon to

8 deal with him.

9 Q. Did you -- you say the 3rd but --

10 A. The 3rd of January.

11 Q. Previously, you testified the 4th of January?

12 A. Well, the 4th is when he tried to blackmail

13 me. The 3rd is when he signed the affidavit. You know,

14 it's neck in neck there.

15 Q. What affidavit was that?

16 A. He signed an affidavit swearing that it was

17 Chris Paitreyot that messed the products up that caused

18 the raid from the FDA.

19 MR. SULLIVAN: Your Honor, I object.

20 THE COURT: Sustained. The jury will

21 disregard the last statement. It's hearsay.

22 BY MR. HOYT:

23 Q. Mr. Hinkson, you were arrested on the 14th day

24 of April 2003?

25 A. Yes.

1 Q. And how was it that you were arrested? What
 2 happened? What events occurred?
 3 A. Well, Scott Mealer called the factory; and he
 4 told Tracy that they had information on my house
 5 robbery, the \$6,000 that got stolen from my house.
 6 And they told me to come on down because they
 7 wanted to go over the evidence. I had a picture of the
 8 girl holding my stolen credit cards, and I had all of
 9 the proof that she robbed me.
 10 So I gathered the proof together, and I drove
 11 down the hill to see Mr. Mealer about this house
 12 robbery.
 13 Q. Mr. Mealer is with what law enforcement
 14 department?
 15 A. Idaho County Sheriff's Department. He is a
 16 deputy.
 17 Q. And did you go in and meet with him about that
 18 topic?
 19 A. I did. I gave him a complete package of
 20 evidence, and we discussed it briefly.
 21 Q. And at that point, did he introduce you to
 22 Agent Will Long?
 23 A. Yes, he did.
 24 Q. And at that time, did you have a tape recorder
 25 in your pocket?

1 A. Yes. I was wearing my own little Radio Shack
 2 tape recorder.
 3 Q. And why were you wearing your own little Radio
 4 Shack tape recorder?
 5 A. Well, I don't trust Mealer for a variety of
 6 reasons.
 7 THE COURT: That's enough.
 8 BY MR. HOYT:
 9 Q. And what was your purpose in having the tape
 10 recorder in your pocket?
 11 A. I knew he was having an affair with the girl
 12 that robbed me. Okay.
 13 Q. What was your purpose?
 14 A. Just to record it.
 15 THE COURT: Ladies and gentlemen, you will
 16 disregard the witness's last statement. It is stricken.
 17 BY MR. HOYT:
 18 Q. What was your purpose in having the tape
 19 recorder?
 20 A. I just wanted to protect myself; that's all.
 21 THE COURT: You have asked the question. It's
 22 been answered. Ask another question unrelated to the
 23 purpose of having the recorder.
 24 BY MR. HOYT:
 25 Q. Mr. Hinkson, what was the -- was the tape

1 recorder operating when Agent Will Long started
 2 communicating with you?
 3 A. Yes, it was.
 4 Q. And during that time, did you request to have
 5 the opportunity to speak with your attorney?
 6 A. Yes. I think, two or three times.
 7 Q. And was that recorded on the tape?
 8 A. Yes, it was.
 9 Q. Did Agent Long appear in court on April the
 10 9th, after that day, and was that a court hearing
 11 regarding your detention?
 12 A. Yes.
 13 Q. My question is: At that hearing, was Agent
 14 Long asked if you had requested an attorney at the time
 15 of your arrest?
 16 A. Yes.
 17 MR. SULLIVAN: I object to this procedure.
 18 THE COURT: Sustained. That is not a
 19 permissible question. It calls for hearsay. The jury
 20 will disregard the witness's answer.
 21 THE WITNESS: It's on the transcript.
 22 MR. HOYT: Sustain.
 23 THE COURT: No. I have ruled. Ask another
 24 question.
 25

1 BY MR. HOYT:
 2 Q. At the detention hearing, were you permitted
 3 to face your accusers?
 4 A. No, sir.
 5 Q. Were you able to --
 6 MR. SULLIVAN: I object to the question. Your
 7 Honor.
 8 THE COURT: What is the relevancy of this,
 9 Mr. Hoyt? Sustained.
 10 BY MR. HOYT:
 11 Q. Now, Mr. Hinkson, you have been continuously
 12 confined in jail since April 4, 2003?
 13 A. Yes.
 14 Q. During that time, was Mr. Bellon working for
 15 you as a legal assistant?
 16 A. Yes.
 17 Q. And over the next few months, April, May, and
 18 June, did Mr. Bellon indicate to you that he wanted to
 19 be your partner in WaterOz?
 20 A. Yes. He insisted that I give him half of
 21 WaterOz or he would leave me rotting in jail.
 22 Q. Did Mr. Bellon ever threaten to have me arrested
 23 and testify against you if you didn't give him half of
 24 WaterOz?
 25 A. Yes, he did.

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1 MR. SULLIVAN: Your Honor, could we have a
2 time, date, and place?
3 THE COURT: If you can, establish the time.
4 BY MR. HOYT:
5 Q. Yes. Can you tell the jury which times it was
6 that Mr. Bellon made those threats?
7 A. It wasn't the first couple of months but I
8 would say June, July, --
9 Q. On July 26th, did you advise Mr. Bellon that
10 you would give him a one-half interest in a related
11 entity to WaterOz?
12 A. No. I'm going to answer that "no."
13 Q. Did you tell Mr. Bellon that you would give
14 him a one-half interest in WaterOz Club?
15 A. Future. It was a future -- it was a thing
16 that I promised that, in the future, we would work
17 together and I would share with him in the future.
18 Q. What was it you were going to share with him
19 in the future?
20 A. Anything we did together in the future.
21 Q. Did it relate to WaterOz? The manufacturing
22 company? The bottling plant?
23 A. No, it did not.
24 Q. Was WaterOz Club -- what position was it to
25 hold, in terms of the total organization?

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1 A. I would have to see the contract. There is no
2 such thing as -- it hadn't been created yet. The entity
3 that I was going to share with him was not in creation
4 at that point. It was a future -- a future thing.
5 Q. Was it to handle sales?
6 A. In the future. It was something we were doing
7 together, yes.
8 Q. And you agreed to split the profits 50/50?
9 A. From that new entity we were going to create,
10 yes.
11 Q. And that new entity was going to sell WaterOz
12 products?
13 A. And do legal seminars.
14 Q. Why did you agree to give him a one-half
15 interest in this future entity, WaterOz Club?
16 A. He kept demanding something. That's the only
17 thing I would promise him; I was going to work with him
18 in the future.
19 Q. And did you tell your attorney at that time,
20 Mr. Brit Groom, to prepare a document reflecting this
21 agreement?
22 A. I dictated it over the phone, and they
23 recorded it in the rough draft form, yes.
24 Q. Was that rough draft ever brought to you to
25 review and sign?

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1 A. No, sir.
2 Q. Was that rough draft used by Mr. Bellon as his
3 basis for obtaining the temporary restraining order, to
4 the best of your knowledge?
5 A. Yes.
6 MR. SULLIVAN: I object. These have all been
7 leading questions.
8 THE COURT: Sustained as to the form of the
9 question.
10 BY MR. HOYT:
11 Q. What did Mr. Bellon use the rough draft of
12 that proposed agreement for?
13 A. Well, he created the TRO -- that's the
14 temporary restraining order -- and he accused my wife of
15 stealing a half million dollars.
16 MR. SULLIVAN: Judge, I object to this.
17 THE COURT: I am going to sustain the
18 objection.
19 BY MR. HOYT:
20 Q. Mr. Hinkson, there has been some testimony
21 about the fact that Mr. Bellon obtained a TRO, a
22 temporary restraining order, in that lawsuit in the
23 County?
24 A. Yes, sir.
25 Q. And the question is: Did he use that proposed

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1 agreement?
2 A. Yes, he did.
3 Q. Now, ultimately, what was the outcome of that
4 case?
5 A. He was removed from the factory by the Judge.
6 Eventually, the case -- we settled. Everybody dropped
7 the suit.
8 Q. Now, during that suit, did you learn that Joe
9 Swisher had materially participated in the take-over of
10 WaterOz?
11 A. Yes.
12 MR. SULLIVAN: Judge, I object to the form of
13 the question. The question calls for conclusions.
14 THE COURT: Sustained. Also, you are going to
15 have to lay a foundation. I assume that this was at a
16 time when Mr. Hinkson was in jail; so it would call for
17 hearsay, as well, counsel.
18 BY MR. HOYT:
19 Q. Mr. Hinkson, did Mr. Swisher sue you?
20 A. Yes.
21 Q. As a part of that suit with Mr. Bellon?
22 A. For half of everything I own, yes.
23 Q. Did he sue you for a specified amount of
24 money?
25 A. I remember it being six million, but that's

1 just my memory.

2 Q. And I believe he testified here that he sued

3 you for \$522,000.

4 A. That was his counterclaim.

5 Q. Oh, I'm misunderstanding. I am just talking

6 strictly about Mr. Swisher.

7 A. Yeah. He sued me for \$522,000, yes.

8 Q. And it was Mr. Bellon that had sued you for

9 half of the business; is that right?

10 A. Yeah.

11 Q. Sorry. That was my mistake.

12 A. The reason they filed that is because they

13 were both filed.

14 Q. Now, was part of Mr. Swisher's claim that he

15 wanted recovery for amounts that he had given you a

16 discount for when he was doing analytical testing?

17 A. Yes.

18 MR. SULLIVAN: I object to the leading

19 question.

20 THE COURT: Sustained.

21 THE WITNESS: Okay.

22 BY MR. HOYT:

23 Q. What was Mr. Swisher's basis for making his

24 claim of \$522,000 against you?

25 MR. SULLIVAN: I object on the grounds of

1 relevance.

2 THE COURT: Sustained.

3 MR. HOYT: Your Honor, it seems like it it

4 would go to impeachment of Mr. Swisher's testimony and,

5 also, show his bias and interest in --

6 THE COURT: The jury has heard the details

7 about this lawsuit ad nauseam. The question, I think,

8 if I understand the objection, is: What is he going to

9 say that's new that we haven't heard before?

10 MR. HOYT: May I ask a further question?

11 THE COURT: Sure.

12 BY MR. HOYT:

13 Q. Had Mr. Swisher ever submitted a billing

14 statement, a letter, a communication to you, indicating

15 that he felt you owed him this money --

16 A. Yes.

17 Q. Can I finish the question?

18 A. I thought you did. Yes.

19 Q. -- that he felt you owed him this money prior

20 to the time that he filed the counterclaim with the

21 court in the TRO lawsuit?

22 A. Oh, no.

23 Q. Was that the first time that you were ever

24 aware that Mr. Swisher was making such a claim against

25 you?

1 A. Yes, it was.

2 Q. Now, Mr. Hinkson, Mr. Lonnie Birmingham came

3 and testified about an alleged threat that you made and

4 a solicitation of him to murder Mr. Albers. Did you

5 hear that testimony?

6 A. Yes, I did.

7 Q. And Mr. Birmingham testified that he was

8 working for you. He was your mineral maker; is that

9 right?

10 A. Correct.

11 Q. And where did he work? What part of --

12 THE COURT: Counsel, this is repetitious. We

13 have heard the testimony about where Mr. Birmingham

14 works. Just ask him the question, the direct question,

15 you are trying to get to.

16 MR. HOYT: I need to establish that he worked

17 in the laboratory.

18 THE COURT: The jury knows that, counsel.

19 This is cumulative, and you are wasting time. Ask

20 another question.

21 BY MR. HOYT:

22 Q. Mr. Hinkson, Mr. Birmingham stated that he was

23 working by the back door when you said to him you wanted

24 him to go murder Dennis Albers for \$10,000. Do you

25 recall that testimony?

1 A. Yes.

2 Q. Did that happen?

3 A. No. He doesn't work by the back door; and,

4 no, it didn't happen.

5 Q. Did you ever vent, when you were in the

6 WaterOz plant, around your fellow employees?

7 A. Yes.

8 Q. What kinds of things did you say?

9 A. Just about Dennis, I would say, "God needs to

10 smite him."

11 Q. Why?

12 A. Because he was putting innocent people in

13 jail.

14 Q. Did you ever say to anyone that you wanted

15 them to kill Dennis Albers?

16 A. No, sir.

17 MR. HOYT: If I might have a moment, please?

18 THE COURT: Sure.

19 BY MR. HOYT:

20 Q. Mr. Hinkson, when you were at your factory,

21 did you ever vent about feds?

22 A. Well, I had a letter filed with the jury called

23 "letter." That's about it. I did not vent on any one

24 person.

25 Q. What was "The Mummy Cook Letter"?

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1 A. It was a letter showing she had no delegation
2 of authority and she was impersonating a U.S. Officer.
3 I had mailed that to her.

4 Q. And do you ever recall venting about Nancy
5 Cook at the factory?

6 A. Well, I didn't like her because she was, you
7 know, stalking me. But I never said anything like -- I
8 never even said, as I can remember, that I want God to
9 smite her. Most of my focus was on Dennis Albers.

10 Q. And why was your focus on Dennis Albers?

11 A. I said, right on the wire, "I really hate
12 him."

13 Q. Why do you really hate him?

14 THE COURT: Counsel, this is cumulative. He
15 has testified to that already.

16 BY MR. HOYT:

17 Q. Did you ever see a letter by Mr. Albers to the
18 Federal Government insisting that they put you in jail?

19 A. Yes, I did.

20 Q. Mr. Hinkson, did you ever do any research
21 regarding Judge Lodge?

22 A. I didn't. Rich Bellon did.

23 Q. And to the best of your knowledge, what did
24 that research entail?

25 A. He downloaded cases that the Judge had ruled

1 wrong on, and he had quite a variety of them.

2 Q. When you say "ruled wrong," do you mean that
3 they were reversed?

4 A. Pretty much it was just Bellon's opinion that
5 Judge Lodge ruled wrong every single time. I never had
6 any experience with Judge Lodge at that time.

7 Q. And did you ever do any research into where
8 Judge Lodge lived?

9 A. No. I had Lexis-Nexis, and I never used it
10 for any of that.

11 Q. Did you find out that the U.S. Government had
12 asked Lexis-Nexis for a record of your transaction
13 requests?

14 A. Yes, yes. They requested it to prove that I
15 was trying to solicit.

16 MR. SULLIVAN: Judge. I object to the --

17 THE COURT: It calls for hearsay. It's
18 sustained.

19 BY MR. HOYT:

20 Q. Lexis-Nexis is a search engine; is that right?

21 A. Yes. It searches everything in the whole
22 world, you know.

23 Q. Did you ever use Lexis-Nexis or any other
24 search engine to find the home address of Steve Hines?

25 A. No, sir.

1 Q. Did you ever use Lexis-Nexis or any search
2 engine to find the home address of Nancy Cook?

3 A. No, sir.

4 Q. Did you ever attempt to find out information
5 such as the kind of automobiles that these people drove?

6 A. No, sir.

7 Q. Did you ever seek information as to where
8 these people officed?

9 A. No, I did not.

10 Q. Or what hours they kept?

11 A. No, I did not.

12 Q. Or whether or not Mr. Hines or Ms. Cook had
13 any children?

14 A. No, I did not. I did know that Dennis Albers
15 has one daughter who is a lawyer, and she's a very nice
16 lady.

17 Q. You have met her before?

18 A. Oh, yeah.

19 Q. Mr. Albers, in fact, represented you at one
20 time, didn't he?

21 A. Yes. He was my lawyer until he decided to
22 punch.

23 THE COURT: That's fine.

24 THE WITNESS: Okay.

25 (Whereupon, an off-the-record discussion was

1 held between Mr. Nolan and Mr. Hoyt, outside the
2 presence of the jury.)

3 MR. HOYT: Your Honor, upon advice of counsel,
4 he feels that the appropriate thing to do might be to
5 ask the court if we can lay over until tomorrow and
6 finish our examination at that time.

7 THE COURT: I think that's good advice,
8 Mr. Hoyt; and I'd take it. The court will take it, too.

9 (End of first requested excerpt.)

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C E R T I F I C A T E

I, LORI A. PULSIFER, certify that I made a shorthand record of the matter contained herein, and that the foregoing 174 typewritten pages contain a full, true, and accurate transcript of an excerpt of said shorthand record, done to the best of my skill and ability.

DATED this 24th day of January 2005.


LORI A. PULSIFER, CSR, RMR, ~~QSR~~
Certified Shorthand Reporter
Idaho Certificate 354

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,)
Plaintiff,) Case No.
) CR-04-127-S-RCT
vs.)
)
DAVID ROLAND HINKSON,)
Defendant.)

BEFORE THE HONORABLE RICHARD C. TALLMAN
JUDGE OF THE UNITED STATES CIRCUIT COURT
SITTING BY DESIGNATION
(Sitting with a Jury)

Boise, Idaho
January 21, 2005

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXCERPT RE:
TESTIMONY OF DAVID ROLAND HINKSON
VOLUME 2 OF 2
(PAGES 176 THROUGH 342)

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I N D E X O F E X A M I N A T I O N

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1 heard the question was Mr. Hinkson said, "I have never
2 been," and I remembered that Dr. Duke had referred to
3 that, that he had been investigated about this.

4 THE COURT: I'm going to decide over the
5 weekend whether and how much of Dr. Duke's testimony is
6 coming in. I don't know until I hear from Dr. Duke what
7 the relevancy is, in terms of establishing a
8 psychological opinion.

9 The fact that somebody has been investigated
10 but never charged with a crime -- I just don't see what
11 that has to do with anything.

12 MR. NOLAN: All I am saying is that I can
13 understand his follow-up question because we don't want
14 to appear as if Mr. Hinkson is lying when Dr. Duke gets
15 on the stand and says something about this incident.

16 That was my thought.

17 THE COURT: Let me do this: If Mr. Hoyt
18 thinks it's this important -- I question the relevancy
19 of it, but I think we probably spend more time arguing
20 about whether it's admissible or not than if we just let
21 it in.

22 But I'm going to let it in only because you
23 say that Dr. Duke is relying on it in forming whatever
24 his opinions are.

25 MR. SULLIVAN: I have another matter that is

1 related but separate. I seek permission of the court to
2 make my very first question to Mr. Hinkson on
3 cross-examination, "Isn't it true you are a convicted
4 felon?"

5 THE COURT: With his answer, I think that's a
6 fair question on cross-examination. I'm going to allow
7 you to ask that question.

8 MR. NOLAN: Isn't there an issue about whether
9 or not sentencing is required before you are, in fact,
10 convicted?

11 THE COURT: I had my Law Clerk research that,
12 and the answer is it comes in as a conviction, although
13 you can establish on redirect that the matter has not
14 yet been appealed and, therefore, is not final yet.

15 MR. NOLAN: That goes back and forth,
16 depending upon the purpose. I have been reading stuff.

17 THE COURT: I thought about it. I have had
18 some research done, and that's what I understand the
19 Ninth Circuit law to be on that subject. You know,
20 that's as much as I need to say now.

21 (Whereupon, the following proceedings were
22 held in open court, in the presence of the jury:)

23 MR. HOYT: May I have the last question read
24 back by the court reporter?

25 (Whereupon, the last question and answer were

1 read back by the court reporter.)

2 BY MR. HOYT:

3 Q. Mr. Hinkson, can you briefly tell us what
4 happened?

5 A. Yes, I was arrested for looting.

6 Q. Related to the snowmobiles?

7 A. Yes. I found them.

8 Q. And were you able to provide some
9 documentation as to those?

10 A. Well, I called up the owners and tried to
11 return them; and the owners didn't want them back
12 because they were going to get new ones for free. And
13 so I got a bill of sale signed for each one and I --

14 MR. SULLIVAN: I object. Unresponsive.

15 THE COURT: Sustained.

16 BY MR. HOYT:

17 Q. Were you able to present a bill of sale for
18 those items to the police?

19 A. Yes.

20 Q. Did that end the investigation?

21 A. Yes.

22 Q. Mr. Hinkson, have you been convicted by a jury
23 of the tax charges as have been discussed here in this
24 case, specifically, on May 5th of 2004?

25 A. Well, the Government thinks --

1 THE COURT: Just "yes" or "no."

2 THE WITNESS: -- I was convicted.

3 THE COURT: "Yes" or "no," were you convicted?

4 MR. SULLIVAN: Your Honor, I didn't hear the
5 answer.

6 THE COURT: The court reporter will re-read
7 the question and the answer.

8 (Whereupon, the previous question and answer
9 were read back by the court reporter.)

10 BY MR. HOYT:

11 Q. Is the answer "yes" or "no"? "Yes" or "no"?

12 A. Okay. I will say "yes" then.

13 Q. Have you been sentenced on those charges yet?

14 A. No.

15 Q. Has the case been appealed yet?

16 A. No.

17 Q. Now, Mr. Hinkson, you were arrested on April
18 4, 2003, related to these alleged threats, as testified
19 by Agent Long; isn't that correct?

20 A. Yes, I was.

21 Q. And how long was it before the Government
22 indicted you on this offense?

23 A. Eighteen months.

24 Q. In Mr. Harding's discussion about the body
25 wire, Mr. Harding said that there was a long pause and

1 that you stared at his chest and that, from that, he
 2 presumed that you were aware he was recording.
 3 MR. SULLIVAN: I object to the summarization
 4 of the testimony.
 5 MR. HOYT: I am laying a foundation.
 6 THE COURT: Overruled. I think it's a fair
 7 foundational question.
 8 BY MR. HOYT:
 9 Q. Do you recall that general testimony, sir?
 10 A. Yes, I do.
 11 Q. And, Mr. Hinkson, were you aware, on the night
 12 of March 27, 2003, when you had the conversation with
 13 Mr. Harding, that he was recording you?
 14 A. No. I had no idea.
 15 Q. After the raid of November 21, 2002, were
 16 records concerning your credit with credit companies
 17 removed? Did you discover they were removed?
 18 A. Yes. The files were taken from the factory.
 19 MR. SULLIVAN: I object. Relevance.
 20 THE COURT: Sustained.
 21 BY MR. HOYT:
 22 Q. After the raid, was your credit shut down?
 23 A. Yes.
 24 MR. SULLIVAN: I object.
 25 THE COURT: Sustained. Irrelevant.

