

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

88DA0269

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
 PLAINTIFF-RESPONDENT,)
)
 VS.)
)
 JOE HUNT, AKA JOSEPH HUNT,)
 AKA JOSEPH HENRY GAMSKY,)
)
 DEFENDANT-APPELLANT.)

SUPERIOR COURT
NO. A-090435

OCT 9 1987

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE LAURENCE J. RITTENBAND, JUDGE PRESIDING
REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: JOHN K. VAN DE KAMP
STATE ATTORNEY GENERAL
3580 WILSHIRE BOULEVARD
ROOM 800
LOS ANGELES, CALIFORNIA 90010

FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 47 OF 101
(PAGES 7022 TO 7181, INCLUSIVE)

COPY

ROSEMARIE GOODBODY, CSR NO. 932
SALLY YERGER, CSR NO. 2008
OFFICIAL REPORTERS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C

HON. LAURENCE J. RITTENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF,)

VS.)

NO. A-090435

JOSEPH HUNT,)

DEFENDANT.)

REPORTERS' DAILY TRANSCRIPT

VOLUME 47

PAGES 7022 TO 7181 INCL.

APPEARANCES:

FOR THE PLAINTIFF: IRA REINER, DISTRICT ATTORNEY
BY: FREDERICK N. WAPNER, DEPUTY
1725 MAIN STREET
SANTA MONICA, CALIFORNIA 90401

FOR THE DEFENDANT: ARTHUR H. BARENS, ESQ.
10209 SANTA MONICA BOULEVARD
LOS ANGELES, CALIFORNIA 90067

AND

RICHARD C. CHIER, ESQ.
10920 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90024

ROSEMARIE GOODBODY, CSR NO. 932
SALLY YERGER, CSR NO. 2008
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ORIGINAL

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1 SANTA MONICA, CALIFORNIA; MONDAY, FEBRUARY 9, 1987; 10:35 A.M.
2 DEPARTMENT WEST C HON. LAURENCE C. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE)

4
5 (WHEREUPON, THE FOLLOWING PROCEEDINGS
6 WERE HELD IN CHAMBERS:)

7 MR. BARENS: GOOD MORNING.

8 THE COURT: GOOD MORNING.

9 MR. WAPNER: I DON'T KNOW WHAT THIS IS ABOUT.

10 MR. BARENS: YOUR HONOR, I SOUGHT A PRELIMINARY CLARI-
11 FICATION FROM YOUR HONOR ON A WITNESS THAT I BELIEVE WILL
12 TESTIFY TODAY, CAROL LEVIN, MR. LEVIN'S MOTHER WILL BE TESTIFYING.

13 MR. WAPNER: ACTUALLY, SHE IS NOT GOING TO TESTIFY
14 TODAY.

15 MR. BARENS: OH, ALL RIGHT.

16 MR. WAPNER: I APOLOGIZE TO COUNSEL.

17 I MEAN I HAD A SCHEDULING PROBLEM BECAUSE OF
18 A WITNESS WHO CAME IN FROM THE EAST AND SO WE ARE GOING
19 TO HAVE TO CALL MICHAEL BRODER HERE TODAY. I WAS NOT PLANNING
20 TO HAVE HIM UNTIL TOMORROW.

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1 THE COURT: WELL, AT ANY RATE AS LONG AS YOU ARE HERE,
2 YOU MIGHT AS WELL.

3 MR. BARENS: YOUR HONOR, I WOULD REQUEST THAT YOUR HONOR
4 INSTRUCT THE PEOPLE TO INSTRUCT THE WITNESS NOT TO EXPRESS
5 HER OPINION ON THE ULTIMATE FACT BEFORE THE JURY. I WOULD
6 ANTICIPATE THAT THERE ARE A VARIETY OF QUESTIONS THAT MIGHT
7 INTENTIONALLY OR INADVERTENTLY CAUSE HER TO RESPOND, AS YOUR
8 HONOR MIGHT ANTICIPATE, IN AN ACCUSATORY MANNER TOWARD
9 MR. MR. HUNT OR MAKE REFERENCE TO THE ULTIMATE FACT THAT SHE
10 THINKS HER SON IS DEAD OR SHE BELIEVES HE IS DEAD OR SHE
11 KNOWS HE IS DEAD.

12 I DON'T FEEL THAT HAS ANY PROBATIVE VALUE FOR
13 THE JURY BUT RATHER, ADDRESSES THE ULTIMATE QUESTION THAT
14 THE JURY WILL HAVE TO MAKE.

15 AND AN OPINION OF THAT NATURE WOULD BE INFLAMMATORY
16 AND I BELIEVE UNDER 352, EXCLUDABLE BY YOUR HONOR. AGAIN
17 YOUR HONOR, THE CENTRAL BASIS FOR MY CONCERN IS THE FACT
18 THAT IT JUST ISN'T PROBATIVE. IT DOESN'T ESTABLISH A FACT
19 OR CREATE ANY BASIS FOR A FACT.

20 IT CERTAINLY WOULD BE ON THE OTHER HAND, EXTREMELY
21 INFLAMMATORY AND PREJUDICIAL, NOT TO MENTION THAT HER OPINION
22 ON THE ISSUE COULD BE DEEMED AND WE DO DEEM IT TO BE IRRELEVANT.

23 MR. WAPNER: WELL, FIRST OF ALL, I THINK THAT SHE CAN
24 PROPERLY BE ASKED HER OPINION ON SUCH ISSUES AS, BASED ON
25 HER EXPERIENCE, "IS IT YOUR OPINION THAT IF HE WERE ALIVE,
26 HE WOULD CALL YOU?"

27 AND THEN SHE CAN BE ASKED WHAT THE BASIS FOR HER
28 OPINION IS. AND I DON'T THINK THAT THAT IS AT ALL IMPROPER.

1 AND I EXPECT HER TO SAY THAT THE BASIS FOR HER OPINION IS
2 THAT HE DIDN'T MISS CALLING HER IN ALL OF THE YEARS THAT HE
3 LIVED AWAY FROM HOME.

4 SO I DON'T THINK THAT THAT IS IMPROPER AT ALL.
5 I DO THINK THAT IF SHE IS TO GIVE HER OPINION ON THIS ISSUE,
6 IT IS PROBATIVE FOR THE JURY. THEY WANT TO KNOW WHAT SHE
7 THINKS.

8 THE COURT: YOU MEAN, YOU WANT TO ASK HER IF HE WERE
9 ALIVE, WOULD HE HAVE CALLED HER?

10 MR. WAPNER: IN HER OPINION, IF SHE HAS AN OPINION AS TO
11 WHETHER HE WOULD HAVE CALLED AND WHAT IS THE BASIS FOR THAT.

12 MR. BARENS: YES. THIS IS EXACTLY THE QUESTION THAT
13 MR. WAPNER POSES. IT IS THE "IF HE WERE ALIVE" QUESTION.

14 THE "IF HE IS ALIVE" OR WHATEVER THE QUESTION IS,
15 IS SOLELY THE PROVINCE OF THE JURY IN THIS CASE.

16 HE CAN ASK HER OBVIOUSLY, "DURING THE PERIOD OF
17 YOUR RELATIONSHIP, DID HE EVER FAIL TO CALL YOU?" AND SHE
18 IS GOING TO SAY, AT LEAST BASED ON WHAT OTHER WITNESSES
19 HAVE SAID THAT HE CALLED ME EVERY DAY OR EVERY OTHER DAY OR
20 WORDS TO THAT EFFECT.

21 I THINK THAT HE COULD ASK HER WHETHER IT IS
22 ABNORMAL FOR HIM NOT TO CALL AND SHE IS GOING TO ANSWER THAT
23 IT NEVER HAPPENED LIKE THIS BEFORE.

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1 THE COURT: THE FINAL EXPRESSION OF THE OPINION AS
2 TO WHETHER OR NOT HE IS ALIVE OR DEAD IS NOT FOR HER TO
3 DETERMINE.

4 MR. WAPNER: I UNDERSTAND THAT.

5 THE COURT: ALL RIGHT. SO YOU DON'T ASK THE QUESTION
6 WHETHER YOUR OPINION IS, IS HE ALIVE OR DEAD?

7 YOU CAN ASK HER EXACTLY AS INDICATED BY COUNSEL
8 THAT, DID HE EVER FAIL TO CALL WHEN HE WAS ALIVE? DID HE
9 EVER FAIL TO CALL ON ANY OCCASIONS, SO FORTH, AND THEN THE
10 JURY CAN REACH ITS OWN CONCLUSION AS TO WHETHER HE IS ALIVE
11 OR DEAD, BECAUSE IF HE WERE ALIVE HE WOULD CALL HER.

12 MR. CHIER: THAT IS THE INFERENCE THAT CAN BE ARGUED.

13 MR. BARENS: YOUR HONOR MAY HAVE INADVERTENTLY JUST
14 SAID, "DID HE EVER FAIL TO CALL YOU WHEN HE WAS ALIVE?"
15 I DON'T BELIEVE YOU ARE SUGGESTING THAT THE PEOPLE COULD
16 ASK THAT QUESTION.

17 THE COURT: WHY NOT?

18 MR. BARENS: DID HE EVER INADVERTENTLY FAIL TO CALL
19 YOU --

20 THE COURT: NOT INADVERTENTLY. DURING HIS LIFETIME,
21 DID HE EVER FAIL TO CALL YOU?

22 MR. BARENS: YES. DURING HIS LIFETIME.

23 THE COURT: YES.

24 MR. BARENS: BUT TO USE A QUESTION "WHEN HE WAS ALIVE",
25 ARGUES --

26 THE COURT: NO, NO.

27 MR. BARENS: THAT ARGUES THE ULTIMATE POINT.

28 MR. WAPNER: WELL, HE IS HARDLY GOING TO CALL WHEN

1 HE IS DEAD.

2 MR. BARENS: BUT WE ARE NOT SAYING HE IS DEAD, MR.
3 WAPNER.

4 THE COURT: I SAID DURING HIS LIFETIME, ASSUMING HE
5 MIGHT BE ALIVE. IT IS NOT SAYING HE IS DEAD: DID HE, DURING
6 HIS LIFETIME WHILE HE WAS ALIVE, WHILE HE WAS LIVING?

7 MR. BARENS: DURING YOUR RELATIONSHIP.

8 MR. CHIER: HAS HE EVER FAILED TO CALL YOU.?

9 THE COURT: WELL, HOW DO YOU WANT TO SAY IT?

10 MR. WAPNER: WELL, WHAT I MIGHT WANT TO ASK -- I HAVEN'T
11 FORMULATED THE EXACT QUESTION -- IS TO ASK HER: DO YOU
12 HAVE AN OPINION AS TO WHETHER HE WOULD CALL YOU IF HE WERE
13 ALIVE?

14 MR. BARENS: YOUR HONOR, THAT GOES RIGHT TO THE WHOLE
15 POINT OF WHY I AM HERE. THE QUESTION INHERENTLY MAKES HER
16 TESTIFY AS TO HER OPINION ON WHETHER HE IS ALIVE OR NOT,
17 WHICH IS NOT A RELEVANT OPINION BUT EXTREMELY INFLAMMATORY.

18 MR. WAPNER: NO, I DISAGREE.

19 IT MAKES HER GIVE THE BASIS FOR HER OPINION
20 AND EXPLAIN WHY, WHAT IT IS THAT WERE HIS HABITS DURING
21 THE TIME THAT SHE KNEW -- ALL OF THE TIME THAT SHE KNEW
22 HIM AND THEN LEAVES THE JURY TO BE ABLE TO MAKE THE INFERENCE.

23 THE COURT: CAN YOU ASK HER, SAY UP THROUGH JUNE 7,
24 UP UNTIL JUNE 7 WHAT WAS HIS PRACTICE IN CALLING YOU EVERY
25 DAY OR EVERY OTHER DAY AND SINCE JUNE 7, HAVE YOU EVER HEARD
26 FROM HIM?

27 MR. CHIER: PRECISELY.

28 THE COURT: THAT COVERS IT, DOESN'T IT?

1 MR. WAPNER: IF THAT IS WHAT THE COURT --

2 THE COURT: WELL, I THINK THAT COVERS IT. OBVIOUSLY,
3 IF HE WERE ALIVE, THE JURY CAN REACH THE CONCLUSION THAT
4 IF HE WERE ALIVE HE WOULD HAVE CALLED HIS MOTHER, WHOM HE
5 WAS VERY FOND OF.

6 MR. WAPNER: THAT IS FINE, IF THAT IS WHAT YOU WANT
7 TO DO.

8 THE COURT: I THINK THAT WILL COVER IT.

9 MR. BARENS: WE APPRECIATE IT.

10 OBVIOUSLY IN ARGUMENT, MR. WAPNER IS FREE TO
11 COMMENT ON THAT CONDUCT AND WE ARE FREE TO COMMENT ON IT
12 AND THEY WILL DRAW THEIR OWN CONCLUSIONS EVENTUALLY.

13 THE COURT: ALL RIGHT.

14 MR. BARENS: THANK YOU, YOUR HONOR.

15 MR. WAPNER: MAYBE BEFORE WE START, I LOOKED FOR THE
16 WITNESS WHO WAS ON THE STAND ON THURSDAY --

17 THE COURT: YOU UNDERSTAND WE ARE GOING TO GO UNTIL
18 3:30 THIS AFTERNOON?

19 MR. BARENS: YES, YOUR HONOR.

20 MR. WAPNER: LET ME MAKE SURE THE WITNESS WHO WAS
21 ON THE STAND IS HERE.

22 MR. BARENS: I THOUGHT I SAW HER NEXT TO MR. LEVIN
23 ACTUALLY.

24 THE COURT: NEXT TO MR. LEVIN?

25 MR. BARENS: MARTIN LEVIN.

26 (RECESS.)

27

28

1 (THE FOLLOWING PROCEEDINGS WERE HELD
2 IN OPEN COURT IN THE PRESENCE OF
3 THE JURY:)

4 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

5 MR. BARENS: YOUR HONOR, AT THIS TIME THE DEFENSE WOULD
6 HAVE A MOTION TO EXCLUDE WITNESSES.

7 THE COURT: ALL RIGHT. HAVE YOU GOT ANY WITNESSES IN
8 THE COURTROOM?

9 MR. WAPNER: YES. PLEASE WAIT OUTSIDE.

10 MR. BARENS: THAT WOULD BE A CONTINUING MOTION, YOUR
11 HONOR.

12 THE COURT: THAT WILL GO FOR BOTH SIDES.

13 MR. BARENS: QUITE SO, YOUR HONOR.

14 THE COURT: YES. THAT WILL BE THE ORDER.

15

16

PHYLLIS BALDUZZI,

17

THE WITNESS ON THE STAND AT THE TIME OF THE ADJOURNMENT,

18

HAVING BEEN PREVIOUSLY SWORN, RESUMED THE STAND AND TESTIFIED

19

FURTHER AS FOLLOWS:

20

21 THE CLERK: YOU HAVE BEEN PREVIOUSLY SWORN. YOU
22 ARE STILL UNDER OATH. JUST STATE YOUR NAME AND SPELL IT
AGAIN FOR THE RECORD.

23

24 THE WITNESS: PHYLLIS BALDUZZI, B-A-L-D-U-Z-Z-I.

25

26 MR. WAPNER: YOUR HONOR, I HAVE SOME QUESTIONS ON
27 DIRECT EXAMINATION.

28

THE COURT: YOU MAY REOPEN.

29

30 MR. WAPNER: THANK YOU. I ALSO HAVE A QUESTION ABOUT
31 THE EXCLUSION OF WITNESSES. IT IS AN ISSUE THAT HAS NOT COME

32

1 UP IN TRIALS THAT I HAVE TRIED BECAUSE I HAVE NEVER HAD
2 ONE OF THIS MAGNITUDE, WITH THE PUBLICITY.

3 I KNOW THAT TODAY IT IS NOT A PROBLEM, SINCE WE
4 DON'T HAVE THE CAMERA TODAY.

5 BUT IN THE FUTURE, SINCE WE HAVE THE CAMERA, I
6 KNOW THEY HAVE A MONITOR OUT THERE. I DON'T KNOW IF THE
7 WITNESSES IN THE HALLWAY CAN HEAR THE PROCEEDINGS. I AM SURE
8 THAT THEY CAN SEE THEM.

9 PERHAPS WHEN THEY COME IN IN THE FUTURE, YOU CAN
10 DIRECT THEM NOT TO LOOK AT IT.

11 THE COURT: ALL RIGHT. VERY GOOD.

12
13 DIRECT EXAMINATION (REOPENED)

14 BY MR. WAPNER:

15 Q MS. BALDUZZI, WHEN MR. LEVIN SIGNED UP FOR THE
16 SERVICES THAT YOU PROVIDED HIM, WAS THERE SOME KIND OF
17 APPLICATION THAT HE FILLED OUT?

18 A IT IS AN AGREEMENT, YES.

19 Q AND DO YOU HAVE THE ORIGINAL OF THAT AGREEMENT
20 WITH YOU?

21 A YES, I DO.

22 Q DOES IT ON THAT AGREEMENT, INDICATE WHO IT IS
23 THAT CAN PICK UP THE MAIL FOR MR. LEVIN?

24 A YES. IT SAYS MR. LEVIN, MR. STURKEY AND OTHER
25 EMPLOYEES.

26 Q AND IS THE APPLICATION -- MAY I HAVE A MOMENT,
27 YOUR HONOR?

28 THE COURT: YES.

1 (PAUSE.)

2 Q BY MR. WAPNER: IS THERE A CLAUSE ON THERE THAT
3 SEEKS TO HOLD THE BEVERLY HILLS EXECUTIVE SERVICES HARMLESS
4 FOR ANYTHING THAT MIGHT HAPPEN TO THE MAIL?

5 A THAT'S CORRECT.

6 Q AND DO YOU REQUIRE THAT TO BE SIGNED?

7 A SIGNED BY THE CLIENT, YES.

8 Q AND IS IT SIGNED BY ANYBODY? DO YOU REQUIRE IT TO
9 BE SIGNED BY ANYBODY ELSE?

10 A NOT NECESSARILY. BUT IN THIS CASE, IT WAS.

11 Q IS IT SIGNED BY OTHER PEOPLE WHO MIGHT COME TO
12 PICK UP THE MAIL?

13 A MIGHT COME TO PICK UP THE MAIL OR WHO WOULD BE
14 ASSOCIATED WITH THE COMPANY.

15 Q WHAT IS THE PURPOSE OF THAT CLAUSE IN THE CONTRACT?

16 A IN CASE SOMETHING SHOULD HAPPEN TO THEIR MAIL
17 AND PEOPLE WOULD BRING A LAWSUIT OR SOMETHING LIKE THAT.

18 Q GO AHEAD.

19 A MAYBE I DIDN'T UNDERSTAND YOU. THE REASON FOR
20 THE SIGNATURE IS TO BE SURE THAT THEY DID READ THAT CLAUSE
21 IN THE CONTRACT.

22 Q AND SO, THAT WOULD BE SIGNED BY THE PEOPLE WHO
23 WERE THEN GOING TO PICK UP THE MAIL?

24 A OR WHO ARE ASSOCIATED WITH THE COMPANY.

25 Q AND IF WE PROVIDE YOU WITH A COPY, CAN WE KEEP
26 THAT ORIGINAL AS A COURT EXHIBIT?

27 A YES, YOU CAN.

28 MR. WAPNER: YOUR HONOR, MAY THAT BE MARKED AS PEOPLE'S

1 NEXT IN ORDER, WHICH WOULD BE 139?

2 THE COURT: BE SO MARKED.

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1 Q MRS. BALDUZZI, IN THE TYPED-ON PORTION OF THAT
2 AGREEMENT WEHRE IT SAYS "MAIL MAY BE PICKED UP BY" THERE
3 US A BLANK THERE AND THEN THERE IS SOMETHING TYPED IN AFTER
4 THAT; IS THAT RIGHT?

5 A "MAIL MAY BE PICKED UP BY" AND THE NAMES
6 AND THEN THERE IS A BLANK LINE "THE NAME ON BUILDING
7 DIRECTORY TO READ" AND THEN IT LISTS THE NAMES OF THE
8 COMPANIES.

9 Q AND THE MAIL MAY BE PICKED UP BY AND ON THAT
10 LINE IS TYPED IN "RONALD LEVIN" AND WHO ELSE?

11 A CHRIS STURKEY OR OTHER EMPLOYEES.

12 Q THEN AT THE BOTTOM WHERE IT IS SIGNED BY THE PEOPLE
13 WHO ARE GOING TO HOLD THE COMPANIES HARMLESS, WHO HAS SIGNED
14 THERE?

15 A CHRIS STURKEY, R. MICHAEL WEATHERBY, JOSEPH HUNT.

16 Q AND IS THERE ANYTHING ELSE IN YOUR FILE THAT
17 INDICATES THAT MR. HUNT EVER CAME TO PICK UP THE MAIL?

18 A YES, THERE IS.

19 Q WHAT IS THAT?

20 A IT IS A NOTE SIGNED BY MR. HUNT STATING THAT
21 HE PICKED UP MAIL ON A PARTICULAR DAY, WHICH AT THAT TIME
22 REQUIRED, IF IT WAS SOMEONE THAT WE HADN'T SEEN A LOT, IN
23 THIS CASE IT WAS APPROXIMATELY A LITTLE OVER A MONTH AFTER
24 THEY SIGNED UP FOR THE SERVICE, SO WE HAD THEM SIGN THIS.

25 THE COURT: A MONTH AFTER WHAT?

26 THE WITNESS: THEY SIGNED FOR THE SERVICE.

27 THE COURT: WHEN IS THAT DATE?

28 THE WITNESS: THIS IS DATED THE 22ND OF JUNE, 1983.

29 MR. WAPNER: YOUR HONOR, MAY THAT BE MARKED AS

1 PEOPLE'S 140 FOR IDENTIFICATION?

2 THE COURT: IT WOULD BE SO MARKED.

3 Q BY MR. WAPNER: AND THAT IS DATED JUNE 21ST
4 OF 1983?

5 A THAT IS CORRECT.

6 MR. BARENS: 19 WHAT, '83?

7 THE COURT: '83.

8 MR. BARENS: '83.

9 THE COURT: YES. WE HEARD IT THREE TIMES. DO YOU
10 WANT TO EMPHASIZE IT?

11 MR. BARENS: I DIDN'T HEAR IT, YOUR HONOR, TO BE CANDID
12 WITH YOU, I DID NOT.

13 THE COURT: ALL RIGHT.

14 Q BY MR. WAPNER: DID YOU EVER SEE MR. HUNT THERE
15 PICKING UP THE MAIL?

16 A NOT THAT I RECOLLECT, NO.

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1 Q AND REFERRING TO THE MAN AT THE END OF COUNSEL
2 TABLE, DO YOU RECOGNIZE HIM?

3 A NO, I DO NOT.

4 MR. WAPNER: THANK YOU, I HAVE NOTHING FURTHER.

5 THE COURT: ALL RIGHT.

6
7 CROSS-EXAMINATION

8 BY MR. BARENS:

9 Q THANK YOU, YOUR HONOR.

10 GOOD MORNING, MS. BALDUZZI.

11 A GOOD MORNING.

12 MR. BARENS: MAY I APPROACH TO GET THE EXHIBIT?

13 THE COURT: YES, SURELY.

14 Q BY MR. BARENS: MRS. BALDUZZI, YOU SAID IT WAS
15 UNUSUAL FOR YOUR CLIENTS TO HAVE THIS MANY PARTIES USING
16 ONE OF YOUR FACILITIES?

17 A YES, IT IS -- OH, I BEG YOUR PARDON -- NOT USING
18 ONE OF THE FACILITIES BUT TO SIGN THE AGREEMENT.

19 Q TO SIGN THE AGREEMENT?

20 A YES, SIR.

21 Q AND HERE I SEE WE HAVE GOT ONE, TWO, THREE,
22 FOUR, FIVE.

23 LAST WEEK WHEN YOU MENTIONED HOW MANY PEOPLE
24 ASSOCIATED WITH MR. LEVIN WERE USING YOUR FACILITY, DID
25 EACH OF THEM HAVE TO SIGN A DIFFERENT AGREEMENT OR WERE
26 THEY ALL SUBSUMED IN ONE?

27 A NO.

28 THIS WAS SUPPOSEDLY ALL OF THE COMPANIES THAT

1 BELONGED OR WERE OWNED BY MR. LEVIN. THESE WERE ALL OF
2 THE COMPANY NAMES. THOSE NAMES, THE NAME ON THAT CONTRACT
3 OR THAT AGREEMENT ARE NAMES THAT HE HAD WRITTEN ON AN AGREEMENT
4 OR SOMEONE HAD.

5 I DID NOT SIGN MR. LEVIN TO THAT CONTRACT. ANOTHER
6 PERSON DID.

7 THIS CAN BE DONE THROUGH THE MAIL AS WELL AS
8 IN PERSON, BY THE WAY.

9 Q I SEE.

10 I NOTICE THAT THE NAMES YOU GAVE LAST WEEK SEEMED
11 TO BE MORE EXTENSIVE THAN THE NAMES ON THIS AGREEMENT.

12 A YES.

13 Q WHERE IS THE LIST YOU HAD THAT GAVE YOU THOSE
14 NAMES?

15 A ON THE FILE.

16 MR. BARENS: COULD I APPROACH TO SEE THAT, YOUR HONOR?

17 THE COURT: YES.

18 MR. BARENS: I AM GOING TO GIVE THE WITNESS BACK 139
19 AT THIS POINT, YOUR HONOR.

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1 MR. BARENS: I SEE THAT THIS IS CAPTIONED "ADDENDUM
2 NO. 1 TO AGREEMENT." I DON'T BELIEVE THAT HAS BEEN MARKED,
3 YOUR HONOR. BUT WE WOULD MARK IT AS DEFENDANT'S NEXT,
4 WHATEVER THAT IS.

5 THE COURT: WELL, WHY DON'T WE HAVE IT AS A PART OF
6 ONE AGREEMENT, SHALL WE?

7 MR. BARENS: YES. WE COULD MAKE IT 139-A.

8 THE COURT: YES, 139-A.

9 MR. BARENS: IF YOU WOULD THEN, HAS IT BEEN YOUR PRACTICE
10 TO NOTE THAT ON HERE, MR. WAPNER? DO YOU NOTE THAT AS IT
11 HAPPENS?

12 MR. WAPNER: YES.

13 MR. BARENS: SO WE'LL PUT IT IN THE UPPER RIGHT-HAND
14 CORNER, YOUR HONOR.

15 THE COURT: ALL RIGHT.

16 Q BY MR. BARENS: IN ANY EVENT, THIS WAS THE
17 ADDENDUM TO THE PREVIOUS AGREEMENT THAT YOU HAVE BEEN
18 TESTIFYING ABOUT?

19 A THAT'S CORRECT.

20 Q AND ON HERE, IT LISTS SOME ADDITIONAL NAMES THAT
21 I DON'T SEE ON 139-A.

22 A THAT'S CORRECT.

23 Q THAT WOULD INCLUDE THE MAY BROTHERS LAND COMPANY,
24 PRESLEY REED, M.D.?

25 A CORRECT.

26 Q WHO WAS PRESLEY REED, M.D.?

27 A I HAVE NO IDEA.

28 Q DID YOU EVER MEET ANYONE THAT REPRESENTED THEMSELVES

1 AS BEING PRESLEY REED, M.D.?

2 A NO, I DIDN'T.

3 Q AND HE DIDN'T HAVE A SIGNATURE CARD WITH YOU?

4 A NO, HE DIDN'T.

5 Q AND DID MR. LEVIN EVER TELL YOU THAT HE WAS
6 PRESLEY REED, M.D.?

7 A NEVER.

8 Q AND DID YOU EVER SEE MR. LEVIN WEARING ANY
9 PHYSICIAN'S CLOTHING?

10 A NO.

11 Q DID YOU EVER MEET R. MICHAEL WEATHERBY?

12 A NO, I HAVE NOT.

13 Q AND I NOTICE THAT YOU HAVE A SIGNATURE ON FILE
14 WITH HIM ON 139-A?

15 A THAT'S CORRECT.

16 Q DID YOU SEE HIM SIGN THAT?

17 A NO, I DIDN'T.

18 Q DO YOU HAVE ANY IDEA WHO THAT PERSON WAS?

19 A NO, I HAVE NOT.

20 Q YOU NEVER MET HIM?

21 A NO.

22 Q WERE YOU EVER PRESENT WHEN MR. LEVIN SIGNED ONE
23 OF THE CONTRACTS?

24 A NO, I WAS NOT.

25 Q DO YOU KNOW WHETHER THEY WERE HANDLED IN PERSON
26 OR THROUGH THE MAIL?

27 A NO, I DON'T.

28 Q MR. LEVIN WAS A FAIRLY DISTINCTIVE LOOKING MAN,

1 WAS HE NOT?

2 A THAT'S CORRECT.

3 Q AND THE KIND OF APPEARANCE OR THE KIND OF APPEARING
4 PERSON THAT YOU WOULD REMEMBER HIS LOOKS?

5 A ABSOLUTELY.

6 Q ANYTHING DISTINCTIVE ABOUT HIM THAT YOU RECALL?

7 A AS FAR AS FACIALLY?

8 Q YES, MA'AM.

9 A HIS HAIR AND HIS BEARD.

10 Q THE WAY IT WAS MANICURED?

11 A THE COLOR, GRAY AND WHITE AND THE WAY HE WAS
12 GROOMED, YES.

13 Q WAS HE APPARENTLY FASTIDIOUS ABOUT --

14 A EXTREMELY.

15 Q DO YOU KNOW WHETHER OR NOT MR. LEVIN RECEIVED
16 AND PICKED UP MAIL AT ANY OTHER LOCATION?

17 A NO, I DON'T.

18 Q WOULD YOU HAVE ANY WAY TO KNOW OR WOULD THERE BE
19 ANY REFERENCE IN HERE THAT HE DID?

20 A WELL, POSSIBLY AT HIS HOME ADDRESS.

21 Q YOU HAD NOTHING IN YOUR FILES TO INDICATE THAT
22 MAIL WAS FORWARDED TO A DIFFERENT LOCATION?

23 A NO, I DIDN'T.

24 Q YOU TESTIFIED LAST WEEK, THAT IN DECEMBER I BELIEVE,
25 MR. LEVIN PAID UP HIS OBLIGATION WITH YOUR COMPANY FOR A
26 PERIOD OF TIME, IS THAT CORRECT?

27 A NO. IT WAS MISUNDERSTOOD, IF THAT IS WHAT YOU
28 THOUGHT.

1 THE COURT: UP THROUGH DECEMBER, SHE SAID.

2 Q BY MR. BARENS: IT WAS PAID UP THROUGH DECEMBER?
3 SORRY. I HAD THAT REVERSED.

4 A RIGHT.

5 Q HOW MUCH IS THAT PAYMENT?

6 A THERE IS NO RECORD IN HERE OF THOSE PAYMENTS.
7 I DID NOT SEE HIM SIGN UP. I WAS NOT PRESENT DURING THE
8 PERIOD OF THE ADDENDUM. I DID NOT KEEP THESE RECORDS SO I
9 HAVE NO RECORDS.

10 Q DO YOU KNOW AS YOU TESTIFY TODAY, WHAT IT WOULD
11 COST FOR INSTANCE, IF I WERE GOING TO USE AS A SINGLE USER,
12 YOUR FACILITY FOR SIX MONTHS? IS THAT HOW YOU DO IT?

