

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

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Date

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

SUPERIOR COURT
NO. A-090435

OCT 09 1987

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

APPEARANCES:

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

FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 67 OF 101
(PAGES 10596 TO 10800 , INCLUSIVE)

ROSEMARIE GOODBODY, CSR NO. 932
SALL 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
TUESDAY, MARCH 17, 1987
VOLUME 67

PAGES 10596 TO 10800, 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, CALIFORNIA; TUESDAY, MARCH 17, 1987; 10:28 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 OF
7 THE JURORS:)

8 THE COURT: I AM READY TO HEAR THE MOTION.

9 MR. BARENS: FOR THE DEFENSE, I AM GOING TO SUBMIT ON
10 THE MOVING PAPERS. I HAVE NOTHING TO ADD OTHER THAN THE
11 DECLARATION AND THE LAW.

12 MR. WAPNER: YOUR HONOR, FIRST OF ALL, PERSONALLY,
13 I HAVE NO OBJECTION IF ONE COUNSEL WANTS TO MAKE ONE ARGUMENT
14 AND ANOTHER ONE MAKE ANOTHER ARGUMENT.

15 THE ONLY REASON, THE ONLY THING THAT I THINK WOULD
16 BE A PROBLEM IS IF THEY ARE TRYING TO BREAK ARGUMENTS UP IN
17 THE MIDDLE, IF ONE IS GOING TO MAKE HALF OF THE ARGUMENT AND
18 THE OTHER ONE IS GOING TO MAKE HALF OF AN ARGUMENT.

19 BUT IN THE SHORT TIME I HAVE HAD TO PERUSE THE
20 CODE, I DID NOT HAVE A CHANCE TO READ ACTUALLY ANY OF THE
21 CASES CITED, BUT THE LANGUAGE OF THE CODE SEEMS TO BE FAIRLY
22 MANDATORY THAT IN A CAPITAL CASE, THEY ARE ENTITLED TO HAVE
23 COUNSEL ARGUE THE CASE WITHIN THE LIMITS --

24 THE COURT: YOU MEAN IF THE PEOPLE ALSO HAVE TWO COUNSEL.
25 IT SAYS "BOTH SIDES SHOULD HAVE TWO COUNSEL." ARE YOU GOING
26 TO HAVE SOMEBODY ELSE ARGUE WITH YOU?

27 MR. WAPNER: NO. BUT THAT IS NOT THE WAY THAT I INTERPRET
28 THE CASE -- I MEAN THE SECTION.

1 NO, I AM NOT GOING TO HAVE TWO PEOPLE ARGUE. IT
2 WOULD BE A LITTLE OUT OF THE ORDINARY.

3 THE COURT: WELL, HASN'T THIS MOTION PREVIOUSLY BEEN
4 MADE BEFORE ME AND DENIED.

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1 MR. WAPNER: I DON'T --

2 THE COURT: DON'T YOU REMEMBER THAT SECTION HAVING BEEN
3 CITED TO ME AND I RULED ON IT AT THAT TIME?

4 MR. WAPNER: THE SECTION WAS CITED --

5 THE COURT: HE MADE A MOTION, MR. -- WHAT IS YOUR NAME?

6 MR. BARENS: BARENS.

7 THE COURT: YOU MADE THE MOTION BEFORE. DON'T YOU
8 REMEMBER THAT?

9 MR. WAPNER: I REMEMBER THE SECTION BEING CITED AS
10 PURPORTED AUTHORITY THAT BOTH COUNSEL SHOULD BE ALLOWED TO
11 PARTICIPATE IN THE ENTIRE TRIAL, WHICH WAS CITED TO YOU AS
12 SUPPORT FOR THAT PROPOSITION.

13 BUT ON THE PARTICULAR ISSUE, I THINK THE COURT --

14 THE COURT: HAVE YOU FORGOTTEN SOMETHING IN THIS CASE?
15 HAVE YOU FORGOTTEN THAT AT THE TIME THAT WE MADE THE DEAL
16 OR ARRANGEMENTS FOR MR. CHIER TO COME INTO THE CASE AND BE
17 PAID BY THE COUNTY, SINCE THE DEFENDANT WAS UNABLE TO PAY
18 FOR THE FEES, THAT AT THAT TIME, THE ARRANGEMENT WAS MADE
19 WITH MR. BARENS TO PAY HIM \$75 AN HOUR AND TO PAY \$35 AN HOUR
20 FOR HIS ASSISTANT.