1 BY MR. HOYT:
 2 Q. Mr. Swisher contended in his testimony that,
 3 at one point in time, you had asked him to murder your
 4 former wife, Marie Hinkson, now Towerton. Do you recall
 5 that?
 6 A. Yes.
 7 Q. Do you have any reason or motivation to want
 8 her killed?
 9 A. No.
 10 MR. SULLIVAN: Asked and answered.
 11 THE COURT: It is cumulative, counsel. You
 12 asked him that yesterday. Sustained.
 13 BY MR. HOYT:
 14 Q. In the tape-recorded radio interview that was
 15 played for the jury, you are talking to a radio
 16 announcer; is that correct?
 17 A. Yes, that's correct.
 18 Q. And what was the name of that program? Do you
 19 recall?
 20 A. I don't remember.
 21 Q. Would the term "The Agitator Hour" refresh
 22 your recollection?
 23 A. Yes.
 24 Q. Now, is this a regular program that goes on,
 25 to your knowledge?

1 A. I don't know because it was the first time I
 2 was ever on it, I think.
 3 Q. Now, you had -- you had been a radio talk show
 4 host, yourself?
 5 A. Yes. 1,000 shows I've done.
 6 Q. And do you recall, at the beginning of the
 7 tape recording, what the approach of the announcer was?
 8 Was it -- was it a spoof? Was it very serious? What
 9 was going on? What type of a program was it?
 10 MR. SULLIVAN: I object, Your Honor. It calls
 11 for a characterization.
 12 THE COURT: The tape is in evidence.
 13 Sustained. The jury will have to draw its own
 14 conclusions.
 15 MR. HOYT: The full tape is not in evidence.
 16 THE COURT: Well, your question is improper.
 17 MR. HOYT: One moment, please.
 18 MR. NOLAN: We would move offer a piece of
 19 evidence, Your Honor. It's probably best to take it up
 20 at the bench.
 21 THE COURT: On this same subject?
 22 MR. HOYT: We can do it at another time. It
 23 doesn't have to be done now; but our purpose would be to
 24 be offering it through this witness, i.e., to have him
 25 authenticate the balance of the tape.

1 THE COURT: Why don't you have him
 2 authenticate whatever it is you want him to
 3 authenticate. Go ahead. We will see where we go.
 4 BY MR. HOYT:
 5 Q. Mr. Hinkson, do you remember the broadcast of
 6 January 8, 2003?
 7 A. Yes, I do.
 8 Q. And there was a portion of it that was played
 9 here for the jury?
 10 A. Yes.
 11 Q. Was that the full tape?
 12 A. No.
 13 MR. HOYT: Your Honor, we would tender -- and
 14 I'm sure you want to take that up with us as a legal
 15 matter later. We would tender the balance of the tape
 16 that wasn't played for the jury and ask that we can do
 17 that at a later point in time.
 18 THE COURT: Let me take a look at it at the
 19 recess.
 20 MR. NOLAN: We want to have a foundational --
 21 whatever you think is necessary.
 22 THE COURT: You have done that. If I rule it
 23 admissible, you can play it. If I don't, then you
 24 won't.
 25

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1 BY MR. HOYT:

2 Q. Hinkson, as a matter of speech, do you use
3 metaphors?

4 A. Yes, constantly.

5 Q. In the recording by Mr. Harding of March 27th,
6 you make the following statement at page 36, starting at
7 line 1.

8 My question is -- I want to read you -- let's
9 see. Let's see if we can put that before the witness.
10 The easiest way might be with the exhibit book.

11 Your Honor, may I approach?

12 THE COURT: Sure.

13 MR. NOLAN: Mr. Hoyt, I have it here.

14 MR. HOYT: Exhibit H?

15 MR. NOLAN: It's page 36 of the transcript.

16 MR. HOYT: Page 36, okay. It's missing from
17 this book.

18 THE COURT: It should be -- isn't that 4-A,
19 Exhibit 4-A, the transcript of the --

20 MR. HOYT: It is also Exhibit 4-A.

21 MR. NOLAN: I have the transcript page here.

22 MR. HOYT: All right. May I put it on the
23 Bimo, Your Honor?

24 THE COURT: Yes. Go right ahead.
25

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1 BY MR. HOYT:

2 Q. Mr. Hinkson, do you recall that you made this
3 statement starting at the top of the page: "The feds
4 are good for something, sport."

5 And Mr. Harding said to you: "Good for sport.
6 Did you bring the sporting feds today, Wilson? Yes, I
7 did."

8 And then you respond to him: "I got two IRS
9 (inaudible) we are going to hunt them. Got the hound
10 dogs ready? Yeah. (Inaudible) this one, white one.
11 Yeah."

12 And then Mr. Harding says to you: "Do you
13 think there are good guys in the system, though, that
14 just don't know?"

15 Mr. Hinkson: "They quit."

16 My question to you is: Were you speaking
17 literally or metaphorically when you said, "We are going
18 to hunt them"?

19 A. Just metaphorically.

20 Q. Why would you use that metaphor?

21 A. There was a movie on TV about this where they
22 had done this and we were -- I was kind of joking about
23 this movie.

24 Q. Is that the kind of humor that you follow?

25 A. Not usually. I mean, I -- I was just BS'ing

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1 with Mr. J. C.

2 MR. HOYT: Your Honor, subject to some
3 follow-up questions that would relate to the tape
4 recording of the radio interview and the portions that
5 were not played previously, at this time, no more
6 questions of Mr. Hinkson.

7 THE COURT: Very well. Thank you, Mr. Hoyt.
8 I will allow you to re-open if I admit that portion that
9 you want to play.

10 MR. HOYT: Thank you.

11 THE COURT: Cross-examination?

12 C R O S S E X A M I N A T I O N

13 BY MR. SULLIVAN:

14 Q. Mr. Hinkson, let's start with last things
15 first. This passage that Mr. Hoyt just read to you that
16 started out on page 36, "The feds are good for
17 something, sport," you think that's funny, don't you?

18 A. Well, they hunt me. Yeah, it's funny.

19 Q. So you are hunting them?

20 A. No.

21 Q. Isn't it correct that the -- you didn't get
22 this from a movie, did you?

23 A. No. There was a movie where they took these
24 two agents and they took them out in the outback and
25

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1 they hunted them.

2 Q. You found that amusing?

3 A. It was a good movie.

4 Q. You found that amusing?

5 A. No.

6 Q. The passage starts at page 135.

7 THE COURT: 35 or 135?

8 MR. SULLIVAN: I'm sorry. 35.

9 MR. HOYT: What line, counsel?

10 BY MR. SULLIVAN:

11 Q. Let's start at line 12. J. C. starts out
12 saying: "No, the feds, how are they staying healthy?"

13 Mr. Hinkson: "Nobody is opposing them."

14 Informant: "Why?"

15 Hinkson: "You go to jail, nobody cares."

16 Informant: "You think somewhere somebody just
17 starts killing, go, okay. This is enough. They're not
18 railroading me anymore."

19 Mr. Hinkson: "That was a true story where
20 they are hunting those people, turn them loose, hunt
21 them like animals."

22 Informant: "Yeah. Yeah."

23 Hinkson: "But they kidnapped two IRS agents.
24 They turned them loose and hunted them. True story."

25 You thought that was a true story,

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1 Mr. Hinkson?

2 A. I think the movie was based on that, yes, I

3 do.

4 Q. And you thought that true story was

5 entertaining?

6 A. Hollywood did, I think.

7 Q. Did you? You did, didn't you?

8 A. It was just a movie. It was a plot.

9 Q. You followed up that conversation with what

10 appears at page, 36 and you join in the fun.

11 You say: "The feds are good for something,

12 sport." And that expresses what you think of the feds,

13 doesn't it?

14 A. I think there are some federal agents that are

15 very bad, and I think there are some good ones that are

16 trying to do their job and honor the Constitution.

17 Q. You further say: "I got two IRS (inaudible)

18 we are going to hunt them. Got the hound dogs ready?

19 Yeah. (Inaudible) this one, white one. Yeah."

20 When you say, "I got two IRS," what are you

21 referring to? The two IRS agents you are going to hunt?

22 A. I wasn't referring to anybody.

23 Q. You weren't referring to Gerald Vernon, the

24 Revenue Agent, and Steve Hines, the criminal

25 investigator?

1 A. No. I was just kind of BS'ing.

2 Q. Mr. Hoyt asked you if you used metaphors, just

3 a few moments ago; correct?

4 A. Yes, he did.

5 Q. Let me ask you this question, if this was a

6 metaphor, from page 25 of the radio interview on "The

7 Agitator Hour."

8 MR. HOYT: One moment, please, counsel.

9 THE COURT: Counsel, you are going to have to

10 enlarge that.

11 BY MR. SULLIVAN:

12 Q. Could we have the exhibit from the book? Page

13 25 of Government's Exhibit 5A, starting at 740. At 740,

14 "DH," which is David Hinkson, do you see that on the

15 monitor?

16 A. Yes, I do.

17 Q. It reads: "About a week ago, but we sent her

18 another letter and she's in default as of Friday this

19 week again. That will be the fifth time."

20 You are talking about Nancy Cook?

21 A. Yes, I was, actually.

22 Q. You follow then with: "We're trying to give

23 her every opportunity to cough it up. We want that

24 stuff."

25 "Well, yeah."

1 And you follow with: "We got a

2 fifty-million-dollar lawsuit and that's the evidence we

3 need to finish her off. We need it."

4 Was it literal or a metaphor when you said you

5 needed it or wanted it to finish her off?

6 A. Well, I'm asking for my discovery here. To

7 "finish her off" would mean that she's going to lose in

8 court.

9 Q. It doesn't mean that you were going to finish

10 her off, in the metaphorical sense, that you were going

11 to kill her?

12 A. No. It reads the way it's supposed to read.

13 It says "finish her off." It's the lawsuit. We are

14 talking about a lawsuit here.

15 Q. Those are your choice of words here; correct?

16 A. That's what it says.

17 Q. "Finish her off."

18 Let me ask you if this was also literal or

19 metaphorical when you said, at page 48 of the radio

20 interview, starting at 1454: "Well, I have to file a

21 motion to put her in contempt." You were, again,

22 referring to Ms. Cook?

23 A. Yes, I was.

24 Q. It says: "Well, no. She's -- she's

25 denying --"

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1 You say: "Somebody has to. Somebody has to

2 say I motion to put her in contempt."

3 Announcer: "Well, no. Wait a minute. No.

4 Wait a minute. The judge -- this was the judge's order.

5 If somebody's not obeying the judge's order --"

6 And you say: "It's great. It's great because

7 she has to dismiss everything. If she doesn't have it

8 turned over, it's over for her."

9 Was that metaphorical or literal?

10 A. It's absolutely metaphorical. What I'm saying

11 here is she won't give me my discovery. If she won't

12 give me my discovery, she has to dismiss the phony

13 accusations against me.

14 By the way, I never got my discovery.

15 Q. Did I ask you that question, sir?

16 THE COURT: The jury will disregard what

17 Mr. Hinkson just volunteered. It's not responsive to

18 the question. It's stricken.

19 MR. HOYT: Discovery has been mentioned many

20 times and I'm --

21 THE COURT: Counsel, I have ruled.

22 MR. HOYT: I'm not arguing about that. I

23 wonder if we could have a definition of the term

24 "discovery" in a lawsuit so the jury might understand.

25 THE COURT: I will allow -- you can handle

1 that on redirect. I think the jury knows what discovery
2 is.

3 Go ahead.

4 BY MR. SULLIVAN:

5 Q. You didn't mean, again, "kill her," just in
6 some other metaphorical sense, but that things would go
7 badly for her in the lawsuit?

8 A. Yes.

9 Q. But you continued in that statement. After
10 you say, "It's over for her," you say, "And if she turns
11 it over knowing that she forged that indictment, she's
12 toast."

13 Is that metaphorical or literal?

14 A. That means that she's going to go to jail.

15 Q. By the way, she never went to jail, did she?

16 A. No. She kidnapped me.

17 Q. You went to jail?

18 A. Right. I was kidnapped.

19 Q. So when you say, "She's toast," you weren't
20 referring to killing her, right?

21 A. No. I think she just should be in jail where
22 she belongs.

23 Q. That was your choice of words, though, to say,
24 "She's toast"?

25 A. It sure was.

1 Q. You say you were kidnapped, Mr. Hinkson?

2 A. Yes, I do.

3 Q. You know there was a court order for your
4 arrest; correct?

5 A. I don't believe so.

6 Q. You were brought before Magistrate Judge
7 Williams on --

8 A. There was no attached oath and affirmation;
9 therefore, it was an invalid arrest warrant.

10 Q. So you must have moved to have the charges
11 dismissed on that basis; correct?

12 A. It depends upon which case we are talking
13 about now.

14 Q. Which case are you talking about?

15 A. You are asking the questions. Why don't you
16 rephrase it so I know what case you are talking about?

17 Q. I will. You said you were kidnapped. Which
18 case were you kidnapped in?

19 A. I would say, both of them.

20 Q. Okay. It doesn't matter which one I'm asking
21 about; is that correct?

22 A. That's correct.

23 Q. Your first kidnapping would have been
24 11/21/02?

25 A. Yes.

1 Q. And you know there was an arrest warrant
2 issued by a Federal Judge for your arrest on that date?

3 A. No Federal Judge signed that arrest warrant.

4 Q. So you must have moved to have the case
5 dismissed on that basis; right?

6 A. No, I didn't. You said "Federal Judge." It
7 was a Magistrate.

8 Q. He is a Federal Judge, sir.

9 A. I didn't know Magistrates were Federal Judges.

10 Q. So the answer to my other question was, no,
11 you didn't move to dismiss on the basis that there was
12 no signed arrest warrant; right?

13 A. I don't remember if I did or not.

14 Q. You spent a lot of time preparing for your
15 testimony in this case, have you not?

16 A. I've spent zero time because I was supposed to
17 be on Monday or Tuesday of next week, not today.

18 Q. So your testimony is you haven't spent any
19 time preparing to testify; is that it?

20 A. I have not spent any time preparing for this
21 testimony.

22 Q. After you were arrested 11/21, you contend
23 that was a kidnapping?

24 A. Absolutely.

25 Q. And you told Judge Williams that; correct?

1 A. I told him I didn't understand the nature and
2 the cause.

3 Q. And you told him, "The defendants have
4 kidnapped the plaintiff"?

5 A. Yes, I did.

6 Q. And he didn't -- excuse me. He said, "That's
7 your civil suit," right?

8 A. I think he said that, yes.

9 Q. Your second kidnapping was April 4, 2003?

10 A. Yes.

11 Q. And that, again, was based upon a warrant
12 signed by a Federal Judge?

13 A. Without an oath and affirmation.

14 Q. And you were detained on that arrest warrant,
15 weren't you?

16 A. I was put on hold.

17 Q. You were put on hold?

18 A. That's what you call it when you put somebody
19 in jail with no bond or bail for 22 months. You call it
20 a hold.

21 Q. Didn't the judge who signed the warrant call
22 it a revocation of bond for violation of the terms of
23 your bond?

24 A. I think he said something about I violated my
25 release -- my release -- I'm not sure if I worded quite

1 exactly right, but I don't have it in front of me so --

2 Q. You know that the reason for your arrest on

3 April 4th was because there was an arrest warrant issued

4 for your violation of bond?

5 A. There was an arrest warrant issued for making

6 threats.

7 Q. Which violated your bond?

8 A. But there were no threats.

9 Q. You know you were -- you had your bond

10 violated -- that is, revoked -- because of threats?

11 A. There were no threats. There was no evidence

12 of a threat ever entered into the court until 22 months

13 later.

14 Q. You had a hearing before a Federal Judge,

15 didn't you?

16 A. I never had a --

17 Q. Let me finish the question. You had a hearing

18 before a Federal Judge on the revocation of bond, too,

19 didn't you?

20 A. I have never had a bond or bail hearing in 22

21 months.

22 Q. You had one on April 9, 2003?

23 A. That was not a bond and bail hearing.

24 Q. And it was before --

25 A. It was not a de novo hearing.

1 Q. Right. And the District Court Judge affirmed

2 the ruling of the Magistrate?

3 A. With no detail, yes.

4 Q. So you have had at least two hearings on the

5 revocation of bond; correct?

6 A. They were not bond and bail hearings. They

7 were not de novo hearings. So the answer is "no." I

8 have never had a bond or bailing hearing de novo. No, I

9 have not.

10 Q. When the District Court Judge upheld the

11 Magistrate Judge, you took an appeal to the Ninth

12 Circuit Court of Appeals about the revocation of your

13 bond; true?

14 A. Yes, I did.

15 Q. So you had another review, a third review;

16 correct?

17 A. Yes, I did.

18 Q. And you were still held in jail because you

19 were found to have violated the terms of your bond and

20 to be a flight risk?

21 A. There has never been any evidence presented to

22 this court to show that I had ever made a threat at that --

23 time.

24 Q. Agent Long testified at the first hearing on

25 April 9th; correct?

1 THE COURT: Wait for the question,

2 Mr. Hinkson.

3 BY MR. SULLIVAN:

4 Q. That was before Judge Mikel Williams who had

5 set your bond, wasn't it?

6 A. I have never been on bond, that I know of.

7 THE COURT: Mr. Hinkson, did you have a

8 hearing before Judge Mikel Williams on April 9, 2003?

9 "Yes" or "no"?

10 THE WITNESS: Yeah, there was a hearing.

11 BY MR. SULLIVAN:

12 Q. All right. And you were seeking to be

13 released on bond again; correct?

14 A. I had no chance to prepare for that hearing so

15 I don't know what -- you said I'm seeking something?

16 Q. You were represented by Brit Groom; correct?

17 A. He showed up, yes.

18 Q. Is there a difference between showing up and

19 being represented, Mr. Hinkson?

20 A. When there is no time to prepare, I don't

21 think it's such good representation.

22 Q. And after the Judge ordered you held on the

23 revocation of your bond, you appealed that to a District

24 Court Judge, also; right?

25 A. We appealed the improper detention, yes.

1 A. He committed five counts of perjury on that.

2 It's proven on the record.

3 Q. The Judge believed his testimony; correct?

4 A. Third-party hearsay is not evidence.

5 Q. The Judge didn't reject his testimony? He

6 accepted his testimony as accurate and truthful, didn't

7 he?

8 A. What he said was the perjury didn't matter or

9 something like that.

10 Q. Everyone perjures themselves against you; is

11 that correct, Mr. Hinkson?

12 A. It's proveable perjury. It's on the record.

13 THE COURT: Mr. Hinkson, answer Mr. Sullivan's

14 question.

15 The court reporter will read back the

16 question.

17 (Whereupon, the previous question and answers

18 were read back by the court reporter.)

19 THE WITNESS: Everybody you have brought to

20 court.

21 BY MR. SULLIVAN:

22 Q. So I am also a part of those who bring perjury

23 against you, Mr. Hinkson?

24 A. I have no evidence that you personally did it.

25 Q. But you believe it?

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1 A. I know that you know I'm innocent, and you are
2 prosecuting a person that you know is innocent.

3 Q. And you made that allegation against Dennis
4 Albers, too, didn't you?

5 A. I sure did.

6 Q. And you made that allegation against Nancy
7 Cook, didn't you?

8 A. Yes, I did.

9 Q. You made -- you make allegations without proof
10 against lots of people, don't you, Mr. Hinkson?

11 A. No, not lots of people.

12 Q. You accused Steve Hines of trying to murder
13 you?

14 A. I think he did. He had a handgun in his hand.

15 Q. You had absolutely no proof of such a thing
16 that he was trying to murder you?

17 A. Well, we are all entitled to our opinion. I
18 didn't wave a gun in your face.

19 Q. You accuse Nancy Cook of being a member with
20 Mr. Hines to murder you on 11/21; correct?

21 A. No, I don't think Nancy Cook was there.

22 Q. She wasn't there, but you later accused her of
23 being a part of the plot to murder you?

24 A. No. She's not part of a plot to murder
25 anybody. She is just the prosecutor.

1 MR. NOLAN: Could I approach briefly, Your
2 Honor? I don't mean to interrupt.

3 THE COURT: Yes.

4 (Whereupon, the following sidebar discussion
5 was held outside the presence of the jury:)

6 MR. NOLAN: I would ask the court to admonish
7 the jury that any finding by a previous court or judge
8 regarding any threats or anything is not relevant to
9 whether or not he is guilty of those charges today, in
10 light of the cross-examination.

11 THE COURT: I think that's proper. Unless the
12 Government objects, I will give that limiting
13 instruction now.

14 MR. SULLIVAN: Your Honor, he claims there
15 were no -- there was no evidence produced, that everyone
16 perjured himself. For the court to tell the jury now
17 that they shouldn't consider, you know, what happened in
18 those hearings --

19 THE COURT: No. I think Mr. Nolan's request
20 is more limited. He just wants me to tell the jury that
21 they are not to consider, in deciding whether or not
22 Mr. Hinkson is guilty of the counts in the indictment,
23 any decisions by a Federal Judge in connection with
24 holding him without bail.

25 (Whereupon, the following proceedings were

1 held in open court, in the presence of the jury:)

2 THE COURT: Ladies and gentlemen, I need to
3 give you another limiting instruction.

4 You just heard some testimony in response to
5 Mr. Sullivan's questions about decisions by other
6 Federal Judges and Courts of Appeal concerning the
7 reasons for holding Mr. Hinkson without bail.

8 You are not to consider the fact that other
9 judges have ruled upon some of the evidence in making
10 that determination, in evaluating the evidence that you
11 are hearing here in court, in deciding whether or not
12 Mr. Hinkson is guilty of the offenses charged in the
13 indictment. Do you understand that?

14 Okay. I see everybody nodding their head
15 "yes."

16 Thank you, Mr. Nolan.

17 Go ahead, Mr. Sullivan.

18 BY MR. SULLIVAN:

19 Q. Mr. Hinkson, you just now said you don't
20 believe you ever said that Nancy Cook was part of the
21 plot to murder you with Steve Hines?