13 A CORRECT.

14 Q AND HOW MUCH?

15 A WELL, WE DO IT IN PERIODS OF THREE MONTHS.

16 Q HOW MUCH WOULD THAT COST?

17 A WELL, 85 TIMES 6, PLUS WHATEVER POSTAGE YOU WOULD
18 HAVE.

19 Q 85 TIMES 6 FOR THREE MONTHS?

20 A PLUS WHATEVER POSTAGE YOU WOULD HAVE.

21 Q OKAY. NOW, DO YOU GET ANY REFERENCES ON TO
22 PEOPLE THAT USE YOUR SERVICE?

23 A DURING THAT PERIOD OF TIME, WE DID. I AM SURE
24 THEY DID.

25 I SHOULD NOT SAY "WE". I WAS NOT MANAGER WHEN
26 HE SIGNED UP FOR THIS SERVICE. WE GOT T.R.W.'S.

27 Q YOU DON'T HAVE ANY COPY OR RECORD OF THAT AS YOU
28 SIT THERE NOW?

1 A SHE NEVER HAS THAT IN THE FILE.

2 Q ALL RIGHT. AND YOU SAY THAT YOU FOUND A NOTE
3 OF MR. HUNT'S FOR 6/21/83?

4 A YES.

5 Q COULD I SEE THAT, PLEASE?

6 A YES.

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1 Q WERE YOU THERE IN 1983?

2 A YES, I WAS.

3 Q AND AFTER YOU GET A NOTE LIKE THAT, DO YOU CHECK
4 IT WITH THE CUSTOMER TO SEE IF IT HAS BEEN PROPERLY AUTHORIZED?

5 A WHAT USUALLY HAPPENS MORE OFTEN THAN NOT, THE
6 CUSTOMER WILL CALL US AND TELL US SOMEONE IS COMING DOWN
7 AND THEN WHEN THE PERSON COMES, IF WE HAVE NO KNOWLEDGE
8 OF THIS PERSON OR HAVE NOT SEEN THAT PERSON BEFORE, WE WILL
9 HAVE HIM SIGN SOMETHING LIKE THAT.

10 Q DO YOU KNOW WHETHER YOU RECEIVED CONFIRMATION
11 OR AUTHORIZATION FOR THE 1983 DOCUMENT?

12 A I DO NOT, BECAUSE I WASN'T THE RECEPTIONIST.
13 THE RECEPTIONIST WOULD BE THE ONE TO GET THE
14 CALL.

15 Q BUT THE NORMAL PROCEDURE WAS THAT COULD NOT
16 EXIST IN A VACUUM, IT WOULD SOMEHOW OR OTHER HAVE TO BE
17 CONFIRMED.

18 A AUTHORIZED.

19 Q OR AUTHORIZED?

20 A CORRECT.

21 Q BY THE CLIENT?

22 A CORRECT.

A FO.

23

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-1 1 Q YOU MENTIONED LAST WEEK THAT OCCASIONALLY MR.
2 LEVIN WOULD COME IN AND TELL YOU HE HAD BEEN OUT OF TOWN?

3 A THAT'S CORRECT.

4 Q AND WOULD HE TELL YOU WHERE HE HAD BEEN ON THOSE
5 OCCASIONS?

6 A NOT NECESSARILY, NO.

7 Q DO YOU RECALL ANY OCCASION WHERE HE TOLD YOU
8 WHERE HE HAD BEEN?

9 A NO, I DON'T.

10 Q NONE AT ALL?

11 A NOT THAT I CAN TRUTHFULLY SAY, NO.

12 MR. BARENS: A MOMENT, IF YOU WOULD, YOUR HONOR.

13 THANK YOU VERY MUCH, YOUR HONOR.

14 THE COURT: ANY REDIRECT?

15 MR. WAPNER: YES, YOUR HONOR.

16
17 REDIRECT EXAMINATION

18 BY MR. WAPNER:

19 Q CAN YOU JUST READ US THE NOTE THAT IS NO. 140?

20 THE COURT: 140?

21 MR. WAPNER: YES.

22 THE WITNESS: YES. THIS IS 140?

23 MR. WAPNER: YES.

24 THE WITNESS: "I, JOSEPH HUNT, HAVE BEEN AUTHORIZED
25 TO PICK UP RON LEVIN'S MAIL ON THIS DATE. 6-21-83" SIGNED
26 "JOSEPH HUNT, 6-21-83."

27 Q BY MR. WAPNER: WHY WOULD YOU -- STRIKE THAT.

28 I THINK YOU JUST EXPLAINED THAT ALREADY.

1 MR. BARENS: FOR THE RECORD, YOUR HONOR, FOR THE PURPOSES
2 OF THE RECORD, YOUR HONOR, THE DEFENSE WILL STIPULATE THAT
3 THAT IS OUR CLIENT'S HANDWRITING AND SIGNATURE.

4 THE COURT: ALL RIGHT. ACCEPT IT?

5 MR. WAPNER: YES.

6 MAY I HAVE A MOMENT?

7 MR. WAPNER: WHEN YOU SAW MR. LEVIN WHEN HE USED TO
8 COME IN TO PICK UP HIS MAIL, HOW WOULD YOU DESCRIBE HOW
9 HE WAS DRESSED GENERALLY?

10 A USUALLY, SUMMER TYPE CLOTHES. IMMACULATE. VERY
11 OFTEN LIGHT-COLORED.

12 HE WAS A VERY STRIKING CHARACTER.

13 Q WHEN YOU SAY IMMACULATE, WHAT DO YOU MEAN?

14 A IT WAS --

15 THE COURT: WELL-GROOMED, YOU MEAN?

16 THE WITNESS: EXTREMELY WELL-GROOMED.

17 Q BY MR. WAPNER: DID HE HAVE A PHONE ANSWERING
18 SERVICE THAT WAS PAID FOR THROUGH YOUR SERVICES?

19 A YES, HE DID.

20 Q CAN YOU EXPLAIN THAT, PLEASE?

21 A ALL RIGHT. ON OUR SERVICE; AS A COURTESY TO
22 OUR MAIL PEOPLE, WE CONTRACT AN ANSWERING SERVICE AND THEY
23 IN TURN BILL US FOR THE CLIENTS AND THEN WE BILL THE CLIENT.

24 Q AND STARTING IN MAY OF 1984, DID YOU CONTRACT
25 WITH AN ANSWERING SERVICE TO HANDLE MR. LEVIN'S CALLS?

26 A IN MAY OF '84?

27 Q YES.

28 A FROM WHAT I CAN GATHER HERE, IT WAS ORIGINALLY

1 CONTRACTED FROM THE VERY BEGINNING.

2 NOW, I DON'T KNOW WHAT GAIL DID. I DON'T KNOW
3 WHAT ANSWERING SERVICE WE DID CONTRACT.

4 WE HAD TWO ANSWERING SERVICES. IT IS POSSIBLE
5 THAT HE CHANGED TO THE OTHER ANSWERING SERVICE, THE SECOND
6 ONE, THE NEWEST ONE WHICH ANSWERS RIGHT --

7 Q BUT SINCE HE HAD THE SERVICE WITH YOU, HE ALWAYS
8 HAD AN ANSWERING SERVICE?

9 A FROM WHAT I CAN SEE ON THIS, YES.

10 Q AND WHAT WAS THE DATE THAT HE STARTED WITH
11 YOU?

12 A 5-16-83.

13 Q DO YOU KNOW WHEN IT WAS THAT HE MADE THE PAYMENT
14 THAT EXTENDED THE SERVICE THROUGH DECEMBER?

15 A NO, I DON'T.

16 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

17 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU MAY
18 STEP DOWN.

19 THIS WITNESS MAY BE EXCUSED?

20 MR. WAPNER: I HAVE NO OBJECTION.

21 THE COURT: ALL RIGHT.

22 MR. WAPNER: CALL GERALD STONE.

23

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GERALD STONE,

25 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
26 AS FOLLOWS:

27

THE CLERK: RAISE YOUR RIGHT HAND, PLEASE.

28

YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU

1 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
2 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
3 SO HELP YOU GOD?

4 THE WITNESS: YES.

5 THE CLERK: IF YOU WILL BE SEATED THERE AT THE WITNESS
6 STAND.

7 THE WITNESS: STATE YOUR NAME FOR THE RECORD, PLEASE.

8 THE WITNESS: JERRY STONE.

9 THE CLERK: J --

10 THE WITNESS: J-E-R-R-Y S-T-O-N-E.

11
12 DIRECT EXAMINATION

13 BY MR. WAPNER:

14 Q MR. STONE, IN 1984, DID YOU OWN A BUSINESS?

15 A YES, I DID, SIR.

16 Q WHAT WAS THE NAME OF THE BUSINESS?

17 A ANSWERITE TELEPHONE ANSWERING SERVICE.

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1 Q AND DID YOU HAVE AS ONE OF YOUR CLIENTS, A
2 RONALD LEVIN?

3 A YES, I DID.

4 Q DID YOU EVER MEET MR. LEVIN?

5 A NO, I HAD NOT.

6 Q WHEN DID HE BECOME A CLIENT OF YOURS?

7 A I BELIEVE IT WAS THE LAST WEEK IN MAY OR
8 THEREABOUTS.

9 THE COURT: MAY OF WHAT YEAR?

10 THE WITNESS: '84.

11 Q BY MR. WAPNER: WHEN A PERSON -- WELL, STRIKE THAT.
12 DID HE COME TO YOUR ANSWERING SERVICE THROUGH BEVERLY HILLS
13 EXECUTIVE SERVICES?

14 A YES, HE DID.

15 Q WHEN HE CAME TO YOUR SERVICE, HOW DID YOU ESTABLISH
16 THE SERVICE WITH HIM?

17 A WELL, BEVERLY HILLS EXECUTIVE SERVICE CALLED ME
18 AND TOLD ME THAT THEY HAD A NEW CUSTOMER TO BE PUT ON THE
19 ANSWERING SERVICE.

20 WHAT THEY DID, WHEN THEY TOOK THE MAIL SERVICE,
21 IF THERE WERE ANY CLIENTS THAT WANTED A 24-HOUR ANSWERING
22 SERVICE, THEY WOULD CONTRACT WITH ME TO GIVE THEM -- SUPPLY
23 THE ANSWERING SERVICE.

24 SO, AT FIRST PHYLLIS HAD CALLED FROM THE BEVERLY
25 HILLS EXECUTIVE SUITE TO TELL ME THAT THEY WERE SENDING OUT
26 A NEW CLIENT. THEN MR. LEVIN CALLED HIMSELF.

27 Q AND WHEN MR. LEVIN CALLED, DID YOU SPEAK WITH HIM?

28 A YES, I DID.

1 MR. BARENS: OBJECTION, YOUR HONOR. WE DON'T HAVE
2 ANY FOUNDATION AT ALL THAT THIS GENTLEMAN WOULD KNOW IF IT
3 WAS MR. LEVIN CALLING.

4 THE COURT: DID HE CALL ANY MORE THAN ONCE?

5 THE WITNESS: SEVERAL TIMES.

6 THE COURT: OVERRULED. GO AHEAD.

7 MR. BARENS: JUST FOR THE RECORD, THE OBJECTION GOES
8 TO AUTHENTICATION.

9 THE COURT: YES.

10 MR. BARENS: THANK YOU, YOUR HONOR.

11 Q BY MR. WAPNER: WHEN THIS PERSON CALLED
12 REPRESENTING HIMSELF AS MR. LEVIN, WHAT DID YOU TALK TO HIM
13 ABOUT?

14 A HOW HIS PHONE WAS TO BE ANSWERED, SEVERAL NAMES
15 OF COMPANIES THAT HE HAD, THE PEOPLE THAT WE WERE TO TAKE
16 MESSAGES FOR AND HOW HE HAD WANTED HIS MESSAGES HANDLED AND
17 SO FORTH.

18 Q DID YOU TAKE THAT INFORMATION AND PUT IT ON ANY
19 DOCUMENTS?

20 A YES, I DID.

21 Q WHAT KIND OF A DOCUMENT?

22 A WELL, THERE WAS A FORM THAT WE FILL OUT WHEN I
23 SPEAK TO A CLIENT ON THE TELEPHONE.

24 AND I WRITE YOU KNOW, ALL KINDS OF NOTES.
25 THEN WE HAVE IT TYPED UP OR THE COMPUTER MAKES UP THE
26 INFORMATION CARD.

27 MR. WAPNER: YOUR HONOR, I HAVE A DOCUMENT WHICH I WOULD
28 LIKE TO HAVE MARKED AS PEOPLE'S 110 FOR IDENTIFICATION.

1 THE COURT: BE SO MARKED.

2 MR. WAPNER: AND ALSO SEVERAL DOCUMENTS, SMALL WHITE
3 PIECES OF PAPER CONTAINED IN A SMALL, MANILA ENVELOPE AS
4 PEOPLE'S 111 FOR IDENTIFICATION.

5 THE COURT: SO MARKED.

6 Q BY MR. WAPNER: SHOWING YOU PEOPLE'S 110 FOR
7 IDENTIFICATION, DO YOU RECOGNIZE THAT?

8 A YES, I DO.

9 Q WHAT IS IT?

10 A THIS IS THE CARD THAT STAYED UP ON THE SWITCHBOARD
11 AND WHEN THE PHONE RANG, THE OPERATORS REFERRED TO IT, TO
12 KNOW HOW TO ANSWER THE PHONE AND WHAT INFORMATION TO TAKE
13 FROM THE CALLER OR WHO TO TAKE MESSAGES FROM AND HOW TO HANDLE
14 THE MESSAGES.

15 Q WHERE DO YOU GET THE INFORMATION THAT YOU PUT
16 ON THAT CARD?

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1 A FROM THE CLIENT.

2 Q SO WHEN YOU HAVE TALKED TO MR. LEVIN AND YOU
3 SAID YOU TALKED TO HIM AND YOU TOOK NOTES ABOUT WHAT HE WANTED,
4 THEN YOU TRANSLATED THOSE NOTES INTO A COMPUTER. IS THAT
5 RIGHT?

6 A WELL, THE WORD PROCESSOR THAT MAKES UP THE CARDS.

7 Q SO THE INFORMATION THAT IS ON THAT CARD, COMES
8 FROM THE INITIAL INTERVIEW OR DISCUSSION THAT YOU HAVE WITH
9 THE CLIENT?

10 A RIGHT.

11 Q OKAY. AND WHAT INFORMATION DID YOU PUT ON THAT
12 CARD?

13 A WELL, FIRST -- DO YOU WANT ME TO GO THROUGH
14 EVERYTHING ON IT?

15 Q YES.

16 A FIRST IS HIS CODE NUMBER WHICH IS 668. THAT
17 IS THE RELATIONSHIP THAT HE WAS ON, BOARD NO. 6, JACK NO. 68.

18 Q STOP THERE FOR A SECOND. THE CODE NUMBER WAS
19 668, CORRECT?

20 A RIGHT.

21 Q NOW, WOULD YOU EXPLAIN TO THE JURY, WHAT THAT MEANS?

22 A OKAY. WHEN A CLIENT CALLED UP, SO WE WOULD MAKE
23 SURE NOT TO GIVE HIS MESSAGE TO SOMEBODY WHO WAS UNAUTHORIZED,
24 BESIDES HAVING THEIR NAME, THEY HAD A CODE NUMBER.

25 SO THE CLIENTS WOULD CALL UP AND SAY, "THIS IS
26 668. DO YOU HAVE ANY MESSAGES TODAY?" THAT KIND OF GAVE
27 THEM A LITTLE BIT OF SECURITY.

28 Q AND DID THE 668 MEAN ANYTHING ELSE TO YOU?

1 A LIKE I SAY, IT MEANT THE LOCATION ON THE SWITCHBOARD
2 WHERE HE WAS AND IN ORDER TO GET HIM HOOKED UP, HE HAD TO
3 USE THAT INFORMATION. IT WAS TO IDENTIFY THE CABLE PAIR THAT
4 WAS BEING HOOKED UP TO IT.

5 Q WHEN YOU SAY THE LOCATION ON THE SWITCHBOARD,
6 WHAT DO YOU MEAN?

7 A WELL, THERE WERE SIX SWITCHBOARDS AT THE TIME IN
8 THE OFFICE. AND EACH SWITCHBOARD HAS 100 PLACES FOR 100 JACKS
9 ON IT. EVERY CLIENT WENT UNDER ONE PARTICULAR JACK.

10 Q AND SO HIS JACK WOULD BE NO. 68?

11 A HE WAS ON SWITCHBOARD 6 AND HE WAS ON JACK NO. 68.

12 Q IF A CLIENT, IN THIS CASE MR. LEVIN, WAS GOING
13 SOMEWHERE AND WANTED YOU TO PICK UP HIS MESSAGES, WOULD HE
14 HAVE TO CALL AND SAY TO PUT THE EXCHANGE ON 668?

15 A NO, HE WOULDN'T. WE WOULD AUTOMATICALLY DO IT.

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1 Q HOW DO YOU KNOW THAT?

2 A BECAUSE THE CLIENTS THAT LIKE, LET'S SAY,
3 MR. LEVIN HAD AN OFFICE AND HE HAD A SECRETARY, FOR EXAMPLE,
4 AND THEY ONLY WANTED US TO CALL WHEN SHE WENT OUT TO LUNCH,
5 THEY WOULD CALL IN AND SAY "PICK UP NOW. WE ARE GOING TO
6 LUNCH" OR "WE ARE TAKING A BREAK" OR WHATEVER, SO WE WOULD
7 INDICATE THAT ON THE CARD.

8 OTHERWISE, WE WOULD PICK IT UP AFTER THE THIRD
9 RING.

10 Q WHAT IS THERE ON THAT CARD THAT INDICATES HOW
11 YOU WERE SUPPOSED TO ANSWER THE PHONE?

12 A WELL, YOU CAN'T SEE IT BUT NEXT TO THE CODE IT
13 SAYS THE NAME OF THE CLIENT, OF THE ACCOUNT WAS NETWORK NEWS.
14 THAT IS HOW WE ANSWERED IT.

15 Q IN OTHER WORDS, IF YOU PICKED UP THE PHONE, YOU
16 WOULD ANSWER IT BY SAYING "NETWORK NEWS"?

17 A SAY "NETWORK NEWS," RIGHT.

18 Q IN TERMS OF THE INSTRUCTIONS HE GAVE YOU AS TO
19 WHETHER YOU WERE TO ANSWER ALL OF HIS CALLS OR JUST WAIT
20 FOR INSTRUCTIONS, WHAT WAS THAT?

21 A OH, THAT WAS SET UP ON THE SWITCHBOARD AND HAD
22 BEEN ON THE THIRD RING, WHICH IS THE VAST MAJORITY OF THEM.
23 IN OTHER WORDS, THE SWITCHBOARD WAS SET UP LIKE AN EXTENSION
24 OF HIS TELEPHONE AND WHEN IT RANG IN HIS PLACE OF BUSINESS
25 OR HIS RESIDENCE, WHEREVER THE PHONE MIGHT BE, IT SIMULTANEOUSLY
26 RANG ON THE SWITCHBOARD AND IT WOULD DO TWO THINGS: THE
27 SWITCHBOARD WOULD BUZZ PLUS A LIGHT WOULD GO ON AND THE
28 OPERATOR WOULD COUNT THE RINGS AND AFTER THE THIRD RING, THE

1 OPERATOR WOULD ANSWER THE RING.

2 Q MR. LEVIN'S INSTRUCTIONS WERE HE WOULDN'T HAVE
3 TO CALL YOU TO PICK IT UP? IT WAS AUTOMATICALLY DONE?

4 A THAT'S CORRECT.

5 Q AND IF HE DIDN'T HAPPEN TO BE HOME, YOU WOULD
6 PICK IT UP AFTER THREE RINGS?

7 A IT IS QUITE COMMON IF PEOPLE WERE DOING OTHER
8 THINGS, THEY DIDN'T WANT TO BE BOTHERED, THEY DIDN'T WANT
9 TO ANSWER THE PHONE, THERE WAS A MILLION REASONS WHY PEOPLE
10 DIDN'T NECESSARILY WANT TO PICK UP THEIR OWN PHONE. THEY
11 MIGHT HAVE BEEN ON ANOTHER PHONE.

12 Q AND THE CARD, STARTING WITH 568, WHAT IS THAT NEXT
13 ONE?

14 A THEN IT SAYS "NETWORK NEWS," HOW WE ANSWER IT. HE
15 DIDN'T GIVE US ANY INSTRUCTIONS FOR COLLECT CALLS.

16 FOR MESSAGE INSTRUCTIONS, HE BASICALLY WANTED
17 THE NAME AND NUMBER, YOU KNOW, THE PHONE NUMBER AND ANY
18 MESSAGE TO TAKE.

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1 Q WHEN YOU SAY MESSAGE INSTRUCTIONS, WHAT DO YOU
2 MEAN?

3 A WELL, SOME PEOPLE MIGHT WANT AN ORDER NUMBER OR,
4 YOU KNOW, THERE IS ALL KINDS OF INSTRUCTIONS, LIKE MAKE
5 APPOINTMENTS FOR THEM.

6 HE DIDN'T HAVE ANY SPECIAL INSTRUCTIONS. THE
7 NAME AND NUMBER AND MAKE SURE WE GET A PHONE NUMBER. IT
8 WAS HIS INSTRUCTION TO TRY AND GET A PHONE NUMBER.

9 Q TO TRY AND GET A NAME AND PHONE NUMBER?

10 A PHONE NUMBER, RIGHT.

11 THEN HE HAS PERSONNEL, WHO WOULD BE TAKING HIS
12 MESSAGES: RON LEVIN, PRESLEY REED M.D., R.M. WEATHERBY AND
13 OLIVER HOLMES.

14 Q AND THAT INFORMATION YOU ALSO GOT FROM MR. LEVIN?

15 A RIGHT.

16 Q AND WHAT ELSE IS ON THAT CARD?

17 A WELL, THEN THERE IS A PLACE FOR OFFICE HOURS,
18 WHICH HE DIDN'T HAVE, AND THE TIME TO CLEAR HIS MESSAGES.

19 A LOT OF CLIENTS WANTED US TO CALL WITH THEIR
20 MESSAGES, SAY, AT 9:00 IN THE MORNING OR AT 3:00 IN THE
21 AFTERNOON TO SEE IF THEY HAD ANY. BUT HE DIDN'T ASK FOR
22 THAT.

23 THEN IT HAS OTHER INFORMATION, A.K.A., ALSO KNOWN
24 AS GENERAL PRODUCERS, GENERAL NEWS CORPORATION AND GENERAL
25 INSTITUTE OF REPORTING.

26 THEN IT HAD THE PHONE NUMBER 2745100 AND THE
27 ADDRESS IS 144 SOUTH BEVERLY DRIVE AND IT SAYS "ANSWER BY
28 NETWORK NEWS."

1 Q WHAT WERE THE NAMES OF THOSE THREE COMPANIES
2 AND THEIR SIGNIFICANCE?

3 A I WILL GIVE THE NAMES AGAIN: GENERAL PRODUCERS,
4 GENERAL NEWS CORPORATION AND GENERAL INSTITUTE OF REPORTING.
5 TO ME, THERE WAS NO SIGNIFICANCE.

6 Q WHY WERE THEY LISTED ON THAT CARD?

7 A BECAUSE HE SAID THESE WERE OTHER COMPANIES THAT
8 HE HAS.

9 Q BUT HE DIDN'T HAVE YOU ANSWER THE PHONE UNDER
10 THOSE NAMES?

11 A NO.

12 WE ONLY ANSWERED THE ONE LINE.

13 Q AND THE TELEPHONE NUMBER THAT YOU ANSWERED WAS
14 274-5100?

15 A RIGHT.

16 Q AND WHEN DID HE START WITH YOUR SERVICE?

17 A 5-22-84.

18 Q THAT IS INDICATED THERE?

19 A ON THE CARD, RIGHT.

20 Q 5-22-84?

21 A '84.

22 Q AND BESIDES OWNING THE SERVICE, DID YOU WORK
23 THERE, ANSWERING THE PHONES?

24 A I WORKED THERE. WHENEVER NEED BE, I ANSWERED THE
25 PHONES.

26 AT THAT TIME, IT WAS A FULL-TIME BUSINESS FOR ME.

27 Q WHERE WAS YOUR BUSINESS LOCATED?

28 A AT 9300 WILSHIRE BOULEVARD.

1 Q AND WHEN YOU SAY IT WAS FULL TIME --

2 A BEVERLY HILLS.

3 Q -- FOR YOU, HOW MANY HOURS A DAY WOULD YOU WORK
4 THERE?

5 A WELL, PROBABLY, YOU KNOW, 50, 60. SOME DAYS ARE
6 MORE, SOME DAYS LESS. PROBABLY IT WAS AT LEAST 50 HOURS A
7 WEEK, I GUESS.

8 Q AND UP UNTIL JUNE THE 6TH OF 1984, WERE YOU
9 FAMILIAR WITH MR. LEVIN'S PRACTICE OF PICKING UP HIS MESSAGES?

10 A UNTIL THAT TIME, HE DID PICK UP HIS MESSAGES
11 VERY REGULARLY.

12 Q WHAT DOES THAT MEAN?

13 A PROBABLY -- THERE WAS NEVER ANY ACCUMULATION OF
14 MESSAGES AND HE DID GET QUITE A FEW, SO IT WOULD HAVE BEEN
15 SEVERAL TIMES A DAY THAT HE CALLED.

16 Q EXPLAIN THE PROCEDURE THAT HAPPENS WHEN A MESSAGE
17 IS TAKEN BY SOMEONE IN YOUR SERVICE?

18 A OKAY. THERE IS A WHITE -- THEY USE A PLAIN PIECE
19 OF THREE BY FIVE PAD AND THEY TIME STAMP IT AND WRITE THE
20 TIME IN AND THEN ON TOP OF IT, TRADITIONALLY, THEY WILL WRITE
21 WHO THE MESSAGE WAS FOR, WHO CALLED, THE TELEPHONE NUMBER
22 AND IF THERE IS ANY MESSAGE THAT THEY WOULD TAKE, THEN THEY
23 WOULD TAKE THE MESSAGE AND AFTER IT WAS HANDLED, THEN THEY
24 WOULD PUT IT UP IN THE CLIENT'S BOX.

25 WHEN THE CLIENT CALLED IN, THEY WOULD TAKE THE
26 MESSAGE AND THEY WOULD STAMP -- THEY WOULD STAMP THE MESSAGE
27 OUT AND PUT IT IN THE BOX TO BE FILED AWAY FOR -- WE WOULD
28 SAVE THEM THREE MONTHS AND SOMETIMES PEOPLE LOSE A NUMBER OR

1 FORGET IT OR WHATEVER.

2 Q DID EACH CLIENT HAVE A BOX?

3 A EACH CLIENT HAD A BOX, RIGHT.

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1 Q AND WHEN YOU SAID THAT MR. LEVIN HAD IN HIS
2 BOX, THAT THERE WAS NO ACCUMULATION OF MESSAGES, HOW COULD
3 YOU TELL THAT?

4 A WELL, BECAUSE I USED TO GO OUT A COUPLE OF TIMES
5 A DAY AND CHECK TO SEE WHO HAD MESSAGES AND WHO DIDN'T HAVE
6 MESSAGES AND WE WOULD TRY AND CLEAR THEM IF WE COULD.

7 Q WHAT HAPPENED AFTER JUNE THE 6TH OF 1984?

8 A HE -- THE MESSAGES -- HE HADN'T CALLED IN FOR
9 HIS MESSAGES AND THE MESSAGES JUST KEPT ACCMULATING.

10 Q DID YOU KEEP ALL OF THE MESSAGES THERE IN THE
11 BOX?

12 A YES, I DID.

13 AND THEN IT OVERFLOWED IN THE NEXT BOX AND SO
14 FORTH.

15 Q AND DID YOU BEGIN TO NOTICE AFTER A WHILE THAT
16 HE HADN'T PICKED UP THE MESSAGES?

17 A YES, I DID.

18 Q DID IT BECOME SOMEWHAT OF A TOPIC OF CONVERSATION
19 AT THE BUSINESS?

20 A IT WAS KIND OF LIKE, YOU KNOW, THE OFFICE JOKE,
21 "WHEN IS RON LEVIN GOING TO PICK UP HIS MESSAGES?"

22 FO.
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-1 1 Q DID YOU MAKE BETS ON IT?

2 A WELL, IT WAS NOT A BETTING CROWD. BUT IT COULD
3 HAVE BEEN THE OFFICE POOL.

4 ALL RIGHT. AND DID HE EVER PICK UP HIS MESSAGES?

5 A NO.

6 Q DID YOU SAVE ALL OF THE SLIPS?

7 A WELL, IT WAS OUR PRACTICE TO SAVE THEM FOR 90
8 DAYS. SO WE DID UNTIL I THINK LIEUTENANT ZOELLER --

9 Q IS THAT DETECTIVE ZOELLER?

10 A DETECTIVE ZOELLER GOT THEM.

11 Q DID YOU GIVE THEM TO DETECTIVE ZOELLER OF THE
12 BEVERLY HILLS POLICE DEPARTMENT?

13 A YES, I DID.

14 Q SHOWING YOU AN EXHIBIT WHICH WE HAVE MARKED
15 AS PEOPLE'S 111 FOR IDENTIFICATION, WOULD YOU LOOK AT THAT
16 AND TELL ME IF YOU RECOGNIZE IT?

17 A THOSE ARE OUR MESSAGES.

18 THE COURT: IS THAT SINCE JUNE 6?

19 THE WITNESS: SINCE JUNE 6, RIGHT.

20 Q BY MR. WAPNER: THOSE ARE THE MESSAGES THAT
21 HE ACCUMULATED IN THE BOX OF MR. LEVIN?

22 A YES, THEY ARE.

23 Q AND IS THERE NORMALLY, WHEN YOU TAKE THE MESSAGES,
24 DO YOU PUT THE DATE ON THERE?

25 A YES, WE DO. THERE WAS A COUPLE OF TIME CLOCKS
26 WE USED TO STAMP IN THE DATE. SOMETIMES WE USE A MANUAL
27 STAMPER AND WRITE IN THE TIME.

28 Q AND DO THERE APPEAR TO BE ABOUT FOUR MESSAGES

0-2

1 HERE THAT DON'T GIVE THE DATES ON THEM AT ALL?

2 A WELL, ONE HAS PART OF A DATE.

3 Q WHAT IS THE PARTIAL DATE ON THERE?

4 A JULY, 1979, OR SOMETHING.

5 Q IS THAT AN ERROR, DO YOU THINK?

6 A WELL, THE YEAR WAS NOT IMPORANTANT TO US. JUST
7 THE MONTH AND THE TIME.

8 Q WHY WASN'T THE YEAR IMPORTANT?

9 A BECAUSE WE NEVER KEPT MESSAGES MORE THAN THREE
10 MONTHS. ONE OF THE TIME CLOCKS, THE YEAR WHEEL WAS BROKEN.
11 SOMETIMES IT WOULD SPIN AROUND.

12 Q THERE IS NO SPECIFIC DATE ON THAT MESSAGE OTHER
13 THAN SAYING JULY?

14 A THAT IS HOW I AM SO SURE THAT THESE ARE MY
15 MESSAGES BECAUSE I WOULD RECOGNIZE WHETHER THE PRINT WHEEL
16 WAS BROKEN.

17 Q AND THESE OTHER THREE THAT ARE IN THERE, THERE
18 IS NO DATE ON THOSE?

19 A THERE IS NO DATE ON THEM, RIGHT.

20 Q WOULD YOU TAKE A GLANCE THROUGH THE OTHER STACKS
21 THAT ARE THERE AND SEE IF THERE ARE MESSAGES THAT ARE APPROXI-
22 MATELY IN ORDER BY DATE?

