

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT

887H 0269

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
 )  
 PLAINTIFF-RESPONDENT, )  
 )  
 VS. ) SUPERIOR COURT  
 ) NO. A-090435  
 )  
 JOE HUNT, AKA JOSEPH HUNT, )  
 )  
 AKA JOSEPH HENRY GAMSKY, )  
 )  
 DEFENDANT-APPELLANT. )

---

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  
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FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 60 OF 101  
(PAGES 9319 TO 9498, 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

WEDNESDAY, MARCH 4, 1987

VOLUME 60

PAGES 9319 TO 9498, 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  
OFFICIAL REPORTERS

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1 SANTA MONICA, CALIFOPNIA; WEDNESDAY, MARCH 4, 1987; 10:30 A.M.  
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE  
3 (APPEARANCES AS NOTED ON TITLE PAGE.)

4  
5 (THE FOLLOWING PROCEEDINGS WERE HELD  
6 IN OPEN COURT OUTSIDE THE PRESENCE AND  
7 HEARING OF THE JURY:)

8 THE COURT: ALL RIGHT, THE DEFENSE HAS PRESENTED TWO  
9 MOTIONS, I WILL HANDLE THEM IN ANY ORDER, EITHER ORDER THAT  
10 YOU WANT TO HAVE THEM.

11 MR. BARENS: MY BACK WAS TURNED TO YOUR HONOR. I  
12 DIDN'T HEAR YOU, WHAT YOU SAID.

13 THE COURT: DO YOU WANT TO ARGUE THEM?

14 MR. BARENS: YES.

15 IF MR. CHIER MAY BE ALLOWED TO ARGUE THEM. HE  
16 DRAFTED THEM.

17 THE COURT: ALL RIGHT, GO AHEAD.

18 MR. CHIER: I THINK THAT ONE WOULD REQUIRE IN  
19 CAMERA TESTIMONY FROM MR. HUNT IN ORDER TO MAKE A PROPER  
20 RECORD.

21 THE COURT: I DON'T THINK WE NEED ANY TESTIMONY.

22 MR. CHIER: MR. HUNT IS PREPARED TO DESCRIBE IN CAMERA,  
23 YOUR HONOR, THE CONTENTS OF THE DOCUMENT WHICH IS KNOWN AS  
24 EXHIBIT 37, WHICH WA'S NOT RETURNED TO HIM.

25 THE COURT: I THOUGHT I MADE A RULING WITH RESPECT  
26 TO ANY OF THE SO-CALLED DOCUMENTS WHICH WERE TAKEN FROM THE  
27 HOME.

28 I MADE A RULING THAT YOU HAD WITNESSED EVERY

1 SINGLE DOCUMENT WHICH WAS TAKEN AT THE TIME AND MADE NO  
2 OBJECTION TO ANY OF THEM EXCEPT FOR THAT ONE-PAGE THING,  
3 THIS DOCUMENT THAT YOU CALL EXHIBIT 37 WAS NOT AMONG ANY  
4 OF THE PAPERS WHICH WERE SEIZED BECAUSE THEY WEREN'T IN THAT  
5 PACKAGE NOR ARE THEY IN MY PACKAGE.

6 MR. CHIER: I WOULDN'T KNOW IF IT WAS IN THERE OR NOT,  
7 YOUR HONOR.

8 THE COURT: YES, YOU WOULD BECAUSE YOU WERE THERE AT  
9 THE TIME. YOU SAW EVERY PIECE OF PAPER WHICH WAS TAKEN.

10 MR. CHIER: YOUR HONOR, I DIDN'T SEE EVERY PIECE --

11 THE COURT: I MADE A RULING THAT YOU DID.

12 LET'S PROCEED FROM THERE.

13 MR. CHIER: THAT IS NOT SUPPORTED BY THE EVIDENCE.

14 THE COURT: YOU SAW EVERY SINGLE PIECE OF PAPER THAT  
15 WAS TAKEN AND PUT INTO THAT PARTICULAR PACKAGE.

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1 MR. CHIER: I WAS NOT FAMILIAR WITH MR. KARNY'S HAND-  
2 WRITING AT THAT MOMENT IN TIME. AND IT WOULD HAVE REQUIRED  
3 ME TO --

4 THE COURT: WHAT IS IT THAT YOU ARE SEEKING IN EXHIBIT  
5 37? WHAT IS THAT PARTICULARLY?

6 MR. CHIER: I DON'T REALLY FEEL THAT I SHOULD HAVE  
7 TO --

8 THE COURT: DO YOU WANT TO TELL ME WHAT THE EXHIBIT  
9 IN GENERAL TERMS IS?

10 MR. CHIER: IT IS A HANDWRITTEN LETTER FROM MR. KARNY  
11 TO MR. HUNT CONCERNING MATTERS WHICH ARE THE SUBJECT OF  
12 LITIGATION BOTH HERE AND IN --

13 THE COURT: WELL, MAKE AN OFFER OF PROOF AS TO WHAT  
14 THAT PARTICULAR DOCUMENT IS AND SHOW IT TO ME, IF YOU HAVE  
15 GOT IT.

16 HAVE YOU GOT THE DOCUMENT?

17 MR. CHIER: THE DOCUMENT IS CONFISCATED BY THE ATTORNEY  
18 GENERAL'S OFFICE, YOUR HONOR. THAT IS THE --

19 THE COURT: CONFISCATED? HOW DO YOU KNOW IT IS  
20 CONFISCATED?

21 MR. CHIER: WELL, IT WAS THERE BEFORE AND THEN AFTER,  
22 IT WAS GONE.

23 THE COURT: WELL, YOU WERE THERE. YOU SAW EVERY, SINGLE  
24 PAPER THAT WAS PUT INTO THE BOX.

25 MR. CHIER: I DIDN'T SEE EVERY, SINGLE PAPER. I DIDN'T  
26 CLAIM THAT, YOU CLAIM THAT. BUT I DIDN'T SEE THE --

27 THE COURT: WELL, MAKE AN OFFER OF PROOF UP HERE.

28 WHY DON'T YOU DO THAT? AND SO YOU WON'T POSSIBLY

1 HEAR IT, MR. WAPNER, WOULD YOU GO INTO THE JURY ROOM TOGETHER  
2 WITH THE INVESTIGATING OFFICER?

3 (MR. WAPNER AND THE INVESTIGATING OFFICER  
4 EXIT THE COURTROOM.)

5 (IN CAMERA HEARING NOT A PART OF THE  
6 PRESENT RECORD.)

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(PAGES 9323 THROUGH 9332 IN CAMERA  
PROCEEDINGS, TRANSCRIBED BUT NOT  
INCLUDED HEREIN.)

1 (THE FOLLOWING PROCEEDINGS WERE HELD  
2 AT THE BENCH, MR. WAPNER BEING PRESENT:)

3 MR. BARENS: YOUR HONOR, I THINK THE RULING ITSELF,  
4 NOT THE CONTENTS OF WHAT WAS SAID BUT THE RULING YOU MADE  
5 WITH RESPECT TO THE MOTION, SHOULD BE KNOWN TO THE DISTRICT  
6 ATTORNEY.

7 MR. WAPNER: ABSOLUTELY.

8 MR. BARENS: I HAVE NO DISAGREEMENT.

9 MR. WAPNER: ALSO IN ADDITION TO THE DISCUSSION THAT  
10 YOU HAD WITH COUNSEL, I WANT TO BE HEARD ON THE MOTION ITSELF.

11 THE COURT: YES. WELL, LET ME TELL YOU WHAT IT IS ABOUT.  
12 SUPPOSEDLY, THERE WAS A LETTER THAT THE EXHIBIT WHICH THEY  
13 ARE REFERRING TO -- IT WAS A COMMUNICATION OR LETTER FROM  
14 KARNY TO THE DEFENDANT.

15 MR. WAPNER: RIGHT.

16 THE COURT: IT WILL COME OUT IN DUE COURSE. NOW, THEY  
17 WANT TO -- AS YOU KNOW, THE MOTION IS THAT THEY WANT TO BAR  
18 KARNY FROM TESTIFYING BECAUSE THAT PARTICULAR DOCUMENT IS  
19 SO VERY IMPORTANT, SO THAT THEY WANT TO CROSS-EXAMINE HIM  
20 ABOUT IT.

21 THEY SAY THE DOCUMENT IS MISSING. YOU CAN HAVE  
22 EITHER THE DEFENDANT OR KARNY OR ON CROSS-EXAMINATION, BE  
23 ASKED WHETHER OR NOT HE WROTE SUCH A DOCUMENT AND THE REASON  
24 THE DOCUMENT ISN'T PRESENT IS BECAUSE IT IS MISSING.

25 LET KARNY EITHER DENY IT OR ADMIT IT.

26 IF HE WROTE SUCH A DOCUMENT, IT HAS NOTHING TO  
27 DO WITH THE CASE. IT HAS TO DO WITH THE ESLAMINIA CASE.

28 AND IF THE ESLAMINIA MATTER BECOMES PERTINENT

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1 AND THEY WANT TO CROSS-EXAMINE HIM ABOUT THE ESLAMINIA CASE  
2 OR THE ESLAMINIA MURDER, THEN THE RELEVANCY OF THIS PARTICULAR  
3 DOCUMENT MIGHT OR MIGHT NOT BE ESTABLISHED.

4 HOWEVER, I SAID THAT I WILL PERMIT ON CROSS-  
5 EXAMINATION, COUNSEL TO ASK KARNY WHETHER OR NOT ON SUCH AND  
6 SUCH A DATE, HE WROTE A LETTER OR A NOTE TO THE DEFENDANT,  
7 IN WHICH HE SAID SO ON AND SO ON. RIGHT?

8 AND IF HE ADMITS IT, THAT IS THE END OF IT. IF  
9 HE DENIES IT, THAT IS THE END OF IT. AND IT WILL BE  
10 STIPULATED -- NO, NOT STIPULATED, IT WILL BE ASSERTED BY THE  
11 DEFENSE THAT THAT DOCUMENT HAS BEEN MISSING.

12 MR. WAPNER: WELL, I ASSUME THAT SINCE THE COURT IS  
13 PERMITTING SECONDARY EVIDENCE OF THE DOCUMENT AND PERMITTING  
14 COUNSEL TO QUESTION THE WITNESS ABOUT IT AND OBVIOUSLY MR. HUNT  
15 IS GOING TO TESTIFY ABOUT THE EXISTENCE OF THIS DOCUMENT,  
16 THAT IT IS EQUALLY PERMISSIBLE TO BRING IN MR. BREILING TO  
17 SAY THAT WE DID THE SEARCH OF HIS HOUSE AND EVERYTHING WE  
18 TOOK, WE GAVE A COPY TO THE DEFENSE.

19 THE COURT: PRECISELY. THAT IS EXACTLY WHAT YOU CAN  
20 DO.

21 I TOLD COUNSEL -- MR. CHIER WAS THERE AT THE TIME  
22 AND HE SAW EVERY, SINGLE DOCUMENT THAT WAS TAKEN. THAT  
23 TESTIMONY CAME BEFORE ME.

24 THERE WAS NOT ANY EVIDENCE THAT ANY DOCUMENT WAS  
25 EVER TAKEN OR DESTROYED BUT THAT EVERY, SINGLE DOCUMENT WHICH  
26 WAS TAKEN, COPIES OF IT HAVE BEEN FURNISHED TO THE DEFENSE  
27 AND TO THE COURT.

28 THAT DOCUMENT WAS NOT AMONG IT AND YOU CAN ASK

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1 THAT ON REBUTTAL, IF YOU WANT TO.

2 MR. WAPNER: THANK YOU.

3 MR. BARENS: YOUR HONOR, I ACTUALLY ASKED TO COME UP  
4 HERE BECAUSE I HAD SOMETHING TO SAY.

5 THE COURT: YES?

6 MR. BARENS: YOUR HONOR, MR. WAPNER SERVED THE DEFENSE  
7 THIS MORNING WITH A CERTAIN MOTION. HE IS PRESENTING TO THE  
8 COURT A MOTION CONCERNING THE -- WELL --

9 MR. WAPNER: GO AHEAD.

10 MR. BARENS: IT IS A MOTION THAT ADDRESSES CIRCUMSCRIBING  
11 THE CIRCUMSTANCES OF MR. KARNY'S TESTIMONY IN THIS COURTROOM  
12 IN TERMS OF LIMITING UNDER 980, CAMERAS OR ATTENDANCE OF THE  
13 PRESS AND ET CETERA, ET CETERA.

14 THE COURT: YES?

15 MR. BARENS: HOWEVER, WHAT I AM ADDRESSING NOW, YOUR  
16 HONOR, THERE IS SOME I SUBMIT, VERY INFLAMMATORY MATERIALS  
17 IN THAT MOTION, THAT WOULD BE HIGHLY PREJUDICIAL TO THE  
18 DEFENDANT.

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1 I AM SIMPLY ASKING THAT OUT OF AN ABUNDANCE OF  
2 CAUTION, THAT THE MOTION BE RECEIVED UNDER SEAL, YOUR HONOR  
3 AND THAT DISCUSSIONS OF THE CONTENTS OF THE MOTION EITHER  
4 TAKE PLACE IN CAMERA OR IN SOME CLOISTERED SITUATION SO THAT --

5 THE COURT: WHEN DO YOU INTEND TO CALL KARNY, IF YOU  
6 DO?

7 MR. WAPNER: NEXT WEEK.

8 THE COURT: WELL, I DON'T NEED TO DECIDE THIS RIGHT  
9 AT THIS MOMENT.

10 MR. BARENS: I AM ASKING THAT YOU RECEIVE THIS MOTION  
11 UNDER SEAL.

12 THE COURT: LET ME READ IT, FIRST.

13 MR. BARENS: I AM ASKING THAT PRIOR TO YOUR HONOR MAKING  
14 A RULING ON MY MOTION, THAT YOU RECEIVE IT UNDER SEAL, THAT  
15 THE PRESS NOT BE GIVEN ACCESS TO THAT MOTION.

16 THE COURT: I WILL CONSIDER IT. I WILL LET YOU KNOW  
17 ABOUT IT.

18 I WANT TO READ IT FIRST, TO KNOW WHAT IT IS ABOUT.

19 MR. BARENS: I WAS JUST TRYING TO PREFACE IT --

20 MR. CHIER: MAY WE HAVE A FIVE-MINUTE RECESS? I NEED  
21 TO SPEAK TO THE LAW CLERK, YOUR HONOR.

22 THE COURT: NO. I DON'T WANT YOU TO. I WANT YOU TO  
23 PROCEED WITH THE MOTION.

24 MR. CHIER: I NEED TO TALK TO THE LAW CLERK BEFORE  
25 I PROCEED WITH THE MOTION.

26 THE COURT: NO.

27 MR. WAPNER: YOUR HONOR --

28 MR. BARENS: YOUR HONOR HAS EXCLUDED HIM FROM THE

1 COURTROOM?

2 THE COURT: I AM EXCLUDING HIM FROM THE COURTROOM.  
3 YOU CAN TALK TO HIM DURING THE RECESSES AND AT LUNCH.

4 MR. CHIER: I NEED TO SPEAK TO HIM BEFORE WE PROCEED  
5 ON THE MOTION.

6 THE COURT: GO OUTSIDE AND TALK TO HIM. I WILL GIVE  
7 YOU FIVE MINUTES AND NO MORE.

8 MR. WAPNER: CAN THIS MOTION BE HEARD REGARDING EXCLUDING  
9 CAMERAS TOMORROW?

10 THE COURT: SURELY. I WILL READ IT IN THE MEANTIME.

11 MR. WAPNER: THANK YOU. IT HAS NOT BEEN FORMALLY FILED.  
12 AFTER YOU READ IT, IT WILL BE GIVEN TO THE CLERK TO BE STAMPED  
13 AND FILED.

14 MR. BARENS: YOUR HONOR, SO YOUR HONOR IS MAKING A  
15 DECISION AS TO HOW IT IS TO BE RECEIVED IN THE FILE?

16 THE COURT: DO YOU WANT ME TO CALL UP THIS WOMAN? DO  
17 YOU WANT ME TO CALL UP THIS WOMAN AND HAVE HER TESTIFY AS  
18 TO WHAT EXACTLY IT WAS THAT THE CLERK SAID TO HER? DO YOU  
19 WANT ME TO CALL HER UP? I WILL DO IT.

20 MR. BARENS: COULD I JUST RESPOND TO THIS, YOUR HONOR.  
21 THE CLERK IS EMPLOYED PRIMARILY BY MR. CHIER'S OFFICE. I  
22 HAVE HIS SERVICES ON OCCASION.

23 I WOULD SAY KNOWING THE INDIVIDUAL AS I DO, I  
24 WAS SLIGHTLY TAKEN ABACK BECAUSE IT SEEMS CONTRARY TO HIS  
25 PERSONALITY.

26 THE COURT: LET ME CALL THIS LADY UP. YOU CAN CROSS-  
27 EXAMINE HER, IF YOU WANT TO. I WILL HAVE HER IN CHAMBERS.

28 THIS LADY IS A LADY AND SHE TELLS THE TRUTH.

1 SHE WOULDN'T BE MAKING UP THIS STORY ABOUT JUDGE WAPNER AND  
2 I BEING FRIENDS UNLESS SHE WAS TOLD THAT BY YOUR CLERK.

3 MR. BARENS: YOUR HONOR, I WOULD LIKE TO ASK MR. CHIER  
4 AND THE GENTLEMAN ABOUT IT. I HAVE NOT DISCUSSED THE MATTER  
5 WITH THE CLERK. I HAVE NOT SEEN HIM SINCE YOUR HONOR'S  
6 ADMONITION.

7 I WILL SPEAK TO HIM AND RESPOND TO YOUR INQUIRY.

8 THE COURT: ALL RIGHT. NOW, I WILL TELL YOU THAT IF  
9 I AM SATISFIED THAT THIS IS WHAT HE SAID, I AM GOING TO HOLD  
10 HIM IN CONTEMPT OF COURT. IF YOU WANT TO MAKE AN ISSUE OUT  
11 OF IT, MAKE AN ISSUE OUT OF IT.

12 MR. BARENS: I HAVE NOT MADE A DECISION TO --

13 THE COURT: I AM TELLING YOU THIS NOW.

14 MR. BARENS: I UNDERSTAND YOUR HONOR'S STATEMENT.

15 THE COURT: I DON'T SEE A LADY MAKING A REMARK LIKE  
16 THAT UNLESS IT WAS ACTUALLY SAID.

17 MR. BARENS: YOUR HONOR, ALL I SAID WAS THAT I WAS  
18 SURPRISED BECAUSE IT SEEMED INCONSISTENT WITH HIS PERSONALITY.  
19 I COULD BE WRONG.

20 THE COURT: MAYBE IT RUBBED OFF FROM YOUR ASSOCIATE.

21 MR. BARENS: I AM NOT SAYING THAT. I AM SAYING THAT  
22 I DON'T KNOW.

23 THE COURT: LET'S GET ON WITH THE MOTION.

24 MR. BARENS: JUST GIVE ME A MOMENT IF YOU WOULD, YOUR  
25 HONOR.

26 (THE FOLLOWING PROCEEDINGS WERE HELD IN  
27 OPEN COURT:)

28

1 MR. BARENS: IT IS A BIT OF A CHOPPY MORNING.

2 YOUR HONOR, THIS MORNING THROUGH INADVERTENCE  
3 OF CIRCUMSTANCE, MR. WAPNER WAS NOT PROVIDED THE MATERIALS  
4 THAT GO TO THE HEART OF THE TESTIMONY CONCERNING THE TRADING  
5 AT SHEARSON UNTIL AFTER WE HAD LEFT HIS OFFICE, OR MR. CHIER  
6 HAD LEFT HIS OFFICE YESTERDAY AFTERNOON. MR. WAPNER ADVISED  
7 ME OF THAT THIS MORNING AND WE RECEIVED THE DOCUMENTS ABOUT  
8 TWENTY AFTER 10:00.

9 WE TOLD MR. WAPNER AT THAT POINT, OBVIOUSLY, THAT  
10 IT WOULD BE NECESSARY FOR US TO REVIEW THOSE DOCUMENTS WITH  
11 MR. HUNT AND I WOULD ASK FOR 20 MINUTES TO DO SO.

12 THERE ARE A COUPLE OF DOZEN PAGES, I BELIEVE.

13 THE COURT: WHY DON'T YOU DO THAT AFTER LUNCH?

14 MR. BARENS: WE WILL HAVE GOT THE WITNESS WHO IS GOING  
15 TO BE TESTIFYING NOW AND PRIOR TO THE TIME I CROSS-EXAMINE  
16 HIM --

17 THE COURT: THAT IS ALL RIGHT, HE WON'T FINISH BY THAT  
18 TIME BEFORE YOUR CROSS-EXAMINATION.

19 MR. BARENS: I DON'T KNOW HOW LONG HE WILL BE.  
20 MR. WAPNER EXPRESSED TO ME HE WOULD BE ONLY 30 MINUTES WITH  
21 THE WITNESS, JUDGE.

22 MR. WAPNER: MY ESTIMATES HAVE BEEN OFF BEFORE BUT I  
23 THINK IT IS ABOUT CORRECT.

24 MR. BARENS: I CAN'T CROSS-EXAMINE.

25 THE COURT: LET'S GO AS FAR AS WE CAN, ALL RIGHT?

26 IN THE MEANTIME, WE HAVE A MOTION HERE.

27 MR. BARENS: COULD I JUST STEP OUT IN THE HALLWAY FOR  
28 TWO MINUTES?



1 I JUST NEED TWO MINUTES WITH MR. CHIER AND JOE.  
2 (MR. BARENS, MR. CHIER AND THE DEFENDANT  
3 EXIT THE COURTROOM.)

4 (THE FOLLOWING PROCEEDINGS WERE HELD  
5 IN OPEN COURT OUT OF THE PRESENCE OF  
6 THE JURY:)

7 THE COURT: ALL RIGHT, I WILL HEAR THE OTHER MOTION  
8 YOU HAVE.

9 MR. CHIER: YOUR HONOR, THERE IS A MOTION TO DISMISS  
10 OR FOR A DISMISSAL BASED ON VIOLATION OF RULE 980 OF THE  
11 CALIFORNIA RULES OF COURT, YOUR HONOR.

12 THE COURT: ALL RIGHT, GO AHEAD. BE BRIEF, WILL YOU,  
13 PLEASE? BECAUSE I DON'T WANT TO KEEP THE JURY WAITING.

14 GO AHEAD AND ARGUE.

15 MR. CHIER: YES.

16 WELL, YOUR HONOR, RULE 980 WAS PROMULGATED --

17 THE COURT: I HAVE READ EVERYTHING YOU HAD IN YOUR MOTION.  
18 IS THERE ANYTHING MORE YOU WANT TO ADD TO IT?

19 MR. CHIER: YES, YOUR HONOR.

20 THE COURT: ADD TO IT. DON'T REPEAT IT BUT ADD TO IT.

21 GO AHEAD.

22 MR. CHIER: WELL, I WILL ACTUALLY SUBMIT ON THE MOVING  
23 PAPERS, YOUR HONOR.

24 THE COURT: WELL, THAT IS FINE.

25 I WILL HEAR FROM THE DISTRICT ATTORNEY.

26 MR. WAPNER: YOUR HONOR, THERE IS NOTHING IN RULE 980  
27 OF THE RULES OF COURT THAT GIVES AS A SANCTION ANY DISMISSAL  
28 OF THE ACTION.

3  
1 SECOND OF ALL, THE FACT THAT WE HAVE HAD CAMERAS  
2 IN THE COURTROOM, I DON'T COME TO THE CONCLUSION THAT COUNSEL  
3 DRAWS, THAT IT HAS TURNED THE TRIAL INTO A CIRCUS. IT MAY  
4 HAVE BEEN SOMEWHAT OF AN INCONVENIENCE AT TIMES, BUT I DON'T  
5 THINK IT HAS BEEN A CIRCUS-LIKE ATMOSPHERE, ANY MORE THAN  
6 ANY TRIAL THAT RECEIVES A LOT OF PUBLICITY AND IS BROADCAST  
7 IN THE MEDIA.

8 TO MY KNOWLEDGE, EXCEPT FOR PERMISSION THAT THE  
9 COURT GRANTED TO ALLOW ONE OF THE NETWORKS TO HAVE A SECOND  
10 CAMERA IN THE COURTROOM BECAUSE THEY REQUIRE FILM AND NOT  
11 VIDEOTAPE, ON MOST DAYS WE HAVE ONLY HAD ONE VIDEO CAMERA  
12 IN THE COURTROOM AND ONLY ON A COUPLE OF OCCASIONS HAVE WE  
13 HAD STILL CAMERAS IN THE COURTROOM AND THAT WAS ALL DONE WITH  
14 THE PERMISSION OF THE COURT.

15 THE COURT: WE HAVE HAD IT FOR WEEKS, HAVEN'T WE? WHY  
16 IS THAT MOTION BEING MADE AT THIS PARTICULAR TIME?

17 WE HAVE HAD CAMERAS IN THE COURTROOM FOR WEEKS  
18 AND IF THERE WAS ANYTHING IMPROPER ABOUT IT, THAT SHOULD HAVE  
19 BEEN BROUGHT TO THE COURT'S ATTENTION.

20 AND LET THE RECORD SHOW THAT IN EACH INSTANCE  
21 WHERE THE CAMERAS WERE IN THE COURTROOM AND UNDER THE COURT  
22 RULES, EACH ONE OF THE MEDIA, ELECTRONIC MEDIA HAD PRESENTED  
23 TO THE CLERK, WHICH I HAVE BEEN INFORMED, AN APPLICATION FOR  
24 THE USE OF THE CAMERA AND THE COURT ORALLY APPROVED IT; IS  
25 THAT CORRECT?

26 THE CLERK: YES.

27 MR. CHIER: WE WERE NEVER GIVEN NOTICE OF THAT.

28 THE COURT: YOU JUST KEEP QUIET NOW UNTIL I GET THROUGH.

4  
1 MR. CHIER: ALL RIGHT.

2 THE COURT: THEN YOU SHOULD HAVE INQUIRED OF THE CLERK  
3 AND THE CLERK WOULD HAVE TOLD YOU THAT I HAD APPROVED,  
4 AFTERWARDS I HAD APPROVED IN WRITING, SIGNED THE PERMISSION  
5 FOR THE MEDIA TO BE HERE AND IT WAS GRANTED, SO EVERYTHING  
6 WAS DONE IN PERFECT SHAPE.

7 AND LET THE RECORD ALSO SHOW THAT ALL OF THE TIMES  
8 EVERY DAY THAT THE CAMERAS WERE IN THE COURTROOM, BOTH DEFENSE  
9 COUNSEL HAD APPEARED OUT IN THE HALLWAY DURING THE RECESSES  
10 AND AFTER THE ADJOURNMENT AND THEY HAVE BEEN INTERVIEWED BY  
11 THE ELECTRONIC MEDIA.

12 AND THE REASON I IMPOSED A GAG ORDER IS BECAUSE  
13 COUNSEL, MR. BARENS, UNPROFESSIONALLY HAD MADE SOME  
14 DISPARAGING REMARKS ABOUT THE PROCEEDINGS IN THE COURT AND  
15 THE COURT'S RULINGS AND IN ORDER TO -- IT WAS ON NATIONAL  
16 TELEVISION -- IN ORDER TO AVOID THAT REPETITION, I ORDERED  
17 COUNSEL NOT TO ENGAGE IN ANY KIND OF MEDIA CONFRONTATIONS  
18 AND COUNSEL RECOGNIZED THAT HE HAD MADE A MISTAKE AND HE  
19 APOLOGIZED ABJECTLY TO THE COURT AND TOLD THE COURT HE WAS  
20 JUST UPSET ABOUT THE FACT THAT THE RULINGS HAD BEEN MADE WHICH  
21 HE WAS COMPLAINING ABOUT AND THAT IT WOULD NOT BE REPEATED  
22 AGAIN. THAT WAS THE REASON FOR MY HAVING MADE THE RULING  
23 THAT I HAVE.

24 AND THAT MOTION WILL BE DENIED FOR VERY OBVIOUS  
25 REASONS.

26 LET'S GET THE JURY IN AND START THIS TRIAL. LET'S  
27 START THIS CASE AND GET THE CASE TRIED ON THE MERITS AND NOT  
28 SPURIOUS MOTIONS THAT HAVE BEEN MADE.

1 IF YOU HAD INQUIRED OF THE CLERK WHETHER OR NOT  
2 THOSE CONSENTS WERE PRESENTED AND WHETHER OR NOT THE  
3 APPLICATION FOR THE USE OF THE CAMERA HAD BEEN PRESENTED,  
4 THERE WOULDN'T BE ANY NECESSITY FOR THIS MOTION.

5 MR. CHIER: THE RULES PROVIDES --

6 THE COURT: THE RULE PROVIDING THAT, I HAVE OBSERVED  
7 THAT AND IF YOU HAD MADE ANY PROPER INQUIRY ABOUT IT, THERE  
8 WOULDN'T HAVE BEEN ANY NECESSITY OF WASTING THE COURT'S TIME  
9 WITH STUPID MOTIONS OF THE KIND THAT YOU HAVE BEEN MAKING.

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1 THE COURT: ALL RIGHT. LET'S HAVE THE JURY COME IN.

2 (THE JURY ENTERS THE COURTROOM.)

3 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN. I  
4 NOTICE THROUGH THE COURTESY OF MRS. MICHAEL, THAT YOU HAVE  
5 PILLOWS. I HOPE YOU ENJOY THEM AND THAT THEY ARE COMFORTABLE.

6 I UNDERSTAND ALSO THAT YOU HAVE FOOTSTOOLS, ANYBODY  
7 WHO WANTED THEM. YOU DON'T NEED ANY MORE CHERRY PIES, DO  
8 YOU?

9 THE JURORS: NO.

10 MR. WAPNER: WE CALL ROBERT TAYLOR.

11  
12 ROBERT TAYLOR,  
13 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED  
14 AS FOLLOWS:

15 THE CLERK: RAISE YOUR RIGHT HAND TO BE SWORN.

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

20 THE WITNESS: I DO.

21 THE CLERK: PLEASE TAKE THE WITNESS STAND. BE SEATED.  
22 STATE AND SPELL YOUR NAME FOR THE RECORD.

23 THE WITNESS: ROBERT TAYLOR.

24 THE COURT REPORTER: PLEASE SPELL THAT.

25 THE WITNESS: T-A-Y-L-O-R.  
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1 DIRECT EXAMINATION

2 BY MR. WAPNER:

3 Q BY WHOM ARE YOU EMPLOYED?

4 A SHEARSON LEHMAN BROTHERS.

5 Q IN WHAT CAPACITY?

6 A VICE PRESIDENT AND MANAGER OF THE OFFICE ON  
7 CANNON DRIVE IN BEVERLY HILLS.

8 Q HOW LONG HAVE YOU BEEN VICE PRESIDENT AND BRANCH  
9 MANAGER OF THE BEVERLY HILLS OFFICE?

10 A GOING ON FOUR YEARS.

11 Q SO YOU WERE WORKING THERE IN THE FALL OF 1983?

12 A THAT'S CORRECT.

13 Q AND APPROXIMATELY THE BEGINNING OF OCTOBER 1983,  
14 DID A MR. STEVE LOPEZ COME INTO THE OFFICE FOR THE PURPOSE  
15 OF OPENING AN ACCOUNT?

16 A YES, HE DID.

17 Q WERE THERE SOME ACCOUNT DOCUMENTS PRESENTED TO  
18 YOU FOR THE PURPOSE OF OPENING THAT ACCOUNT?

19 A YES, THERE WERE.

20 Q AND DID YOU APPROVE OR DISAPPROVE OF THE OPENING  
21 OF THE ACCOUNT WHEN IT WAS INITIALLY PRESENTED TO YOU?

22 A INITIALLY, IT WAS DISAPPROVED.

23 Q WHY WAS THAT?

24 A IT WAS A CORPORATE ACCOUNT AND --

25 MR. BARENS: PARDON ME. I OBJECT AS TO THE RELEVANCY,  
26 YOUR HONOR. AND IT IS HEARSAY. BUT THE PRIMARY OBJECTION  
27 IS FOCUSED ON RELEVANCY, YOUR HONOR.

28 THE COURT: OVERRULED.

3

1 Q BY MR. WAPNER: LET ME JUST ASK YOU. WHEN THAT  
2 ACCOUNT CAME IN -- WELL, TELL ME WHAT WAS DISAPPROVED.

3 A IT WAS A CORPORATE ACCOUNT AND CORPORATE DOCUMENTS  
4 REQUIRE THAT OFFICES OF THE CORPORATION BE IDENTIFIED, PEOPLE  
5 WHO CAN MAKE TRANSACTIONS FOR THE CORPORATION.

6 ONE OF THE IDENTIFIED OFFICERS WAS A JOE HUNT  
7 AND WE HAD REASON TO FEEL THAT WE DID NOT WANT TO DO BUSINESS  
8 WITH JOE HUNT.

9 Q WAS THAT BASED ON SOME -- WITHOUT TELLING ME  
10 SPECIFICALLY -- INFORMATION YOU RECEIVED FROM OTHER BROKERAGE  
11 HOUSES ABOUT EXPERIENCES THEY HAD HAD?

12 A THAT'S CORRECT.

13 MR. BARENS: OBJECTION AS TO RELEVANCY.

14 THE COURT: ALL RIGHT. HE ALREADY ANSWERED IT. IF  
15 THIS IS A MOTION TO STRIKE, IT WILL BE DENIED.

16 Q BY MR. WAPNER: AND THE CORPORATE ACCOUNT WAS  
17 IN THE NAME OF INTERNATIONAL MARKETING OPERATIONS?

18 A THAT'S CORRECT.

19 THE COURT: PART ONE OR PART TWO?

20 Q BY MR. WAPNER: THIS WAS INITIALLY PART ONE?

21 A IT WAS NOT IDENTIFIED THAT WAY. IT WAS JUST  
22 INTERNATIONAL MARKETING, INITIALLY.

23 Q SOMETIME LATER IN THE SPRING OF 1984, THERE WAS  
24 A SECOND ACCOUNT OPENED CALLED INTERNATIONAL MARKETING NUMBER  
25 TWO?

26 A THAT'S CORRECT.

27 Q WE'LL GET TO THAT IN A LITTLE BIT. WHEN THIS  
28 ORIGINAL INTERNATIONAL MARKETING ACCOUNT -- WHEN THE DOCUMENTS

1 WERE ORIGINALLY PRESENTED TO YOU AND YOU DISAPPROVED OF THEM,  
2 WHAT DID YOU DO WITH THEM AT THAT POINT?

3 A THE GENTLEMAN WHO HAD COME IN TO US TO OPEN THE  
4 ACCOUNT, MR. LOPEZ, WAS ADVISED THROUGH THE BROKER THAT HE  
5 HAD APPROACHED, LARRY MAIZE, THAT THE CORPORATE DOCUMENTS  
6 WERE UNACCEPTABLE TO SHEARSON, BASED ON THE OFFICERS WHO  
7 WERE LISTED.

8 Q WERE SOME OTHER DOCUMENTS PRESENTED?

9 A NORMAL CORPORATE DOCUMENTS. BUT IT IS THE SPECIFIC  
10 ONE IDENTIFYING NAMES THAT WE HAD PROBLEMS WITH.

11 Q AND DID MR. LOPEZ SUBSEQUENTLY BRING IN SOME  
12 OTHER DOCUMENTS ON THE CORPORATION THAT DID NOT HAVE MR.  
13 HUNT'S NAME ON THEM?