22 A. She didn't show up on the property. She
23 plotted to bring these phony, false indictments against
24 me.

25 Q. Could I have a "yes" or "no" answer? Did you

1 accuse her of plotting to murder you?

2 A. I don't know. I don't think so.

3 Q. Didn't you put out on a website something
4 relating to your arrest, something called "David
5 Hinkson's Day of Terror at the Hands of Satan's Foot
6 Soldiers"?

7 A. I didn't put that on the Internet.

8 Q. So where it says, "I, David Hinkson," wasn't
9 you?

10 A. I wrote the article, but a bunch of other
11 people kind of massaged it, also. So, you know, it's --

12 Q. It's not quite your work? It's someone else's
13 work?

14 A. It would be a combination of different people
15 that were active in writing that story, yes.

16 Q. But you started it, and it's your version of
17 what happened on 11/21/02?

18 A. I think the rough story is my version, yes.

19 Q. Didn't you say the following in that rough
20 story: "After thinking about the whole situation, I
21 believe that the defendants, Nancy Cook and Steve Hines,
22 orchestrated the raid on WaterOz and my home for the
23 sole purpose of murdering me and ending the lawsuit that
24 was filed against them by me in the amount of fifty
25 million dollars." You wrote that, didn't you?

1 A. In the rough draft, yes, I wrote that.

2 Q. So you just forgot that you accused a federal

3 prosecutor of trying to murder you?

4 A. I said "orchestrated," didn't I? I don't have

5 it in front of me so --

6 Q. It says: Nancy Cook and Steve Hines,

7 together, orchestrated the raid for the sole purpose of

8 murdering me.

9 A. I think that was their purpose, yes.

10 Q. Of course, you had no proof of such a thing?

11 A. No proof?

12 Q. Yes. You had no proof. You were not there to

13 hear anyone talk about, "Let's go murder Dave Hinkson"?

14 A. A SWAT team and machine guns aimed at my house

15 and ear plugs in is no proof?

16 Q. You made it up as you were preparing this,

17 just to try to influence the public, didn't you?

18 A. No. I think that -- I think what you did was

19 very vicious, surrounding my house.

20 Q. You prepared this document, "David Hinkson's

21 Day of Terror at the Hands of Satan's Foot Soldiers," to

22 influence the public when they read it; right?

23 A. Well, yes. I think that was to influence the

24 public, yes.

25 Q. And it was the same purpose in going on "The

1 Agitator Hour," to influence the public; correct?

2 A. Yes, I did.

3 Q. Because you were facing trial on the tax case?

4 A. And the FDA charges.

5 Q. With the FDA charges and the structuring of

6 money charges; right?

7 A. Yes.

8 Q. And you hoped, by putting your message out in

9 this fashion, you could influence the public in your

10 favor?

11 A. Oh, I would think so, yeah.

12 Q. That could help you with any jury that heard

13 your tax case?

14 A. I don't know if very many people saw the

15 letter. I don't know if that would help with my jury.

16 Q. You hoped it would when you put it out on the

17 website and did the radio show?

18 A. I don't think it had anything to do with the

19 jury. I think it was just me exposing my perception of

20 what is being done to me.

21 Q. And in order to expose this corruption, you

22 made up a lot of lies about Nancy Cook and Steve Hines?

23 A. I don't think those are lies. I think they

24 orchestrated to get me any way they could.

25 Q. You claimed Steve Hines came through the door

1 with a silver handgun --

2 A. Yes, I did.

3 Q. -- on 11/21? And you claim that he -- they

4 were -- they, the agents present, were going to kill you

5 and put that gun in your dead fingers? I think you used

6 that expression; correct?

7 A. Somewhere I think I said that, yes.

8 Q. Right?

9 A. I'm not sure where.

10 Q. Of course, that didn't happen, did it?

11 A. No, because I said, "It's on the headboard,"

12 and I don't think they expected me to answer that way.

13 I really believe that they were holding the silver

14 handgun to plant it in my hands. That is my belief

15 system.

16 Q. That's your belief system so that, therefore,

17 makes it true?

18 A. It's my belief system. And when I wrote that,

19 I expressed it as my belief of what happened.

20 Q. Now, you had a handgun there; right?

21 A. Yes. Two of them, actually.

22 Q. When you refer to "on the headboard," you are

23 referring to a gun of your own?

24 A. Yes, it was.

25 Q. Was it registered to you?

1 A. I don't know.

2 Q. Where did you get it?

3 A. Years ago. I don't know. Las Vegas

4 somewhere.

5 Q. But you have had it -- do other people know

6 it's yours?

7 A. I don't understand what you mean.

8 Q. Did you show it to anybody? Did you take it

9 out with some of the people to go shooting?

10 A. No, I don't think it's ever been shot but one

11 time.

12 Q. But you have shot it; right?

13 A. One time, yes.

14 THE COURT: Counsel, the record is a little

15 confused here. I believe the witness testified that he

16 had two guns, and you are asking him about one.

17 BY MR. SULLIVAN:

18 Q. I'm talking about the one you said was on the

19 headboard.

20 A. Yeah. It was a .45.

21 Q. You had a .45 on the headboard?

22 A. Uh-huh.

23 Q. Was there anything that stopped the agents

24 from taking that gun and putting it in your dead fingers

25 if they wanted to?

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1 A. I think they didn't know who was all storming
2 into the room. They were surprised, I think, to see me
3 laying there. They all had ski masks on.

4 Q. Yes.

5 A. I think they hesitated in their plan. That's
6 my belief.

7 Q. And that, therefore, makes it true?

8 A. In my mind, yes.

9 Q. So Nancy Cook and Steve Hines didn't
10 orchestrate it that well, is that correct?

11 A. I don't think it went according to the plan
12 they hoped.

13 Q. The fact that nothing happened at all doesn't
14 influence your belief system, does it?

15 A. Nothing happened at all?

16 Q. Right. No one shot you? No one planted a gun
17 on you?

18 A. They were planning to shoot if I would have
19 looked out the window, I believe.

20 Q. And that didn't happen either, did it?

21 A. That's because I didn't go to the window.

22 Q. They could have pushed you to the window,
23 couldn't they?

24 A. No. Then they would get shot, maybe.

25 Q. You said there was -- when you came back from

1 the bond hearing, you found urine in the bathtub?

2 A. I did, and ear plugs all around the house.

3 Q. And because you are skilled in chemistry, you
4 must have taken a sample of the urine in the tub to
5 prove your allegation?

6 A. No. I just had somebody clean it up.

7 Q. Because you are sure that they were planning
8 to kill you, you must have taken photos of the urine in
9 the tub?

10 A. We took photos of everything.

11 Q. You took photos of what, sir?

12 A. Footprints, the muddy footprints, the doors
13 that got battering-rammed, the urine in the bathtub --
14 we took a video of everything that was done.

15 Q. Oh, you didn't mention that on direct, did
16 you?

17 A. Nobody asked me about a video on direct.

18 MR. SULLIVAN: Your Honor, I would like to
19 have the document that I was reading from marked as the
20 next exhibit.

21 THE COURT: Very well.

22 MR. HOYT: Is that in? Is that already in?

23 THE COURT: I think it's previously been
24 marked as Exhibit 7; is that correct, Mr. Sullivan?

25 MR. SULLIVAN: Yes, Your Honor.

1 THE COURT: All right.

2 THE COURTROOM CLERK: Do you want it 7-A or do
3 you want it 13? We could do 7-A or 13.

4 THE COURT: Do we have another 7?

5 THE COURTROOM CLERK: We have a 7.

6 THE COURT: It's already marked as 7.

7 THE COURTROOM CLERK: He just wanted this
8 portion.

9 THE COURT: Do you want the whole thing or
10 just the portion?

11 MR. SULLIVAN: The whole thing, Your Honor.

12 THE COURT: The whole thing. All right.

13 Would you like it shown to the witness?

14 MR. SULLIVAN: Yes, Your Honor.

15 THE COURT: Ms. Longstreet?

16 THE COURTROOM CLERK: Did you admit it, Your
17 Honor?

18 THE COURT: I haven't admitted it yet,

19 Mr. Sullivan. Let's have him authenticate.

20 MR. SULLIVAN: What is the number, please,
21 your Honor?

22 THE COURT: 7, counsel.

23 BY MR. SULLIVAN:

24 Q. I am showing you Government's Exhibit 7, a
25 printout of the document I was just reading from, "David

1 Hinkson's Day of Terror." Do you recognize it?

2 A. Yeah. I have seen it before.

3 Q. Who were the other people who you say helped
4 you draft it?

5 A. Well, it kind of went everywhere. I know that
6 Rod Remlin pitched in and helped write it. Just a
7 variety of different people. I didn't even come up with
8 the title.

9 Q. Who did?

10 A. I'm not sure.

11 MR. SULLIVAN: Your Honor, I move the
12 admission of Government's Exhibit 7.

13 MR. HOYT: No objection.

14 THE COURT: Government's Exhibit 7 is
15 admitted.

16 (Whereupon, Government's Exhibit No. 7 was
17 received in evidence.)

18 BY MR. SULLIVAN:

19 Q. I am showing you Government's Exhibit 7 to the
20 jury, the document entitled "David Hinkson's Day of
21 Terror at the Hands of Satan's Foot Soldiers," by David
22 Hinkson.

23 THE COURT: Can you focus that, Mr. Sullivan?

24 BY MR. SULLIVAN:

25 Q. The passage I read to you is from page two,

1 the yellow underlining, the yellow highlighting. Do you
 2 see that, Mr. Hinkson?
 3 A. Yes, I do.
 4 Q. At the bottom of the page -- let me ask you
 5 this: Is it your contention, sir -- let me show you the
 6 second page of the document. Do you see where it says,
 7 "In light of the fact that I have always made myself
 8 available and accessible to the court and defendant
 9 Hines and Cook . . ." Do you see that?
 10 A. Yes. I see that, yeah.
 11 Q. How did you make yourself accessible to the
 12 courts and Mr. Hines and Mr. Cook?
 13 A. All you have to do is come and knock on the
 14 door.
 15 Q. How did you make yourself accessible to
 16 Mr. Hines and Ms. Cook?
 17 A. I was never in hiding.
 18 Q. How did you make yourself accessible to the
 19 court?
 20 A. I guess you just serve papers like you
 21 normally would anybody else.
 22 Q. Isn't it true, sir, that you were invited to
 23 meet with Special Agent Hines during his investigation
 24 and you declined?
 25 A. I think he cancelled.

1 Q. Didn't he invite you to have a meeting, and
 2 you didn't show up?
 3 A. No.
 4 Q. Isn't it true you were invited to appear
 5 before the Grand Jury to testify?
 6 A. I do remember that, yes.
 7 Q. And did you make yourself accessible to the
 8 Grand Jury by doing that?
 9 A. Yes. I was going to come, but there was
 10 stipulations in there as to what I had to say, and,
 11 therefore, I decided, under direction of counsel, not to
 12 go.
 13 Q. That invitation appears in Government's
 14 Exhibit 1, your civil lawsuit; correct?
 15 A. I'm not sure.
 16 THE COURT: Counsel, would this be a good
 17 time, while you are looking at that, to take our morning
 18 recess?
 19 MR. SULLIVAN: I have it, Your Honor.
 20 THE COURT: All right. Go ahead.
 21 MR. SULLIVAN: All right. We need the break,
 22 Your Honor.
 23 THE COURT: All right. Ladies and gentlemen,
 24 we will take our fifteen-minute recess at this time.
 25 (Recess.)

1 (Whereupon, the following proceedings were
 2 held outside the presence of the jury:)
 3 THE COURT: I know you have stuff to take up
 4 with me, but let me dispose of the letter that was
 5 tendered to me this morning for in-camera review.
 6 For the record, it has got two dates on it,
 7 the most recent of which is a January 10, 2005, letter
 8 from the Department of Navy Headquarters, United States
 9 Marine Corps, to Mr. Ben Keeley, K-e-e-l-e-y, of the
 10 Idaho Division of Veterans Services, from Lieutenant
 11 Colonel K. G. Dowling, D-o-w-l-i-n-g, who is the
 12 Assistant Head for the Military Awards Branch.
 13 Having reviewed it, I assume the Government
 14 has no objection if it's disclosed to the defense. I
 15 believe it to be Giglio material.
 16 MR. SULLIVAN: Yes, Your Honor.
 17 THE COURT: Very well. Ms. Longstreet, would
 18 you provide copies to defense counsel?
 19 THE COURTROOM CLERK: All three of them to the
 20 defense?
 21 THE COURT: I think the Government has a copy.
 22 We will keep one for the court record. She does have --
 23 oh, give the third one to the Government.
 24 MR. SULLIVAN: Sorry.
 25 THE COURT: That's all I had. What have you

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1 got? Somebody wanted to see me? No? That was it?
 2 THE COURTROOM CLERK: You don't want this
 3 marked or anything?
 4 MR. NOLAN: I would ask that it be a court
 5 exhibit.
 6 THE COURT: Let's do that. Let's give it a
 7 court exhibit number and make it a part of the record
 8 that way.
 9 THE COURTROOM CLERK: Court's Exhibit No. 1 is
 10 marked.
 11 THE COURT: Very well.
 12 THE COURTROOM CLERK: And sealed, Your Honor?
 13 THE COURT: Yes.
 14 Mr. Hinkson, why don't you resume the witness
 15 stand? As soon as you do that, we will bring in the
 16 jury.
 17 (Whereupon, the following proceedings were
 18 held in the presence of the jury:)
 19 THE COURT: Mr. Sullivan, I believe there was
 20 a question pending that you can restate or I can have
 21 the court reporter read it back, if you would like,
 22 however you want to do it.
 23 MR. SULLIVAN: If we could have it read back,
 24 the last question?
 25 (Whereupon, the previous question was read

1 back by the court reporter.)

2 BY MR. SULLIVAN:

3 Q. Mr. Hinkson, showing you Bates number 65 from

4 Government Exhibit 1, your civil lawsuit, do you

5 recognize this letter?

6 A. No, I don't recognize it.

7 Q. Didn't you attach it to your civil lawsuit?

8 MR. HOYT: Your Honor, just for clarification,

9 objection. I think it was attached to a Memorandum in

10 Support. The lawsuit was filed on April 16th, and it

11 would be a physical impossibility to have attached the

12 May 22nd letter; so that's my objection.

13 THE COURT: It appears to be -- am I correct,

14 Mr. Hoyt, it appears to be attached to a portion of

15 Exhibit 1 that begins at Bates 044, captioned

16 "Memorandum in Support of Objection to Certification"?

17 MR. HOYT: Yes, Your Honor. I believe that

18 was an August 27, 2002, filing.

19 THE COURT: With that clarification,

20 Mr. Sullivan, you may proceed.

21 BY MR. SULLIVAN:

22 Q. That was part of your lawsuit; correct?

23 MR. HOYT: Objection, Your Honor. I don't

24 mean to be hypertechnical, but it may have been raised

25 as a part of a motion that came up in the lawsuit. It

1 you decline it?

2 THE WITNESS: Well, we didn't show up.

3 BY MR. SULLIVAN:

4 Q. Now, isn't it true that one of your complaints

5 about the Grand Jury was that Ms. Cook only put people

6 before it as witnesses who were unfriendly to you?

7 A. That's very true.

8 Q. Did you consider Jeri Gray to be unfriendly to

9 you?

10 A. No. In fact, she's adopted me as her son.

11 MR. SULLIVAN: I move to strike, Your Honor.

12 THE COURT: If you wish.

13 MR. SULLIVAN: All right. I will withdraw it.

14 Q. Jeri Gray adopted you as her son? Very good.

15 A. She did, yes.

16 Q. And she appeared before that Grand Jury;

17 right?

18 A. She was forced to appear, yes.

19 Q. Did she appear or didn't she?

20 A. She appeared.

21 Q. She wasn't your enemy, was she?

22 A. No.

23 Q. And Grant Walton appeared before the Grand

24 Jury, likewise?

25 A. Yes, he did.

1 doesn't necessarily mean that it was, quote, "part of

2 the lawsuit."

3 THE COURT: Sustained.

4 Why don't -- Mr. Sullivan, perhaps you can

5 just ask the question directly without showing the

6 letter. That might be the better way to do it.

7 BY MR. SULLIVAN:

8 Q. Isn't it true, sir, you were invited to appear

9 before the Grand Jury?

10 A. In reading that letter, we asked -- my lawyer

11 asked, first, that I see the Grand Jury -- and then that

12 letter was in response to our -- so the answer is "yes"

13 on that.

14 Q. You were invited to appear and testify before

15 the Grand Jury?

16 A. Yeah. After my lawyer requested it, yes.

17 Q. And after he requested it, you were invited to

18 do so?

19 A. Correct.

20 Q. And you were given a date that you could

21 appear?

22 A. Correct.

23 Q. But you didn't? You declined that invitation?

24 A. It was declined --

25 THE COURT: "Yes" or "no," Mr. Hinkson? Did

1 Q. He wasn't your enemy?

2 A. No. He's a good man.

3 Q. Bruce Meinen appeared before the Grand Jury,

4 and he wasn't your enemy?

5 A. That's true. He's a good man, too.

6 Q. But in the interview on "The Agitator Hour",

7 you claim that Ms. Cook only put people unfriendly to

8 you before the Grand Jury; right?

9 A. If that's what I said, that's what I said.

10 Q. Well, you knew it was false when you said it?

11 A. Well, every person that ever seems to have

12 been fired from WaterOz has been taken and put in front

13 of a Grand Jury.

14 Q. Do you admit, when you said on "The Agitator

15 Hour" that Ms. Cook only put unfriendly people before

16 the Grand Jury, that that was a false statement because

17 you knew at least three friends of yours had been put

18 before the Grand Jury?

19 MR. HOYT: Your Honor, I think that is

20 argumentative.

21 THE COURT: I think it's a fair question.

22 "Yes" or "no"?

23 THE WITNESS: I -- it's probably a

24 misstatement.

25

1 BY MR. SULLIVAN:

2 Q. A misstatement?

3 A. Unless, of course, of the time line. It
4 depends upon when they were in front of the Grand Jury,
5 and it would depend when I made the statement.

6 Q. You appeared on "The Agitator Hour" after your
7 indictment; correct?

8 A. I believe so.

9 Q. Didn't you appear on "The Agitator Hour" on
10 January 8, 2003?

11 A. I don't have a recollection; but if you say
12 so, it's okay.

13 Q. By the way, didn't you say on "The Agitator
14 Hour" that you have a photographic memory?

15 A. I have a pretty good memory.

16 Q. You don't remember the date that you appeared
17 on "The Agitator Hour"?

18 A. It didn't seem important enough to remember
19 the date.

20 Q. But you recall that it was after your
21 indictment; correct?

22 A. Yeah, I would agree with that.

23 Q. And you knew that those three people, Jeri
24 Gray, Bruce Walton and -- excuse me -- Grant Walton and
25 Bruce Meinen all appeared before the Grand Jury before

1 your indictment?

2 A. That's true.

3 Q. They all appeared in 2002?

4 A. Okay.

5 Q. Was it a -- referring to Government's Exhibit
6 Exhibit 5-A, the radio transcript -- let me put it on
7 the monitor.

8 Q. Page 17, line 494, was it a misstatement at
9 this point when the announcer asked: "Who were the
10 people that -- who were the people that they called into
11 this Grand Jury that were saying all this?"

12 And you answered: "Anybody that I ever fired
13 or didn't like me."

14 And you answered: "They found them all."

15 A. It's true.

16 Q. That's what you said; right?

17 A. Yes.

18 Q. You knew that was false when you said it?

19 MR. HOYT: Objection, Your Honor. It
20 mischaracterizes the whole transaction. He didn't
21 say -- he was asked previously: Did you say --

22 THE COURT: Counsel, you can bring it up on
23 redirect. Your objection is overruled. It's a fair
24 question on cross-examination.
25

1 BY MR. SULLIVAN:

2 Q. Was that a misstatement when you made that
3 statement that I just read?

4 A. Well, I didn't exclude the people that were
5 friends; so I would say, yes, it's probably a
6 misstatement.

7 Q. Because you knew that Mr. Walton, Mr. Meinen,
8 and Ms. Gray had all appeared before the Grand Jury in
9 2002; right?

10 A. Yes.

11 Q. Another one of your friends, a fourth friend,
12 appeared before the Grand Jury in 2002. You knew that
13 was Mr. Swisher; right?

14 A. Yes. I was aware he was in front of the Grand
15 Jury, yes.

16 Q. And he was your friend in 2002, wasn't he?

17 A. He was a tester, an acquaintance. I wouldn't
18 call him my friend.

19 Q. And you accused -- strike that.
20 And you also accused Nancy Cook of putting
21 people before the Grand Jury who lied about you; right?

22 A. Absolutely.

23 Q. And you took that very personally, didn't you? --

24 A. Yes. I would take it personal, yes.

25 Q. You took it so personal that you decided to do

1 something about it?

2 A. Yeah. I sued her.

3 Q. You did more than that, didn't you,
4 Mr. Hinkson?

5 A. I can't think of anything else.

6 Q. Same page, 17, starting at 491: "God,
7 everything is a lie that they said. They sat there day
8 after day hearing orchestrated lies against me."

9 A. Yes.

10 Q. "I do take that kind of personal."

11 A. Yeah. You would take it personal if somebody
12 is lying against you in front of the Grand Jury.

13 Q. I am going to show you again Government's
14 Exhibit 7, a document entitled "Hinkson's Day of
15 Terror." Referring to the second page, you made the
16 statement at the very bottom, yellow highlighted, "I was
17 not, and am not, planning on going anywhere;" correct? --

18 A. That's what it says on the paper.

19 Q. What is the date that you made that statement
20 on this paper?

21 A. I don't know. What's it dated?

22 Q. Do you see the date that I'm pointing to at
23 the top of Exhibit 7?

24 A. Yes.

25 Q. It says published November 29, '02?

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1 THE COURT: Excuse me, counsel. I think there
2 is a "12" there. I think it's December.