23 A THESE APPEAR TO BE. WELL, OTHER THAN THESE
24 FEW, THEY SEEM TO BE IN DATE ORDER.

25 Q ALL RIGHT. AND THOSE FEW ARE MESSAGES FROM
26 ONE PARTICULAR PERSON, IS THAT RIGHT?

27 A RIGHT.

28 Q ALL RIGHT. AND WE'LL GET BACK TO THAT IN A

1 SECOND.

2 OF THE ONES THAT ARE IN ORDER BY DATE, WHAT
3 IS THE EARLIEST DATE ON A MESSAGE THAT YOU HAVE THAT HE
4 DID NOT PICK UP?

5 A JUNE 6.

6 Q OF 1984?

7 A RIGHT.

8 Q ALL RIGHT. WHAT IS THE TIME ON THAT MESSAGE?

9 A THE LAST FIGURE, LAST DIGIT OF THE TIME WAS
10 JUNE 6 AT 9:00 P.M. IT WAS 9:0 -- 9:00 SOMETHING. IT WAS
11 ANYWHERE FROM 9:01 TO 9:09 P.M.

12 IT WAS AFTER 9:01 AND IT WOULD HAVE STOPPED
13 AT 9:10.

14 ONE THING IS THAT THESE OPERATORS HANDLE HUNDREDS
15 OF MESSAGES EVERY DAY. THEY KIND OF DO IT A LITTLE QUICK.

16 SOMETIMES THEY ARE JUST NOT 100 PERCENT. THE
17 LAST DIGIT OF THE 9 IS MISSING. SO IT WAS SOMEWHERE AROUND
18 9:01 AND 9:09 P.M.

19 Q COULD IT EVEN BE 9:00?

20 A 9:00 OR 9:09.

21 Q SO, DOES IT INDICATE ON THAT MESSAGE THAT --
22 IF HE PICKED UP THE MESSAGE, WOULD YOU INDICATE THAT ON
23 HERE?

24 A IF HE PICKED UP THE MESSAGE, SEVERAL THINGS
25 WOULD HAPPEN. FIRST OF ALL, THE OPERATOR WOULD PUT A LINE
26 THROUGH THE FRONT TO SHOW IT WAS PICKED UP. THEN THE SECOND
27 THING THEY WOULD DO IS TIME STAMP THE BACK OF THE MESSAGE
28 AT THE TIME IT WAS PICKED UP. IF THEY EVER WANTED TO KNOW

1 WHAT TIME THEY GOT THE MESSAGE -- A LOT OF TIMES THAT HAPPENS
2 IN THE DAY. WE ARE ABLE TO REFER BACK TO IT.

3 Q IS THERE A LINE THROUGH THE FRONT OF THAT MESSAGE?

4 A NO.

5 Q IS THERE A DATE TIME STAMP ON THE BACK?

6 A NO, THERE IS NOT.

7 Q AND WHAT IS THE LAST DATE FOR WHICH YOU HAVE
8 A MESSAGE THAT MR. LEVIN DID NOT PICK UP?

9 A IT LOOKS LIKE AUGUST 10TH.

10 Q 1984?

11 A RIGHT.

12 Q IS THERE A MESSAGE THERE THAT IS DATED JULY
13 22ND? LET ME JUST DIRECT YOUR ATTENTION TO ONE PARTICULAR
14 PIECE OF PAPER. DO YOU SEE THAT?

15 A YES.

16 Q WHO IS THAT MESSAGE FROM?

17 A DAVID REIS.

18 Q ALL RIGHT. WHAT IS THE TELEPHONE NUMBER ON THERE?

19 A 659-5600.

20 Q AND IS THERE A LINE THROUGH THE FRONT OF IT?

21 A YES, THERE IS.

22 Q ALL RIGHT. AND IS THERE A TIME STAMP ON THE
23 BACK?

24 A NO, THERE IS NOT.

25 Q DID MR. LEVIN PICK UP THAT MESSAGE?

26 A NO, HE DID NOT.

27 Q WHY?

28 A WELL, FIRST OF ALL, THERE WOULD BE TWO WAYS

1 THAT WE WOULD HAVE THE TIME STAMP, IF HE PICKED IT UP.

2 IF HE PICKED IT UP, SAY HE HAD DECIDED FOR SOME
3 REASON OUT OF THAT STACK OF SO MANY MESSAGES THAT HE JUST
4 WANTED THAT ONE AND HE SAID TO GIVE HIM THE ONE MESSAGE
5 AND STOP, THE OPERATOR WOULD PUT AN "H" TO SIGNIFY THAT
6 IT WAS PICKED UP AND THAT IT WAS LEFT ON HOLD.

7 Q WHAT DOES LEFT ON HOLD MEAN?

8 A WELL, IF THE CLIENT PICKED UP A NUMBER AND LET'S
9 SAY HE WAS CALLING FROM A PHONE BOOTH AND HE WANTED TO KNOW
10 WHO CALLED HIM AND HE DIDN'T HAVE A PENCIL AND WAS NOT ABLE
11 TO WRITE IT DOWN, WE WOULD JUST HOLD IT UP THERE AND DON'T
12 FILE THEM AWAY.

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1 Q WHAT WOULD YOU DO WITH THEM NORMALLY AFTER THEY
2 HAD BEEN STRICKEN THROUGH AND THE DATES PUT ON THE BACK?

3 A AFTER THEY -- EACH SWITCHBOARD HAD LIKE A FILE
4 BOX WHERE WE WOULD PUT THEM ON; AT THE END OF THE DAY, THE
5 NIGHT OPERATOR WOULD TAKE THEM AND PUT THEM IN TO THE MASTER
6 FILE.

7 Q SO IT WOULDN'T STAY IN THE BOX WITH ALL OF THE
8 REST OF THEM?

9 A NO.

10 Q WAS THIS MESSAGE YOU HAVE IN FRONT OF YOU DATED
11 JULY 22ND IN THE GROUP OF ALL OF THE REST OF THEM THAT YOU
12 GAVE TO THE DETECTIVE ZOELLER?

13 A YES, IT WAS.

14 Q AND WOULD YOU LOOK THROUGH THE STACK THAT IS --
15 FIRST OF ALL, YOU MAY HAVE DONE THIS: WHAT
16 IS THE TELEPHONE NUMBER, THE CALL-BACK NUMBER FOR REIS?

17 A 659-5600.

18 Q WOULD YOU LOOK THROUGH THE MESSAGES IN THE DATE
19 ORDER AND SEE IF YOU CAN FIND A MESSAGE ON JULY 26 FROM
20 MR. REIS?

21 A NO.

22 Q LET ME DIRECT YOUR ATTENTION TO A MESSAGE THAT
23 APPEARS TO HAVE THE NAME DAVID REIS ON IT; DO YOU SEE THAT?

24 A YES, I DO.

25 Q WHAT IS THE DATE ON THAT?

26 A IT WAS MISFILED.

27 JULY 26TH AT 2:14 P.M.

28 Q WHAT IS THE TELEPHONE NUMBER?

-2

1 A 659-5600, THE SAME NUMBER.

2 Q IT APPEARS TO BE FROM THE SAME PERSON?

3 A RIGHT.

4 MR. WAPNER: MAY I HAVE JUST A MOMENT, YOUR HONOR?

5 MR. WAPNER: DO YOU SEE A MESSAGE HERE DATED JUNE
6 18?

7 A YES, I DO.

8 Q WHO IS THAT FROM?

9 A MR. WEATHERBY.

10 THE COURT: FROM WHOM?

11 THE WITNESS: MR. WEATHERBY.

12 Q BY MR. WAPNER: DOES IT HAVE THE TELEPHONE NUMBER
13 ON IT?

14 A 662-4787.

15 Q THAT WASN'T MR. LEVIN'S NUMBER?

16 A WELL, IT WASN'T THE NUMBER -- IT WASN'T THE
17 NUMBER WE ANSWERED FROM, NO.

18 AND PROBABLY IT WASN'T -- IT PROBABLY WASN'T
19 LEVIN BECAUSE THIS IS A DIFFERENT EXCHANGE.

20 Q I AM SORRY. WOULD YOU REPEAT THAT?

21 A IT IS A DIFFERENT EXCHANGE THAN MR. LEVIN'S.
22 MR. LEVIN WAS A 274 EXCHANGE AND I DON'T BELIEVE 662 WAS
23 IN THE SAME AREA.

24 Q YOU MEAN SINCE THE FIRST THREE DIGITS WERE
25 DIFFERENT THEY WERE IN A DIFFERENT LOCATION PROBABLY?

26 A RIGHT.

27 Q ARE THERE SOME OTHER MESSAGES THAT ARE STRICKEN
28 OUT ON THE FRONT?

1 LET ME DIRECT YOUR ATTENTION TO LIKE THE END
2 OF JULY PERHAPS.

3 A YES, THERE ARE.

4 Q WHAT DO THOSE MESSAGES SAY?

5 A ONE SAYS "LADY WILL CALL BACK."

6 Q WHY WOULD THAT BE STRICKEN OUT ON THE FRONT?

7 A WELL, IT WAS -- THERE REALLY ISN'T A LOT OF
8 ROOM UP THERE FOR ALL THE MESSAGES AND IT WAS REALLY KIND
9 OF A USELESS MESSAGE THAT A LADY WILL CALL BACK, SO WE JUST --
10 I GUESS SOME OF THE OPERATORS ARE MORE EFFICIENT AND WHAT
11 THEY WOULD DO WOULD PUT THEM IN THE BOX RATHER THAN KEEP
12 THEM UP THERE.

13 Q THE ONLY THING THAT --

14 A IT SAYS "A MAN WILL CALL BACK" ALSO ON THE SAME --

15
16 Q THAT IS ALSO STRICKEN OUT?

17 A STRICKEN OUT, RIGHT.

18 Q BUT OF THE MESSAGES THAT ACTUALLY GIVE A NAME
19 FOR SOMEONE WHO CALLED --

20 A RIGHT.

21 Q -- THAT ONE FROM MR. REIS ON THE 22ND OF JULY
22 IS THE ONLY ONE THAT IS STRICKEN OUT; IS THAT RIGHT?

23 A RIGHT, OF A VALID MESSAGE.

24 Q AND THERE ARE SOME MESSAGES THERE TO YOUR RIGHT
25 WITH A PAPER CLIP ON THEM?

26 A RIGHT.

27 Q AND DO THOSE ALL APPEAR TO BE FROM THE SAME
28 PERSON?

1 A WELL, FOUR OF THEM DO.

2 THE FIFTH, YOU MIGHT ASSUME DOES, IT JUST SAYS "JOE"
3 AND IT DOESN'T GIVE A PHONE NUMBER.

4 THE OTHER SAYS "JOE HUNT" OR GIVES A PHONE NUMBER,
5 WHICH WOULD MAKE ME BELIEVE IT IS THE SAME PERSON. THE
6 ONE THAT JUST SAYS "JOE OFFICE OR RESIDENCE," THERE IS NO
7 WAY OF REALLY KNOWING THAT WAS THE SAME AS THESE.

8 Q SO THERE ARE FOUR MESSAGES THERE FROM JOE HUNT,
9 RIGHT?

10 A RIGHT, THAT DEFINITELY SAY IT WAS THE SAME PERSON,
11 SAME NAME AND THIS WOULD PROBABLY, WOULD MAKE ME SAY OR MAKE
12 ME BELIEVE IT IS, IT HAS THE OFFICE OR RESIDENCE, AND SOME
13 MAY HAVE TWO NUMBERS.

14 Q ON THE MESSAGES FROM JOE HUNT, WHAT IS THE DATE?

15 A JUNE 19TH AT 8:09 P.M. JUNE 19TH AT 5:43 P.M.

16 Q WHAT ARE THE DATES ON THOSE?

17 A ONE, THEY LEFT THE DATE OFF OF.

18 AND ONE IS JUNE 8TH.

19 Q WHAT IS THE TIME ON THAT?

20 A AT 9:37 A.M.

21 Q THE ONE HAS NO DATE ON IT AT ALL?

22 A ONE DOESN'T HAVE A DATE AND THE ONE WE MIGHT
23 ASSUME IS HIS IS JUNE 27 AT 11:12 A.M.

24 Q AND THAT ONE JUST SAYS "JOE"

25 A IT JUST SAYS "JOE OFFICE OR RESIDENCE. U.K.#."

26 U.K. AND THEN THE NUMBER SIGN FOR, YOU KNOW, NUMBER,
27 INSTEAD OF WRITING OUT THE NUMBER.

28 Q ARE THOSE NUMBERS ON THOSE MESSAGES?

1 A THERE ARE PHONE NUMBERS ON THREE OF THEM.

2 Q ON JUNE 19TH, WHAT ARE THE NUMBERS?

3 A JUNE 19, AT 5:43 P.M.

4 Q DOES IT INDICATE WHERE THAT OFFICE OR RESIDENCE

5 IS?

6 A NO, IT DOESN'T.

7 Q AND THE NUMBER ON JUNE 19TH AT 8:09 P.M.?

8 A 655-6391, THE SAME NUMBER.

9 Q AND ON THE JUNE 8TH DATE AT 9:37?

10 A 655-6391. THAT NUMBER ALSO HAS HIS RESIDENCE

11 NUMBER OF 470-8090.

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2 FO.

1 Q AND ON THE ONE THAT HAS NO DATE ON IT, WHAT IS
2 THE NUMBER ON THAT?

3 A THERE IS NO NUMBER. IT JUST SAYS "HOME OR WORK."

4 Q AND THE SAME THING AS THE ONE THAT SAYS "JOE."
5 THAT JUST HAS NO NUMBER ON IT ALSO, IS THAT CORRECT OR IT
6 SAYS, "YOU KNOW THE NUMBER"?

7 A RIGHT, "OFFICE OR RESIDENCE."

8 THE COURT: WHAT IS THE DATE OF THE LAST ONE?

9 THE WITNESS: THE DATE WAS OMITTED.

10 THE COURT: THE ONE BEFORE THAT?

11 THE WITNESS: IT WAS JUNE 8TH, SIR.

12 THE COURT: JUNE 8?

13 THE WITNESS: JUNE 8 AT 9:37 A.M. JUNE 27 AT 11:12 A.M.,
14 JUNE 19 AT 8:09 P.M. AND JUNE 19 AT 5:43 P.M.

15 MR. WAPNER: THANK YOU. NOTHING FURTHER.

16 MR. BARENS: YOUR HONOR, I WOULD LIKE TO APPROACH TO
17 GET PEOPLE'S 110. I BELIEVE IT IS A BLUE CARD THAT YOU HAVE
18 THERE, MR. STONE. THANK YOU, SIR.

19
20 CROSS-EXAMINATION

21 BY MR. BARENS:

22 Q MR. STONE, DID YOU PERSONALLY MAKE UP THIS EXHIBIT
23 OR DID YOUR WIFE?

24 A MY WIFE MADE THAT. I MADE THE INITIAL SHEET.

25 MY WIFE TYPED THEM ON THE CARD OR PUT THEM THROUGH
26 THE WORD PROCESSOR, THE INFORMATION CARD.

27 Q SO IF I UNDERSTAND YOU CORRECTLY, YOU WOULD HAVE
28 HAD THE DIRECT CUSTOMER CONTACT AND THEN GIVEN THE INFORMATION

1 TO YOUR WIFE TO PUT ON HERE?

2 A RIGHT.

3 Q YOU WOULD HAVE IN FACT, TALKED TO MR. LEVIN?

4 A RIGHT.

5 Q AND IS IT YOUR PRACTICE THAT FOR A SINGLE PHONE
6 NUMBER, YOU WOULD HAVE MORE THAN ONE USER OR ONE NAME
7 IDENTIFIED FOR THAT PHONE NUMBER?

8 A IT WAS VERY COMMON.

9 Q IT IS COMMON?

10 A YES.

11 Q DID MR. LEVIN TELL YOU WHO PRESLEY REED M.D. WAS?

12 A NO, HE DID NOT.

13 Q DO YOU KNOW WHO HE WAS?

14 A NO.

15 Q DID HE SEEM TO GET MANY CALLS?

16 A NOT FROM LOOKING THROUGH THE MESSAGES. I DON'T
17 KNOW IF THERE WERE ANY OR MAYBE ONE OR TWO.

18 Q ALL RIGHT. BUT IF YOU GOT A CALL FOR THE DOCTOR,
19 THEN YOU WOULD CALL THE SAME NUMBER FOR MR. LEVIN?

20 A WELL, WHAT HE DID, WE DIDN'T CALL ANY NUMBER.
21 WE JUST -- HE WOULD CALL IN ON A REGULAR INTERVAL AND PICK UP
22 HIS MESSAGES.

23 Q SO YOU DIDN'T RING THROUGH, DID YOU?

24 A WE DIDN'T RING THROUGH HIS CALLS.

25 Q IT WAS NOT YOUR PRACTICE AT ALL?

26 A WELL, THAT IS NOT WHAT HE ASKED FOR.

27 Q ALL RIGHT.

28 A A LOT OF CLIENTS WE DID DO THAT, BUT HE WAS NOT

1 ONE OF THEM.

2 Q THE ALTERNATE PROCEDURE WOULD BE THAT YOU GET A
3 CALL FOR RON LEVIN AND YOU TELL THE PARTY ONE MOMENT, PLEASE
4 AND YOU CALL THE CUSTOMER AND THEN CROSS-CONNECT. IS THAT
5 THE PROCEDURE?

6 A WELL, IF THE CLIENT WANTED THAT. BUT MR. LEVIN
7 WANTED US TO JUST TAKE THE MESSAGE.

8 Q SO YOU DON'T KNOW OF COURSE BUT I SUPPOSE, WHEN
9 THESE CALLS CAME IN, WHETHER MR. LEVIN WAS HOME OR NOT?

10 A NO. I HAD NO WAY OF KNOWING THAT UNLESS HE PICKED
11 UP AND IT WAS ALREADY BEING ANSWERED.

12 Q AND NORMALLY HOWEVER, YOU JUST WOULD HAVE TO WAIT
13 FOR HIM TO CALL?

14 A RIGHT.

15 Q NOW, DO YOU KNOW WHO R.M. WEATHERBY WAS?

16 A NO, I DO NOT.

17 Q AND YOU HAD NEVER SPOKEN TO HIM, TO YOUR KNOWLEDGE?

18 A NO, I DID NOT.

19 Q AND HOW ABOUT OLIVER HOLMES? DO YOU KNOW WHO
20 THAT WAS?

21 A NO. I HAVE NO IDEA.

22 Q ALL RIGHT. BUT ALL OF THESE PEOPLE WOULD APPARENTLY
23 GET PHONE CALLS AT THE SAME NUMBER?

24 A WELL, LET'S SAY THEY WERE PERMITTED TO. IN OTHER
25 WORDS, IT WAS OKAY FOR MR. LEVIN.

26 WHAT THAT MEANT TO ME WAS THAT IF ANY MESSAGE WERE
27 TO COME IN FOR THESE PEOPLE, WE SHOULD TAKE THEM.

28 Q AND YOU WOULD IN FACT, DO THAT?

1 A WE WOULD TAKE THEM, RIGHT, RATHER THAN QUESTIONING
2 SOMEBODY AND MAKING SURE THAT THEY HAD THE RIGHT NUMBER. IF
3 WE WERE ANSWERING MR. LEVIN'S PHONE AND SOMEBODY CALLED
4 MR. WEATHERBY, WE MIGHT ASK IF THEY WERE SURE THEY HAD THE
5 RIGHT NUMBER. BUT IF THE CLIENT GIVES US THE NAMES IN
6 ADVANCE, THEN WE KNOW.

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1 Q ALL RIGHT. I CALL YOUR ATTENTION TO A PHONE
2 MESSAGE DATED JUNE 12TH OF 1984. COULD YOU PLEASE TELL ME
3 WHO SEEMED TO CALL ON THAT MESSAGE?

4 A "YOUR MOTHER AGAIN."

5 Q IT JUST SAYS "YOUR MOTHER AGAIN," AND IS ADDRESSED
6 TO "RON"?

7 A RON, YES.

8 Q AND WHAT IS THE DATE ON THAT?

9 A 6/12 AT 5:15 P.M.

10 MR. BARENS: JUST A MOMENT, YOUR HONOR.

11 (PAUSE.)

12 Q BY MR. BARENS: BY THE WAY, IN PREPARING FOR
13 YOUR TESTIMONY, DID THE DISTRICT ATTORNEY ASK YOU TO GO
14 THROUGH AND LOOK FOR ALL THE CALLS FROM MR. LEVIN'S MOTHER?
15 WAS THAT A PART OF YOUR ASSIGNMENT?

16 A NO.

17 Q IS THIS THE ONLY ONE YOU HAVE BEEN ABLE TO FIND?

18 A I DIDN'T LOOK TO SEE IF THERE WERE ANY OTHERS
19 FROM HIS MOTHER.

20 Q BUT WE HAVE THIS ONE FROM 6/12?

21 A YES.

22 MR. BARENS: YOUR HONOR, THIS IS PART OF 110. IT HAS
23 BEEN PREVIOUSLY MARKED VARIOUS WAYS THAT ARE CONFUSING TO ME.
24 I WOULD LIKE TO CALL THIS FOR PURPOSES OF THIS PROCEEDING,
25 110-A.

26 MR. WAPNER: IT SHOULD BE I THINK, 111, ACTUALLY.

27 MR. BARENS: 111-A, JUST SO I CAN HAVE SOME KIND OF
28 REFERENCE?

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THE COURT: 111.

MR. BARENS: 111-A.

AND PREVIOUSLY, I WILL MARK ALL OF THIS
SO I CAN IDENTIFY IT.

Q WE HAD CALLS FROM JOE HUNT AND LET'S TRY TO DO
THESE CHRONOLOGICALLY. WE HAVE ONE, IS THIS CORRECT, SIR,
ON JUNE 8, 1984, IT SAYS THERE?

A YES, SIR.

B FC.

B-1

1 Q AND WHAT ELSE DOES IT SAY ON THERE?

2 A IT SAYS "JOSEPH HUNT" AT 655-6391 OR HIS RESIDENCE,
3 470-8090. AND ABBREVIATED THAT IT IS FROM PORTLAND.

4 Q THERE IS AN EXCLAMATION POINT AFTER THAT?

5 A RIGHT.

6 MR. BARENS: ALL RIGHT. WE'LL CALL THAT 111-B IF
7 WE COULD, YOUR HONOR.

8 THE COURT: SURE.

9 MR. BARENS: I AM NOT MARKING IT. DO YOU WANT ME
10 TO MARK THE LETTERS ON HERE, YOUR HONOR?

11 THE COURT: SURE.

12 MR. BARENS: ALL RIGHT. THIS IS 111-A AND THIS IS
13 111-B.
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1 Q BY MR. BARENS: AND THEN WE HAVE AGAIN FROM
2 MR. HUNT ON JUNE 19TH AT 5:43; IS THAT CORRECT, SIR?

3 A THAT IS CORRECT.

4 MR. BARENS: AND THAT WILL BE 111-C?

5 THE COURT: YES.

6 Q BY MR. BARENS: AND THEN MR. HUNT AGAIN ON
7 JUNE 19, SECOND TIME; IS THAT CORRECT, SIR?

8 A THAT IS CORRECT.

9 MR. BARENS: THAT WILL BE 111-D, YOUR HONOR?

10 THE COURT: YES.

11 Q BY MR. BARENS: AND MR. HUNT ON, IS THAT
12 JUNE 27?

13 A THAT JUST SAYS "JOE." I DON'T KNOW.

14 Q THAT IS THE ONE THAT SAYS "OFFICE OR RESIDENCE"?

15 A "OFFICE OR RESIDENCE" BUT THAT DATE IS CORRECT.

16 Q JUNE 27?

17 A RIGHT.

18 MR. BARENS: AND THAT WILL BE 111-E, YOUR HONOR?

19 THE COURT: YES.

20 Q BY MR. BARENS: AND THEN WE HAVE ONE OF NO DATE
21 APPARENTLY.

22 A RIGHT.

23 Q DO YOU KNOW -- AND IT SAYS "JOE, HOME OR WORK"
24 THERE, RIGHT?

25 A CORRECT.

26 Q DO YOU KNOW WHAT THAT MEANS UP HERE, "127"?

27 A YES, THAT IS THE OPERATOR NUMBER.

28 Q THAT IS THE PERSON THAT WOULD ACTUALLY TAKE IT?

1 A THE OPERATOR THAT TOOK IT.

2 Q AND THE 668 IN THE LEFT UPPER HERE?

3 A THAT WAS THE BOX WE KEPT IT.

4 Q AND THAT IS NOT --

5 A THE BOX IS ON TOP OF THE CORRESPONDING NUMBERS.

6 MR. BARENS: AND THAT WOULD BE 111-F, YOUR HONOR?

7 THE COURT: YES.

8 MR. WAPNER: WHICH ONE IS THAT, COUNSEL?

9 MR. BARENS: THAT IS THE LAST ONE. WELL, I AM CALLING
10 IT THE LAST ONE. IT IS THE ONE THAT IS UNDATED AND IT SAYS
11 "RON-JOE HUNT, HOME OR WORK."

12 MR. WAPNER: THANK YOU.

13 Q BY MR. BARENS: NOW, MR. STONE, YOU TESTIFIED THAT
14 YOU WOULD ANSWER ON THE THIRD RING?

15 A RIGHT.

16 YOU KNOW, I BELIEVE THAT WE MIGHT HAVE -- WE
17 MIGHT HAVE ORIGINALLY STARTED IT EARLIER ON THE FIRST RING
18 AND THEN IT WENT TO THE THIRD RING.

19 TO BE HONEST WITH YOU, I AM NOT CLEAR WHAT RING,
20 BUT I THINK THERE WAS SOME --

21 Q HAVE YOU PREVIOUSLY TESTIFIED IN THIS MATTER
22 THAT YOU WERE INSTRUCTED TO PICK IT UP RIGHT AWAY?

23 A YES, I BELIEVE I HAVE BUT --

24 Q DID YOU PREVIOUSLY TESTIFY YOU WERE SUPPOSED TO
25 PICK IT UP ON THE FIRST RING?

26 A IT IS VERY POSSIBLE.

27 Q THAT TESTIMONY WOULD HAVE BEEN BACK IN MARCH
28 OF 1985?

1 A PROBABLY.

2 Q AND THAT WAS CLOSER TO THE EVENT THAN WE ARE NOW --

3 A RIGHT.

4 Q -- OBVIOUSLY?

5 DID YOU EVER GET ANY THREATENING CALLS FOR

6 MR. LEVIN?

7 A FROM HIM OR TO HIM OR --

8 Q TO HIM, SIR?

9 A I DON'T BELIEVE SO.

10 Q DID YOU EVER TESTIFY ABOUT THREATENING CALLS THAT

11 HE HAD RECEIVED?

12 A NOT THAT I RECALL.

13 Q NOW, THE 668 CODE, THAT ISN'T A SEPARATE NUMBER

14 I WOULD CALL, IS IT?

15 A WELL, IF YOU -- LET'S SAY YOU WERE ON SWITCHBOARD

16 NO. 6, THERE WOULD BE, I THINK THAT WORD, IF MY MEMORY SERVES

17 ME CORRECTLY HAD THREE NUMBERS TO CALL IN FOR MESSAGES OR

18 THERE WERE THREE ROTARY LINES, THEN YOU WOULD CALL IN AND

19 IT WOULD RING ON THAT BOARD AND YOU WOULD TELL THE OPERATORS

20 668 OR 667 OR 672, WHATEVER IT HAPPENED TO BE, AND THEN

21 SHE WOULD LOOK UP AT THAT BOX. IF YOU WERE ON SWITCHBOARD

22 NO. 1, YOU WOULD HAVE A DIFFERENT CALL IN NUMBER.

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1 Q IF I WERE MR. LEVIN CALLING IN FOR MY MESSAGES,
2 FIGURE 668 IS A CODE I WOULD GIVE YOU THAT IDENTIFIES IT IS
3 REALLY ME?

4 A YES.

5 Q BUT THE PHONE NUMBER PEOPLE WOULD CALL IN, IF
6 I WERE CALLING IN TO SPEAK TO MR. LEVIN OR TO LEAVE HIM A
7 MESSAGE, I WOULD STILL, IRRESPECTIVE, DIAL THE SAME NUMBER,
8 WOULDN'T I?

9 A WELL, IF YOU WANTED TO CALL MR. LEVIN, YOU WOULD
10 CALL HIS PHONE NUMBER.

11 Q RIGHT.

12 A RIGHT.

13 Q BUT I WOULDN'T CALL ANYTHING HAVING A 668 ON IT,
14 WOULD I?

15 A OH, NO. TO CALL IN FOR MESSAGES, YOU WERE
16 SUPPOSED TO CALL IN A DIFFERENT NUMBER. WE SENT OUT LITTLE
17 LABELS FOR PEOPLE WHICH WOULD INDICATE ON THERE THEIR OWN,
18 SAYING THEIR NUMBERS AND THEY COULD CARRY IT WITH THEM.

19 Q WHAT WOULD THAT LABEL SAY IN THIS INSTANCE?

20 A IT WOULD SAY "FOR YOUR MESSAGES, YOUR CODE NUMBER,"
21 WHAT YOUR NUMBER WAS.

22 Q COULD I HAVE THAT NUMBER, PLEASE?

23 A I DON'T REMEMBER WHAT IT WAS.

24 Q YOU DON'T HAVE ANY RECORDS OF WHAT THAT MESSAGE
25 WOULD HAVE BEEN TO CALL-IN FOR NUMBER?

26 A THE NUMBER?

27 Q YES.

28 A I HAVE SINCE SOLD THE BUSINESS. I MIGHT BE ABLE

1 TO GET IT.

2 Q BY THE WAY, WHAT DO YOU DO NOW?

3 A I AM PRESIDENT OF INSURANCE PREMIUM FINANCE
4 CORPORATION AND I FINANCE INSURANCE PREMIUMS.

5 Q I SEE.

6 ALL RIGHT, YOU DON'T HAVE ANY MESSAGES THERE,
7 DO YOU, FROM MR. HUNT AFTER 6/24 -- AFTER 6/27, FROM MR. HUNT?

8 I MIGHT HAVE SAID FOR MR. HUNT.

9 A EXCEPT FOR THE UNMARKED ONE, THAT APPEARS TO
10 BE THE LAST ONE.

11 Q NOW, WHAT WOULD THE PRACTICE BE WHEN SOMEONE
12 WOULD CALL IN FOR MR. LEVIN, WHAT WOULD THE ACTUAL WORDS
13 BE THAT YOU WOULD SAY?

14 A WELL, THEY WOULD ANSWER IT BY "NETWORK NEWS".

15 Q AND SO SOMEONE WOULD SAY "NETWORK NEWS"?

16 A GOOD MORNING. GOOD AFTERNOON.

17 Q ASSUMING YOU HAD SOMEONE SAY "THIS IS JOHN SMITH
18 CALLING FOR RON LEVIN," ET CETERA.

19 A RIGHT.

20 Q WHAT WOULD THE OPERATOR SAY PRECISELY?

21 A THEY ARE SUPPOSED TO SAY THAT HE IS NOT AVAILABLE
22 NOW. MAY I TAKE A MESSAGE?

23 Q THEN THEY WOULD TAKE THE MESSAGE?

24 A RIGHT.

25 Q WHEN YOU SAY THEY WERE SUPPOSED TO SAY THAT, IS
26 THERE AN INSTRUCTION LIKE THAT THAT YOU GAVE ALL OF YOUR
27 STAFF?

28 A RIGHT.

1 BUT SOMEBODY MIGHT -- THEY MIGHT NOT HAVE A CHANCE
2 TO SAY THAT.

3 SOMEBODY MIGHT RECOGNIZE IT IS MR. LEVIN AND
4 KNOW HE HAS AN ANSWERING SERVICE AND THEN GO RIGHT ON AND
5 SAY "TELL RON I CALLED" OR WHATEVER.