21 MR. CHIER: THAT IS INCORRECT --

22 THE COURT: YOU JUST SIT DOWN, THERE. ALL RIGHT?

23 WHEN I HAVE GOTTEN THROUGH, YOU CAN DO SOME
24 TALKING, IF I WILL PERMIT YOU TO DO IT. \$35 AN HOUR.

25 MR. BARENS, IS IT NOT TRUE THAT WE MADE AN ARRANGEMENT ONE
26 TIME THAT YOU WERE TO GET \$75 AN HOUR AND YOU TOLD ME THAT
27 YOU WANTED TO HAVE MR. CHIER ASSOCIATING WITH YOU TO ARGUE
28 ANY LAW AND MOTIONS WHICH WOULD BE MADE AND HE WOULD GET \$35

1 AN HOUR TO ACT AS YOUR ASSISTANT?

2 MR. BARENS: MAY I RESPOND?

3 THE COURT: IS THAT TRUE OR NOT TRUE?

4 MR. BARENS: YES, YOUR HONOR. MAY I RESPOND?

5 THE COURT: IS IT TRUE OR NOT?

6 MR. BARENS: YES, YOUR HONOR. YOUR HONOR --

7 THE COURT: SUBSEQUENTLY, THAT WAS THE ARRANGEMENT
8 THAT WAS MADE. THEN, HAVE YOU FORGOTTEN MR. CHIER THEN MADE
9 A MOTION TO BE PERMITTED -- HE DIDN'T LIKE THAT ARRANGEMENT.
10 SO WHAT HE DID WAS, TO TAKE AN APPEAL TO THE COURT OF APPEALS
11 SAYING THAT I AM BARRING THIS DEFENDANT FROM HAVING THE BENEFIT
12 OF HIS COUNSEL. AND HE SUBMITTED TO THE COURT OF APPEALS
13 AND LATER THE SUPREME COURT OF CALIFORNIA, FALSIFIED DOCUMENTS
14 BY LEAVING OUT THE COLLOQUY WHICH TOOK PLACE BETWEEN MR. BARENS
15 AND MYSELF IN WHICH I SAID ALL RIGHT, I WILL CHANGE MY MIND,
16 I WILL PERMIT HIM TO PARTICIPATE IN THIS CASE AND CONSULT
17 WITH YOU AND ARGUE ALL MOTIONS OF LAW THAT MAY COME UP.

18 THAT IS THE FULL EXTENT TO WHICH HE IS GOING TO
19 BE PARTICIPATING. AND IN THE COURT OF APPEALS AND IN THE
20 SUPREME COURT, MR. CHIER IN MAKING HIS MOTION, LEFT THAT OUT
21 OF THE RECORD. AND THE DISTRICT ATTORNEY, YOUR OFFICE --
22 YOUR OFFICE POINTED OUT TO THE SUPREME COURT THAT THERE HAD
23 BEEN THIS DELIBERATE OMISSION IN THE RECORD OF THE
24 ARRANGEMENTS WHICH HAD BEEN FINALLY MADE BETWEEN COUNSEL AND
25 MYSELF.

26 AND THE SUPREME COURT, IN VIEW OF THAT OPPOSITION,
27 DENIED THE MOTION TO PERMIT HIM TO BECOME COUNSEL IN THE CASE,
28 THE SAME AS MR. BARENS. HAVE YOU FORGOTTEN THAT?

1 MR. WAPNER: I HAVE NOT FORGOTTEN ANY OF THAT.

2 THE COURT: ALL RIGHT, THEN. SO SUBSEQUENTLY, HIS
3 ACTIVITY IN THIS CASE IS LIMITED TO WHAT HAS BEEN AGREED UPON,
4 WHAT THE SUPREME COURT PUT ITS APPROVAL ON. AND THAT IS,
5 THAT HE IS TO PARTICIPATE ONLY IN THE EXTENT OF ASSISTING
6 MR. BARENS. AND IF HE DOES, I AM AFRAID THAT MR. BARENS WILL
7 BE LEANING ON A VERY THIN REED. HE WAS TO BE LIMITED ONLY
8 TO CONSULTING WITH HIM, RUNNING HIS ERRANDS, LOOKING UP THE
9 LAW AND ARGUING MATTERS OF LAW.

10 AND I DID THAT FOR A VERY SPECIFIC REASON THAT
11 ORIGINATED AT THE TIME OF THE HOVEY HEARINGS WHERE HIS CONDUCT,
12 MR. CHIER'S CONDUCT WAS SO ABRASIVE WITH THE PROSPECTIVE JURORS
13 AND SO ANTAGONISTIC, THAT I THINK THAT IT WAS FOR THE BEST
14 INTERESTS OF THIS DEFENDANT NOT TO HAVE HIM IN ANY WAY,
15 APPEAR BEFORE ANY JURY IN THIS CASE AND ARGUE ANYTHING BEFORE
16 THEM. THAT INCLUDES MAKING CONCLUDING ARGUMENTS.