3 MR. SULLIVAN: It's 11/29/02.

4 THE COURT: Where are you looking? I'm
5 looking at something that says "published."

6 MR. HOYT: Published 12/10/02.

7 THE COURT: Are you looking at a different
8 piece of paper than I am?

9 MR. HOYT: Do you want to borrow my copy? Go
10 ahead.

11 BY MR. SULLIVAN:

12 Q. I'm sorry. Your Honor is correct.
13 "12/10/02," do you see that at the top? It's yellow
14 highlighted.

15 A. Yes.

16 Q. So at that point in time, you had been
17 indicted and arrested and you made your appearance
18 before Judge Mikel Williams; correct?

19 A. Yes.

20 Q. And he had released you on bond; correct?

21 A. No.

22 Q. He didn't release you on bond?

23 A. No. He just released me on -- he called it
24 O.R., I believe.

25 Q. Right.

1 Q. You said: "I'm confused. I don't know the
2 nature and the cause. He says . . ." That's the judge;
3 correct?

4 A. I would believe so.

5 Q. ". . . Well, what's nature? I said, well, I
6 think it means you don't have legislative, concurrent,
7 or subject matter jurisdiction to hear this case, sir.

8 "He says, 'Well, well, well, uh, uh, I'll
9 plead for you.' He can't do that." Quote, unquote,
10 "'Not guilty.' Boom. 'You're going home, son. I'm
11 going to OR you today. You get to go home.'"

12 That was you saying the judge was going to
13 release you on your own recognizance; right?

14 A. That's what I said, yes.

15 THE COURT: Mr. Sullivan, when you read that,
16 could you read a little slower? The court reporter is
17 racing to keep up with you.

18 MR. SULLIVAN: I'm sorry, Your Honor.

19 Q. You said: "And I said, 'Well, I don't know.
20 I've never been arrested before. I don't know anything
21 about O.R.'"

22 "He says, 'Well, you've got a contract in
23 front of you. You want to read it real quick?'"

24 "Well, I could have thumbed through it; but I
25 says, 'Well, I don't like it. What happens if I don't

1 A. On my own recognizance because he said I never
2 had a criminal record and I was not a threat.

3 Q. And you had to sign a document that was an
4 O.R. bond?

5 A. Well, I didn't know it was a bond. There was
6 no money attached, but I did not sign it.

7 Q. You were ordered to sign it; correct?

8 A. Yes, I was ordered to sign it.

9 Q. And then you did?

10 A. No, I didn't.

11 Q. You didn't sign it?

12 A. No.

13 Q. Showing you Government's Exhibit S-A, the
14 transcript of the radio interview, you talked about
15 appearing before Judge Williams on the radio interview,
16 didn't you?

17 A. I don't recall. But if this is what it says,
18 I will go with it.

19 MR. HOYT: Is there a page?

20 BY MR. SULLIVAN:

21 Q. Page 40, starting at 1216. Excuse me. Start
22 at 1208. Starting at 1208, you said -- on "The Agitator
23 Hour," you are referring to your appearance before Judge
24 Williams at this point, are you not?

25 A. Yes, I am.

1 want to sign this thing?'

2 "He says, 'If you don't sign that piece of
3 paper, we're going to leave you in jail till you do.'"

4 It continues over and you say: "Just that I
5 agree to have a probationary officer and not
6 leave . . ."

7 You meant -- you understood, by "not leave,"
8 you were saying that you would make all court
9 appearances; correct?

10 A. I can't read where you're quoting.

11 Q. Can you read it now?

12 A. Yes. Go ahead.

13 Q. "I agree to have a probationary officer and
14 not leave . . ." You said that?

15 A. I think that's what I said, yes.

16 Q. And you understood that you had to make all
17 appearances before the court; right?

18 A. Yes, I understood that.

19 Q. And that's what you meant by saying "not
20 leave"?

21 A. Yeah. I was told I can't leave.

22 Q. That was a condition of bond; right?

23 A. Yes.

24 Q. It goes down -- you state: "I said, let me
25 get this straight. You kidnap me and you're my captors,

1 and this whole thing is a fraud and, basically, the
2 kidnappers are not going to let me go unless I sign this
3 piece of paper under threat . . ."

4 You were referring to signing the O.R. bond,
5 weren't you?

6 MR. HOYT: ". . . under threat; right?"

7 THE WITNESS: Yes.

8 THE COURT: Counsel?

9 THE WITNESS: ". . . under threat; right,"

10 yes.

11 BY MR. SULLIVAN:

12 Q. And you were referring to signing the O.R.
13 bond?

14 A. Correct.

15 Q. Didn't you just tell us a few minutes ago you
16 didn't sign the O.R. bond?

17 A. I never signed it.

18 Q. It continues. It says: ". . . unless I sign
19 this piece of paper under threat; right?"

20 "He says, 'Yeah, yeah, yeah.'"

21 "I says, 'I was hoping you'd say that.' And I
22 picked up the pen, and I said, 'Let this be my
23 handwriting,' which makes it not my signature."

24 And you signed the O.R. bond?

25 A. No.

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1 or whatever you did, you had no intention of complying
2 with the bond?

3 A. Well, I was planning on complying with it
4 because I agreed to.

5 Q. Right. You said you wouldn't leave; right?

6 A. I said I wouldn't leave; but I also asked the
7 judge if I could go to California to give the speaking
8 engagement that I was already scheduled to speak at, the
9 forum.

10 Q. Your intention was to flee before trial, was
11 it not?

12 A. I have never planned on fleeing before trial.

13 Q. Isn't it correct that you tried to obtain a
14 passport after this bond hearing?

15 A. I didn't try. I did obtain one.

16 Q. And wasn't one of the conditions of the bond
17 that Judge Williams told you about was not to obtain a
18 passport?

19 A. He demanded that I turn over my passport is
20 what he demanded.

21 Q. And didn't he say, "And don't obtain another
22 passport?"

23 A. I don't remember him saying that but I'm -- I
24 believe he probably did.

25 Q. Do you recall Judge Mikel Williams saying, at

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1 Q. Did you put a pen in your hand and write
2 "David R. Hinkson"?

3 A. Yes, I did that. That's not my signature.

4 Q. Because you said some magic words?

5 A. No. It's a cannon of law. It's not your
6 signature unless there is free agency. It's one of the
7 basic concepts of the Constitution and Civil Rights.

8 Q. By saying, "Let this be my signature"?

9 A. No. I said, "Let it be my handwriting."

10 Q. You made your signature invalid; is that
11 correct?

12 A. No. It was my handwriting.

13 Q. Is it correct that you thought you made the
14 bond invalid?

15 MR. HOYT: Objection, Your Honor. I think --
16 I think, first of all, I feel counsel has been arguing
17 with the witness, number one. And number two --

18 THE COURT: There is some arguing going on
19 here, counsel; and I think it's over what constitutes a
20 signature. I think the jury understands Mr. Hinkson's
21 position.

22 Mr. Sullivan, I think you have made your
23 point. Move on to another subject.

24 BY MR. SULLIVAN:

25 Q. Isn't it true, sir, when you signed the bond

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1 that hearing, page 11 of the transcript:

2 "THE COURT: All right. So it's O.R. release,
3 pretrial supervision, surrender passport, not obtain a
4 new passport, reside in his residence and travel
5 restricted to the Continental United States."

6 Do you recall Judge Williams advising you of
7 that?

8 A. Yes, I do.

9 Q. So you knew, at that point in time, at that
10 initial appearance on 11/21/02, that you were to
11 surrender your passport; correct?

12 A. Yes, I did.

13 Q. And not obtain a new passport?

14 A. That is correct.

15 Q. Correct?

16 A. Yes.

17 Q. And you agreed to that?

18 A. I agreed to that.

19 Q. But that was a false statement when you told
20 Judge Williams that, wasn't it?

21 A. I don't believe it was a false statement.

22 Q. Because you went out and obtained a new
23 passport?

24 A. I applied for a new one so that I could submit
25 it.

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1 Q. And you violated the term of that bond, didn't
 2 you?

3 A. I don't believe I did because there was
 4 reasons why this happened the way it did.

5 Q. You understood that the bond was a promise
 6 from you to the court to be released? You would abide
 7 by the terms of the bond?

8 A. Right. And because of that, he made me sign
 9 another bond for \$100,000 because I --

10 Q. Your promise to the court was not one you
 11 intended to keep; correct?

12 A. Oh, I intended to keep it. So in answer to
 13 your question, I intended to keep it.

14 Q. Yes. So there was a further hearing when it
 15 became known that you had tried to obtain a second
 16 passport; correct?

17 A. There was a second hearing, yes.

18 Q. And this time, the judge put you on \$100,000
 19 appearance bond?

20 A. Yes, he did.

21 Q. But the terms stayed the same, otherwise;
 22 correct?

23 A. Correct.

24 Q. You still had to make all court appearances;
 25 correct?

1 A. I don't know. I would have to read the
 2 statement.

3 Q. Okay. Showing you page 150.

4 THE COURT: Counsel, you have got two pages
 5 superimposed there.

6 BY MR. SULLIVAN:

7 Q. Starting at line 1, the informant says:
 8 "Right."
 9 You say: " -- and I am orchestrated to go to
 10 prison and I end up in Antigua or wherever I end up,
 11 never allowed to come back to my country, yeah. Or if I
 12 was sitting in a jail cell for the next 400 years, I'd
 13 pay for that. But right now I think God is going to
 14 take care of them."
 15 So you referred to going to Antigua, didn't
 16 you?

17 A. I did.

18 Q. That's because you were planning on going to
 19 Antigua?

20 A. No, that's not the reason I mentioned Antigua.

21 Q. Antigua is an island in the Carribean?

22 A. Yes. It's a very nice island.

23 Q. You have been there before?

24 A. I have not.

25 Q. How do you know it's a nice island?

1 A. Correct.

2 Q. You couldn't leave the Continental United
 3 States?

4 A. That's true.

5 Q. Yet you planned to flee before trial to the
 6 Island of Antigua?

7 A. That is not true.

8 Q. Because you didn't intend to stand trial;
 9 correct?

10 A. That is not correct.

11 Q. And if you hadn't been arrested on April 4,
 12 2003, you would have fled to Antigua?

13 A. That is not true.

14 MR. SULLIVAN: Excuse me, Your Honor. I need
 15 a moment.

16 THE COURT: Do you need the lights,
 17 Mr. Sullivan? Would you like the lights, counsel, to
 18 help you see?

19 MR. SULLIVAN: No. I will find it.

20 THE COURT: That won't help?

21 BY MR. SULLIVAN:

22 Q. Page 11 of the tape transcript between J. C.
 23 Harding and Mr. Hinkson -- excuse me. It's not 11.

24 On page 150, didn't you tell Mr. Harding that
 25 you were headed for Antigua?

1 A. I have seen pictures.

2 Q. Didn't you tell J. C. Harding that you saw
 3 yourself as a future Antiguan?

4 A. Yes, I made that statement.

5 Q. Wasn't that in context to how you were going
 6 to leave the country so you wouldn't have to stand
 7 trial?

8 A. No.

9 Q. Showing you page 141 of the transcript between
 10 you and Mr. Harding on tape -- let me ask this: Isn't
 11 it true that, to facilitate your fleeing the country,
 12 you tried to liquidate assets by getting big loans on
 13 your property?

14 A. It's not true.

15 Q. You did try to get loans on your property,
 16 didn't you?

17 A. It's not true.

18 Q. You spoke to a man, namely -- excuse me -- Lee
 19 Sternburg, to borrow \$600,000?

20 A. Yes. He came to my factory and proposed that
 21 I borrow \$600,000 at six-percent interest.

22 Q. That's a good loan rate, isn't it?

23 A. It was excellent.

24 Q. And he, of course, wanted some sort of
 25 security or collateral for that loan; correct?

1 A. He just needed my signature.
 2 Q. This time, you would actually sign?
 3 A. I always keep my word, yes.
 4 Q. And when did this happen?
 5 A. I think it was maybe about a week before
 6 Harding showed up.
 7 Q. And it's your testimony that Mr. Lee Sternberg
 8 proposed this loan arrangement to you?
 9 A. Yeah. He came with another woman. Her name
 10 was Margie Anderson, I believe.
 11 Q. My question was --
 12 A. Yes.
 13 Q. Mr. Sternberg proposed it to you?
 14 A. Yes.
 15 Q. Not that you sought him out?
 16 A. Margie brought him because she was a mortgage
 17 broker and she was trying to earn a commission, and she
 18 brought him because she knew we needed to refinance
 19 because we had a balloon on the property.
 20 Q. So your testimony is that you sought a loan,
 21 but you weren't trying to encumber your property so that
 22 you could leave?
 23 A. I sought the loan for two years, before I was
 24 indicted, from Dan Vaughn. Marjorie is a friend of Dan
 25 Vaughn's.

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1 The informant: "Well --"
 2 Mr. Hinkson: "I've arranged to put loans on
 3 everything. The feds didn't lien anything."
 4 The informant: "Put loans on -- I don't
 5 understand. You just started borrowing money against
 6 all your shit?"
 7 Hinkson: "Everything."
 8 Informant: "Smart."
 9 Hinkson: "I'll have a million dollars worth
 10 of debt, and it will all be in an offshore bank. Give
 11 me two weeks."
 12 And you follow with: "See, that's brilliant.
 13 That's smart."
 14 Hinkson: "I'm working hard."
 15 Informant: "Dude," I would rather you think
 16 like that."
 17 Hinkson: "Future Antiguan."
 18 You said those words, did you not?
 19 A. I did.
 20 Q. When you were talking with Mr. Hinkson (sic.)
 21 that particular day of the tape recording --
 22 MR. HOYT: Your Honor, I know counsel didn't
 23 mean to say this; but he said, "When you were talking
 24 with Mr. Hinkson."
 25 MR. SULLIVAN: It happened before.

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1 Q. Dan Vaughn testified here?
 2 A. Yes. He was here yesterday, yes. So she
 3 brought him over because it was an excellent loan and an
 4 excellent interest rate, and he wanted me to agree to
 5 the terms.
 6 Q. My question was: You were seeking a loan, a
 7 legitimate loan, and you were not trying to encumber
 8 your property with liens or mortgages so you would have
 9 enough money to flee?
 10 A. I was not. I rejected his loan. I didn't
 11 want to reject it, but I decided not to borrow any
 12 money.
 13 Q. Let me show you page 141 of the transcript of
 14 the tape recording between you and Mr. Harding, starting
 15 at line 3.
 16 Didn't you say: "They moved the trial all the
 17 way to the end of the year."
 18 Harding: "Oh, they moved it past September
 19 now?"
 20 Hinkson: "Yeah, sometime. I don't know
 21 exactly when."
 22 Harding: "(Inaudible) enjoy yourself."
 23 Hinkson: "I got the next -- I got the next
 24 June, July, August. I got at last five months before I
 25 even got to worry about the trial starting."

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1 THE COURT: Yes. We all do it. Just start
 2 your question again.
 3 BY MR. SULLIVAN:
 4 Q. I'm sorry. Mr. Hinkson, when you were talking
 5 to Mr. Harding on March 27, 2003, the day of the taping,
 6 didn't you believe that he might be a fed or an
 7 informant?
 8 A. No, sir.
 9 Q. Didn't you tell Special Agent Long, when he
 10 interviewed you on April 4, 2003, that you had believed
 11 that he had been an informant?
 12 A. No, sir.
 13 Q. You didn't tell Agent Long that?
 14 A. I didn't tell Agent Long anything.
 15 Q. You didn't tell him anything?
 16 A. No, I didn't, not with regards to this matter.
 17 Q. I see. But you did hear him testify about
 18 things regarding this matter, right?
 19 A. I heard -- I heard his lies, yes.
 20 Q. I see. And do I understand that you're
 21 telling the jury that what he testified to was not true?
 22 A. Totally lies. Totally untrue.
 23 Q. Another perjurer against you?
 24 A. He is really good at it.
 25 Q. I see.

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1 A. Uh-huh.

2 Q. But you deny that you knew Mr. Hinkson (sic.)
3 was an informant, right?

4 A. Yes.

5 THE COURT: You said "Mr. Hinkson" again.

6 THE WITNESS: Please do.

7 BY MR. SULLIVAN:

8 Q. You deny knowing Mr. Harding was an informant?

9 A. Yes, I deny that.

10 Q. You deny saying it to Agent Long?

11 A. I deny that, yes.

12 Q. Didn't you tell -- didn't you even tell Chad
13 Croner in the Ada County Jail that you knew he was an
14 informant?

15 A. I did not tell Chad Croner that, no.

16 Q. On the tape between you and Mr. Harding, isn't
17 it true that you were very careful in what you said?

18 A. Careful? I think I was talking really stupid.

19 Q. All right. But you never once said, "I hope
20 these people die," right?

21 A. No. I said, "I want God to smite them." I
22 think I said that.

23 Q. Right.

24 A. Yes.

25 Q. But you didn't say it on the -- you didn't

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1 A. You played that part, yes.

2 Q. We did. Those were his words to you, right?

3 A. I believe so.

4 Q. And you knew what he meant?

5 A. No. I don't know what the word "it" meant,
6 and I really wasn't even listening to what he was
7 saying. I was just talking at him.

8 Q. You don't know the meaning of "it"?

9 A. I don't. He's not a conversationalist.

10 Q. J. C. Harding is not a conversationalist?

11 A. I don't think it's possible to have a
12 conversation with this man.

13 Q. You knew he was a stand-up comedian, did you
14 not?

15 A. I don't find him funny. No, I did not know
16 that.

17 Q. You knew he was a radio talk show host?

18 A. Oh, yeah. That was the guise he gave for
19 showing up.

20 Q. And you know, from your own experience in that
21 area, that radio talk show hosts have to be good
22 conversationalists?

23 A. Good BS'ers, too.

24 Q. Sir, do you deny that, on April 4, 2003, you
25 told Agent Long that Judge Lodge has never made a

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1 say, "I hope someone dies," on the tape, did you?

2 A. I don't think so.

3 Q. It's because you were being very careful?

4 A. No, I wasn't being careful or I wouldn't have
5 talked so stupid for four hours.

6 Q. What was so stupid about what you were saying,
7 Mr. Hinkson?

8 A. The conversation, prior to this end, was
9 totally stupid.

10 Q. Who was stupid? You or Mr. Harding?

11 A. Me. I was very stupid.

12 Q. Because you said things that made it sound
13 like you had discussed with Mr. Harding hiring him as a
14 hit man, right?

15 A. No. We were talking about stupid things,
16 about girls and stuff like that.

17 Q. We didn't even play that part of the tape.

18 A. I know. Thank you for that.

19 Q. Yes. We played the parts where Mr. Harding
20 says, "You shouldn't say stuff like that or someone will
21 take you up on it," right?

22 A. What's the question?

23 Q. I said that we played the parts where Harding
24 says to you, "You shouldn't say stuff like that or
25 someone will take you up on it?"

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1 correct ruling during his entire career on the bench?

2 A. If that's what I said on that wire, then
3 that's probably what I said.

4 Q. I'm not talking about the wire. I'm talking
5 about the conversation, the interview by you -- excuse
6 me -- of you by Agent Long on April 4, 2003, at the
7 Kooskia Substation.

8 A. No. I deny that. I never had a conversation
9 with Agent Long.

10 Q. Do you deny that you used to criticize Judge
11 Lodge?

12 A. No, I don't deny that.

13 Q. And you used to say very insulting things
14 about him?

15 A. I'm not sure how to answer that question.

16 Q. Didn't you say that Judge Lodge was worse than
17 Adolf Hitler?

18 A. I said that in my kitchen. I remember reading
19 that on the wire.

20 Q. Right. At page 170 of the conversation with
21 Mr. Harding, you said: "All I'm saying is these people
22 are so wicked and evil that they deserve to be smitten
23 by God today. These are bad people. I got on the radio
24 and I said that Judge Lodge was worse than Adolf
25 Hitler."

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1 A. If that's what the transcript says, I must
2 have said it.

3 Q. And it continues: "This man sits there and
4 throws innocent people in prison every single day.
5 That's his job description. And he's wicked. What have
6 I got to lose? He already hates my guts. He already is
7 going to rule against me every chance he has. I might
8 as well tell the world he's a demon bastard from hell.
9 What the hell."

10 That's what you said about Judge Lodge?

11 A. Yeah, in my kitchen.

12 Q. You believe Judge Lodge is wicked?

13 A. I do.

14 Q. He puts innocent people in prison every single
15 day?

16 A. Yes, I think he does. And I think you do,
17 too.

18 MR. SULLIVAN: Move to strike.

19 THE COURT: The jury will disregard the last
20 answer.

21 BY MR. SULLIVAN:

22 Q. Then you say: "What have I got to lose?"
23 Right?

24 A. Yeah, I guess.

25 Q. Because he hates your guts?

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1 what day it was thrown out.

2 Q. Wasn't it thrown out in February, a month
3 before you said these words?

4 A. Is that the date that it shows? I don't know.

5 Q. You don't remember?

6 A. I don't remember.

7 Q. I am showing you Government's Exhibit 1, all
8 of the pleadings from your civil lawsuit. You are
9 familiar with it, correct?

10 A. A little bit, yeah.

11 Q. You wrote it, didn't you?

12 A. No. Rich Bellon wrote it.

13 Q. Oh, Rich Bellon wrote it?

14 A. Yes.

15 Q. I see. You didn't write it?

16 A. I didn't.

17 Q. Let me go back. Showing you, from Exhibit 1,
18 a document with Bates stamp 073. It's at the very end,
19 the document entitled "Judgment," correct?

20 A. Yes.

21 Q. It says: "On February 11, 2003, the court
22 entered an order dismissing this action," correct?

23 A. That's what it says.

24 Q. And the action is David Hinkson vs. Steve
25 Hines, et al.?

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1 A. I don't think he likes me.

2 Q. He hates your guts?

3 A. That's what I said.

4 Q. He's going to rule against you every chance he
5 gets?

6 A. Yes.

7 Q. And when you said that about Judge Lodge -- he
8 was the judge assigned to handle your tax case, wasn't
9 he? Do you have to think about it?