6 Q WHAT WOULD HAPPEN IF THE PERSON ASKED IF THEY
7 COULD BE CONNECTED?

8 A WE HAD NO -- WE HAD NO OTHER NUMBER TO CONNECT
9 THEM TO.

10 Q NO.

11 WHAT I MEAN WAS IF A PERSON CALLED IN AND SAID,
12 "COULD I SPEAK TO MR. LEVIN" AND YOU SAID "WELL, HE IS NOT
13 AVAILABLE RIGHT NOW" AND THEY SAID "WELL WOULD YOU CONNECT
14 HIM TO ME?"

15 A WE HAD NO CROSS-CONNECT INSTRUCTION FROM HIM,
16 WE HAD NO WAY OF DOING THAT.

17 THERE IS A SPACE ON THE CARD WHERE IT SAYS
18 "CROSS-CONNECT" AND THERE IS NO INSTRUCTION THERE.

19 Q WOULD THERE BE SOMETHING THE OPERATOR WOULD
20 BE INSTRUCTED TO SAY UNDER THE CIRCUMSTANCE WHERE SOMEBODY
21 HAD ASKED TO BE CROSS-CONNECTED?

22 A SHE WOULD SAY "WE HAVE NO LOCATION FOR HIM" OR
23 SOMETHING IN SIMILAR WORDS.

24 Q NOW, WOULD THERE EVER BE AN OCCASION WHEN YOU
25 WOULD SAY MR. LEVIN IS NOT ACCEPTING ANY CALLS OR NOT
26 RECEIVING ANY CALLS?

27 A WHERE WE WOULD SAY HE IS NOT RECEIVING ANY CALLS?

28 Q YES.

1 A WE WOULD ONLY DO THAT IF HE ASKED US TO DO THAT
2 AND USUALLY, IT WOULD BE THE PROCEDURE TO WRITE ON THE TICKET
3 ALSO AND TO PUT IT WITH THE FILE. IN OTHER WORDS, IF HE
4 SAYS -- IF THERE IS A MESSAGE SAYING IF A PARTICULAR PERSON
5 CALLS OR HE LEAVES A MESSAGE, JUST SAY IT WAS ON A GREEN
6 TICKET AND IT WOULD JUST SAY "SAY I AM OUT OF TOWN OR I AM
7 BUSY FOR AN HOUR OR WHATEVER, CALL BACK."

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1 Q WOULD YOU NOT HAVE A RECORD OF THAT?

2 A WE SHOULD HAVE A RECORD OF IT.

3 Q DO YOU HAVE ANY RECORD OF ANYTHING LIKE THAT
4 WITH YOU?

5 A NO. I DON'T SEE ANY GREEN TICKETS. AND IF WE
6 CROSS-CONNECT, IT WOULD BE ON A TICKET.

7 Q WOULD YOU KEEP THOSE SORTS OF RECORDS?

8 A RIGHT. FOR TWO REASONS, ONE IS JUST TO KEEP
9 COMPLETE RECORDS. THE OTHER WOULD BE THAT WE CHARGE FOR IT.

10 Q ALL RIGHT. COULD I SEE THE 6/6 MESSAGES, PLEASE?

11 A SORRY?

12 Q YOU HAD THEM A MOMENT AGO.

13 A WHICH ONES?

14 Q THE 6/6 MESSAGES?

15 A JUNE 6TH?

16 Q THE LINE YOU ARE TELLING US ABOUT THAT WOULD
17 INDICATE WHETHER MR. LEVIN PICKED UP HIS MESSAGE OR NOT,
18 WAS THAT A LINE THAT WENT DOWN THE PAGE LINE THIS (INDICATING)
19 OR ACROSS THE PAGE LIKE THAT (INDICATING) SIR?

20 A TRADITIONALLY IT WENT DOWN.

21 Q DOWN THE PAGE?

22 A DOWN THE PAGE.

23 Q NOW, WHAT IS THE OTHER WAY YOU WOULD KNOW IF A
24 MESSAGE WAS PICKED UP?

25 A IT WOULD BE TIME STAMPED ON THE BACK.

26 Q ON THE BACK?

27 A RIGHT.

28 Q DO YOU HAVE ANY OTHER MESSAGES FOR 6/6, OTHER

1 THAN THE ONE YOU JUST TESTIFIED ABOUT?

2 A NO. I BELIEVE THAT WAS THE LAST ONE.

3 Q WHERE ARE THE ONES PRIOR TO THAT, ON JUNE 6TH?

4 A THEY WERE PROBABLY THROWN OUT.

5 Q WHY?

6 A EXCUSE ME?

7 Q WHY, SIR?

8 A WE ONLY SAVED THE MESSAGE FOR A CERTAIN AMOUNT
9 OF TIME. IT WAS THREE MONTHS.

10 WHY THESE GOT HELD OVER IS JUST THAT THEY WERE
11 IN HIS BOX FOR YOU KNOW, A LONG TIME. THEY DIDN'T GO THROUGH
12 THE REGULAR PROCEDURE OF THIS PURGING OUT.

13 Q DO YOU MEAN TO TELL ME THAT THE ONLY MESSAGE YOU
14 HAVE FOR JUNE 6TH IS THIS ONE THERE?

15 A RIGHT.

16 Q DO YOU HAVE ANY FOR JUNE 5?

17 A NO. THEY WERE THROWN OUT.

18 Q SO, YOU REALLY CAN'T TELL FROM YOUR TESTIMONY
19 WHAT CALLS HE HAD ON JUNE 6TH AT ALL, EXCEPT FOR THAT ONE?

20 A THAT'S CORRECT.

21 Q SO WE DON'T KNOW WHETHER HE PICKED UP HIS CALLS
22 FROM YOU ON JUNE 6 OR NOT, DO WE?

23 A WELL, IF HE DIDN'T PICK UP ANY MESSAGES BEFORE,
24 ANY OTHER MESSAGES ON JUNE 6TH, THEY WOULD HAVE BEEN IN THE
25 PILE.

26 Q HOW DO YOU KNOW THAT?

27 A OKAY. MAY I GO OVER THE PROCEDURE AGAIN AND
28 EXPLAIN IT TO YOU?

1 Q I WOULD BE HELPED IF YOU WOULD, SIR.

2 A OKAY.

3 THE COURT: GO AHEAD.

4 THE WITNESS: WELL, THE MESSAGES ARE PICKED UP. THEY
5 ARE STAMPED OUT ON THE BACK. AND THEY ARE PUT IN A LITTLE
6 BOX.

7 THE COURT: HE IS NOT LISTENING TO YOU. HE HAS GOT
8 SOMEBODY NEXT TO HIM TALKING TO HIM WHERE HE CAN'T HEAR
9 BOTH PARTIES.

10 WILL YOU LISTEN?

11 MR. BARENS: I AM QUITE WELL LISTENING.

12 THE COURT: GO AHEAD, THEN. START AGAIN.

13 THE WITNESS: SURE. WHEN MESSAGES ARE PICKED UP, WE
14 PUT A LINE THROUGH IT. THEY STAMP IT ON THE BACK AND PUT IT
15 IN THE BOX.

16 AND THEN AT THE END OF THE DAY, THOSE GO INTO A
17 MASTER BOX AND AT THE END OF THE MONTH, THEY ARE CALCULATED
18 AND SORTED FOR CHARGES AND WHATEVER.

19 THEY ARE SAVED APPROXIMATELY THREE MONTHS AND
20 THEN DISCARDED.

21 WHAT INTERRUPTED THE CYCLE IN THIS ONE IS THAT
22 THE MESSAGE WAS NEVER PICKED UP. IT JUST REMAINED ON THE
23 SWITCHBOARD.

24 IN OTHER WORDS, ALL OF HIS MESSAGES TO THIS TIME
25 WERE PICKED UP AND WENT THROUGH THE REGULAR CYCLE.

26 THIS MESSAGE FROM HERE ON APPARENTLY WAS NOT
27 PICKED UP. IT WAS LEFT IN THE SWITCHBOARD TO BE PICKED UP.
28 IT DIDN'T GO THROUGH THE PROCESS OF THE CANCELLED MESSAGE.

1 SO THAT IS WHY I HAD THEM LONGER. THEN IT WAS
2 PROBABLY SEVERAL MONTHS THAT HE STAYED ON THE SERVICE THAT
3 THE MESSAGES WEREN'T PICKED UP.

4 SO THESE CONSEQUENTLY, STAYED AROUND LONGER.

5 Q DID YOU HAVE ANY PRACTICE AT ALL TO RETAIN
6 FOR ANY OF YOUR CUSTOMERS, MESSAGES THAT HAD BEEN PICKED UP?

7 A YES. WE SAVED THEM FOR APPROXIMATELY THREE
8 MONTHS.

9 MR. BARENS: A MOMENT, YOUR HONOR?

10 THE COURT: YES.

11 (PAUSE.)

12 Q BY MR. BARENS: IN THE HANDLING OF THE MESSAGES
13 BEFORE YOU HERE, YOU DIDN'T BRING THOSE DIRECTLY TO COURT,
14 DID YOU, SIR?

15 A NO, I DIDN'T.

16 Q AND IN FACT, AT ANOTHER POINT IN TIME, YOU HAD
17 TURNED OVER ALL MR. LEVIN'S MESSAGES TO MR. ZOELLER?

18 A YES, I DID.

19 Q DO YOU REMEMBER WHEN THAT WAS?

20 A NO, I DON'T.

21 Q DID YOU KEEP COPIES OF WHAT YOU TURNED OVER?

22 A NO, I DIDN'T.

23 Q SO, HOW WOULD YOU KNOW PRECISELY WHAT YOU TURNED
24 OVER AND WHAT YOU DIDN'T TURN OVER?

25 A IF THERE WAS A MESSAGE MISSING, I WOULD NOT KNOW
26 NOW.

27 Q YOU WOULD NOT KNOW?

28 A NO.

1 MR. BARENS: THANK YOU, SIR. A MOMENT, YOUR HONOR?
2 EXCUSE ME. I MAY NOT BE THROUGH.

3 (PAUSE.)

4 Q BY MR. BARENS: MR. STONE, BASED ON THE
5 INSTRUCTIONS YOU DESCRIBED TO US THAT YOU HAD, WHAT WERE THE
6 PROBABILITIES OF THE PHONE RINGING FOUR OR FIVE TIMES BEFORE
7 ONE OF YOUR FOLKS PICKED IT UP?

8 A IT COULD HAPPEN. I DON'T KNOW EXACTLY WHAT THE
9 PROBABILITY WOULD BE. IF A CALL CAME IN AT 8:00 ON A MONDAY
10 MORNING OR 9:00 ON A MONDAY MORNING WHEN IT WAS VERY BUSY
11 AND EVERYBODY WAS GETTING IN AND WE WERE GIVING OUT A LOT OF
12 MESSAGES, CHANCES ARE THAT IT WOULDN'T HAVE BEEN PICKED UP
13 RIGHT AWAY.

14 IF YOU CALLED AT 3:00 IN THE AFTERNOON AND IT WAS
15 SLOW, IT PROBABLY WOULD BE PICKED UP RIGHT AWAY.

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1 Q SO YOUR BUSY PERIOD WOULD START, LET'S SAY,
2 ON A WEEK OR BUSINESS TYPE DAY AT AROUND 9:00 IN THE MORNING?

3 A SAY, FROM 8:00 TO 9:30 WAS VERY BUSY. LET'S
4 SAY A BIG OFFICE WOULD GET IN AND THEY HAD 50 MESSAGES OVER
5 THE WEEKEND AND THE OPERATORS WOULD GIVE THEM THAT.

6 Q BUT AT 6:30 IN THE MORNING, THAT IS NOT ONE
7 OF YOUR BUSY TIMES, IS IT?

8 A NO, IT IS NOT.

9 Q WHAT WERE YOU LOOKING AT WHEN YOU PREVIOUSLY
10 TESTIFIED THAT YOU HAD INSTRUCTIONS TO PICK UP RIGHT AWAY?

11 A THE CARD.

12 Q THIS BLUE CARD RIGHT HERE?

13 A RIGHT.

14 Q THERE IS A LITTLE "1" ON THE BOTTOM WHERE IT
15 SAYS "ANSWERED BY."

16 Q DOES THE "1" -- I NOW SEE IT ACTUALLY.

17 A THE FIRST RING.

18 Q "1" MEANS FIRST RING, RIGHT?

19 A YES.

20 MR. BARENS: LET ME JUST MAKE SURE WE ARE ALL TALKING
21 ABOUT THE SAME THING, YOUR HONOR.

22 THE COURT: ALL RIGHT.

23 Q BY MR. BARENS: I WILL TELL YOU WHY, THERE ARE
24 THREE DIFFERENT PLACES, WE HAVE ONE AT THE BOTTOM OF THIS
25 CARD.

26 A OKAY. RIGHT. THIS IS PAGE 1. 1 OF 1 PAGE.

27 Q THIS SAYS "1 OF 1"?

28 A IN OTHER WORDS, IF HE ASKED FOR MORE, IT WOULD

1 HAVE BEEN ONE OF TWO, ONE OF THREE.

2 AND THIS IS THE ONE WE ARE REFERRING TO: "1
3 PARENTHESIS, THE ONE-ANSWER RING."

4 Q THE ONE AT THE CENTER OF THE PAGE REFERS TO --

5 A HOW WE WOULD ANSWER.

6 Q THIS MEANS FIRST RING?

7 A FIRST RING.

8 MR. BARENS: THANK YOU, SIR. NOTHING FURTHER.

9 THE COURT: ALL RIGHT. ANY REDIRECT?

10 MR. WAPNER: I AM GOING TO HAVE SOME.

11 THE COURT: GO AHEAD.

12
13 REDIRECT EXAMINATION

14 B MR. WAPNER:

15 Q ON THIS ONE THAT YOU ARE REFERRING TO ON THE
16 BOTTOM OF THE CARD WHERE IT SAYS ON THE BOTTOM "ANSWER BY
17 NETWORK NEWS"?

18 A RIGHT.

19 Q WRITTEN IN ON THE BOTTOM OF THE CARD?

20 A YES.

21 Q AFTER IT SAYS "ANSWER BY NETWORK NEWS," THERE
22 IS A PARENTHESIS AND "1" IN IT?

23 A RIGHT.

24 MR. WAPNER: CAN I JUST PASS THIS IN FRONT OF THE
25 JURY, YOUR HONOR, SO THEY KNOW WHAT WE ARE TALKING ABOUT?

26 THE COURT: YES.

27 (WHEREUPON, EXHIBIT SHOWN TO JURY BY
28 MR. WAPNER.)

1 Q BY MR. WAPNER: DID THE INSTRUCTIONS EVER CHANGE,
2 DID THEY EVER CHANGE ON THIS ACCOUNT IN TERMS OF WHEN YOU
3 WERE SUPPOSED TO ANSWER THE PHONE?

4 A NO -- WELL, PROBABLY NOT.

5 WE MIGHT HAVE SAID PICK IT UP A LITTLE LONGER
6 ONE TIME BUT I GUESS NOT BECAUSE I WOULD HAVE CHANGED IT
7 ON THE CARD.

8 MR. BARENS: I MOVE TO STRIKE THAT AS SPECULATION,
9 YOUR HONOR.

10 THE COURT: I WILL STRIKE IT.

11 MR. BARENS: THANK YOU, YOUR HONOR.

12 THE WITNESS: OKAY.

13 Q BY MR. WAPNER: NORMALLY, IF YOU GOT A CALL
14 FROM A CUSTOMER AND HE SAID CHANGE THE INSTRUCTIONS, WHAT
15 WOULD YOU DO?

16 A I WOULD HAVE CHANGED IT ON THE CARD, UNLESS
17 IT WAS JUST A TEMPORARY INSTRUCTION.

18 Q YOU SAID BEFORE THAT YOUR ANSWERING SERVICE
19 WAS LIKE AN EXTENSION PHONE IN HIS HOUSE; IS THAT RIGHT?

20 A THAT'S CORRECT.

21 Q WHAT HAPPENS IF YOU PICK UP THE PHONE AND YOUR
22 OPERATOR WAS ANSWERING IT AND HE WAS AT HOME OR AT WORK
23 OR WHEREVER THIS 274 NUMBER WAS, AND HE SIMULTANEOUSLY PICKED
24 UP THE PHONE?

25 A WELL, ONE OUT OF TWO THINGS WOULD HAPPEN: IF
26 HE WANTED TO TALK TO THE PERSON OR IF THE CLIENT WANTED
27 TO TALK TO THE PERSON, THEY WOULD SAY I HAVE IT OR THANK
28 YOU ANSWERING SERVICE, I HAVE IT.

1 THE OTHER THING IS THEY COULD JUST LISTEN IN
2 LIKE AN EXTENSION PHONE.

3 Q SO IF THE PERSON WAS IN THE MIDST OF GIVING
4 A MESSAGE AND HE DECIDED HE WANTED TO TALK TO THEM, HE COULD
5 DO THAT?

6 A HE COULD DO THAT , THAT IS CORRECT.

7 Q THE BOXES THAT YOU HAD FOR MESSAGES, WERE THERE
8 TWO SEPARATE BOXES, ONE FOR THE MESSAGE TO BE PICKED UP
9 AND ONE FOR THE MESSAGES THAT ALREADY HAD BEEN PICKED UP?

10 A OKAY. THE FIRST -- RIGHT, THE MESSAGES THAT
11 WERE PICKED UP WERE PUT IN AN INDEX CARD BOX LIKE A 3X5
12 INDEX CARD BOX AND THEY HAD SEPARATE LITTLE DIVIDERS FOR
13 EACH ACCOUNT.

14 THE MESSAGES TO BE PICKED UP WERE IN A BOX,
15 I WOULD SAY, LIKE A RACK OF BOXES OVER THE SWITCHBOARD AND
16 IT HAD 668, 669 OR 670, EACH ONE WAS MARKED SO ALL THE OPERATOR
17 HAD TO DO WAS LOOK UP AND SEE IF THE CLIENT HAD ANY MESSAGES.

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1 Q SO ALL OF THE MESSAGES YOU GAVE TO DETECTIVE ZOELLER
2 WERE ALL OF THE ONES THE SWITCHBOARD HAD THAT HAD NOT BEEN
3 PICKED UP; IS THAT CORRECT?

4 A THAT APPEARS THAT THAT IS WHAT THEY WERE, YES.

5 Q SO THE FIRST ONE OF THOSE WAS ON JUNE 6 SOMETIME
6 BETWEEN 9:00 AND 9:09 P.M., CORRECT?

7 A RIGHT.

8 Q WOULD THAT INDICATE TO YOU EVERY CALL THAT HE HAD
9 GOTTEN BEFORE, THAT HE HAD EITHER ANSWERED HIMSELF OR THE
10 MESSAGE HAD ALREADY BEEN PICKED UP BY HIM?

11 A YES, IT WOULD.

12 Q SO THAT UNTIL JUNE THE 6 AT SOMETIME BETWEEN
13 9:00 AND 9:09 P.M., HE WAS VERY REGULAR ABOUT PICKING UP
14 HIS MESSAGES SEVERAL TIMES A DAY?

15 A YES, HE WAS.

16 Q AND FROM JUNE 6, SHORTLY AFTER 9:00, HE NEVER
17 PICKED UP THE MESSAGES AFTER THAT?

18 A THAT IS CORRECT.

19 Q ARE THERE ANY OTHER MESSAGES ON JUNE 6TH FROM
20 9:10 TO MIDNIGHT?

21 A I BELIEVE THAT WAS THE ONLY MESSAGE ON JUNE 6TH
22 BUT I WILL CHECK.

23 THAT WAS THE ONLY ONE, SIR.

24 Q DO YOU HAVE A MESSAGE THERE ON JUNE 7TH SOMETIME
25 EARLY IN THE MORNING?

26 A 6:53 A.M.

27 Q WHO WAS CALLING AT THAT TIME?

28 A A BLANCHE. IT SAYS "YOU KNOW THE NUMBER. PLEASE

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CALL."

Q AT 6:53?

A 6:53 A.M., RIGHT.

Q IS THERE ONE ANY EARLIER FROM BLANCHE ON THAT
DATE OR IS THERE ONLY ONE?

A LET'S SEE. THAT IS THE ONLY ONE.

1 Q AND ALL OF THE RECORDS THAT YOU HAVE IN FRONT
2 OF YOU THAT YOU ARE LOOKING AT THAT ARE PEOPLE'S 110, THOSE
3 ARE MADE IN THE ORDINARY COURSE OF BUSINESS?

4 A YES, THEY WERE.

5 Q AND THE MESSAGES THAT ARE TAKEN, WHEN ARE THEY
6 TAKEN IN RELATION TO WHEN THE CALL IS RECEIVED?

7 A THEY ARE TAKEN IMMEDIATELY, SIMULTANEOUSLY WITH
8 THE CALL.

9 Q AND THE BLUE CARD THAT WE HAVE MARKED AS 110,
10 WAS THAT MADE IN THE ORDINARY COURSE OF BUSINESS?

11 A YES, IT WAS.

12 Q WHEN IS THE CARD PREPARED IN RELATION TO WHEN THE
13 INFORMATION IS GIVEN TO YOU BY THE CUSTOMER?

14 A WELL, IT TAKES THREE DAYS FOR THAT LOCAL NUMBER --
15 IT TOOK THREE DAYS FROM WHEN THE ORDER TO SERVICE HAD BEEN
16 HOOKED UP.

17 SO IT WAS SOMEWHERE FROM -- WHEN HE CALLED UNTIL
18 THE SERVICE WOULD START, WITHIN A THREE-DAY PERIOD.

19 Q WOULD YOU SAY BY THE TIME THE SERVICE STARTED,
20 YOU HAD THAT CARD?

21 A WE WOULD HAVE HAD THE CARD.

22 Q WHERE WAS THAT CARD KEPT AT THE BUSINESS?

23 A IT WAS KEPT IN THE BOX HIS MESSAGES WERE KEPT IN.
24 THAT WAS SO THE OPERATOR COULD PULL IT DOWN TO REFER TO IT.

25 THE COURT: ARE YOU GOING TO BE MUCH LONGER?

26 MR. WAPNER: NO, I DON'T THINK SO, YOUR HONOR.

27 THE COURT: ALL RIGHT.

28 MR. WAPNER: THAT IS IT, AS A MATTER OF FACT.

1 THE COURT: ONE QUESTION.

2

3 RE-CROSS-EXAMINATION

4 BY MR. BARENS:

5 Q MR. STONE, WITH REFERENCE TO THE 6/6 CALLS, IT IS
6 THEN POSSIBLE THAT MR. LEVIN COULD HAVE TAKEN CALLS ON
7 HIS OWN AFTER 9:00 P.M. ON 6/6 THAT YOU WOULD NOT HAVE A
8 RECORD OF?

9 A YES, THAT IS POSSIBLE.

10 MR. BARENS: THANK YOU, SIR.

11 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. THIS
12 WITNESS MAY BE EXCUSED?

13 MR. WAPNER: YES.

14 THE COURT: LADIES AND GENTLEMEN OF THE JURY, WE'LL TAKE
15 A RECESS UNTIL 1:30 THIS AFTERNOON.

16 THE SAME ADMONITION APPLIES THAT I GAVE YOU ABOUT
17 NOT TALKING AMONG YOURSELVES AND SO FORTH.

18 (AT 12:05 P.M., A RECESS WAS TAKEN
19 UNTIL 1:30 P.M. OF THE SAME DAY.)

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1 SANTA MONICA, CALIFORNIA; MONDAY, FEBRUARY 9, 1987; 1:45 P.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE)
4

5 THE COURT: GOOD AFTERNOON, LADIES AND GENTLEMEN.

6 CALL YOUR NEXT WITNESS.

7 MR. WAPNER. THANK YOU.

8 MICHAEL BRODER.

9
10 MICHAEL BRODER,
11 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
12 AS FOLLOWS:

13 THE CLERK: RAISE YOUR RIGHT HAND TO BE SWORN, PLEASE.

14 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU
15 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
16 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
17 SO HELP YOU GOD?

18 THE WITNESS: YES.

19 THE CLERK: IF YOU WOULD BE SEATED THERE AT THE WITNESS
20 STAND.

21 AND STATE YOUR NAME FOR THE RECORD.

22 THE WITNESS: MICHAEL BRODER.

23 THE CLERK: DO YOU WANT TO SPELL THE LAST NAME?

24 THE WITNESS: B-R-O-D-E-R.

25
26 DIRECT EXAMINATION

27 BY MR. WAPNER:

28 Q MR. BRODER, DID YOU KNOW A MAN NAMED RONALD

1 GEORGE LEVIN?

2 A YES, I DID.

3 Q FIRST OF ALL, TELL ME HOW OLD ARE YOU?

4 A 21 YEARS OLD.

5 Q WHEN WERE YOU BORN?

6 A 1965.

7 Q AND IS THIS THE PERSON, SHOWING YOU PEOPLE'S
8 6, THAT YOU KNEW AS RONALD GEORGE LEVIN?

9 A YES, IT IS.

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1 MOVIES AND HIM PAYING WITH \$100 BILLS AND THEM HAVING TROUBLE
2 MAKING CHANGE.

3 Q AND DID YOU EVER GO TO WORK FOR HIM?

4 A YES, I DID. I FIRST WORKED FOR HIM IN THE SUMMER
5 OF 1980.

6 Q WHAT DID YOU DO FOR HIM IN THE SUMMER OF 1980?

7 A I WAS AN ERRAND BOY. I WOULD MAKE PHOTOCOPIES
8 AND GO TO THE BANK AND MAKE DEPOSITS AND THINGS LIKE THAT.

9 Q AND SO, YOU WERE ABOUT 15 AT THE TIME?

10 A YES, THAT'S RIGHT.

11 Q AND STILL IN HIGH SCHOOL?

12 A YES.

13 Q BESIDES BEING AN ERRAND BOY DURING THAT SUMMER,
14 DID YOU DO OTHER THINGS WITH HIM?

15 A SORRY. COULD YOU REPEAT THAT?

16 Q DID YOU DO ANYTHING WITH MR. LEVIN IN THE SUMMER
17 OF 1980, OTHER THAN JUST DO HIS ERRANDS?

18 A WE STILL MAINTAINED THE SAME FRIENDSHIP. SO HE
19 STILL TOOK ME OUT TO DINNER AND MOVIES. WE STILL WENT OUT
20 AND THINGS LIKE THAT ON A SOCIAL BASIS.

21 Q AND DID YOU WORK FOR HIM AFTER THE SUMMER OF
22 1980?

23 A I DID WORK FOR HIM AGAIN IN THE SUMMER OF 1984.

24 Q AND DURING THE PERIOD BETWEEN 1980 AND 1984,
25 WHAT KIND OF FRIENDSHIP DID YOU HAVE WITH HIM?

26 A I SAW HIM WHEN I WAS IN TOWN. WHEN I WAS HOME
27 FROM SCHOOL OVER THE SUMMERS AND WHEN I WAS HOME FROM VACATION,
28 USUALLY.

1 Q AND ARE YOU IN SCHOOL PRESENTLY?

2 A YES.

3 Q WHERE ARE YOU IN SCHOOL?

4 A HARVARD UNIVERSITY.

5 Q WHEN ARE YOU DUE TO GRADUATE?

6 A IN JUNE OF THIS YEAR.

7 Q ARE WE TAKING TIME OUT FROM YOUR STUDIES TO BE
8 HERE?

9 A YES.

10 Q AND WHEN DID YOU FIRST MEET MR. LEVIN?

11 A IN 1979.

12 Q HOW OLD WERE YOU?

13 A 13.

14 Q HOW DID YOU MEET HIM?

15 A I MET HIM THROUGH DEAN FACTOR, WHO IS A FRIEND
16 OF MINE.

17 Q WHEN YOU FIRST MET HIM, WHAT KINDS OF THINGS
18 DID YOU -- DID YOU DEVELOP ANY KIND OF FRIENDSHIP WITH HIM?

19 A YES, I DID. HE WOULD TAKE DEAN AND I OUT TO
20 MOVIES AND ROLLER SKATING AND OUT TO DINNER AND THINGS LIKE
21 THAT.

22 Q DID YOU AT SOME POINT -- WELL, WHEN YOU WOULD
23 DO THOSE THINGS, I ASSUME WHEN YOU WERE -- IN THE BEGINNING
24 WHEN YOU WERE 13, HE WOULD PAY?

25 A YES.

26 Q DID YOU SEE HIM WITH LOTS OF MONEY?

27 A YES. MONEY, HE ALWAYS HAD IT. WHENEVER WE WENT
28 PLACES HE WAS ALWAYS PAYING WITH CASH. I REMEMBER GOING TO

1 Q DID HE EVER CALL YOU WHEN YOU WERE AWAY AT
2 SCHOOL?

3 A NO, NOT WHILE I WAS AT SCHOOL.

4 Q WHEN DID YOU COME BACK FROM SCHOOL IN THE SPRING
5 OR SUMMER OF 1984?

6 A IN THE MIDDLE OF MAY, TOWARDS THE END OF MAY.

7 Q AND YOU WERE AT HARVARD AT THAT TIME?

8 A YES, I WAS.

9 Q WAS THAT THE END OF YOUR FIRST YEAR?

10 A YES, THAT'S RIGHT.

11 Q WHEN YOU GOT BACK TO SCHOOL, IT WAS EITHER THE
12 MIDDLE OR THE END OF MAY?

13 A IT WAS TOWARD THE MIDDLE OF MAY.

14 Q WHEN YOU GOT BACK TO LOS ANGELES, WERE YOU LIVING
15 WITH YOUR PARENTS?

16 A YES.

17 Q DID YOU GO TO WORK FOR MR. LEVIN AT THAT TIME?

18 A YES, I DID.

19 Q DOING WHAT?

20 A SIMILAR SORTS OF THINGS, ALTHOUGH SINCE I WAS
21 OLDER I DROVE HIM PLACES AND DROVE HIS CAR PLACES, BUT
22 ESSENTIALLY SIMILAR: GOING TO THE BANK, MAKING PHONE CALLS
23 FOR HIM, THAT TYPE OF THING.