14 A YES, HE DID.

15 Q WAS THE ACCOUNT OPENED?

16 A YES, IT WAS.

17 Q AND DO YOU HAVE SOME RECORDS ON THAT ACCOUNT  
18 THAT WAS OPENED?

19 A YES, I DO.

20 Q WHERE DID YOU OBTAIN THOSE RECORDS FROM?

21 A THOSE RECORDS WERE OBTAINED FROM OUR NEW YORK  
22 OFFICE IN TERMS OF THE FILES THAT ARE MAINTAINED IN NEW YORK  
23 ON ALL CLIENTS' ACCOUNTS THAT ARE OPENED BY THE FIRM.

24 Q AND DID YOU ALSO BRING WITH YOU SOME ORDERS OF  
25 AN ACCOUNT MR. LOPEZ HAD OPENED AT YOUR OFFICE?

26 A YES, I DID.

27 Q DID MR. LOPEZ HAVE HIS OWN, PERSONAL ACCOUNT  
28 BEFORE THE INTERNATIONAL MARKETING ACCOUNT OPENED?



1 A YES, HE DID.

2 Q ALL RIGHT. AND WOULD YOU SHOW ME PLEASE THE  
3 RECORDS ON MR. LOPEZ' ACCOUNT?

4 A WHAT WOULD YOU LIKE TO SEE?

5 Q WELL, MR. LOPEZ HAD DIFFERENT ACCOUNTS THAT HE  
6 OPENED?

7 A HE HAD AN ACCOUNT IN HIS OWN NAME AND THERE WAS  
8 BRIEFLY AN ACCOUNT -- A JOINT ACCOUNT FOR HIM AND ANOTHER  
9 PARTY WITH THE SAME NAME.

10 Q THE ACCOUNT THAT MR. LOPEZ OPENED IN HIS OWN  
11 NAME WAS INITIALLY A SECURITIES ACCOUNT, IS THAT RIGHT?

12 A THAT'S CORRECT.

13 Q ALL RIGHT. AND CAN I SEE THE RECORDS OF THAT  
14 ACCOUNT, PLEASE?

15 A JUST A MOMENT. I HAVE THEM.

16 Q ALL RIGHT. AND IS THAT ENTIRE PACKAGE THAT YOU  
17 HAVE THERE, ARE THOSE THE RECORDS ON MR. LOPEZ' ACCOUNT?

18 A THIS RELATES TO THE STEVEN LOPEZ ACCOUNT, YES.

19 Q AND WHAT DATE WAS THE STEVE LOPEZ ACCOUNT OPENED?

20 A OCTOBER 4TH.

21 Q OF WHAT YEAR?

22 A 1983.

23 Q WHAT WAS USED IN TERMS OF MONEY OR OTHER SECURITIES  
24 TO OPEN THAT ACCOUNT?

25 A INITIALLY, THERE WAS A \$1,000 CHECK RECEIVED.

26 Q ON WHAT DATE?

27 A THE RECORDS SHOW IT WAS RECEIVED ON OCTOBER 7.

28 Q AND THEN WERE SOME OTHER MONEYS BROUGHT INTO

1 THAT ACCOUNT?

2 A YES. LATER IN OCTOBER, THERE WERE SOME BONDS  
3 THAT WERE BROUGHT INTO THE ACCOUNT, WITH THE REQUEST THAT  
4 A LOAN BE ESTABLISHED TO LOAN THE VALUE OF THOSE BONDS.

5 THE COURT: WE HAVE HAD TESTIMONY FROM MR. MAIZE ABOUT  
6 THIS YESTERDAY. THIS IS REPETITIOUS OF IT.

7 MR. WAPNER: WELL, I AM TRYING TO GET THE DATES, YOUR  
8 HONOR. IT IS IMPORTANT ONLY FOR THE PURPOSE OF HAVING MR.  
9 LOPEZ TESTIFY.

10 THE COURT: BE AS BRIEF AS POSSIBLE ON THIS PARTICULAR  
11 ACCOUNT. I DON'T KNOW THAT IT IS SO MATERIAL.

12 MR. WAPNER: I AM TRYING TO BE, YOUR HONOR.

13 Q WHAT DATE WERE THE BONDS BROUGHT IN?

14 A OCTOBER 27 IS THE DATE.  
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1 Q AND THERE WAS A LOAN AGAINST THOSE BONDS?

2 A THAT'S CORRECT.

3 Q WHEN WAS THAT LOAN GIVEN?

4 A AND THE FUNDS WERE PAID -- THE FUNDS WERE PAID  
5 ON OCTOBER 23RD -- 25TH, WHICH WOULD MEAN THAT OCTOBER 25TH  
6 IS ACTUALLY THE DAY THE BONDS ARRIVED IN THE BRANCH OFFICE  
7 AND THEY DIDN'T GET IN THE COMPUTER SYSTEM UNTIL TWO DAYS  
8 LATER.

9 Q HOW MUCH WAS GIVEN --

10 MR. BARENS: EXCUSE ME. I AM NOT SURE THAT IS RESPONSIVE  
11 TO THE QUESTION AS TO THE DATE THAT THE ACTUAL LOAN IS GIVEN?

12 THE COURT: WELL, EXPLAIN THAT TO US, PLEASE.

13 THE WITNESS: THE LOAN WAS GIVEN ON OCTOBER 25TH.

14 Q BY MR. WAPNER: AND YOU PREVIOUSLY SAID THAT THE  
15 BONDS DIDN'T GET THERE UNTIL TWO DAYS LATER; DO YOU WANT TO  
16 EXPLAIN THAT?

17 A THE BONDS APPEARED ON THE COMPUTER RECORDS OR  
18 ON THE STATEMENT DATE OF OCTOBER 27 AND THEY ACTUALLY WOULD  
19 HAVE PHYSICALLY HAVE BEEN RECEIVED IN THE BRANCH OFFICE ON  
20 THE 25TH.

21 Q ALL RIGHT, BECAUSE YOU ARE NOT GOING TO GIVE SOME-  
22 BODY A \$95,000 LOAN WHEN THEY HAVE ONLY GOT A THOUSAND DOLLARS  
23 IN THE ACCOUNT.

24 A OBVIOUSLY.

25 Q AND THE AMOUNT OF THE LOAN AGAINST THOSE BONDS  
26 WAS HOW MUCH?

27 A \$95,000.

28 Q NOW, THE INTERNATIONAL -- WELL, LET ME JUST ASK:

2  
1 WAS THERE MUCH -- THIS WAS A SECURITIES ACCOUNT THAT  
2 MR. LOPEZ OPENED UP; IS THAT CORRECT?

3 A THAT'S CORRECT.

4 Q AND WAS THERE MUCH ACTIVITY ON THAT ACCOUNT DURING  
5 THE COURSE OF THE TIME THAT IT WAS OPEN?

6 A NOT INITIALLY. THERE WERE SOME TRADES THAT WERE  
7 DONE IN LATER MONTHS, DECEMBER, JANUARY, BUT NOT A WHOLE LOT.

8 Q AND THERE WERE NO COMMODITIES INVOLVED IN THAT  
9 ACCOUNT?

10 A NO COMMODITIES AT ALL.

11 Q WHEN WAS THE INTERNATIONAL MARKETING OPERATIONS  
12 ACCOUNT OPENED?

13 A JUST A MOMENT.

14 OCTOBER 28TH.

15 Q AND DO YOU HAVE THERE THE PACKAGE OF DOCUMENTS  
16 THAT ARE CONCERNED WITH THE INTERNATIONAL MARKETING OPERATIONS  
17 ACCOUNT?

18 A YES, I DO.

19 Q AND DOES THAT INCLUDE THE STATEMENT, AS WELL AS  
20 THE ACCOUNT OPENING DOCUMENTS?

21 A YES, IT DOES.

22 MR. WAPNER: MAY THOSE DOCUMENTS, YOUR HONOR, THE ACCOUNT  
23 OPENING DOCUMENTS AND THE MONTHLY STATEMENTS BE MARKED  
24 COLLECTIVELY AS PEOPLE'S 200 FOR IDENTIFICATION?

25 THE COURT: THAT WILL BE SO MARKED.

26 THE WITNESS: THIS IS LOPEZ. THIS IS THE INTERNATIONAL  
27 MARKETING. THAT IS THE ACCOUNT DOCUMENTS, NEW ACCOUNT  
28 DOCUMENTS AND THE COMMODITY ACCOUNT.

3  
1 Q BY MR. WAPNER: WHEN THE INTERNATIONAL MARKETING  
2 OPERATIONS ACCOUNT WAS OPENED, WAS THERE A STOCK ACCOUNT AS  
3 WELL AS A COMMODITY ACCOUNT?

4 A THE FIRST ACTIVITY IN THE STOCK ACCOUNT WAS NOT  
5 UNTIL NOVEMBER.

6 Q WHEN WAS THE FIRST ACTIVITY IN THE COMMODITIES  
7 ACCOUNT?

8 A RIGHT AT THE END OF OCTOBER, RIGHT ABOUT THE TIME  
9 THE ACCOUNT WAS OPENED.

10 Q SO WERE THEY BOTH OPENED TOGETHER?

11 A WELL, MECHANICALLY, YES, BUT THERE WAS NO ACTIVITY  
12 IN THE STOCK ACCOUNT. THE SAME NUMBER WAS USED FOR BOTH  
13 ACCOUNTS.

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1 Q WHEN A PERSON TRADES IN COMMODITIES, IS IT COMMON  
2 FOR THEM TO HAVE A COMMODITY AND A STOCK ACCOUNT?

3 A YES.

4 Q WHY?

5 A OFTENTIMES AN INVESTOR OR A SPECULATOR WILL DESIRE  
6 TO MAKE TRANSACTIONS IN BOTH THE FUTURES MARKET AS WELL AS  
7 THE EQUITY MARKET, SO THERE IS AN OBVIOUS REASON THERE.

8 AND IN ADDITION, IF A CLIENT HAS A COMMODITY ACCOUNT  
9 AND WISHES TO TRADE COMMODITIES ONLY, IF HE HAS EXCESS FUNDS  
10 IN THE ACCOUNT, THE WAY WE ALLOW HIM TO EARN INTEREST ON THOSE  
11 FUNDS IS TO TRANSFER ANY EXCESS FUNDS INTO A SECURITIES ACCOUNT  
12 AND PUT THEM IN A MONEY MARKET FUND FOR HIM.

13 Q SO WHEN THE MONEY IS A SECURITY ACCOUNT, IT EARNS  
14 INTEREST AND IF IT IS ONLY COMMODITIES, IT DOESN'T?

15 A IF THERE ARE EXCESS FUNDS IN A COMMODITY ACCOUNT,  
16 IT DOES NOT EARN INTEREST, THAT IS CORRECT.

17 Q HOW MUCH MONEY WENT INTO THE INTERNATIONAL MARKETING  
18 ACCOUNT TO OPEN IT UP IN OCTOBER?

19 A THE INITIAL DEPOSIT WAS \$90,000.

20 Q WHAT FORM DID THAT \$90,000 TAKE?

21 A IT WAS A CERTIFIED CHECK.

22 Q IS THERE ANY INDICATION ON YOUR RECORDS ABOUT  
23 WHO THAT CHECK WAS FROM?

24 A IT WOULD HAVE BEEN FROM INTERNATIONAL MARKETING.

25 Q SO YOU CAN'T TELL FROM YOUR RECORDS WHETHER OR  
26 NOT THAT IS A CHECK THAT CAME FROM THE 95,000 FROM MR. LOPEZ  
27 OR NOT?

28 A IT WOULD NOT HAVE BEEN MR. LOPEZ' CHECK COMING

1 BACK BECAUSE THAT WOULD NOT BE CERTIFIED FUNDS.

2 Q SO IF HE TOOK THAT CHECK AND GOT A -- TOOK THE  
3 MONEY YOU GAVE HIM AND GOT A CERTIFIED CHECK, IT WOULD NOT  
4 BE REFLECTED ON THAT STATEMENT?

5 A THAT IS CORRECT, THAT WOULD NOT BE IDENTIFIED.

6 Q BUT IT WAS THREE DAYS AFTER HE HAD GOTTEN THE  
7 95,000 THAT THAT ACCOUNT WAS OPENED WITH THE NINETY?

8 A YES, THE DEPOSIT WAS MADE ON OCTOBER 31ST.

9 Q OCTOBER?

10 A THE 31ST.

11 Q AND IN TRADING COMMODITIES, WHEN YOU PUT MONEY  
12 INTO THE COMMODITIES MARKET, IF YOU PUT \$90,000 IN, DO YOU  
13 CONTROL \$90,000 OF COMMODITIES?

14 A NO.

15 WHEN YOU TRADE IN COMMODITIES, COMMODITIES ARE  
16 A HIGHLY LEVERAGED INSTRUMENT AND TEN TO ONE IS NOT AN  
17 UNCOMMON MARGIN RATIO FOR TRANSACTIONS IN THE FUTURES MARKET.  
18 SO IF YOU INVESTED A FULL 90,000 IN COMMODITY FUTURES, YOU  
19 COULD CONTROL, CERTAINLY, YOU KNOW, UP TO A MILLION DOLLARS  
20 PROBABLY, DEPENDING UPON WHAT THE COMMODITY WAS. BUT TEN  
21 TO ONE LEVERAGE IS NOT UNCOMMON IN THE COMMODITIES MARKET.

22 Q WHAT HAPPENED WHEN THIS \$90,000 WENT INTO THE  
23 INTERNATIONAL MARKETING ACCOUNT, WERE THERE POSITIONS THAT  
24 WERE PURCHASED?

25 A TRANSACTIONS WERE INITIATED IMMEDIATELY, YES.

26 Q WHAT TYPE OF TRANSACTIONS WERE THEY?

27 A THEY WERE WHAT WE CALL SPREAD TRANSACTIONS, WHERE  
28 IN A PARTICULAR FUTURES VEHICLE, A LONG POSITION IN ONE MONTH

1 IS PUT ON, AS OPPOSED TO A SHORT POSITION IN ANOTHER MONTH.

2 Q WHEN YOU SAY SPREAD TRANSACTIONS AND LONG, CAN  
3 YOU JUST EXPLAIN TO US BRIEFLY? WE DON'T WANT TO GIVE A  
4 CLASS HERE IN COMMODITIES. BUT BRIEFLY, WHAT DO YOU MEAN  
5 BY A LONG POSITION IN ONE MONTH AND A SHORT POSITION IN ANOTHER  
6 MONTH?

7 A FUTURES TRADING IS -- USES THAT WORD. YOU ARE  
8 INVESTING IN SOMETHING ON A PRESUMPTION OF WHAT THE PRICE  
9 WILL BE AT SOME FUTURE TIME. THEREFORE, THAT PARTICULAR  
10 COMMODITY HAS VARIOUS DIFFERENT MONTHS OF EXPIRATION FOR THE  
11 FUTURE CONTRACT AND YOU CAN BUY AND SELL WHATEVER OF THE  
12 EXPIRATION MONTHS YOU CHOOSE IN TERMS OF TAKING YOUR POSITIONS.

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1 Q AND WHEN YOU TALK ABOUT SPREADS, DOES THAT MEAN  
2 IN ESSENCE, THAT YOU ARE TAKING --

3 A TAKING BOTH SIDES OF THE MARKET IN ANY TWO AMOUNTS  
4 BUT IN DIFFERENT MATURITY MONTHS.

5 Q SO, YOU HAVE BOTH SIDES OF THE SAME MARKET?

6 A THE SAME FUTURES, THE SAME FUTURE COMMODITIES  
7 CONTRACTS BUT WITH DIFFERENT EXPIRATION MONTHS.

8 Q AND AFTER THE \$90,000 WAS INVESTED AND POSITIONS  
9 WERE PUT ON, WHAT HAPPENED TO THEM? WAS THERE ANY ACTIVITY  
10 WITH THEM IN OCTOBER IN THE BRIEF TIME THEY WERE ON?

11 A THE STATEMENT WOULD INDICATE THAT THERE WAS A  
12 SMALL GAIN THAT WAS MADE IN THOSE CONTRACTS BY THE END OF  
13 THE MONTH.

14 Q HOW MUCH, APPROXIMATELY?

15 A \$4,500.

16 Q AND WHAT HAPPENED TO THE ACCOUNT THE NEXT MONTH,  
17 IN NOVEMBER?

18 A IN NOVEMBER, THERE WAS MORE ACTIVITY.

19 Q WHAT DO YOU MEAN BY THAT?

20 A ADDITIONAL CONTRACTS WERE ADDED TO THE ACCOUNT.

21 Q WHAT TYPE OF CONTRACTS ARE WE TALKING ABOUT?  
22 THESE ARE FUTURES IN FINANCIAL INSTRUMENTS?

23 A MOSTLY THEY WERE IN FINANCIAL -- ALL IN FINANCIAL  
24 INSTRUMENTS MOSTLY IN EURO-DOLLARS.

25 Q DO YOU WANT TO EXPLAIN BRIEFLY IF YOU CAN, WHAT  
26 A EURO-DOLLAR IS?

27 A A URO-DOLLAR IS LIKE A CERTIFICATE OF DEPOSIT  
28 THAT IS SOLD ONLY TO EUROPEAN INVESTORS. IT IS IN DOLLAR

2

1 DENOMINATIONS BUT SOLD ONLY OVERSEAS.

2 Q THERE WERE MORE URO-DOLLAR CONTRACTS PURCHASED  
3 IN NOVEMBER?

4 A YES.

5 Q THIS IS AS OF 1983?

6 A AS WELL AS TREASURY BILL CONTRACTS.

7 Q AND WHAT HAPPENED WITH THE ACCOUNT IN NOVEMBER  
8 OF 1983?

9 A IN NOVEMBER, THE END OF NOVEMBER, IN THE OPEN  
10 CONTRACTS AT THE END OF NOVEMBER, THERE WAS A LOSS OF \$27,000.

11 Q CAN YOU EXPLAIN WHAT YOU MEAN BY A LOSS OF  
12 \$27,000 IN OPEN CONTRACTS IN NOVEMBER?

13 A IF YOU PUT ON A FUTURES CONTRACT AND MAINTAIN  
14 IT WITHOUT LIQUIDATING THE IDENTICAL CONTRACT AT THE END  
15 OF A GIVEN MONTH, YOU HAVE A PAPER PROFIT OR LOSS, DEPENDING  
16 UPON WHAT THE MARKET HAS DONE IN THAT PARTICULAR CONTRACT.

17 SO, IN THE CONTRACTS THAT HAD NOT BEEN CLOSED  
18 AT THE END OF NOVEMBER, THERE WAS A PAPER LOSS OF SOME \$27,000.

19 Q NOW, WHEN THE ACCOUNT LOSSES WERE \$27,000 ON  
20 PAPER, DO YOU REQUIRE THE CUSTOMER TO DO SOMETHING?

21 A IF THAT PAPER LOSS WAS EQUALLY REFLECTED IN A  
22 NET LOSS OF EQUITY, WE WOULD REQUIRE ADDITIONAL FUNDS TO  
23 BE BROUGHT IN.

24 Q WHEN YOU SAY, "IF IT IS REFLECTED ALSO IN A NET  
25 LOSS OF EQUITY," WHAT DO YOU MEAN BY THAT?

26 A THE FIRM REQUIRES A CERTAIN MARGIN TO BE PUT  
27 UP TO MAKE THE TRANSACTION INITIALLY. IF THAT MARGIN IS  
28 DISSIPATED THROUGH MARKET LOSS, WE WOULD REQUIRE THE CLIENT

3  
1 TO PUT UP ADDITIONAL FUNDS.

2 Q WOULD YOU GIVE US AN EXAMPLE OF THAT?

3 A LET'S JUST SAY THAT A CONTRACT OF SILVER IS  
4 PURCHASED AND IN THE CONTRACT OF SILVER, SAY THE MARGIN  
5 REQUIREMENT IS \$5,000.

6 IF THE MARKET MOVES AGAINST THE CLIENT TO THE  
7 POINT WHERE HE HAS LOST \$1,000, THE BROKERAGE FIRM SAYS TO  
8 HIM, "MR. CLIENT, PLEASE BRING BACK IN \$1,000 TO BRING YOUR  
9 MARGIN BACK UP TO ITS INITIAL REQUIREMENT."

10 THE CLIENT ALSO COULD LIQUIDATE THE POSITION  
11 AT THAT TIME AND TAKE HIS \$4,000 LOSS, IF HE CHOSE TO --  
12 I MEAN, TAKE A THOUSAND DOLLAR LOSS, EXCUSE ME.

13 Q AND IN NOVEMBER OF 1983, WHEN THE INTERNATIONAL  
14 MARKETING ACCOUNT LOST \$27,000 ON PAPER, DID YOU REQUIRE  
15 THE HOLDERS OF THAT ACCOUNT TO PUT IN ANY MORE MONEY?

16 A SUBSTANTIAL ADDITIONAL MONEYS WERE BROUGHT IN  
17 DURING THAT MONTH. THEY WOULD BOTH HAVE BEEN BROUGHT IN TO  
18 PROPERLY MARGIN NEW CONTRACTS THAT WERE ADDED DURING THE  
19 MONTH OF NOVEMBER AS WELL AS TAKE CARE OF ANY ADDITIONAL  
20 MARGIN REQUIRED ON THE EXISTING CONTRACTS.

21 Q OKAY. WHAT HAPPENED TO THE ACCOUNT IN DECEMBER  
22 OF 1983?

23 A THERE WERE ADDITIONAL CONTRACTS BOTH PURCHASED  
24 AND SOME OF THE EXISTING CONTRACTS WERE LIQUIDATED.

25 AND AT THE MONTH END, THE ACCOUNT WAS SHOWING  
26 AN UNREALIZED PROFIT OF SOME \$14,000.

27 Q AND THE NEXT MONTH, IN JANUARY OF 19 -- WELL,  
28 LET ME ASK YOU SOMETHING BEFORE WE GO ON TO THAT.

1           IN DECEMBER, WAS THERE A PROFIT OF \$14,000? WHAT WAS  
2 THE EQUITY IN THE ACCOUNT?

3           A       THE EQUITY WAS \$271,000.  
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1 Q IS THAT \$271,000 THAT IS ACTUALLY IN CASH IN  
2 THE ACCOUNT?

3 A THAT WOULD INCLUDE BOTH THE CASH AS WELL AS THE  
4 PROFIT. SO IT IS THE CASH PLUS THE PROFIT. OR IF THERE  
5 WAS A DEFICIT, IF THERE WAS A LOSS IN OPEN POSITIONS, IT  
6 WOULD BE THE CASH MINUS THE LOSS.

7 Q ALL RIGHT. WHAT HAPPENED TO THE ACCOUNT IN JANUARY  
8 OF 1984?

9 A AGAIN, ADDITIONAL TRANSACTIONS, BOTH NEW CONTRACTS  
10 AS WELL AS CLOSING OUT SOME EXISTING CONTRACTS AT THE END  
11 OF THE MONTH, THERE BEING AN UNREALIZED PROFIT OF ABOUT  
12 \$29,000 AND A TOTAL EQUITY OF ABOUT \$330,000.

13 Q SO THAT'S APPROXIMATELY \$301,000 IN CASH PLUS  
14 THE \$29,000 PROFIT?

15 A THAT'S CORRECT.

16 Q AND THAT \$330,000 IS CONTROLLING APPROXIMATELY  
17 HOW MUCH IN TERMS OF DOLLAR AMOUNT OF POSITIONS THAT ARE  
18 ON THE MARKET?

19 A I CAN'T QUOTE YOU THE MARGINS ON THE EURO-DOLLARS,  
20 PER SE. BUT IT IS CERTAINLY SOMETHING IN THE RANGE OF TEN  
21 TO ONE.

22 Q YOU ARE TALKING LIKE \$3,000,000?

23 A PERHAPS, YES.

24 Q WHAT HAPPENED TO THE ACCOUNT IN FEBRUARY OF 1984?

25 A AT THE END OF FEBRUARY -- AGAIN, DURING THE  
26 MONTH, THERE AGAIN, WERE SOME NEW POSITIONS PUT ON AND THERE  
27 WAS A CLOSING OUT OF PREVIOUS POSITIONS.

28 AT THE END OF FEBRUARY, THE OPEN LOSSES IN THE  
29 OPEN ACCOUNT WERE \$243,000 AND THE NET EQUITY WAS \$85,000.

1 Q SO THE ACCOUNT ON PAPER HAD LOST \$243,000 BY THE  
2 END OF FEBRUARY?

3 A THAT'S CORRECT.

4 Q DOES THAT MEAN THAT IF THE POSITIONS WERE  
5 LIQUIDATED AT THAT POINT THAT THE CUSTOMER IS THEN -- THEN  
6 WOULD HAVE LOST FROM THE BEGINNING OF THIS ACCOUNT TO THE  
7 END \$243,000?

8 A NO, NO. THAT WAS THE LOSSES; AT THAT POINT,  
9 HIS NET EQUITY WAS \$85,000 SO YOU WOULD HAVE TO ADD UP ALL  
10 OF THE -- ALL OF THE DEPOSITS AND ALL OF THE WITHDRAWALS TO  
11 SEE WHERE THAT \$85,000 EQUITY RELATED TO, HOW MUCH MONEY HAD  
12 BEEN PUT IN THE ACCOUNT.

13 IT DOES MEAN THAT ON THE OPEN POSITIONS THAT HAD  
14 BEEN ESTABLISHED AND PRIMARILY ON POSITIONS THAT WERE PUT  
15 ON IN THE MONTH OF FEBRUARY, THAT THOSE LOSSES WERE REFLECTED  
16 AS PAPER LOSSES BY THE END OF THAT MONTH.

17 Q AND AS A RESULT, WAS THERE SOMETHING, SOME  
18 PARTICULAR TIME IN THAT MONTH WHERE MOST OF THAT LOSS WAS  
19 INCURRED?

20 A WELL, I CAN'T TELL THE TIME.

21 I DON'T HAVE DAILY QUOTATIONS HERE BUT THEY WERE  
22 IN POSITIONS THAT WERE PRIMARILY ESTABLISHED TOWARDS THE  
23 BEGINNING OF FEBRUARY AND BY THE END OF THE MONTH, THEY WERE  
24 DOWN AND PRECIPITATED A SUBSTANTIAL AMOUNT OF THAT PAPER LOSS.

25 Q IF MR. HUNT HAD SENT OUT STATEMENTS TO INVESTORS  
26 WHO, OSTENSIBLY, WERE INVESTING IN THIS ACCOUNT, OR WITH HIM,  
27 FUNDS THAT WERE OSTENSIBLY GOING INTO THIS ACCOUNT AND THOSE  
28 STATEMENTS REFLECTED THAT BETWEEN NOVEMBER 15 AND FEBRUARY 15

1 OF 19-- EXCUSE ME -- NOVEMBER 15 OF 1983 AND FEBRUARY THE 15TH  
2 OF 1984, THAT THE PEOPLE WHO HAD INVESTED HAD MADE AN AVERAGE  
3 MONTHLY RETURN OF 17.69 PERCENT OR APPROXIMATELY 50 PERCENT  
4 FOR THE QUARTER, WOULD THAT BE AN ACCURATE REFLECTION OF WHAT  
5 WE HAVE GOT IN THIS ACCOUNT?

6 MR. BARENS: WE OBJECT, YOUR HONOR. THAT ABSOLUTELY  
7 ASSUMES FACTS NOT IN EVIDENCE. THE ENTIRE HYPOTHETICAL  
8 QUESTION IS BASED ON AN ASSUMPTION THAT HUNT, NUMBER ONE,  
9 IS SENDING THE STATEMENTS OUT TO THE CLIENTS.

10 IT ASSUMES, NUMBER TWO, THAT THIS IS THE ACCOUNT  
11 THAT HE IS REFERRING TO.

12 IT ASSUMES, NUMBER THREE, THAT THERE IS A TIME  
13 RELATIONSHIP THAT IS IN THIS PAPERWORK THAT IS ON THE SUMMARIES  
14 GIVEN THE CLIENT AND THERE HAS BEEN TESTIMONY THERE IS AT  
15 LEAST ONE OTHER COMMODITIES ACCOUNT.

16 THERE HAS BEEN TESTIMONY THAT THERE ARE OTHER  
17 INVESTMENTS THE BBC AND THE INVESTMENT GROUP IS INVOLVED IN  
18 ACROSS THE BOARD. HOW IN THE WORLD CAN YOU ASSUME THOSE  
19 FACTS?

20 THE COURT: THAT IS A VERY GOOD ARGUMENT.

21 IS THAT A LEGAL MOTION YOU ARE MAKING?

22 MR. BARENS: YES. THE MOTION --

23 THE COURT: THE MOTION WILL BE DENIED.

24 MR. BARENS: ON THE BASIS IT IS NOT --

25 THE COURT: ON THE BASIS HE IS JUST TELLING HIM ABOUT  
26 THIS PARTICULAR ACCOUNT, WHETHER OR NOT THAT PARTICULAR ACCOUNT  
27 REFLECTED THOSE PROFITS; ISN'T THAT WHAT YOU ARE TRYING TO  
28 DO?

3  
1 MR. WAPNER: THAT IS CORRECT.

2 MR. BARENS: BUT HE DIDN'T SEE -- IT WASN'T, IT CERTAINLY  
3 WAS NOT CLEAR FROM THE HYPOTHETICAL, YOUR HONOR.

4 THE COURT: HE ONLY MEANS WITH RESPECT TO THIS  
5 PARTICULAR ACCOUNT, THAT IT DOESN'T SHOW THIS PARTICULAR  
6 RETURN; ISN'T THAT ALL YOU ARE TRYING TO SHOW, IF I UNDERSTAND  
7 YOU?

8 MR. WAPNER: THAT IS WHAT WE ARE TRYING TO SHOW.

9 MR. BARENS: WITH YOUR HONOR'S CLARIFICATION, I WILL  
10 ACCEPT IT.

11 THE COURT: THAT IS WHAT I THOUGHT HE WAS DOING.

12 GO AHEAD.  
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1 Q BY MR. WAPNER: MR. TAYLOR, YOU DON'T WORK FOR  
2 MICROGENESIS OF NORTH AMERICA, DO YOU?

3 A NO.

4 Q YOU DON'T WORK FOR WESTCARS OF NORTH AMERICA?

5 A NO, SIR.

6 Q YOU WORK FOR SHEARSON AMERICAN EXPRESS?

7 A SHEARSON AMERICAN EXPRESS.

8 Q ALL RIGHT. NOW IF SOMEBODY IS SENDING OUT A  
9 STATEMENT TO PEOPLE WHO HAD OSTENSIBLY INVESTED WITH HIM IN  
10 THE COMMODITIES MARKET AND ASSUMING THAT THAT STATEMENT  
11 REFLECTED COMMODITIES TRADES AND INVESTMENTS ON THE ACCOUNT  
12 THAT YOU ARE TALKING TO US ABOUT AND THE STATEMENT SAID THAT  
13 BETWEEN NOVEMBER OF 1983 AND FEBRUARY OF 1984, THE AVERAGE  
14 MONTHLY RETURN WAS 17.69 PERCENT OR APPROXIMATELY 50 PERCENT  
15 FOR THE QUARTER, WOULD THAT BE AN ACCURATE REFLECTION OF THE  
16 ACTIVITY IN THE ACCOUNT THAT YOU HAVE?

17 MR. BARENS: YOUR HONOR --

18 THE COURT: INSOFAR AS THIS PARTICULAR ACCOUNT IS  
19 CONCERNED, WOULD THOSE PERCENTAGES BEAR UP?

20 THE WITNESS: I UNDERSTAND.

21 IT CERTAINLY COULD NOT BE SUBSTANTIATED BY THE  
22 SHEARSON STATEMENTS OF THAT ACCOUNT.

23 MR. BARENS: THE MOTION NOW GOES TO STRIKE. THERE WAS  
24 NO TESTIMONY THAT ANY STATEMENT WAS SENT OUT SAYING THEY WERE  
25 QUOTING FROM THE SHEARSON ACCOUNT, THAT THE AVERAGES SHOWN  
26 WERE FROM THE SHEARSON ACCOUNT.

27 THE COURT: YOU STILL DON'T UNDERSTAND.

28 I AM TRYING TO TELL YOU THAT ALL COUNSEL IS TRYING

1 TO ELICIT FROM THIS WITNESS IS THAT SO FAR AS THIS PARTICULAR  
2 ACCOUNT IS CONCERNED, DURING THOSE PERIODS IT DID NOT SHOW  
3 17.69 OR 50 PERCENT PROFIT MONTHLY; IS THAT RIGHT?

4 MR. WAPNER: THAT IS CORRECT.

5 THE COURT: THAT IS ALL IT IS LIMITED TO AND THE JURY  
6 UNDERSTANDS IT.

7 MR. BARENS: YOUR HONOR, MY UNDERSTANDING HAS ALWAYS  
8 BEEN THAT HYPOTHETICALS HAVE TO BE BASED ON EVIDENCE.

9 THE COURT: IT IS NOT A HYPOTHETICAL QUESTION. HE IS  
10 DOING IT ON THE BASIS OF ACTUALLY THAT ACCOUNT DID NOT SHOW  
11 17. WHATEVER IT IS.

12 LET'S GO ON.

13 MR. BARENS: JUST TO FINISH THIS, IF I MIGHT, HE ASKED  
14 THE WITNESS --

15 THE COURT: YOU CAN ARGUE TO THE JURY LATER ON, IF YOU  
16 WILL, PLEASE, AFTER THE CASE IS OVER.

17 MR. BARENS: IT IS JUST, YOUR HONOR --

18 THE COURT: I MADE MY RULING NOW. WILL YOU PLEASE --  
19 LET'S GET ON WITH THE CASE.

20 ALL RIGHT, GO AHEAD.

21 Q BY MR. WAPNER: MR. TAYLOR, I WILL ASK YOU A  
22 SIMILAR QUESTION IN A DIFFERENT FASHION; DO THE STATEMENTS  
23 THAT YOU HAVE ON THIS ACCOUNT OF INTERNATIONAL MARKETING  
24 OPERATIONS REFLECT AN AVERAGE MONTHLY PROFIT OF ABOUT 17½  
25 PERCENT?

26 A NO, THEY DO NOT.

27 Q DO THEY REFLECT AN APPROXIMATE RETURN BETWEEN  
28 NOVEMBER OF '83 AND FEBRUARY OF '84 OF ABOUT 50 PERCENT?

1 A NO, THEY DO NOT.

2 Q IN FACT, WHAT DO THEY REFLECT HAPPENED ON THE  
3 ACCOUNT DURING THAT PERIOD?

4 A THEY REFLECT A SUBSTANTIAL LOSS.

5 Q AND THAT LOSS BY THE END OF FEBRUARY OF '84 WAS  
6 \$243,000; IS THAT RIGHT?

7 A THAT MUCH WAS THE OUTSTANDING LOSS AT THAT POINT,  
8 RIGHT.

9 Q AND WHAT HAPPENED, THERE WAS ACTIVITY IN THE ACCOUNT  
10 IN NOVEMBER, DECEMBER, JANUARY AND FEBRUARY; IS THAT CORRECT?

11 A THAT'S CORRECT.

12 Q WHAT HAPPENED AFTER FEBRUARY OF 1984?

13 A THERE WERE NO FURTHER TRANSACTIONS MADE, NO  
14 FURTHER PURCHASES OR SALES.

15 Q WHAT HAPPENED WITH THE POSITIONS THAT HAD BEEN  
16 ESTABLISHED BETWEEN THE OPENING OF THE ACCOUNT AND THE END  
17 OF FEBRUARY OF 1984?

18 OR LET ME ASK YOU A DIFFERENT WAY: WHAT HAPPENED  
19 WITH THE POSITIONS THAT WERE ESTABLISHED IN THE ACCOUNT AS  
20 OF THE END OF FEBRUARY OF 1984?