10 A. Yeah. He had never made a ruling in my case
11 at that point. It was just, basically, Williams. I
12 know, eventually, he was going to be involved, I
13 believe; but at that point, he had never done anything
14 to me.

15 Q. My question was: He was the Judge of your
16 criminal tax case, right?

17 A. Yeah. After -- yeah, I think so.

18 Q. And you just now said, at that point, he had
19 never done anything to you?

20 A. He hadn't.

21 Q. Is that your testimony?

22 A. Yeah.

23 Q. All right. Hadn't he thrown out your civil
24 lawsuit?

25 A. I didn't know it was thrown out. I'm not sure

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1 A. Okay.

2 Q. Correct? It says: "Based upon that order,
3 and the court being fully advised in the premises, it is
4 hereby ordered and adjudged that plaintiff's cause of
5 action is dismissed in its entirety," right?

6 A. That's what it says.

7 Q. And it's signed by Judge Lodge?

8 A. I think so. I wasn't there to witness it. I
9 don't know.

10 Q. Well, you received this pleading in the mail;
11 right?

12 A. I don't remember getting it; but I'm sure I
13 must have gotten it.

14 Q. You were the plaintiff?

15 A. I was the plaintiff, yes.

16 Q. You were suing for fifty million dollars?

17 A. I was.

18 Q. And Judge Lodge has now dismissed your suit in
19 its entirety?

20 A. Yes.

21 Q. So he had done something to you at this point;
22 right?

23 A. Yeah. He ruled wrong.

24 Q. Again, he ruled wrong?

25 A. "Again"? No. I said, "He ruled wrong." I

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1 didn't say, "Again."

2 Q. I'm sorry. Don't you think he has always
3 ruled wrong?

4 A. That's what I said and I -- I was upset about
5 some other things he did.

6 Q. That's right. You had a whole bunch of
7 reasons to be upset at Judge Lodge, didn't you?

8 A. Just that one. On a personal basis, I mean --

9 Q. When did you retain Richard Bellon to prepare
10 your civil lawsuit?

11 A. I'm not sure what date he started. It would
12 have been just a guess here. I would guess, maybe April
13 of 2002, maybe.

14 Q. Didn't you file the lawsuit on April 16, 2002?

15 A. Okay. So then he would have been hired about
16 a month before that.

17 Q. And you knew he had legal training; right?

18 A. He claimed he was a lawyer in California. I
19 knew he wasn't supposedly, at that time, licensed in
20 Idaho. He claimed he wrote a book, which I found out he
21 did not write.

22 Q. You also found out he was convicted of
23 assaulting an IRS officer, too?

24 A. Yeah. I found out that when he was barred
25 from coming into the courtroom.

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1 convicted of assaulting an IRS officer?

2 A. I never had even thought about it.

3 Q. So when did he start preparing all of your
4 pleadings in the civil suit?

5 A. I told you it would have been about a month
6 before the lawsuit was filed because it took him a month
7 to write it.

8 Q. All right. And you consulted with him that
9 whole time?

10 A. Yes. On a daily basis, we were in
11 communication.

12 Q. Because he didn't know the facts as you
13 alleged them to be independently of asking you; correct?

14 A. Well, he went on the Internet; and he
15 downloaded all of the files. He was looking at all of
16 the other stuff; and he put it together on his own,
17 pretty much. But, yes, I was in contact with him.

18 Q. Sure. You had to sign the complaint?

19 A. Yes, I did sign the complaint. I read it
20 first.

21 Q. You had to sign all of the pleadings; correct?

22 A. I did.

23 Q. Mr. Bellon would bring you the pleadings to
24 have you review them?

25 A. Yes.

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1 Q. You approved of that, didn't you; that he had
2 assaulted an IRS officer?

3 A. I didn't know anything about it.

4 Q. You found out about it later, as you just told
5 us?

6 A. Well, I found out he had manhandled a female
7 IRS agent is what I found out.

8 Q. And you didn't have any problem with
9 Mr. Bellon being convicted of assaulting an IRS officer,
10 did you?

11 MR. HOYT: Your Honor, I think we are going
12 way far afield right here.

13 THE COURT: Overruled.

14 BY MR. SULLIVAN:

15 Q. You didn't have any problem with Mr. Bellon
16 having been convicted of assaulting an IRS agent, did
17 you?

18 MR. HOYT: Objection. Vague.

19 THE COURT: Overruled.

20 MR. HOYT: The problem --

21 THE COURT: Overruled. Sit down, Mr. Hoyt.

22 THE WITNESS: Ask the question again, please.

23 BY MR. SULLIVAN:

24 Q. For the third or fourth time, you didn't have
25 any problem with the fact that Mr. Bellon had been

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1 Q. And then you would sign them?

2 A. Correct.

3 Q. So he is the author, even though you signed
4 them?

5 A. That is correct.

6 Q. When you were on "The Agitator Hour," the
7 radio interview show, did you lie about who prepared the
8 civil pleadings?

9 A. I might have lied at that point. If I said
10 that I did the work, then, yes, I would have misstated
11 the facts.

12 Q. Let me show you page 18 of the transcript of
13 the interview on "The Agitator Hour." Starting at 528,
14 line 528, you say: "That kind of messes up the
15 investigative power of the Grand Jury, don't you think?"

16 The announcer said: "It's manipulation is
17 what it is."

18 And you say: "Well, yeah. Well, that's why I
19 sued her for the fifty million for prosecutorial
20 misconduct and Grand Jury tampering. And I did it pro
21 se, which means no lawyer,"

22 A. That's correct.

23 Q. "It's a war of a titan." Excuse me. There is
24 sixty -- strike that.

25 "There's sixty motions back and forth in that

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1 thing. It a war of a titan."
 2 That's what you said on "The Agitator Hour,"
 3 correct?
 4 A. Yes. "Titans," I think, with an "s."
 5 Q. Yeah. And you took credit by saying you
 6 handled this matter pro se, without a lawyer?
 7 A. Well, I didn't mention that Bellon wrote it at
 8 that point; but I didn't take credit necessarily for it
 9 either.
 10 Q. You said you did it pro se?
 11 A. That means that the person who signed it is
 12 not a lawyer. I signed it because it was my name on it
 13 and not a lawyer's.
 14 Q. Is that what "pro se" means, Mr. Hinkson?
 15 A. Well, I believe that when you file it in your
 16 own name and you don't have a lawyer, it's called "pro
 17 se."
 18 Q. It means you did it yourself, that you
 19 represented yourself, doesn't it?
 20 A. Well, maybe that's your definition; but it
 21 wasn't mine.
 22 Q. Isn't it true you just made it up in this
 23 courtroom that Richard Bellon did the civil pleadings?
 24 A. Well, I have probably ten witnesses that will
 25 testify to it; but you wouldn't let them speak about

1 this.
 2 Q. I wouldn't?
 3 A. No. You cut them off every time Wes tried to
 4 let this information come in.
 5 Q. You blame Richard Bellon for a lot of your
 6 problems, don't you, Mr. Hinkson?
 7 A. No. He wasn't a problem, initially.
 8 Q. So you blame him for a lot of your problems
 9 later?
 10 A. It would depend on the time.
 11 Q. Let me ask you this: In your direct
 12 examination yesterday, did you claim that you went to
 13 Coeur d'Alene to find out what date the Grand Jury had
 14 been sitting and whether or not it had disbanded? Did
 15 you do that?
 16 A. No, I didn't.
 17 Q. Did you say you did that?
 18 A. It was in Boise that we checked. It was the
 19 Boise Grand Jury that we checked.
 20 Q. Okay. Tell me about that. What was it -- did
 21 you do it, or did Mr. Bellon do it?
 22 A. Well, I checked in the courthouse and there
 23 was no -- there was no record showing that the Grand
 24 Jury had been extended.
 25 Q. How did you do that? How did you check that?

1 A. You go to the Clerk's Office.
 2 Q. Did you know what Grand Jury, particularly, to
 3 ask about?
 4 A. Well, we did at the time. I mean, Rich Bellon
 5 had kind of laid it out for me.
 6 Q. I see. Rich Bellon supplied you with the
 7 information?
 8 A. Correct.
 9 Q. Okay. What is it that he told you?
 10 A. He said that the Grand Jury had ceased to
 11 exist, and we wanted to get a certified copy of that.
 12 Q. Okay. And so you did that?
 13 A. I remember -- that's my recollection.
 14 Q. So where is that certified copy?
 15 A. I don't have a clue. I have been deprived of
 16 all of my legal papers.
 17 Q. You, of course, couldn't have had one of your
 18 lawyers go get you another certified copy of the
 19 document, right? That was impossible?
 20 A. Well, I made the accusation that there was no
 21 file stamps. Later on, some paperwork appeared to show
 22 that the Grand Jury had been extended. And it's my
 23 belief that they just created this paperwork, because
 24 some of it is not file stamped.
 25 Q. I see. It's your belief system, again, that

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1 there was some phonying up of paperwork?
 2 A. Yes. That's why I wanted the certified copy
 3 to prove it.
 4 MR. SULLIVAN: I would like a new document
 5 marked as Government's Exhibit 13.
 6 THE COURT: Exhibit 13? Very well.
 7 MR. SULLIVAN: Your Honor, I would like to
 8 have marked a two-page document as Government's Exhibit
 9 13. It is a certified court document from the Clerk of
 10 the District Court for District of Idaho.
 11 THE COURT: Does the document have a title,
 12 counsel?
 13 MR. SULLIVAN: Yes, Your Honor. "Motion and
 14 Order to Extend Term of Northern 2001 Grand Jury."
 15 THE COURT: Very well. You are offering it at
 16 this time?
 17 MR. SULLIVAN: I offer it at this time.
 18 THE COURT: Any objection, Mr. Hoyt?
 19 MR. HOYT: No objection.
 20 THE COURT: Government's Exhibit 13 is
 21 admitted.
 22 (Whereupon, Government's Exhibit No. 13 was
 23 received in evidence.)
 24 BY MR. SULLIVAN:
 25 Q. Let me show you Government Exhibit 13,

1 Mr. Hinkson. Do you see this document that is signed at
2 the bottom by Thomas E. Moss, United States Attorney?

3 A. I do.

4 Q. And it's dated the 26th day of April 2002?

5 A. Yes, I see it.

6 Q. And it's entitled "Motion and Order to Extend
7 Term of Northern 2001 Grand Jury;" correct?

8 A. I see it.

9 MR. SULLIVAN: May I publish to the jury, Your
10 Honor?

11 THE COURT: You may.

12 THE WITNESS: I can't see the top of it.

13 MR. HOYT: It's published.

14 BY MR. SULLIVAN:

15 Q. "Comes now United States Attorney for the
16 District of Idaho and hereby moves the court for an
17 order extending the Northern 2001 Grand Jury through the
18 31st of July 2002. The reason for such extension is
19 that the panel is involved in several investigations
20 which are complex." Do you see that?

21 A. Uh-huh. I see it.

22 Q. And the second page of this certified court
23 document is an order, which no one can read: I will
24 read it.

25 "Order.

1 "The United States Attorney has moved the
2 court for an order to extend the term of the Northern
3 2001 Grand Jury to and including July 31, 2002.

4 "Upon good cause shown, it is hereby ordered
5 that the Northern 2001 Grand Jury is hereby extended to
6 and including July 31, 2002.

7 "Signed April 29, 2002.

8 "Honorable Larry M. Boyle, Chief U.S.
9 Magistrate Judge."

10 When you made the accusation against Nancy
11 Cook that the Grand Jury had disbanded in May 2002, you
12 knew that was a false accusation, didn't you?

13 MR. HOYT: Your Honor, I will object. It
14 assumes facts not in evidence. I think he said --

15 THE COURT: The fact has now been in evidence.

16 MR. HOYT: I think he said that the Grand Jury
17 had been disbanded in April, before he filed his
18 lawsuit.

19 THE COURT: Well, I'm going to allow the
20 question. Your objection is overruled based upon
21 Government's Exhibit 13. Counsel certainly has a
22 good-faith basis to ask the question.

23 MR. SULLIVAN: May I have my question read
24 back?

25

(Whereupon, the pending question was read back by the court reporter.)

BY MR. SULLIVAN:

Q. Can you answer that question?

A. Well, when I checked the record in Boise, I didn't find those papers. Is that on file in Boise?

Q. I ask the questions, sir. So are you telling the jury that your accusation against Ms. Cook was based on some misunderstanding?

A. No, no. I didn't find these papers when I checked; therefore, I would say that there is no proof as to what day this paperwork was created.

Q. You also accused her of forging the indictment; correct?

A. I did.

Q. Based upon the fact, as you believed it, the Grand Jury had disbanded in May of 2002; right?

A. That's true.

Q. So you believed that, if there had been no indictment returned in May of 2002, then any other indictment afterwards must have been forged; right?

A. In discovery, she refused to give us the Minutes. There were no Minutes. There has to be Minutes, but there aren't any Minutes.

Q. You were represented in the tax case by

lawyers; correct?

A. Not initially. I was pro se initially.

Q. You were represented by a Mr. Mahathy initially?

A. Initially.

Q. You were represented by Mr. Groom in April of 2002?

A. Yes, that's true.

Q. And after November of 2002, when you were arrested, you were -- excuse me. That's when you retained Mr. Mahathy, after November 21, 2002; right?

A. I believe so.

Q. And you retained Mr. Groom sometime in early 2003?

A. Well, Rich Bellon suggested that we needed a lawyer of record; so Rich Bellon worked with Mr. Groom full time at that point on the case. Okay.

Q. Okay. And based on Mr. Bellon's suggestion, you are claiming you retained Mr. Groom?

A. Yes. Mr. Bellon felt that, even though he was doing the work --

THE COURT: No, no. Mr. Hinkson, we don't care what Mr. Bellon felt. The question was whether or not, based upon his suggestion, you retained Mr. Groom.

THE WITNESS: Yes, I did.

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BY MR. SULLIVAN:

Q. Actually, you had a series of lawyers even after Mr. Groom; right?

A. Correct.

Q. You were always represented through 2003, weren't you?

A. I believe so.

Q. All the way through 2004?

A. Yes, I believe so.

Q. Right through trial?

A. Yes.

Q. And your lawyers, whoever they were at the various times, filed motions for discovery; right?

A. Yes.

Q. Which means demanding various kinds of documents from the Government to assist you in your defense; right?

A. We are talking about the first case now only?

Q. We are talking about the tax case.

A. The tax case?

Q. Right.

A. Yes.

Q. Right. And you never alleged, at any time, in any motion regarding the Grand Jury, that Ms. Cook forged the indictment, did you?

A. I don't think so. I don't have it in front of me. I haven't read it for years so I don't --

Q. You think you would forget whether or not you moved to dismiss the indictment because the AUSA, the prosecutor in the case, forged the indictment? You would forget such a thing?

A. Well, I'm not sure if I remember. I do remember there was a referral.

THE COURT: Just a minute, Mr. Hinkson. Wait for the next question.

BY MR. SULLIVAN:

Q. Well, you have never been adverse from preparing affidavits and submitting them in various lawsuits you have been involved with; correct?

A. I'm pretty good at writing affidavits, yes.

Q. You never prepared an affidavit and attached it to any kind of motion to dismiss the tax case alleging that Nancy Cook forged the indictment, did you?

A. I don't recall one. I don't remember.

Q. All right. Because that would be a really significant kind of allegation to make, wouldn't it?

A. Well, I don't think we -- it would be a significant allegation, yes.

Q. And you know that no such motion to dismiss, based on that allegation, was ever made in your tax

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1 case; correct?

2 A. Well, she wouldn't give discovery; so I would

3 say "correct."

4 Q. And you didn't file anything that had your

5 affidavit saying Ms. Cook forged the indictment, did

6 you?

7 A. Not that I remember.

8 Q. You only say that over the public radios;

9 right?

10 A. Oh, I said it on the radio, yes.

11 Q. That's right. Because you don't have to

12 provide proof over the public radio; right?

13 A. That's true.

14 Q. You do have to provide proof when you are in a

15 court of law making a motion to dismiss; right?

16 A. That's true.

17 Q. Proof means facts?

18 A. Uh-huh.

19 Q. You don't worry about facts, do you,

20 Mr. Hinkson?

21 A. I try to gather them every chance I get.

22 Q. You make allegations without knowing any facts

23 to back them up?

24 A. I don't think that's a safe statement.

25 Q. Didn't you, in this courtroom, yesterday, make

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1 A. That's true.

2 Q. That's why you had the tape recorder in your

3 pocket?

4 A. That's true.

5 Q. And, yesterday, you blurted out in front of

6 the jury that the person you were accusing of stealing

7 your money --

8 THE COURT: Counsel, before you go here, I

9 thought I struck that question and the answer. Do you

10 want to go there again?

11 MR. SULLIVAN: I do.

12 THE COURT: All right. All right. Go ahead.

13 BY MR. SULLIVAN:

14 Q. You blurted out that Sergeant Mealer was

15 having an affair with that person; correct?

16 A. That is correct.

17 Q. And you did it because you resent the fact

18 that he set you up for the arrest?

19 A. No.

20 MR. SULLIVAN: This would be a good time to

21 stop.

22 THE COURT: Ladies and gentlemen, as may have

23 been clear from that last exchange, you may disregard my

24 instruction to you yesterday with respect to striking

25 the statement that Mr. Hinkson said about Detective

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1 an accusation against Detective Mealer with no facts to

2 back up such an accusation?

3 A. I did?

4 Q. Yeah.

5 A. I don't remember an accusation.

6 THE COURT: Counsel, would this be a good

7 place to stop? I will let you pick the time, but we are

8 right up against the noon hour.

9 MR. SULLIVAN: May I have one minute, Your

10 Honor?

11 THE COURT: Sure.

12 BY MR. SULLIVAN:

13 Q. When you went -- you were arrested on April 4,

14 2003, at the Kooskia Substation; right?

15 A. Yes.

16 Q. And you had gone there to report a burglary or

17 a theft to Detective Scott Mealer?

18 A. Yes.

19 Q. And it was at that place that you got arrested

20 by Special Agent Long?

21 A. Yes.

22 Q. And you resent the fact that Sergeant Mealer

23 set you up for that arrest?

24 A. Well, it wasn't a nice thing to do.

25 Q. Plus, you didn't trust Sergeant Mealer?

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1 Mealer having an affair, since Mr. Sullivan now wants to

2 inquire about it.

3 With that, we will be in recess until 1:15

4 this afternoon.

5 Don't talk about the case. Keep an open mind.

6 Don't let anybody talk to you about it. Don't do any

7 research. We will see you back here at 1:15.

8 (Lunch recess.)

9 MR. SULLIVAN: May I proceed, Your Honor?

10 THE COURT: You may.

11 BY MR. SULLIVAN:

12 Q. Mr. Hinkson, did you try to hack into Judge

13 Lodge's files by computer?

14 A. No, I did not.

15 Q. Did somebody else?

16 A. No.

17 Q. Are you a hacker?

18 A. I'm not computer literate.

19 Q. May I ask you if you didn't say in the taped

20 conversation between you and Mr. Harding, page 163 --

21 lights -- top of the page: "... that the NSA

22 attacked me last week, accused me of --"

23 Informant: "The NSA? You mean the National

24 Security Agency?"

25 And you say: "And the FBI."

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1 "What?"

2 Mr. Hinkson: "They accused me of hacking."

3 I am going to skip down to line 16.

4 "They shut off my computer."

5 "Did they tell you?"

6 Mr. Hinkson: "No. They said I was hacking.

7 I'm a hacker. All I did is download the Judge's files

8 to prove that he rules wrong every time for the last

9 eighteen years."

10 Did you say that to J. C. Harding?

11 A. I said I was not a hacker.

12 Q. Did I read it wrong? Line 18?

13 A. You are misinterpreting it.

14 Q. Did I read it wrong at line 18 when I read?

15 Mr. Hinkson: "No. They said I was hacking.

16 I'm a hacker."

17 A. Yeah. There is the word "not" missing there.

18 But read either way, it still means I'm saying I'm not a

19 hacker. You are misinterpreting it, the way you're

20 reading it.

21 Q. Did you download Judge Lodge's files to prove

22 that he rules wrong every time for the last eighteen

23 years?

24 A. Rich Bellon went on the public access for the

25 Federal Court System, and he downloaded a whole bunch of

1 Judge Lodge's cases.

2 Q. Where does it say Richard Bellon downloaded

3 the Judge's files?

4 A. It does not.

5 Q. It says, "... I did ...?" It says, "All I

6 did is download the Judge's files." That means you did?

7 A. Well --

8 Q. Correct?

9 A. It was metaphorically speaking. Rich Bellon

10 is the one that downloaded them.

11 Q. It's Rich Bellon who is responsible; is that

12 your testimony?

13 A. It's not a matter of being responsible. It's

14 not a crime to look at public domain.

15 Q. Well, it's a crime to lie though, isn't it,

16 under oath?

17 A. I wasn't under testimony.

18 Q. Well, you are now?

19 A. Yeah. I am now, yes.

20 Q. And you said it was Bellon?

21 A. It was.

22 Q. And you are under oath?

23 A. Yes, I am.

24 Q. At that previous time, you said it was you?

25 A. I wasn't giving testimony when I was talking

1 to Mr. Harding.

2 Q. So you could lie to Mr. Harding?

3 MR. HOYT: Your Honor, he is badgering the

4 witness. He said he spoke metaphorically.

5 THE COURT: Sustained. The jury will decide.

6 BY MR. SULLIVAN:

7 Q. And the reason -- well, the reason that there

8 was any downloading of Judge Lodge's files is because

9 you were unhappy with his ruling dismissing your

10 lawsuit; right?

11 A. No. Wrong.

12 Q. Weren't you unhappy with him about that?

13 A. It wasn't a big deal.

14 Q. Then why did you call him -- at page 162 of

15 the Harding-Hinkson tape, why did you call him

16 "... more evil than Adolf Hitler and a slut ..."