24 Q WHAT KIND OF A CAR DID MR. LEVIN HAVE?

25 A HE HAD A FEW CARS BUT HE HAD AT THAT TIME A
26 B.M.W.

27 Q WHAT COLOR WAS IT?

28 A BLACK.

1 Q DID YOU EVER GO WITH HIM SHORTLY BEFORE JUNE THE
2 6TH TO HAVE A PHONE INSTALLED IN THAT CAR?

3 A YES, WE DID.

4 Q DO YOU REMEMBER WHERE IT WAS THAT YOU WENT?

5 A IT WAS ON VENICE BOULEVARD SOMEPLACE. I DON'T
6 REMEMBER EXACTLY.

7 Q AND WAS THE PHONE PUT IT WHILE YOU WERE WAITING
8 OR PUT IN THAT DAY, IN ANY EVENT?

9 A I THINK IT WAS PUT IN THAT DAY, NOT WHILE WE
10 WAITED.

11 Q DURING THE TIME THAT YOU WERE HOME, DID YOU EVER
12 GO TO THE BANK FOR MR. LEVIN?

13 A A NUMBER OF TIMES.

14 Q DID YOU EVER SEE MR. LEVIN WITH SOME TRAVELER'S
15 CHECKS?

16 A YES, I DID.

17 Q SHORTLY BEFORE JUNE THE 6TH OF 1984, DID HE
18 GIVE YOU SOME TRAVELER'S CHECKS?

19 A HE DID. HE GAVE ME TRAVELER'S CHECKS TO DEPOSIT
20 IN THE BANK FOR HIM.

21 Q DID YOU DO THAT?

22 A YES, I DID.

23 Q WHICH BANK DID YOU DEPOSIT THEM IN?

24 A SECURITY PACIFIC NATIONAL BANK.

25 Q DID YOU GET TO THAT BANK FROM HIS HOUSE BY WALKING?

26 A YES, I DID.

27 THE BANK IS HALF A BLOCK FROM HIS HOUSE.

28 Q TO GET TO THAT BANK FROM MR. LEVIN'S HOUSE, HOW

1 DID YOU WALK?

2 A NORTH ON PECK TO WILSHIRE AND IT IS ALMOST DIRECTLY
3 ACROSS THE STREET FROM PECK ON WILSHIRE.

4 Q DOES PECK CONTINUE PAST WILSHIRE?

5 A NO. IT ENDS.

6 Q WHAT STREET DOES IT BECOME, FOR LACK OF A BETTER
7 WORD, ON THE NORTH SIDE?

8 A I THINK BEDFORD BUT THAT IS A LITTLE TO THE WEST
9 AND SECURITY PACIFIC IS ON THAT CORNER.

10 Q SO IT WOULD BE ON THE CORNER OF WILSHIRE AND
11 BEDFORD?

12 A THAT'S RIGHT.

13 Q THE TRAVELER'S CHECKS THAT HE GAVE YOU TO DEPOSIT,
14 WHAT DEMONINATIONS WERE THEY?

15 A I BELIEVE HUNDREDS, I AM NOT POSITIVE.

16 Q DID THEY ALL APPEAR TO BE FROM THE SAME BANK
17 AND IN THE SAME DEMONINATION?

18 A YES.

19 Q DID YOU DEPOSIT THOSE IN THE BANK?

20 A YES, I DID.

21 Q DO YOU REMEMBER NOW HOW MANY, WHAT THE AMOUNT
22 WAS OF THE DEPOSIT THAT YOU MADE?

23 A I AM UNCLEAR ON THE AMOUNT OF THE DEPOSIT BECAUSE
24 HE HAD A NUMBER OF TRAVELER'S CHECKS A FEW DAYS BEFORE, WHICH
25 I COUNTED OUT TO BE \$25,000, BUT AS TO WHETHER HE GAVE ME
26 THAT ENTIRE AMOUNT TO DEPOSIT IN THE BANK THE FOLLOWING DAY,
27 THE 5TH OF JUNE, I AM NOT POSITIVE.

28 Q DO YOU REMEMBER, IF YOU COUNTED THEM OUT ALL AT

1 ONE TIME AND IT CAME TO \$25,000 OR IF YOU COUNTED THEM OUT
2 AND IT CAME TO AN AMOUNT LARGER THAN YOU DEPOSITED?

3 A I REMEMBER COUNTING THEM AND IT CAME TO 25.

4 Q DID THEY ALL APPEAR TO BE FROM THE SAME BANK?

5 A YES.

6 Q DID THEY ALL APPEAR TO BE IN THE SAME DEMONINATION?

7 A YES.

8 Q SHOWING YOU THE CHECKS THAT ARE MARKED AS, I
9 BELIEVE, PEOPLE'S 40 FOR IDENTIFICATION, DO YOU RECOGNIZE THOSE?

10 A THESE LOOK LIKE THE TRAVELER'S CHECKS.

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1 Q DO THOSE APPEAR TO BE THE ONES THAT YOU DEPOSITED
2 IN THE BANK?

3 A YES.

4 Q WHEN YOU GOT THOSE TO BE DEPOSITED, DID MR.
5 LEVIN HAND THEM TO YOU?

6 A YES, HE DID.

7 Q AND AT THAT TIME, DID YOU SEE ANY OF THE BALANCE
8 OF THE AMOUNT THAT HE COUNTED THE DAY BEFORE?

9 A SORRY. CAN YOU REPEAT THAT?

10 A HE HAD A STACK OF TRAVELER'S CHECKS THE DAY
11 BEFORE, RIGHT?

12 A RIGHT.

13 Q AT THE TIME THAT HE GAVE YOU THE STACK OF 10,000
14 TO DEPOSIT, DID YOU SEE WHAT HAPPENED -- WHERE THE BALANCE
15 OF THE REMAINDER WAS?

16 A NO, I DID NOT.

17 Q BUT THEY ALL APPEARED TO BE IDENTICAL TO THE
18 ONES THAT ARE IN FRONT OF YOU?

19 A YES.

20 Q DO YOU REMEMBER MORE OF THE SPECIFIC AMOUNT
21 OF THE TRAVELER'S CHECKS THAT HE HAD OR THE SIZE OF THE
22 STACK?

23 A WHEN HE GAVE THEM TO ME TO DEPOSIT?

24 Q NO, WHEN YOU SAW THEM THE DAY BEFORE.

25 A I REMEMBER BOTH THE SIZE OF THE STACK AND THE
26 SPECIFIC AMOUNT THAT I COUNTED.

27 Q DO YOU REMEMBER BEING ASKED THESE QUESTIONS
28 AND GIVING THESE ANSWERS AT A PREVIOUS HEARING IN THIS CASE?

1 A YES.

2 MR. WAPNER: (READING)

3 "Q YOU EARLIER MENTIONED A FIGURE,
4 25,000. WHERE DID YOU GET THAT FROM?

5 "A I RECALL EITHER THAT THAT'S WHAT
6 HE TOLD ME OR COUNTING THEM AND I RECALL 10,000 --
7 \$25,000 IS AN ENORMOUS AMOUNT OF MONEY. I JUST
8 REMEMBER LOOKING AT THIS BIG STACK OF TRAVELER'S
9 CHECKS AND IT SEEMED LIKE THAT'S WHAT IT WOULD BE."

10 Q DO YOU REMEMBER SAYING THAT?

11 A YES.

12 Q AND THAT TESTIMONY WAS GIVEN IN MAY OF 1985?

13 A YES.

14 Q AND THAT DEPOSIT THAT YOU MADE OF THE \$10,000,
15 WAS WHAT DAY?

16 A THE 5TH OF JUNE, 1984.

17 Q HAD YOU MADE SOME PLANS WITH MR. LEVIN TO GO
18 SOMEPLACE?

19 A YES. DEAN FACTOR AND RON LEVIN AND I WERE GOING
20 TO GO TO NEW YORK ON JUNE THE 7TH.

21 Q WHEN WERE THE PLANS MADE?

22 A THE END OF MAY, I WOULD SAY ABOUT A WEEK PRIOR
23 TO WHEN WE WERE GOING TO LEAVE.

24 Q WHAT DID MR. LEVIN TELL YOU ABOUT THE TRIP TO
25 NEW YORK?

26 A NOT MUCH, JUST THAT HE WAS GOING TO GO TO NEW
27 YORK AND HE ASKED ME IF I WANTED TO GO.

28 Q WHAT DID YOU SAY?

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1 Q I SAID YES.

2 Q DID YOU DISCUSS WITH HIM WHAT HE WAS GOING TO
3 DO THERE AND WHAT YOU WOULD DO THERE?

4 A NO.

5 Q WHAT WERE THE PLANS IN TERMS OF WHERE YOU WERE
6 GOING TO STAY?

7 A I ASSUMED WE WERE GOING TO STAY AT A HOTEL.

8 Q WHO WAS GOING TO PAY FOR THIS TRIP?

9 A RON WAS.

10 Q HE DIDN'T TELL YOU WHERE YOU WERE GOING TO STAY?

11 A NO.

12 Q AND AFTER YOU MADE THESE PLANS WITH HIM, DID
13 YOU GO TO WORK FOR HIM ON JUNE THE 6TH?

14 A YES, I DID.

15 Q WHAT TIME DID YOU GO TO WORK THERE ON JUNE THE
16 6TH?

17 A IN THE MORNING.

18 Q AND DO YOU REMEMBER EXACTLY WHAT TIME OR APPROXI-
19 MATELY WHAT TIME IT WAS?

20 A APPROXIMATELY 9:00 OR 9:30.

21 Q HOW LONG DID YOU STAY THAT DAY?

22 A I DON'T RECALL EXACTLY, BUT UNTIL THE EARLY
23 AFTERNOON.

24 Q WHEN YOU LAST SAW MR. LEVIN, WHAT WAS HE WEARING?

25 A HE WAS WEARING A GRAY JOGGING SUIT.

26 Q DID YOU STAY MOSTLY AT HIS HOUSE ON THAT DATE?

27 A YES, I DID.

28 Q HOW WOULD YOU DESCRIBE HIS MOOD ON THAT DATE,

0-4

1 AS OPPOSED TO ANY OTHER TIME IN MAY AND JUNE OF 1984 THAT
2 YOU HAD SEEN HIM?

3 A NO DIFFERENT. EVERYTHING WAS THE SAME.

4 Q WHEN YOU LEFT HIS HOUSE -- AFTER YOU LEFT HIS
5 HOUSE IN THE EARLY AFTERNOON, DID YOU SPEAK WITH HIM AGAIN?

6 A YES, I DID. HE CALLED ME LATER THAT EVENING
7 AT APPROXIMATELY 9:00 OR 9:30 THAT EVENING.

8 Q APPROXIMATELY 9:00 OR 9:30?

9 A YES.

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1 FC.

1 Q AND WHEN HE CALLED YOU, WHAT DID HE SAY?

2 A HE ASKED ME IF I WOULD COME DOWN TO HIS HOUSE
3 AND WE WOULD GO OUT TO DINNER AND THEN I SHOULD SPEND THE
4 NIGHT THERE, SINCE WE WERE LEAVING EARLY IN THE MORNING
5 FOR NEW YORK.

6 Q AND WHAT DID YOU SAY?

7 A I SAID NO, THAT I HAD ALREADY EATEN AND THAT I
8 WAS GOING TO SPEND THE NIGHT AT DEAN'S HOUSE AND WE WOULD
9 COME IN THE MORNING.

10 Q AND AFTER YOU TOLD HIM THAT, WHAT HAPPENED?

11 A HE SAID GOODBYE AND HUNG UP. HE SAID "BE HERE
12 IN THE MORNING."

13 Q HOW WOULD YOU DESCRIBE HIS MOOD AT THAT TIME?

14 A ALSO, NOTHING UNUSUAL.

15 Q HOW DO YOU FIX THE TIME OF THE PHONE CALL?

16 A WELL, I REMEMBER THE NEXT MORNING WHEN WE WENT
17 TO RON'S PLACE AND HE WASN'T THERE, I TRIED TO CALL HIS
18 ANSWERING SERVICE. I CALLED HIS ANSWERING SERVICE TO FIND
19 OUT IF HE HAD PICKED UP HIS MESSAGES.

20 Q WHY DID YOU DO THAT?

21 A I WAS THINKING THAT, TO FIND OUT WHETHER HE HAD
22 CALLED AND WHETHER HE HAD CALLED IN, I THOUGHT PERHAPS HE
23 HAD GONE TO NEW YORK WITHOUT US AND I WAS JUST TRYING TO
24 CALL IN TO SEE WHEN THE LAST TIME HE CALLED WAS, TO SEE IF
25 HE HAD LEFT THE NIGHT BEFORE FOR NEW YORK.

26 AND I ASKED THE WOMAN IF RON HAD PICKED UP HIS
27 MESSAGES AFTER 9:00 OR 9:30, SINCE I REMEMBERED TALKING TO
28 HIM AT THAT TIME AND I KNEW HE WAS IN LOS ANGELES WHEN HE CALLED

1 ME, AND I WAS TRYING TO FIND OUT IF HE HAD LEFT.

2 Q AND YOU REMEMBER QUESTIONING HER ABOUT THE TIME
3 PERIOD BETWEEN 9:00 AND 9:30?

4 A YES.

5 Q CAN YOU FIX IT ANY MORE PRECISELY THAN THAT?

6 A NO.

7 Q AFTER YOU SPOKE TO HIM ON THE PHONE AT APPROXIMATELY
8 THE TIME YOU HAVE TOLD US, HAVE YOU EVER SPOKEN TO MR. LEVIN
9 AGAIN?

10 A NO, I HAVE NOT.

11 Q HAVE YOU EVER SEEN HIM AGAIN?

12 A NO, I HAVE NOT.

13 Q DID YOU GO TO HIS HOUSE THE NEXT MORNING?

14 A YES, DEAN AND I WENT TO HIS HOUSE IN THE MORNING.

15 Q DID YOU KEEP YOUR PLAN TO STAY AT DEAN'S HOUSE
16 THAT NIGHT?

17 A YES.

18 Q WHEN YOU WENT TO THE HOUSE WITH DEAN THAT
19 MORNING, DID YOU NOTICE SOMETHING THAT TO YOU WAS UNUSUAL --
20 FIRST OF ALL, LET ME ASK YOU: WHEN YOU GOT THERE,
21 WAS MR. LEVIN THERE?

22 A NO, HE WAS NOT.

23 Q DID YOU NOTICE SOMETHING THAT WAS UNUSUAL?

24 A YES. THE ALARM WASN'T ON.

25 Q WHY WAS THAT UNUSUAL TO YOU?

26 A BECAUSE RON WAS VERY METICULOUS ABOUT MANY THINGS
27 AND THE ALARM WAS ONE OF THEM. HE WAS CONSTANTLY AFRAID OF
28 BEING RIPPED OFF, SO HE HAD -- HE HAD A CODE ALARM SYSTEM

1 THAT HE PUT ON WHENEVER HE LEFT THE HOUSE, EVEN IF HE WAS
2 ONLY LEAVING FOR A SHORT AMOUNT OF TIME.

3 Q HAD YOU EVER BEEN WITH HIM WHEN HE LEFT THE
4 HOUSE FOR A SHORT AMOUNT OF TIME AND HE PUT ON THE ALARM?

5 A THE FEW TIMES WE WOULD GO INTO BEVERLY HILLS
6 TO GO TO LUNCH OR SOMETHING, WE PROBABLY WOULDN'T BE GONE
7 FOR MORE THAN AN HOUR BUT HE WOULD PUT IT ON AND TURN IT OFF
8 WHEN WE CAME BACK.

9 Q SO IT WAS UNUSUAL TO YOU THAT MORNING TO SEE THAT
10 THE ALARM WAS NOT ON?

11 A THE ALARM WASN'T ON AND THAT HE WASN'T THERE.

12 Q WHY WAS IT UNUSUAL THAT HE WASN'T THERE?

13 A WELL, WE HAD THE PLANS TO GO AND I HAD NEVER KNOWN
14 RON TO BREAK PLANS LIKE THAT. I MEAN HE HAD TOLD US TO BE
15 THERE IN THE MORNING SO WE WOULD BE READY TO GO AND WE WERE
16 THERE AND HE WASN'T. IT WAS JUST UNUSUAL.

17 Q HAD YOU EVER MADE PLANS WITH HIM THAT HE DIDN'T
18 KEEP WITHOUT TELLING YOU ABOUT IT?

19 A NO.

20 Q AND AFTER YOU NOTICED THAT THE ALARM WASN'T ON,
21 WHAT DID YOU DO?

22 A WE SAT ON THE STEP AND WAITED FOR BLANCHE, HIS
23 HOUSEKEEPER, TO COME AND OPEN THE HOUSE.

24 Q AND DID SHE EVENTUALLY ARRIVE?

25 A SHE DID COME AND OPEN THE HOUSE AND WE WENT IN.

26 Q WHEN YOU WENT IN, DID YOU NOTICE ANYTHING THAT
27 WAS TO YOU UNUSUAL?

28 A YES, I DID.

1 I NOTICED THAT THE COMFORTER WAS MISSING FROM
2 RON'S BED AND THAT THE REMOTE CONTROL FOR HIS TELEVISION SET
3 THAT USUALLY WAS LAYING ON THE COMFORTER, SINCE THE TELEVISION
4 WAS IN HIS BEDROOM, THAT WAS ALSO MISSING.

5 AND ALSO, HE HAD A DOG AND THE DOG HAD TO GO TO
6 THE BATHROOM AND URINATED ON THE CARPET NEAR THE FOOT OF
7 HIS BED.

8 Q HAD THAT EVER HAPPENED BEFORE?

9 A NO.

10 THE DOG WAS PRETTY WELL TRAINED.

11 Q AND DID YOU EVENTUALLY SIT DOWN WITH DEAN FACTOR
12 AND ATTEMPT TO MAKE A LIST OF ALL OF THE THINGS THAT YOU
13 THOUGHT WERE STRANGE?

14 A YES, WE DID.

15 Q WHY DID YOU DO THAT?

16 A WELL, FOR ONE, BECAUSE WE DID THINK THAT THINGS
17 WERE STRANGE, THAT IT WASN'T -- IT WASN'T AT ALL USUAL FOR
18 THIS TO HAPPEN, FOR US TO HAVE PLANS WITH RON AND THEN FOR
19 HIM NOT TO SHOW UP, AND FOR THIS COMFORTER TO BE MISSING
20 AND THESE THINGS THAT WERE NOT RIGHT IN THE HOUSE, THE ALARM
21 NOT ON, SO I GUESS WE WERE KIND OF NERVOUS, KIND OF WORRIED
22 WHAT MIGHT HAVE HAPPENED TO HIM.

23 Q DO YOU KNOW WHETHER THAT LIST FROM THE COMPUTER
24 WAS EVER PRINTED OUT?

25 A I DON'T RECALL EVER PRINTING IT OUT.

26 Q WAS IT STORED IN THE MEMORY?

27 A IT WAS STORED IN THE COMPUTER.

28

1 Q WERE YOU RUNNING A COMPUTER?

2 A YES.

3 Q DID YOU NOTICE ANYTHING ELSE THAT WAS EITHER
4 MISSING OR UNUSUAL FROM THAT HOUSE?

5 A THAT NONE OF RON'S CLOTHES WERE MISSING, NO
6 LUGGAGE WAS GONE.

7 Q WHAT ABOUT HIS MONEY? WERE YOU FAMILIAR WITH
8 WHERE THAT WAS NORMALLY KEPT?

9 A HE USUALLY KEPT A WALLET ON A SHELF IN HIS BEDROOM
10 WHICH I BELIEVE WAS STILL THERE.

11 Q ALL RIGHT. AND DID HE HAVE A WAY THAT HE KEPT
12 HIS MONEY AND HIS CHECKS AND CREDIT CARDS?

13 A I THINK HE KEPT THEM ALL IN A WALLET. IT WAS
14 LIKE AN OVERSIZED WALLET, LEATHER WALLET. AND THAT, AS
15 FAR AS I KNOW, WAS STILL THERE.

16 Q DID HE HAVE A HABIT OF KEEPING HIS MONEY WITH
17 SOME CREDIT CARDS AND A COUPLE OF CHECKS?

18 A I RECALL THAT HE USED TO HAVE A FEW CHECKS FOLDED
19 UP IN HIS WALLET.

20 Q AND DO YOU RECALL TELLING ME THAT HE HAD A HABIT
21 OF KEEPING LIKE A COUPLE OF CREDIT CARDS AND SOME MONEY
22 AND CHECKS ALL FOLDED UP AND MAYBE KEEPING THEM IN HIS POCKET?

23 A I DON'T RECALL TELLING YOU THAT. BUT I DO RECALL
24 IN HIS WALLET, THAT IS WHAT HE WOULD KEEP.

25 Q DO YOU REMEMBER MAKING A NOTATION TO THE LIST
26 AS TO WHETHER HIS WALLET WAS THERE OR NOT?

27 A NO, I DON'T.

28 Q AND AFTER GOING THROUGH THE HOUSE, WHAT DID

1 YOU DO?

2 A WELL, AS I SAY, I CALLED HIS ANSWERING SERVICE.
3 AND THEY TOLD ME THAT HE HAD NOT CALLED IN AND CHECKED FOR
4 HIS MESSAGES.

5 AND THEN, I CAN'T RECALL WHO SUGGESTED IT --
6 BUT I THINK BLANCHE SUGGESTED WE CALL HIS MOTHER. AND SHE
7 WAS CALLED AND CAME OVER.

8 AND THEN WE CALLED HIS ATTORNEY AND TRIED TO
9 FIND OUT IF HE KNEW HIS WHEREABOUTS.

10 Q THIS WAS MR. FURSTMAN?

11 A YES.

12 Q AND AFTER TALKING TO MR. FURSTMAN, WHAT DID
13 YOU DO?

14 A DEAN AND I WENT TO THE BEVERLY HILLS POLICE
15 STATION.

16 Q WHY DID YOU DO THAT?

17 A BECAUSE WE THOUGHT IT WAS EXTREMELY UNUSUAL
18 THAT RONNIE WAS NOT THERE, THAT HE WOULD BE MISSING LIKE
19 THIS AND NO CLOTHING AND THE COMFORTER GONE.

20 IT SEEMED LIKE AN ODD SITUATION. WE WENT TO
21 THE POLICE. AND THEY TOLD US THAT IT WASN'T -- THEY TOLD
22 US THERE WAS REALLY ESSENTIALLY NOTHING THEY COULD DO.

23 Q DID THEY TAKE A REPORT AT THAT TIME?

24 A NO.

25 Q YOU DIDN'T TALK TO THIS MAN, MR. ZOELLER, TO
26 MY RIGHT, DID YOU?

27 A I DON'T BELIEVE SO.

28 Q AFTER GOING TO THE POLICE STATION, DID YOU EVER

2-3

1 GO TO NEW YORK THAT DAY?

2 A NO.

3 Q AND I TAKE IT THAT YOU DIDN'T WORK FOR MR. LEVIN
4 ANYMORE THAT SUMMER OR ANY OTHER TIME?

5 A NO.

6 Q WHAT WAS UNUSUAL TO YOU ABOUT THE FACT THAT
7 NONE OF HIS CLOTHES WERE MISSING?

8 A WELL, HE LIKED TO DRESS WELL. HE LIKED TO LOOK
9 NICE. HE BOUGHT A LOT OF EXPENSIVE CLOTHES AND WHENEVER
10 HE WENT OUT, HE LIKED TO LOOK VERY, VERY SHARP AND FASHIONABLE.

11 AND HE WAS VERY ATTACHED TO HIS CLOTHES. SO,
12 IT JUST SEEMED UNUSUAL THAT HE COULD GO TO NEW YORK IN HIS
13 GRAY JOGGING SUIT, IF THAT IS IN FACT WHAT -- THAT'S WHAT
14 WE WERE THINKING AT THE TIME HE MIGHT HAVE DONE.

15 Q YOU MENTIONED GOING TO NEW YORK IN HIS GRAY
16 JOGGING SUIT. DID YOU SEE THE JOGGING SUIT THERE?

17 A NO.

18 Q HAVE YOU EVER BEEN WITH MR. LEVIN WHEN HE PURCHASED
19 CLOTHES?

20 A YES.

21 Q ON HOW MANY OCCASIONS?

22 A MAYBE FOUR OR FIVE.

23 Q DID HE HAVE A FAVORITE STORE HE LIKED TO BUY
24 CLOTHES AT?

25 A MAXFIELD BLUE.

26 Q DO YOU KNOW WHERE IT WAS LOCATED?

27 A AT THE CORNER OF SANTA MONICA AND DOHENY.

28 Q HAD YOU BEEN WITH HIM AT MAXFIELD BLUE WHEN

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1 HE PAID CASH FOR HIS CLOTHES?

2 A YES. I BELIEVE I HAD.

3 Q DO YOU KNOW HOW OFTEN HE SHOPPED THERE FOR CLOTHES?

4 A I WOULD SAY FAIRLY OFTEN. BUT I COULDN'T SAY
5 HOW OFTEN. I KNOW THAT HE BOUGHT A LOT OF HIS CLOTHES THERE.

6 Q DID HE HAVE WHAT YOU WOULD CONSIDER LOTS OF
7 NICE, MATERIAL THINGS IN THE APARTMENT?

8 A YES, HE DID. HE HAD LOTS OF -- HE HAD ARTWORK
9 THAT HE SAID WERE ORIGINAL ANDY WARHOLS AND WHETHER THEY
10 WERE OR NOT, I DON'T KNOW.

11 HE HAD LOTS OF EXPENSIVE WATCHES AND EXPENSIVE
12 CLOTHES AND HE ALWAYS HAD A NICE CAR.

13 IN THE FOUR OR FIVE YEARS THAT I KNEW HIM, HE
14 HAD A MERCEDES AND A ROLLS ROYCE AND I THINK TWO DIFFERENT
15 B.M.W.'S.

16 Q DID HIS POSSESSIONS APPEAR TO BE IMPORTANT TO
17 HIM?

18 A THEY WERE. HE WAS ALWAYS -- HE LIKED TO TELL
19 PEOPLE HOW MUCH THINGS COST AND WHERE HE BOUGHT THIS AND
20 HOW EXPENSIVE IT WAS AND HIS WAS THE BEST THAT WAS MADE.
21 YES, THEY WERE IMPORTANT TO HIM.

22 Q DID HE APPEAR TO LIKE TO HAVE THE BEST OF EVERYTHING?

23 A YES, HE DID.

24 Q DID HE EVER BUY THINGS FOR YOU?

25 A A COUPLE OF TIMES. HE BOUGHT ME A WALLET.

26 Q WHEN DID HE DO THAT?

27 A IT WAS DURING THAT SUMMER WHEN I WORKED FOR
28 HIM, PROBABLY THE END OF MAY.

1 Q WHEN YOU WERE WITH HIM, HE DID THAT?

2 A YES.

3 Q DID HE PAY CASH FOR IT?

4 A HE DID.

5 Q WHERE DID HE BUY THE WALLET?

6 A AT CARTIER IN BEVERLY HILLS.

7 Q DO YOU REMEMBER THE INCIDENT -- DO YOU REMEMBER
8 BEING WITH HIM WHEN HE BOUGHT THE WALLET?

9 A WE WENT IN TO CARTIER. I TOLD HIM THERE WAS
10 A WALLET THAT I HAD SEEN THAT I LIKED THERE. HE SAID, "COME
11 ON IN HERE." I SHOWED HIM THE WALLET AND HE SAID OKAY.

12 HE TOOK OUT HIS WALLET AND HE GAVE THE WOMAN
13 A \$100 BILL AND SHE SEEMED TO RECOGNIZE HIM.

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B-1

1 Q AND WHAT DID THEY SAY?

2 A SHE SAID, "ARE YOU RON LEVIN?"

3 Q WHAT DID HE SAY?

4 A HE SAID, "NO. I AM GEORGE LEVIN, RON LEVIN'S
5 BROTHER."

6 SHE SAID, "BECAUSE RON OWES US A LOT OF MONEY."

7 Q WHEN SHE SAID THAT, WHAT DID HE SAY BACK?

8 A HE SAID, "WELL, YOU SHOULD BE HAPPY. HE OWES
9 TIFFANY'S A WHOLE LOT OF MONEY, TOO. THEY HAVE NOT FOUND
10 HIM EITHER."

11 Q AND DID HE BUY THE WALLET FOR YOU?

12 A YES, HE DID.

13 Q DO YOU REMEMBER HOW MUCH IT COST?

14 A IN THE NEIGHBORHOOD OF \$70.

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1 Q DURING THE TIME THAT YOU WORKED THERE, DID YOU
2 EVER SEE MR. LEVIN ON THE PHONE?

3 A YES, HE WAS ON THE PHONE OFTEN.

4 HE SAT AT HIS DESK AND HE MADE PHONE CALLS ALL
5 DAY LONG, HE YELLED AND SCREAMED ON THE PHONE.

6 Q WAS YELLING AND SCREAMING KIND OF HIS METHOD OF
7 DOING BUSINESS?

8 A YES.

9 HE LIKED TO INTIMIDATE PEOPLE ON THE OTHER END
10 OF THE PHONE.

11 Q HAD YOU EVER BEEN PLACES WITH HIM, LIKE GO TO A
12 MOVIE OR RESTAURANTS OR SOMETHING, WHERE HE WOULD CALL IN --
13 STOP AND CALL IN FOR HIS MESSAGES?

14 A I DON'T RECALL SEEING HIM DOING THAT.

15 Q HAVE YOU EVER BEEN WITH HIM WHERE YOU WENT FOR A
16 SHORT PERIOD OF TIME AND THEN CAME HOME?

17 A YES, A NUMBER OF TIMES, AS I SAID EARLIER, WHEN
18 WE WOULD GO INTO BEVERLY HILLS OR SOMETHING LIKE THAT WHEN I
19 WAS WORKING FOR HIM, AND HE WOULD COME BACK AND ONE OF THE
20 FIRST THINGS HE WOULD DO WOULD BE TO CALL FOR HIS MESSAGES.

21 Q DURING THE TIME YOU WENT WITH HIM, IS IT YOUR
22 EXPERIENCE ONE OF THE FIRST THINGS HE WOULD DO WOULD BE TO
23 CALL IN FOR HIS MESSAGES?

24 A YES.

25 Q IN THE EXPERIENCE THAT YOU HAD WITH HIM IN
26 TERMS OF HIS CALLING IN FOR HIS MESSAGES, WHAT IS THE LONGEST
27 PERIOD OF TIME WHERE HE CAME IN AND WAITED TO CALL FOR HIS
28 MESSAGES?

1 A I COULDN'T SAY EXACTLY THE LONGEST PERIOD OF
2 TIME BUT IT SEEMED TO ME THAT WHEN WE CAME BACK, HE WOULD
3 NORMALLY CALL IN IN 10 OR 15 MINUTES FOR THE MESSAGES, NO
4 LONGER THAN THAT.

5 Q IF HE HAD BEEN OUT, FOR EXAMPLE, ON THE NIGHT OF
6 JUNE THE 6TH AND GOT A MESSAGE AND SOMEONE CALLED HIM BETWEEN
7 9:00 AND 9:10 IN THE EVENING AND HE HAD RETURNED SOME TIME
8 AFTER THAT, YOU WOULD EXPECT THAT WITHIN 10 TO 15 MINUTES
9 OF HIS RETURN, HE WOULD HAVE CALLED? .

10 A YES.

11 Q AND GOTTEN THE MESSAGE?

12 A CERTAINLY.

13 MR. WAPNER: MAY I HAVE JUST A MOMENT, PLEASE, YOUR HONOR?

14 THE COURT: UH-HUH, YES.

15 Q BY MR. WAPNER: WERE YOU AWARE OF THE FACT THAT
16 MR. LEVIN HAD A PENDING CRIMINAL CASE?

17 A YES, I WAS.

18 Q DID HE EVER TALK TO YOU ABOUT IT?

19 A OCCASIONALLY.

20 Q AND WHEN HE TALKED TO YOU ABOUT IT, WHAT WOULD HE
21 SAY?

22 A HE -- I REMEMBER A NUMBER OF TIMES, HE TALKED ABOUT
23 THE PERSON WHO HE THOUGHT WAS RESPONSIBLE FOR THE FACT THAT
24 HE WAS -- HIS CASE WASN'T GOING TO GO VERY WELL.

25 Q WHO WAS THAT PERSON?

26 A NEIL ANTIN.

27 Q WHAT WAS THE EXPRESSION THAT HE USED WHEN HE
28 TALKED ABOUT THAT?

1 A HE SAID "NEIL DIMED ON ME."

2 Q DIMED ON ME?

3 A HE TOLD THE POLICE SOMETHING HE DIDN'T HAVE TO
4 TELL THEM, THAT ALL IT DID WAS GET RON IN TROUBLE.

5 Q DIMED, MEANING TO DROP A DIME --

6 A TO DROP A DIME, MADE A PHONE CALL.

7 Q WHAT ELSE DID HE SAY ABOUT THE CASE BESIDES THE
8 FACT THAT MR. ANTIN HAD DIMED ON HIM?

9 A HE SAID HE DIDN'T THINK IT WAS GOING TO GO VERY
10 WELL.

11 Q WHEN HE SAID THAT, CAN YOU DESCRIBE THE TONE THAT
12 HE USED WHEN HE SAID THAT?

13 A HE SAID IT IN A VERY OFFHAND MANNER. HE SAID,
14 I MEAN ALMOST LAUGHING, "IT DOESN'T LOOK VERY GOOD."

15 WHAT HE SAID WAS, "I DON'T THINK IT IS GOING TO
16 GO VERY WELL."

17 Q FROM THE WAY THAT HE SAID THAT TO YOU, DID IT
18 APPEAR THAT HE WAS CONCERNED ABOUT THE CASE?

19 A NOT REALLY. I MEAN -- I WAS WITH HIM FOR ALMOST
20 EVERY DAY FOR A NUMBER OF WEEKS WHILE I WAS WORKING FOR HIM
21 AND HE ONLY MENTIONED IT A FEW TIMES SO HE DIDN'T SEEM OVERLY
22 CONCERNED WITH IT.