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1 MR. WAPNER: YOUR HONOR, I HADN'T FORGOTTEN ANY OF THAT.

2 I AM CONCERNED ABOUT WHAT APPEARS TO BE THE SPECIFIC
3 DICTATES OF SECTION 1095 OF THE PENAL CODE WHICH, AS OPPOSED
4 TO WHATEVER ELSE HAS BEEN GOING ON IN THIS CASE, SEEMS TO
5 BE FAIRLY MANDATORY ON THE ISSUE OF ARGUMENT AND THAT IS THE
6 REASON --

7 THE COURT: THERE IS NO CASE -- AND I HAVE LOOKED UP
8 THE CASES -- WHICH SAYS THAT IT IS MANDATORY THAT BOTH COUNSEL
9 ARGUE. THE COURT HAS NEVER BEEN PRESENTED WITH THAT PROBLEM
10 BEFORE. I HAVE LOOKED UP THE CASES WHICH DISCUSS THE QUESTION.
11 I HAVEN'T SEEN ANYTHING IN THE CASES WHICH SO INDICATE.
12 NO CASES CITED BY THE DEFENDANT IN SUPPORT OF THE PROPOSITION
13 THAT I THINK, PROPERLY INTERPRETED, DICTATES TWO COUNSEL IN
14 THE CASE FOR ARGUMENT. IT MEANS ALL THROUGHOUT THE CASE,
15 NOT JUST ON MAKING THE CONCLUDING ARGUMENT TO THE JURY, IT
16 WASN'T INTENDED JUST THAT ALONE. IT IS TO PARTICIPATE IN
17 THE TRIAL AND HE HAS PARTICIPATED IN THE TRIAL TO THE EXTENT
18 WHERE MR. BARENS IS, ON EVERY SINGLE QUESTION THAT HAS BEEN
19 ASKED ALMOST, HE HAS BEEN WHISPERING TO HIM AND DISTURBING
20 MR. BARENS IN CONNECTION WITH THE CONDUCT OF THIS PARTICULAR
21 CASE. BUT THAT IS MR. BARENS BUSINESS AND NOT MINE.

22 AT ANY RATE --

23 MR. CHIER: MAY I RESPOND ON THAT?

24 THE COURT: YOU CAN RESPOND, MR. BARENS.

25 MR. CHIER: I HAVE BEEN SLANDERED HERE, YOUR HONOR.
26 I WOULD LIKE TO RESPOND.

27 THE COURT: ARE YOU GOING TO KEEP QUIET?

28 MR. CHIER: YOU HAVE ACCUSED ME --

1 THE COURT: THERE IS NO SLANDER TO YOU. EVERYTHING
2 I SAID WAS THE TRUTH.

3 MR. CHIER: IT IS NOT TRUE, YOUR HONOR, AND I WILL TELL
4 YOU WHY IT IS NOT TRUE.

5 IT IS NOT TRUE BECAUSE I WAS NOT APPOINTED BY
6 YOUR HONOR.

7 THE COURT: MR. BARENS, YOU CAN ARGUE BEFORE ME. HE
8 IS INVOLVED IN IT.

9 MR. BARENS: YOUR HONOR, I BELIEVE MR. CHIER FAIRLY
10 HAS TO BE ABLE TO COMMENT, YOUR HONOR.

11 THE COURT: GO AHEAD.

12 MR. CHIER: I WAS NOT APPOINTED BY THIS COURT. AT THE
13 TIME I WAS APPOINTED, I WAS APPOINTED A YEAR PRIOR TO THE
14 TIME MR. BARENS WAS APPOINTED.

15 THE COURT: APPOINTED BY WHOM?

16 MR. CHIER: BY JUDGE THOMAS.

17 THE COURT: WHAT HAPPENED BEFORE JUDGE THOMAS, YOU IN
18 YOUR AFFIDAVIT, IN WHICH YOU STATED TO THIS COURT, YOU SAID
19 YOU WERE A PARTNER OF HIS BEFORE ANY QUESTION CAME UP ABOUT
20 YOUR BEING APPOINTED BY THE COURT.