17 A. Well, I don't believe that just dismissing one

18 civil case would cause enough hostility from me to have

19 made those statements.

20 Q. Well, were you so hostile that you also said,

21 "And I ripped him an ass so big you could drive the

22 Grand Canyon through it"? That's pretty hostile, isn't

23 it?

24 A. It wasn't about him dismissing my case.

25 Q. So you are hostile toward him for some other

1 reason?

2 A. Yes, I am.

3 Q. But you admit you were hostile?

4 A. It wasn't personal. It's just I know he's a

5 very bad person.

6 Q. When did you stop filing income tax returns,

7 Mr. Hinkson?

8 A. 1994, I believe.

9 Q. You testified in your own tax case prosecution

10 last April or May; correct?

11 A. Yes, I did.

12 Q. You took the stand there, like you're doing

13 now?

14 A. Yes, I did.

15 Q. And you were under oath then, as you are now?

16 A. Yes.

17 Q. Starting at line 6, page 1157, did you testify

18 at your own tax structuring trial to the following:

19 "And had you been an income tax filer up until

20 that point in time?"

21 Answer: "Yes, we were."

22 Question: "And then, as you were working at

23 the Tropicana through this period, did you stop filing

24 tax returns?"

25 Answer: "Well, I stopped filing -- I believe

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1 it was 1989. I don't have the record in front of me."

2 Is that the testimony you gave under oath at
3 your own previous trial?

4 A. I really don't remember when I quit filing. I
5 believe, at that time, I was being -- going with my
6 understanding that -- during the trial, I think,
7 evidence was presented that '94 was my last one; but I'm
8 not sure.

9 Q. So you're not sure whether it was '94 or five
10 years earlier than that, 1989?

11 A. I'm not really positive.

12 Q. And I think you told us you stopped filing
13 because you read the entire Internal Revenue Code and
14 Supreme Court decisions; correct?

15 A. Yes. I have, yes.

16 Q. All right. So that was just some principal
17 position you took that you were not entitled -- excuse
18 me -- you weren't required to file tax returns?

19 A. It is my belief at this point that it's
20 voluntary and nobody is required to file under the
21 current law as written.

22 Q. Isn't it true your principal position that you
23 took that you didn't have to file also saved you a lot
24 of money?

25 A. No. I never had any profit or income,

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1 issue in the tax case.

2 THE COURT: He is laying a foundation. I
3 think he's entitled to lay it for impeachment. Go
4 ahead. Overruled.

5 BY MR. SULLIVAN:

6 Q. You had a lady named Peggy Newman, an
7 accountant in Las Vegas, prepare Form 1040 income tax
8 returns for you in the late 1990s and even into the
9 early 2000s, didn't you?

10 A. She printed them out.

11 Q. "Yes" or "no"?

12 A. She printed them out. The way you asked the
13 question, no.

14 Q. And you provided her with information about
15 your finances so she could do that; right?

16 A. I provided her with some figures, yes.

17 Q. All right. And you had her prepare your tax
18 returns?

19 A. No, not correct.

20 Q. And you consider them not your tax returns
21 because you didn't sign them?

22 A. That and the figures were not correct on them.

23 Q. Well, the figures came from you, didn't they?

24 A. Not entirely, no.

25 Q. But you used those tax returns for a purpose

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1 pursuant to the law, because every penny I made went
2 back either into expansion or tax-deductible things; and
3 I knew I did not have a tax liability.

4 In the raid, they stole all of my
5 tax-deductible receipts; so I was not allowed to make a
6 defense.

7 Q. I see.

8 MR. HOYT: I object to going into this area.
9 Are we going to relitigate the tax case?

10 THE COURT: I realize that you are laying a
11 foundation here. If you could get to the point, I would
12 appreciate it, Mr. Sullivan, because I have the same
13 concern Mr. Hoyt does.

14 BY MR. SULLIVAN:

15 Q. Well, at your tax trial, when you testified
16 last year, you were shown tax returns that you had
17 prepared; correct?

18 A. No. I did not prepare them.

19 Q. I said, "that you had prepared." Someone
20 prepared them for you?

21 A. They weren't tax returns. They were just
22 statements of income.

23 Q. They were 1040s, were they not?

24 A. They were on 1040 forms.

25 MR. HOYT: Your Honor, I think this was an

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1 that benefited you?

2 MR. HOYT: Your Honor, I don't know where we
3 are going. It could just drag on.

4 THE COURT: I assume you are getting to
5 18 USC 1001?

6 MR. SULLIVAN: Yes, Your Honor.

7 THE COURT: Let's get to it.

8 MR. SULLIVAN: There is another purpose, as
9 well, Your Honor.

10 THE COURT: All right. Go ahead.

11 BY MR. SULLIVAN:

12 Q. You had those tax returns prepared, and you
13 used them for a purpose that was beneficial to you?

14 A. They weren't tax returns that were prepared as
15 tax returns.

16 Q. What term would you like me to use?

17 A. They were, basically, a profit and loss
18 statement.

19 Q. On a Form 1040; right?

20 A. That's correct.

21 Q. And you used those Form 1040 profit and loss
22 statements to secure loans from financial institutions;
23 correct?

24 A. It was private money on those, I think. It
25 was not -- it was not institutions, like you say.

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1 Q. You secured a loan from something called CLS
2 Mortgage Company, didn't you?

3 A. Right. That was a private lender, like forty
4 or fifty different investors.

5 Q. Does it matter if they are a private or a
6 public corporation, to you, Mr. Hinkson? You submitted
7 those -- whatever you want to call them -- financial
8 information forms on the 1040s; right?

9 MR. HOYT: Your Honor, objection. We went
10 into this in depth.

11 MR. SULLIVAN: No, we haven't, Your Honor.

12 MR. HOYT: We went into this in depth in the
13 tax case. He used them as financial statements there.
14 The discussion was made about the difference between a
15 bank and private lenders.

16 THE COURT: I understand.

17 MR. HOYT: Even Mr. Dan Vaughn alluded to this
18 yesterday, how he had to get hard money because he
19 wouldn't sign tax returns.

20 THE COURT: Counsel, that's fine.

21 Your objection is overruled, Mr. Sullivan.
22 You may go ahead with your attempt to impeach him.

23 MR. SULLIVAN: Could my last question be read
24 back, please?

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1 (Whereupon, the pending question was read back
2 by the court reporter.)

3 BY MR. SULLIVAN:

4 Q. You did that; right?

5 A. I submitted it to CLS, yes.

6 Q. And that was to secure a loan?

7 A. Yes.

8 Q. And other institutions required you to sign
9 those returns, didn't they?

10 A. Nobody has ever required me to sign them.

11 Q. Are you testifying that you never signed one
12 to secure a loan?

13 A. I have never signed one to secure a loan.
14 Absolutely.

15 Q. Are you quibbling about signing?

16 A. No, I'm not.

17 Q. Such as you said, "Let this be my
18 handwriting," or something?

19 A. Not even my handwriting.

20 Q. Sir, did you give this testimony at your tax
21 trial last year, under oath, starting at 1250, page 21.

22 Question by the prosecutor -- Mr. Bradley, was
23 it?

24 A. I don't know. Why don't you put it on the
25 screen?

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1 Q. Question: "Mr. Hinkson, finally, I would like
2 to show you Government Exhibit 76 which is in evidence,
3 which is the W-9 form. Do you remember that coming in
4 through the CLS Mortgage people?"

5 Answer: "Yes, I do."

6 Question: "Can you see your signature there?"

7 Answer: "Yes, I do."

8 Question. "It says, 'Signature, Forced to
9 Sign as a Condition of Funding,' quote, unquote. Did
10 you write that there?"

11 Answer: "I did."

12 Question: "Why did you write that there,
13 sir?"

14 Answer: "Well, they said they had to have tax
15 returns; and I told them that I had not signed them, nor
16 had I filed them, and they said, 'Well, we don't care
17 about all of that, but we want you to sign this form
18 because it has to go in our file so that we can verify
19 with the IRS that you signed them.'

20 "And I told them I didn't sign them, and so I
21 put 'Forced to Sign as a Condition of Funding' above my
22 signature after I told them this."

23 Was that your testimony?

24 A. Yes.

25 Q. So when you needed a loan, you would sign

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1 documents, wouldn't you?

2 A. Just the loan documents.

3 Q. Right. Now, sir, you said the tax returns
4 that you had the lady in Las Vegas prepare for you
5 showed that you owed substantial amounts of income tax,
6 didn't they?

7 A. They weren't accurate because they were just
8 financial statements.

9 Q. Did they show that you owed substantial
10 amounts of income tax?

11 A. I don't believe so.

12 Q. All of those income tax returns you didn't
13 sign were moved into evidence in your trial, weren't
14 they?

15 A. I would assume so.

16 MR. HOYT: Your Honor, may we approach at
17 sidebar?

18 THE COURT: I think that might be a good idea.

19 (Whereupon, the following sidebar discussion
20 was held outside the presence of the jury:)

21 MR. HOYT: Your Honor, Mr. Hinkson has
22 admitted that he was convicted of the tax counts. And
23 what I see counsel trying to do here is to go back
24 through and re-litigate. This is more like a 404(b) sort
25 of argument of, you know, prior bad acts or something.

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1 You know, the man has been convicted. He
2 can't say anything more than that. It just doesn't seem
3 proper to go through all of the individual items of
4 evidence that were used at the tax case against him.
5 He's had wide latitude, and we haven't really gotten
6 anywhere.

7 MR. SULLIVAN: Counsel, on his direct, tried
8 to paint a picture of Mr. Hinkson to the jury that he's
9 a humanitarian that wants to cure the world of every
10 disease known to man, that all he does is work hard at
11 his plant in order to do this, that he is curing
12 tuberculosis, et cetera, et cetera.

13 This is a completely different view of the man
14 that is being presented to the jury that, while he is
15 doing all of these humanitarian acts and standing on
16 principal, he is not filing tax returns and he is
17 benefiting, quite substantially, financially.

18 THE COURT: The court has the same concern
19 that Mr. Hoyt has articulated. I think the way to get
20 there, counsel, is to just confront him directly with
21 the fact that, as a result of the fact that he engaged
22 in this conduct, he has received substantial amounts of
23 money that he paid no income taxes on, hundreds of
24 thousands of dollars -- I think that the only thing you
25 can do with a witness like this so to simply confront

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1 him with that. Let him answer any way he wants.

2 The problem -- and I agree with Mr. Hoyt --
3 the problem is, if you ask him the kind of open-ended
4 questions you are asking him, you are just inviting him
5 to go back in and testify again to all of the things
6 that the tax court jury heard and rejected.

7 And he's been convicted of that, and I do
8 think that you can get to the point more directly
9 without going into this much detail.

10 MR. SULLIVAN: I am going to go right to it.
11 I think I have laid sufficient foundation to confront
12 him and impeach him in testimony where he admitted that
13 these tax returns show tax due and owing.

14 On this particular one, I would ask: "You
15 hadn't paid that \$35,000, had you?"

16 "No."

17 THE COURT: If you can get right to it, I will
18 allow you to go that far. Otherwise, I think we have
19 heard enough on the tax case.

20 (Whereupon, the following proceedings were
21 held in open court, in the presence of the jury:)

22 BY MR. SULLIVAN:

23 Q. Page 1212, line 2. Did you give this
24 testimony under oath at your tax trial?

25 Question by Mr. Bradley: "Then it says,

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1 quote, 'Estimated Tax Payments and Amount Applied on
2 line 53, \$35,000. Do you know where she got that number
3 from?"

4 Answer: "I really don't. I mean, I can
5 speculate."

6 Question: "You hadn't paid that \$35,000, had
7 you?"

8 Answer: "No."

9 Is that the testimony you gave last year,
10 April or May?

11 A. I didn't read it on the screen, so I'm not
12 sure.

13 THE COURT: If you want to, show it to him to
14 refresh his recollection. Otherwise, the question and
15 answer will stand.

16 BY MR. SULLIVAN:

17 Q. Do you see it on the screen where I am
18 pointing?

19 THE COURT: You can show it to the jury, since
20 you have already read it. You are going to need to
21 enlarge it, counsel.

22 BY MR. SULLIVAN:

23 Q. Did you give that testimony?

24 A. That's what it says on the screen. I don't
25 recall but --

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1 Q. Do you recall being shown your 1998 1040
2 prepared by Peggy Newman and being asked about your tax
3 due and owing in?

4 A. I do not remember.

5 MR. HOYT: Your Honor, objection. Counsel, I
6 thought, was going to get right to it, ask the one
7 question, and move on.

8 THE COURT: I think this is a different year.

9 MR. SULLIVAN: It is a different year.

10 THE COURT: I will permit him to ask on the
11 different year.

12 MR. HOYT: Your Honor, I am just wondering if
13 I have to bring in a bunch of witness to counter this
14 testimony.

15 THE COURT: I ruled at sidebar that he could
16 get to the question of money otherwise due and owing.
17 That's what he is doing. Overruled.

18 BY MR. BRADLEY:

19 Q. Were you shown by Mr. Bradley your 1980 --
20 excuse me -- 1998 1040 prepared by Peggy Newman? Do you
21 recall that?

22 A. I don't.

23 Q. And do you recall that that tax return showed
24 you owing \$58,000?

25 A. I don't recall, but I'm sure it's not a tax

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1 return if it's not signed.

2 Q. Did you give this testimony to these

3 questions?

4 1215, counsel.

5 Question: "Exhibit 42 is your 1998 1040

6 prepared by Peggy Newman. Do you recognize her

7 signature, sir?"

8 Answer: "Yeah, I recognize her signature."

9 Question: "On this return, the total amount

10 of tax that year was \$58,000 on line 56. Is that what

11 it says?"

12 Answer: "That's what it says."

13 Question: "And your total payments were

14 \$57,000 that year?"

15 Answer: "That's what it says."

16 Question. "You didn't pay that \$57,000?"

17 Answer: "No, I didn't pay that."

18 Was that your testimony at that time, sir?

19 A. I haven't seen it on the screen.

20 MR. SULLIVAN: May I show it to the --

21 THE COURT: Yes, you may.

22 MR. SULLIVAN: Page 1215, starting with line

23 9.

24 THE COURT: Move it up just a little bit,

25 Mr. Sullivan. There you go.

1 Mr. Sullivan.

2 MR. SULLIVAN: Yes, Your Honor.

3 Q. Mr. Hinkson, you also accused Nancy Cook of

4 having forged the search warrant that was used to search

5 the plant on 11/21/02?

6 A. Yes, I did. I believe I did. Do you have a

7 transcript to show me or something?

8 Q. Government Exhibit 1 -- excuse me. It's not

9 1. It's the transcript of the radio interview.

10 THE COURT: 5-A.

11 MR. SULLIVAN: 5-A, Your Honor.

12 Q. Page 26, line 782. Does this refresh your

13 memory?

14 You said: "Now, the next part of the crime --

15 notice she's the criminal -- is on the 21st of November.

16 She created a search warrant to search my factory. She

17 signed the judge's name to it and never file stamped it

18 in."

19 Does that refresh your memory?

20 A. Yes.

21 Q. On page 27, line 804, you said in the radio

22 interview: "So she never took that to court. She just

23 created that, signed the name on it, and never bothered

24 to take it to court."

25 You are referring to the search warrant for

1 THE WITNESS: Well, it says I testified to it;

2 so I believe it. I don't recall it.

3 BY MR. SULLIVAN:

4 Q. The truth of the matter is, Mr. Hinkson, that

5 you are a successful businessman because you never paid

6 your taxes?

7 A. I don't think that's true, no.

8 Q. Do you claim that you are a successful

9 businessman because you had a superior product that sold

10 well?

11 A. No, I don't think that's correct either.

12 Q. Well, you didn't have the same overhead that

13 other businessmen do, did you?

14 A. I had more overhead than other businessmen.

15 Q. You didn't have the overhead of having to pay

16 taxes; correct?

17 A. I paid a lot of taxes during those years.

18 Q. You didn't pay your income taxes?

19 A. I paid any tax that I legally owed.

20 Q. As a matter of fact, you didn't pay any Idaho

21 State tax either, did you?

22 MR. HOYT: Your Honor, how deep are we going

23 to go into this?

24 THE COURT: I will sustain the objection.

25 I think that's enough on the tax case,

1 the plant; right?

2 A. I'm not sure. I would have to read more of

3 that. Was it the search warrant, or was it the

4 indictment?

5 Q. Are you telling me -- all right. You accused

6 her of forging the indictment, too, didn't you?

7 A. Yes, I did.

8 Q. And you don't recall whether you accused her

9 of forging the search warrant, also?

10 A. Well, there was no affidavit attached to it;

11 and I don't think it was proper.

12 Q. Well, my question was: Are you forgetting

13 whether or not you accused her of forging a search

14 warrant?

15 A. If that's what I said, then I would agree

16 that's probably what I said. And it's my belief that it

17 is a fraud, yes.

18 Q. Okay. And at this point in time, on January

19 8, 2003, when you gave this radio interview, you still

20 had your lawsuit against Nancy Cook and Steve Hines in

21 court; right?

22 A. What day?

23 Q. Your lawsuit hadn't been thrown out of court

24 or dismissed yet on January 8, 2003; right?

25 A. Okay. I agree with that.

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1 Q. Okay. And did you ever, at any time in that
2 lawsuit, complain that your civil rights had been
3 violated by Nancy Cook for forging an indictment or
4 forging a search warrant?

5 A. She wouldn't give the discovery, so I had no
6 way of absolutely proving it because she refused to
7 cooperate.

8 THE COURT: Mr. Hinkson, that's not responsive
9 to the question. The question is: At any time in the
10 lawsuit, did you complain that she had violated your
11 civil rights by forging an indictment or forging a
12 search warrant? Just answer that question.

13 THE WITNESS: I don't remember. I would have
14 to read it at this point.

15 BY MR. SULLIVAN:

16 Q. Did you attempt to amend the complaint by
17 alleging that she violated your civil rights by forging
18 the indictment, forging the search warrant, and plotting
19 to murder you?

20 A. No. I don't recognize that testimony or that
21 statement.

22 Q. Those would be pretty significant civil rights
23 violations if somebody had committed them; is that
24 correct?

25 A. I think that would be serious, yes.

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1 BY MR. SULLIVAN:

2 Q. You don't remember this trial?

3 THE COURT: Let's see if we can help
4 Mr. Hinkson remember what trial we are talking about.

5 BY MR. SULLIVAN:

6 Q. Before this trial, you only had one other
7 trial; correct?

8 MR. HOYT: Your Honor, there are other cases
9 that have been talked about.

10 THE COURT: That's what Mr. Hoyt's concern is.
11 Can you help him out?

12 MR. SULLIVAN: The criminal trial is what I
13 meant.

14 THE COURT: Thank you.

15 BY MR. SULLIVAN:

16 Q. Your criminal trial was last year?

17 A. Yeah. I remember there was a trial.

18 Q. Right. And that was in 2004; right?

19 A. I guess so.

20 Q. Is that where you say it was established --
21 they established that you were the owner of WaterOz?

22 MR. NOLAN: Can we approach, Your Honor?

23 THE COURT: Yes, please.

24 (Whereupon, the following sidebar discussion
25 was held outside the presence of the jury:)

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1 Q. But you didn't file anything or seek relief in
2 court for those alleged violations?

3 A. I don't know. I haven't read the civil suit
4 in three and a half years -- or three years.

5 Q. Your testimony is you don't know whether you
6 included in your complaints that she forged the
7 indictment, et cetera, forged everything against you?
8 You don't remember that?

9 A. I don't remember that, no.

10 Q. Sir, in 2003, were you the legal owner of
11 WaterOz?

12 A. In 2003?

13 Q. Yes.

14 A. I think they established that at the trial.
15 They said I was a legal owner of the business.

16 Q. Who established?

17 A. This court did.

18 Q. But you had been claiming earlier -- you had
19 claimed before your trial -- your trial was in 2004;
20 right? Correct?

21 A. I really don't remember the exact time.

22 Q. You don't remember having your trial last
23 year?

24 MR. HOYT: Which trial, counsel?

25 Objection. Date.

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1 MR. NOLAN: I know the least about this of
2 everybody here, but it seems to me that he may have made
3 representations that he didn't own the place on a number
4 of occasions.

5 He may have even testified that way. There
6 may be all sorts of things about who owned what. The
7 jury made a determination or the court made a
8 determination.

9 The fact that he took a position back then
10 that may or may not have turned out to be true I don't
11 think is something that is appropriate to get into.

12 MR. SULLIVAN: I am not trying to establish
13 that this was a proven fact at his criminal trial in
14 2004. I am trying to establish that he has tried to
15 hide assets for a number of years, and he's done it by
16 claiming he is not the legal owner of WaterOz. I think
17 that goes to deceitful conduct.

18 THE COURT: It is true that that was a portion
19 of the proof that the court heard at the last trial but
20 it's going to -- it will take so much time to establish
21 all of that. Unless you are trying to lay the
22 foundation so that you can get him up for impeachment,
23 fine.

24 Otherwise, you are reopening the entire tax
25 case; and I don't think that's going to help any of us.

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1 And it certainly --

2 MR. SULLIVAN: Your Honor, I will avoid doing
3 that. I have specific transcript pages to ask him those
4 questions which I think show his inconsistency in these
5 areas.

6 THE COURT: Well, let's --

7 MR. SULLIVAN: If he would answer the
8 question --

9 THE COURT: You have to deal with the witness
10 as he is, and he is a very evasive witness who doesn't
11 respond directory to questions.

12 I mean, I had the same problem with him when
13 Mr. Hoyt was examining him. He is just a tough witness.
14 So do the best you can. But let's get to the impeaching
15 stuff, okay?