23 Q WHEN HE CALLED AT 9:00 -- WHEN HE TALKED TO YOU
24 THAT EVENING SOMETIME BETWEEN 9:00 AND 9:30 TO ASK YOU TO GO
25 TO DINNER, DID THAT SEEM UNUSUAL?

26 A NO.

27 Q IN YOUR EXPERIENCE WITH HIM, DID HE USUALLY COME
28 IN EARLY, COME IN LATE OR SOMEWHERE IN BETWEEN?

1 A WHEN WE WENT OUT IN THE EVENING, HE LIKED TO GO
2 OUT LATE. HE LIKED TO GO TO DINNER LATE AND THEN MAYBE GO
3 TO A 10:00 OR 12:00 MOVIE. SO, NO, IT WASN'T AT ALL UNUSUAL
4 TO BE CALLING TO GO TO DINNER AT 9:00.

5 Q YOU MENTIONED EARLIER THAT HE WAS METICULOUS
6 ABOUT HIS ALARM; WHAT OTHER THINGS WAS HE METICULOUS ABOUT?

7 A JUST THE STATE OF HIS WHOLE APARTMENT. HE LIKED
8 EVERYTHING TO BE NEAT. HE HAD HUNDREDS OF BOOKS AROUND HIS
9 APARTMENT AND MORE THAN THE SHELVES COULD HOLD BUT WHEN HE
10 STACKED THEM ON TABLES, HE STACKED THEM VERY NEATLY SO THE
11 ENDS OF THEM ALL LINED UP AND HIS DESK WAS -- THERE WAS
12 LOTS OF PAPERS ON HIS DESK BUT, AGAIN, ALL OF THE PAPERS WERE
13 STACKED AT RIGHT ANGLES, VERY, VERY NEAT AND CAREFUL.

14 HE DIDN'T LIKE DISARRAY.

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1 Q HOW WOULD YOU -- WERE YOU FAMILIAR WITH THE
2 WAY THAT HE KEPT HIS FILES IN HIS OFFICE?

3 A VAGUELY. I MEAN I KNOW WHERE HE KEPT HIS FILES.

4 Q AND IN TERMS OF HOW HE KEPT HIS FILES, WAS HE
5 FAIRLY METICULOUS ABOUT THAT ALSO?

6 A I DON'T KNOW.

7 Q DID YOU EVER HAVE AN EXPERIENCE WITH HIM THAT
8 INDICATED TO YOU HOW METICULOUS HE WAS ABOUT KEEPING HIS
9 THINGS?

10 A WELL, A NUMBER OF TIMES -- I REMEMBER ONCE,
11 I WAS SITTING AT HIS DESK AND TALKING ON THE PHONE, I HAD
12 CALLED MY MOTHER AND I HAD PICKED UP A CAN OF PENCILS OR
13 MOVED SOME PAPERS AND HE CAME IN AND STARTED SCREAMING AND
14 YELLING AT ME ABOUT "WHAT ARE YOU DOING? WHY ARE YOU SCREWING
15 UP MY DESK? JUST, YOU KNOW, LEAVE IT ALONE."

16 Q WAS THAT IN '84 OR SOMETIME BEFORE THAT?

17 A THAT WAS BEFORE THAT.

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1 Q DID IT APPEAR TO YOU THAT MR. LEVIN LIKED HAVING
2 PEOPLE AROUND HIM?

3 A YES, HE DID. WHEN I WORKED FOR HIM, I WASN'T
4 REALLY DOING WORK MORE THAN MAYBE -- IF I WORKED FOR HIM
5 FOR A NINE-HOUR DAY, I WAS NOT ACTUALLY DOING ANYTHING FOR
6 MORE THAN MAYBE, TWO HOURS.

7 SO THE OTHER TIME, HE JUST LIKED -- I THINK HE
8 WAS PAYING ME TO BE THERE, JUST BECAUSE HE LIKED TO HAVE
9 SOMEBODY AROUND, SOMEBODY TO TALK TO, SOMEBODY HE COULD
10 KIND OF BOUNCE IDEAS OFF OR SAY THAT THIS IS WHAT I AM DOING.
11 THIS IS WHAT I AM INVOLVED IN KIND OF JUST TO HAVE AN
12 AUDIENCE THAT HE COULD PLAY TO.

13 Q HOW MUCH DID HE PAY YOU FOR WORKING THERE?

14 A ABOUT \$5 AN HOUR.

15 Q WAS THERE ANYTHING IN PARTICULAR THAT YOU FOUND
16 ATTRACTIVE ABOUT MR. LEVIN?

17 A WELL, HE WAS FUN TO BE AROUND. WE WERE ALWAYS
18 DOING EXCITING THINGS.

19 AND A FEW YEARS BEFORE, BEFORE 1984, HE LET DEAN
20 AND I USE HIS LIMOUSINE TO GO TO MAGIC MOUNTAIN.

21 YOU KNOW, HE WAS ALWAYS TAKING US OUT TO DIFFERENT
22 PLACES AND DOING THINGS LIKE THAT. IT WAS EXCITING TO BE
23 AROUND HIM.

24 HE WAS ALSO A VERY INTELLIGENT MAN. SO IT WAS
25 INTERESTING TO TALK TO HIM.

26 Q WHAT KIND OF COMPUTER WAS IT THAT YOU MADE THE
27 NOTES ON?

28 A AN APPLE MAC INTOSH.

1 Q DURING THE TIME THAT YOU KNEW RON LEVIN, DID YOU
2 EVER KNOW HIM TO EXERCISE?

3 A NO.

4 Q EVER?

5 A NO.

6 Q DID YOU EVER TALK TO HIM ABOUT IT?

7 A I DID ONCE. I THINK HE WAS CHANGING AND I THOUGHT
8 THAT HE HAD KIND OF A POTBELLY. I SAID, "WELL, WHY DON'T
9 YOU COME TO THIS GYM THAT I JUST JOINED AND WORK OUT WITH
10 ME?" "YOU COULD GET RID OF THAT POTBELLY." HE SAID, "WELL,
11 IT DOESN'T MAKE ANY DIFFERENCE BECAUSE YOU KNOW, BY THE
12 TIME I GET MY CLOTHES OFF, BY THE TIME I GET THIS FAR WITH
13 A GIRL, SHE IS GOING TO SLEEP WITH ME OR SHE IS NOT."

14 BUT YOU KNOW, HE DIDN'T LIKE TO EXERCISE.

15 Q YOU SAID YOU RECALLED HIS WALLET BEING THERE.
16 DO YOU RECALL LOOKING IN IT?

17 A NO.

18 Q YOU DON'T KNOW WHETHER IT HAD ANY MONEY IN IT
19 OR CREDIT CARDS IN IT OR NOT?

20 A NO.

21 Q DO YOU KNOW HOW LONG HE WAS PLANNING TO BE IN
22 NEW YORK?

23 A I THINK A WEEK.

24 Q IS THAT HOW LONG YOU WERE PLANNING TO BE THERE
25 ALSO?

26 A YES.

27 Q HAVE YOU EVER BEEN WITH MR. LEVIN WHEN HE WAS
28 PREPARING TO GO ON OTHER TRIPS OTHER THAN THIS NEW YORK

1 TRIP?

2 A I HAD BEEN WITH HIM WHILE HE WAS PREPARING TO
3 GO, NOT THAT I WAS GOING TO GO WITH HIM. BUT I HAD BEEN WITH
4 HIM.

5 Q DID YOU SEE HIM PREPARING TO TAKE CLOTHES WITH
6 HIM?

7 A YES. HE WOULD PUT THINGS ON AND TRY THEM AND
8 THEN TAKE THEM OFF AND PUT THEM IN HIS SUITCASE AND TRY
9 SOMETHING ELSE. MAYBE HE WOULD PUT IT BACK IN THE CLOSET.
10 HE WOULD TRY A FEW DIFFERENT THINGS BEFORE HE
11 WOULD DECIDE WHAT HE WAS TAKING.

12 Q WOULD YOU SAY THAT IT WAS AN EXAMPLE OF HOW HE
13 LIKED TO HAVE EVERYTHING MATCH AND BE VERY FASTIDIOUS?

14 A HE WAS METICULOUS ABOUT HIS CLOTHES AND ABOUT
15 EVERYTHING. HE LIKED IT ALL TO BE RIGHT.

16 MR. WAPNER: THANK YOU. NOTHING FURTHER.

17 THE COURT: ALL RIGHT. YOU MAY CROSS-EXAMINE.

18

19 CROSS-EXAMINATION

20 BY MR. BARENS:

21 Q MR. BRODER, HAD YOU EVER BEEN ON ANY TRIPS
22 WITH MR. LEVIN?

23 A NO.

24 Q HAVE YOU EVER BEEN ANYWHERE WITH HIM THAT WAS
25 OUT OF TOWN?

26 A NO.

27 Q YOU MENTIONED THAT YOU HAD SEEN HIM PREPARING
28 FOR SOME -- IN SOME STATE OF PREPARATION FOR OTHER TRIPS.

1 WHERE WAS HE GOING ON THESE OCCASIONS?

2 A I DON'T RECALL.

3 Q HE NEVER DISCUSSED WITH YOU WHERE HE WAS GOING?

4 A HE MIGHT HAVE BUT I DON'T RECALL. AGAIN, IT
5 WAS ABOUT FOUR YEARS AGO, I WOULD SAY. I MEAN, IT WAS NOT
6 THIS SUMMER. IT WAS IN THE SUMMER OF 1984 WHEN I SAW THIS
7 TAKING PLACE.

8 Q DO YOU REMEMBER WHEN HE WAS IN PALM SPRINGS
9 WITH DEAN FACTOR?

10 A NO. I DON'T REMEMBER THAT.

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1 Q YOU DON'T RECALL ANYTHING ABOUT THAT TRIP?

2 A NO. I DIDN'T GO.

3 Q DID DEAN EVER TALK TO YOU ABOUT THAT TRIP?

4 MR. WAPNER: OBJECTION. CALLS FOR HEARSAY, YOUR HONOR.

5 THE COURT: OVERRULED.

6 THE WITNESS: COULD YOU REPEAT IT?

7 Q BY MR. BARENS: DID DEAN FACTOR EVER TALK TO
8 YOU ABOUT THE TIME HE WAS IN PALM SPRINGS WITH MR. LEVIN?

9 A I DON'T BELIEVE SO.

10 Q DID DEAN FACTOR EVER TELL YOU HE HAD PAID FOR
11 TRIPS THEY WENT ON TOGETHER?

12 A I DON'T RECALL.

13 Q WHAT MADE YOU ASSUME, I THINK IT WAS YOUR WORD,
14 THAT LEVIN WAS GOING TO PAY FOR THIS TRIP TO NEW YORK?

15 A WELL, HE HAD ALREADY PAID FOR THE TICKETS AND
16 WHENEVER WE DID ANYTHING TOGETHER, I NEVER PAID FOR ANYTHING.
17 I MEAN WHENEVER WE WENT OUT, HE PAID.

18 Q ALL RIGHT. YOU SAID HE PAID FOR THE TICKETS
19 TO NEW YORK?

20 A OR THEY WERE -- YES.

21 Q HOW DID YOU KNOW THAT?

22 A THE TICKETS WERE ON HIS DESK WHEN WE GOT THERE
23 IN THE MORNING.

24 Q YOU DON'T KNOW IF HE PAID FOR THEM OR NOT; YOU
25 JUST SAW THE TICKETS THERE?

26 A RIGHT.

27 Q SO IT WAS JUST AN ASSUMPTION YOU MADE THAT HE
28 PAID FOR THEM?

1 A YES.

2 Q YOU WERE AWAY AT SCHOOL ABOUT NINE MONTHS OF
3 THE YEAR, WERE YOU NOT?

4 (WHEREUPON, THE WITNESS NODDED HIS HEAD UP
5 AND DOWN.)

6 MR. WAPNER: IS THAT YES?

7 THE WITNESS: YES.

8 Q BY MR. BARENS: SO YOU ARE ONLY REALLY ABLE
9 TO TELL US ABOUT, SAY, THREE MONTHS OF THE YEAR THE WAY
10 MR. LEVIN ACTED?

11 A THAT'S CORRECT.

12 Q AND THEN ANYTHING ELSE DURING THE REST OF THE
13 YEAR WOULD BE AN ASSUMPTION YOU WOULD BE MAKING?

14 A WELL, ACTUALLY, LET ME GO BACK ON THAT, BECAUSE
15 WHEN I FIRST MET HIM OR FOR MOST OF THE TIME I KNEW HIM,
16 I WAS IN HIGH SCHOOL SO I WAS ACTUALLY HERE MORE LIKE 11
17 MONTHS OUT OF THE YEAR.

18 Q SO IT WOULD ONLY THEN BE NINE MONTHS OUT OF
19 THE LAST YEAR OR TWO YEARS?

20 A OF THE ONE YEAR.

21 Q OF THE LAST ONE YEAR?

22 A THAT WAS MY FIRST SUMMER OUT OF COLLEGE.

23 Q YOU MET MR. LEVIN WHEN YOU WERE 13?

24 A THAT'S RIGHT.

25 Q HOW OLD DID HE SEEM TO BE THEN?

26 A HE SEEMED TO BE IN HIS LATE 30'S.

27 Q DID YOU THINK THERE WAS ANYTHING UNUSUAL ABOUT
28 A FELLOW HIS AGE HANGING OUT WITH A 13-YEAR-OLD?

1 A YES.

2 Q AND WHAT DID YOUR PARENTS THINK ABOUT YOUR HANGING
3 OUT WITH A FELLOW IN HIS LATE 30'S, A 40-YEAR-OLD MAN?

4 MR. WAPNER: OBJECTION. ARGUMENTATIVE.

5 THE COURT: OVERRULED.

6 THE WITNESS: I THINK THEY ALSO THOUGHT IT WAS A LITTLE
7 BIT ODD.

8 Q BY MR. BARENS: WHENEVER YOU LEFT LEVIN'S AT
9 NIGHT, DID YOU SEE ANY WOMEN STAYING BEHIND?

A YES.

10 Q WHO WERE THOSE WOMEN?

11 THE COURT: YOU DON'T HAVE TO ANSWER THAT QUESTION.

12 MR. BARENS: WAS THERE AN OBJECTION, YOUR HONOR? YOURS?

13 THE COURT: I AM MAKING THE OBJECTION. THERE IS NO
14 POINT IN INQUIRING ABOUT OTHER WOMEN.

15 MR. BARENS: THANK YOU. I JUST WANTED TO HAVE --
16 IT WAS YOUR OBJECTION?

17 THE COURT: THAT IS RIGHT, MY OBJECTION.

18 Q BY MR. BARENS: HOW ABOUT WHEN YOU WOULD COME
19 IN THE MORNING, WOULD THERE BE WOMEN THERE?

20 A I DON'T RECALL.

21 Q YOU DON'T EVER RECALL SHOWING UP FOR WORK AND
22 SEEING A WOMAN THERE, DO YOU?

23 A NO.

1 Q YOU TALKED EARLIER ABOUT HAVING SEEN A STACK
2 OF \$25,000 WORTH OF CASHIER'S CHECKS; WHEN WAS THAT, SIR?

3 A IT WAS THE BEGINNING --

4 MR. WAPNER: EXCUSE ME. I THINK IT WAS TRAVELER'S
5 CHECKS.

6 THE WITNESS: TRAVELER'S CHECKS.

7 MR. BARENS: AGAIN, I STAND CORRECTED.

8 Q TRAVELER'S CHECK; IS THAT CORRECT?

9 A YES, IT WAS THE BEGINNING OF JUNE, 1984.

10 Q AND THEN YOU TESTIFIED THAT YOU TOOK SOME TRAVELER'S
11 CHECKS TO THE BANK?

12 A YES.

13 Q THAT WAS AFTER YOU SAW THE STACK OF TRAVELER'S
14 CHECKS?

15 A YES.

16 Q NOW, CAN YOU TELL ME WITH ANY SENSE OF CERTAINTY,
17 MR. BRODER, WHETHER THE CHECKS YOU TOOK TO THE BANK WERE
18 PART OF THE \$25,000 OR IF THEY WERE SOME OTHER TRAVELER'S
19 CHECKS?

20 A I AM FAIRLY CERTAIN THAT THEY WERE THE SAME.
21 IT WAS THE SAME GROUP.

22 Q HOW DO YOU KNOW THAT?

23 THE COURT: YOU MEAN THE SAME PART OF IT, IS THAT
24 WHAT YOU ARE SAYING?

25 THE WITNESS: YES, IT WAS PART OF THAT GROUP.

26 Q BY MR. BARENS: HOW DO YOU KNOW THAT, SIR?

27 A THE CHECKS WERE ALL THE SAME DENOMINATION ON
28 THE SAME BANK AND THEY HAD BEEN IN HIS APARTMENT WHEN I

1 LEFT.

2 Q YES, SIR?

3 A AND IT WAS THE NEXT MORNING OR THE NEXT DAY
4 THAT HE ASKED ME TO TAKE THE CHECKS IN, SO I GUESS THAT
5 IS IT.

6 Q YOU ARE ASSUMING, ARE YOU NOT --

7 A YES.

8 Q -- MR. BRODER?

9 A YES.

10 Q AND IT IS AN ASSUMPTION? IT IS NOT BASED ON
11 YOUR FACTUAL KNOWLEDGE, IS IT?

12 MR. WAPNER: OBJECTION. ARGUMENTATIVE.

13 THE COURT: SUSTAINED.

14 Q BY MR. BARENS: DID MR. LEVIN EVER SAY TO YOU
15 WHEN HE SHOWED YOU THE \$25,000 IN TRAVELER'S CHECKS, HERE
16 IS MY \$25,000 IN TRAVELER'S CHECKS, I DON'T HAVE ANY MORE
17 OF THESE ANYWHERE IN MY HOUSE?

18 A NO, HE DID NOT.

19 Q OR ANY PERSON SAY THAT?

20 HE DIDN'T TELL YOU ANYTHING LIKE THAT, DID HE?

21 A NO.

22 Q HE NEVER SAID TO YOU, THESE ARE ALL OF MY TRAVELER'S
23 CHECKS, DID HE?

24 A NO.

25 Q ALL RIGHT. IT IS BELIEVABLE TO YOU, IS IT NOT,
26 SIR, AS MUCH AS IT IS NOT BELIEVABLE TO YOU, THAT THOSE
27 CHECKS WERE NOT A PART OF THE \$25,000?

28 MR. WAPNER: OBJECTION. ARGUMENTATIVE.

1 THE COURT: SUSTAINED.

2 Q BY MR. BARENS: ALL RIGHT. WHEN YOU SAW THOSE
3 \$25,000 IN TRAVELER'S CHECKS, WHERE WERE THEY?

4 A ON HIS DESK IN HIS OFFICE.

5 Q WERE YOU PRESENT AT THE DESK IN HIS OFFICE AFTER
6 YOU WENT TO THE BANK?

7 A I AM SORRY. AFTER I WENT?

8 Q AFTER YOU WENT TO THE BANK AND MADE A DEPOSIT
9 OF TRAVELER'S CHECKS, WERE YOU EVER AGAIN PRESENT IN HIS
10 OFFICE AREA?

11 A YES.

12 Q AND WERE THE TRAVELER'S CHECKS STILL THERE?

13 A I DON'T RECALL.

14 Q YOU DON'T RECALL SEEING A STACK OF THEM ON HIS
15 DESK AT THAT POINT?

16 A NO.

17 Q DID YOU HAPPEN TO SEE LEN MARMOR THAT DAY?

18 A I DON'T BELIEVE I KNOW LEN MARMOR.

19 Q ALL RIGHT. DID YOU HAPPEN TO KNOW A FELLOW
20 NAMED FOULK?

21 A I DON'T THINK SO. FOULK?

22 Q A FELLOW NAMED FOULK DIDN'T WORK FOR MR. LEVIN
23 AT THAT TIME?

24 A I DON'T KNOW.

25 Q YOU NEVER SAW HIM AROUND?

26 A I DON'T KNOW.

27 FOULK, DID YOU SAY?

28 Q FOULK, ACTUALLY.

1 MR. WAPNER: I BELIEVE IT IS FOULK.

2 Q BY MR. BARENS: OH, IT IS FOULK, HOW DO YOU
3 SAY THAT?

4 THE COURT: JAMES FOULK.

5 THE WITNESS: IT DOESN'T -- IT DOESN'T SOUND FAMILIAR

6 Q BY MR. BARENS: MOST OF THE TIME WHEN YOU WORKED
7 FOR MR. LEVIN, YOU WERE PRESENT IN HIS APARTMENT?

8 A YES.

9 Q THEN YOU WOULD BE IN A POSITION TO SEE THE PEOPLE
10 COMING AND GOING, I SUPPOSE?

11 A UH-HUH.

12 Q IS THAT YES?

13 A YES.
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1 Q YOU SAID THAT LEVIN CALLED YOU AROUND 9:00 OR
2 9:30 ON THE EVENING OF THE 6TH?

3 A YES.

4 Q AND DIDN'T SOUND UNUSUAL TO YOU ON THE PHONE
5 AT THAT TIME?

6 A NO, HE DIDN'T.

7 Q WHEN HE ASKED YOU TO COME SPEND THE NIGHT WITH
8 HIM, HAD HE EVER ASKED YOU TO SPEND THE NIGHT WITH HIM
9 BEFORE?

10 A I THINK HE HAD ONCE BEFORE.

11 Q WHEN WAS THAT?

12 A A NUMBER OF YEARS BEFORE THAT. BEFORE I DROVE,
13 BECAUSE OTHERWISE, HE HAD TO PAY FOR A CAB TO SEND ME HOME.

14 Q AND WHEN HE ASKED YOU TO SPEND THE NIGHT THAT
15 NIGHT, DID THAT MAKE YOU UNCOMFORTABLE?

16 A NOT REALLY.

17 Q AND DID YOU COMMENT TO MR. FACTOR THAT HE HAD
18 CALLED YOU THAT NIGHT?

19 A I BELIEVE I DID. I KNOW THAT I COMMENTED TO
20 HIM ABOUT IT THE NEXT MORNING, WHEN WE WENT TO RON'S PLACE.
21 AND I DON'T REMEMBER WHETHER I SAID SOMETHING ALSO THE
22 PREVIOUS NIGHT.

23 Q THAT NIGHT, HE CALLED YOU AT YOUR HOUSE WHERE
24 YOU LIVED WITH YOUR FOLKS?

25 A YES.

26 Q AND THEN YOU LEFT YOUR HOUSE WITH YOUR FOLKS AND
27 WENT OVER TO DEAN'S HOUSE THAT NIGHT?

28 A THAT'S RIGHT.

1 Q WHAT TIME DID YOU GET TO FACTOR'S?

2 A I DON'T REMEMBER.

3 Q WOULD IT BE AFTER 10:00?

4 A IT WOULD BE AFTER 10:00, PROBABLY BETWEEN 10:00
5 AND 11:00.

6 Q AND DID DEAN FACTOR TELL YOU THAT HE HAD SPOKEN
7 TO LEVIN ON THE PHONE THAT NIGHT?

8 A I DON'T RECALL.

9 Q WHEN YOU GOT THERE, DID FACTOR EVER TELL YOU THAT
10 HE HAD RECONFIRMED WITH LEVIN, THAT YOU WERE LEAVING
11 THE NEXT MORNING FOR NEW YORK?

12 A I DON'T RECALL.

13 Q HE NEVER TOLD YOU THAT HE HAD ANY UNUSUAL PHONE
14 CALL WITH LEVIN THAT NIGHT, DID HE?

15 A I DON'T REMEMBER HIM SAYING ANYTHING.

16 Q YOU DON'T RECALL HIM SAYING ANYTHING LIKE THAT,
17 DO YOU?

18 A NO.

19 Q ALL RIGHT. WHAT WAS YOUR UNDERSTANDING ABOUT
20 THE ROOM ARRANGEMENT IN NEW YORK AS FAR AS WHETHER YOU WERE
21 GOING TO HAVE YOUR OWN ROOM OR STAY WITH LEVIN?

22 A I DIDN'T HAVE ANY UNDERSTANDING OF IT AT ALL. I
23 NEVER HEARD IT MENTIONED.

24 Q WHAT DID YOU ASSUME AT THAT TIME?

25 A I JUST ASSUMED WE WOULD BE STAYING IN A HOTEL.

26 Q BEYOND THAT, YOU MADE NO ASSUMPTION?

27 A THAT'S CORRECT.

28 MR. BARENS: ONE MOMENT, YOUR HONOR.

1 THE COURT: YES.

2 (PAUSE.)

3 Q BY MR. BARENS: WAS IT ANY PART OF YOUR
4 RESPONSIBILITY AT LEVIN'S, TO ANSWER THE PHONE?

5 A WHEN HE WAS NOT ABLE TO ANSWER IT, SOMETIMES.

6 Q AND WHEN HE WAS BUSY WITH SOMETHING?

7 A RIGHT.

8 Q DID HIS MOTHER CALL A LOT?

9 A PARDON ME?

10 Q DID HIS MOTHER CALL?

11 A MY MOTHER?

12 Q NOT YOURS, HIS.

13 A HIS MOTHER? I REMEMBER HIM TALKING TO HER
14 ON THE PHONE A NUMBER OF TIMES. BUT, I WOULDN'T SAY A LOT.
15 NOT IN MY PRESENCE, ANYWAY.

16 Q ALL RIGHT. WERE YOU OFTEN IN MR. LEVIN'S BEDROOM?
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1 A DURING THE DAY, SOMETIMES I WOULD SIT THERE AND
2 WATCH TELEVISION.

3 Q WAS IT A PRACTICE OF HIS TO HAVE A BED SETTING
4 THAT WOULD LOOK ALL WHITE?

5 A YES.

6 Q IT WAS KIND OF A PRACTICE, HEY? WAS IT PRETTY
7 UNIFORM THAT WAY?

8 A I BELIEVE SO, YES.

9 Q AND HOW WOULD HE ACCOMPLISH THAT IN A PHYSICAL
10 SENSE? WOULD THERE BE A WHITE SHEET OVER THE COMFORTER?

11 A I DON'T THINK SO, NO. I THINK THE COMFORTER ITSELF
12 MIGHT HAVE BEEN WHITE.

13 Q IT WAS WHITE?

14 A AND THEN THERE WERE WHITE PILLOWS.

15 Q SO THE COMFORTER WAS WHITE?

16 A I BELIEVE SO. IT COULD HAVE BEEN A SHEET, A
17 COMFORTER COVER, A SHEET OVER THE COMFORTER. I DON'T KNOW
18 EXACTLY.

19 Q IT COULD HAVE BEEN?

20 A YES.

21 Q IF IT WAS A WHITE SHEET OVER THE COMFORTER
22 MR. BRODER, HOW COULD YOU TELL WHAT COLOR THE COMFORTER WAS?

23 A NO. I SAID THAT IT WAS EITHER A WHITE COMFORTER
24 OR THERE WAS A WHITE SHEET OVER THE COMFORTER.

25 Q YOU COULDN'T BE SURE?

26 A WELL, IT COULD HAVE BEEN A COMFORTER COVER.

27 Q BUT WHITE ALSO?

28 A I BELIEVE SO.

1 Q NOW, YOU SAY THAT YOU SAW HIS WALLET IN THE
2 BEDROOM THAT DAY?

3 A THAT MORNING, YES.

4 Q HOW ABOUT HIS KEYS?

5 A I DON'T RECALL.

6 Q NOT SURE IF THEY WERE THERE OR NOT?

7 A NO, I AM NOT.

8 Q BY THE WAY, DID YOU INVENTORY MR. LEVIN'S
9 WARDROBE?

10 A NO, I DID NOT.

11 Q YOU NEVER HAVE DONE THAT SORT OF THING FOR HIM,
12 DID YOU?

13 A NO.

14 Q YOU DIDN'T KNOW THE EXACT COMPOSITION AND EXTENT
15 OF HIS WARDROBE, DID YOU?

16 A NO.

17 Q HOW COULD YOU TELL ME THAT NONE OF HIS CLOTHES
18 WERE MISSING?

19 A WELL, ON FIRST GLANCE, IT APPEARED NOTHING WAS
20 MISSING. AND BLANCHE, WHO HAD TAKEN CARE OF HIS THINGS FOR
21 A LONG TIME, ALSO SAID THAT NOTHING WAS GONE.

22 Q ALL RIGHT. YOU DIDN'T KNOW THAT AS A FACT, DID
23 YOU?

24 A NO, NOT INDEPENDENTLY.

25 Q THAT WAS AN ASSUMPTION THAT YOU MADE?

26 A YES.

27 Q I SEE. WHEN YOU WOULD GO TO -- WAS IT MAXWELL BLUE?

28 A MAXFIELD BLUE.

1 Q MAXFIELD BLUE. WOULD HE -- WE ARE IN L.A., NOT
2 NEW YORK. ALL RIGHT.

3 WHEN YOU WOULD GO TO MAXFIELD BLUE WITH HIM,
4 HOW MUCH DID YOU SEE HIM SPEND?

5 A IN THE HUNDREDS OF DOLLARS. BUT I DON'T KNOW
6 EXACT FIGURES.

7 Q THOUSANDS, POSSIBLY?

8 A IT IS POSSIBLE. THE CLOTHES THERE -- I MEAN,
9 I REMEMBER SEEING HIM BUY A SHIRT FOR ABOUT \$200. SO, IT
10 WOULD BE EASY TO SPEND \$1,000.

11 Q SURE. HE ALWAYS PAID WITH CASH WHEN YOU WERE
12 WITH HIM?

13 A I DON'T RECALL. I THINK THAT I SAW HIM PAY WITH
14 CASH ON AT LEAST ONE OR TWO OCCASIONS. BUT I THINK HE ALSO
15 MIGHT HAVE HAD A HOUSE CHARGE THERE FOR AWHILE. BUT I AM
16 NOT POSITIVE ABOUT THAT.

17 Q DID HE SEEM FAIRLY UNRESERVED IN HIS SPENDING
18 THERE?

19 A YES.

20 Q HE DIDN'T SEEM TO BE WORRIED ABOUT HOW MUCH HE
21 SPENT?

22 A NO.

23 Q HE NEVER SEEMED TO BE WORRIED ABOUT HOW MUCH HE
24 SPENT, DID HE?

25 A NO, HE DID NOT.

26 Q HE NEVER SEEMED TO BE AT A SHORTAGE FOR MONEY,
27 DID HE?

28 A NO. HE SOMETIMES SAID THAT HE DIDN'T HAVE ANY

1 MONEY. BUT I NEVER SAW HIM BROKE.

2 Q NEVER?

3 A NO.

4 Q HE NEVER SEEMED AT A LOSS TO CONSUME?

5 A NO.

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1 Q ALL RIGHT. NOW REFERABLE TO THAT CRIMINAL CASE
2 THAT HE WAS FACING, DID YOU KNOW IT WAS A CASE IN BEVERLY
3 HILLS?