21 A AT THE END OF MARCH?

22 Q YES.

23 A AT THE END OF MARCH, THE POSITIONS WHICH HAD NOT  
24 CHANGED, THE POSITIONS WERE IDENTICAL TO THOSE AT THE END  
25 OF FEBRUARY, HAD GONE FROM A \$243,000 MARKET LOSS TO AN  
26 \$303,000 MARKET LOSS. HOWEVER, THE EQUITY HAD GONE UP  
27 BECAUSE OF SHEARSON REQUIRING MARGINS TO BE PLACED IN THE  
28 ACCOUNT, SO THE EQUITY IN THE ACCOUNT HAD GONE UP TO A HUNDRED

1 EIGHTY-FOUR THOUSAND DOLLARS. SO APPROXIMATELY A HUNDRED  
2 THOUSAND DOLLAR EQUITY WAS ADDED BY THE CLIENT IN ORDER TO  
3 PROPERLY MARGIN THE POSITIONS THAT WERE BEING HELD BUT THE  
4 MARKET VALUE OF THE POSITIONS THEMSELVES HAD DEPRECIATED  
5 ANOTHER \$60,000.

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1 Q CAN YOU EXPLAIN WHY IT IS THAT SHEARSON REQUIRED  
2 MORE EQUITY INTO THE ACCOUNT AS THE POSITIONS WENT AGAINST  
3 THE CLIENT?

4 A WELL, THAT IS AS I HAD DESCRIBED EARLIER. THERE  
5 IS A MARGIN REQUIREMENT THAT IS REQUIRED WHEN A POSITION  
6 WAS PUT ON INITIALLY. IF THAT POSITION GOES AGAINST THE  
7 CLIENT, THE FIRM REQUIRES ADDITIONAL MONEYS TO BE PLACED,  
8 TO BRING THAT MARGIN BACK TO ITS CORRECT AMOUNT.

9 Q COULD YOU SAY WHAT HAPPENED IF THE CLIENT DOESN'T  
10 HAVE THE MONEY TO MEET THE MARGIN CALLS AND THERE IS A LOSS  
11 IN THE ACCOUNT?

12 A THE FIRM WOULD THEN SELL OUT THE EXISTING  
13 POSITIONS.

14 Q ALL RIGHT. WHO TAKES THE LOSS AT THAT POINT?

15 A THE CLIENT.

16 Q AND WHEN THE FIRM SELLS OUT THE POSITION, IF  
17 THE CLIENT DOESN'T HAVE THE MONEY TO COVER IT, DOES THE FIRM  
18 HAVE TO GO AFTER THE CLIENT FOR THE MONEY?

19 A WELL, PRESUMABLY, THE FIRM HAS SOLD IT OUT WHILE  
20 THERE IS STILL SOME EQUITY REMAINING.

21 SO, WHEN THE FIRM SELLS OUT BECAUSE THE CLIENT  
22 HAS NOT MET HIS MARGIN, WHATEVER EQUITY IS REMAINING, IS  
23 THE CLIENT'S EQUITY.

24 Q SO IN MARCH OF 1984, THERE WERE NO TRADES, NO  
25 ACTIVITY BUT THE MARKET WAS GOING AGAINST THE POSITIONS AND  
26 SO, THERE WAS AN ADDITIONAL LOSS AND YOU REQUIRED MORE MONEY  
27 TO BE BROUGHT IN?

28 A THAT'S CORRECT.

1 Q WHAT HAPPENED IN APRIL OF 1984?

2 A ON APRIL 24, THE ENTIRE ACCOUNT WAS TRANSFERRED  
3 TO E. F. HUTTON.

4 THE EXISTING POSITIONS AND THE AMOUNT OF THE  
5 BALANCE THAT EXISTED IN THE CREDIT BALANCE THAT EXISTED IN  
6 THAT ACCOUNT AT THAT TIME -- CREDIT BALANCE BEING DIFFERENT  
7 FROM EQUITY.

8 A AS OF THE BEGINNING OF APRIL OF 1984, WHAT WAS  
9 THE STATUS OF THE ACCOUNT?

10 A HAD AN OPEN, UNREALIZED LOSS OF \$303,000 AND  
11 A RUNNING BALANCE OF \$488,000. SUBTRACT THE 303 FROM THE  
12 488 AND YOU GET \$184,000 EQUITY.

13 Q AND IN MARCH, THE POSITIONS WERE TRANSFERRED?

14 A IN APRIL.

15 Q EXCUSE ME. IN APRIL?

16 A YES.

17 Q WHERE WERE THEY TRANSFERRED TO?

18 A TO E. F. HUTTON.

19 Q NOW, AT THE TIME THAT THEY WERE TRANSFERRED TO  
20 E. F. HUTTON, WHAT WAS THE STATUS OF THE ACCOUNT?

21 A I CAN'T GIVE YOU THAT. THE STATEMENT DOESN'T  
22 REFLECT WHAT THE MARKET PRICES WERE ON THE CONTRACTS AT THAT  
23 TIME.

24 HOWEVER, CLEARLY, THE VALUE HAD BEEN GOING DOWN  
25 FURTHER, AS AN ADDITIONAL \$100,000 OR \$150,000 HAD BEEN PUT  
26 INTO THE ACCOUNT FOR THE FURTHER MARGIN CALLS DURING APRIL,  
27 PRIOR TO THE DELIVERY TO HUTTON. THAT WOULD HAVE BEEN AS  
28 A RESULT OF FURTHER MARGIN CALLS REFLECTING FURTHER MARKET

1 LOSSES.

2 Q SO AGAIN, IN APRIL, YOU ARE REQUIRING THE CLIENT  
3 TO PUT IN MORE MONEY, CORRECT?

4 A CORRECT.

5 Q THAT IS BECAUSE OF WHAT?

6 A THE VALUE OF THE OPEN POSITIONS AGAIN, WHERE  
7 THERE WAS NO ACTIVITY, THE VALUE OF THE EXISTING POSITIONS  
8 WERE CONTINUING TO GO DOWN.

9 Q SO, WHAT DATE WAS IT THAT THE POSITIONS WERE  
10 TRANSFERRED?

11 A APRIL 24.

12 Q AND THEY WERE TRANSFERRED TO E. F. HUTTON?

13 A THAT'S CORRECT.

14 Q AND AT THAT TIME, BESIDES THE POSITIONS BEING  
15 TRANSFERRED, WHAT ELSE WAS TRANSFERRED?

16 A THE LEDGER BALANCE IN THE ACCOUNT, WHICH WAS  
17 \$650,000.

18 Q NOW, THAT \$650,000 WAS IN CASH?

19 A THAT IS \$650,000 IN CREDIT BALANCE. THAT'S  
20 CORRECT.

21 Q AND THAT WAS TO COVER THE MARGIN REQUIREMENTS  
22 IN THE ACCOUNT AT THAT PARTICULAR TIME?

23 A THAT'S CORRECT.

24 Q SO, THAT IS IN ADDITION TO THE \$487,000 THAT  
25 WAS IN THERE IN MARCH, IS THAT CORRECT?

26 A WELL, THAT FOUR HUNDRED EIGHTY-EIGHT HAD GONE  
27 UP TO SIX FIFTY AS A RESULT OF ADDITIONAL MARGIN DEPOSITS  
28 THAT HAD BEEN MADE BY THE CLIENTS.

1                   SO, IT WAS A NET ADDITIONAL DEPOSITION OF \$162,000  
2     IN THE MONTH OF APRIL WITH NO ACTIVITY, JUST THAT ADDITIONAL  
3     NET DEPOSITS WHICH WERE TO MEET MARGIN CALLS, BASED ON  
4     THE FURTHER FALLING MARKET OF THE POSITIONS THAT WERE OPENED.

5                   Q     DID YOU AT SOME POINT, TRANSFER SOME OTHER MONEY  
6     AND POSITIONS TO E. F. HUTTON AT THE SAME TIME?

7                   A     YES, INTERNATIONAL MARKETING TWO.

8                   Q     NOW, TELL US WHEN INTERNATIONAL MARKETING TWO  
9     WAS OPENED?

10                  A     MARCH THE 6TH OF 1984.

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1 Q AND WHO WERE THE PEOPLE WERE AUTHORIZED? WHO  
2 WERE THE CORPORATE SIGNERS ON THAT ACCOUNT, IF THAT IS THE  
3 RIGHT TERM?

4 A THE SAME OFFICERS AS ON INTERNATIONAL MARKETING  
5 OPERATIONS.

6 Q WHO WERE THOSE PEOPLE?

7 A STEVEN LOPEZ AND BEN DOSTI.

8 Q SO, MR. DOSTI'S NAME WAS ON THE ORIGINAL  
9 INTERNATIONAL MARKETING OPERATIONS ACCOUNT ALSO?

10 A THAT'S CORRECT.

11 Q AND WERE THEIR POSITIONS PUT ON IN THE INTERNATIONAL  
12 MARKETING OPERATIONS NUMBER TWO ACCOUNT?

13 A YES, IN MARCH OF 1984.

14 Q AND HOW MUCH MONEY WAS IT THAT THAT ACCOUNT WAS  
15 OPENED WITH?

16 A ABOUT \$42,000.

17 Q AND WAS THAT ACCOUNT IN ITS ENTIRETY, TRANSFERRED  
18 TO E. F. HUTTON ON THE SAME DATE AS THE ORIGINAL INTERNATIONAL  
19 MARKETING ACCOUNTS?

20 A IT SAYS APRIL 24 AND 25, BOTH DATES.

21 IN FACT, BOTH DATES ARE REFLECTED ON BOTH STATEMENTS.  
22 SO IT WAS OVER A PERIOD OF TWO DAYS THAT ALL OF THE TRANS-  
23 ACTIONS -- ALL OF THE POSITIONS WERE TRANSFERRED TO HUTTON,  
24 APRIL 24 AND 25.

25 Q DO YOU ACTUALLY ISSUE A CHECK TO E. F. HUTTON  
26 IN THE AMOUNT OF \$650,000?

27 A NOT FROM OUR OFFICE. THAT IS DONE FROM NEW YORK.

28 Q WHAT HAPPENED WITH REGARD TO THE INTERNATIONAL

1           MARKETING OPERATIONS TWO ACCOUNT ON APRIL 24 AND 25?

2           A           ALL OF THE EXISTING POSITIONS WERE TRANSFERRED  
3           TO HUTTON AND THE CHECK WAS PAID FOR THE SUM OF \$40,000.

4           Q           AND HAD THAT ACCOUNT MADE OR LOST MONEY DURING  
5           THE MONTH AND A HALF OR SO IT WAS THERE?

6           A           IT HAD ALSO LOST MONEY.  
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1 Q ABOUT HOW MUCH?

2 A IN THE MONTH OF MARCH, THE VALUE HAD GONE FROM  
3 42,000 DOWN TO 34,000, SO THERE HAD BEEN A LOSS OF SOME  
4 8,000.

5 AND THEN THERE WERE ADDITIONAL MARGINS REQUIRED  
6 WHICH BROUGHT IT UP TO THE 40,000, WHICH WAS THE FIGURE WE  
7 TRANSFERRED TO HUTTON.

8 SO IT WAS ALREADY IN A LOSS BY THE END OF MARCH,  
9 WITH FURTHER LOSSES IN APRIL.

10 Q SO IN TOTAL OF POSITIONS AND CASH, AT THE END OF  
11 APRIL, TRANSFERRED FROM SHEARSON TO E. F. HUTTON, WAS  
12 APPROXIMATELY \$690,000 IN CASH PLUS ALL OF THE POSITIONS?

13 A THAT'S CORRECT.

14 Q DOES YOUR STATEMENT ON INTERNATIONAL MARKETING,  
15 THE ORIGINAL INTERNATIONAL MARKETING ACCOUNT IN APRIL OF 1984  
16 REFLECT A MARGIN CALL OF APPROXIMATELY APRIL THE 10TH OF 1984,  
17 OR AT LEAST A CHECK RECEIVED ON THAT DATE?

18 A YES, THERE IS A CHECK RECEIVED ON THAT DATE.

19 Q FOR HOW MUCH?

20 A \$150,000.

21 Q AND WHAT DOES THAT CHECK RECEIVED INDICATE TO  
22 YOU?

23 A IT IS A CERTIFIED CHECK AND WOULD ALMOST ASSUREDLY  
24 REPRESENT A MARGIN CALL REPRESENTED BY DEPRECIATION IN THE  
25 OPEN POSITIONS.

26 Q AND THIS WAS ON APRIL 10TH, 1984?

27 A THAT CHECK IS IDENTIFIED ON THE STATEMENT ON APRIL  
28 10TH, RIGHT.

-2

1 Q SO AFTER THE INITIAL LOSSES IN THIS ACCOUNT WERE  
2 SUSTAINED IN FEBRUARY, DID THE ACCOUNT CONTINUE TO LOSE MONEY  
3 UNTIL YOU TRANSFERRED IT TO E. F. HUTTON?

4 A YES, IT DID.

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

6 THE COURT: ALL RIGHT.

7 MR. BARENS: YOUR HONOR, WE HAD A NEED TO REVIEW THE  
8 DOCUMENTS WE DIDN'T RECEIVE UNTIL THIS MORNING, AS WE  
9 MENTIONED TO YOUR HONOR.

10 THE COURT: CAN'T YOU UTILIZE THE NEXT 15 MINUTES WITH  
11 SOME MATTERS OTHER THAN WHAT THE DOCUMENTS SHOW? I AM SURE  
12 YOU HAVE SOME CROSS-EXAMINATION.

13 MR. BARENS: I COULD GIVE HIM SOME QUESTIONS NOW WITH  
14 THE UNDERSTANDING THAT I AM NOT GOING TO GET INTO THOSE  
15 DOCUMENTS UNTIL AFTER I REVIEW THEM.

16 THE COURT: THAT'S ALL RIGHT.

17 MR. BARENS: THANK YOU, YOUR HONOR.  
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## CROSS-EXAMINATION

BY MR. BARENS:

Q MR. TAYLOR, CAN YOU TELL FROM YOUR RECORDS WHO WAS MAKING THESE TRADES?

A NOT FROM THE RECORDS, NO.

Q OKAY. SO YOU JUST -- WHEN YOU HAVE AN ACCOUNT LIKE THAT, YOU REALLY JUST, YOU KNOW, BECAUSE THE ACCOUNT IS IN A CERTAIN PERSON'S NAME OR WHAT NOT, THAT DOESN'T REALLY TELL YOU EXACTLY WHO IS DOING THE DAY-TO-DAY ON IT?

A WELL, IT SHOWS YOU WHO IS AUTHORIZED TO MAKE TRANSACTIONS AND PRESUMABLY ONE OR THE OTHER OF THOSE PEOPLE WAS MAKING THE TRADES.

Q AND WHO WAS IT IN THE INSTANCES OF THE ACCOUNT YOU HAVE BEEN TESTIFYING ABOUT SO FAR THIS MORNING?

A STEVEN LOPEZ AND BEN DOSTI.

Q IS THERE SOME UNDERSTANDING IN YOUR BUSINESS THAT YOU KEEP A MARGIN POSITION TO NOT LESS THAN 50 PERCENT?

A I DON'T REALLY UNDERSTAND YOUR QUESTION.

Q WELL, IN TERMS OF THE POTENTIAL LOSS THAT AN INVESTOR COULD SUSTAIN, IS IT REQUIRED THAT THERE BE A BALANCE DEPOSIT CREDIT FORWARD FOR THE INVESTOR OR SPECULATOR, AS IN THIS CASE MAYBE, THAT IT BE NOT LESS THAN 50 PERCENT OF THE EXPOSED POSITION?

A SHEARSON'S REQUIREMENTS, AND DIFFERENT FIRMS CAN HAVE DIFFERENT REQUIREMENTS, SHEARSON'S REQUIREMENT IS, AS I STATED EARLIER, IF THE MARGIN THAT IS SET BY THE EXCHANGE IS X, AS SOON AS THERE IS A LOSS OF ANY AMOUNT, SHEARSON REQUIRES THAT LOSS TO BE BROUGHT UP.

1 Q HOW BIG OF A LOSS COULD A CLIENT SUSTAIN IN A  
2 GIVEN TRADING DAY?

3 A CAN LOSE MORE THAN HE HAS.

4 Q PRECISELY, YOU COULD NOT ONLY WIPE OUT IN A SINGLE  
5 DAY BUT YOU COULD BE IN A NEGATIVE POSITION?

6 A THAT'S CORRECT.

7 Q ALL IN THE MATTER FROM MORNING UNTIL NIGHT?

8 A THAT'S CORRECT.

9 Q AND THAT IS CONCEIVABLE BASED ON THE NATURE OF  
10 COMMODITIES EXCHANGE TRADING AND THE LEVERAGING THAT IS  
11 ATTENDENT WITH COMMODITIES TRADING?

12 A THAT'S CORRECT.

13 Q ALL RIGHT. NOW I AM GOING TO SHOW YOU PEOPLE'S  
14 190 AND 187, WHICH I AM GOING TO ADVISE YOU ARE STATEMENTS  
15 THAT WERE PURPORTEDLY SENT TO INVESTORS IN A COMPANY CALLED  
16 FINANCIAL FUTURES, AND I AM GOING TO ASK YOU TO LOOK AT THAT  
17 AND SEE IF --

18 FIRST OF ALL, EXHIBIT 187, THERE IS A REFERENCE  
19 TO AN AVERAGE MONTHLY RETURN?

20 A YES.

21 Q AND WHAT IS THE AVERAGE MONTHLY RETURN INDICATED?

22 A 17.69 PERCENT.

23 Q ON THAT PAGE, DO YOU FIND ANY REFERENCE THAT  
24 THAT DOCUMENT IS DESCRIBING THE AVERAGE MONTHLY RETURN ON  
25 A SHEARSON TRADING ACCOUNT?

26 A NO, I DO NOT.

27 Q AND DO YOU SEE ANYWHERE ON THAT ACCOUNT WHERE  
28 IT MAKES ANY REFERENCE TO COMMODITIES TRADING OR HOW YOU ARE

1 DOING IN THE COMMODITIES MARKET OR ANY OF THAT KIND OF DIALOGUE?

2 A NO.

3 THE COURT: DOES IT SHOW ANY ACCOUNT ON THERE, ANY KIND  
4 OF BROKERAGE HOUSE ON THERE?

5 THE WITNESS: NO, THERE IS NO BROKERAGE HOUSE IDENTIFIED.

6 Q BY MR. BARENS: ALL RIGHT. SO IN FACT, AS FAR  
7 AS 187 IS CONCERNED, YOU CAN'T TELL WHAT BROKERAGE HOUSE OR  
8 IF ANY BROKERAGE HOUSE IS INVOLVED IN THAT OR WHAT TYPE OF  
9 UNDERLYING INVESTMENT IS BEING REFERENCED ON THAT COMPUTED  
10 PERCENTAGE RETURN, CAN YOU SIR?

11 A THAT IS CORRECT.

12 Q NOW REFERENCING YOU TO EXHIBIT 190 --  
13 INCIDENTALLY, THE FIRST DOCUMENT YOU SAID BEARS  
14 THE DATE OF MARCH 1, 1984, AND IS ADDRESSED TO AN INDIVIDUAL  
15 WHOSE LAST NAME IS PASKAN?

16 A THAT'S CORRECT.

17 Q AND WITH REFERENCE TO EXHIBIT 190, IT IS UNDER  
18 DATE OF JUNE 18, 1984 ADDRESSED TO THE SAME INDIVIDUAL?

19 A SAME INDIVIDUAL AT A DIFFERENT ADDRESS.

20 Q LAST NAME PASKAN?

21 A YES.

22 Q NOW WITH REFERENCE TO EXHIBIT 190, ANYWHERE ON  
23 THAT EXHIBIT -- AND THAT IS CAPTIONED "QUARTERLY ACCOUNT  
24 STATEMENT"?

25 A YES, IT IS.

26 Q ON ANYWHERE ON THAT EXHIBIT, DOES IT MAKE REFERENCE  
27 TO A SHEARSON OR AN E. F. HUTTON OR ANY NAME OF ANY ACCOUNT  
28 ANYWHERE?

1           A       NO, IT DOES NOT.

2           Q       DOES IT MAKE ANY REFERENCE AS TO THE UNDERLYING  
3 INVESTMENT CORPUS?

4           A       NO, IT DOES NOT.

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1 MR. BARENS: YOUR HONOR, I AM GOING TO HAVE SUBSTANTIAL  
2 ADDITIONAL QUESTIONS. BUT I NEED A RECESS TO --

3 THE COURT: YOU HAVE GOT THE PAPERS THAT YOU WANTED?

4 MR. BARENS: YES. MR. WAPNER PROVIDED THEM.

5 THE COURT: ALL RIGHT. LADIES AND GENTLEMENT OF THE  
6 JURY, WE'LL TAKE OUR RECESS AT THIS TIME UNTIL 1:30 THIS  
7 AFTERNOON. THE SAME ADMONITION WILL STILL APPLY.

8 (AT 11:50 A.M. AN ADJOURNMENT WAS TAKEN  
9 TO RESUME AT 1:30 P.M. OF THE SAME DAY.)

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1 SANTA MONICA, CALIFORNIA; WEDNESDAY, MARCH 4, 1987; 1:35 P.M.  
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE  
3 (APPEARANCES AS NOTED ON TITLE PAGE.)  
4

5 THE COURT: ALL RIGHT, MR. TAYLOR.  
6

7 ROBERT TAYLOR,  
8 THE WITNESS ON THE STAND AT THE TIME OF ADJOURNMENT RESUMED  
9 THE STAND AND TESTIFIED AS FOLLOWS:

10 THE CLERK: YOU HAVE PREVIOUSLY BEEN SWORN. YOU ARE  
11 STILL UNDER OATH.

12 IF YOU WOULD JUST STATE YOUR NAME AGAIN FOR THE  
13 RECORD.

14 THE WITNESS: YES. ROBERT TAYLOR.  
15

16 CROSS-EXAMINATION (RESUMED)

17 BY MR. BARENS:

18 Q MR. TAYLOR, DIRECTING YOUR ATTENTION TO A  
19 DOCUMENT YOU LOOKED AT THIS MORNING, WHICH WAS THE ACCOUNT  
20 OF INTERNATIONAL OPERATIONS; DO YOU STILL HAVE THAT BEFORE  
21 YOU, SIR?

22 A NO.

23 I BELIEVE IT WAS INTRODUCED AND COULD I HAVE  
24 THAT BACK, PLEASE?

25 MR. WAPNER: THE CLERK HAS THAT. IT IS 200.

26 MR. BARENS: COULD WE HAVE THAT?

27 I HAVE A XEROX OF IT. COULD HE REFER TO THAT?

28 THE COURT: SURE.

1 MR. BARENS: I WILL REPRESENT TO THE COURT THAT I AM  
2 GOING TO SHOW HIM A XEROX.

3 THE COURT: GO AHEAD.

4 MR. BARENS: I HAD BETTER GET THE EXHIBIT. I HAVE  
5 WORK PRODUCT ON MY COPY, YOUR HONOR.

6 Q BY MR. BARENS: MR. TAYLOR, I AM HANDING YOU  
7 EXHIBIT 200 FROM WHICH I BELIEVE YOU TESTIFIED THIS MORNING.

8 A YES.

9 Q I WILL SHOW YOU THE COVER SHEET AND ASK YOU IF  
10 THAT IS WHAT YOU WERE TALKING ABOUT THIS MORNING, SIR?

11 A YES.

12 Q AND I AM GOING TO OPEN TO A PAGE WHICH I WILL  
13 GET INTO WITH YOU, SIR.

14 YOU MENTIONED IN TESTIMONY THAT THIS ACCOUNT  
15 APPEARED TO TRADE PRIMARILY IN EURO-DOLLARS IN NOVEMBER OF  
16 1983?

17 A PRIMARILY IN EURO-DOLLARS.  
18  
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1 Q AND DO YOU SEE REFERENCES, DIRECTING YOUR  
2 ATTENTION TO 11-22-83, IT APPEARS THERE ARE TWO TYPES OF  
3 TRANSACTIONS OCCURRING. IN ONE WE BUY MARCH EURO-DOLLARS  
4 AT 88.47?

5 A YES, SIR.

6 Q AND WE ARE SELLING JUNE, '84 CONTRACTS AT 89.29?

7 A YES.

8 Q NOW, I SHOW YOU A SHEARSON ACCOUNT OF GENERAL  
9 PRODUCER'S CORPORATION, WHICH I BELIEVE IS MR. LEVIN'S ACCOUNT.  
10 DO YOU SEE THAT BEFORE YOU, SIR?

11 A YES.

12 Q IT IS FORMATTED SIMILARLY TO THE -- ALMOST  
13 IDENTICALLY, EXCEPT FOR THE IDENTIFICATION OF THE PARTY INVOLVED,  
14 WITH EXHIBIT 200 THAT YOU JUST REFERRED TO, IS IT NOT, SIR?

15 A YES.

16 Q NOW, DIRECTING YOUR ATTENTION TO 11-22-83, IN  
17 GENERAL PRODUCER'S CORPORATION, THE EXACT SAME DATE THAT  
18 I ASKED YOU ABOUT IN THE FIRST ACCOUNT?

19 A YES.

20 Q DO YOU SEE AN IDENTICAL TRANSACTION OCCURRING?

21 A YES, 35 CONTRACTS OF THE SAME SPREAD.

22 Q ONCE AGAIN, BUYING MARCH EURO-DOLLARS AT 88.47  
23 AND SELLING JUNE EURO-DOLLARS AT 89.29?

24 A YES.

25 Q THEREFORE, YOU SEE THE SAME ACTIVITY OCCURRING  
26 ON THE SAME DAY?

27 A YES.

28 Q NOW, WHEN YOU LOOK AT THE GENERAL PRODUCER'S

1 STATEMENTS THAT ARE IN FRONT OF YOU, SIR AND YOU MIGHT LOOK  
2 THROUGH THEM FOR A MOMENT, I WILL ASK YOU A SUMMARY TYPE  
3 OF QUESTION.

4 NOW, I THINK WITH ONE OR TWO EXCEPTIONS, ARE  
5 NOT THE MAJORITY OF TRADING ACTIVITIES IN THAT ACCOUNT  
6 RELATED TO EURO-DOLLARS SPECULATION?

7 A THERE CERTAINLY WERE SEVERAL TRADES. THERE WERE  
8 A NUMBER OF TRADES IN OTHER THINGS, ALSO. THERE WERE A NUMBER  
9 OF SILVER TRADES.

10 Q I BELIEVE THAT YOU WILL FIND THAT IN COMPARISON,  
11 THE SILVER TRADE AMOUNTED TO A SINGLE CONTRACT, IF YOU LOOK  
12 BACK TO THE BEGINNING, THE GENESIS THERE.

13 A YES. THAT WOULD APPEAR TO BE RIGHT.

14 Q AND IN COMPARISON TO WHAT IS GOING ON IN EURO-  
15 DOLLARS, THE SILVER CONTRACT WOULD BE DOLLAR WISE, A MINOR  
16 MATTER?

17 THE COURT: PLEASE APPROACH THE BENCH.  
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1 (THE FOLLOWING PROCEEDINGS WERE HELD  
2 AT THE BENCH:)

3 THE COURT: THE QUESTION IS: WHAT IS THE MATERIALITY  
4 OF THIS?

5 MR. BARENS: YOUR HONOR, I HAD GONE INTO SOME DISCUSSION  
6 WITH THE PREVIOUS WITNESS ABOUT COATTAILING, WITH MR. FRIEDMAN,  
7 WHERE HE DESCRIBED COATTAILING AS BEING WHERE AN INVESTOR  
8 MIRRORS IN ANOTHER ACCOUNT ACTIVITIES IN A CORRESPONDING  
9 ACCOUNT.

10 THE COURT: WHAT DIFFERENCE DOES THAT MAKE?

11 MR. BARENS: YOUR HONOR, AS TO THE CLAYTON ACCOUNT,  
12 ONE OF THE CONTENTIONS THAT WE HAVE SUBMITTED IS THAT THERE  
13 WAS A LIKELIHOOD THAT IN THE OTHER ACCOUNT, MR. LEVIN WAS  
14 MIRRORING THE TRANSACTIONS IN THE CLAYTON ACCOUNT IN OTHER  
15 ACCOUNTS.

16 HERE WE SEE, IN FACT, WHAT IS OCCURRING HERE IS  
17 THAT WE HAVE SAME DAY, SAME PRICE, SAME --

18 THE COURT: WELL, WHAT OF IT? WHAT OF THE MIRROR ACCOUNT?  
19 WHAT DOES THAT PROVE, IF ANYTHING?

20 MR. BARENS: WELL, YOU HONOR, THAT APPARENTLY THAT  
21 APOCRYPHAL ACCOUNT MAY NOT BE AS APOCRYPHAL AS YOUR HONOR THINKS.

22 THE COURT: I AM GOING TO ON THE COURT'S OWN MOTION  
23 SUSTAIN MY OWN OBJECTION. LET'S GO ON.

24 MR. BARENS: I DON'T UNDERSTAND YOUR HONOR.

25 THE COURT: IT HASN'T ANY RELEVANCY AT ALL.

26 MR. BARENS: EXCUSE ME, YOUR HONOR.

27 THE COURT: I SAY IT HAS NO RELEVANCY AT ALL.

28 MR. BARENS: MAY I MAKE AN OFFER OF PROOF TO YOUR HONOR?

1 THE COURT: WHAT IS YOUR OFFER OF PROOF?

2 MR. BARENS: I WOULD LIKE IT WITHOUT THE  
3 DISTRICT ATTORNEY BEING PRESENT.

4 THE COURT: OH, NO, NO. THE DISTRICT ATTORNEY HAS GOT  
5 TO BE PRESENT AT ALL TIMES EXCEPT WHERE IT IS IN CAMERA.

6 MR. BARENS: IT GOES TO DEFENSE MATTERS, YOUR HONOR.  
7 IT GOES TO A MAJOR DEFENSE THEME.

8 THE COURT: I AM SORRY. I HAVE SUSTAINED THE OBJECTION.

9 MR. BARENS: I AM NOT SURE WHAT YOU ARE SUSTAINING.

10 THE COURT: WHATEVER THE ACCOUNT OF LEVIN WAS, THERE  
11 MAY HAVE BEEN SOME SAME ENTRIES, THAT HAS NOTHING TO DO WITH  
12 THIS CASE OR HAVE THE REMOTEST BEARING ON ANY ISSUE HERE.

13 LET'S GET ON.

14 YOU SUDDENLY DISCOVERED THAT, IS THAT CORRECT,  
15 THAT IT WAS INTENDED TO BE A SERIOUS ACCOUNT, IS THAT WHAT  
16 YOU ARE TELLING ME?

17 MR. BARENS: I AM JUST --

18 THE COURT: I AM ASKING YOU A SIMPLE QUESTION: ARE  
19 YOU NOW CONTENDING THAT THIS APOCRYPHAL ACCOUNT, WHICH WAS  
20 MAKE BELIEVE, YOU SAY IT IS A REAL ACCOUNT THAT WAS COVERED?

21 THE MAN WAS ON THE STAND AND HE SAYS NOTHING ABOUT  
22 THAT ACCOUNT, THAT IT WAS REAL.

23 MR. BARENS: IF YOUR HONOR WOULD JUST LISTEN TO ME.  
24 THE CROSS-EXAMINATION I WENT INTO WAS THE POSSIBILITY THAT  
25 ALTHOUGH THAT ACCOUNT WAS TOTALLY AN APOCRYPHAL ACCOUNT AND  
26 TOTALLY SIMULATED, THAT A PERSON OBSERVING THAT ACCOUNT, THAT  
27 IN ANOTHER ACCOUNT COULD MIRROR THOSE TRANSACTIONS.

28 THE COURT: SUPPOSE -- SUPPOSE THAT LEVIN FOUND OUT

1 THAT HE WAS TRADING IN THIS ACCOUNT AND HE ON HIS OWN TAKES  
2 THE SAME TIPS AND GOES AHEAD AND PLAYS, THAT HAS NOTHING TO  
3 DO WITH THIS CASE.

4 MR. BARENS: SUPPOSE MR. LEVIN WALKED AWAY WITH A  
5 TREMENDOUS AMOUNT OF MONEY?

6 THE COURT: LET'S GET ON.

7 MR. BARENS: JUDGE, HEAR ME, PLEASE. HERE IS THE POINT.

8 THE COURT: LET'S GET ON. I DON'T WANT TO HEAR ANYTHING  
9 FURTHER.

10 WALKED AWAY WITH A TREMENDOUS AMOUNT OF MONEY,  
11 DOES THE ACCOUNT SHOW HE HAD A TREMENDOUS AMOUNT OF MONEY?

12 MR. BARENS: I CAN PROVE IT.

13 THE COURT: PROVE IT UP.

14 MR. BARENS: YOU WON'T LET ME DO IT.

15 THE COURT: THAT HAS NOTHING TO DO WITH THIS ACCOUNT.  
16 IT WAS IN ANOTHER ACCOUNT, WASN'T IT?

17 MR. BARENS: NO, YOUR HONOR.

18 THE COURT: LET'S GET ON, WILL YOU?

19 (THE FOLLOWING PROCEEDINGS WERE HELD  
20 IN OPEN COURT:)

21 Q BY MR. BARENS: COULD YOU TELL ME, SIR, IS IT  
22 NOT THE CASE THAT THERE WAS A PROFIT SHOWN IN THE ACCOUNT  
23 YOU ARE LOOKING AT ON THE EURO-DOLLARS?

24 A THERE WAS A PAPER PROFIT AT THE END OF THE MONTH,  
25 AN UNREALIZED PROFIT.

26 Q AND WHAT WAS THE PROFIT AT THE END OF THE FIRST  
27 MONTH?

28 A \$5,000.



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1 Q IS THERE ANY WAY, WITHOUT TAKING UP A LOT OF THE  
2 COURT'S TIME, YOU COULD TRACE THE FIRST CONTRACT? AND FOR  
3 NOW, WE ARE JUST GOING TO LIMIT IT TO THE END OF THAT  
4 TRANSACTIONAL SERIES YOU HAVE BEFORE YOU.

F

5 A YOU ARE RELATING TO THAT EURO-DOLLAR TRANSACTION?  
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1 Q YES, SIR.

2 A OKAY. IN DECEMBER, AN ADDITIONAL 65 CONTRACTS  
3 ARE ADDED OF THE SAME POSITION, ON DECEMBER THE 8TH AND  
4 DECEMBER THE 13TH. AND THOSE ARE NOT DUPLICATED IN THE  
5 INTERNATIONAL MARKETING ACCOUNT.

6 Q RIGHT.

7 A RIGHT, NOW THEN, HE HAS A TOTAL OF 100 CONTRACTS --

8 Q SIR, I AM NOT ASKING YOU NOW TO --

9 A COMPARE THE TWO? I AM FOLLOWING THE --

10 Q DID YOU HAVE ANY -- JUST TAKING THE CONTRACTS  
11 IN GENERAL PRODUCERS, LOOK AT THAT ONE BY AND OF ITSELF,  
12 SIR, AND TELL ME ULTIMATELY IF IT IS NOT CORRECT THAT THERE  
13 WAS A PROFIT?

14 A NO. I CAN'T BECAUSE IT COMBINES WITH THE  
15 ADDITIONAL PURCHASES OF AN IDENTICAL CONTRACT WHICH IS THEN  
16 LIQUIDATED DECEMBER 21ST.