16 (Whereupon, the following proceedings were
17 held in open court, in the presence of the jury:)

18 BY MR. SULLIVAN:

19 Q. In 2003, were you the legal owner of WaterOz?
20 "Yes" or "no"?

21 MR. NOLAN: Your Honor, does that call for a
22 legal conclusion?

23 THE COURT: It does call for a legal
24 conclusion. Sustained.

25

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1 BY MR. SULLIVAN:

2 Q. Did you believe, in 2003, that you owned
3 WaterOz?

4 A. No.

5 Q. Sir, when did you hire Mr. Richard Bellon for
6 any capacity?

7 A. I said earlier that I thought it was a month
8 before the civil lawsuit was filed. That's my best
9 recollection.

10 Q. Did you hire him to be some sort of legal
11 advisor?

12 A. Yes. He was supposed to do legal work for me,
13 for the -- yes, for me.

14 Q. Was he also supposed to assist you in running
15 WaterOz?

16 A. Absolutely not.

17 Q. Wasn't he part of your management team of
18 WaterOz?

19 A. Yes. Once we had a problem, we wanted him to
20 help solve the problem; and we had some management
21 meetings with my father, Jeri Gray, me, Charlie.

22 Q. Was the answer, "yes," he was a part of your
23 management team then?

24 A. I believe he was, for a brief period of time.
25 It would have been in January of '03.

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1 Q. That what?

2 A. That he was meeting with us and trying to help
3 us resolve some problems. They were, like, manager
4 meetings.

5 Q. The question is: Was he a member of your
6 management team, not whether he was trying to help you?

7 A. These are just words. They are semantics.

8 THE COURT: Counsel, now you are quarreling
9 with the witness.

10 THE WITNESS: He was, basically, asked to help
11 negotiate some serious problems we were having with
12 Mr. Swisher.

13 BY MR. SULLIVAN:

14 Q. Sir, in the taped conversation that you had
15 with Mr. Harding on March 27, 2003, didn't you say the
16 following?

17 MR. HOYT: Page?

18 MR. SULLIVAN: 76.

19 MR. HOYT: It was excluded, counsel.

20 MR. SULLIVAN: Page 76.

21 MR. NOLAN: I'm not sure this is in evidence.

22 THE COURT: I don't think it is but I assume
23 that you are going to -- well, go ahead and ask your
24 question. Let me hear it and see if there is an
25 objection.

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1 BY MR. SULLIVAN:

2 Q. In the conversation, the taped conversation

3 with Mr. Harding, do you recall having a conversation --

4 one topic of your conversations was about firing or

5 hiring an employee?

6 A. Yes. That was the girl that robbed my house.

7 Q. Right. And Harding says: "Bizarre. You're

8 not going to hire her back? Please say, 'No.'"

9 MR. HOYT: Your Honor --

10 THE COURT: I am going to sustain the

11 objection. This is not a permissible area,

12 Mr. Sullivan. Move on to something else.

13 BY MR. SULLIVAN:

14 Q. Sir, with regard to your WaterOz products,

15 have you -- you have claimed they can cure tuberculosis,

16 is that right?

17 A. God cures the tuberculosis.

18 Q. You don't think you are God, do you?

19 A. No.

20 Q. But you say you can cure tuberculosis, don't

21 you?

22 A. I just don't like the way you used the word.

23 Q. I'm sorry. Do you think you can cure

24 tuberculosis?

25 A. I think silver kills all viruses known to man,

1 and if you breathe silver vapor, tuberculosis will die.

2 Q. My question is, sir: Any of these products

3 that you sell and have been selling for a number of

4 years, have you ever patented them with the U.S. Patent

5 Office?

6 MR. HOYT: Your Honor, I will object. I

7 think, if we are going to go into this area, we really

8 do need to approach at sidebar. There is a whole litany

9 of issues here, now that counsel has brought it up, that

10 we would be happy to address.

11 THE COURT: Let's not do it in this fashion.

12 Are you trying to lay a foundation for impeachment here,

13 Mr. Sullivan?

14 MR. SULLIVAN: I'm not. I think I know the

15 answer and I think that will --

16 THE COURT: So do I. If that's the case, then

17 I sustain the objection. Move on to another area.

18 BY MR. SULLIVAN:

19 Q. Sir, you know who Kay Walsingham is, correct?

20 A. Yes.

21 Q. She was the secretary of your previous

22 attorney, Brit Groom?

23 A. Yes.

24 Q. You have known her for a while, correct?

25 A. Yes.

1 Q. You used to go into Mr. Groom's law office and

2 speak with her?

3 A. Yes, I have spoke to her.

4 Q. And you used to say things in front of her

5 that you hoped Dennis Albers would die, correct?

6 A. No.

7 Q. You never said that in front of Kay

8 Walsingham?

9 A. No.

10 Q. Did you ever say in front of -- didn't you say

11 in front of Kay Walsingham that you hoped Dennis Albers'

12 wife and children would die?

13 A. Dennis Albers doesn't have children. And the

14 answer is "no."

15 Q. I thought he had a daughter, sir. Didn't you

16 tell us yesterday that he had a daughter?

17 A. Yes, an older daughter who is a lawyer and a

18 very nice lady. The word "children" refers to younger

19 people.

20 THE COURT: Well, Mr. Hinkson, I think the

21 jury understands what the word "children" means.

22 BY MR. SULLIVAN:

23 Q. Didn't you say in front of Kay Walsingham that

24 you hoped -- or you wanted Mrs. Albers and her children

25 to be tortured in front of Mr. Albers?

1 A. No, absolutely not.

2 Q. You do like Mrs. Walsingham, though, don't

3 you?

4 A. Yes, I have always liked her.

5 Q. She's not one of your enemies, is she?

6 A. No.

7 Q. You have never sued her, have you?

8 A. She's never sued me is a better way of saying

9 it.

10 Q. Okay. She's never sued you, right?

11 A. Right.

12 Q. And you've never sued her?

13 A. Right.

14 Q. Now, you do sue people regularly, of course?

15 A. No. I'm not the aggressor.

16 Q. In the litigation between you and Mr. Bellon,

17 it's correct that he sued you, right?

18 A. Yes. He sued me, yes.

19 Q. And then you filed a counterclaim against him?

20 Yes?

21 A. Yes, I did, even though I didn't participate

22 in it. I was in jail.

23 Q. And then you filed a claim -- that is, you

24 sued Mr. Swisher and made him a third-party respondent,

25 correct?

1 A. Yes, because he seized the factory.

2 THE COURT: The answer is "yes" or "no," not
3 why you did it.

4 THE WITNESS: Yes.

5 THE COURT: The jury will disregard why.

6 THE WITNESS: It is my understanding that,
7 yes, we did.

8 BY MR. SULLIVAN:

9 Q. And when was that that you did that,
10 approximately?

11 A. I'm not sure. I would just be able to guess.
12 I don't have a calendar in jail. Just every day is the
13 same.

14 THE COURT: Mr. Hinkson, this is not a place
15 from which we make speeches. We answer questions.

16 BY MR. SULLIVAN:

17 Q. Now, the litigation between you and
18 Mr. Bellon, wasn't that because he claimed to be your
19 partner?

20 A. He claimed it, yes, verbally.

21 Q. Well, you had a written agreement with him,
22 didn't you?

23 A. No, sir.

24 Q. Didn't you dictate an agreement to Brit Groom
25 for him to prepare for you?

1 MR. HOYT: Your Honor, objection. There is a
2 court order that finds that there is no basis for a
3 written agreement.

4 MR. SULLIVAN: I object to counsel's speeches.

5 THE COURT: So do I. Counsel, the objection
6 is overruled. You brought this up yesterday on direct,
7 and I think Mr. Sullivan is entitled to explore it on
8 cross.

9 BY MR. SULLIVAN:

10 Q. Mr. Hinkson, didn't you dictate to Mr. Groom,
11 Brit Groom, your attorney, a document that encompassed a
12 partnership between you and Mr. Bellon?

13 A. It was a future partnership that was being
14 proposed, yes.

15 MR. SULLIVAN: Let me show you a document.
16 The next exhibit number?

17 THE COURT: 14, I think, counsel.

18 MR. SULLIVAN: Thank you. 14? Thank you.

19 THE COURTROOM CLERK: Plaintiff's Exhibit No.
20 14 is marked.

21 BY MR. SULLIVAN:

22 Q. If you will, look at the screen in front of
23 you at Government's Exhibit 14 for identification. Do
24 you recognize this particular document?

25 A. I don't think I have ever read it.

1 Q. Do you see the back, the second page?

2 A. Yes, I see there is a second page.

3 Q. Do you recognize Mr. Groom's signature?

4 A. I don't really know what Mr. Groom's signature
5 looks like, so I can't say I recognize it.

6 Q. Mr. Groom used to file motions on your behalf
7 in the criminal case, the tax case; correct?

8 A. As my lawyer, yes.

9 Q. And he would sign those pleadings, wouldn't
10 he?

11 A. As a lawyer, yes.

12 Q. Okay. And you would review those pleadings,
13 wouldn't you?

14 A. Yes. Before I filed him, yes.

15 Q. You would see his signature on the back page,
16 the last page of those pleadings?

17 A. Yes.

18 Q. This is the signature of Mr. Groom on the
19 screen in front of you, isn't it?

20 A. I don't know for sure, but I believe it is.

21 Q. You know what this is, don't you, Mr. Hinkson?

22 A. Yeah. It was read to me on the phone.

23 Q. Because you were in jail, and you dictated
24 this partnership agreement to Mr. Brit Groom; correct?

25 MR. NOLAN: Can we object on the basis that it

1 calls -- he is making a legal conclusion?

2 THE COURT: I will overrule the objection.
3 The document does contain that word, and I think it's
4 appropriate.

5 The jury, however, will be instructed that
6 they are not to draw any conclusion as to whether it is
7 or is not a legal partnership agreement; but the
8 document does contain the words "partnership agreement."

9 MR. SULLIVAN: Yes, Your Honor.

10 Q. Mr. Hinkson, isn't it correct that this
11 document was created by Mr. Groom as you dictated it to
12 him over the telephone?

13 THE COURT: To him or to Mrs. Walsingham?

14 MR. HOYT: Your Honor?

15 MR. SULLIVAN: To both, Your Honor.

16 MR. HOYT: Can we approach?

17 THE COURT: Yes. I want to hear where we're
18 going on this.

19 (Whereupon, the following sidebar discussion
20 was held outside the presence of the jury:)

21 MR. SULLIVAN: Your Honor, they presented and
22 their defense includes a version of this litigation that
23 they like to call "The Bellon Take-Over."

24 I want to show the jury that there was a legal
25 basis. There was a legitimate, legal dispute, based

1 upon the document that this witness has identified he
2 dictated, this document to Brit Groom; and it represents
3 a partnership.

4 MR. HOYT: Your Honor, we already have a legal
5 determination in this issue between Mr. Bellon and
6 Mr. Hinkson. Mr. Groom even testified about it in the
7 court up in Idaho County.

8 The court ruled, on December 12, 2003. For
9 the purposes of the temporary restraining order, he
10 found that this document didn't have any validity and it
11 wasn't a legal agreement. I don't understand why we are
12 trying to relitigate all of these cases.

13 THE COURT: Let me just say this: As I
14 understand the purpose of Mr. Sullivan's line of
15 inquiry, which you, Mr. Hoyt, opened the door to
16 yesterday on direct examination of Mr. Hinkson, the
17 Government is now attempting to impeach Mr. Hinkson with
18 the document that he admits he dictated to Mr. Groom's
19 law office.

20 And you have suggested, in your examination of
21 Mr. Hinkson, that there was a conspiracy by Mr. Bellon
22 and Mr. Swisher and others to take over the company and
23 to take it away from Mr. Hinkson and that's why they are
24 all testifying against him.

25 Mr. Sullivan is entitled to show that

1 Mr. Hinkson was discussing, at least at this point in
2 time, engaging in some kind of a joint venture with
3 Mr. Bellon. That is impeaching. Your objection is
4 overruled.

5 Proceed.

6 MR. NOLAN: Can I just, first of all, say --

7 THE COURT: Let me just say that I have been
8 very generous about allowing both lawyers; but I want
9 one lawyer to state the position for each side, and it
10 will be the lawyer handling the witness. You can
11 whisper in Mr. Hoyt's ear, and he can be your
12 mouthpiece. I want to do this one at a time.

13 (Whereupon, the following proceedings were
14 held in open court, in the presence of the jury.)

15 THE COURT: Proceed, Mr. Sullivan. The
16 objection is overruled.

17 MR. SULLIVAN: Your Honor, I move the
18 admission of Exhibit 14.

19 THE COURT: I will admit it for the purposes
20 of impeachment. It's not coming in yet as substantive
21 evidence.

22 (Whereupon, Government's Exhibit No. 14 was
23 received in evidence for the purposes of impeachment.)

24 MR. SULLIVAN: May I display it on the
25 projector?

1 THE COURT: Why don't you, first -- yes. All
2 right. You may do that. I will give a limiting
3 instruction.

4 Ladies and gentlemen, what I mean by this is
5 that, where a party is using either a document or a
6 prior statement of the witness to try and impeach or
7 discredit the witness, you may not consider the content
8 of the statement or the document for its truth.

9 But you may consider it to the extent that you
10 find that, depending upon how the witness responds to
11 it, it is not consistent with prior testimony that the
12 witness has given.

13 With that understanding, you may display it to
14 the jury.

15 BY MR. SULLIVAN:

16 Q. Mr. Hinkson, on the screen before you is a
17 document that is headed, or titled at the top,
18 "Partnership Agreement;" is that correct?

19 A. Yes.

20 Q. And it's dated Thursday, July 24, 2003?

21 A. Yes.

22 Q. And then it is followed by the words, "Mr.
23 David Hinkson and Richard Bellon agree, as follows;"
24 correct?

25 A. Correct.

1 THE COURT: Could you enlarge that a little
2 bit, counsel? It's hard to read.

3 BY MR. SULLIVAN:

4 Q. And this purported to be some kind of a
5 partnership agreement between you and Mr. Bellon;
6 correct?

7 A. Correct.

8 Q. And you were in jail at the time you dictated
9 it to Mr. Brit Groom; right?

10 A. Correct.

11 Q. And he prepared it and he signed it; correct?

12 A. I don't know if that's his signature but --

13 Q. And then Cathryn Walsingham, his secretary,
14 also signed it, to witness it; correct?

15 A. I don't know what her signature looks like,
16 but I believe you.

17 Q. And it bears a handwritten inscription at the
18 bottom with the name Richard Allen Bellon; correct?

19 A. That's what it says on the screen.

20 Q. You didn't see him write that?

21 A. I was in jail.

22 Q. You didn't see Ms. Walsingham or Mr. Groom
23 sign it either?

24 A. No, I did not.

25 Q. But you did see this document later, during

1 the litigation; correct?

2 A. I'm not sure if I have ever seen it.

3 Q. Mr. Hoyt represented you in that litigation;

4 correct?

5 A. Yes. I'm sure he saw it.

6 Q. At the very bottom of page one, does it not

7 read: "Mr. Bellon shall have management authority over

8 the operation of the WaterOz facility with consultation

9 with Mr. Hinkson."

10 MR. HOYT: Your Honor, I object to the form of

11 the question. Counsel is well aware of the court decree

12 that finds that this --

13 THE COURT: Counsel, no more speaking

14 objections. The objection is overruled.

15 Mr. Hinkson, did you dictate those words or

16 not?

17 THE WITNESS: I don't believe so. I don't

18 have a copy of the tape.

19 BY MR. SULLIVAN:

20 Q. Are you alleging that Mr. Groom didn't take it

21 down correctly when you dictated it?

22 A. I wouldn't know. They have recorded every

23 conversation I ever made to Mr. Bellon. I believe there

24 are, like, 300 tapes.

25 THE COURT: No. Mr. Hinkson, that's not

1 responsive to what Mr. Sullivan asked you.

2 THE WITNESS: I don't know. I mean, I don't

3 remember.

4 BY MR. SULLIVAN:

5 Q. When is the first time -- do you recall ever

6 seeing this document before? "Yes" or "no"?

7 A. No, I have never seen it.

8 Q. You have never seen it?

9 A. No.

10 Q. You were being sued on the basis of this

11 document, and you are telling the jury you never saw it?

12 A. Correct.

13 Q. That particular litigation between you and

14 Mr. Bellon was settled by everyone dropping their

15 claims; correct?

16 A. I believe so.

17 Q. And the litigation between you and Mr. Swisher

18 that accompanied it was settled by you and Mr. Swisher

19 walking away from your claims; correct?

20 A. I believe so but I wasn't -- I wasn't there.

21 Q. You were asked on direct examination whether

22 or not you tried to find out where Ms. Cook, Mr. Hines,

23 or Judge Lodge lived? Do you remember that question?

24 A. Yes.

25 Q. I think you told us you didn't make such an

1 effort; right?

2 A. I never did.

3 Q. Isn't it true you did know where they all

4 worked, however?

5 A. I don't know where they worked, for sure.

6 Q. But you wrote letters and sent them to Steven

7 Hines, didn't you?

8 A. I think my secretaries called to find out

9 his -- well, his address -- wasn't his return address on

10 the letter?

11 THE COURT: Mr. Hinkson, that's not the

12 question. The question is --

13 THE WITNESS: I just responded to the address

14 that was on his correspondence, I believe.

15 BY MR. SULLIVAN:

16 Q. That's the address for this building, isn't

17 it?

18 A. I wouldn't know.

19 Q. You couldn't find a street address in Boise if

20 you wanted to?

21 A. I didn't try.

22 Q. But you did know where he worked? "Yes" or

23 "no"?

24 A. No, I didn't know where he worked.

25 Q. You did know the address, the return address,

1 for his letters, though, didn't you?

2 A. If they were on his return address, yes.

3 Q. And you knew that Nancy Cook was in the U.S.

4 Attorney's Office in Coeur d'Alene, too?

5 A. No, I did not know that.

6 Q. You didn't know that?

7 A. No.

8 Q. Mr. Hoyt moved into evidence, after you

9 identified this exhibit, Defendant's Exhibit P-7. Do

10 you recall this exhibit, sir? Defendant's P-7?

11 A. Yes, I do, actually.

12 Q. You remember that? It was only yesterday.

13 Yes?

14 A. Yes.

15 Q. It has a return address for Mr. Hines, doesn't

16 it?

17 A. Yes. On this paper, it does.

18 Q. Does that refresh your memory that you did

19 know that he had a return address?

20 A. I already said I knew he had a return address.

21 Q. You said you didn't know if he had a return

22 address, didn't you?

23 A. That's not what I said. I thought I said that

24 I had an address that was on his paperwork for a return

25 address.

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1 Q. And you said you didn't know where he worked?

2 A. I don't know where he works. That's just his

3 mailing address.

4 Q. So you think that doesn't necessarily mean

5 that's where he works, right?

6 A. I don't know where he works.

7 Q. Did you tell Chad Croner that you had a mob

8 lawyer?

9 MR. HOYT: Your Honor, where is this going?

10 THE COURT: Well, I think there was testimony

11 to that effect by Mr. Croner. Overruled.

12 BY MR. SULLIVAN:

13 Q. Did you tell him that?

14 A. No.

15 MR. HOYT: My objection is to relevance, Your

16 Honor.

17 THE COURT: I'm allowing it for impeachment,

18 Mr. Hoyt. Overruled.

19 BY MR. SULLIVAN:

20 Q. Did you tell Chad Croner in jail that you had

21 a mob lawyer?

22 A. No, I did not use those words.

23 Q. In Las Vegas, when you were a paralegal, did

24 you have a mob lawyer?

25 A. Well, he's an Italian lawyer; but, you know

1 he's not a mob lawyer.

2 Q. Haven't you called him a mob lawyer?

3 A. There's been times when I referred to him as

4 that, yes.

5 Q. You referred to him that way to Mr. Croner,

6 too, didn't you?

7 A. Not that I remember, no.

8 Q. If you would, look at page 156 of the

9 transcript with J. C. Harding. Didn't you say, at line

10 16 -- start at 15.

11 "And I got it. I got a Harvard law professor

12 using my account, my dad, Rich Bellon, in Vegas a mob

13 lawyer. I was trained in Vegas by a mob lawyer. I was

14 trained by a mob attorney."

15 You said that to Mr. Hinkson (sic.); right?

16 THE COURT: Mr. Harding?

17 MR. SULLIVAN: I'm sorry. Mr. Harding. I

18 keep doing that.

19 THE COURT: Mr. Taxay, would you write on a

20 piece of paper and just put the name "Harding" on it and

21 stick it under his nose?

22 MR. SULLIVAN: Or put it on my forehead.

23 THE COURT: I'm not sure you would see it on

24 your forehead.

25

1 BY MR. SULLIVAN:

2 Q. You said that to Mr. Harding, didn't you?

3 A. Yes, I did.

4 Q. You said it to Chad Croner, didn't you?

5 A. No I didn't.

6 Q. How else would he know you had a mob lawyer in

7 Las Vegas, sir?

8 A. I'm sure you prompted him.

9 Q. Is that another one of your accusations that

10 you make against federal officials, based upon no fact,

11 Mr. Hinkson?

12 MR. HOYT: I object.

13 THE COURT: Overruled.

14 You can answer that, Mr. Hinkson.

15 THE WITNESS: I think he got information off

16 my legal paperwork stolen from my jail cell.

17 BY MR. SULLIVAN:

18 Q. Your testimony has now changed? I must have

19 prompted him? Someone stole your information? Is that

20 your new testimony?

21 A. I'm not going to give any testimony on that.

22 Q. Why not?

23 A. Could you restate the question?

24 Q. Never mind.

25 Counsel also moved into evidence Defendant's

1 Exhibit P-4. Do you recall this document?

2 A. Yes. I saw it yesterday, yes.

3 Q. This is the document that -- you did a mass

4 mailing when Dennis Albers was running for District

5 Attorney; is that correct?

6 A. I don't believe that's correct.

7 Q. All right. Tell us what P-4 is.

8 A. I think it's a letter to the Idaho Supreme

9 Court. Go back to the top. It will tell you what it

10 is. It says it was addressed to the Idaho Supreme

11 Court, State Bar Association, and the Mayor, and

12 Grangeville City Council.

13 Q. Are you testifying that you didn't include

14 this in your mass mailing to the voters in Idaho County?

15 A. That is correct; that was never mailed out.

16 Q. Is it your testimony you sent it to the Idaho

17 Supreme Court and the other persons listed at the very

18 top?