4 A YES.

5 Q AND HE TOLD YOU THAT HE FELT THE CASE WASN'T
6 GOING TO GO TOO WELL, WAS IT?

7 A THAT'S CORRECT.

8 Q WAS THAT THE EXPRESSION HE USED?

9 A YES.

10 Q DID HE SAY IT ON MORE THAN ONE OCCASION?

11 A I DON'T BELIEVE SO.

12 MAYBE ONCE OR TWICE.

13 Q ONCE OR TWICE?

14 A ONCE OR TWICE.

15 Q BUT HE DIDN'T SEEM WORRIED ABOUT IT?

16 A NO, NOT --

17 Q HE DIDN'T SEEM WORRIED HE WAS GOING TO GO TO
18 JAIL?

19 A NO, NOT REALLY.

20 Q EVEN THOUGH HE THOUGHT IT WASN'T GOING TCOWELL,
21 HE DIDN'T SAY, IF IT DOESN'T GO WELL, I WILL FACE SOME BAD
22 CONSEQUENCES, DID HE?

23 A NO, I DON'T RECALL HIM SAYING THAT.

24 Q NO?

25 A HE MADE AN OFFHAND REFERENCE TO HOW HE WAS --
26 RONNIE HAD WANTED TO GO TO MEDICAL SCHOOL BEFORE AND HE --

27 Q YES?

28 A AND HE SAID THAT IF HE-- IF IT DIDN'T GO WELL,

1 IF THE TRIAL DIDN'T GO WELL, HE WAS GOING TO GO TO MEDICAL
2 SCHOOL IN THE CARIBBEAN.

3 Q YES. AS A MATTER OF FACT, IN GRANADA?

4 A HE SAID C-TECH, NOT IN GRANADA.

5 Q C-TECH?

6 A C-TECH.

7 Q WHAT DO YOU UNDERSTAND WHEN SOMEONE SAYS
8 C-TECH? WHAT DO YOU UNDERSTAND THAT TO MEAN AS FAR AS WHERE
9 YOU GO TO SCHOOL?

10 A IT DOESN'T MEAN ANYTHING TO ME.

11 Q DOESN'T MEAN ANYTHING TO YOU?

12 A NO.

13 Q IT DOESN'T MEAN SOME SORT OF AN OFFSHORE FACILITY
14 FOR SCHOOL?

15 A YES, IN THE CARIBBEAN. YES, I UNDERSTAND "C"
16 TO STAND FOR CARIBBEAN.

17 Q SO HE TOLD YOU THAT IF THE TRIAL DIDN'T GO WELL,
18 HE WOULD GO TO THIS PLACE IN THE CARIBBEAN AND GO TO MEDICAL
19 SCHOOL?

20 A THAT'S CORRECT.

21 Q BUT HE DIDN'T SEEM LIKE HE WAS WORRIED ABOUT
22 GOING TO JAIL IF THE TRIAL DIDN'T GO WELL, DID HE?

23 A HE NEVER MENTIONED IT.

24 Q YOU MENTIONED THAT MR. LEVIN WAS A PRETTY FASTI-
25 DIOUS FELLOW, KEPT EVERYTHING NEAT.

26 A YES.

27 Q THE DESK, EVERYTHING AT RIGHT ANGLES ON THAT
28 DESK?

A YES.

1 Q CLOTHES LOOKED PRETTY NEAT?

2 A YES.

3 Q GOOD SENSE OF HOUSEKEEPING?

4 A YES -- SENSE OF HOUSEKEEPING, SURE.

5 Q IT WOULD BE UNUSUAL FOR HIM TO HAVE PAPERS STREWN
6 ON THE FLOOR, I WOULD SUPPOSE?

7 A YES.

8 Q AND HE WASN'T OF A NATURE WHERE HE JUST WOULD
9 LEAVE THINGS CHUCKED ON THE FLOOR, WOULD HE?

10 A NO, NOT IF HE NOTICED IT. I IMAGINE HE WOULD
11 PICK IT UP.

12
13 Q DID LEVIN TRY TO LOOK GOOD IN FRONT OF YOU?

14 DO YOU KNOW WHAT I MEAN BY THAT, MR. BRODER?

15 TO MAINTAIN A PRESENCE WITH YOU WHERE YOU WOULD BE IMPRESSED
16 WITH HIM?

17 MR. WAPNER: OBJECTION. CALLS FOR A CONCLUSION BY THE
18 WITNESS.

19 MR. BARENS: WE HAVE HAD ALL SORTS OF CONCLUSIONS.

20 THE COURT: SUSTAINED.

21 Q BY MR. BARENS: DID YOU HAVE THE IMPRESSION
22 LEVIN WAS TRYING TO IMPRESS YOU?

23 A AT TIMES, YES.

24 MR. BARENS: JUST A MOMENT, YOUR HONOR.

25 (PAUSE IN PROCEEDINGS.)

26 Q BY MR. BARENS: NOW, YOU WERE AT THE HOUSE ON
27 THE 6TH OF JUNE?

28 A YES.

1 Q AND YOU WERE THERE AT WHAT HOURS?

2 A FROM ABOUT 9:00 OR 9:30 IN THE MORNING TO
3 MIDAFTERNOON.

4 Q DID YOU TAKE THE CALL FROM RUDY CARPIN AT THE
5 I.R.S.?

6 A I DON'T BELIEVE SO.

7 Q YOU ARE SURE ABOUT THAT, MR. BRODER?

8 A I DON'T RECALL.

9 Q DO YOU REMEMBER DISCUSSING WITH MR. LEVIN THE
10 CALL FROM THE I.R.S.?

11 A NO.

12 Q DID YOU EVER OVERHEAR HIM TALKING TO THE AGENT?

13 A NO, I DON'T BELIEVE SO. I DON'T REMEMBER.

14 Q YOU DON'T REMEMBER?

15 A NO.

16 Q HE NEVER MADE ANY REFERENCE TO YOU ABOUT THAT
17 CALL?

18 A I DON'T REMEMBER, NO.

19 Q HAVE YOU EVER TALKED TO ANYBODY WHERE YOU DISCUSSED
20 THAT CALL?

21 A NO.

22 Q WHO, ON THE MORNING OF THE 7TH, ACTUALLY MADE
23 THE CALL -- YOU MENTIONED THERE WAS A CALL -- HIS MOTHER
24 CALLED MR. FURSTMAN, I BELIEVE? WHO ACTUALLY MADE THOSE
25 CALLS?

26 A I BELIEVE BLANCHE CALLED HIS MOTHER AND I AM
27 NOT POSITIVE BUT I BELIEVE HE WAITED UNTIL HIS MOTHER CAME
28 AND SHE CALLED MR. FURSTMAN.

1 Q THAT WASN'T THE FIRST TIME YOU HAD EVER SEEN
2 HIS MOTHER, WAS IT?

3 A NO. I HAD MET HER ONCE BEFORE.

4 Q AT THE HOUSE?

5 A NO.

6 I THINK I MET HER WHEN I WAS WALKING WITH DEAN
7 FACTOR SOMEPLACE AND HE INTRODUCED ME TO HER. WE BUMPED
8 INTO HER.

9 Q DEAN DID?

10 A YES.

11 Q DID YOU HAVE ANY TELEPHONE CALLS WITH DEAN FACTOR
12 THE NIGHT OF THE 6TH BEFORE YOU WENT OVER THERE?

13 A I CALLED HIM TO TELL HIM I WAS COMING OVER.
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1 Q ABOUT WHAT TIME WAS THAT?

2 A I AM NOT SURE AGAIN, BETWEEN 10:00 AND 11:00.

3 MR. BARENS: THANK YOU, SIR.

4 THE COURT: ANY REDIRECT?

5 MR. WAPNER: BRIEFLY.

6

7

REDIRECT EXAMINATION

8

BY MR. WAPNER:

9

Q MR. BRODER, SOME INSINUATION ABOUT A LOT OF
10 THE CROSS-EXAMINATION WAS YOU WERE HAVING A HOMOSEXUAL RELATION-
11 SHIP WITH MR. LEVIN; IS THAT TRUE?

12

MR. BARENS: I WOULD OBJECT TO THAT, YOUR HONOR.

13

THE COURT: WELL, IT IS PROPER REDIRECT.

14

YOU MAY ANSWER THE QUESTION.

15

THE WITNESS: NO, IT IS NOT TRUE.

16

MR. BARENS: OBJECT TO THE FORM OF THE QUESTION, YOUR
17 HONOR.

18

THE COURT: THE OBJECTION IS OVERRULED. THE ANSWER
19 WILL STAND.

20

MR. BARENS: THANK YOU, YOUR HONOR:

21

Q BY MR. WAPNER: YOU SAID THAT WHEN HE ASKED
22 YOU TO COME OVER AND SPEND THE NIGHT, IT DIDN'T MAKE YOU
23 UNCOMFORTABLE; WHY?

24

A BECAUSE HE HAD NEVER MADE A PASS AT ME IN ALL
25 OF THE YEARS THAT I HAD KNOWN HIM AND I DIDN'T -- I DIDN'T
26 CONSIDER IT WORRISOME. I DIDN'T FEEL LIKE HE WAS GOING
27 TO MAKE A PASS AT ME AND I DIDN'T FEEL LIKE IF HE DID THAT
28 I WOULDN'T BE ABLE TO HANDLE IT BY TELLING HIM NO.

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Q WHAT ABOUT GOING TO NEW YORK WITH HIM?

A THE SAME THING STANDS: I SPENT TIME WITH HIM
BECAUSE I LIKED BEING AROUND WITH HIM BUT NOT BECAUSE THERE
WAS A HOMOSEXUAL RELATIONSHIP GOING ON.

8 FC.

1 Q WERE YOU THERE OFTEN WITH PEOPLE COMING IN AND
2 OUT OF THE APARTMENT ON PECK DRIVE?

3 A YES.

4 Q AND WAS THAT TRUE DURING THE TIME THAT YOU
5 WORKED THERE?

6 A YES, IT WAS.

7 Q DURING THE HOURS THAT YOU WERE THERE IN THE
8 MORNING, IS THERE ANY WAY FULLY TO ESTIMATE ON THE AVERAGE,
9 HOW MANY PEOPLE WOULD COME IN AND OUT OF THERE?

10 A IN ANY GIVEN DAY, I MEAN FIVE OR TEN, MAYBE DURING
11 THE DAY.

12 Q WAS THERE ANYONE WHO CAME AND SPENT A LOT OF
13 TIME THERE DURING THE DAY WHEN YOU WERE THERE, ANYONE IN
14 PARTICULAR THAT YOU CAN REMEMBER?

15 A NO, NOT IN THOSE THREE WEEKS THAT I WORKED FOR HIM.

16 Q WHAT WERE YOUR HOURS, IF THEY WERE REGULAR?

17 A FROM ABOUT 9:00 IN THE MORNING UNTIL 4:00 OR 5:00
18 IN THE AFTERNOON OR EVENING.

19 Q WERE THERE PEOPLE WHO CAME IN AND OUT OF THERE,
20 WHO YOU DIDN'T KNOW?

21 A YES.

22 Q MANY?

23 A YES, A FAIR NUMBER.

24 Q DURING THE TIME THAT YOU WERE THERE, WHAT WAS
25 YOUR EXPERIENCE WITH HOW MANY TIMES YOU WOULD LET THE
26 PHONE RING BEFORE THE ANSWERING SERVICE WOULD PICK IT UP?

27 A I DON'T RECALL.

28 Q DO YOU EVER REMEMBER HAVING AN EXPERIENCE WHERE

1 THE PHONE WAS RINGING MORE THAN ONCE AND YOU WOULD PICK IT
2 UP AND THE ANSWERING SERVICE WOULD NOT BE ON THE LINE?

3 A SORRY? THAT THEY WOULD NOT BE ON THE LINE?

4 Q RIGHT. IF IT WOULD RING LET'S SAY AND YOU WERE
5 THERE AND THE PHONE RANG TWICE AND YOU PICKED IT UP AND
6 WOULD THE ANSWERING SERVICE ALWAYS BE ON THE LINE OR WERE
7 THERE TIMES WHEN --

8 A I THINK THERE WOULD BE MORE THAN TWO RINGS BECAUSE
9 IF I HAD HEARD THE PHONE RING MORE THAN A COUPLE OF TIMES
10 AND THEN EITHER GOTTEN IT OR RON HAD GOTTEN IT, WHEN I GOT
11 IT, NO. THE ANSWERING SERVICE WAS NOT ON THE PHONE THEN.

12 Q WHAT DO YOU MEAN BY THE EXPRESSION, "OFFHAND"
13 REFERENCE TO GOING TO MEDICAL SCHOOL AT C TECH?

14 A WELL, HE DIDN'T SAY IT IN A SERIOUS WAY. HE DIDN'T
15 SAY IT AS THOUGH HE SERIOUSLY CONTEMPLATED GOING TO MEDICAL
16 SCHOOL IN THE CARIBBEAN.

17 I AM NOT EVEN SURE THERE IS A C TECH.

18 HE JUST SAID IT IN A VERY FLIP MANNER LIKE IF
19 YOU WOULD TELL A JOKE. LIKE I WOULD SAY WELL, YOU KNOW,
20 I AM GOING TO HAWAII THIS WEEKEND IF I CAN GET AWAY. IT
21 DIDN'T SEEM LIKE A REAL POSSIBILITY.

22 Q DID YOU KNOW THAT HE HAD NEVER GRADUATED FROM
23 ANY SCHOOL THAT HE HAD EVER ATTENDED?

24 A NO. I DIDN'T KNOW.

25 MR. WAPNER: THANK YOU. NOTHING FURTHER.

26 /// ///

27 /// ///

28 /// ///

1 RE-CROSS-EXAMINATION

2 BY MR. BARENS:

3 Q YOU MENTIONED THAT REMARK ABOUT MEDICAL SCHOOL
4 WAS A BIT OFFHAND. I THINK YOU TOLD US EARLIER THAT HIS
5 REMARK ABOUT HIS CASE WAS A BIT OFFHAND, AS WELL.6 YOUR INTERPRETATION OF OFFHAND IN THIS INSTANCE,
7 WAS THAT YOU DIDN'T NECESSARILY BELIEVE WHAT HE SAID WAS HIS
8 TRUE STATE OF MIND. IS THAT CORRECT?9 A WELL, THAT I DIDN'T THINK THAT HE WAS TRYING
10 TO CONVEY TO ME THAT THOSE WERE HIS REAL INTENTIONS.11 Q WHEN YOU USE "OFFHAND" TO DESCRIBE HIS ATTITUDE
12 ABOUT HIS CASE, DO YOU TELL ME THE SAME THING ABOUT HIS
13 STATE OF MIND IN THAT INSTANCE?14 A IN THAT INSTANCE, I MEANT THAT IT DIDN'T SEEM
15 TO BE WEIGHING VERY HEAVILY ON HIM. HE DIDN'T SAY IT AS
16 THOUGH HE HAD CONSIDERED IT CAREFULLY AND LIKE, MY GOD, IT
17 IS NOT GOING TO GO WELL.

18 Q IT SEEMED FLIP, DID IT?

19 A IT DID.

20 Q SIMILAR TO THE REMARK ABOUT GOING TO MEDICAL
21 SCHOOL SEEMED FLIP?

22 A I GUESS YOU COULD SAY THAT.

23 Q AND YOU ASSUMED THAT HE WASN'T SERIOUS?

24 A YES.

25 MR. BARENS: THANK YOU.

26 ///

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1 FURTHER REDIRECT EXAMINATION

2 BY MR. WAPNER:

3 Q MR. BRODER, I TAKE IT BY THAT, THAT YOU HEARD
4 HIM TALK ABOUT OTHER THINGS ABOUT WHICH HE WAS SERIOUS?

5 A YES.

6 Q AND YOU COULD MAKE A DISTINCTION IN YOUR MIND?

7 A YES, VERY EASILY.

8 MR. WAPNER: THANK YOU. NOTHING FURTHER.

9 THE COURT: ALL RIGHT. MAY THIS WITNESS BE EXCUSED?

10 MR. WAPNER: I HAVE NO OBJECTION.

11 THE COURT: BY THE WAY LADIES AND GENTLEMEN, WE ARE
12 GOING TO GO RIGHT THROUGH TO 3:30. WE WILL THEN TAKE AN
13 ADJOURNMENT.

14 MR. WAPNER'S BROTHER HAS BECOME A FATHER AND
15 THERE IS A PARTY AT 4:00. THEY CALL IT A BRISS.

16 MR. WAPNER: WE CALL HAROLD VALVIK.

17
18 HAROLD VALVIK,
19 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
20 AS FOLLOWS:

21 THE CLERK: RAISE YOUR RIGHT HAND TO BE SWORN, PLEASE.

22 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU MAY
23 GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE
24 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP
25 YOU GOD?

26 THE WITNESS: I DO.

27 THE CLERK: BE SEATED THERE AT THE WITNESS STAND.
28 PLEASE STATE AND SPELL YOUR NAME FOR THE RECORD.

1 THE WITNESS: HAROLD VALVIK, V-A-L-V-I-K.

2 MR. WAPNER: MAY I HAVE A MOMENT, PLEASE YOUR HONOR?

3 THE COURT: YES.

4 (PAUSE.)

5
6 DIRECT EXAMINATION

7 BY MR. WAPNER:

8 Q MR. VALVIK, ARE YOU EMPLOYED?

9 A YES, I AM.

10 Q WHERE ARE YOU EMPLOYED?

11 A AT THE U.S. TRUST COMPANY OF NEW YORK.

12 Q WHAT KIND OF AN ORGANIZATION IS THAT?

13 A IT IS A TRUST BANK, SIR.

14 Q AND WHAT DO YOU DO FOR THEM?

15 A I AM A PLATFORM OFFICER ASSIGNED TO OUR 54TH STREET
16 OFFICE.

17 Q HOW LONG HAVE YOU WORKED AT U.S. TRUST COMPANY?

18 A 20 YEARS.

19 Q IN 1984, WHAT WAS YOUR JOB WITH THE BANK?

20 A VICE-PRESIDENT AND PLATFORM OFFICER.

21 THE COURT: WHAT IS A PLATFORM OFFICER?

22 THE WITNESS: IN CHARGE OF OPENING AND CLOSING ACCOUNTS
23 AND SERVICING CUSTOMER ACCOUNTS.

24 THE COURT: OKAY.

25 Q BY MR. WAPNER: AND HAVING BEEN WITH THE BANK FOR
26 20 YEARS, WERE YOU PRETTY WELL FAMILIAR WITH THE PROCEDURES
27 THAT WERE FOLLOWED BY THE BANK?

28 A YES, SIR.

1 Q WERE YOU FAMILIAR WITH HOW THE RECORDS ARE KEPT?

2 A YES, I AM, SIR.

3 Q DID YOU BRING WITH YOU SOME RECORDS FOR THE
4 ACCOUNTS OF A PERSON NAMED RON LEVIN?

5 A YES, I DID.

6 Q AND DID MR. LEVIN HAVE AN ACCOUNT AT YOUR BANK
7 IN 1983 AND 1984?

8 A YES, HE DID, A CHECKING ACCOUNT.

9 FOL.

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1 MR. BARENS: WHEN WAS THAT ACCOUNT OPENED?

2 THE WITNESS: MAY I REFER TO IT?

3 Q BY MR. WAPNER: YES.

4 A THE ACCOUNT WAS OPENED ON APRIL 26, 1983.

5 Q HOW DO YOU KNOW THAT?

6 A I HAVE COPIES OF THE STATEMENTS HERE, SIR, SHOWING
7 THE OPENING OF THE ACCOUNT.

8 Q WAS THE ACCOUNT OPENED BY MR. LEVIN APPEARING
9 IN NEW YORK OR IN SOME OTHER WAY?

10 A NO. IT WAS OPENED BY MAIL, SIR.

11 Q HOW DO YOU KNOW THAT?

12 A WELL, THERE ARE -- WELL, THERE IS CORRESPONDENCE
13 IN HERE FROM MR. SMITH TO MR. LEVIN OPENING -- OR EXCUSE ME --
14 TO THE HEAD OF THE NETWORK NEWS, OPENING THE ACCOUNT FOR
15 MR. LEVIN.

16 Q WHO WAS MR. SMITH?

17 A MR. SMITH IS -- WAS THE OFFICER IN CHARGE OF
18 THE PLATFORM AT THE TIME ON APRIL 26, 1983.

19 Q WHAT BRANCH -- WELL, HOW MANY BRANCHES WERE THERE
20 OF THE U.S. TRUST COMPANY?

21 A TWO, SIR.

22 Q WHICH BRANCH DID MR. LEVIN HAVE HIS ACCOUNT AT?

23 A AT THE 54TH STREET OFFICE, SIR.

24 Q AT THAT TIME WERE YOU WORKING AT THE 54TH STREET
25 OFFICE?

26 A NO, SIR.

27 I WAS AT DOWNTOWN, 45 WALL STREET OFFICE.

28 Q HAD YOU WORKED AT THE 54TH STREET OFFICE BEFORE?

1 A HAVE I WORKED THERE?

2 Q HAD YOU WORKED THERE BEFORE THAT TIME?

3 A NO, SIR.

4 Q ALL RIGHT. ARE THE RECORDS AT THE BANK KEPT IN
5 THE SAME MANNER, REGARDLESS OF WHICH BRANCH?

6 A THEY ARE, SIR, THEY ARE KEPT IN THE SAME MANNER.

7 Q WITH RESPECT TO AN ACCOUNT THAT IS OPENED BY
8 MAIL, HOW IS THE ACCOUNT ACTUALLY OPENED?

9 A THE DISCUSSIONS AND THE INFORMATION WERE OBTAINED
10 BY MR. SMITH AND SIGNATURE CARDS WERE SENT TO MR. LEVIN IN
11 CALIFORNIA TO SIGN AND RETURN TO US.

12 Q DO YOU HAVE THAT SIGNATURE CARD WITH YOU?

13 A YES, SIR, I DO.

14 MR. WAPNER: MAY I HAVE JUST A MOMENT WITH THE WITNESS,
15 YOUR HONOR?

16 THE COURT: YES.

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1 (UNREPORTED COLLOQUY BETWEEN MR. WAPNER
2 AND THE WITNESS.)

3 MR. WAPNER: MAY I SEE THE ORIGINAL SIGNATURE CARD,
4 PLEASE?

5 (WHEREUPON, A DOCUMENT WAS HANDED TO THE
6 DEPUTY DISTRICT ATTORNEY BY THE WITNESS.)

7 MR. WAPNER: YOUR HONOR, MAY THAT BE MARKED AS --

8 THE COURT: 141.

9 MR. WAPNER: -- 141, PLEASE?

10 THE COURT: YES.

11 MR. WAPNER: I AM PLACING A 141 ON THE BOTTOM OF THE
12 CARD ON THE BACK IN BLUE INK.

13 THE COURT: YES.

14 Q BY MR. WAPNER: MR. VALVIK, DOES THIS INDICATE
15 ON HERE THE DATE THAT IT WAS OPENED SOMEWHERE IN PENCIL,
16 PERHAPS?

17 A YES. 4-26-83, IT SAYS "NEW ACCOUNT."

18 Q AND WHAT WAS THE AMOUNT THAT THE ACCOUNT WAS
19 OPENED WITH?

20 A \$2,500 DEPOSIT.

21 Q IS THAT THE MINIMUM DEPOSIT REQUIRED BY YOUR
22 BANK?

23 A YES, SIR, IT IS. AT THE TIME IT WAS.

24 Q MAY I HAVE JUST A MOMENT?

25 AND AFTER THAT ACCOUNT WAS OPENED IN APRIL WITH
26 THE \$2,500, WAS THERE MUCH ACTIVITY IN THE ACCOUNT FOR THE
27 FIRST FEW MONTHS?

28 A NO, THERE WAS NOT, SIR.

9A-2

1 Q INCIDENTALLY, YOU NEVER MET MR. LEVIN YOURSELF,
2 DID YOU?

3 A NO, SIR, I DID NOT.

4 Q AND AT THE END OF APRIL, WHAT WAS THE --
5 MR. BARENS: '83?

6 MR. WAPNER: 1983, THANK YOU, COUNSEL.

7 Q WHAT WAS THE BALANCE IN THE ACCOUNT?

8 A \$2,500.

9 Q AND DID IT STAY THAT WAY THROUGH THE JULY STATEMENT?

10 A IT STAYED THAT WAY THROUGH THE JULY 12 STATEMENT,
11 SIR.

12 Q AND THE STATEMENTS WERE ISSUED ON A --

13 A ON A MID-MONTH CYCLE.

14 Q AND THE AUGUST THE 12TH STATEMENT WAS WHAT
15 WHAT BALANCE?

16 A \$500.

17 Q AND DID IT STAY THAT WAY FOR THE NEXT -- THROUGH
18 THE SEPTEMBER THE 12TH STATEMENT?

19 A YES, SIR, IT DID.

20 Q AND THEN WHAT WAS THE BALANCE AT THE END OF
21 OCTOBER '83?

22 A \$26,500.

23 Q AND AT THE END OF NOVEMBER OF 1983?

24 A THIS IS THE MID MONTH OF NOVEMBER.

25 Q I AM SORRY. THANK YOU.

26 NOVEMBER THE 10TH WAS THE STATEMENT DATE?

27 A YES, SIR.

28 Q WHAT WAS THE BALANCE THEN?

1 A \$23,540.

2 Q AT THE END OF SEPTEMBER OF '83, WHAT WAS THE
3 BALANCE?

4 A LET'S SEE.

5 Q I AM SORRY. DECEMBER THE 12TH.

6 A IT HAD AN OVERDRAWN BALANCE OF \$2,110.

7 Q DID YOU GIVE US THE BALANCE -- I AM SORRY --
8 OF NOVEMBER OF '83, NOVEMBER THE 10TH?

9 A \$23,540.

10 Q AND THEN THE NEXT MONTH IT WAS OVERDRAWN; IS
11 THAT RIGHT?

12 A THAT'S RIGHT, SIR.

13 MR. BARENS: OBJECTION, YOUR HONOR. I AM A BIT CONFUSED
14 BY THE NEXT "MONTH" HERE. ARE WE IN DECEMBER OR JANUARY?

15 THE COURT: WHAT WAS THE LAST MONTH YOU GAVE US WHERE
16 THERE WAS A \$23,000 BALANCE?

17 THE WITNESS: THAT WAS THE MONTH OF NOVEMBER 10TH,
18 THE STATEMENT ENDING NOVEMBER 10TH.

19 THE COURT: THEN IT WAS OVERDRAWN ON THE FOLLOWING
20 DECEMBER 10?

21 THE WITNESS: THAT'S RIGHT, SIR.

22 MR. BARENS: THAT WAS THE 2,110?

23 THE WITNESS: RIGHT, \$2,110.09 OVERDRAWN.

24 MR. BARENS: THANK YOU, YOUR HONOR. THANK YOU.

25 Q BY MR. WAPNER: MR. VALVIK, WHAT ARE YOU REFERRING
26 TO TO GET THESE FIGURES?

27 A I AM REFERRING TO PHOTOCOPIES OF THE STATEMENTS
28 OF THE ACCOUNT, MONTHLY STATEMENTS OF THE ACCOUNT.

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Q HOW ARE THOSE RECORDS PREPARED THAT YOU ARE
LOOKING AT?

A THEY ARE PREPARED FROM THE RECORDS FROM OUR
DEMAND DEPOSIT AND OUR CHECK CLEARANCE DEPARTMENT.

-1

1 Q ARE THEY PREPARED IN THE ORDINARY COURSE OF
2 BUSINESS?

3 A YES, THEY ARE.

4 Q AND IF THERE IS ACTIVITY IN AN ACCOUNT, IS IT
5 NOTED SOMEHOW, BY THE BANK?

6 A YES. EVERY CHECK THAT IS PAID AND EVERY DEPOSIT
7 THAT IS MADE TO THE ACCOUNT, IS RECORDED IN THE COMPUTER.
8 AND THOSE ITEMS ARE MICROFILMED.

9 Q AND THEN AT THE MIDMONTH CYCLE, HOW IS THAT
10 STATEMENT GENERATED?

11 A THE STATEMENT IS GENERATED FROM THE COMPUTER.
12 AND IT IS MAILED OUT TO THE CUSTOMER.

13 Q AND THAT IS DONE IN THE ORDINARY COURSE OF
14 BUSINESS?

15 A YES, SIR. IT IS.

16 Q IT IS DONE ONCE A MONTH IN THIS CASE ON A MIDMONTH
17 CYCLE?

18 A THAT'S RIGHT, SIR.

19 Q AND THE ORIGINAL OF THIS STATEMENT IS MAILED TO
20 THE CUSTOMER?

21 A YES, SIR. IT IS.

22 Q AND IS THERE A COPY KEPT BY THE BANK?

23 A YES, SIR, ON MICROFILM.

24 Q AND DID YOU BRING A COPY, PRODUCE A COPY FROM
25 THE MICROFILM AND BRING IT WITH YOU?

26 A YES, I DID, SIR.

27 Q IS THAT WHAT YOU HAVE BEEN REFERRING TO?

28 A IT IS, SIR.

1 MR. WAPNER: MAY THAT BE MARKED AS PEOPLE'S 142, I
2 BELIEVE?

3 THE COURT: 143.

4 MR. WAPNER: 142, I THINK.

5 THE COURT: YES. 142.

6 Q BY MR. WAPNER: WHILE WE ARE ON THE BORING
7 SUBJECT OF LAYING A FOUNDATION FOR BUSINESS RECORDS, ARE YOU
8 FAMILIAR WITH HOW THE DOCUMENT THAT IS PEOPLE'S 141 IS
9 PREPARED? THAT IS THE SIGNATURE CARD.

10 A YES, I AM.

11 Q ALL RIGHT. AND HOW IS THAT PREPARED?

12 A WELL, THAT IS A CARD THAT IS MADE UP AT THE TIME
13 OF WHEN THE ACCOUNT IS OPENED.

14 Q WHO MAKES IT UP?

15 A THE PLATFORM OFFICER OR HIS ASSISTANT AT THE TIME.

16 Q AND WHO DID IT IN THIS CASE?

17 A MR. SMITH.

18 Q THAT IS VINCE SMITH?

19 A THAT'S RIGHT, SIR.

20 Q AND WAS THAT DONE AFTER A CONVERSATION ON THE
21 TELEPHONE WITH MR. LEVIN?

22 A YES, SIR. IT WAS.

23 Q AND AFTER MR. SMITH MAKES UP THE CARD, WHAT DOES
24 HE DO WITH IT?

25 A HE SENDS IT TO MR. LEVIN FOR SIGNATURE AND TO
26 BE RETURNED TO US.

27 Q AND WAS IT RETURNED TO YOU?

28 A YES, SIR. IT WAS.

1 Q AND DID YOU BRING THAT WITH YOU FROM NEW YORK
2 TODAY?

3 A YES, I DID.

4 Q AND THAT IS MADE AT OR NEAR THE TIME THAT THE
5 ACCOUNT IS OPENED?

6 A YES.

7 Q AND IT'S MADE IN THE ORDINARY COURSE OF BUSINESS?

8 A YES, SIR, IT IS.

9 Q AND THE MIDDLE OF DECEMBER STATEMENT,
10 DECEMBER THE 12TH, HAD AN OVERDRAWN BALANCE OF \$2,000, IS
11 THAT RIGHT?

12 A YES.

13 Q \$2,110.09?

14 A THAT'S RIGHT.

15 Q AND THEN IN MID JANUARY, THE STATEMENT, WHAT
16 WAS THE BALANCE IN THE ACCOUNT?

17 A \$4,243.39.

18 Q THAT IS JANUARY 12TH?

19 A YES, SIR.

20 Q AND THEN IN FEBRUARY, ON THE FEBRUARY 10TH
21 STATEMENT, WHAT WAS THE BALANCE?

22 A IT WAS OVERDRAWN \$1,413.18.

23 Q ALL RIGHT. WHAT ABOUT THE STATEMENT THAT WAS
24 THE NEXT MONTH, MARCH THE 12TH?

25 A OVERDRAWN \$1,562.88.

26 Q AND THEN WHAT ABOUT THE NEXT STATEMENT ON
27 APRIL THE 12TH, 1984?

28 A IT WAS OVERDRAWN \$98.04.

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Q AND THE NEXT STATEMENT WAS GENERATED MAY THE
11TH, 1984. WHAT WAS THE BALANCE AT THAT TIME?