17 Q OKAY. I ASSUME THAT WOULD TAKE A WHILE, IF WE  
18 WERE TO HAVE TO GO THROUGH ALL OF THE TRANSACTIONS, TO REACH  
19 A TOTAL? I WILL GO ON TO ANOTHER AREA AND GET BACK TO THAT  
20 AT ANOTHER TIME.

21 NOW MR. TAYLOR, I AM NOT GOING TO ASK YOU TO  
22 DO THAT FOR ME NOW.

23 A I COULD GIVE YOU A QUICK IDEA.

24 Q IT IS ALL RIGHT, SIR. ANOTHER TIME.

25 SIR, MR. TAYLOR, LOOKING NOW BACK TO THE ACCOUNT  
26 OF INTERNATIONAL MARKETING OPERATIONS, I BELIEVE THAT YOU  
27 TESTIFIED THAT IN JANUARY OF 1984, THERE WAS A \$29,000 PROFIT?

28 A THAT WAS THE UNREALIZED PROFIT ON THE OPTIONS

1 AT THE END OF THE MONTH.

2 Q OKAY. AND THEN THE FOLLOWING MONTH, FEBRUARY  
3 OF 1984, THERE APPEARS TO BE A \$243,000 LOSS?

4 A THAT WOULD BE UNREALIZED LOSS ON THE OPEN  
5 POSITIONS.

6 Q OKAY. NOW, BETWEEN JANUARY AND FEBRUARY, IS  
7 IT NOT THE CASE THAT THE SPECULATOR OR THE ACCOUNT HOLDER  
8 IN THAT INSTANCE, LIQUIDATED POSITIONS THAT GAVE RISE TO  
9 THE PAPER PROFITS AND ENTERED INTO A NEW TYPE OF POSITION?

10 A YES. I BELIEVE THAT IS CORRECT.

11 Q AND IS IT NOT TRUE, THAT THE ACTIVITIES FROM  
12 FEBRUARY UNTIL THE ACCOUNT IS TRANSFERRED TO HUTTON, FOCUS  
13 ON THE SAME NEW POSITION AND REPRESENT ADDITIONS TO THIS  
14 NOW NEW POSITION, WE'LL CALL IT, AS OPPOSED TO THE OLD  
15 POSITION IN JANUARY?

16 A THEY WERE REPRESENTATIVE OF AN ALTERATION OF  
17 THAT POSITION, YES.

18 Q AND THEN THE NEW POSITION IS FURTHER ENHANCED  
19 OR FOCUSED UPON BY THE SUBSEQUENT TRADING ACTIVITIES IN THAT  
20 ACCOUNT BETWEEN FEBRUARY AND THE TIME THE ACCOUNT IS TRANSFERRED  
21 TO HUTTON?

22 A ONLY DURING THE MONTH OF FEBRUARY.

23 Q RIGHT. AND THE TRANSFER TO HUTTON OCCURS?

24 A THE LATTER PART OF APRIL.

25 Q NOW, WHAT HAPPENED BETWEEN FEBRUARY AND APRIL?  
26 ARE YOU TELLING ME THAT THE ACTIVITIES IN THAT ACCOUNT ARE  
27 NOT ADDING TO THE NEW -- WHAT I CALL THE NEW MARKETING CON-  
28 FIGURATION OR POSITION?

1           A       THEY CEASED. .

2           Q       OKAY. SO, THE LAST THING YOU HAVE IS IN THIS  
3 NEW DIRECTION BEFORE WE GOT TO HUTTON?

4           MR. WAPNER: OBJECTION, VAGUE. ALL OF THESE QUESTIONS  
5 HAVE BEEN VERY VAGUE, YOUR HONOR. I DON'T THINK THAT --

6           MR. BARENS: WELL, THE OFFER IS --

7           THE COURT: DO YOU UNDERSTAND THAT?

8           THE WITNESS: I AM NOT QUITE SURE AS TO THAT LAST  
9 ONE.

10          MR. BARENS: OKAY.

11          THE COURT: REPHRASE YOUR QUESTION.

12          Q       BY MR. BARENS: WE HAVE AGREED THAT THERE IS  
13 SOME ALTERATION IN THE INVESTMENT STRATEGY OR POSITION TAKEN  
14 BY THE ACCOUNT HOLDER BETWEEN JANUARY AND FEBRUARY, SIR?

15          A       IN THE MONTH OF FEBRUARY, RIGHT.

16          Q       YES, SIR. FROM THAT POINT FORWARD UNTIL THE  
17 ACCOUNT IS NO LONGER AT SHEARSON, DOES THE ACCOUNT REMAIN  
18 IN THE NEW MODE OR THE NEW ORIENTATION?

19          A       YES.

20          Q       THANK YOU, MR. TAYLOR. ONE LAST THING, IF I  
21 MIGHT.

22                 MR. TAYLOR, PRIOR TO THE BREAK, WE HAD A BIT  
23 OF A DISCUSSION ABOUT THE POTENTIALITY FOR AN INVENTORY IN  
24 ONE OF THESE POSITIONS BEING ABLE TO WIPE OUT RATHER PROMPTLY  
25 IN THE FACE OF ADVERSE CONDITIONS.

26                 LOOKING AT THE NEW POSITION EXISTENT IN FEBRUARY,  
27 IS THERE ANY GUARANTEE THAT THAT COULDN'T HAVE HAPPENED TO  
28 THE INVESTOR?

4

1           A        THERE IS NEVER ANY GUARANTEE THAT THAT CAN'T  
2 HAPPEN.

3           MR. BAREN:   THANK YOU, MR. TAYLOR.

4

5                               REDIRECT EXAMINATION

6 BY MR. WAPNER:

7           Q        TO CLARIFY A COUPLE OF THINGS, ONE, THE \$650,000  
8 THAT WAS TRANSFERRED TO E. F. HUTTON, WHAT DOES THAT MONEY  
9 REPRESENT?

10          A        AT THE TIME OF THE TRANSFER TO HUTTON, THERE  
11 IS A TRANSFER OF THE EXISTING COMMODITIES POSITIONS TOGETHER  
12 WITH A BALANCE.

13                       THE EXISTING COMMODITIES POSITIONS HAVE THE LOSSES  
14 IN THEM THAT I HAVE DESCRIBED.   THE BALANCE IS AN ACCUMULATION  
15 OF ALL DEPOSITS, ALL PAYOFFS AND ALL COMPLETED TRANSACTIONS,  
16 WHETHER PROFITS OR LOSSES.

17                       IT IS A RUNNING LEDGER WHERE YOUR CHECKS RECEIVED  
18 ARE CREDITED, PROFITABLE TRADES CLOSED OUT ARE A CREDIT AND  
19 THE CHECKS PAID OUT ARE A DEBIT.

20                       UNPROFITABLE TRADES ARE A DEBIT.   SO IT IS AN  
21 ACCUMULATION OF ALL OF THOSE THINGS.   THEY ARE IN ORDER TO  
22 OFFSET THE LARGE FIGURE -- IT WOULD BE IN ORDER TO OFFSET  
23 VERY, VERY LARGE LOSSES THAT WOULD BE EXISTENT IN THE OPEN  
24 POSITIONS.   IT IS IN EFFECT, THE MARGIN THAT IS REQUIRED  
25 IN ORDER TO COVER THOSE POSITIONS WITH BIG LOSSES.

26          Q        IN OTHER WORDS, THE   ACCOUNT WAS IN SUCH A  
27 POSITION THAT HAD THE POSITIONS BEEN LIQUIDATED, IT WOULD  
28 HAVE SUSTAINED A SUBSTANTIAL LOSS.   IS THAT RIGHT?

3

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1           A       YES.  THE EQUITY IN THE ACCOUNT -- ALTHOUGH I  
2 CAN'T QUOTE IT, AT THE TIME IT WAS TRANSFERRED TO HUTTON,  
3 IT WOULD HAVE BEEN VERY, VERY SUBSTANTIALLY LESS THAN  
4 \$650,000.

5           Q       THE EQUITY IS WHAT WOULD BE LEFT IF THE POSITIONS  
6 HAD BEEN LIQUIDATED?

7           A       THAT'S CORRECT.  AND THE LOSSES, ALL OF THEM  
8 WOULD HAVE BEEN SUBTRACTED FROM THAT \$650,000.

9           Q       SO, SHEARSON REQUIRED THE CLIENT TO PUT IN THE  
10 \$650,000 TO COVER LOSSES THAT WERE ANTICIPATED TO COME SOME-  
11 WHERE NEAR THAT FIGURE?

12          A       TO CONTINUE PUTTING IN MONEY, YES IN VARIOUS  
13 DIFFERENT AMOUNTS AT DIFFERENT TIMES.

14          Q       THE ACCOUNT THAT MR. BARENS ASKED YOU TO LOOK  
15 AT, THAT WAS MR. LEVIN'S ACCOUNT AND IT WAS CLOSED OUT IN  
16 A LOSS POSITION, IS THAT CORRECT?

17          A       ESSENTIALLY, YES.

18

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1 Q DO YOU KNOW THE REASON THAT THE ACCOUNT OF  
2 INTERNATIONAL MARKETING WAS TRANSFERRED FROM YOUR BROKERAGE  
3 HOUSE TO E. F. HUTTON?

4 A WELL, I KNOW WHAT MR. LOPEZ APPROACHED ME ABOUT  
5 PRIOR TO THE TRANSFER.

6 Q WHAT WAS THAT?

7 A HE WAS ASKING IF --

8 MR. BARENS: YOUR HONOR, OBJECTION. HEARSAY.

9 THE COURT: OVERRULED. GO AHEAD.

10 THE WITNESS: HE WAS ASKING IF SHEARSON WOULD BE MORE  
11 LENIENT IN ITS POLICY OF REQUIRING ADDITIONAL MARGIN ON  
12 TRANSACTIONS THAT WERE LOSING MONEY AND HE ADVISED US THAT  
13 OTHER BROKERAGE FIRMS WOULD ALLOW THE LOSS TO DROP TO A GIVEN  
14 PERCENTAGE OF THE MARGIN AMOUNT REQUIRED BEFORE REQUIRING  
15 IT TO BE BROUGHT ALL THE WAY BACK UP AGAIN.

16 AND I EXPLAINED THAT SHEARSON WOULD NOT DEVIATE  
17 FROM THAT AND BASICALLY, SHEARSON'S POLICY OF REQUIRING, AS  
18 SOON AS THERE WERE LOSSES IN THE ACCOUNT, SHEARSON REQUIRED  
19 THOSE MONEYS TO BE TURNED IN AS ADDITIONAL MARGIN, WHEREAS,  
20 OTHER FIRMS WOULD ALLOW A CERTAIN AMOUNT OF LOSSES TO TAKE  
21 PLACE BEFORE REQUIRING ADDITIONAL MARGIN.

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

23 THE COURT: ALL RIGHT.

24 MR. BARENS: JUST A MOMENT, YOUR HONOR. I NEED TO  
25 RETRIEVE MY EXHIBIT.

26 THE COURT: SURELY.

27 MR. BARENS: I DO NOT WISH TO MARK IT AT THIS TIME,  
28 YOUR HONOR.

7-2

1 THE COURT: ALL RIGHT.

2

3

RECROSS-EXAMINATION

4

BY MR. BARENS:

5

Q SIR, COULD YOU TELL ME THE \$600,000 LOSS THAT  
6 WE HAVE IN FEBRUARY, DOESN'T THAT RESULT OR IS OCCASIONED  
7 BY A PARTICULAR POSITION PUT ON IN FEBRUARY?

8

A MUCH OF IT, IN MY RECOLLECTION OF REVIEW, YES,  
9 THAT IS CORRECT.

10

Q THUS, THE INVESTOR OR SPECULATOR, WHATEVER,  
11 ACCOUNTHOLDER, TAKES THIS POSITION IN FEBRUARY AND GUESSED  
12 WRONG?

13

A POSITIONS WERE TAKEN RIGHT AT THE BEGINNING OF  
14 FEBRUARY, THAT'S CORRECT.

15

Q AND ALL OF A SUDDEN IN FEBRUARY, BECAUSE OF THIS  
16 NEW POSITION, WE CAN REALIZE IN THAT BRIEF A TIME A \$600,000  
17 LOSS?

18

A NO.

19

THE LOSS IS \$243,000 IN THE OPEN POSITIONS.

20

Q \$243,000?

21

AND THAT IS JUST FROM ONE POSITION THOSE PEOPLE  
22 TOOK IN FEBRUARY?

23

A WELL, I WOULD HAVE TO DO AN ACCOUNTING ON THE  
24 ACCOUNT TO KNOW THAT COMPLETELY. BUT A SUBSTANTIAL PORTION  
25 OF IT RELATES TO THE POSITIONS THAT WERE PUT ON AT THE  
26 BEGINNING OF FEBRUARY.

27

Q IT APPEARS THAT WAY, SIR?

28

A THAT'S CORRECT.



1 MR. BARENS: THANK YOU, SIR.

2

3

FURTHER REDIRECT EXAMINATION

4

BY MR. WAPNER:

5

Q WHEN YOU SAY POSITIONS THAT WERE PUT ON AT THE  
6 BEGINNING OF FEBRUARY, DO YOU MEAN ONE OR MORE THAN ONE, AND  
7 CAN YOU EXPLAIN THAT?

8

A THE CLIENT HAD AGAIN, THESE EURO-DOLLAR SPREADS  
9 AND CHOSE TO CHANGE, IN ONE OF THE MONTHS, IN FEBRUARY AND  
10 IN LIQUIDATING ONE SIDE, GETTING OUT OF THE CONTRACTS THAT  
11 HE WAS ALREADY IN, HE MADE A PROFIT AND TOOK A PROFIT IN THE  
12 ACCOUNT DURING THE MONTH OF FEBRUARY.

13

AND THEN HE RE-ESTABLISHED THE SPREAD IN A  
14 DIFFERENT MONTH SO THAT HE HAD THE SPREAD, STILL THE EQUAL  
15 NUMBER OF CONTRACTS LONG AND SHORT ON THE BUY SIDE AND ON  
16 THE SELL SIDE AND THOSE POSITIONS THAT HE RE-ESTABLISHED IN  
17 FEBRUARY WERE A SUBSTANTIAL PORTION OF THE LOSSES THAT WERE  
18 IN THE ACCOUNT AS OPEN LOSSES AT THE END OF THE MONTH.

19

Q AND THEN FROM MARCH UNTIL YOU TRANSFERRED THE  
20 MONEY OUT, THE POSITIONS STAYED THE SAME AND WERE NOT  
21 CHANGED?

22

A THAT'S CORRECT, NO FURTHER CHANGES.

23

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

24

MR. BARENS: A MOMENT, IF I MIGHT, YOUR HONOR.

25

(PAUSE IN PROCEEDINGS.)

26

27

28

## 1 FURTHER CROSS-EXAMINATION

2 BY MR. BARENS:

3 Q EXCUSE ME FOR MY LIMITED COMMODITIES  
4 UNDERSTANDING, SIR.5 AS WE GO ALONG, YOU SAY THE POSITION THAT IS PUT  
6 ON FEBRUARY OCCASIONS THIS BIG LOSS IN FEBRUARY; WOULD IT  
7 NOT BE THE CASE THAT THE MARCH LOSS AND THE OTHER LOSSES OF  
8 THE \$600,000 AMOUNT, AS WE GO FORWARD TO THE TRANSFER TO  
9 HUTTON, ALL FIND THEIR GENESIS IN THE SAME POSITION THAT IS  
10 ASSUMED IN FEBRUARY?

11 A YES, THAT WOULD BE SUBSTANTIALLY CORRECT.

12 Q OKAY, SO GENERALLY YOU CALL THESE THINGS FUTURES  
13 TRANSACTIONS, AND THE FUTURE THAT UNFOLDED IN FEBRUARY  
14 CONTINUED TO UNFOLD IN MARCH AND APRIL?15 A THE POSITIONS THAT WERE ON CONTINUED TO LOSE MONEY  
16 IN VALUE, YES.

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1 MR. BARENS: ALL RIGHT, THANK YOU VERY MUCH.

2 THE COURT: ALL RIGHT.

3 MR. WAPNER: I HAVE NOTHING FURTHER.

4 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL  
5 BE EXCUSED.

6 MR. BARENS: YOUR HONOR, THE DEFENSE WOULD LIKE FOR  
7 THE DEFENSE POSITION TO RETAIN THE WITNESS ON CALL.

8 THE COURT: VERY WELL.

9 MR. BARENS: THANK YOU.

10 THE COURT: YOU WILL BE ON CALL IF YOU ARE NEEDED,  
11 MR. TAYLOR.

12 THE WITNESS: OKAY.

13 THE COURT: IN THE MEANTIME, YOU ARE EXCUSED.

14 MR. WAPNER: MAY I HAVE JUST A MOMENT FOR THE WITNESSES  
15 WHO ARE IN THE HALLWAY? IT WILL TAKE ME A SECOND.

16 THE COURT: ALL RIGHT.

17 MR. BARENS: I DON'T HAVE 200. I THINK THE WITNESS  
18 MAY HAVE WALKED OFF WITH IT.

19 THE CLERK: PUT IT INTO THE RECORD, THAT LES WENT TO  
20 GET IT BACK.

21 HE HAS IT.

22 MR. WAPNER: GENE VACTOR.

23 COME OVER HERE, PLEASE, AND RAISE YOUR RIGHT HAND  
24 AND FACE THAT LADY.

25

26

27

28

1 GENE VACTOR,  
2 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED  
3 AS FOLLOWS:

4 THE CLERK: RAISE YOUR RIGHT HAND, PLEASE.

5 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU MAY  
6 GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE  
7 TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP  
8 YOU GOD?

9 THE WITNESS: I DO.

10 THE CLERK: PLEASE BE SEATED AT THE WITNESS STAND.

11 NOW WOULD YOU STATE YOUR NAME AGAIN FOR THE RECORD,  
12 PLEASE.

13 THE WITNESS: GENE VACTOR.

14 THE COURT REPORTER: HOW DO YOU SPELL GENE?

15 THE WITNESS: G-E-N-E.

16 THE CLERK: AND THE LAST NAME?

17 THE WITNESS: VACTOR, V LIKE IN VICTOR -A-C-T-O-R.

18  
19 DIRECT EXAMINATION

20 BY MR. WAPNER:

21 Q MR. VACTOR, WHAT IS YOUR OCCUPATION?

22 A I AM A BROKER, STOCKBROKER.

23 Q WHERE WERE YOU WORKING IN FEBRUARY OF 1984?

24 A E. F. HUTTON.

25 Q DID YOU ALSO WORK AS A BROKER FOR THE SALE OF  
26 COMMODITIES AT THAT TIME?

27 A I DID.

28 Q AT THAT TIME DID YOU HANDLE AN ACCOUNT IN THE

1 NAME OF INTERNATIONAL MARKETING OPERATIONS?

2 A I DID.

3 Q HOW DID YOU COME TO HANDLE THAT ACCOUNT IN THE  
4 FIRST INSTANCE?

5 A I THINK WHEN I WAS IN THE OFFICE ONE DAY, I THINK  
6 I GOT A TELEPHONE CALL THAT WAS TRANSFERRED TO ME FROM OUR  
7 RECEPTIONIST AND IT WAS AN INQUIRY FROM AN INDIVIDUAL THAT  
8 IDENTIFIED HIMSELF AS JOSEPH HUNT THAT WAS INTERESTED IF THE  
9 FIRM AND MYSELF KNEW ANYTHING ABOUT COMMODITIES AND KNEW  
10 ANYTHING ABOUT THE COMMODITY MARKETS, WHICH I INFORMED HIM  
11 I WAS AWARE OF IT.

12 Q DID YOU SUBSEQUENTLY MEET MR. HUNT?

13 A I DID.

14 Q AND DO YOU SEE HIM IN THE COURTROOM?

15 A I DO.

16 Q WOULD YOU POINT HIM OUT.

17 A I WILL. THE GENTLEMAN SITTING OVER THERE.

18 THE COURT: INDICATING THE DEFENDANT.

19

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1 Q AND AFTER YOU HAD THIS CONVERSATION WITH MR.  
2 HUNT, WHAT HAPPENED?

3 A WELL, I THINK THAT WE HAD A NUMBER OF CONVERSATIONS  
4 BY TELEPHONE.

5 MR. BARENS: YOUR HONOR, AS TO CONVERSATIONS, THE DEFENSE  
6 WOULD HAVE A HEARSAY MOTION.

7 THE COURT: OVERRULED.

8 Q BY MR. WAPNER: AND THE CONVERSATIONS WERE ABOUT  
9 THE OPENING OF THE ACCOUNT?

10 A I THINK THEY WERE MORE ABOUT MARKETS, PROBABLY  
11 MY KNOWLEDGE AND THOSE TYPES OF CONVERSATIONS.

12 AND I THINK SUBSEQUENT, THERE WAS SOME CONVER-  
13 SATION ABOUT OPENING AN ACCOUNT.

14 Q AND DID YOU TALK TO HIM ABOUT WHAT YOU KNEW ABOUT  
15 THE COMMODITIES MARKET?

16 A NO. I THINK THE CONVERSATION WAS MORE IN GENERAL,  
17 WHAT IS HAPPENING IN THE COMMODITIES MARKETS CURRENTLY AND  
18 WHAT IS TAKING PLACE.

19 Q AND AFTER THOSE CONVERSATIONS, HOW DID THE ACCOUNT  
20 OF INTERNATIONAL MARKETING COME TO BE OPENED?

21 A I THINK THAT MR. HUNT CAME INTO THE OFFICE WITH --  
22 I THINK IT WAS PROBABLY BEN DOSTI AND --

23 Q BEN DOSTI?

24 A AND STEVEN LOPEZ ONE DAY. I BELIEVE THEY OPENED  
25 AN ACCOUNT THAT WAY.

26 MR. WAPNER: YOUR HONOR, I HAVE SOME DOCUMENTS THAT  
27 HAVE BEEN RECEIVED IN AN ENVELOPE LABELED "E. F. HUTTON."

28 IT CONSISTS OF WHAT APPEARS TO BE COMMODITIES



1 Q AND THOSE ARE NOT DOCUMENTS THAT YOU NORMALLY  
2 GET OR ARE FAMILIAR WITH, IS THAT CORRECT?

3 A THIS IS A STATEMENT THAT GOES OUT TO THE CLIENT  
4 AND IT IS KEPT BY E. F. HUTTON AS A MATTER OF RECORD.

5 THE DOCUMENTS THAT I NORMALLY WORK WITH WERE  
6 A DAILY COMMODITY RUN WHICH ARE MUCH EASIER TO DECIPHER  
7 AND ONE THAT I AM MORE ACCUSTOMED TO WORKING WITH.

8 Q DO YOU REMEMBER APPROXIMATELY WHEN IT WAS THAT  
9 THE ACCOUNT AT E. F. HUTTON WAS OPENED?

10 A I WOULD ASSUME, FEBRUARY OR MARCH. I CAN'T RECALL  
11 THE PRECISE DATE.

12 Q AND WHEN THE ACCOUNT WAS OPENED, IT WAS MR. HUNT,  
13 MR. DOSTI AND STEVE LOPEZ THAT CAME INTO THE OFFICE TO OPEN  
14 THE ACCOUNT?

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1 A I BELIEVE THAT IS HOW THE ACCOUNT WAS OPENED.

2 Q DURING THE TIME THAT THE ACCOUNT WAS OPERATING,  
3 DID YOU HAVE ANY CONTACT WITH ANYBODY WHO WAS DOING THE TRADING  
4 ON THE ACCOUNT?

5 A I DID.

6 Q WHO WAS DOING THE TRADING ON THE ACCOUNT, AS  
7 FAR AS YOU KNEW?

8 A BEN DOSTI AND JOSEPH HUNT.

9 Q AND WHERE WAS THAT TRADING BEING DONE? WERE  
10 THEY ACTUALLY IN YOUR OFFICES?

11 A NO. BY TELEPHONE.

12 Q AND HOW WOULD THE TRADING BE DONE ON THAT ACCOUNT?  
13 DID THEY CALL YOU?

14 A THEY WOULD CALL ME WHEN THEY WANTED TO PUT A  
15 POSITION ON.

16 Q AND DURING THE TIME THAT THE ACCOUNT WAS OPENED,  
17 WHO DID MOST OF THE CALLING OR DID THEY DO IT EQUALLY?

18 A I THINK MOSTLY IT WAS BOTH OF THEM TOGETHER.

19 Q CALLING AT THE SAME TIME?

20 A BOTH CALLING TOGETHER.

21 Q IS THAT YES?

22 A YES.

23 Q WHERE WAS THAT E. F. HUTTON OFFICE LOCATED?

24 A IN WESTWOOD.

25 Q DID YOU HAVE ANY DISCUSSION WITH MR. HUNT --  
26 CAN I HAVE A MOMENT?

27 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

28 Q BY MR. WAPNER: WHEN THE ACCOUNT WAS -- YOUR

1 HONOR, COULD WE HAVE THE COURT REPORTER READ BACK THE  
2 BEGINNING OF THE LAST QUESTION?

3 THE COURT: YES. IF HE IS ANNOYING YOU, I WILL ADMONISH  
4 HIM TO KEEP HIS VOICE DOWN, SO HE ISN'T HEARD ALL OVER THE  
5 COURTROOM.

6 MR. WAPNER: I JUST DISCUSSED IT WITH HIM.

7 THE COURT: ALL RIGHT.

8 (THE RECORD WAS READ BY THE REPORTER.)

9 MR. WAPNER: I GOT IT.

10 Q DO YOU KNOW WHY IT WAS THAT HE WANTED TO COME  
11 TO E. F. HUTTON?

12 A WELL, NO. I DON'T KNOW THE ANSWER TO THAT  
13 SPECIFICALLY. BUT I THINK THE TIME THAT OUR CONVERSATIONS  
14 STARTED, I THINK A LOT HAD TO DO WITH THE COST OF THE  
15 EXECUTIONS. HOW MUCH.

16 Q SPECIFICALLY?

17 A HOW MUCH WOULD IT COST PER TRANSACTION.

18 Q IN TERMS OF BROKERAGE COMMISSIONS?

19 A CORRECT.

20 Q AND WAS THERE ANY DISCUSSION OF THE MARGIN  
21 REQUIREMENTS OF THE ACCOUNT?

22 A I THINK THOSE QUESTIONS SURFACED ALL OF THE TIME  
23 BECAUSE IN THE COMMODITY PORTION OF THE TRADING, THE MARGINS  
24 CAN BE CHANGED FROM TIME TO TIME RELATIVE TO THE VOLATILITY  
25 OF THE MARKET.

26 IT IS SET BY THE EXCHANGES. SO I AM SURE THAT  
27 THE MARGINS WERE BROUGHT UP AT THAT PARTICULAR TIME.

28 Q AND WHEN THE TRADING WAS DONE, IT WAS USUALLY

1 MR. HUNT AND MR. DOSTI TOGETHER, CALLING YOU? CORRECT?

2 A THAT'S CORRECT.

3 Q AT SOME POINT, WAS THERE SOME MONEY TRASFERRED  
4 FROM ANOTHER COMMODITIES ACCOUNT AT SHEARSON AMERICAN EXPRESS?

5 A THAT'S CORRECT. THERE WAS MONEYS AND POSITIONS  
6 TRANSFERRED IN FROM SHEARSON AMERICAN EXPRESS.

7 Q AND SHORTLY AFTER THAT MONEY WAS TRANSFERRED  
8 IN, DID SOMETHING HAPPEN TO THOSE POSITIONS AND THAT MONEY?

9 A I AM NOT SURE I UNDERSTAND YOUR QUESTION.  
10 WOULD YOU BE A LITTLE MORE SPECIFIC?

11 Q I WILL TRY TO. WERE THE POSITIONS THAT WERE  
12 TRANSFERRED IN FROM SHEARSON AMERICAN EXPRESS LIQUIDATED  
13 AT SOME POINT?

14 A THEY WERE AT E. F. HUTTON.

15 Q HOW LONG AFTER YOU GOT THE POSITIONS IF YOU KNOW,  
16 WERE THEY LIQUIDATED?

17 A I WILL ESTIMATE ABOUT TWO MONTHS. I CAN'T BE  
18 CERTAIN.

19 IF I COULD LOOK AT THE DOCUMENTS THERE, IT IS  
20 IN THE DOCUMENTATION. I COULD BE VERY SPECIFIC. BUT MY  
21 BEST ESTIMATE IS ABOUT TWO MONTHS.

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1 Q OKAY. BUT THIS DOCUMENTATION THAT YOU HAVE IS  
2 THE STATEMENTS THAT YOU ARE NOT ACTUALLY FAMILIAR WITH, CORRECT?

3 A THE STATEMENTS ARE VERY CONFUSING THE WAY THAT  
4 THEY ARE SET OUT BY E. F. HUTTON.

5 IT TAKES A TREMENDOUS AMOUNT OF TIME TO DECIPHER  
6 ANY PIECE OF MATERIAL THAT YOU NEED TO READ.

7 Q OKAY, WE HAVE MR. LE BEAU AND WE WILL GET INTO  
8 THE STATEMENTS WITH HIM IN A LITTLE MORE DETAIL.

9 LET ME ASK YOU, HOWEVER -- STRIKE THAT.

10 AT WHOSE DIRECTION WERE THE POSITIONS LIQUIDATED,  
11 E. F. HUTTON OR THE CLIENT?

12 A THE CLIENT'S.

13 Q AND SPECIFICALLY, WHO MADE THE DECISION TO LIQUIDATE  
14 THE POSITIONS?

15 A I THINK -- I DON'T HAVE THE PRECISE RECOLLECTION  
16 OF THAT CONVERSATION, BUT I WOULD ASSUME THAT IT WAS MR. HUNT  
17 AND MR. DOSTI WHO WERE ON THE TELEPHONE WITH ME AT THE TIME  
18 THAT THE DECISION WAS MADE TO LIQUIDATE THE POSITIONS AND  
19 THEY WERE LIQUIDATED OVER A PERIOD OF DAYS, NOT JUST AT ONE  
20 TIME.

21 Q DID MR. LOPEZ EVER CALL YOU TO DO ANY TRADES ON  
22 THE ACCOUNT?

23 A NONE, EVER.

24 Q AT E. F. HUTTON, DID YOU JUST HAVE THE ONE ACCOUNT  
25 IN THE NAME OF INTERNATIONAL MARKETING OPERATIONS?

26 A I DID.

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

28 THE COURT: ALL RIGHT.

1 MR. BARENS: THANK YOU, YOUR HONOR.

2  
3 CROSS-EXAMINATION

4 BY MR. BARENS:

5 Q MR. VACTOR, YOU KNEW MR. LOPEZ

6 OR HAD SPOKEN TO HIM--

7 DID YOU KNOW HE IS A LIVE PERSON?

8 A DO I KNOW HE IS ALIVE CURRENTLY?

9 Q NO.

10 AT THAT TIME YOU KNEW MR. LOPEZ?

11 A I DID.

12 Q AND YOU KNEW HIM IN CONJUNCTION WITH THIS ACCOUNT?

13 A THAT'S CORRECT.

14 Q DID THERE COME A TIME WHEN YOU WROTE HIM A LETTER  
15 IN AUGUST OF 1984?

16 A THAT IS POSSIBLE.

17 RELATIVE TO WHAT?

18 Q I WILL SHOW YOU.

19 I HAVE HERE A DOCUMENT CONSISTING OF TWO PAGES,  
20 SIR, ON E. F. HUTTON STATIONERY DATED AUGUST 5, 1985.

21 A YES.

22 Q IS THAT A LETTER SIGNED BY YOURSELF, SIR?

23 A THAT IS CORRECT.

24 Q AND IT IS ADDRESSED TO MR. STEVE LOPEZ?

25 A THAT'S CORRECT.

26 Q AND IN THAT LETTER, DO YOU DISCUSS THE ACTIVITY  
27 IN THIS INTERNATIONAL MARKETING ACCOUNT?

28 A THAT IS CORRECT.

1 Q AND IN THE MIDDLE OF THE PAGE, COULD YOU READ  
2 ME THE SENTENCE WHICH PROVIDES A ONE-SENTENCE SUMMARY OF THE  
3 OUTCOME OF WHAT HAPPENED HERE?

4 A THE PORTION THAT IS OUTLINED IN YELLOW?

5 A YES, SIR.

6 A "THE TRADING ACTIVITY FROM FEBRUARY 27, 1984  
7 THROUGH JULY 26, 1984 RESULTED IN THE LOSS OF \$731,906.35."

8 MR. BARENS: ALL RIGHT, COULD I HAVE THAT MARKED  
9 DEFENDANT'S NEXT, YOUR HONOR?

10 THE COURT: SURELY.

11 MR. BARENS: I AM NOT SURE WHERE WE ARE.

12 THE CLERK: W.

13 MR. WAPNER: I THINK IT IS W.

14 MR. BARENS: IT IS DEFENDANT'S W?

15 THE COURT: YES, W.  
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1 Q BY MR. BARENS: THUS, IN THE LETTER, MR. VACTOR,  
2 YOU ARE SAYING THAT TRADING ACTIVITY CAUSED THIS LOSS, NOBODY  
3 PUT IT IN THEIR POCKET, THIS \$730,000 THAT IS LOST HERE IS  
4 LOST AS A RESULT OF TRADING ACTIVITY?

5 A THAT'S CORRECT.

6 Q NOW I SHOW YOU A DOCUMENT FROM E. F. HUTTON; DO  
7 YOU RECOGNIZE THAT KIND OF A DOCUMENT, SIR?

8 A I DO. IT LOOKS LIKE A MICROFICHE COPY OF THE  
9 STATEMENTS BUT I AM NOT -- I HAVEN'T SEEN THIS SPECIFIC  
10 DOCUMENT.

11 Q OKAY. LOOKING AT THAT PAGE, IS THAT THE KIND  
12 OF PAGE THAT REFLECTS ACTIVITIES IN THE ACCOUNT AS FAR AS  
13 THINGS THAT MIGHT HAVE BEEN BOUGHT OR SOLD?

14 A THAT'S CORRECT.

15 Q AND I HAVE SHOWN YOU STARTING AT ABOUT HALFWAY  
16 DOWN THE PAGE TO THE BOTTOM OF THE PAGE A PARTICULAR ISSUE  
17 THAT APPEARS TO HAVE BEEN BOUGHT IN THIS ACCOUNT; IS THAT  
18 TRUE?

19 A SURE.

20 Q WHAT IS THE NAME OF THE ENTITY THAT IS ENTERED  
21 ON THERE?

22 A SATURN ENTERPRISE.

23 Q IS THERE A FAIRLY GOOD-SIZED POSITION TAKEN IN  
24 SATURN ENTERPRISES?

25 A THERE IS -- WELL, IT IS RELATIVE. IT IS RELATIVE  
26 TO WHAT THE FLOAT OF THE STOCK IS, HOW BIG THE COMPANY IS.

27 I AM NOT FAMILIAR WITH THE COMPANY ITSELF, SO  
28 I THINK IT IS RELATIVE.

1 MR. BARENS: IN ANY EVENT, I WILL MARK THIS WHILE I  
2 AM THINKING OF IT, YOUR HONOR.

3 THE COURT: X.

4 MR. BARENS: X.

5 Q HAD YOU EVER DISCUSSED THIS SATURN INVESTMENT  
6 WITH MR. HUNT?

7 A I HAVE.

8 Q AND WHAT HAD HE TOLD YOU ABOUT THE REASONING BEHIND  
9 WHY HE WAS GETTING INVOLVED WITH THIS SATURN ACTIVITY?

10 A MY RECOLLECTION IS THAT HE THOUGHT THE STOCK WOULD  
11 ESCALATE IN PRICE.

12 Q AND DID HE TELL YOU THAT HE WAS PLANNING A MERGER  
13 BETWEEN A COMPANY HE WAS INVOLVED WITH AND SATURN?

14 A I CAN'T RECALL THAT SPECIFIC CONVERSATION.

15 Q DID HE TELL YOU THAT HE HAD SOME RELATIONSHIP  
16 WITH SATURN?

17 A I DON'T RECALL THAT.

18 Q OKAY. ASIDE FROM HIM TELLING YOU THAT HE THOUGHT  
19 THE STOCK WAS GOING TO INCREASE IN VALUE, DID HE TELL YOU  
20 ANYTHING ELSE AT ALL THAT YOU CAN REMEMBER, OTHER THAN THAT  
21 STATEMENT?