19 A. That would be my testimony, yes.

20 Q. In this letter, you accuse Mr. Albers of

21 having orchestrated -- do you follow my finger -- having

22 orchestrated a lawsuit against you based upon perjury;

23 correct?

24 A. Absolutely.

25 Q. And you allege, "Dennis Albers has further met

1 with federal agents while acting as a prosecutor, City
2 of Grangeville, in an attempt to destroy me and my
3 family for the purposes of taking property he is not
4 entitled to;" correct?

5 A. Correct.

6 Q. At the very bottom of this letter, the last
7 sentence, did you write to the addressees at the top,
8 the following:

9 "After fifteen days, if I do not hear from
10 you, I will consider that you granted Dennis an implied
11 immunity and are, thus, sanctioning Dennis Albers'
12 activities by silence."

13 A. Yes, I did.

14 Q. Was that supposed to mean that, if they didn't
15 go along with you, you were accusing them of some
16 impropriety?

17 A. I think that's what it says. I think it
18 states that I will state that they will be in agreement
19 that this activity of his is okay.

20 MR. SULLIVAN: Excuse me, Your Honor. I have
21 lost another document.

22 THE COURT: Go ahead. Take your time,
23 counsel.

24 BY MR. SULLIVAN:

25 Q. Sir, during the conversation with Mr. Harding

1 on March 27th, did Mr. Harding tell you, at page 136,
2 line 10 -- line 1 -- Mr. Harding said at the top: "So
3 when does that happen, though? Do you get close to
4 losing and you go, okay, I've got to whack these guys?"

5 And you say: "I am only one guy."

6 Didn't you understand Mr. Harding to be saying
7 "whack these guys" -- that he was talking about
8 murdering them?

9 A. I think he was speaking metaphorically.

10 Q. Like you do?

11 A. I did, at that time, yes.

12 Q. And you said say, "I'm only one guy." Is that
13 metaphorical, too?

14 A. Yeah. I feel overwhelmed.

15 Q. Meaning you were only one guy, and you
16 couldn't whack three guys by yourself; right?

17 A. No. I can't fight the whole world by myself.

18 Q. And then at page -- excuse me -- same page,
19 line 12, where it says --

20 A. It's talking about people in Grangeville.

21 Q. But Harding says: ". . . made the joke in
22 front of that guy the other day about killing those
23 three feds . . ." What joke had you made the other day
24 about killing three feds?

25 A. I do not know of any joke, and I do not know

1 if I even was listening to him.

2 Q. You don't know if you were listening to him?

3 A. No. He just sort of talked, and I really
4 didn't pay much attention to what he was saying.

5 Q. Because you didn't say to him, in response,
6 "What joke?" or, "Killing what feds?" did you?

7 A. I really -- I wasn't really having a
8 conversation with him. It was more like he was just
9 kind of doing what he does, yacking away; and I wasn't
10 really listening to most of it.

11 Q. Were you listening when he said,
12 ". . . killing those three feds . . ." or were you
13 listening when he said, ". . . if you keep doing that
14 in front of people, somebody is going to fuck with you
15 or somebody is going to whack one of them mother
16 fuckers -- no, you think that's funny."

17 You were laughing at that point, weren't you,
18 Mr. Hinkson?

19 A. No.

20 Q. Why did he say, "No, you think that's funny"?

21 A. Everything he said --

22 Q. Do you think that's funny?

23 A. Everything he said here was staged for you
24 guys that were listening.

25 Q. So you are saying you weren't laughing when he

1 talked about whacking people?

2 A. I wouldn't laugh about that.

3 Q. Were you listening when he said, "But somebody
4 is going to whack one of them mother fuckers and they
5 are going to go, 'Well, that's funny, because Dave is
6 always saying that he will pay you money to do it'?"

7 Did you hear him what he he said that?

8 A. I didn't remembering hearing him. What was my
9 response?

10 Q. Your response was: "(Inaudible) comes out of
11 here. She's got everything else."

12 A. I can't see.

13 THE COURT: You have to move it up, counsel.

14 MR. SULLIVAN: Sorry.

15 THE WITNESS: I was talking about the girl
16 that robbed my house, so it was non-responsive. I
17 really wasn't listening to him.

18 BY MR. SULLIVAN:

19 Q. Right. You were trying to avoid engaging in a
20 conversation because you knew he was wired?

21 A. No. I was very depressed that day because
22 this woman had robbed my house.

23 Q. At page 137, line 3, don't you indicate that
24 you are listening to him when he asked the question at
25 line 3:

1 "My point being, if you're going to do it,
2 commit to it somewhere. If you're not going to do it,
3 shut the fuck up. That's serious. That's from a
4 friend. Are you listening to me at all?"

5 And you say: "Yeah. No, the only thing I can
6 do is if it's going to get that ugly is I need to leave
7 the country and never come back and (inaudible) like the
8 American people."

9 He says: "I would rather you do that than
10 hurt somebody."

11 You were listening then, weren't you?

12 A. I don't understand the word "it" or "that,"
13 and I really wasn't really listening to what he was
14 saying; and that's why I respond and the way I did, I
15 believe. My response is non-responsive.

16 Q. That's because you suspected he was wearing a
17 wire; right?

18 A. No. I didn't have any idea he was wearing a
19 wire. Harding is not somebody you would take serious.

20 THE COURT: Wait for the next question,
21 Mr. Hinkson.

22 The jury will disregard that last statement.

23 BY MR. SULLIVAN:

24 Q. Were you listening to Mr. Harding when he
25 said, at page 149, line 3: "I want to know something

1 for sure. This is dead serious what I'm asking you
2 this. You talked to me about this on a couple of
3 occasions. Do you want to do it? Do you not want to do
4 it?"

5 You say: "What?"

6 He says: "You know what I'm talking about. I
7 can handle it."

8 You say: "What?"

9 He says: "Your problem with the three
10 wisemen."

11 And your response is: "I'm just suing them."

12 You knew who he meant by "the three wisemen,"
13 didn't you?

14 A. No, I did not.'

15 Q. Did you say, at line 12: "I don't know what
16 you're talking about, J. C." You didn't say that, did
17 you?

18 A. No.

19 Q. You said, "I'm just suing them;" right?

20 A. That's what it says there.

21 Q. So you knew he was talking about the three
22 feds; right?

23 A. No.

24 Q. And, in fact, on this date, March 27, 2003,
25 you weren't suing anybody, were you, because your

1 lawsuit had been thrown out?

2 MR. HOYT: Objection. It calls for a legal
3 conclusion.

4 THE COURT: Overruled.

5 BY MR. SULLIVAN:

6 Q. Isn't that true?

7 A. I don't think so.

8 Q. Your lawsuit had been thrown out, so you
9 wanted the three wisemen and the wise lady murdered?

10 A. No.

11 MR. SULLIVAN: Nothing further, Your Honor.

12 THE COURT: Very well.

13 Redirect, Mr. Hoyt?

14 MR. HOYT: Yes, Your Honor.

15 THE COURT: I think we will go another fifteen
16 or twenty minutes, and then I will let the jury go home
17 for the day.

18 Let me just ask: Can everybody last another
19 fifteen or twenty minutes? Okay.

1 REDIRECT EXAMINATION

2 BY MR. HOYT:

3 Q. Mr. Hinkson, do you recall the testimony of
4 Mr. Harding when he said his reference to the three
5 wisemen? Was he speaking in code?

6 A. Yes, he was speaking in code.

7 Q. Mr. Hinkson, did you, in fact, appeal the
8 decision of Judge Lodge after he dismissed your case?

9 A. Yes, I did.

10 Q. So you were suing the authorities that you had
11 a dispute with; right?

12 A. Yes.

13 Q. Now, Mr. Hinkson, do you have the book in
14 front of you that contains Exhibit J?

15 A. No.

16 THE COURT: Let's get it, Ms. Longstreet.

17 THE WITNESS: This goes to F. Do you have a

18 J?

19 THE COURTROOM CLERK: I just go to I, counsel.

20 THE WITNESS: This is just P.

21 THE COURT: It should look something like
22 this.

23 THE COURTROOM CLERK: Let me see if I have it
24 over here.

25 THE COURT: Shall I give him my copy,

1 Mr. Hoyt?

2 MR. HOYT: That would be fine.

3 THE COURT: Mr. Hinkson, I am handing you

4 Exhibit J.

5 BY MR. HOYT:

6 Q. Mr. Hinkson, can you identify Exhibit J?

7 A. A transcript, yes.

8 Q. Okay. What is it?

9 A. It says it's a transcript of a temporary

10 restraining order hearing on the 11th and 12th of

11 December of 2003 at 9:16 a.m.

12 Q. Okay. And can you turn over to what is marked

13 as page 355, at Bates number 180?

14 A. Uh-huh.

15 Q. Do you see the portion where it begins, on

16 line 18, "The Court"?

17 MR. SULLIVAN: Judge, I object.

18 THE WITNESS: Yes.

19 THE COURT: Sustained. This exhibit is not in

20 evidence yet, is it, counsel?

21 MR. HOYT: I'm just asking him --

22 THE COURT: You can't ask him about the

23 contents of it until it's admitted into evidence. We

24 are doing this by the rules, Mr. Hoyt.

25

QNA COURT REPORTING (208) 484-6309

1 BY MR. HOYT:

2 Q. Mr. Hinkson, can you identify this exhibit

3 that says the transcript -- my question is: Can you

4 identify the portion of the transcript that is depicted

5 in Exhibit J?

6 A. Do I recognize it?

7 Q. Yes.

8 A. I wasn't there, but I recognize that it's a

9 transcript of the hearing, yes.

10 Q. Is it a transcript of the court's findings and

11 determinations as a result of the temporary restraining

12 order dispute?

13 A. Yes.

14 THE COURT: The jury will disregard the

15 answer.

16 Mr. Sullivan, what is your objection?

17 MR. SULLIVAN: He, obviously, can't establish

18 a foundation of personal knowledge. This is hearsay.

19 THE COURT: Sustained.

20 MR. HOYT: We move the admission of Exhibit J.

21 THE COURT: That exhibit will not be allowed,

22 based upon the prior objection.

23 MR. HOYT: As a self-authenticating document?

24 THE COURT: Overruled. It is not admissible.

25

QNA COURT REPORTING (208) 484-6309

1 BY MR. HOYT:

2 Q. As a result of the hearing of December 12th,

3 Mr. Hinkson, what happened to the claim of Mr. Bellon

4 that he had a valid contract with you?

5 A. Well, I think --

6 MR. SULLIVAN: I object, Your Honor, unless he

7 has some personal knowledge.

8 THE COURT: Sustained.

9 BY MR. HOYT:

10 Q. Do you -- are you aware, personally aware, of

11 what happened to Mr. Bellon's claim?

12 A. I was on the phone for --

13 THE COURT: Just a minute. Just a minute. It

14 has to come in through hearsay.

15 Counsel, aren't you going to have Mr. Groom

16 testify?

17 MR. HOYT: Mr. Groom was not counsel of record

18 on this case.

19 THE COURT: I see, okay. That is a problem.

20 You still have a hearsay problem.

21 MR. HOYT: Mr. Hinkson was on the phone during

22 this hearing from the jail.

23 THE COURT: I see. Very well. With that

24 representation, you may proceed.

25

QNA COURT REPORTING (208) 484-6309

1 BY MR. HOYT:

2 Q. Mr. Hinkson, are you aware of what happened in

3 this proceeding?

4 A. Yes.

5 Q. And what happened?

6 THE COURT: Well, no, counsel. That's too

7 broad. Let's do it with a leading question.

8 BY MR. HOYT:

9 Q. All right. Mr. Hinkson, as a result of the

10 claims for temporary restraining order of WaterOz, are

11 you aware of the Judge's finding?

12 A. Yeah. He, basically, removed the people that

13 had seized the factory. He ordered them out.

14 MR. SULLIVAN: Your Honor, I move to strike

15 the characterization of "seized the factory."

16 THE COURT: Overruled.

17 BY MR. HOYT:

18 Q. Now, Mr. Hinkson, you talked about the Grand

19 Jury Minutes that you wanted to get in discovery from

20 Nancy Cook. Do you recall that testimony?

21 A. Yes.

22 Q. How would obtaining those Grand Jury Minutes

23 have helped you in your lawsuit against Nancy Cook?

24 A. It would have proven a misconduct.

25 Q. Who had possession and control of the Grand

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1 Jury Minutes?

2 A. The court.

3 THE COURT: Just a minute.

4 MR. SULLIVAN: Unless he can show personal
5 knowledge, speculation.

6 THE COURT: Sustained. The court -- the jury
7 will disregard the last answer.

8 MR. HOYT: Your Honor, not at this moment but
9 I would like to make an offer of proof on this subject.

10 THE COURT: I understand, counsel. I think I
11 know an awful lot about Grand Jury proceedings, and that
12 was a proper objection. Move on to the next question.

13 BY MR. HOYT:

14 Q. Now, Mr. Hinkson, did you disagree with the
15 Internal Revenue Service as to how your income and
16 expenses should be calculated?

17 A. Yes.

18 Q. And when you were submitting information in
19 loan packages to lenders, did you include 1040 forms
20 that had been prepared by an accountant?

21 A. No.

22 Q. Did the lenders obtain that information from
23 your accountant?

24 A. I did not have an accountant at that time.

25 Q. What were you doing the night that Mr. Harding

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1 came to your house and ultimately tape recorded the
2 conversation March 27th?

3 A. It had been a long week, and I was just,
4 basically, taking it easy for the day.

5 Q. Were your children there that evening?

6 A. Yes, they were.

7 Q. Were you preparing dinner for them?

8 A. Yes, I was.

9 Q. Were you occupied in various kitchen
10 activities?

11 A. Yes, I was. I was making dinner.

12 Q. You were making dinner while Mr. Harding was
13 talking to you?

14 A. I was.

15 THE COURT: Counsel, you are leading.

16 BY MR. HOYT:

17 Q. Did your children ever come up and speak to
18 you during the time that you were talking to
19 Mr. Harding?

20 A. I think they interrupted a few times there.
21 You could hear them in the background.

22 Q. Now, counsel for the Government attempted to
23 suggest that you were intending to flee with a passport;
24 is that correct?

25 A. That's incorrect.

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1 Q. They intimated that that's --

2 A. Yes, that's correct.

3 Q. Mr. Hinkson, where was your passport at the
4 time that you were arrested?

5 A. I believe it was at the Ukrainian Embassy.

6 Q. Why was it at the Ukrainian Embassy?

7 A. I had sent it in to get travel permission.
8 They stamp it authorizing you to come to that country.

9 Q. And why were you planning on going to the
10 Ukrainian Embassy as of November 21, 2002?

11 A. I was planning to go to the Ukraine to pick up
12 my fiancée; and we were going to go to Bangkok,
13 Thailand, for a week and then we were flying to Africa.

14 Q. And were you going to meet with anyone in the
15 Ukraine when you went there?

16 A. Well, I always met with Roman and his
17 doctor --

18 THE COURT: Didn't we go through this in some
19 detail when you had him on direct yesterday?

20 BY MR. HOYT:

21 Q. Were you -- were you able to get your passport
22 back from the Ukrainian Embassy?

23 A. No. They said they couldn't find it.

24 Q. Was there a government agent named Gayler who
25 was pressing you to turn in your passport?

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1 A. He said, if I didn't turn it in, he was going
2 to immediately have me arrested.

3 Q. And in response to that statement by
4 Mr. Gayler, what did you do?

5 A. That's when I applied for another one. But it
6 wasn't a secret.

7 Q. What do you mean, "It wasn't a secret"?

8 MR. SULLIVAN: I object to the --

9 THE COURT: The jury will disregard
10 Mr. Hinkson's comments as to whether or not it was a
11 secret.

12 THE WITNESS: Okay.

13 BY MR. HOYT:

14 Q. Did you make the information available to
15 Mr. Gayler that you had applied for a back-up passport
16 since your passport was lost?

17 A. Well, yes. I explained to him that I didn't
18 have it, but he didn't believe me. He kept getting more
19 and more vocal about it. He said I had to turn it over.

20 Q. And so what did you do to comply with his
21 demands?

22 A. It was a double-edged -- I wanted to --

23 THE COURT: Just what did you do, Mr. Hinkson?
24 Don't characterize it.

25 THE WITNESS: I wanted to turn one over to

QNA COURT REPORTING (208) 484-6309

1 him.

2 THE COURT: No. Mr. Hinkson, not what you

3 wanted. What did you do?

4 THE WITNESS: Oh, I applied for another one

5 for the purpose of surrendering it to him. And I

6 believe the court was going --

7 THE COURT: Mr. Hinkson --

8 THE WITNESS: -- to allow me --

9 THE COURT: Just stop with you applied for

10 another one. Wait for the next question.

11 THE WITNESS: Okay.

12 BY MR. HOYT:

13 Q. When you declined to show up or for the Grand

14 Jury, Mr. Hinkson, had you asked to be able to speak

15 freely to the Grand Jury?

16 A. Yes, I did.

17 Q. And what were you told?

18 A. I was --

19 MR. SULLIVAN: Objection. Time?

20 THE COURT: I am going to allow it since you

21 tried to impeach him.

22 MR. SULLIVAN: Some foundation?

23 THE COURT: If you could, establish a time

24 frame and who gave him whatever instruction he was told.

25

1 BY MR. HOYT:

2 Q. Was the time frame the same as the time frame

3 for the letter that was written that has now been

4 discussed in your prior testimony?

5 A. Yes.

6 Q. And during that time frame, who did you talk

7 to about the possibility of Grand Jury testimony?

8 A. Mr. Baxley.

9 Q. What did you learn about your ability to speak

10 freely to the Grand Jury?

11 A. I was told I could not speak freely to them.

12 Q. What were you -- what restrictions were to be

13 placed upon your testimony?

14 A. I think they are in the letter.

15 MR. SULLIVAN: Object.

16 THE COURT: You are not going to testify what

17 the letter said. What did you understand the

18 restrictions to be?

19 THE WITNESS: I understood the restrictions

20 were -- basically, I was there to just be roasted, and I

21 was not going to be allowed to defend myself.

22 BY MR. HOYT:

23 Q. Now, Mr. Sullivan made quite a -- strike that.

24 MR. SULLIVAN: Form of the question.

25 THE COURT: Don't characterize. Just ask a

1 question.

2 BY MR. HOYT:

3 Q. You were asked about statements that were made

4 in the account of your arrest and how those statements

5 might have appeared in the press. Do you recall that?

6 A. Yes.

7 Q. Are you aware of false statements made by the

8 Government that have appeared in the press?

9 A. Yes.

10 MR. SULLIVAN: Objection, Your Honor.

11 THE COURT: Sustained.

12 THE COURT: Counsel, that's not a proper

13 question on a number of grounds.

14 BY MR. HOYT:

15 Q. At the original detention hearing dated April

16 9, 2002, four days after your arrest, Mr. Hinkson --

17 THE COURT: 2002 or 2003?

18 MR. HOYT: I'm sorry. The court is correct;

19 it's 2003.

20 Q. On April 9, 2003, Mr. Hinkson, were there --

21 was there any live testimony given by Mr. Harding?

22 A. No.

23 Q. Was there live testimony given by Ms. Bates?

24 A. No.

25 Q. Did you or your lawyer have the opportunity to

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1 cross-examine either Ms. Bates or Mr. Harding?

2 A. No.

3 Q. How was their information presented to Judge

4 Williams?

5 A. Agent Long presented it, and I put the

6 transcript in.

7 Q. What transcript did you put in?

8 A. The body wire was not wanted to be used by

9 Mr. Agent Long. He didn't want it in.

10 MR. SULLIVAN: Objection.

11 THE COURT: Sustained.

12 MR. SULLIVAN: Move to strike.

13 THE COURT: The jury will disregard the last

14 question and answer.

15 BY MR. HOYT:

16 Q. Did you offer as an exhibit the body wire

17 recording at the April 9, 2003, hearing?

18 A. Brit Groom did, at my request.

19 Q. How was the information from Harding and Bates

20 presented at --

21 THE COURT: Counsel, that's not relevant.

22 MR. HOYT: No further questions.

23 THE COURT: Very well. Mr. Sullivan, let me

24 just ask you how long you --

25 MR. SULLIVAN: Just a few minutes, Your Honor.

1 THE COURT: Let's see if we can finish up with
2 Mr. Hinkson.

3
4 RE CROSS EXAMINATION

5 BY MR. SULLIVAN:

6 Q. Isn't it true, Mr. Hinkson, at the April 9,
7 2003, hearing on the revocation of your bond, the tape
8 between you and Mr. Harding had not yet been
9 transcribed?

10 A. That's not true.

11 Q. It's your testimony that --

12 A. You are right; it wasn't transcribed. The
13 actual disc was put into evidence.

14 Q. So the transcript at that point didn't exist;
15 right?

16 A. Correct.

17 Q. So nobody was reading transcripts, as we have
18 done here; right?

19 A. Correct.

20 Q. Your testimony is you declined to testify
21 before the Grand Jury because you thought you would be
22 roasted?

23 A. Yeah. Another metaphor.

24 Q. You choose those kind of metaphors all the
25 time, don't you?

1 A. Yes, I do.

2 MR. SULLIVAN: I have nothing else, Your
3 Honor.

4 THE COURT: Anything further?

5 MR. HOYT: Nothing further, Your Honor.

6 THE COURT: Very well. Mr. Hinkson, you may
7 stand down.

8 (End of requested excerpt of proceedings held
9 January 21, 2005.)

10 . . .

1
2
3 CERTIFICATE

4
5 I, LORI A. PULSIFER, certify that I made a
6 shorthand record of the matter contained herein, and
7 that the foregoing typewritten pages 176 through 341
8 contain a full, true, and accurate transcript of an
9 excerpt of said shorthand record, done to the best of my
10 skill and ability.

11 DATED this 24th day of January 2005.

12
13 
14 LORI A. PULSIFER, CSR, RMR, CRR
15 Certified Shorthand Reporter
16 Idaho Certificate 354
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