A IT WAS A GOOD BALANCE OF \$5,619.90.

Q AND THEN ON JUNE THE 12TH, WHAT WAS THE BALANCE
AT THAT TIME?

A \$10,018.41.

Q ALL RIGHT. AND THEN IN JULY, WHAT WAS THE
BALANCE AT THAT TIME?

1 A \$9,970.48.

2 Q THAT IS JULY 12TH, RIGHT?

3 A YES, THAT IS THE STATEMENT ENDING JULY 12.

4 Q AND WHY IS THERE -- WELL, STRIKE THAT. I WILL
5 GET BACK TO THAT IN A MINUTE.

6 DID THE BALANCE REMAIN THE SAME AFTER THE STATEMENT
7 OF JULY THE 12TH?

8 A YES, SIR. IT DID.

9 Q AND WHEN WAS THE ACCOUNT CLOSED?

10 A ON JULY 26, 1984.

11 Q DO YOU KNOW WHAT HAPPENED -- DID YOU CONTINUE
12 TO GENERATE STATEMENTS ON THAT ACCOUNT THROUGH OCTOBER?

13 A YES, WE DID.

14 Q WHY DID YOU DO THAT IF THE --

15 A WELL, THE ACCOUNT WAS STILL OPEN, SIR. WE
16 CONTINUED TO SEND THE STATEMENTS ON IT.

17 Q OKAY. WAIT. I THOUGHT YOU JUST TOLD US THAT
18 THE ACCOUNT WAS CLOSED IN JULY.

19 A NO, SORRY. IT WAS DECEMBER 26, 1984. SORRY.

20 Q OKAY. AND IN DECEMBER OF 1984, WAS THERE A CHECK
21 SENT BY THE BANK?

22 A YES, THERE WAS.

23 Q WHO WAS IT SENT TO?

24 A TO THE CONSERVATOR, MR. GEORGE OSTROVE.

25 THE COURT: THAT IS THE CONSERVATOR?

26 Q BY MR. WAPNER: HOW ABOUT DAVID OSTROVE?

27 A YES, DAVID OSTROVE.

28 Q THAT IS THE CONSERVATOR FOR THE ESTATE OF

1 RONALD GEORGE LEVIN?

2 A THAT'S RIGHT, SIR.

3 Q AND THAT WAS ON DECEMBER -- WHAT DATE?

4 A DECEMBER 26, 1984.

5 Q WHAT WAS THE AMOUNT OF THE CHECK THAT WAS
6 SENT TO MR. OSTROVE?

7 A \$9,970.48.

8 Q SO THAT IS THE CHECK FOR THE EXACT AMOUNT OF
9 THE BALANCE THAT HAD REMAINED THE SAME FROM JULY 12TH, THROUGH
10 THE TIME THAT THE ACCOUNT WAS CLOSED?

11 A YES, SIR.

12 Q NOW, LOOKING AT THE STATEMENT OF JUNE 12TH --
13 FIRST OF ALL, LOOK AT THE JULY 12TH STATEMENT. IS THERE AN
14 ENTRY THAT IS DATED JUNE THE 15TH?

15 A YES, SIR.

16 Q WHAT DOES THAT MEAN?

17 A THERE IS A CHECK THAT WAS DRAWN ON THE ACCOUNT
18 FOR \$47.93.

19 Q DOES THAT MEAN THAT THAT IS THE DAY THE BANK
20 PAID IT?

21 A YES.

22 Q DID YOU BRING COPIES OF SOME OF THE CHECKS ON
23 THE ACCOUNT WITH YOU?

24 A YES, I DID, SIR.

25 Q ALL RIGHT. HOW WERE THOSE COPIES OBTAINED?

26 A THEY ARE OBTAINED FROM OUR CHECK CLEARANCE
27 DEPARTMENT RECORDS. THEY ARE TAKEN RIGHT FROM THE
28 MICRO-FICHE.

1 Q ALL RIGHT. AND WHEN A CHECK IS WRITTEN BY
2 THE CUSTOMER ON THE BANK AND THEN PAID THROUGH THE BANK,
3 DOES THE BANK KEEP SOME RECORDS OF THAT CHECK?

4 A YES. THE BANK KEEPS THE RECORDS OF INCOMING ITEMS.

5 Q HOW DID YOU KEEP THOSE RECORDS?

6 A ON MICROFILM, SIR.

7 Q WHEN A CHECK COMES IN, BEFORE IT IS RETURNED
8 TO THE CUSTOMER, DOES THE BANK TAKE A PICTURE OF IT ON
9 MICROFILM?

10 A YES.

11 Q IS THAT AT THE TIME OR SHORTLY AFTER THE TIME THE
12 CHECK IS PAID?

13 A IT IS AT THE POINT WHERE THE CHECK COMES IN FROM
14 THE CLEARING BANK.

15 Q AND IS THAT PICTURE ON MICROFILM TAKEN IN THE
16 ORDINARY COURSE OF BUSINESS?

17 A YES, IT IS, SIR.

18 Q AND THE PEOPLE -- WHO ARE THE PEOPLE WHO TAKE
19 THESE PICTURES OF THE CHECKS ON MICROFILM?

20 A IT IS OUR CHECK CLEARANCE DEPARTMENT.

21 Q THEY ARE CHARGED WITH THE DUTY OF TAKING THOSE
22 PICTURES OF THOSE CHECKS?

23 A YES, SIR.

24 Q AND DID YOU IN PREPARATION FOR TESTIFYING, HAVE
25 COPIES OF SOME OF THESE CHECKS REPRODUCED?

26 A YES, I DID, SIR.

27 Q THE ITEM THAT WAS PAID BY THE BANK ON JUNE 15TH
28 FOR \$47.93, DO YOU KNOW WHEN THAT CHECK WAS WRITTEN?

29 A THE CHECK WAS WRITTEN ON MAY 22ND, 1984.

1-1

1 Q DO YOU HAVE THAT CHECK IN FRONT OF YOU?

2 A YES, I DO.

3 Q WHO WAS THE CHECK WRITTEN TO?

4 A ONE FRANK ENDO, E-N-D-O.

5 MR. WAPNER: THAT WOULD BE 143?

6 THE COURT: 143.

7 MR. WAPNER: FOR IDENTIFICATION.

8 MR. WAPNER: WHAT IS THE CHECK NUMBER ON THAT?

9 A CHECK NO. 5171.

10 Q IS THAT THE ONLY ACTIVITY THAT IS REPRESENTED
11 ON THE ACCOUNT IN THE JULY THE 12TH STATEMENT?

12 A YES, IT IS, SIR.

13 Q AND IF YOU WOULD GO BACK, PLEASE, TO THE JUNE
14 STATEMENT OF 1984; ARE THERE CHECKS THAT WERE PAID BY THE
15 BANK ON JUNE THE 8TH?

16 A YES, SIR, THERE WERE TWO OF THEM.

17 Q AND WHAT WERE THE AMOUNTS OF THOSE CHECKS?

18 A ONE WAS FOR \$11 AND ONE WAS FOR \$50.

19 Q \$11?

20 A AND \$50.

21 Q DO YOU HAVE COPIES OF THOSE CHECKS WITH YOU?

22 A YES, SIR, I DO.

23 Q WERE THOSE PRODUCED IN THE SAME MANNER AS YOU
24 PREVIOUSLY DESCRIBED?

25 A YES, SIR.

26 Q THAT IS, YOU MADE COPIES FROM THE MICROFILMS?

27 A THAT'S RIGHT.

28 Q AND THE \$11 CHECK, WHEN WAS THAT WRITTEN?

1 A THAT WAS WRITTEN ON MAY 31, 1984.

2 Q AND THE \$50 CHECK, WHEN WAS THAT WRITTEN?

3 A MAY 28, 1984.

4 ARE THERE SOME ITEMS, OR AN ITEM THAT WAS PAID
5 BY THE BANK ON JUNE 7?

6 A YES, SIR, THERE IS. THERE IS A \$70 CHECK.

7 Q AND DO YOU HAVE A COPY OF THAT CHECK?

8 A YES, I DO, SIR.

9 Q WAS THAT OBTAINED BY YOU IN THE SAME MANNER,
10 THAT IS, A COPY ON MICROFILM?

11 A YES, SIR.

12 Q WHEN WAS THAT CHECK WRITTEN?

13 A JUNE 4, 1984.

14 Q AND IS THERE A CHECK THAT IS WRITTEN OR PAID
15 BY THE BANK ON JUNE 6TH?

16 A YES, SIR. A CHECK FOR \$600.

17 Q AND WHAT DATE WAS THAT CHECK WRITTEN?

18 A JUNE THE 1ST, 1984.

19 Q BASED ON LOOKING AT THE CHECKS AND LOOKING AT
20 THE STATEMENTS, WAS THERE ANY ACTIVITY ON THIS ACCOUNT BY
21 THE CUSTOMER AFTER JUNE THE 6TH -- EXCUSE ME -- JUNE THE
22 4TH OF 1984?

23 A OF CHECKS THAT WERE WRITTEN?

24 Q CORRECT.

25 A NO, SIR.

26 MR. WAPNER: YOUR HONOR, ON THE CHECK NO. 5171, I
27 AM PLACING IN BLUE INK ON THE BACK A NUMBER, THE NUMBER
28 143.

1 THE COURT: WHY DON'T YOU HAVE THEM ALL ONE EXHIBIT?
2 WHY HAVE THEM SEPARATELY EXHIBITED?

3 MR. WAPNER: FINE. THAT IS FINE. THANK YOU, YOUR
4 HONOR.

5 THE COURT: HAVE THEM ALL 143.

6 MR. WAPNER: IT WOULD REPRESENT FIVE CHECKS: THE
7 FIRST ONE DATED MAY THE 22ND, CHECK NO. 5171.

8 THE NEXT ONE DATED MAY THE 28TH, CHECK NUMBER --
9 IT IS HARD TO READ -- BUT IT IS FOR \$50 AND IT IS 517 SOMETHING
10 AND YOU CAN'T READ THE REST OF IT.

11 AND ALSO THE CHECK FOR \$11 DATED MAY THE 31ST,
12 A CHECK FOR \$600 DATED JUNE THE 1ST.

13 AND A CHECK FOR \$70 DATED JUNE THE 4TH.

14 MAY THOSE COLLECTIVELY BE MARKED AS 143?

15 THE COURT: SO MARKED.

16 Q BY MR. WAPNER: WHEN THE ACCOUNT WAS OPENED,
17 WHAT WAS THE ADDRESS THAT WAS USED ON THE ACCOUNT?

18 A OF 433 -- EXCUSE ME -- 433 NORTH CAMDEN DRIVE,
19 BEVERLY HILLS.

20 Q WAS THAT EVENTUALLY CHANGED?

21 A YES, SIR, IT WAS.

22 Q WHAT WAS IT CHANGED TO?

23 A IT WAS CHANGED ON JANUARY 3RD TO BOX 10505,
24 BEVERLY HILLS, CALIFORNIA.

25 MR. WAPNER: I HAVE NOTHING FURTHER.

26 THE COURT: ANY QUESTIONS?

27 MR. BARENS: YES, YOUR HONOR.

28 THE COURT: GO AHEAD.

CROSS-EXAMINATION

1
2 BY MR. BARENS:

3 Q MR. VALVIK, YOU MENTIONED YOUR BANK HAS A MINIMUM
4 DEPOSIT OF \$2,500 TO OPEN AN ACCOUNT?

5 A YES, SIR.

6 Q YOUR BANK IS CONSIDERED IN THE INDUSTRY AS A
7 FAIRLY PRESTIGIOUS INSTITUTION?

8 A YES, IT IS.

9 Q IT IS KIND OF A HIGH-PROFILE WELL-KNOWN BANK?

10 A YES, SIR, CATERING TO WEALTHY INDIVIDUALS, SIR.

11 Q HIGH LINE, KIND OF RECOGNIZABLE BY PEOPLE IN
12 THE INDUSTRY LIKE THE ROLLS ROYCE, WOULD YOU SAY, OF YOUR
13 BUSINESS?

14 A I HOPE SO, SIR.

15 Q OKAY. IT IS KIND OF -- WOULD IT BE A FAIR STATEMENT
16 TO SAY, AN OLD-MONEY TYPE OF ACCOUNT?

17 A USUALLY, YES, SIR.

18 Q DO YOU NEED ANY REFERENCES TO ESTABLISH AN ACCOUNT
19 AT YOUR BANK OR CAN ANYBODY WITH THE MONEY DO IT?

20 A USUALLY, THE CUSTOMERS ARE REFERRED, SIR.

21 Q CAN YOU TELL ON THIS ACCOUNT WHETHER SOMEONE
22 HAD REFERRED THE CUSTOMER?

23 A SOMEONE HAD -- HAD BEEN REFERRED TO US BY OUR
24 MARKETING DIVISION.

1 Q AND DID THEY INDICATE TO YOU WHO THE GENESIS
2 OR REFERRING PARTY WAS ON THAT?

3 A IT CAME FROM THE OFFICE OF RODNEY WOODS OF OUR
4 MARKETING DIVISION, SIR.

5 Q DOES HE REFLECT WHO GENERATED IT FROM HIM TO YOU?

6 A NO, SIR. HE DOESN'T.

7 Q NOW, YOU MENTIONED A FEW MONTHS WHERE THE ACCOUNT
8 WAS OVERDRAWN IN DECEMBER OF '84 AND PERHAPS ANOTHER MONTH.
9 BUT WITH REFERENCE TO THE DECEMBER, '83, O.D. -- I THINK THERE
10 WAS AN O.D. IN APRIL OF '84 OR PERHAPS MARCH AND APRIL OF
11 '84.

12 HOW WERE THOSE OVERDRAFTS COVERED, SIR, IF THEY
13 WERE?

14 A THERE WAS EVENTUALLY A DEPOSIT SENT IN TO COVER
15 THEM.

16 Q WIRED IN, SIR?

17 A NO. THEY LOOK LIKE MAIL DEPOSITS.

18 Q COULD YOU TELL ON YOUR STATEMENTS THERE WHAT
19 ARE WIRED DEPOSITS AS OPPOSED TO MAIL DEPOSITS?

20 A NO. I CAN'T REALLY FROM THIS RECORD. I COULD
21 TELL THAT IT IS A REGULAR DEPOSIT BUT I CAN'T TELL IF THERE
22 WERE WIRE DEPOSITS.

23 Q YOU JUST CAN'T? AM I LOOKING AT WHAT I BELIEVE
24 ARE COPIES? I CAN'T TELL EITHER.

25 A I CAN'T REALLY TELL. THERE WAS ONE ITEM THAT I
26 COULD SEE ON THERE, FOR INSTANCE ON THE 3RD. THAT IS
27 REFLECTED AS A CREDIT MEMO. THAT POSSIBLY, WAS A WIRE.
28 BUT I CAN'T PROVE THAT.

1 Q HOW MUCH MONEY WAS THAT FOR?

2 A \$49,000.

3 Q \$49,000 IN MAY OF 1984?

4 A YES.

5 MR. BARENS: IF I MIGHT APPROACH, YOUR HONOR?

6 THE COURT: YES.

7 Q BY MR. BARENS: NOW, WHAT MAKES YOU THINK THE
8 \$49,000 -- IS THAT MAY 3RD OR MAY 4TH, HERE?

9 A THAT IS MAY 3RD, SIR.

10 Q ALL RIGHT. ACTUALLY, THE DATE THEN IS MAY 3RD?

11 A YES.

12 Q YOU SHOW A CREDIT TO THE ACCOUNT OF \$49,000?

13 A RIGHT.

14 Q AND WHAT MAKES YOU THINK THAT IS A WIRE TRANSFER?

15 A NORMALLY, WIRES RECEIVED THROUGH THE FEDERAL
16 RESERVE BANK ARE CREDITED BY OUR MONEY MARKET DEPARTMENT TO
17 THE ACCOUNT.

18 Q COULD YOU TELL US WHETHER THAT WOULD HAVE BEEN
19 A CHECK OR A CASHIER'S CHECK, PERHAPS?

20 A IT COULD HAVE BEEN. I BELIEVE THAT IT WAS A
21 WIRE TRANSFER. BUT I CAN'T SAY FOR SURE BECAUSE I DON'T
22 HAVE THE ORIGINAL DOCUMENTS.

23 Q NOW, BY THE END OF THE MONTH, THAT MONEY HAS BEEN
24 DRAWN DOWN, SIR?

25 A YES, IT HAS.

26 Q AND BY THE END OF THE MONTH, THE \$49,000 HAS
27 BECOME WHAT BALANCE, SIR?

28 A \$5,619.90.

1 Q SO ROUGHLY, \$45,000 IN MONEY WENT OUT OF THAT
2 ACCOUNT DURING MAY?

3 A YES.

4 Q NOW, YOU HAD BROUGHT SOME CHECKS TODAY THAT I
5 WOULD LIKE TO REVIEW WITH YOU. I BELIEVE YOU HAD THOSE
6 CHECKS SEPARATED INTO TWO DIFFERENT COMPONENTS THIS AFTERNOON,
7 IS THAT CORRECT?

8 A YES, SIR. I DID.

9 Q AND THERE IS ONE GROUPING HERE, IS IT?

10 A THAT'S RIGHT. ACTUALLY, THERE WERE THREE.

11 MR. WAPNER: ONE GROUPING HERE REFERS TO PEOPLE'S 143
12 COLLECTIVELY.

13 THE COURT: YES.

14 MR. BARENS: ALL RIGHT. THANK YOU. YES, 143.

15 Q AS A PART OF 143, THERE IS A CHECK DATED 6/1/84,
16 IS THAT CORRECT, SIR?

17 A YES, SIR.

18 Q WHO IS THAT MADE OUT TO?

19 A BLANCHE STURKEY. I AM NOT SURE.

20 Q IT IS FOR HOW MUCH MONEY?

21 A \$600, SIR.

22 Q AND DOES IT APPEAR TO BE ENDORSED BY HER?

23 A YES. IT SAYS IT IS.

24 Q AND THAT IS THE LARGEST OF THESE FIVE CHECKS I
25 BELIEVE, IS IT NOT?

26 A YES, SIR.

27 MR. BARENS: WHY DON'T WE CALL THAT 143 IF WE CAN,
28 YOUR HONOR?

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THE COURT: YES.

MR. BARENS: BECAUSE I DON'T KNOW HOW ELSE TO REFER
TO IT. SO I AM PUTTING AN -A NEXT TO THAT, IF THE RECORD
WILL REFLECT THAT.

THE COURT: ALL RIGHT.

MR. BARENS: NOW, COULD I SEE THE OTHER CHECKS?

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MR. WAPNER: WHAT IS THE CHECK NUMBER?

MR. BARENS: IT IS 5181, SIR.

Q NOW, ON 5/4/84, DO YOU SEE A CHECK THERE, SIR?

A YES, SIR, I DO.

Q THAT IS IN WHAT AMOUNT?

A \$35,500.

Q WHO IS THAT PAYABLE TO?

A GENERAL PRODUCERS CORPORATION.

MR. BARENS: I SEE. MAY THAT BE MARKED 143-B, PLEASE?

THE COURT: SO MARKED.

MR. BARENS: ALL RIGHT. THIS IS OUT OF ANOTHER STACK,
NOW. I HAVE GOT 143 -- THESE FIVE HERE. DO YOU WANT TO
CONTINUE WITH THAT?

THE COURT: WELL --

MR. WAPNER: MAY I HAVE A MOMENT WITH COUNSEL?

MR. BARENS: WE ARE OUTSIDE OF THE FIVE NOW, YOUR
HONOR.

MR. WAPNER: MAY I HAVE A MOMENT?

(UNREPORTED COLLOQUY BETWEEN COUNSEL.)

MR. BARENS: WELL, WE HAVE AGREED. I BELIEVE
WE WILL CALL THIS WHOLE TRANSACTION 143. I WILL JUST USE
LETTERS FOR THE ONES I AM REFERRING TO.

THE COURT: OKAY.

Q BY MR. BARENS: WITH REFERENCE TO CHECK NO.
5153 FOR \$35,500, IT APPEARS TO BE FOR GENERAL PRODUCERS
CORPORATION. I WILL PUT A "B" ON THAT AS 143-B.

NOW, I SHOW YOU A CHECK DATED 5/4/84, THE SAME
DATE, CHECK NO. 5152. THAT IS MADE OUT TO WHOM, SIR?

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A GENERAL NEWS CORPORATION.

Q AND WHAT IS THE AMOUNT OF THAT CHECK?

A \$5,000.

MR. WAPNER: THAT IS 143-C.

MR. BARENS: THANK YOU, MR. WAPNER. I HAVE SO MARKED
IT.

MR. WAPNER: WHAT WAS THE NUMBER ON THAT AGAIN, COUNSEL?

MR. BARENS: 5152 FOR THE DATE OF 5/4/84.

A MOMENT, YOUR HONOR?

THE COURT: YES.

(PAUSE.)

3 EC.

1 MR. BARENS: A MOMENT, IF YOU WOULD, YOUR HONOR.

2 (PAUSE IN PROCEEDINGS.)

3 MR. BARENS: ALL RIGHT, THEY HAVE BEEN CHANGED AROUND,
4 YOUR HONOR. IT TOOK ME A MOMENT.

5 Q BY MR. BARENS: SIR, I SHOW YOU A CHECK DATED
6 5/31/84 AND WHAT IS THE AMOUNT OF THAT CHECK?

7 A A HUNDRED FIFTY-ONE DOLLARS AND EIGHTY CENTS.

8 Q WHO IS THAT MADE PAYABLE TO?

9 A NONPAREIL CLEANERS.

10 Q AND THAT IS CHECK NUMBER?

11 A 5177.

12 Q ALL RIGHT, SIR, WE WILL CALL THAT 143-D.

13 I WILL WORK IT OUT LATER.

14 (UNREPORTED COLLOQUY BETWEEN MR. WAPNER
15 AND THE WITNESS.)

16 THE COURT: WHY DID YOU PUT THEM ALL BACK THERE IN
17 THE PILE IF ARE GOING TO HAVE THEM MARKED SEPARATELY?
18 WHY DON'T YOU KEEP THEM OUT BY THE LETTERS?

19 MR. BARENS: I TRIED TO PUT THEM BACK THE WAY I GOT
20 THEM, YOUR HONOR.

21 THE COURT: BUT IF THEY ARE ALL GOING TO BE MARKED AND
22 IDENTIFIED SEPARATELY -- YOU SHOULD HAVE PUT THEM ALL PART OF
23 143.

24 THAT IS ALL RIGHT, WE WILL TAKE CARE OF IT LATER.

25 MR. BARENS: I AM SORRY ABOUT THAT, YOUR HONOR.

26 THE COURT: WE WILL TAKE CARE OF IT LATER.

27 Q BY MR. BARENS: MR. VALVIK, WOULD YOU HAVE WIRED
28 MONEY AT LEVIN'S DIRECTION OUT OF THAT ACCOUNT?

1 A THERE WAS ONE WIRE THAT WENT OUT ON THE ACCOUNT
2 EARLY. THERE WAS A THOUSAND DOLLARS WIRED OUT OF THE ACCOUNT
3 TO A MR. NEIL ANTIN AT THE INSTRUCTIONS OF MR. LEVIN.

4 Q COULD I SEE WHAT YOU ARE LOOKING AT TO TELL ME
5 THAT, SIR?

6 A THIS IS THE WIRE INSTRUCTIONS AND THEN THE LETTER
7 IN FRONT OF IT FROM MR. --

8 THE COURT: ALL RIGHT, BUT THE BRISS AT 3:30.

9 MR. BARENS: ALL RIGHT, I WILL CLOSE IT UP, YOUR HONOR.

10 Q THAT IS THE ONLY EVIDENCE YOU HAVE OF MONEY
11 BEING WIRED OUT OF THE ACCOUNT, SIR?

12 A YES, SIR.

13 Q SIR, YOUR BANK CLOSSES THREE HOURS EARLIER THAN
14 LOS ANGELES, DOES IT NOT?

15 A YES, SIR.

16 Q WOULD YOU HAVE ACCEPTED A TELEPHONIC REQUEST FOR
17 A WIRE ON THAT ACCOUNT, SIR?

18 A YES, WE WOULD HAVE ACCEPTED IT, YES.

19 MR. BARENS: THANK YOU, SIR.

20 THANK YOU, YOUR HONOR.

21 THE COURT: ALL RIGHT, YOU HAVE THREE MINUTES.

22 MR. WAPNER: YES, I KNOW.

23
24 REDIRECT EXAMINATION

25 BY MR. WAPNER:

26 Q MR. VALVIK, LET'S SEE WHAT I CAN DO --

27 THE COURT: YOU DON'T WANT TO BE LATE.

28 Q BY MR. WAPNER: WAS THERE A \$2,500 CHECK WRITTEN

1 ON THAT ACCOUNT THAT IS REFLECTED IN THE STATEMENT OF JUNE --
2 I AM SORRY -- OF MAY THE 11TH?

3 A YES, SIR, THERE IS.

4 Q CAN YOU FIND THAT OUT OF THERE?

5 A YES, IT IS ON THE STATEMENT ON MAY 7TH AND I
6 THINK THEY GOT MIXED UP SOMEHOW.

7 YES, SIR, THAT IS THE CHECK.

8 MR. WAPNER: AND MAY THAT BE 143, I BELIEVE IT IS -E?

9 THE COURT: YES, -E.

10 MR. BARENS: MAY I SEE THAT?

11 Q BY MR. WAPNER: IS THAT WRITTEN TO A
12 MR. JEFFREY MELCZER?

13 A COULD I SEE IT?

14 Q HOW CAN YOU TELL? I HAVE THE CHECK IN MY HAND.
15 WHAT A GREAT QUESTION.

16 A JEFFREY L. MELCZER.

17 Q DOES IT SAY "JEFFREY L. MELCZER, ESQUIRE"?

18 A IT DOES.

19 Q IS THERE A NOTATION ON THERE AS TO WHAT THE CHECK
20 WAS WRITTEN FOR?

21 A "LEGAL FEES."

22 Q AND THE \$35,500 CHECK THAT IS MARKED AS 143-C,
23 DO YOU HAVE THAT IN THERE SOMEPLACE?

24 THE COURT: GENERAL PRODUCERS.

25 THE WITNESS: YES, SIR, HERE IT IS.

26 Q BY MR. WAPNER: AND THAT IS WRITTEN TO GENERAL
27 PRODUCERS CORPORATION, CORRECT?

28 A THAT'S RIGHT, SIR.

1 Q IS IT ENDORSED ON THE BACK?

2 A IT BEARS THE BANK STAMPS OF THE BANK OF AMERICA
3 AND I HAVEN'T READ WHETHER IT CONTAINS THE GENERAL PRODUCERS
4 ENDORSEMENT.

5 Q AND DOES IT SAY "BANK OF AMERICA, NATIONAL TRUST
6 AND SAVINGS FOR DEPOSIT ONLY, FIDELITY BROKERAGE SERVICES
7 INCORPORATED, LOS ANGELES?"

8 A YES, SIR, IT DOES.

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1 Q I DON'T KNOW WHO FIDELITY BROKERAGE SERVICES IS,
2 DO YOU?

3 A I HAVE NO IDEA, SIR.

4 Q AND THE \$5,000 CHECK, THAT IS ENDORSED ON THE
5 BACK? THAT IS THE CHECK THAT WE HAVE MARKED AS PEOPLE'S 143-C?

6 A WHAT WAS THAT CHECK NUMBER? WAS IT 5152?

7 Q YES.

8 A YES. THAT IS GENERAL NEWS CORPORATION. AND IT
9 IS OLYMPIC NATIONAL BANK'S ENDORSEMENT STAMP.

10 Q SO IT APPEARS TO HAVE BEEN DEPOSITED IN THE GENERAL
11 NEWS CORPORATION ACCOUNT AT OLYMPIC NATIONAL BANK?

12 A YES, SIR.

13 Q THE \$49,000 CREDIT MEMO, WHAT IS THE BASIS FOR
14 YOUR SAYING THAT THAT WAS A WIRE?

15 A ONLY JUST EXPERIENCE THAT WIRES ARE NORMALLY
16 CREDITED FROM THE MONEY MARKET DEPARTMENT INTO AN ACCOUNT.

17 Q AND WHAT WAS THE ALTERNATIVE IF IT WAS NOT A
18 CREDIT MEMO?

19 A IT COULD HAVE BEEN AN OFFICIAL CHECK SENT TO US
20 BY SOMEONE AND CREDITED MANUALLY ON THE ACCOUNT BY A CREDIT
21 MEMO.

22 Q IS THAT PRETTY UNUSUAL?

23 A YES, IT IS.

24 Q THAT WOULD BE SOMEBODY SENDING IN A CHECK FOR
25 A DEPOSIT IN SOMEBODY ELSE'S ACCOUNT?

26 A RIGHT, WITHOUT A DEPOSIT SLIP.

27 MR. WAPNER: NOTHING FURTHER.

28 MR. BARENS: A QUESTION, YOUR HONOR.

RE-CROSS-EXAMINATION

1
2 BY MR. BARENS:

3 Q SIR, NONE OF THOSE CHECKS THAT WE JUST TALKED
4 ABOUT, EITHER THE \$49,000 CHECK, THE \$35,000 CHECK OR THE
5 \$5,000 CHECK, NONE OF THOSE SEEMED TO BOUNCE, DID THEY?

6 A NO.

7 MR. BARENS: THANK YOU, SIR.

8 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. WE WILL
9 LET YOU GET BACK TO THAT COLD CLIMATE.

10 THE WITNESS: THERE IS A BLIZZARD OUT THERE.

11 THE COURT: YOU MAY BE EXCUSED. THANK YOU.

12 LADIES AND GENTLEMEN OF THE JURY, WE'LL TAKE OUR
13 ADJOURNMENT AT THIS TIME UNTIL TOMORROW MORNING AS USUAL AT
14 10:30.

15 PLEASE GO TO THE JURY ASSEMBLY ROOM. WE'LL BE
16 READY FOR YOU.

17 MR. BARENS: YOUR HONOR, WE HAVE A FEDERAL COURT MATTER.
18 MAY WE HAVE 10:45?

19 THE COURT: ALL RIGHT.

20 MR. BARENS: THERE IS NOTHING I CAN DO ABOUT IT.

21 THE COURT: ALL RIGHT. I WILL MAKE THIS ONE DISPENSATION.

22 MR. BARENS: THANK YOU.

23 THE COURT: I WILL MAKE IT A QUARTER OF 11:00, IF YOU
24 WILL. THAT IS 10:45. THANK YOU. THE SAME ADMONITION STILL
25 APPLIES. GOOD NIGHT.

26 MR. WAPNER: THANK YOU FOR THE EARLY ADJOURNMENT, YOUR
27 HONOR.

28 (AT 3:32 P.M., AN ADJOURNMENT WAS TAKEN

UNTIL TUESDAY, FEBRUARY 10, 1987, AT 10:45 P.M.)