22 A TO THE BEST OF MY RECOLLECTION, THERE WAS SOME  
23 BUYING IN THE STOCK. NOW I CAN'T RECALL WHERE, HOW, BUT HE  
24 THOUGHT THERE WAS GOING TO BE SOME BUYING IN THE STOCK.

25 Q DID HE SEEM EXCITED ABOUT THE SATURN STOCK, IF  
26 YOU KNOW, SIR?

27 A I THINK THAT IS A DIFFICULT QUESTION FOR YOU TO  
28 ASK ME TO ANSWER BECAUSE I HAVE TO -- I THINK IT IS A



1 DIFFICULT QUESTION.

2 Q OKAY. DID YOU HAVE MORE THAN ONE DISCUSSION WITH  
3 MR. HUNT ABOUT SATURN?

4 A I AM SURE THAT I DID BECAUSE WE HAVE TAKEN  
5 POSITIONS IN IT ON A FEW DIFFERENT OCCASIONS AND THERE WAS  
6 A LIQUIDATION OF THE STOCK, SO I AM SURE WE PROBABLY HAD MAYBE  
7 FIVE OR TEN CONVERSATIONS ABOUT THAT PARTICULAR POSITION.

8 Q AND DO YOU KNOW WHEN HE BOUGHT THE SATURN STOCK?  
9 LET ME JUST --

10 A IF YOU WOULD SUPPLY ME THOSE DOCUMENTS.

11 Q LET ME MAKE SURE YOU HAVE THE DATES ON THIS  
12 ACTIVITY.

13 AT WHAT DATE DO WE FIRST GET INVOLVED WITH SATURN,  
14 ACCORDING TO THAT DOCUMENT?

15 A MAY 24.

16 Q AND CAN YOU TELL ME WHEN THE LAST SATURN SALE  
17 IS MADE?

18 IF YOU FLIP THROUGH, I DON'T KNOW IF YOU NEED  
19 TO GO TO THE END OF THE DOCUMENTS TO DO THAT.

20 A JULY 24TH -- JUST A MINUTE -- JULY 26TH.

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1 Q SO EVIDENTLY, ACCORDING TO THE RECORDS, WE ARE  
2 IN THIS SATURN INVESTMENT FROM MAY OF '84 TO THE END OF JULY  
3 OF '84, SIR?

4 A THAT'S CORRECT.

5 MR. BARENS: THANK YOU, SIR.

6 THE COURT: ANY REDIRECT?

7 MR. WAPNER: JUST BRIEFLY.

8

9

REDIRECT EXAMINATION

10 BY MR. WAPNER:

11 Q WAS THE LETTER THAT YOU WROTE INDICATING THE  
12 LOSSES ON THE ACCOUNT, SENT TO MR. LOPEZ?

13 A YES. HE WAS CURIOUS AS TO WHAT WAS OCCURRING  
14 IN THE ACCOUNT. IT WAS MY OPINION THAT THE MONEY THAT WAS  
15 IN THE ACCOUNT, WAS EITHER STEVE LOPEZ' DIRECTLY OR HIS  
16 FAMILY'S MONEY.

17 IT WAS MY -- THAT IS WHAT I RECALL OF THE  
18 CONVERSATIONS. I DON'T KNOW EXACTLY WHERE THE FUNDS CAME  
19 FROM BUT I WAS UNDER THE IMPRESSION FROM MY CONVERSATIONS  
20 WITH MR. LOPEZ, THAT EITHER THE MAJORITY OF THE MONEY OR  
21 A GOOD PORTION OF THE MONEY WAS DIRECTLY RELATED TO STEVE  
22 LOPEZ, WHETHER IT BE HIS PERSONALLY OR HIS FAMILY'S.

23 Q WAS THE LETTER THAT YOU SENT AUGUST 5TH, WHICH  
24 HAS BEEN MARKED AS DEFENDANT'S W, AS A RESULT OF THE INQUIRY  
25 THAT MR. LOPEZ MADE OF YOU?

26 A THAT'S CORRECT.

27 Q AND MR. LOPEZ WAS IN FACT, ONE OF THE SIGNERS  
28 ON THE ACCOUNT, WAS HE NOT?

B

1 A THAT'S CORRECT.

2 MR. WAPNER: YOUR HONOR, I HAVE SOME OTHER DOCUMENTS  
3 FROM E. F. HUTTON THAT APPEAR TO CONTAIN ACCOUNT OPENING  
4 DOCUMENTS THAT I HAVE REMOVED FROM A MANILA ENVELOPE.

5 MAY THESE DOCUMENTS BE MARKED AS --

6 THE COURT: 202?

7 MR. WAPNER: WELL, I THINK PROBABLY I WOULD LIKE TO  
8 HAVE THEM MARKED MAYBE AS 201-A.

9 THE COURT: ALL RIGHT.

10 MR. WAPNER: BECAUSE I THINK THEY RELATE TO THE SAME  
11 ACCOUNT.

12 THE COURT: ALL RIGHT.

13 Q BY MR. WAPNER: MR. VACTOR, DO YOU RECOGNIZE  
14 THE DOCUMENTS I HAVE LABELED 201-A?

15 A NO, I DON'T RECOGNIZE THE DOCUMENT.

16 Q THAT DOCUMENT YOU ARE REFERRING TO, IS THE AFFIDAVIT  
17 THAT IS SENT BY THE CUSTODIAN OF RECORDS, RIGHT?

18 A CORRECT. I DON'T RECOGNIZE THE DOCUMENT.

19 Q BUT THE OTHER DOCUMENT WE HAVE MARKED AS 201-A,  
20 APPEARS TO BE XEROXES OF E. F. HUTTON DOCUMENTS. WHAT ARE  
21 THOSE?

22 A THESE ARE THE DOCUMENTS THAT ARE USED WHEN YOU  
23 OPEN UP AN ACCOUNT, WHETHER IT BE AN INDIVIDUAL OR CORPORATE  
24 ACCOUNT.

25 Q AND DID THOSE DOCUMENTS PERTAIN TO THE ACCOUNT  
26 OF INTERNATIONAL MARKETING OPERATIONS?

27 A THEY DO.

28 Q AND IS STEVE LOPEZ ONE OF THE SIGNERS ON THAT?

1 A HE IS.

2 Q DID THAT ACCOUNT HAVE A PARTICULAR ACCOUNT NUMBER?

3 A IT DID.

4 Q WHAT WAS THE ACCOUNT NUMBER?

5 A L5598488.

6 Q AND DOES THAT PARTICULAR ACCOUNT NUMBER APPLY  
7 TO THE ENTIRE ACCOUNT?

8 A YES, IT DOES.

9 Q DID THE ACCOUNT HAVE A COMMODITIES SIDE AND A  
10 SECURITY SIDE?

11 A IT DID.

12 Q THE STATEMENTS THAT YOU HAVE IN FRONT OF YOU  
13 THAT ARE MARKED AS 201, ARE THOSE COMMODITIES STATEMENTS?

14 A THEY ARE.

15 Q AND THE STATEMENT THAT MR. BARENS MARKED AS X  
16 CONVENIENTLY ON THE THIRD PAGE, HIDING IT FROM ME --

17 MR. BARENS: I WAS NOT HIDING THAT PAGE. IT WAS FOLDED  
18 THERE, MR. WAPNER.

19 I KNEW YOU WOULD FIND IT, YOU DEVIL.

20 Q BY MR. WAPNER: DEFENSE X, DO THOSE REPRESENT  
21 THE SECURITIES STATEMENTS ON THE SAME ACCOUNT?

22 A TO THE BEST OF MY KNOWLEDGE, REPRESENTS THE  
23 ACTIVITY OF THE ACCOUNT, WHETHER IT BE SECURITIES OR  
24 COMMODITIES.

25 LET ME JUST LOOK AT IT A LITTLE BIT LONGER.

26 Q LET ME JUST ASK YOU THIS QUESTION. DOES IT HAVE  
27 THE SAME ACCOUNT NUMBER ON IT, 201, AS DEFENDANT'S X?  
28 DO THEY BEAR THE SAME ACCOUNT NUMBER?

1           A       THEY DO. I CAN CLARIFY THIS. THIS WAS A DEPOSIT  
2 OF FUNDS THAT CAME IN AND IT APPEARED THAT THE FIRST POSITIONS  
3 COULD HAVE BEEN STOCK POSITIONS, AS OPPOSED TO COMMODITIES  
4 POSITIONS. THEREFORE, THAT IS WHY THEY ARE IN FRONT.

5           Q       AND THE SATURN ENERGY TRANSACTIONS ARE STOCK  
6 TRANSACTIONS AS OPPOSED TO COMMODITIES TRANSACTIONS?

7           A       THAT'S CORRECT.  
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1 Q AND BY THE END OF JULY 1984, MR. HUNT HAD SOLD  
2 OR INTERNATIONAL MARKETING OPERATIONS HAD SOLD ALL OF THESE  
3 SATURN ENERGY STOCK?

4 A THAT'S CORRECT.

5 Q BEFORE MR. HUNT AND MR. DOSTI AND MR. LOPEZ CAME  
6 IN TO OPEN THIS INTERNATIONAL MARKETING ACCOUNT, HAD YOU  
7 HAD ANY CONTACT WITH ANY OF THE THREE OF THEM?

8 A YOU ARE TALKING ABOUT AT E. F. HUTTON?

9 Q OR ANYWHERE ELSE?

10 A I KNEW THEM WHEN I WORKED FOR CONTI COMMODITIES.

11 THE COURT REPORTER: PLEASE SPELL THAT.

12 THE WITNESS: C-O-N-T-I.

13 Q BY MR. WAPNER: AND DID THEY HAVE AN ACCOUNT  
14 THERE?

15 A THEY DID.

16 Q WHEN WAS THAT?

17 A SEPTEMBER OR OCTOBER OF 1983. AROUND IN THAT  
18 TIME. IT WAS THE THIRD OR FOURTH QUARTER OF 1983.

19 Q HOW LONG DID THEY HAVE AN ACCOUNT WITH YOU THERE?

20 A A FEW MONTHS, TWO OR THREE MONTHS.

21 MR. WAPNER: NOTHING FURTHER.

22 THE COURT: THANK YOU VERY MUCH. YOU WILL BE EXCUSED.

23 THE WITNESS: THANK YOU.

24 MR. WAPNER: WE CALL CHUCK LE BEAU.

25 MAY I HAVE A MOMENT OUTSIDE, YOUR HONOR?

26 THE COURT: YES.

27 (PAUSE.)

28 MR. WAPNER: I WILL RECALL MR. VACTOR.

1 GENE VACTOR,  
2 RECALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN PREVIOUSLY  
3 SWORN, TESTIFIES AS FOLLOWS:

4 THE CLERK: YOU HAVE BEEN PREVIOUSLY SWORN. YOU ARE  
5 STILL UNDER OATH. JUST STATE YOUR NAME ONCE AGAIN FOR THE  
6 RECORD.

7 THE WITNESS: GENE VACTOR.  
8

9 REDIRECT EXAMINATION (CONTINUED)

10 BY MR. WAPNER:

11 Q MR. VACTOR, DO YOU RECALL ANYTHING PARTICULARLY  
12 OUTSTANDING ONE WAY OR THE OTHER ABOUT THE ACCOUNT THAT YOU  
13 HAD WITH THESE GENTLEMEN AT CONTI COMMODITIES?

14 A NO. I DON'T RECOLLECT ANYTHING AT ALL THAT WAS  
15 UNUSUAL. THERE WAS SOME SMALL TRADING GOING ON. THERE WERE  
16 A FEW POSITIONS, NOTHING OF ANY SUBSTANCE, FROM THE STANDPOINT  
17 OF POSITIONS PUT ON.

18 I DON'T RECALL ANY PROFIT OR LOSSES. I THINK  
19 IT WAS PRETTY MUCH A BREAK-EVEN SITUATION. BUT THAT IS WHAT  
20 MY RECOLLECTION IS.  
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1 Q AND WHO WAS THAT ACCOUNT WITH?

2 A I BELIEVE IT WAS OPENED UNDER "EYE CONTACT OF  
3 AMERICA," IF I AM NOT MISTAKEN.

4 Q WAS THIS MR. HUNT, MR. LOPEZ, MR. DOSTI, ALL THREE  
5 OR A COMBINATION?

6 A I BELIEVE IT WAS A COMBINATION OF ALL THREE.

7 MR. WAPNER: I HAVE NOTHING FURTHER.

8 MR. BARENS: I HAD FORGOTTEN A QUESTION, JUDGE.

9 THE COURT: GO AHEAD.

10 MR. BARENS: THANK YOU.

11

12

RECROSS-EXAMINATION

13 BY MR. BARENS:

14 Q MR. VACTOR, DID YOU SPEAK TO MR. HUNT IN OCTOBER  
15 OR NOVEMBER OF 1985, BETWEEN OCTOBER AND NOVEMBER?

16 A I AM SORRY -- IT IS POSSIBLE. OCTOBER, NOVEMBER  
17 '85?

18 Q OR BETWEEN OCTOBER-NOVEMBER 1984 AND OCTOBER-  
19 NOVEMBER 1985, DURING THAT YEAR DID YOU SPEAK TO HIM?

20 A I DON'T RECALL. IT IS POSSIBLE. I DON'T RECALL.

21 MR. WAPNER: YOUR HONOR, THERE IS A HEARSAY OBJECTION.  
22 I ASK TO APPROACH THE BENCH.

23 THE COURT: I HAVE AN IDEA AS TO WHY YOU ARE ASKING  
24 THE QUESTION. I WILL SUSTAIN THE OBJECTION.

25 MR. BARENS: IT DOESN'T GO TO THAT AT ALL.

26 MR. WAPNER: MAY WE APPROACH THE BENCH FOR AN OFFER  
27 OF PROOF?

28 THE COURT: YES.



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1 (THE FOLLOWING PROCEEDINGS WERE HELD  
2 AT THE BENCH:)

3 THE COURT: ALL RIGHT.

4 MR. BARENS: THE EVIDENCE I HAVE TO OFFER IS THAT THERE  
5 IS A DISCUSSION -- I DON'T WANT TO GET INTO THAT JAIL THING  
6 AT ALL, OKAY?

7 THE COURT: GO AHEAD.

8 MR. BARENS: I DID NOT BRING IT UP TO THAT END.

9 I AM ASKING IF HE HAD A CONVERSATION WITH THE  
10 DEFENDANT WHEREIN HE TOLD THE DEFENDANT THAT HIS RECORDS HAD  
11 BEEN SUBPOENAED AND HE ASKED HUNT WHAT HE OUGHT TO DO AND  
12 HUNT SAID TO HIM "SHOW THEM EVERYTHING YOU HAVE GOT AND TALK  
13 TO THEM."

14 IT GOES TO, JUDGE --

15 NO, PLEASE HEAR ME, JUDGE.

16 IT GOES TO CONSCIOUSNESS OF INNOCENCE. I HAVE  
17 A RIGHT BY LAW TO DO THAT.

18 MR. WAPNER: NOT BY THIS WITNESS.

19 TO ME, IT IS A HEARSAY STATEMENT OF THE DEFENDANT.

20 THE COURT: HE SAID HE DIDN'T HAVE ANY CONVERSATION,  
21 HE SAID HE DOESN'T REMEMBER.

22 MR. BARENS: I AM GOING TO ASK HIM IF HE REMEMBERS  
23 TELLING HUNT IF THIS STUFF WAS SUBPOENAED AND IF HE SAYS HE  
24 DOES, I WILL ASK HIM WHAT WAS THE CONVERSATION.

25 MR. WAPNER: I DON'T CARE. I HAVE NO OBJECTION.

26 THE COURT: ALL RIGHT.

27 CONSCIOUSNESS OF INNOCENCE, IS THAT WHAT IT IS?

28 MR. BARENS: THAT IS WHAT IT WAS, YOUR HONOR.

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(THE FOLLOWING PROCEEDINGS WERE HELD IN  
OPEN COURT:)

Q BY MR. BARENS: SIR, MR. VACTOR, DO YOU REMEMBER  
HAVING A TELEPHONE CONVERSATION WITH MR. HUNT WHERE YOU TOLD  
HIM THAT YOUR RECORDS CONCERNING THIS ACCOUNT HAD BEEN  
SUBPOENAED?

A I AM NOT -- IT IS POSSIBLE BUT I AM NOT SURE.

Q WOULD IT REFRESH YOUR RECOLLECTION, SIR, IF I  
TOLD YOU THAT YOU HAD SUCH A CONVERSATION AND MR. HUNT TOLD  
YOU --

MR. WAPNER: EXCUSE ME, YOUR HONOR. OBJECTION AS LEADING  
AND COUNSEL IS TESTIFYING.

IF HE SHOWS HIM SOME KIND OF A DOCUMENT OR  
SOMETHING --

THE COURT: I WILL SUSTAIN THE OBJECTION.

MR. BARENS: I BELIEVE THE LAW PERMITS ME TO LEAD ON  
CROSS.

THE COURT: I WILL SUSTAIN THE OBJECTION.

1 Q BY MR. BARENS: DO YOU HAVE ANY RECOLLECTION OF  
2 MR. HUNT EVER TELLING YOU TO SHOW YOUR RECORDS?

3 A NO, I DON'T RECALL THAT.

4 Q YOU DON'T RECALL ANYTHING ABOUT A DIALOGUE  
5 CONCERNING ANYTHING HAVING TO DO WITH YOUR RECORDS BEING  
6 REQUESTED BY SOME PARTY OR SUBPOENAED OR OBTAINED OR COPIED  
7 BY SOME PARTY AND HAVING DISCUSSION WITH MR. HUNT ABOUT THAT?

8 A NOW THAT I THINK ABOUT IT, I BELIEVE THERE WAS  
9 AN INCIDENT WHERE THE S.E.C. CAME INTO E. F. HUTTON'S OFFICE  
10 AND LOOKED AT THE RECORDS.

11 I SUPPLIED THEM WITH THE RECORDS. IT WASN'T A  
12 SUBPOENA. I DON'T BELIEVE IT WAS A SUBPOENA.

13 ALL THEY ASKED ME ABOUT THE ACCOUNT -- I PROVIDED  
14 THEM WITH THE DOCUMENTATION OF THE ACCOUNT THAT I HAD.

15 AND IF I HAD A CONVERSATION, IT WAS THE FACT THAT  
16 I TOLD HIM THAT THE S.E.C. WAS IN THE OFFICE AND WE LOOKED  
17 AT THE RECORDS ON THE ACCOUNT.

18 BUT I DON'T BELIEVE THERE WAS A SUBPOENA INVOLVED  
19 AT ALL RELATIVE TO THOSE RECORDS. IF THERE WAS, I WASN'T  
20 AWARE OF IT.

21 Q ALL RIGHT. SETTING ASIDE WHETHER IT WAS PURSUANT  
22 TO SUBPOENA OR HOWEVER THE INCIDENT ARISES, SIR, DID MR. HUNT  
23 TELL YOU TO HOLD BACK OR HIDE OR SECRETE ANY OF THE RECORDS?

24 A NO, HE DID NOT.

25 Q ALL RIGHT. DID HE TELL YOU TO COOPERATE WITH  
26 THEM AND SHOW THEM WHATEVER YOU HAD?

27 A I DON'T BELIEVE THAT WAS BROUGHT UP ONE WAY OR  
28 THE OTHER, WHETHER I WAS TO DISCLOSE OR NOT DISCLOSE, I DON'T

1 BELIEVE THAT CONVERSATION SURFACED.

2 Q OKAY. YOU JUST TOLD THAT TO HIM AND HE ACKNOWLEDGED  
3 IT?

4 A I BELIEVE IN ONE OF OUR CONVERSATIONS I SAID,  
5 EITHER THAT PARTICULAR DAY OR A DAY -- OR AT A LATER TIME,  
6 I TOLD HIM THAT THE S.E.C. WAS IN AND LOOKED AT THE RECORDS  
7 ON HIS ACCOUNT AND THAT WAS IT.

8 Q AND THAT WAS IT?

9 A YES, I BELIEVE THAT WAS THE EXTENT OF THE  
10 CONVERSATION.

11 MR. BARENS: THANK YOU, MR. VACTOR.

12 MR. WAPNER: MAY I REOPEN DIRECT BRIEFLY?

13 THE COURT: YES, GO AHEAD.

14

15 DIRECT EXAMINATION (REOPENED)

16 BY MR. WAPNER:

17 Q AT THE TIME MR. DOSTI AND MR. HUNT TRADED ON THE  
18 ACCOUNT, DID YOU GIVE THEM ADVICE ON WHAT TRADES TO MAKE?

19 A NO, I DID NOT.

20 Q DID YOU UNDERSTAND THE TYPE OF SPREADS THAT THEY  
21 WERE TRADING?

22 A NO, I DID NOT.

23 Q WOULD IT BE FAIR TO CHARACTERIZE YOURSELF DURING  
24 THE TIME THAT YOU WERE HANDLING THAT ACCOUNT AS ESSENTIALLY  
25 A PERSON WHO TOOK ORDERS, AN ORDER-TAKER FOR THEM?

26 A THAT IS CORRECT.

27 I ALSO PROVIDED THEM WITH INFORMATION OF WHAT  
28 WAS HAPPENING IN THE MARKET RELATIVE TO THE INTEREST RATES

1 MARKET MONTHLY, WHAT THE MARKETS WERE DOING AT THAT PARTICULAR  
2 TIME, WHAT INVOLVEMENT THE FEDERAL RESERVE HAD THAT PARTICULAR  
3 DAY, WHAT THE SHORT TIME INTEREST MARKETS WERE DOING AND THE  
4 LONG TERM, THAT TYPE OF INFORMATION. BUT IT WASN'T FROM A  
5 RECOMMENDATION STANDPOINT.

6 THERE WERE QUESTIONS THAT WERE ASKED AND I  
7 PROVIDED INFORMATION.

8 Q YOU WERE GIVING THEM FACTUAL INFORMATION?

9 A SURE.

10 AND ON ANY GIVEN DAY, THERE MAY BE TWO OR THREE  
11 ECONOMIC REPORTS THAT COME OUT AND IN A WEEK'S TIME, THERE  
12 MAY HAVE BEEN FIVE OR SEVEN THAT CAN AFFECT THE INTEREST  
13 RATE MARKET.

14 Q BUT IN TERMS OF GIVING THEM ADVICE, YOU DID NOT  
15 DO THAT?

16 A I DID NOT.

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

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

20 MR. WAPNER: CHUCK LE BEAU.

21  
22 CHARLES LE BEAU,  
23 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED  
24 AS FOLLOWS:

25 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY  
26 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL  
27 BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO  
28 HELP YOU GOD?

1 THE WITNESS: YES, I DO.

2 THE CLERK: WOULD YOU BE SEATED THERE AT THE WITNESS  
3 STAND.

4 NOW WOULD YOU STATE AND SPELL YOUR NAME FOR THE  
5 RECORD, PLEASE.

6 THE WITNESS: YES. MY NAME IS CHARLES LE BEAU. THE  
7 LAST NAME IS TWO WORDS, L-E CAPITAL B-E-A-U.

8

9

DIRECT EXAMINATION

10 BY MR. WAPNER:

11 Q MR. LE BEAU, WHOM DO YOU WORK FOR?

12 A I WORK FOR E. F. HUTTON AND COMPANY.

13 Q WHAT DO YOU DO FOR THEM?

14 A I AM VICE PRESIDENT-ACCOUNT EXECUTIVE NOW.

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1 Q AND AS THE VICE PRESIDENT AND ACCOUNT EXECUTIVE,  
2 ARE YOU FAMILIAR WITH HOW THE RECORDS OF STATEMENTS OF  
3 COMMODITY AND STOCK ACCOUNTS ARE KEPT AND MAINTAINED BY E.  
4 F. HUTTON?

5 A YES.

6 Q AND ARE YOU FAMILIAR WITH THE PROCEDURES THAT  
7 THEY USED TO MAKE THOSE STATEMENTS BACK IN 1984?

8 A YES.

9 Q AND WHEN AN ACCOUNT IS OPENED, ARE THERE SOME  
10 DOCUMENTS THAT ARE USED TO OPEN THE ACCOUNT?

11 A YES, THERE ARE.

12 Q WHAT TYPES OF DOCUMENTS ARE THOSE?

13 A WE REFER TO THEM AS THE NEW ACCOUNT DOCUMENTS.  
14 THERE IS A KIT OF DOCUMENTS.

15 THERE IS A FINANCIAL STATEMENT, A RISK DISCLOSURE  
16 STATEMENT, A VERIFICATION OF SOCIAL SECURITY NUMBER AND MARGIN  
17 AGREEMENT AND VARIOUS OTHER TYPES OF FORMS, DEPENDING UPON  
18 THE NATURE OF THE ACCOUNT.

19 Q DIRECTING YOUR ATTENTION TO SOME DOCUMENTS WE  
20 HAVE MARKED AS 201-A, DO YOU RECOGNIZE THOSE?

21 A YES. THEY ARE THE NEW ACCOUNT DOCUMENTS.

22 Q AND FOR WHAT ACCOUNT ARE THOSE THE NEW ACCOUNT  
23 DOCUMENTS?

24 A I CAN IDENTIFY THE ACCOUNT BY NUMBER. AND ON  
25 THE W-9 FORM, THE NAME OF THE ACCOUNT IS INTERNATIONAL  
26 MARKETING OPERATIONS, INC.

27 Q AND WHO ARE THE CORPORATE OFFICERS OR PERSONS  
28 AUTHORIZED TO TRANSACT BUSINESS ON THAT ACCOUNT?

1           A           FROM THE CORPORATE RESOLUTIONS, I HAVE STEVE  
2 LOPEZ AND BEN DOSIT (SIC).

3           Q           D-O-S-T-I, PERHAPS?

4           A           D-O-S-T-I, YES.

5           Q           AND ARE THOSE DOCUMENTS TRUE AND EXACT COPIES  
6 OF THE DOCUMENTS THAT ARE KEPT AT E. F. HUTTON?

7           A           YES, THEY ARE.

8           Q           AND THOSE DOCUMENTS ARE FILLED OUT AT OR NEAR  
9 THE TIME THAT AN ACCOUNT IS OPENED?

10          A           PRIOR TO OR CONCURRENTLY WITH THE OPENING OF  
11 THE ACCOUNT.

12          Q           WHAT WAS THE DATE THAT THAT ACCOUNT WAS OPENED?

13          A           MOST OF THE DOCUMENTS ARE SIGNED JANUARY 11,  
14 1984.

15          Q           AND DO YOU SEE BEFORE YOU, AN EXHIBIT THAT WE  
16 HAVE MARKED ALSO AS 201, THAT APPEAR TO BE STATEMENTS ON  
17 THE ACCOUNT THAT YOU HAVE REFERRED TO?

18          A           YES. THESE ARE THE IN-HOUSE BROKER'S COPIES  
19 OF THE MONTHLY ACCOUNT STATEMENTS.

20          Q           AND IS THERE AN OPENING BALANCE THAT IS INDICATED  
21 ON THOSE STATEMENTS?

22          A           IT SHOWS THE ACCOUNT WAS OPENED BY TRANSFERRING  
23 \$125,000 FROM THE SECURITIES ACCOUNT ON FEBRUARY 28.

24          Q           AND SO, THERE WAS OBVIOUSLY SOME MONEY IN A  
25 SECURITIES ACCOUNT FIRST?

26          A           YES.

27          Q           YOU DON'T KNOW WHEN THE MONEY FIRST WENT INTO  
28 THE SECURITIES ACCOUNT, DO YOU?



1           A       NO. I DON'T HAVE THE COPIES OF THE SECURITIES  
2 STATEMENTS HERE. I THINK THAT --

3           Q       HAVE YOU GOT IT UP THERE?

4           A       YES. THESE APPEAR TO BE THE SECURITIES.

5           Q       IS THERE SOME INDICATION ON THE SECURITIES  
6 STATEMENT OF THAT ACCOUNT, AS TO WHEN THE MONEY FIRST WENT  
7 IN?

8           A       YES. THAT WAS ON THE 27TH OF FEBRUARY.

9           Q       AND HOW MUCH WAS THAT?

10          A       THAT WAS \$125,000.

11          Q       SO, DO YOU KNOW WHAT ACCOUNTED FOR THE DELAY  
12 BETWEEN THE DOCUMENTS BEING SIGNED JANUARY 11 AND MONEY GOING  
13 INTO EITHER SIDE OF THIS ACCOUNT ON FEBRUARY 27TH?

14          A       NO, I DON'T.

15          Q       THE FIRST STATEMENT ON EITHER SIDE OF THE ACCOUNT  
16 IS FOR THE MONTH OF FEBRUARY, 1984?

17          A       YES. THAT'S CORRECT.

18          Q       AND THE FIRST ACTIVITY ON EITHER OF THOSE  
19 STATEMENTS IS FEBRUARY 27?

20          A       YES. THE INITIAL DEPOSIT IN THE SECURITIES  
21 ACCOUNT.

22          Q       AND WHAT HAPPENED TO THE COMMODITIES SIDE OF  
23 THIS ACCOUNT IN THE MONTH OF FEBRUARY, 1984?

24          A       THERE WAS THE RECEIPT OF THE \$125,000 FROM THE  
25 SECURITIES ACCOUNT. IT SHOWS THAT BEING TRANSFERRED IN.  
26 THEN ON FEBRUARY 28, THERE WAS A SHORT SALE OF 110 CONTRACTS  
27 OF DECEMBER EURO-DOLLARS AND THE PURCHASE OF 110 CONTRACTS  
28 OF JUNE EURO-DOLLARS.

1 Q WHAT WAS THE NET EFFECT OF THAT ACTIVITY IN THE  
2 MONTH OF FEBRUARY?

3 A THERE WAS A LOSS IN THE ACCOUNT OF \$5,250.

4 Q AND THAT IS BASICALLY ALL OCCURRING IN ONE DAY,  
5 CORRECT?

6 A YES.

7 Q AND IN MARCH, IN THE MONTH OF MARCH, WERE THERE  
8 OTHER TRADES MADE IN THAT ACCOUNT?

9 A YES. THEY WERE QUITE A FEW TRADES MADE.

10 Q WERE THEY IN THE NATURE OF EURO-DOLLAR SPREADS?

11 A YES. THERE WERE SOME EURO-DOLLAR SPREADS AND  
12 SOME SPREADS IN CERTIFICATES OF DEPOSIT, CONTRACTS OF FUTURES.

13 Q AND WAS THERE A GAIN OR LOSS IN THE MONTH OF  
14 MARCH, 1984?

15 A THERE WAS A REALIZED GAIN OF \$457.50 AND AN  
16 UNREALIZED LOSS OF \$15,625.

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1 Q DO YOU WANT TO EXPLAIN THE DIFFERENCE BETWEEN  
2 A REALIZED GAIN AND AN UNREALIZED LOSS?

3 A THE RECORDS OF THE ACCOUNTS ARE KEPT DAILY AND  
4 WHEN -- A REALIZED LOSS IS WHEN THE TRANSACTION IS COMPLETED  
5 AND CLOSED OUT. A BUY IS MATCHED UP WITH A SELL, A SELL  
6 IS MATCHED UP WITH A BUY, THE TRANSACTION IS COMPLETED AND  
7 THE GAIN OR LOSSES REALIZED, THE POSITIONS HAVE BEEN CLOSED  
8 OUT.

9 Q AND SO IN MARCH, THERE WERE POSITIONS CLOSED  
10 OUT WHICH RESULTED IN A GAIN TO THE CLIENTS OF \$457, CORRECT?

11 A YES.

12 Q THAT IS MONEYS IN HIS POCKET, APPARENTLY?

13 A NOT NECESSARILY, NO.

14 Q ALL RIGHT. WHY DO YOU SAY THAT?

15 A WELL, THE UNREALIZED LOSSES ARE DEDUCTED FROM  
16 THE ACCOUNT DAILY, SO EVEN THOUGH THERE ARE REALIZED GAINS  
17 HERE, THEY ARE NOT NEARLY ENOUGH TO OFFSET THE UNREALIZED  
18 LOSSES, EVEN THOUGH THESE LOSSES ARE UNREALIZED, THEY ARE  
19 SUBTRACTED FROM THE ACCOUNT DAILY AND THE MONEY IS NO LONGER  
20 THERE.

21 Q HOW MUCH MONEY THEN WAS SUBTRACTED FROM THE ACCOUNT  
22 IN MARCH?

23 A IT WOULD BE THE DIFFERENCE BETWEEN THE UNREALIZED  
24 OF 51,625 AND THE REALIZED OF 457. I AM NOT SURE WHAT THE  
25 EXACT FIGURE IS.

26 Q SO SOMEWHERE SLIGHTLY OVER 51,000?

27 A YES.

28 Q WHEN YOU SAY THE MONEY IS SUBTRACTED FROM THE

1 ACCOUNT DAILY, SUBTRACTED BY WHOM AND WHERE DOES IT GO?

2 A IT IS SUBTRACTED BY THE ACCOUNTING DEPARTMENT  
3 OF E. F. HUTTON AND PAID TO THE COMMODITY CLEARING HOUSE.

4 Q AND IS THAT STANDARD PRACTICE IN THE BROKERAGE  
5 COMMUNITY?

6 A YES, IT IS.

7 Q AND WHEN THERE IS AN UNREALIZED LOSS IN THE  
8 ACCOUNT, DOES E. F. HUTTON REQUIRE THE CLIENT TO PUT UP MORE  
9 MARGIN TO COVER THAT LOSS?

10 A IT WOULD DEPEND ON THE STATUS OF THE ACCOUNT.

11 IF THERE WERE SUFFICIENT FUNDS THERE AT THE TIME,  
12 THERE WOULD BE NO FURTHER MONEY REQUIRED.

13 IF THE LOSSES WERE OF SUFFICIENT AMOUNTS, THERE  
14 WOULD BE A MARGIN CALL AND MORE FUNDS WOULD HAVE TO BE  
15 DEPOSITED.

16 Q DO YOU KNOW WHAT HAPPENED IN THIS CASE IN MARCH  
17 OF 1984?

18 A NO, I CAN'T DETERMINE FROM THE STATEMENTS WHETHER  
19 THERE WERE MARGIN CALLS ISSUED OR NOT.

20 Q WHAT HAPPENED TO THE ACCOUNT IN APRIL OF 1984?

21 A THERE ARE QUITE A FEW PAGES OF TRANSACTIONS HERE.

22 Q WERE THERE SOME POSITIONS TRANSFERRED IN APRIL  
23 FROM SOME OTHER PLACE?

24 A YES, THERE WERE.

25 YOU CAN TELL BY THE DATES OF THE TRANSACTIONS,  
26 THE TRANSACTION HAD TO BE TRANSFERRED IN FROM ANOTHER FIRM.

27 Q AND WHAT WAS TRANSFERRED IN FROM THE OTHER FIRM  
28 TO E. F. HUTTON?

1           A        I CAN SEE VARIOUS CONTRACTS OF SEPTEMBER, EURO-  
2 DOLLAR FUTURES, BECAUSE THE TRADE DATE IS DECEMBER OF '83  
3 AND THIS ACCOUNT WAS NOT ESTABLISHED AT E. F. HUTTON IN 1983,  
4 SO THOSE POSITIONS HAD TO COME FROM ANOTHER FIRM.

5                    IT IS KIND OF SCATTERED AROUND, THE TRANSACTIONS.  
6                    DO YOU WANT ME TO IDENTIFY ALL OF THEM?

7           Q        I DON'T -- I NEED YOU TO IDENTIFY THE SPECIFIC  
8 TRANSACTIONS, AS MUCH AS -- I DON'T NEED YOU TO IDENTIFY  
9 THE SPECIFIC TRANSACTION AS MUCH AS TELL ME THE POSITIONS  
10 THAT CAME OVER.

11                    IN ADDITION TO THE POSITIONS THAT CAME OVER  
12 FROM ANOTHER BROKERAGE HOUSE, WAS SOME CASH TRANSFERRED INTO  
13 THE ACCOUNT?

14                    DO YOU SEE A STATEMENT PAGE OF APRIL 1ST TO  
15 APRIL 30TH, STATEMENT, PAGE 1?

16           A        YES, I SEE CHECKS BEING DEPOSITED.

17                    I CAN'T REALLY TELL WHERE THEY ARE FROM --

18           Q        OKAY. WAS THERE A CHECK RECEIVED FOR AN AMOUNT  
19 OF SIX HUNDRED SOME ODD THOUSAND DOLLARS?

20           A        YES, THAT WAS RECEIVED ON THE 27TH OF THE MONTH.

21           Q        AND WHAT WAS THE AMOUNT OF THAT CHECK?

22           A        THERE IS A CHECK ON THE 27TH FOR \$650,716.35.

23           Q        \$650,716.35?

24           A        YES.

25           Q        AND WAS THERE ALSO ANOTHER CHECK RECEIVED ON  
26 THE 27TH OF APRIL?

27           A        YES, IN THE AMOUNT OF \$40,733 EVEN.

28           Q        AND THESE POSITIONS THAT WERE APPARENTLY TRANSFERRED

1 OVER, WERE THEY LIQUIDATED IN THE MONTH OF APRIL?

2 A SOME OF THEM WERE LIQUIDATED.

3 SOME OF THEM WERE HELD OPEN.

4 Q AND OF THE POSITIONS THAT WERE --

5 WELL, WHAT WAS THE NET GAIN OR LOSS IN THE ACCOUNT

6 AT THE END OF APRIL OF 1984?

7 A THERE WAS AN UNREALIZED LOSS OF \$55,375 AND

8 REALIZED LOSSES OF SIXTY-FIVE THOUSAND FOUR -- \$654,633.58.

9 Q \$654,000?

10 A AND \$633.58 OF REALIZED LOSSES.

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-1 1 Q SO THAT WHEN YOU SAY REALIZED LOSSES, THOSE ARE  
2 POSITIONS THAT WERE CLOSED OUT DURING THAT MONTH THAT RESULTED  
3 IN LOSS TO THE CLIENT?

4 A YES.

5 Q AND THE OPEN POSITIONS WERE ALSO IN A LOSS  
6 POSITION OF ANOTHER \$55,375?

7 A YES. THAT'S CORRECT.

8 Q WHAT HAPPENED THE NEXT MONTH IN MAY OF 1984?

9 A THERE WERE FUNDS TRANSFERRED IN FROM THE  
10 COMMODITY ACCOUNT TO THE SECURITIES ACCOUNT.

11 Q IN TERMS OF THE GAIN OR LOSS IN THE ACCOUNT, WHAT  
12 HAPPENED?

13 A THERE WERE REALIZED LOSSES OF \$57,018.73 AND  
14 UNREALIZED LOSSES OF \$13,475.

15 Q THIRTEEN THOUSAND --

16 A FOUR HUNDRED SEVENTY-FIVE DOLLARS.

17 Q AND WAS THE ACCOUNT STILL OPEN INTO JUNE OF 1984?

18 A YES IT WAS.

19 Q WHAT HAPPENED AT THAT TIME?

20 A IT APPEARS THAT ALL OF THE POSITIONS WERE CLOSED  
21 OUT. THERE WAS A REALIZED LOSS IN JUNE OF \$15,239.84.

22 Q FIFTEEN THOUSAND HOW MUCH?

23 A \$15,239.84. AND THE REMAINING BALANCE IN THE  
24 ACCOUNT WAS PAID OUT.

25 Q HOW MUCH WAS THAT?

26 A THAT WAS \$7,535.47.

27 Q AND DID THAT CLOSE THE ACCOUNT BY THE END OF JUNE?

28 A YES. THE ACCOUNT WAS FLAT. NO MONEY, NO POSITIONS.

1 Q AND SO FROM APRIL UNTIL JUNE OF 1984, WHAT WAS  
2 THE LOSS ON THIS ACCOUNT?

3 A THE LOSS WAS \$726,434.65.

4 Q THAT IS AT THE CLOSE OF THE ACCOUNT?

5 A YES.

6 MR. WAPNER: THANK YOU. NOTHING FURTHER.  
7

8 CROSS-EXAMINATION

9 BY MR. BARENS:

10 Q IN LOOKING AT THOSE RECORDS, WOULD IT BE A FAIR  
11 STATEMENT THAT ALL OF THE MONEY, THE SUM OF \$726,000 THAT  
12 WAS LOST, WAS LOST AS A RESULT OF MARKET CONDITIONS?

13 A WELL, WHAT DOES THAT MEAN?

14 Q WELL, THE MARKET WENT DOWN INSTEAD OF GOING UP?

15 THE COURT: WELL, IF YOU SELL SHORT, THEN YOU ARE MAKING  
16 A LOT OF MONEY. ISN'T THAT TRUE?

17 THE WITNESS: YES. MONEY CAN BE MADE WHETHER THE MARKET  
18 GOES UP OR DOWN.

19 Q BY MR. BARENS: WAS IT LOST IN TRADING?

20 A YES IT WAS.

21 Q OKAY. IT DOESN'T LOOK LIKE ANYBODY MADE OFF WITH  
22 THE MONEY? IT WAS ALL -- THE WHOLE \$726,000 WAS LOST IN THE  
23 MARKETPLACE? YOU DON'T SEE ANYTHING THERE THAT SHOWS YOU  
24 THAT SOMEBODY BACK-DOORED THE MONEY, STOLE THE MONEY, TOOK  
25 IT OUT?

26 A THERE WERE WITHDRAWALS FROM THE ACCOUNT. BUT  
27 THE LOSSES WERE PAID TO THE CLEARING HOUSE, NOT TO THE  
28 INDIVIDUALS.



1 MR. BARENS: THANK YOU, SIR. IF WE KNEW WHEN TO SELL  
2 SHORT, NONE OF THIS WOULD HAVE HAPPENED.

3 MR. WAPNER: MAY I HAVE A MOMENT?

4 THE COURT: YES.

5 (BRIEF PAUSE.)

6 MR. BARENS: I COULD HAVE BEEN A DOCTOR.

7  
8 REDIRECT EXAMINATION

9 BY MR. WAPNER:

10 Q IN BETWEEN THE MONTHS OF FEBRUARY AND MAY OF 1984,  
11 WAS THIS ACCOUNT IN A LOSS POSITION?

12 A YES IT WAS.

13 Q AND BASICALLY, IT WAS IN A LOSS POSITION FROM  
14 THE TIME IT WAS OPENED UNTIL THE TIME IT WAS CLOSED?

15 A YES, FROM THE VERY FIRST DAY.

16 Q THAT WAS FROM THE BEGINNING OF FEBRUARY WHEN IT  
17 LOST \$5,000 IN ONE DAY?

18 A YES.

19 Q I WANT TO SHOW YOU A STATEMENT WE HAVE MARKED  
20 AS 190 FOR IDENTIFICATION, WHICH IS A STATEMENT ON A COMPANY  
21 CALLED FINANCIAL FUTURES TRADING CORPORATION. IT IS DATED  
22 JUNE 18, 1984.

23 MR. BARENS: IS THIS REDIRECT, YOUR HONOR?

24 THE COURT: DO YOU WANT TO REOPEN?

25 MR. WAPNER: PLEASE.

26 THE COURT: ALL RIGHT. I WILL PERMIT YOU TO REOPEN.  
27  
28

## 1 DIRECT EXAMINATION (REOPENED)

2 BY MR. WAPNER:

3 Q IT SAYS "DISTRIBUTION OF QUARTER FEBRUARY 15 TO  
4 MAY 15."5 AND THERE WAS A PROFIT OF \$9,969.02. DO YOU SEE  
6 THAT?7 A I SEE IT AS A DISTRIBUTION. I DON'T SEE IT  
8 DESIGNATED AS A PROFIT.9 Q ALL RIGHT. AND IF THAT WAS A DISTRIBUTION THAT  
10 WAS SUPPOSED TO BE A PROFIT ON THIS ACCOUNT, COULD THAT MONEY  
11 HAVE BEEN INVESTED IN THE ACCOUNT YOU ARE TELLING US ABOUT?12 A NO. THE ACCOUNT RECORDS OF E. F. HUTTON SHOW  
13 THERE WAS NO PROFITS.

14 MR. WAPNER: THANK YOU. NOTHING FURTHER.

15 MR. BARENS: YOUR HONOR?

16 THE COURT: YES.

17

18

## 18 CROSS-EXAMINATION

19 BY MR. BARENS:

20 Q MR. LE BEAU, IS THERE ANYTHING ON PEOPLE'S 190,  
21 THAT IN ANY WAY SAYS OR REPRESENTS THAT THAT HAS ANYTHING  
22 TO DO WITH E. F. HUTTON?

23 A NO.

24 Q IS THERE ANYTHING ON THAT RECEIPT THAT SAYS IT  
25 HAS ANYTHING TO DO WITH THE TRADES OR ACTIVITIES IN THE ACCOUNT  
26 YOU HAVE BEEN MAKING REFERENCE TO DURING YOUR TESTIMONY?

27 A NO.

28 MR. BARENS: THANK YOU, SIR.

1 THE COURT: ANYTHING FURTHER?

2 MR. WAPNER: NO.

3 THE COURT: THANK YOU VERY MUCH. YOU WILL BE EXCUSED.

4 MR. WAPNER: WOULD IT BE AN APPROPRIATE TIME FOR A  
5 BREAK, YOUR HONOR?

6 THE COURT: WHAT?

7 MR. WAPNER: WOULD IT BE APPROPRIATE TIME FOR A BREAK?

8 THE COURT: SURE.

9 LADIES AND GENTLEMEN OF THE JURY, WE WILL TAKE  
10 A 15-MINUTE RECESS AT THIS TIME.

11 THE SAME ADMONITION I HAVE BEEN GIVING YOU WILL  
12 STILL APPLY.

13 MR. BARENS: COULD WE SEE YOUR HONOR BRIEFLY?

14 THE COURT: SURE.

15 (THE FOLLOWING PROCEEDINGS WERE HELD  
16 AT THE BENCH WITHOUT THE PRESENCE AND  
17 HEARING OF THE JURY:)

18 MR. BARENS: JUDGE, YOUR HONOR, MY INQUIRY GOES TO  
19 A LOGISTICS PROBLEM I HAVE. I HAVE, WITHIN THE PAST 24 HOURS,  
20 SERVED A VERY IMPORTANT DEFENSE WITNESS.

21 THE COURT: IN THIS CASE?

22 MR. BARENS: YES, SIR. IT IS THE ONLY CASE I AM TRYING  
23 RIGHT NOW, JUDGE.

24 THE DEFENSE WITNESS INSISTS ON HAVING HIS COUNSEL  
25 PRESENT, ALONG WITH ANOTHER PERSON, WHO I AM NOT SURE EXACTLY  
26 WHAT THEIR CAPACITY IS, BEFORE THEY WILL SPEAK TO ME.

27 I CAN ONLY TELL YOU THIS IS A VERY IMPORTANT  
28 DEFENSE WITNESS.

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THE COURT: DOSTI?

MR. BARENS: NO, SIR.

MR. WAPNER: NO. IT IS PROBABLY MR. PACILIO.

MR. BARENS: SIR, I DON'T KNOW WHY YOU WOULD SAY DOSTI.

THE COURT: WELL, I DON'T KNOW. HE IS A VERY IMPORTANT WITNESS. DIDN'T YOU INDICATE THAT TO ME AT ONE TIME?

MR. BARENS: NO, SIR. I TOLD YOU I HAD NEVER MADE A DECISION ON WHETHER I WAS GOING TO CALL DOSTI OR NOT.

THE COURT: THAT IS WHAT I THOUGHT, BECAUSE YOU HAD TOLD ME IT WAS A VERY IMPORTANT WITNESS AND THAT IS WHY I SUSPECTED IT MIGHT BE HE.

IT DOESN'T MAKE ANY DIFFERENCE. I JUST THOUGHT IT MIGHT BE HE BECAUSE YOU TALKED ABOUT YOU MIGHT BE HAVING HIM.

1 MR. BARENS: THE WITNESS, OTHER THAN MR. DOSTI, TELLS  
2 ME HE ASSERTS HE WILL NOT MEET WITH ME WITHOUT COUNSEL AND  
3 ANOTHER PERSON PRESENT WITH HIM AT THEIR BUSINESS OFFICES.  
4 THEY TOLD ME THEY WILL ONLY GIVE ME A WINDOW OF 2:00  
5 O'CLOCK TOMORROW OR FOREVER MORE I CANNOT SPEAK TO THEM PRIOR  
6 TO TRIAL.

7 THE COURT: WHY DON'T YOU MAKE IT ON FRIDAY?

8 MR. BARENS: WELL, THEY WOULDN'T.

9 THE COURT: IF YOU WILL TELL ME WHO THEY ARE, I WILL  
10 ARRANGE IT FOR FRIDAY.

11 MR. BARENS: THEY WILL NOT DO IT WITH ME.

12 THE COURT: WHY NOT?

13 MR. BARENS: THEY HAVE ADAMANTLY TOLD US, OR A  
14 REPRESENTATIVE OF THE DEFENSE --

15 THE COURT: WHY DON'T YOU CALL THEM UP AND ASK THEM  
16 ANY TIME ON FRIDAY, AT ANY TIME, THAT YOU WOULD MAKE YOURSELF  
17 AVAILABLE?

18 MR. BARENS: WE ASKED THAT.

19 THE COURT: DID YOU ASK THAT?

20 MR. BARENS: YES.

21 WE SAID WE WOULD MEET ANY TIME OTHER THAN WHILE  
22 WE ARE IN COURT.

23 WE WERE TOLD, IT WAS ONE OF THESE KIND OF ADAMANT  
24 TYPE SITUATIONS WHERE OUR REPRESENTATIVE WAS TOLD, YOU KNOW,  
25 EITHER DO IT TOMORROW AT 2:00 O'CLOCK OR IT IS NOT GOING  
26 TO BE DONE AND THAT IS IT. "I AM NOT HAPPY", YOU KNOW,  
27 ONE OF THOSE -- NOT NECESSARILY UNHAPPY WITH THE DEFENSE,  
28 YOUR HONOR, BUT JUST UNHAPPY AT HAVING TO BE A WITNESS.

1 THE COURT: WELL, DID YOU SUBPOENA HIM?

2 MR. BARENS: YES, WE DID, YOUR HONOR.

3 THE COURT: WELL, HE WILL HAVE TO SHOW UP.

4 MR. BARENS: I REALIZE THAT.

5 I WOULD LIKE TO HAVE AN OPPORTUNITY TO INTERVIEW  
6 THE WITNESS BEFORE HIS TESTIMONY.

7 THE COURT: WELL, YOU CAN INTERVIEW HIM BEFORE HE  
8 TESTIFIES.

9 MR. BARENS: WELL, I AM HOPING, YOUR HONOR, TO BE AS  
10 SMOOTH AS I CAN IN PUTTING FORTH MY WITNESSES DURING THE  
11 PROCEEDINGS.

12 THE COURT: YOU CAN SUBPOENA HIM AND HAVE HIM APPEAR  
13 ANY TIME THAT YOU WANT IN THIS COURTROOM, HE HAS GOT TO OBEY  
14 THE SUBPOENA, AND TELL HIS LAWYER TO BE HERE, HE WILL TELL  
15 HIS LAWYER THAT HE HAS BEEN SUBPOENAED AND THE LAWYER WILL  
16 COME DOWN WITH HIM. I WILL SET ASIDE A TIME FOR YOU TO TALK  
17 TO THE LAWYER AND HIM.

18 MR. BARENS: ALL RIGHT, YOUR HONOR.

19 THE COURT: ALL RIGHT. YOU DON'T HAVE TO GO OVER TO  
20 HIS OFFICES IF YOU DON'T WANT TO.

21 MR. BARENS: ALL RIGHT, THAT WILL BE OKAY. IF YOUR  
22 HONOR IS PERMITTING US TO HAVE A LITTLE OPPORTUNITY TO INTER-  
23 VIEW HIM BEFORE TESTIMONY?

24 THE COURT: WHY SURE.

25 MR. BARENS: AND PERHAPS IF HE HAS TO APPEAR ON A DAY  
26 LESS THAN CONVENIENT, I CAN RETAIN HIM ON CALL.

27 THE COURT: SUPPOSE HE DOESN'T WANT TO TALK TO YOU?

28 MR. BARENS: WELL, IF HE DOESN'T, HE DOESN'T.

1 THE COURT: YOU CAN HAVE HIM SUBPOENAED.

2 MR. BARENS: COULD I HAVE ONE MOMENT?

3 (UNREPORTED COLLOQUY BETWEEN MR. BARENS  
4 AND MR. CHIER.)

5 MR. BARENS: JUDGE, I AM TOLD THAT I SHOULD HAVE SOME  
6 CONCERN THAT THE RULES OF PROFESSIONAL CONDUCT PRECLUDE ME  
7 FROM USING A SUBPOENA TO INTERVIEW A WITNESS PRIOR TO  
8 TESTIMONY, BUT I THINK YOUR HONOR WILL OVERLOOK IT FOR THE  
9 MOMENT.

10 THE COURT: WELL, IF YOU CAN GET HIM IN ONLY BY SUBPOENA,  
11 GET HIM IN HERE.

12 MR. BARENS: ALL RIGHT, THANK YOU.

13 THE COURT: DOESN'T THAT ANSWER THE QUESTION?

14 MR. BARENS: QUITE SO.

15 ALTHOUGH I WILL ATTEMPT, FOR THE RECORD, TO HAVE  
16 MR. CHIER AVAILABLE TO SEE HIM AT 2:00 TOMORROW.

17 THE COURT: THAT WOULD BE BETTER EVEN IF WE CAN GET  
18 HIM OUT OF HERE.

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

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5 HANNELORE LEIS,  
6 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED  
7 AS FOLLOWS:

8 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY  
9 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL  
10 BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO  
11 HELP YOU GOD?

12 THE WITNESS: I DO.

13 THE CLERK: PLEASE BE SEATED. STATE AND SPELL YOUR  
14 NAME FOR THE RECORD.

15 THE WITNESS: HANNELORE LEIS. H-A-N-N-E-L-O-R-E,  
16 L-E-I-S.

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18 DIRECT EXAMINATION

19 BY MR. WAPNER:

20 Q MS. LEIS, DO YOU KNOW THE DEFENDANT IN THIS CASE?

21 A YES I DO.

22 Q HOW DO YOU KNOW HIM?

23 A I USED TO WORK FOR HIM.

24 Q IN WHAT CAPACITY?

25 A I WAS HIS SECRETARY.

26 Q WERE YOU HIS PERSONAL SECRETARY? OR JUST ALL

27 OF THE BBC?

28 A MOSTLY HIS PERSONAL.



1 Q WHEN DID YOU GO TO WORK FOR HIM?

2 A THE END OF FEBRUARY, 1984.

3 Q WHEN AT THE END OF FEBRUARY?

4 A IT WAS THE LAST WEEK OF FEBRUARY. I DON'T KNOW  
5 THE EXACT DATE.

6 Q WHERE WAS THE OFFICE LOCATED THAT YOU WORKED AT?

7 A 8425 WEST THIRD STREET.

8 Q WHEN YOU WENT TO WORK FOR MR. HUNT, DID YOU HAVE  
9 ANY DUTIES WITH RESPECT TO THE PEOPLE WHO INVESTED MONEY WITH  
10 HIM?

11 A YES. I TOOK THEIR INVESTMENTS AND I GAVE THEM  
12 RECEIPTS FOR IT.

13 Q AND OTHER THAN TAKING THE INVESTMENTS AND GIVING  
14 THEM -- WELL, LET ME GO BACK A LITTLE BIT.

15 WHEN YOU FIRST GOT THERE, WAS THERE ANY SYSTEM  
16 IN PLACE FOR KEEPING TRACK OF THE INVESTMENTS?

17 A NOT REALLY. I MEAN, JOE HUNT KEPT TRACK OF THEM  
18 AS FAR AS I KNEW. HE HANDED OVER WHAT HE HAD TO ME, TO  
19 ORGANIZE IT.

20 Q WHEN HE GAVE IT TO YOU, WHAT DID YOU DO?

21 A I STARTED MAKING UP FILES FOR EACH INVESTOR. AND  
22 WE STARTED MAKING STATEMENTS RETROACTIVE TO NOVEMBER OF '83.

23 Q WERE THERE PERIODS WHEN THERE WERE DISBURSEMENTS  
24 DUE TO THE INVESTORS?

25 A YES. THEY WERE QUARTERLY, EVERY THREE MONTHS.

26 Q BEFORE THE STATEMENTS WENT OUT TO THE INVESTORS,  
27 WAS THERE SOMETHING THAT WAS SENT TO THE INVESTORS ASKING  
28 THEM WHETHER OR NOT THEY WANTED TO TAKE THE MONEY OR ROLL

1 IT OVER, SO TO SPEAK?

2 A YES. WE DECIDED TO MAKE UP A LETTER, SENDING  
3 IT TO THE INVESTORS, ASKING THEM IF THEY WANTED TO ROLL OVER  
4 THE MONEY OR IF THEY WANTED TO GET PAID OUT.

5 Q AND SHOWING YOU THE DOCUMENT THAT WE HAVE MARKED  
6 AS 194 FOR IDENTIFICATION, DO YOU RECOGNIZE THAT?

7 A YES.

8 Q WHAT IS IT?

9 A THAT IS THE LETTER THAT WENT OUT TO THE INVESTORS  
10 ASKING THEM.

11 Q WHAT DID IT ASK THEM?

12 A WE ASKED THEM IF THEY WOULD LIKE THEIR PROFITS  
13 MAILED TO THEM, WOULD THEY LIKE TO REINVEST THEIR PROFITS  
14 OR IF THEY HAVE ANY OTHER WISHES. WE ASKED THEM TO SEND THIS  
15 BACK TO US AS SOON AS THEY WOULD KNOW.

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1 Q WHAT IS THE DATE ON THAT LETTER?

2 A THE DATE ON THIS ONE IS JULY 18, 1984.

3 Q FOR WHAT QUARTER DID THAT REFER TO? TO WHAT  
4 QUARTER DID THAT REFER?

5 A THAT WOULD BE FOR THE AUGUST 15 QUARTER.

6 Q SO IN JULY, YOU SENT OUT A STATEMENT ASKING THE  
7 INVESTOR TO TELL YOU WHETHER HE WANTED TO TAKE HIS MONEY  
8 OUT OR LEAVE IT IN FOR THE COMING QUARTER?

9 A EXACTLY.

10 Q AND DID YOU GET ALL OR MOST OF THOSE STATEMENTS  
11 BACK BEFORE ANY STATEMENTS WERE SENT OUT?

12 A YES.

13 Q TO THE INVESTORS?

14 A YES, MOST OF THE TIME. IF NOT, I WOULD CALL THEM  
15 OR CHECK WITH THEM.

16 Q AND AT THE TIME -- WHEN THE TIME CAME FOR THE  
17 QUARTER DISTRIBUTIONS, WHAT WAS YOUR RESPONSIBILITY WITH  
18 RESPECT TO MAKING THE STATEMENTS?

19 A WELL, I WAS FIGURING OUT ACTUALLY, HOW MUCH THE  
20 PROFITS WERE.

21 Q AND THE STATEMENTS, THE PROFITS THAT YOU WERE  
22 FIGURING OUT, WAS THAT ON THE STEVE WEISS FAMILY ACCOUNT?

23 A YES, IT WAS.

24 Q DID YOU HAVE ANYTHING TO DO WITH THE STATEMENTS  
25 SENT OUT TO THE INVESTORS ON ANY OTHER ACCOUNT?

26 A NO I DID NOT.

27 Q SO SPECIFICALLY WITH RESPECT TO PEOPLE WHO  
28 INVESTED IN THE STEVE WEISS FAMILY ACCOUNT, HOW DID YOU GO

5-5 1 ABOUT MAKING THE MONTHLY STATEMENTS?

2 A QUARTERLY STATEMENTS.

3 Q THANK YOU VERY MUCH. QUARTERLY STATEMENTS?

4 A I WOULD ASK JOE HUNT TO GIVE ME THE FIGURE, TO  
5 MULTIPLY WITH, TO FIGURE OUT THE PROFITS.

6 AND IT WAS DONE BY COUNTING THE DAYS THAT THEIR  
7 MONEY WAS INVESTED AND THEN I WOULD MAKE UP A STATEMENT.

8 Q JOE HUNT WOULD GIVE YOU THE FIGURE TO CALCULATE  
9 THE PROFITS?

10 A YES.

11 Q CAN YOU EXPLAIN THAT, PLEASE? WELL, LET ME --  
12 LET'S BACK UP FOR A SECOND AND TRY TO DO THIS IN A SOMEWHAT  
13 ORDERLY FASHION.

14 FIRST OF ALL, I WANT TO SHOW YOU A DOCUMENT WE  
15 HAVE MARKED AS 187 FOR IDENTIFICATION. DO YOU RECOGNIZE THAT?

16 A YES.

17 Q NOW, THAT DOCUMENT IS DATED MARCH 1ST, CORRECT?

18 A RIGHT.

19 Q YOU GOT TO THE BBC SOMETIME AT THE END OF FEBRUARY?

20 A RIGHT.

21 Q DO YOU REMEMBER WHETHER OR NOT YOU PREPARED THESE  
22 DOCUMENTS THAT ARE DATED MARCH 1ST?

23 A YES. I PREPARED THAT.

24 Q AND ON THAT DOCUMENT, THERE ARE SEVERAL THINGS  
25 THAT ARE LISTED IN TERMS OF FACTUAL INFORMATION, RIGHT?

26 A RIGHT.

27 Q FIRST OF ALL, THERE IS THE SECTION WHERE IT SAYS  
28 "DEPOSITS AND WITHDRAWALS"?

1           A       RIGHT.

2           Q       AND UNDER THAT, IT HAS A DATE AND THEN THE TYPE,  
3 CORRECT?

4           A       RIGHT.

5           Q       AND THEN IT HAS A LIST OF DATES AND A LIST OF  
6 AMOUNTS, IS THAT RIGHT?

7           A       RIGHT.

8           Q       AND THE THIRD ONE ON THIS LIST IS FEBRUARY THE  
9 15TH, WHICH INDICATES PROFIT THAT WAS DISTRIBUTED?

10          A       YES.

11          Q       ALL RIGHT. NOW, ON THE FIRST TWO ITEMS ON THAT  
12 LIST, FEBRUARY THE 2ND AND FEBRUARY THE 14TH, IT INDICATES  
13 AMOUNTS OF INVESTMENTS.

14                   WHERE DID YOU GET THAT INFORMATION FROM TO PUT  
15 THIS SHEET?

16          A       WELL, I WOULD HAVE GOTTEN THAT FROM JOE HUNT.  
17 HE GAVE ME THE INFORMATION.

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1 Q AND THE THIRD LINE WHERE IT SAYS THE AMOUNT OF  
2 PROFIT, HOW DID YOU DETERMINE WHAT THE AMOUNT OF PROFIT WAS  
3 TO BE?

4 A IN THIS PARTICULAR CASE IF YOU ARE TALKING ABOUT  
5 THIS PARTICULAR ONE, OKAY, THIS WAS DEPOSITED, WITHHELD,  
6 2-15-84. I CANNOT RECALL IF I FIGURED THAT ONE OUT OR IF  
7 JOE HUNT DID. I DO NOT KNOW. I DON'T REMEMBER.

8 Q WHEN YOU SAY IF YOU FIGURED IT OR HE DID, WHAT  
9 DO YOU MEAN BY THAT?

10 A WELL, AS I MENTIONED BEFORE, THAT EACH TIME WHEN  
11 IT WAS TIME TO FIGURE OUT THE PROFITS, JOE HUNT WOULD GIVE  
12 ME A NUMBER TO CALCULATE, ET CETERA, TO FIGURE OUT THE PROFITS.

13 BUT THIS TIME, I WAS THERE ONLY FOR SUCH A SHORT  
14 TIME, I DO NOT KNOW IF I HAD TIME -- IF HE HAD DONE IT OR  
15 HE JUST GAVE ME THE FIGURE AND I WROTE IT IN OR I ACTUALLY  
16 FIGURED IT OUT. I REALLY CAN'T REMEMBER.

17 Q IN TERMS OF HIM GIVING YOU THE FIGURE, WHERE  
18 IT SAYS "PROFIT" ON THAT STATEMENT, WHICH IS FOUR HUNDRED  
19 SIXTY-SIX DOLLARS AND SOME ODD CENTS, ARE YOU SAYING HE MAY  
20 HAVE JUST GIVEN YOU THAT NUMBER AND SAY "PUT THAT IN THERE"?

21 A NO, I WOULDN'T SAY THAT.

22 HE PROBABLY -- HE PROBABLY FIGURED IT OUT, LIKE  
23 HE TOLD ME LATER ON TO FIGURE IT OUT.

24 Q OKAY. BUT IT CAME FROM HIM?

25 A YES.

26 Q ALL RIGHT. AND THE PORTION OF THAT STATEMENT  
27 WHERE IT SAYS "AVERAGE MONTHLY RETURN," WHICH IS 17.69 PERCENT?

28 A RIGHT.

1 Q WHERE DID THAT INFORMATION COME FROM?

2 A JOE GAVE THAT TO ME.

3 Q NOW, IN THE LATER STATEMENTS, AN EXAMPLE WHICH  
4 IS PEOPLE'S 197 FOR IDENTIFICATION, THE FORMAT IS SLIGHTLY  
5 DIFFERENT, CORRECT?

6 A YES.

7 Q AND ON THIS ONE WHICH WENT TO A STEVEN WEISS,  
8 IT INDICATES DISTRIBUTION FOR THE QUARTER, HOW MUCH AND GIVES  
9 AN AMOUNT OF 64,000, CORRECT?

10 A RIGHT.

11 Q AND IN FIGURING OUT -- AND IT SAYS THAT THAT  
12 IS A REINVESTMENT, CORRECT?

13 A RIGHT.

14 Q NOW, IN COMING TO THAT \$64,000 FIGURE ON THE  
15 JUNE STATEMENT, HOW DID YOU ARRIVE AT THAT FIGURE?

16 A THE SAME AS ALWAYS.

17 Q YOU SAID THAT JOE WOULD GIVE YOU A FIGURE AND  
18 YOU WOULD CALCULATE IT?

19 A UH-HUH.

20 Q IS THAT YES?

21 A YES.

22 Q DID HE GIVE YOU A PERCENTAGE OR SOMETHING OR  
23 TELL YOU TO MULTIPLY IT? CAN YOU EXPLAIN TO THE JURY WHAT  
24 YOU DID ACTUALLY?

25 A I CAN'T QUITE REMEMBER HOW I DID IT.

26 HE GAVE ME A FIGURE.

27 I HAD TO FIGURE OUT HOW MUCH MONEY WAS IN THE  
28 ACCOUNT FROM THE LAST STATEMENT, LIKE I SAID, FROM THE 15TH

1 OF THE PRIOR QUARTER, AND HOW TO CALCULATE IT LIKE WITH THAT  
2 FIGURE, COUNTING THE DAYS, HOW MUCH MONEY WAS IN FOR HOW  
3 MANY DAYS.

4 Q AND DID YOU KNOW WHERE HE GOT THE FIGURE FROM --

5 A NO.

6 Q -- TO INDICATE WHAT THE PROFIT WAS?

7 A NO, I DON'T KNOW.

8 Q DID YOU DO THAT WITH EACH STATEMENT THAT YOU  
9 PREPARED?

10 A YES.

11 Q THE STATEMENT, YOU ACTUALLY PREPARED THE  
12 STATEMENT, RIGHT?

13 A I DID, YES.

14 Q AND DID YOU CONTINUE TO WORK IN THE OFFICE  
15 THROUGH SEPTEMBER AND OCTOBER OF 1984?

16 A YES, I DID.

17 Q IN SEPTEMBER OF 1984, DID MR. HUNT ASK YOU TO  
18 COMPILE A LIST OF ALL OF THE INVESTORS AND WHAT THEY HAD  
19 INVESTED?

20 A YES.

21 Q AND WHAT WAS THE PURPOSE OF DOING THAT, DO YOU  
22 KNOW?

23 A HE DIDN'T TELL ME.

24 Q AND WHAT DID HE ASK YOU TO DO SPECIFICALLY?

25 A WELL, HE TOLD ME HE WANTED TO COMPILE A LIST,  
26 LIKE HOW MUCH THE INVESTORS INVESTED, WHEN THEY INVESTED,  
27 HOW MUCH WAS PAID OUT, WHAT THE NET INVESTMENT WAS, WHAT  
28 THE TOTAL PROFITS WERE.



1           Q       ALL RIGHT, SLOW DOWN A LITTLE BIT. LET'S GO  
2 OVER THAT.

3           A       OKAY.

4           Q       HE TOLD YOU THAT HE WANTED YOU TO MAKE A LIST,  
5 CORRECT?

6           A       RIGHT.

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1 Q NOW ONE BY ONE, TELL US THE THINGS THAT HE WANTED  
2 YOU TO PUT ON THE LIST.

3 A HE WANTED TO HAVE ON THE LIST PER INVESTOR, HOW  
4 MUCH MONEY THEY INVESTED, WHAT DATE THEY INVESTED.

5 Q OKAY. HOW MUCH THEY PUT IN?

6 A RIGHT.

7 Q AND WHEN THEY PUT IT IN, RIGHT?

8 A RIGHT.

9 Q WAS THIS FOR THE STEVE WEISS FAMILY ACCOUNT?

10 A YES.

11 Q HOW MUCH THEY PUT IN, WHEN THEY PUT IT IN?

12 A RIGHT.

13 Q WHAT WAS THE NEXT THING?

14 A HOW MUCH WAS PAID OUT, DISTRIBUTED TO THEM, PROFITS.

15 Q HOW MUCH THAT MR. HUNT HAD ACTUALLY PAID OUT  
16 TO THEM?

17 A PAID OUT, RIGHT.

18 Q WHAT WAS THE NEXT THING?

19 A NET INVESTMENT, MEANING HE WANTED ME TO DEDUCT  
20 WHAT HAS BEEN PAID OUT, THE PROFITS THAT WERE PAID OUT FROM  
21 THE ORIGINAL INVESTMENT.

22 Q AND WHAT ELSE DID HE WANT YOU TO PUT ON THERE?

23 A ALL OF THE PROFITS THAT EACH PERSON HAS MADE  
24 WITH THE INVESTMENT, DISTRIBUTED AND ROLLED OVER.

25 Q ALL THE PROFITS MEANING THE PROFITS HE HAD GIVEN  
26 THEM AND THE PROFITS THEY HAD ALLEGEDLY MADE THAT WERE --

27 A RIGHT.

28 Q -- PLOWED BACK?

1 A RIGHT, REINVESTED.

2 Q PLOWED BACK?

3 AFTER HE ASKED YOU TO DO THAT, DID YOU PREPARE  
4 SUCH A LIST?

5 A I DID.

6 Q WHAT DID YOU USE TO PREPARE THE LIST?

7 A I USED MY -- THE WORK SHEET IN EACH INVESTOR'S  
8 FILE THAT I HAD.

9 Q SO AFTER YOU HAD GOTTEN THIS, YOU CREATED A  
10 FILE FOR EACH INVESTOR THAT HAD A SHEET IN IT WITH THIS  
11 INFORMATION?

12 A RIGHT.

13 Q AND THE ORIGINAL SHEET THAT YOU PREPARED, WHAT  
14 DID YOU DO WITH IT?

15 A YOU MEAN THE LOG SHEET THAT I PREPARED?

16 Q YES, THE ORIGINAL SHEET THAT YOU PREPARED WITH  
17 THIS INFORMATION THAT YOU HAVE JUST TOLD US ABOUT.

18 A WELL, IT WAS IN THE OFFICE AND I MEAN I GAVE  
19 IT TO JOE HUNT.

20 Q YOU ORIGINALLY GAVE IT TO JOE HUNT?

21 A RIGHT.

22 Q IS THAT RIGHT?

23 A YES.

24 Q AT SOME POINT, DID YOU RECEIVE A TELEPHONE CALL  
25 FROM MR. HUNT FROM THE JAIL INDICATING THAT THE OFFICE WAS  
26 GOING TO BE CLOSED AND THAT WAS PRETTY MUCH THE END OF THINGS?

27 A YES.

28 Q AND DID YOU ASSIST IN PACKING UP THE BOXES AND

1 BELONGINGS OF THE BBC?

2 A YES.

3 Q AND DID YOU OBTAIN A COPY OF THAT LIST THAT YOU  
4 HAD PREPARED?

5 A YES.

6 Q AND EVENTUALLY, A COPY OF THAT LIST OR THE COPY  
7 THAT YOU OBTAINED WAS GIVEN TO THE SECURITIES AND EXCHANGE  
8 COMMISSION?

9 A YES.

10 Q AND DID YOU GET FROM THEM A COPY OF WHAT YOU  
11 HAD GIVEN THEM?

12 A RIGHT, YES.

13 MR. WAPNER: YOUR HONOR, I AM SHOWING A COPY THAT I  
14 WOULD LIKE TO HAVE MARKED AS PEOPLE'S 87. IT CONSISTS OF  
15 FIVE PAGES OF XEROX PAPER, APPEARING TO BE SOME KIND OF A  
16 SPREAD SHEET; MAY THAT BE MARKED AS 87 FOR IDENTIFICATION?

17 THE COURT: IT WOULD BE SO MARKED.

18 Q BY MR. WAPNER: SHOWING YOU PEOPLE'S --

19 MR. BARENS: YOUR HONOR, WE HAVE A MOTION TO STRIKE  
20 AS TO THE REFERENCES TO THE SEC AS NOT BEING RELEVANT AND  
21 IN VIOLATION OF 1100 AND 352.

22 THE COURT: THAT WILL BE DENIED.

23 Q BY MR. WAPNER: SHOWING YOU PEOPLE'S 87 FOR  
24 IDENTIFICATION, DO YOU RECOGNIZE THAT?

25 A YES, I DO.  
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-A

1 Q AND WHAT IS IT?

2 A IT IS THE LIST I COMPILED THAT JOE HUNT HAD ASKED  
3 ME TO COMPILE.

4 Q THAT IS THE LIST YOU WERE JUST TALKING TO US ABOUT?

5 A YES.

6 Q THAT IS OF THE STEVE WEISS FAMILY ACCOUNT?

7 A YES IT IS.

8 Q AND DOES THAT LIST INDICATE THE TOTAL AMOUNT THAT  
9 WAS INVESTED BY ALL OF THE PEOPLE WHO INVESTED IN THE STEVE  
10 WEISS FAMILY ACCOUNT?

11 A YES IT DOES.

12 Q AND WHAT IS THE TOTAL AMOUNT THAT WAS INVESTED  
13 BY ALL OF THE PEOPLE IN THAT ACCOUNT?

14 A \$1,584,730.52.

15 Q AND DOES IT INDICATE HOW MUCH MONEY OVER THIS  
16 ENTIRE PERIOD OF TIME WAS DISTRIBUTED OUT TO THE INVESTORS?

17 A \$428,028.18.

18 Q AND THE NEXT THING THAT YOU CALCULATED WAS THE  
19 NET INVESTMENT WHICH WAS HOW MUCH HAD COME VERSUS HOW MUCH  
20 HAD GONE OUT?

21 A LESS HOW MUCH HAD GONE OUT, YES.

22 Q HOW MUCH WAS THAT? WHAT WAS THE NET INVESTMENT?

23 A \$1,156,729.34.

24 Q AND DID HE ALSO ASK YOU TO CALCULATE THE TOTAL  
25 NUMBER OF PROFITS? THAT IS, THAT WAS PAID OUT AS WELL AS  
26 WHAT WAS SUPPOSEDLY ROLLED OVER?

27 A YES.

28 Q WHAT WAS THAT FIGURE?

1           A       \$1,240,374.82 OR 87 CENTS. I CAN'T QUITE READ  
2 IT.

3           Q       DID YOU ALSO CALCULATE WHAT WAS THE TOTAL  
4 INVESTMENT, WHAT WAS THE AMOUNT INVESTED, THE NET INVESTMENT  
5 PLUS ALL OF THE PROFITS?

6           A       YES.

7           Q       WHAT WAS THAT?

8           A       IT WAS \$2,397,104.15.

9           Q       SO THEORETICALLY, THAT 2,397,000 INCLUDED PROFITS  
10 THAT HAD BEEN ROLLED OVER AND SOME THAT HAD ALREADY BEEN PAID  
11 OUT, IS THAT RIGHT?

12          A       RIGHT.

13          Q       AND THAT'S ALL CALCULATED ON THE LAST PAGE OF  
14 YOUR WORKSHEET?

15          A       YES IT IS.

16          Q       AND DID YOU ALSO AT MY DIRECTION, DO A BREAKDOWN  
17 OF HOW MUCH WAS INVESTED BY ALL OF THE INVESTORS EACH MONTH,  
18 EXTRAPOLATING FROM THE LIST THAT IS IN FRONT OF YOU AS  
19 PEOPLE'S 87?

20          A       YES I DID.

21          Q       AND IS THIS THE DOCUMENT, SHOWING YOU THREE PAGES  
22 THAT APPEAR TO BE A GREEN GRAPH-TYPE PAPER THAT YOU PREPARED?

23          A       YES IT IS.

24          Q       AND HOW MUCH?

25                    (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

26          MR. WAPNER: MAY WE APPROACH THE BENCH, YOUR HONOR?

27          MR. BARENS: COULD WE APPROACH THE BENCH WITH THE  
28 DOCUMENT?

1 THE COURT: ALL RIGHT.

2 (THE FOLLOWING PROCEEDINGS WERE HELD

3 AT THE BENCH:)

4 THE COURT: YES?

5 MR. BARENS: I HAVE NOT SEEN THIS SUMMARY AT ALL THAT  
6 WAS PREPARED AT THE PEOPLE'S REQUEST, YOUR HONOR.

7 MR. WAPNER: YOUR HONOR, I AM GETTING A LITTLE BIT  
8 FRUSTRATED. FIRST OF ALL, I HAD A SUMMARY MADE BY THE PEOPLE  
9 IN MY OFFICE FROM THE LIST THAT SHE IS TESTIFYING ABOUT, THAT  
10 IS PEOPLE'S 87.

11 THAT LIST, LIKE 115 OTHER EXHIBITS, HAS BEEN IN  
12 EVIDENCE SINCE MAY OF 1985.

13 THE ONLY REASON THAT I HAD THIS WITNESS DO  
14 SOMETHING THAT I HAD DONE ON MY OWN, IS BECAUSE I DIDN'T WANT  
15 TO CALL A WITNESS FROM THE D.A.'S OFFICE TO TESTIFY ABOUT  
16 THE SAME THING.

17 NONE OF THIS INFORMATION IS A SURPRISE. ALL OF  
18 THIS INFORMATION HAS BEEN AVAILABLE TO THE DEFENSE FOR A YEAR  
19 AND A HALF.

20 THE COURT: IT WILL BE MADE AVAILABLE TO YOU. YOU WILL  
21 HAVE TIME TO CROSS-EXAMINE.

22 MR. BARENS: YOUR HONOR, HOW DO I KNOW WHEN HE STARTS  
23 ON A QUESTION AND WHEN HE PUTS SOMETHING UP THERE SAYING THAT  
24 HE PREPARED IT, WHETHER THE D.A.'S OFFICE HAD IT BEFORE OR  
25 WHAT IT IS? ALL I AM SAYING IS, HOW WOULD I HAVE KNOWN FROM  
26 THE QUESTION?

27 THE COURT: JUST LISTEN TO THE TESTIMONY AND YOU WILL  
28 FIND OUT WHAT IT IS ALL ABOUT.

8-4 1 MR. CHIER: IT COSTS 50 CENTS A PAGE TO HAVE THE  
2 EXHIBITS COPIED.

3 THE COURT: WILL YOU TAKE HIM AWAY FROM HERE? WILL  
4 YOU?

5 (THE FOLLOWING PROCEEDINGS WERE HELD  
6 IN OPEN COURT:)

7 Q BY MR. WAPNER: WILL YOU JUST RUN DOWN FOR US  
8 BY MONTH, HOW MUCH MONEY WAS INVESTED BY THE PEOPLE IN THE  
9 STEVE WEISS FAMILY ACCOUNT STARTING WITH THE FIRST MONTH FOR  
10 WHICH YOU HAVE RECORDS ON PEOPLE'S 87?

11 A JULY 1983, \$69,500.

12 Q \$69,500?

13 A RIGHT.

14 Q AND WAS THERE ANY MONEY AT ALL INVESTED IN AUGUST  
15 OF 1983?

16 A NO.

17 Q HOW MUCH IN SEPTEMBER OF 1983?

18 A SEPTEMBER WAS \$30,000.

19 THE COURT: SEPTEMBER WAS WHAT?

20 THE WITNESS: \$30,000.

21 Q BY MR. WAPNER: AND IN OCTOBER OF 1983?

22 A \$124,000.

23 Q \$124,000 EVEN?

24 A RIGHT.

25 Q AND IN OCTOBER -- EXCUSE ME. IN NOVEMBER OF 1983?

26 A \$108,500.

27 Q AND IN DECEMBER OF 1983?

28 A \$170,500.



-5

1 Q AND HOW MUCH WAS THE TOTAL INVESTED IN THE YEAR  
2 OF 1983 BETWEEN JULY AND THE END OF THE YEAR?

3 A \$502,500.

4 Q AND IN 1984, HOW MUCH WAS INVESTED IN JANUARY?

5 A \$166,000.

6 Q AND IN FEBRUARY OF 1984?

7 A \$115,500.

8 Q AND IN MARCH OF 1984?

9 A \$119,500.

10 Q AND IN APRIL OF 1984?

11 A \$68,000.

12 Q AND IN MAY OF 1984?

13 A \$299,486.94.

14 Q AND IN JUNE OF 1984?

15 A \$276,743.58.

16 Q JULY OF 1984?

17 A \$12,500.

18 Q \$12,500?

19 A YES.

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-1

1 Q AND IN AUGUST OF 1984?

2 A \$18,000.

3 Q AND ALL OF THAT \$18,000 IN AUGUST CAME FROM  
4 MR. GORE?

5 A YES.

6 THE COURT: WHAT IS THE TOTAL? DO YOU HAVE A TOTAL  
7 THERE FOR 1984?

8 THE WITNESS: '84 WAS \$1,075,730.52.

9 Q BY MR. WAPNER: \$1,075,000?

10 A AND 730.52.

11 Q WHEN YOU TOOK MONEY IN FROM INVESTORS, WHEN THEY  
12 WOULD COME IN TO GIVE YOU MONEY, WHAT DID YOU DO WITH IT?

13 A FIRST, I WOULD GIVE THEM A RECEIPT.

14 THEN I WOULD PREPARE A DEPOSIT SLIP FOR THE BANK.

15 AND THEN I WOULD HAVE IT DEPOSITED IN THE BANK.

16 Q HOW DID THE MONEY GET DEPOSITED INTO THE BANK?

17 A I WOULD USUALLY GIVE IT TO ONE OF THE GUYS, WHEN  
18 THEY WENT OUT, LIKE BEN DOSTI OR DEAN KARNY OR JOE.

19 Q AND AS FAR AS THE MONEY THAT WENT --

20 DID YOU KNOW WHAT ACCOUNT IT WENT INTO?

21 A BANK OF AMERICA.

22 Q WAS THAT FINANCIAL FUTURES CORPORATION?

23 A YES, IT WAS.

24 Q AS FAR AS THE MONEY THAT CAME OUT OF THAT ACCOUNT,  
25 DO YOU KNOW HOW MONEY WAS PAID OUT OF THAT ACCOUNT, WHO HAD  
26 CHARGE OF THAT?

27 A WELL, JOE HUNT HAD CHARGE.

28 Q AND THE CHECKS THAT WERE WRITTEN FOR THE MONTHLY

-2  
1 STATEMENTS, WHO WROTE THOSE CHECKS?

2 A I DID.

3 Q WHO SIGNED THEM?

4 A JOE HUNT.

5 Q AND AS FAR AS THE STATEMENTS, THE COMMODITY--OR  
6 STATEMENTS OF ANY PROFITS, DID YOU SEE STATEMENTS FROM ANY  
7 BROKERAGE HOUSE INDICATING WHETHER THERE WERE PROFITS AND,  
8 IF SO, HOW MUCH?

9 A NEVER SAW ANY STATEMENT AT ALL.

10 Q WHO HANDLED THAT?

11 A I DON'T KNOW. NEVER GOT TO SEE ANY.

12 Q SO WHEN YOU MADE THE STATEMENT OF THE PROFITS,  
13 IT WASN'T BY TAKING A BROKERAGE HOUSE STATEMENT AND TYPING  
14 THEM UP?

15 A NO.

16 Q DID YOU EVER INVEST ANY MONEY WITH MR. HUNT?

17 A YES.

18 Q WHEN?

19 A IN MARCH, AND I THINK IN APRIL OF '84.

20 Q WHEN DID YOU INVEST MONEY WITH HIM?

21 A BECAUSE EVERYBODY WAS MAKING A LOT OF MONEY AND  
22 I WANTED --

23 Q OR SO IT SEEMED?

24 A SO IT SEEMED.

25 Q HOW MUCH DID YOU INVEST IN MARCH?

26 MR. BARENS: RELEVANCY, YOUR HONOR.

27 THE COURT: OVERRULED.

28 THE WITNESS: IN MARCH, I THINK IT WAS \$1,500.

1 Q BY MR. WAPNER: AND IN APRIL?

2 A IT MUST HAVE BEEN \$2,500.

3 Q WHATEVER HAPPENED TO THAT MONEY?

4 A I DON'T KNOW WHAT YOU MEAN.

5 Q DID YOU MAKE ANY PROFIT ON THAT?

6 DID YOU GET THE MONEY BACK?

7 A NO, I DIDN'T.

8 Q DID YOU GET ANY OF IT BACK?

9 A NO.

10 Q WERE YOU EVER PAID OUT ANY PROFIT, ANY MONEY AS

11 A PROFIT ON THAT?

12 A I GOT PAID OUT \$500.

13 Q WHEN WAS THAT?

14 A I DON'T -- I DON'T KNOW. SOMETIME IN MAY. I  
15 DON'T REMEMBER.

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1 Q WHAT WAS YOUR SALARY AT THE BBC?

2 A \$2,500 A MONTH.

3 Q DID YOU AT SOME POINT ATTEMPT TO KEEP TRACK OF  
4 THE CHECKBOOKS OF FINANCIAL FUTURES AND THE OTHER ACCOUNTS  
5 THAT THE BBC HAD?

6 A YES, I HAD THE CHECKBOOKS OUTSIDE WITH ME.

7 Q WERE YOU SUCCESSFUL IN KEEPING ALL OF THE MONEY  
8 GOING INTO AND COMING OUT OF THOSE ACCOUNTS?

9 A I TRIED.

10 NOT ALWAYS.

11 Q DID JOE HUNT AND OTHER PEOPLE AT THE BBC EVER  
12 GO TO THE BANK AND WRITE COUNTER CHECKS?

13 A YES.

14 Q DID THEY ALWAYS COME BACK TO YOU AND REPORT HOW  
15 MUCH THOSE THINGS WERE?

16 A SOMETIMES.

17 NOT ALWAYS.

18 Q DID YOU KNOW A PERSON BY THE NAME OF JIM GRAHAM?

19 A YES.

9A 20 Q DID YOU LATER COME TO FIND OUT HIS NAME WAS REALLY  
21 PITTMAN?

22 A YES.

23 Q AND DID HE WORK AT THE BBC?

24 A YES, HE DID.

25 Q AND HOW WOULD YOU CHARACTERIZE MR. GRAHAM'S  
26 RELATIONSHIP WITH MR. HUNT AND VICE VERSA?

27 A THEY WERE VERY CLOSE.

28 Q WHAT DO YOU BASE THAT ON?

1           A       WELL, JIM HAD ACCESS TO JOE HUNT AT ALL TIMES  
2 AND HE WAS WITH HIM MOST OF THE TIME.

3           Q       WHAT DO YOU MEAN "HE HAD ACCESS TO HIM AT ALL  
4 TIMES"?

5           A       WELL, WHENEVER -- LIKE IF JOE HAD HIS DOOR CLOSED,  
6 JIM COULD ALWAYS GO IN AND JOE TRUSTED HIM TOTALLY, JOE TOLD  
7 ME SO.

8           Q       HE TOLD YOU THAT HE TRUSTED HIM TOTALLY?

9           A       YES.

10          Q       THE FILES OF THE BBC THAT YOU -- FROM WHICH YOU  
11 MADE A COPY OF THE LIST THAT IS, I BELIEVE, PEOPLE'S 87, WHAT  
12 HAPPENED TO THOSE FILES?

13          A       I DON'T EXACTLY KNOW WHAT HAPPENED.

14                   I PACKED THEM.

15                   JOE HUNT'S FATHER WAS THERE AND HE WAS TAKING  
16 EVERYTHING WITH HIM, HE SAID, BUT I LEFT BEFOREHAND.

17                   WHEN I LEFT THE OFFICE, HE WAS STILL THERE.

18          Q       AND THIS WAS A MAN NAMED RYAN HUNT?

19          A       YES.

20          Q       I WANT TO SHOW YOU A DOCUMENT THAT WE HAVE MARKED  
21 AS PEOPLE'S 94 FOR IDENTIFICATION AND ASK YOU IF YOU RECOGNIZE  
22 ANY OF THE LETTERS THAT ARE PART OF THAT EXHIBIT.

23          A       YES, I DO.

24          Q       AND WHO TYPED THOSE LETTERS?

25          A       I DID.

26          Q       IS THERE SOME INDICATION AT THE BOTTOM OF THE  
27 LETTERS THAT YOU TYPED THEM?

28          A       YES, MY INITIALS IS ON IT.

1 Q AND DO YOU RECALL, IS THERE ANYTHING ABOUT THOSE  
2 LETTERS THAT YOU RECALL IN PARTICULAR?

3 A ARE YOU REFERRING TO THE CONTENTS OF THE LETTERS  
4 OR ANY --

5 Q FIRST, THE CONTENTS, IS THERE ANYTHING ABOUT THE  
6 CONTENTS THAT MAKES YOU RECALL IT?

7 A YES, ONE IN PARTICULAR.

8 Q WHAT IS THAT?

9 A I THOUGHT -- I DON'T KNOW, IT STRUCK ME AS VERY  
10 FUNNY. THERE WAS A SENTENCE IN ONE OF THE LETTERS SAYING  
11 THERE IS THIS -- THIS AGREEMENT IS GOOD, IF RON LEVIN WOULD  
12 HAVE GOTTEN THE NAMES THROUGH SERIOUS CONTACTS RATHER THAN  
13 THROUGH THE YELLOW PAGES OR THE TELEPHONE BOOK.

14 THEN THE OTHER ONE WAS ABOUT A REFERENCE TO A  
15 WATCH THAT JOE HUNT DESCRIBED THAT RON LEVIN SUPPOSEDLY GAVE  
16 HIM, AND HE WAS VERY -- HE GOT A LOT OF COMPLIMENTS ABOUT  
17 IT. I REMEMBER THINKING IT WAS FUNNY, I NEVER SAW THAT WATCH,  
18 AND IT STUCK IN MY HEAD, I DON'T KNOW WHY. I NEVER SAW ANY  
19 TERRIFIC WATCH.

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1 Q AND THE LETTER WITH REFERENCE TO THE YELLOW PAGES  
2 IS AT THE TOP OF ONE OF THESE THAT SAYS "JOE HUNT, SHADING,"  
3 AND IT IS DATED MAY 24?

4 A YES, IT IS.

5 Q DO YOU RECALL WHEN YOU TYPED THAT LETTER? WOULDN'T  
6 IT HAVE BEEN TYPED ON THE DATE INDICATED ON THERE OR DO YOU  
7 KNOW?

8 A YES. I THINK SO.

9 Q AND THE OTHER REFERENCE THAT YOU MADE, SOMETHING  
10 ABOUT A WATCH?

11 A YEAH.

12 Q IT IS ALSO ON THE SAME LETTER, IS THAT RIGHT?

13 A YES.

14 Q THAT IS A LETTER DATED MAY 24?

15 A YES, IT IS.

16 Q ALL RIGHT. AND THE NEXT LETTER IN SEQUENCE IS  
17 DATED MAY THE 15TH, IS THAT RIGHT?

18 A YES.

19 Q AND THAT ALSO HAS YOUR INITIALS AS HAVING TYPED  
20 IT?

21 A YES.

22 Q THAT IS "LS"?

23 A "LS," YES.

24 MR. BARENS: YOUR HONOR, I DON'T THINK WE ARE IN  
25 SEQUENCE. THE FIRST LETTER IS DATED MAY 23RD. THE SECOND  
26 LETTER IS MAY 15TH. WE ARE IN REVERSE SEQUENCE.

27 MR. WAPNER: WELL, COUNSEL, I AM ONLY READING THEM  
28 IN THE ORDER THAT THEY ARE IN THE PACKAGE.



1 MR. BARENS: WE ARE NOT SUGGESTING ANY DATE SEQUENCE?  
2 ALL RIGHT. I ASSUMED HE WAS DOING IT CHRONOLOGICALLY, JUDGE.

3 Q BY MR. WAPNER: AND THE THIRD LETTER DOWN IN  
4 THAT PACKAGE IS MAY THE 3RD. DID YOU TYPE THAT ALSO?

5 A YES, I DID.

6 Q AND DO YOU RECALL ANYTHING ABOUT WHAT HAPPENED  
7 TO THE LETTERS AFTER YOU TYPED THEM?

8 A WELL, JOE GAVE ME THEM TO TYPE AND I WOULD GIVE  
9 THEM TO HIM.

10 HE SAID, "WHEN YOU ARE FINISHED, DON'T MAIL THEM.  
11 I WILL HAND CARRY THEM."

12 Q DO YOU RECALL IN EACH OF THOSE THREE LETTERS  
13 THAT HE SAID THAT?

14 A YES.

15 Q WAS THAT UNUSUAL?

16 A NO, NOT REALLY. I MEAN, I DIDN'T QUESTION IT  
17 BECAUSE --

18 THE COURT: NORMALLY, AFTER YOU HAD TYPED A LETTER,  
19 HE WOULD SIGN IT AND YOU WOULD PUT STAMPS ON IT AND MAIL  
20 IT?

21 THE WITNESS: YES.

22 THE COURT: BUT THOSE LETTERS WERE NOT MAILED BY YOU?

23 A THE WITNESS: NO.

24 Q BY MR. WAPNER: EACH OF THOSE LETTERS WHERE HE  
25 SAID, "GIVE THEM TO ME. I WILL HAND DELIVER THEM"?

26 A "I WILL HAND CARRY THEM."

27 Q DID YOU DO THAT?

28 A YES.

1 THE COURT: WERE THOSE DICTATED ABOUT THE DATES THAT  
2 THEY BEAR SEPARATELY?

3 THE WITNESS: YES.

4 MR. WAPNER: WERE YOU ASKING THE WITNESS QUESTIONS?

5 THE COURT: I ASKED WHETHER OR NOT THE LETTERS WERE  
6 DICTATED, EACH OF THEM, ON OR ABOUT THE DATES THAT THEY BEAR.  
7 SHE SAID YES.

8 Q BY MR. WAPNER: WERE THEY DICTATED?

9 A NO. THEY WERE WRITTEN. JOE USED TO WRITE IT  
10 OUT ON A YELLOW PAD, LONGHAND.

11 Q HE WOULD WRITE IT OUT ON THE YELLOW PAD?

12 A YEAH, UH-HUH.

13 THE COURT: DID HE TELL YOU WHY HE WANTED TO HAND  
14 DELIVER THEM?

15 THE WITNESS: NO.

16 MR. WAPNER: NOTHING FURTHER, YOUR HONOR.

17 THE COURT: THAT ENTIRE FILE IS IN EVIDENCE, IS THAT  
18 IT?

19 MR. WAPNER: YES, IT IS.

20 THE COURT: ALL RIGHT.

21 MR. WAPNER: WELL, I DON'T KNOW IF IT HAS ACTUALLY  
22 BEEN RECEIVED YET.

23 THE COURT: WELL, LET'S MARK THOSE LETTERS, WHATEVER  
24 THE NUMBER IS. WHAT IS THE NUMBER?

25 MR. WAPNER: I THINK THE ENTIRE EXHIBIT HAS ALREADY  
26 BEEN MARKED AS 94.

27 THE COURT: 94?

28 THESE THREE LETTERS THEN, WILL BE 94-A, B AND C.

1 MR. WAPNER: A WILL BE THE ONE DATED MAY 24. B WILL  
2 BE THE ONE DATED MAY 15. C WILL BE THE ONE DATED MAY 3RD.

3 THE COURT: ALL RIGHT.

4 PARDON ME. WAS THIS THE FILE KEPT BY YOU?

5 THE WITNESS: YES.

6 THE COURT: WELL, TELL US WHY THE LETTERS WERE --

7 THE WITNESS: NO, NOT THAT FILE. I KEPT COPIES OF  
8 ALL THE LETTERS I WROTE IN THE OFFICE. BUT THIS IS NOT MY  
9 FILE.

10 THE COURT: NOT YOUR FILE?

11 THE WITNESS: NO.

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1 MR. BARENS: IT GOT HERE ANOTHER ROUTE, YOUR HONOR.

2 THE COURT: GO AHEAD.

3 MR. BARENS: WHILE WE ARE ON THE SUBJECT, GOOD AFTERNOON.

4

5

CROSS-EXAMINATION

6

BY MR. BARENS:

7

Q WHILE WE ARE ON THE SUBJECT OF THE MAY 23RD LETTER  
8 WHERE YOU MADE REFERENCE TO THE YELLOW PAGES WHICH WITHOUT  
9 CONTEXT, IS KIND OF HARD TO FOLLOW WHAT YOU MEAN, I WOULD  
10 ASK YOU TO READ THE PARAGRAPH YOU FIND THE YELLOW PAGES  
11 REFERENCE IN.

12

A FROM THE BEGINNING?

13

Q YES. LET'S GET THE CONTEXT ON IT SO IT MAKES  
14 SOME SENSE.

15

A (READING:)

16

"I WAS THINKING ABOUT YOUR CONVERSATION  
17 OF A FEW DAYS AGO. DO YOU REALLY HAVE A CONTACT  
18 IN THE GLASS INDUSTRY WHO WOULD PAY YOU 10  
19 MILLION DOLLARS FOR THIS GRINDING TECHNOLOGY?  
20 I KNOW YOU ARE A GOOD SALESMAN BUT THAT IS A VERY  
21 LARGE SUM. THAT WOULD CERTAINLY MAKE IT  
22 ECONOMICALLY FEASIBLE TO PAY THE SORT OF FEE  
23 MICROGENESIS WOULD DEMAND IN ORDER TO GRANT AN  
24 EXCLUSIVE LICENSE IN THE SILICA INDUSTRY. I DO  
25 NOT UNDERSTAND HOW YOU EXPECT TO MAINTAIN THE  
26 ANONYMITY OF SECRET PRINCIPALS AS YOU PUT IT.

27

28

"AFTER ALL, THE TECHNICIANS AND  
SCIENTISTS WILL DOUBTLESS HAVE QUESTIONS AND

1           REQUEST DEMONSTRATIONS BEFORE RECOMMENDING AN  
2           EXPENDITURE OF THAT MAGNITUDE.  SOMETIMES YOU  
3           ARE TOO PARANOID, LEVIN.  IF HE IS A LEGITIMATE,  
4           INTIMATE CONTACT OF YOURS, WE WILL RESPECT IT.  
5           HOWEVER, IF HE IS SOMEONE YOU REACHED THROUGH  
6           THE YELLOW PAGES, I CANNOT MAKE ANY SUCH  
7           GUARANTEE.  PLEASE NOTE WE PLAN ON SENDING A  
8           MAILER OUT TO THE GLASS INDUSTRY IN A FEW MONTHS."

B           9           Q           NOW, IN THE NEXT PARAGRAPH, GIVE THAT BUSINESS  
10          ABOUT THE WATCH THAT YOU MADE REFERENCE TO?  IT IS ONE  
11          SENTENCE.  IF YOU JUST PUT THAT IN, SO WE CAN COMPLETE THE  
12          CONTEXT, HERE?

13          A           OKAY.  "RON, I MEANT TO TELL YOU EARLIER TODAY,  
14          SOMEONE COMPLIMENTED ME ON THE UNDERSTATED ELEGANCE OF MY  
15          WATCH.  THANKS AGAIN FOR THE BEST BIRTHDAY PRESENT I EVER  
16          RECEIVED."

17          Q           YOU NEVER SAW THAT WATCH, YOU SAID?

18          A           NO.

19          MR. BARENS:  PERHAPS SOMEONE ELSE DID, YOUR HONOR.

20          THE COURT:  PERHAPS.

21          MR. BARENS:  I GUESS WE WILL GET TO THAT.

22          THE COURT:  I GUESS.

23          Q           BY MR. BARENS:  IN ANY EVENT, THIS IS THE LETTER  
24          FROM MR. HUNT TO MR. LEVIN THAT I THINK YOU TESTIFIED HE  
25          WROTE OUT IN LONGHAND AND THEN YOU WOULD TYPE IT?

26          A           RIGHT.

27          Q           WAS IT THE CASE THAT MR. HUNT NORMALLY WROTE  
28          OUT HIS LETTERS, YOU KNOW ALL OF HIS DICTATION TO YOU INSTEAD

1 OF REALLY DICTATING ALL OF HIS LETTERS? HE WOULD WRITE THEM  
2 OUT AND THEN YOU WOULD SEND THEM?

3 A RIGHT.

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1-1

1 Q SO THERE WAS NOTHING ATYPICAL OR UNUSUAL ABOUT HIM  
2 WRITING OUT A LETTER THAT YOU WERE ASKED TO TYPE, WAS THERE?

3 A NO.

4 Q IN THE OFFICE, WAS YOUR DESK OR WORK AREA NEAR  
5 MR. HUNT'S OFFICE?

6 A YES, IT WAS OUTSIDE MR. HUNT'S OFFICE.

7 Q IMMEDIATELY ADJACENT THERETO?

8 A RIGHT.

9 Q SO YOU WERE IN A POSITION PRETTY WELL TO OBSERVE  
10 WHAT HE WAS DOING AND WHO WAS COMING AND GOING FROM HIS OFFICE?

11 A YES.

12 Q DID HE HAVE MEETINGS BEHIND CLOSED DOORS WITH  
13 PEOPLE?

14 A YES.

15 Q WITH DIFFERENT PEOPLE?

16 A YES.

17 Q WAS IT A NORMAL PRACTICE OF HIS TO HAVE MEETINGS  
18 WITH PEOPLE BEHIND CLOSED DOORS?

19 A YES.

20 Q WOULD HE MEET SOMETIMES WITH MR. KARNY WITH THE  
21 DOORS CLOSED?

22 A YES.

23 Q WOULD HE MEET WITH INVESTORS WITH THE DOOR CLOSED?

24 A YES.

25 Q WOULD HE MEET WITH MR. PITTMAN WITH THE DOOR  
26 CLOSED?

27 A YES.

28 Q WOULD THERE BE ANYTHING UNUSUAL ABOUT HIM HAVING

1 A MEETING WITH ANY OF THE THREE PEOPLE OR PERSONS THAT I JUST  
2 MADE REFERENCE TO, BEHIND CLOSED DOORS?

3 A NO.

4 Q YOU CAME ONBOARD, I THINK, IN FEBRUARY OF '84?

5 A RIGHT.

6 Q AND DIRECTING YOUR ATTENTION TO MAY OF '84, COULD  
7 YOU DESCRIBE WHAT HUNT'S DEMEANOR WAS LIKE AROUND THE OFFICE,  
8 HOW DID HE ACT?

9 A HE WAS ALWAYS THE SAME. I MEAN THERE WAS NO  
10 CHANGE IN HIS BEHAVIOR AT ALL.

11 Q WHAT WAS HIS BEHAVIOR LIKE?

12 A VERY -- I THINK VERY BUSINESS-LIKE.

13 Q WAS HE A SCREAMER-TYPE GUY?

14 A NEVER, NO.

15 Q DID HE FORCE HIS OPINION ON EVERYBODY THERE?

16 A NO.

17 Q DID HE SEEM TO HAVE WHAT YOU CONSIDERED NORMAL  
18 BUSINESS DIALOGUES WITH PEOPLE?

19 A YES.

20 Q DID HE SEEM TO HAVE EXCHANGES WITH, YOU KNOW,  
21 PEOPLE WOULD TALK AND HE WOULD LISTEN?

22 A YES.

23 Q AND HE WOULD TALK AND THEY WOULD LISTEN?

24 A YES.

25 Q OKAY. WAS THERE AN AREA THERE WHERE YOU FOLKS  
26 HAD A CONFERENCE ROOM?

27 A YES.

28 Q WAS THERE STEREO OR TAPE RECORDING -- STRIKE THAT.



1                   WAS THERE VIDEO TAPE-TYPE FACILITIES IN THAT ROOM?

2           A        YES, THERE WERE.

3           Q        HOW BIG WAS THE STEREO AREA, HOW BIG WAS IT IN  
4           TERMS OF DISPLACEMENT?

5           A        I DON'T KNOW HOW TO TELL YOU THAT.

6           Q        WELL, LET ME ASK YOU THIS:  THAT STEREO OR VIDEO  
7           EQUIPMENT THAT THOSE GUYS HAD, WOULD IT FILL THE WALLS STARTING  
8           FROM THAT GLASS PARTITION THERE ALL THE WAY TO THE END OF  
9           THE ROOM?

10          A        NO.

11          Q        HOW MUCH PERCENTAGE OF THAT WOULD IT FILL?  
12                   DO YOU SEE THOSE PANELS?  MAYBE YOU COULD HELP  
13          US.

14          A        WELL, YOU SEE THOSE BY THE DOOR THERE, THOSE TWO,  
15          THERE WAS LIKE A BOOKCASE AND THEY HAD SORT OF EQUIPMENT THERE  
16          AND THEY HAD SPEAKERS UPON THE WALL AND THAT WAS ABOUT IT.

17                   (WITNESS INDICATING.)

18          Q        SO IT WOULD FILL ABOUT ONE OF THOSE TWO PANELS,  
19          ALL OF THIS VIDEO AND STEREO STUFF?

20          A        YEAH, NOT EVEN -- I DON'T EVEN THINK THAT MUCH.

21          Q        NOT EVEN ONE OF THOSE PANELS?

22                   OKAY, DID YOU EVER SEE HUNT DURING THE DAY WATCHING  
23          MOVIES?

24          A        NO.

25          Q        SO HE PRETTY MUCH KEPT TO HIS BUSINESS DURING  
26          THE DAY?

27          A        HE DID.

28          Q        YOU DIDN'T SEE HIM THEN IN WITH ALL OF THE BOYS

1 WATCHING MOVIES DURING WORKING HOURS?

2 A NO.

3 Q YOU SAID HE HAD A CLOSE RELATIONSHIP WITH  
4 MR. GRAHAM OR MR. PITTMAN, AS WE ARE CALLING HIM HERE; WAS  
5 HE CLOSE WITH ANYBODY ELSE?

6 A WAS HE CLOSER WITH HIM THAN ANYBODY ELSE?

7 Q NO.

8 WAS HE CLOSE WITH ANYBODY ELSE, FIRST, I WILL  
9 ASK YOU?

10 A OH, YES.

11 Q WHO ELSE WAS HE CLOSE WITH?

12 A DEAN KARNY, BEN DOSTI.

13 Q DID HE SEEM CLOSE TO MR. DICKER?

14 A NOT AS CLOSE AS WITH THE OTHER, WITH THOSE TWO.  
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1 Q MR. MAY?

2 A NO, I WOULDN'T SAY AS CLOSE AS THOSE.

3 THESE WERE THE CLOSEST ONES.

4 MR. WAPNER: OBJECTION AS VAGUE, THE REFERENCE TO  
5 MR. MAY, ONLY BECAUSE WE HAVE HAD TESTIMONY AS TO TWO  
6 MR. MAYS.

7 THE COURT: TOM MAY?

8 MR. BARENS: IRRESPECTIVE, I THINK SHE TESTIFIED, JUDGE, --  
9 I THINK SHE WOULD TESTIFY THAT --

10 THE COURT: ALL RIGHT, GO AHEAD.

11 Q BY MR. BARENS: MR. HUNT SEEMED CLOSER WITH  
12 MESSRS. DOSTI, KARNY, THAN HE DID WITH MR. DICKER-MAY;  
13 ALTERNATIVELY?

14 A RIGHT.

15 Q WERE THE FILE CABINETS KEPT LOCKED?

16 A NO.

17 Q SO GENERALLY SPEAKING, THE MATERIALS IN THE FILING  
18 CABINETS WERE GENERALLY ACCESSIBLE BY PEOPLE THAT WERE UP  
19 THERE IN THE OFFICE?

20 A RIGHT.

21 Q AND THERE WAS NO --

22 DID HUNT EVER TELL YOU "OH, WE HAVE GOT TO DENY  
23 ACCESS TO THE FILES TO PEOPLE"?

24 A NO.

25 Q OR DID HE SEEM UNCONCERNED WITH THAT SUBJECT?

26 A NO, HE DID NOT.

27 Q HE DID NOT SEEM CONCERNED WITH THAT SUBJECT?

28 MR. WAPNER: WAS THERE AN ANSWER? WAS THAT A QUESTION?

1 WAS THERE AN ANSWER?

2 THE COURT: HE WASN'T CONCERNED WITH THAT, YOU SAID?

3 THE WITNESS: NO, HE WASN'T.

4 THE COURT: ALL RIGHT.

5 Q BY MR. BARENS: DID JOE EVER TELL YOU THAT  
6 MR. PITTMAN WAS HIS BODYGUARD?

7 A NO.

8 Q DID HE EVER TELL YOU HE NEEDED A BODYGUARD?

9 A NO.

10 Q YOU NEVER HAD THAT IMPRESSION, DID YOU?

11 A THAT HE NEEDED ONE?

12 Q YES.

13 A NO.

14 Q YOU NEVER SAW ANYBODY UP THERE THREATENING  
15 MR. HUNT, DID YOU?

16 A NO.

17 Q DID JIM GRAHAM SEEM MENACING TO YOU?

18 A NO.

19 Q DID HE SHOW YOU GUNS?

20 A NO.

21 Q SO HE WAS UP THERE -- WHEN HE WALKED IN AND OUT  
22 OF MR. HUNT'S OFFICE, DID HE WALK OR RUN WHEN YOU SAW HIM  
23 MOVING AROUND?

24 A WALK.

25 MR. WAPNER: OBJECTION. VAGUE AS TO TIME.

26 Q BY MR. BARENS: WELL, AT ANY TIME.

27 A NO, I HAVE NEVER SEEN HIM RUN.

28 THE COURT: DID HE WALK FAST, DID HE?

1 THE WITNESS: HE WALKED A REGULAR WALK. I MEAN YOU  
2 WOULDN'T PAY ANY ATTENTION. LIKE HE WAS NOT DRAWING ATTENTION  
3 TO HIMSELF.

4 Q BY MR. BARENS: A REGULAR WALK LIKE EVERYBODY  
5 ELSE WALKED?

6 A YES.

7 Q ALL RIGHT. DID YOU EVER SEE JOE HUNT SOLICIT  
8 MONEY FROM INVESTORS?

9 A NO.

10 YOU MEAN ASKING THEM SPECIFICALLY TO INVEST?

11 Q YES.

12 A NO.

13 Q DID YOU EVER SEE JOE HUNT TELL THE INVESTORS TO  
14 TAKE THEIR PROFITS OUT MONTHLY?

15 A NO.

16 Q DID YOU EVER SEE MR. HUNT TELL THE INVESTORS "WHEN  
17 YOU GET THIS NOTE IN THE MAIL THAT GIVES YOU AN OPTION TO  
18 REINVEST OR ROLL OVER," IS THE EXPRESSION THAT WAS USED, "OR  
19 WITHDRAW IT," DID YOU EVER SEE HIM TELL THEM "YOU HAVE GOT  
20 TO LEAVE YOUR MONEY IN"?

21 A NO.

22 Q HE LEFT IT SOLELY AS A DECISION TO BE MADE BY  
23 THE INVESTOR?

24 A TOTALLY.

25 Q DID HE EVER RECOMMEND THAT THEY TAKE IT OUT?

26 A NO.

27 Q DID HUNT SEEM BOSSY AND DOMINATING IN HIS  
28 Demeanor TOWARDS THE OTHER EMPLOYEES?

1 A NO.

2 Q DID HE SEEM WILLING TO LISTEN TO OTHER OPINIONS?

3 A YES.

4 Q DID YOU EVER MEET A MAN UP IN THE OFFICE THERE  
5 NAMED FRANK MINGARELLA?

6 A YES.

7 Q DID HE SEEM TO HAVE SOME BUSINESS AFFAIRS UP THERE?

8 A YES.

9 HE WAS WORKING WITH JOE HUNT'S FATHER ON FIRE  
10 RETARDANT.

11 Q DID HE SEEM TO BE PRESENT PHYSICALLY IN THE OFFICES  
12 AT TIMES?

13 A YES.

14 Q A LOT OF THE TIME?

15 A YES.

16 Q AND THAT WOULD BE DURING THE ENTIRE TIME THAT  
17 YOU WORKED THERE?

18 A NO, IN THE BEGINNING WHEN I FIRST CAME, I DON'T  
19 KNOW. I DON'T KNOW. SOMETIME IN APRIL, MAY.

20 Q SOMETIME IN APRIL?

21 DID YOU SEE HIM OCCASIONALLY IN THE OFFICE AFTER  
22 APRIL?

23 A I REALLY DON'T RECALL.

24 Q ONE WAY OR THE OTHER?

25 A I DON'T -- I WOULDN'T KNOW.

26

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1 Q DID YOU KNOW A FELLOW NAMED DR. JULIUS PASKAN?

2 A YES.

3 Q DID DR. PASKAN EVER HAVE A DISCUSSION WITH YOU  
4 ABOUT -- WHERE YOU HAD MENTIONED TO HIM SOME OPPORTUNITY  
5 YOU HAD TO PURCHASE A VEHICLE?

6 A YES.

7 Q AND DID DR. PASKAN PROVIDE A CERTAIN AMOUNT OF  
8 MONEY AS A RESULT OF THAT?

9 A WELL, I DON'T KNOW WHAT YOU ARE ASKING. DID  
10 HE COME UP TO ME AND ASK ME? I DON'T KNOW WHAT YOU MEAN.

11 THE COURT: TELL US ABOUT THE ENTIRE INCIDENT, AS YOU  
12 RECALL IT.

13 THE WITNESS: WELL, I WAS TRYING TO PURCHASE A TOYOTA  
14 FROM MR. STEVE LOPEZ. AND APPARENTLY, I COULD HAVE GOTTEN  
15 IT FOR \$2,000, APPROXIMATELY. AND SINCE I DIDN'T HAVE ANY  
16 MONEY ANYMORE AND I NEEDED A CAR, I WENT AND BROKE AN IRA  
17 ACCOUNT THAT I HAD AND GOT THE MONEY OUT BECAUSE I ASKED  
18 THE BANK OF AMERICA HOW MUCH MONEY IT WOULD COST AND THEY  
19 SAID \$1900 OR SO.

20 SO I GOT MY MONEY, ALL OF THE MONEY I HAD. I  
21 WANTED TO BUY IT AND WHEN I GOT THERE, THEY TOLD ME THAT  
22 APPARENTLY, THEY DEMANDED CAR INSURANCE AND IT WAS ANOTHER  
23 \$750 THAT I HAD TO PAY.

24 WELL, I WAS VERY UPSET. I MEAN IT WAS LIKE YOU  
25 KNOW, I HAD NO MORE MONEY. I BROKE MY IRA ALREADY AND EVERY-  
26 THING.

27 I GOT BACK TO THE OFFICE. I WAS SO ANGRY.

28 AND I THINK MR. PASKAN WAS THERE, DR. PASKAN

1 WAS SITTING THERE WITH ALPH GORE, THE TWO OF THEM, I THINK.

2 I WAS JUST TELLING THEM WHAT HAPPENED. AND THAT  
3 WAS IT.

4 Q BY MR. BARENS: DO YOU KNOW IF DR. PASAN EVER  
5 GAVE MR. HUNT MONEY, \$2,000 OR ANY OTHER AMOUNT TO ENABLE  
6 YOU TO BUY A CAR?

7 A I DON'T KNOW HOW MUCH MONEY HE GAVE HIM. BUT  
8 JOE TOLD ME THAT DR. PASKAN GAVE HIM SOME MONEY AND I GOT  
9 ABOUT \$700 BECAUSE I NEEDED \$700 TO PAY FOR THAT CAR, TO  
10 PAY THE INSURANCE. SO JOE GAVE ME \$700, SO I COULD GET THE  
11 CAR.

12 THE COURT: DO YOU KNOW WHERE HE GOT IT FROM?

13 THE WITNESS: I THINK HE TOLD ME DR. PASKAN GAVE HIM  
14 THAT MONEY. I MEAN, HE DIDN'T WANT HIS NAME MENTIONED.

15 JOE GAVE ME THE MONEY SAYING THAT DR. PASKAN  
16 DIDN'T WANT HIS NAME MENTIONED.

17 THE COURT: DID HE TELL YOU HOW MUCH THE DOCTOR GAVE  
18 HIM?

19 THE WITNESS: NO.

20 THE COURT: ALL RIGHT.

21 MR. BARENS: ALL RIGHT.

22 Q THEY SEEMED TO KNOW YOU NEEDED \$700, THOUGH?

23 A YES.

24 Q BEFORE YOU GOT THE \$700?

25 A THAT'S RIGHT.

26 MR. BARENS: OKAY. IF I COULD JUST HAVE A MOMENT,  
27 YOUR HONOR?

28 THE COURT: SURE.



1 (PAUSE.)

2 Q BY MR. BARENS: WE ARE CLEAR, ARE WE NOT, THAT  
3 THE LETTERS THAT YOU GAVE MR. HUNT THAT WE REFERRED TO IN  
4 MAY OF 1984, CONCERNING MR. LEVIN, THEY WERE NEVER IN ANY  
5 MAILBOX AT ANY TIME, WERE THEY?

6 A NO.

7 Q YOU HANDED THEM DIRECTLY TO MR. HUNT?

8 A I DID, YES.

9 Q OKAY. MOVING AHEAD, WAS THERE A TIME WHEN YOU  
10 BECAME -- WELL, ON TO SOME GENERAL BUSINESS MATTERS FOR A  
11 MOMENT. DID YOU MAINTAIN THE CORPORATE CHECKING BOOKS, CHECK  
12 BOOKS?

13 A YES.

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1 Q AND WAS JOE THE ONLY ONE WHO COULD EVER SIGN  
2 A CHECK IN THAT OFFICE?

3 A NO.

4 Q THERE WERE OTHER PEOPLE THAT COULD SIGN CHECKS?

5 A MOST OF THEM.

6 Q JUST ABOUT EVERYBODY? OKAY. DID THEY IN FACT,  
7 ALL OF THESE OTHER PEOPLE SIGN CHECKS FROM TIME TO TIME?

8 A YES.

9 Q AND DID YOU EVER SEE HUNT WRITE HIMSELF A SALARY  
10 CHECK?

11 A NO.

12 Q DID YOU EVER SEE JOE USE THE CORPORATE CHECKING  
13 ACCOUNTS TO WRITE PERSONAL CHECKS?

14 A NO.

15 Q NOW, THERE CAME A TIME -- MAY I APPROACH THE  
16 BENCH BEFORE I ASK THIS QUESTION?

17 THE COURT: YES.

18 (THE FOLLOWING PROCEEDINGS WERE HELD AT

19 THE BENCH OUTSIDE THE HEARING OF THE JURY:)

20 THE COURT: YES?

21 MR. BARENS: I HAVE A PROBLEM HERE. THAT IS WHY I  
22 AM HERE.

23 ONE OF THE THINGS THAT I WOULD LIKE TO SHOW AND  
24 I WILL CERTAINLY HAVE MR. HUNT TESTIFY ABOUT, THAT WILL COME  
25 AS NO SURPRISE TO YOUR HONOR, BETWEEN HIS FIRST ARREST AND  
26 HIS SECOND ARREST, HE WAS THERE, KIND OF BUSINESS AS USUAL.

27 THE EVIDENCE WILL SHOW THAT HE WAS THERE, BUSINESS  
28 AS USUAL. I WANT -- AND THIS WITNESS CONTINUED WORKING FOR

1 HIM, BUSINESS AS USUAL, DURING THIS TIME FRAME.

2 I WANTED TO ASK HER TO VERIFY THAT FOR ME BECAUSE  
3 HUNT IS GOING TO SAY -- I AM LOOKING FOR CORROBORATION ON  
4 AS MUCH OF HIS TESTIMONY AS I CAN GET.

5 THE COURT: NOBODY WILL DISPUTE THE TIME THAT HE WAS  
6 IN AND OUT.

7 MR. BARENS: WELL YOUR HONOR, I WANTED TO TELL YOUR  
8 HONOR THAT I WAS GOING TO ASK HER THAT QUESTION.

9 THE COURT: STAY AWAY FROM THAT. I DON'T THINK IT  
10 IS IMPORTANT AT THIS POINT.

11 MR. BARENS: WELL YOUR HONOR, I --

12 MR. WAPNER: COUNSEL, IF I MIGHT SUGGEST, WHY DON'T  
13 YOU JUST USE THE DATES? YOU DON'T HAVE TO MAKE ANY REFERENCE  
14 TO BEING IN CUSTODY. JUST ASK HER IF BETWEEN SEPTEMBER THE  
15 20TH -- IN BETWEEN SEPTEMBER THE 28TH APPROXIMATELY OF '84  
16 WHEN HE WAS IN FOR ABOUT FIVE DAYS AND HE GOT OUT ABOUT THE  
17 BEGINNING OF OCTOBER AND HE WAS ARRESTED AGAIN ON THE 22ND --

18 THE COURT: SO, SHE WAS NOT THERE THEN?

19 MR. WAPNER: SHE WAS THERE UNTIL HE WAS ARRESTED THE  
20 SECOND TIME.

21 IF THE QUESTION IS PUT TO HER, "DID YOU WORK  
22 IN THE OFFICE BETWEEN ..."

23 THE COURT: WELL, I DON'T KNOW IT IS MATERIAL. NO,  
24 I WOULD STAY AWAY FROM THAT ALTOGETHER. I DON'T THINK IT  
25 IS PRUDENT.

26 WHAT DO YOU WANT TO ESTABLISH? THERE WON'T BE  
27 ANY DISPUTE AT ALL ABOUT WHEN HE WAS IN CUSTODY AND WHEN  
28 HE WAS OUT OF CUSTODY.

1 MR. BARENS: JUDGE, ALL I AM TRYING TO DO IN THIS AND  
2 OTHER INSTANCES IS I WOULD LIKE TO, WHEREVER POSSIBLE, GIVE  
3 THE JURY AN OPPORTUNITY TO CORROBORATE SOMETHING THE WITNESS  
4 IS GOING TO SAY ON THE STAND.

5 THE COURT: I DON'T THINK THAT NEEDS ANY CORROBORATION.  
6 I DON'T THINK ANYBODY IS GOING TO DISPUTE THE TIME HE WAS  
7 IN AND WHEN HE WAS OUT, YOU DON'T NEED THAT.

8 MR. BARENS: COULD I ASK THIS, JUDGE, WITHOUT MAKING  
9 REFERENCE -- COULD I ASK WAS THERE A TIME IN SEPTEMBER WHEN  
10 MR. HUNT WAS GONE FOR A WHILE?

11 THE COURT: WHAT IS THE POINT OF IT?

12 MR. BARENS: AND THEN HE CAME BACK THE SECOND TIME?

13 THE COURT: WHAT IS THE POINT OF THAT?

14 MR. BARENS: I JUST WANTED TO SHOW, I WANTED TO SET  
15 UP A REFERENCE FRAME FOR THE JURY TO MAKE SURE THEY REMEMBER  
16 HE IS NOT IN THE OFFICE THEN.

17 THE COURT: THEN SHE MIGHT POINT OUT HE WAS IN CUSTODY  
18 AT THE TIME. I DON'T THINK THERE IS ANY POINT IN THAT AT  
19 ALL.

20 MR. WAPNER: FOR THE RECORD, I HAVE NO OBJECTION TO  
21 IT BUT THAT IS --

22 MR. BARENS: YOU SEE, JUDGE, I HAVE GOT TO SOONER OR  
23 LATER BUILD A DEFENSE CASE HERE.

24 THE COURT: NOBODY IS GOING TO CONTEST THAT HE WAS IN  
25 AT A CERTAIN TIME AND OUT AT A CERTAIN TIME. WHY MAKE A POINT  
26 OF IT?

27 MR. BARENS: YOUR HONOR, IN BUILDING A DEFENSE, ONE  
28 MIGHT TRY TO DO, AS A DEFENSE LAWYER, TO SHOW THAT AFTER A

1 CLIENT HAD BEEN IN JAIL AND HAD AN OPPORTUNITY TO FLEE AND  
2 HE DIDN'T.

3 THE COURT: COME ON.

4 MR. BARENS: ISN'T THAT TRADITIONALLY THE KIND OF THING -

5 THE COURT: NO, THAT DOESN'T PRESUME THAT TO ONE WHO  
6 HAS BEEN IN JAIL IS GOING TO FLEE WHEN HE GETS OUT.

7 HE IS OUT. HE HASN'T FLED. THAT IS THE ULTIMATE  
8 THING, ISN'T IT? SO WHY MAKE IT A POINT TO ASK THAT?

9 COME ON, LET'S GET ON, WILL YOU?

10 (THE FOLLOWING PROCEEDINGS WERE HELD

11 IN OPEN COURT:)

12 MR. BARENS: ONE MORE QUESTION, IF YOU WILL INDULGE  
13 ME, ON THOSE FOUR LETTERS.

14 THE COURT: THREE LETTERS, WEREN'T THERE?

15 MR. BARENS: OH, THERE IS ONLY THREE SO FAR?

16 WELL THERE MAY BE A FOURTH, YOUR HONOR.

17 WELL, I THINK THE PEOPLE MADE REFERENCE TO LETTERS  
18 BEARING DATE OF FEBRUARY 15 -- I AM SORRY -- MAY 15, MAY 23RD.

19 THE CLERK: NO, NO.

20 THE COURT: MAY 23RD?

21 MAY 3RD.

22 I THINK THEY HAVE BEEN MARKED, HAVEN'T THEY, A,  
23 B AND C?

24 MR. BARENS: LET ME JUST SEE WHAT WE HAVE GOT HERE.

25 MR. WAPNER: MAY THE 24TH, MAY THE 15TH AND MAY THE 3RD.

26 MR. BARENS: ALL RIGHT, IT SEEMS --

27 THE COURT: UNLESS YOU HAVE GOT ANOTHER ONE. ALL RIGHT,  
28 SHOW IT TO THE D.A.

1 MR. BARENS: YES, I MIGHT AS WELL.

2 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

3 MR. BARENS: LET ME MAKE SURE ON THE IDENTIFICATION  
4 OF THESE EXHIBIT NUMBERS, JUDGE.

5 (FURTHER UNREPORTED COLLOQUY BETWEEN  
6 COUNSEL.)

7 THE COURT: YOU PRONOUNCE YOUR NAME LEIS, DO YOU?

8 THE WITNESS: THAT'S RIGHT.

9 Q BY MR. BARENS: ALL RIGHT, DO YOU RECOGNIZE THAT  
10 LETTER?

11 A YES, I REMEMBER IT.

12 Q AND WHO IS THAT A LETTER, FROM WHOM TO WHOM,  
13 MA'AM?

14 A FROM JOE HUNT TO RON LEVIN.

15 Q ALL RIGHT. WOULD THAT BE ANOTHER LETTER THAT  
16 WAS HAND-CARRIED BY MR. HUNT OR WAS IT MAILED IN THIS  
17 INSTANCE, IF YOU KNOW?

18 A THAT ONE, I DON'T KNOW.

19 I RECOGNIZED IT ONLY BECAUSE OF THIS -- THERE  
20 IS ONE SENTENCE, I DON'T KNOW, IT STICKS IN MY MIND, OKAY,  
21 BUT I REALLY --

22 Q WHICH?

23 A WELL, SOMETHING ABOUT THE: "IT WOULD BE A LOGICAL  
24 EXTENSION OF THIS PREMISE TO SEEK A" --

25 THE COURT REPORTER: WOULD YOU SLOW DOWN?

26 THE WITNESS: "IT WOULD BE A LOGICAL EXTENSION OF  
27 THIS PREMISE TO SEEK AN INDUSTRY IN WHICH THE  
28 LARGEST COMPONENT OF THE COST OF THE FINISHED

1 PRODUCT IS IN THE GRINDING STAGE.

2 "POSSIBLE INDUSTRIES WOULD INCLUDE  
3 CEMENT, GRAPHITE, SILICON, CERAMICS" --

4 AND I CAN'T READ THAT ONE --

5 "CONSIDERABLE MORE RESEARCH IS  
6 JUSTIFIED."

7 THAT IS WHY I REMEMBER THE LETTER, BECAUSE OF  
8 THAT.

9 MR. BARENS: WE WOULD LIKE THIS MARKED AS DEFENDANT'S  
10 NEXT, YOUR HONOR.

11 THE COURT: YES. Y.

12 MR. CHIER: Y.

13 Q BY MR. BARENS: THIS BEARS THE DATE OF MAY 1,  
14 1984, AND THIS, ON ITS FACE, COMES ON A DATE PRIOR TO THE  
15 OTHER THREE LETTERS YOU PREPARED TO MR. LEVIN, AND YOU ARE  
16 NOT SURE WHETHER YOU MAILED THIS TO MR. LEVIN OR HANDED THIS  
17 TO MR. HUNT?

18 A I AM NOT SURE ON THAT ONE, NO.

19 Q OKAY. COULD YOU READ FOR ME THE FIRST PARAGRAPH  
20 OF THAT LETTER, MA'AM.

21 A "DEAR RON:

22 "I AM PLEASED TO HEAR THAT YOU ARE  
23 INTRIGUED ABOUT OUR ATTRITION MILL. I HAVE  
24 ENCLOSED A TECHNICAL EVALUATION AND APPRAISAL  
25 OF THE ATTRITION MILL AND RELATED TECHNOLOGIES  
26 BY HENRY JUNG OF LIVERMORE ASSOCIATES. OF COURSE,  
27 THAT DOCUMENT IS PRIMARILY CONCERNED WITH FUEL  
28 APPLICATIONS OF THE MACHINE."

1 Q NOW, I SUPPOSE THIS WAS ANOTHER LETTER IN TYPICAL  
2 FASHION THAT HUNT WOULD LONGHAND BEFORE HE GAVE IT TO YOU?

3 A RIGHT.

4 Q AND HE SEEMED TO LONGHAND EVERYTHING HE DID?

5 A YES.

6 Q DID ANYONE ELSE IN THE OFFICE DO LETTERS FOR  
7 HUNT, ANY OTHER SECRETARY THAT WOULD TRANSCRIBE HIS LETTERS?

8 A NO, NOT REALLY. I DID MOST OF THEM.

9 Q YOU WOULD BE THE ONLY ONE WITH REFERENCE TO THAT  
10 REGARD?

11 A WELL, I WAS -- THERE WAS ANOTHER SECRETARY THERE.  
12 SHE SOMETIMES MIGHT HAVE DONE SOMETHING. BUT I DID THE REGULAR  
13 CORRESPONDENCE WHEN I WAS THERE.

14 Q BY THE WAY, WITH REFERENCE TO THAT WATCH ABOUT  
15 MR. HUNT THAT WAS REFERENCED IN THAT LETTER THAT YOU MENTIONED  
16 TO MR. WAPNER, IT SEEMED PECULIAR BECAUSE YOU HAD NOT SEEN  
17 ANY FANCY WATCH.

18 THE COURT: I CAN'T HEAR YOU WITH THE NOISE.

19 MR. CHIER: SORRY. I WAS COUGHING.

20 MR. BARENS: HE COUGHED, YOUR HONOR.

21 MR. CHIER: I AM SORRY. I APOLOGIZE.

22 Q BY MR. BARENS: MY QUESTION WAS ABOUT THE WATCH.  
23 THE QUESTION WAS, IN RESPONSE TO ONE OF MR.  
24 WAPNER'S QUESTIONS, YOU INDICATED THAT THAT REFERENCE IN  
25 THE MAY 23RD LETTER STOOD OUT IN YOUR MIND.

26 I THINK YOU USED WORDS TO THE EFFECT -- IF I  
27 AM WRONG, CORRECT ME -- THAT YOU HAD NEVER SEEN HUNT WEARING  
28 ANY KIND OF FANCY WATCH THAT YOU COULD THINK OF THAT MIGHT



1 HAVE BEEN THE SUBJECT OF THAT REFERENCE?

2 A THAT DIDN'T STRIKE ME. THERE WAS NOTHING THAT  
3 I COULD SEE THAT STRUCK ME AS ANYTHING IN PARTICULAR OUT-  
4 STANDING.

5 Q DID HUNT SEEM TO WEAR A STAINLESS STEEL WATCH,  
6 AS FAR AS YOU REMEMBER?

7 A I REALLY, TRULY DIDN'T PAY MUCH ATTENTION.

8 Q SO YOU COULDN'T TELL ME WHAT SORT OF WATCH HE  
9 WORE AT ALL?

10 A NO.

11 Q ALL RIGHT. NOW, YOU CONTINUED WORKING  
12 CONSECUTIVELY FOR MR. HUNT UNTIL OCTOBER OF 1984?

13 A YES.

14 Q DID MR. HUNT FOR INSTANCE, DURING THE ENTIRE  
15 MONTH OF SEPTEMBER, CONTINUE IN SOMEWHAT OF A BUSINESS-AS-  
16 USUAL FASHION?

17 A YES.

18 Q DID THERE COME A TIME WHEN YOU BECAME AWARE THAT  
19 MR. HUNT HAD RECEIVED A 1.5 MILLION DOLLAR CHECK IN CONJUNCTION  
20 WITH THE TRANSACTION WITH MR. LEVIN?

21 A YES.

22 Q DO YOU REMEMBER APPROXIMATELY WHEN THAT OCCURRED?

23 A THE DATE?

24 Q WELL, I AM NOT ASKING YOU TO TELL ME THE SPECIFIC  
25 DATE UNLESS YOU KNOW THE SPECIFIC DATE. WOULD IT BE AN UNTRUE  
26 STATEMENT TO SAY THAT THAT WAS ON OR ABOUT JUNE 6 OR 7 OF  
27 1984?

28 A I KNOW THERE WAS A CONTRACT. I REMEMBER THAT

1       RON LEVIN SIGNED THAT CONTRACT.

2                       AND JOE HUNT GOT A CHECK FOR 1.5 MILLION DOLLARS.  
3       AND SINCE THAT CONTRACT WAS TOWARD THE END OF MAY, I ASSUME  
4       IT MUST HAVE BEEN THEREAFTER, SOMETIME IN THE BEGINNING OF  
5       JUNE.

6               Q       OKAY.   AND DID YOU EVER REMEMBER ABOUT THE SAME  
7       POINT IN TIME, HAVING A DISCUSSION WITH MR. HUNT ABOUT MR.  
8       LEVIN BEING IN THE OFFICE?

9               A       NOT A DISCUSSION.   I WAS AT LUNCH.   I CAME BACK  
10       AND JOE SAID TO ME, "YOU JUST MISSED RON LEVIN."

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1 Q DO YOU REMEMBER WHEN THAT WAS?

2 A I CAN'T TELL YOU THE DATE. I REALLY DON'T KNOW.

3 Q ISN'T IT A FACT THAT THAT COMMENT, THAT EXCHANGE  
4 BETWEEN YOU AND MR. HUNT OCCURRED AROUND THE SAME TIME, JUST  
5 BEFORE HE GOT THE MILLION FIVE CHECK?

6 A I REALLY COULDN'T TELL YOU. I REALLY DON'T KNOW.  
7 I KNOW THE COMMENT WAS MADE BUT I REALLY DON'T KNOW--

8 Q OKAY.

9 A WHEN.

10 Q WHEN THOSE DOCUMENTS WERE RECEIVED, COPIES OF  
11 THEM WERE MAINTAINED IN THE REGULAR FILING SYSTEM AT THE  
12 OFFICES THERE?

13 A RIGHT.

14 Q AND THEY WEREN'T KEPT IN SOME SECRET OR COVERT  
15 MANNER?

16 A NO.

17 Q FILED JUST LIKE ANY OTHER THING GETS FILED?

18 A RIGHT.

19 Q DID HUNT GET PHONE CALLS FROM RON LEVIN?

20 A I REALLY DON'T REMEMBER. I REALLY DON'T.

21 Q YOU COULDN'T AS YOU TESTIFIED TODAY, TELL ME  
22 THAT YOU REMEMBER WHO CALLED OR WHO DIDN'T CALL ON THE  
23 PHONE?

24 A I REALLY DON'T REMEMBER IF HE DID OR NOT.

25 Q WAS IT YOUR PRACTICE TO PLACE MR. HUNT'S CALLS  
26 FOR HIM OR WOULD HE PLACE THEM FOR HIMSELF?

27 A HE WOULD CALL, HIMSELF. AND SOMETIMES -- ONCE  
28 IN A WHILE, I WOULD MAKE A PHONE CALL FOR HIM, AS FAR AS

1 I REMEMBER.

2 Q YOU DON'T RECALL, THOUGH?

3 A IT WAS NOT ANYTHING -- NO.

4 Q OKAY. THE CONTRACT THAT YOU LOOKED AT THAT IS  
5 ON THE STAND THAT IS CAPTIONED "MICROGENESIS OPTION CONTRACT"  
6 BETWEEN MESSRS. LEVIN AND HUNT, DO YOU RECALL TYPING THAT?

7 A YES.

8 Q AND YOU TYPED THAT IN THE NORMAL COURSE OF BUSINESS?

9 A I DID.

10 Q DID HE HANDWRITE THAT PRIOR TO YOUR TYPING IT?

11 A YES.

12 Q SO IT WAS LIKE YOU KNOW, THE WAY YOU USUALLY  
13 GOT STUFF THAT YOU TYPED?

14 A ABSOLUTELY, YES.

15 Q WAS THERE MORE THAN ONE DRAFT OF THIS DOCUMENT  
16 THAT YOU RECALL?

17 MR. WAPNER: EXCUSE ME. MAY WE HAVE THAT DOCUMENT  
18 REFERRED TO BY EXHIBIT NUMBER, SO WE KNOW WHAT WE ARE TALKING  
19 ABOUT?

20 MR. BARENS: IT IS YOUR MICROGENESIS CONTRACT WITH  
21 THE MILLION FIVE CHECK. NINETY-FIVE.

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1 THE COURT: YES?

2 MR. BARENS: I THINK WE WOULD REMEMBER THAT ONE.

3 IN ANY EVENT, WAS THAT --

4 THE COURT: THE QUESTION WAS WHETHER OR NOT THERE WAS  
5 MORE THAN ONE DRAFT MADE OF THAT PARTICULAR ALLEGED AGREEMENT.

6 THE WITNESS: I DIDN'T PAY TOO MUCH ATTENTION TO IT.

7 I REALLY DON'T REMEMBER.

8 THE COURT: YOU DON'T REMEMBER THAT, DO YOU?

9 THE WITNESS: NO.

10 Q BY MR. BARENS: DO YOU KNOW IF YOU HAD DONE ANY  
11 PRELIMINARY OR PREVIOUS DRAFTS OR WORKUPS ON THAT AGREEMENT  
12 BEFORE WE GOT TO THE ONE YOU ARE LOOKING AT NOW?

13 A IT WASN'T ANYTHING OUT OF THE ORDINARY REALLY  
14 SO I DIDN'T REALLY PAY VERY MUCH ATTENTION TO IT.

15 I TYPED THE STUFF THAT HE GAVE ME AND NOTHING --

16 I KNOW AN AGREEMENT WAS BEING MADE AND I REALLY --

17 SOMETIMES, YOU REDO CERTAIN THINGS A COUPLE OF  
18 TIMES AND IT WAS NOTHING OUT OF THE ORDINARY.

19 THE COURT: WILL YOU BE MUCH LONGER?

20 MR. BARENS: YES, YOUR HONOR.

21 THE COURT: THEN WE WILL TAKE OUR ADJOURNMENT.

22 MR. BARENS: THANK YOU, YOUR HONOR.

23 THE COURT: LADIES AND GENTLEMEN OF THE JURY, WE WILL  
24 TAKE AN ADJOURNMENT NOW UNTIL TOMORROW MORNING AT 10:30.

25 BUT BEFORE WE DO SO, I WANT TO EXPRESS FOR MYSELF  
26 AND FOR THE MEMBERS OF MY STAFF A HAPPY BIRTHDAY TO  
27 MRS. KORVIN. SHE HAS HER 32ND BIRTHDAY AND SHE LOOKS MUCH  
28 YOUNGER THAN THAT. CONGRATULATIONS AND HAPPY RETURNS.

1 GOOD NIGHT, LADIES AND GENTLEMEN.  
2 (AT 4:30 P.M. AN ADJOURNMENT WAS TAKEN  
3 UNTIL THURSDAY, MARCH 5, 1986, AT  
4 10:30 A.M.)  
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