21 MR. CHIER: THAT IS NOT TRUE, YOUR HONOR.

22 THE COURT: DON'T TELL ME IT ISN'T. I WILL SHOW YOU
23 AN AFFIDAVIT WHICH SAYS IT IS.

24 MR. CHIER: PLEASE DO, BECAUSE I DON'T THINK THAT THE
25 ONE TO JUDGE THOMAS --

26 THE COURT: NOT TO JUDGE THOMAS.

27 IN AN AFFIDAVIT YOU FILED IN THIS COURT, YOU SAID
28 YOU WERE A PARTNER IN THIS PARTICULAR CASE. BEING A PARTNER

1 AT THE TIME, AND THE FEES WEREN'T BEING PAID AND MR. BARENS
2 WANTED TO BE APPOINTED -- HE WANTED TO BE APPOINTED BY THE
3 COURT, TO HAVE THE COURT PAY HIM, WHICH I AM PERFECTLY WILLING
4 TO DO, AND AT THE SAME TIME THAT YOU WERE APPOINTED ON THIS
5 PARTICULAR CASE, IN ORDER TO GET YOUR APPOINTMENT, YOU WENT
6 TO JUDGE THOMAS AND NOT TO ME. JUDGE THOMAS DIDN'T KNOW THAT
7 YOU WERE A PARTNER AND YOU RECEIVED FEES PRIOR TO THE TIME
8 THAT YOU HAD ASKED FOR THE APPOINTMENT AND TO BE PAID BY --

9 AND JUDGE THOMAS TOLD ME THAT HE NEVER WOULD HAVE
10 APPOINTED YOU IF HE HAD KNOWN THAT YOU WERE A PARTNER AND
11 RECEIVED FEES IN THIS PARTICULAR CASE.

12 MR. CHIER: WELL, YOUR HONOR, I BEG TO DIFFER WITH YOU.
13 I MADE A COMPLETE DISCLOSURE TO JUDGE THOMAS.

14 THE COURT: NO, YOU DID NOT. THERE IS NOTHING IN THE
15 AFFIDAVIT THAT SAYS YOU WERE A PARTNER BEFORE THAT TIME.

16 MR. CHIER: MAY I JUST STATE MY POSITION FOR THE RECORD?

17 THE COURT: GO AHEAD.

18 MR. CHIER: THE AFFIDAVIT THAT I SUBMITTED TO JUDGE
19 THOMAS IN SUPPORT OF THE APPLICATION TO BE APPOINTED HAD MADE
20 A COMPLETE DISCLOSURE OF THE FINANCIAL ARRANGEMENTS BETWEEN
21 MR. BARENS AND MR. HUNT AND BETWEEN MR. BARENS AND MYSELF.
22 IT WAS AT THAT TIME THAT JUDGE THOMAS FOUND THERE WAS A NEED
23 FOR MY BEING APPOINTED.

24 I WAS APPOINTED WITHOUT LIMITATION, RESTRICTION
25 OR OTHER, YOU KNOW, CONDITION.

26 THE COURT: THAT IS NOT WHAT JUDGE THOMAS TOLD ME.

27 MR. CHIER: WELL, YOUR HONOR, I WAS APPOINTED A YEAR
28 BEFORE THIS ALLEGED ARRANGEMENT BETWEEN YOU AND MR. BARENS.

1 THE COURT: FINISH UP.

2 MR. CHIER: AND AFTER THE AFFIDAVIT WHICH I FILED --
3 IT WAS A CONFIDENTIAL AFFIDAVIT AND YOUR HONOR SEEMS TO HAVE
4 READ IT, SO IT WOULD APPEAR THE CONFIDENTIALITY ASPECT OF
5 IT HAS BEEN BREACHED.

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1 THE COURT: THERE IS NO CONFIDENTIALITY INVOLVED IN
2 THAT PARTICULAR MOTION TO APPOINT YOU UNDER SUBDIVISION G.
3 IT IS NOT UNDER 9. AND UNDER SUBDIVISION G THERE IS NO
4 CONFIDENTIALITY.

5 MR. CHIER: IN ANY EVENT, THE AFFIDAVIT SPEAKS FOR
6 ITSELF.

7 I MADE A FULL DISCLOSURE. WHAT YOU ARE SAYING
8 HERE IS NOT CORRECT. IT IS SIMPLY NOT CORRECT AND IT
9 MISSTATES THE RECORD AND IT MISSTATES THE FACTS AS THEY HAVE
10 DEVELOPED IN THIS CASE.

11 I WAS APPOINTED A YEAR EARLIER WITHOUT LIMITATION
12 OR CONDITION AND I MADE A COMPLETE DISCLOSURE AS TO
13 EVERYTHING AND I STAND ON THAT AFFIDAVIT.

14 IT IS IMPROPER FOR YOUR HONOR TO HAVE MUZZLED
15 ME SO FAR.

16 THE COURT: IF YOU USE THAT WORD AGAIN, I AM GOING TO
17 HOLD YOU IN CONTEMPT. I AM NOT MUZZLING YOU. I AM MAKING
18 A RULING, WHICH I THINK IS PERFECTLY PROPER, AND THE
19 CONNOTATION OF THAT WORD "MUZZLE," I DON'T LIKE AND YOU USED
20 THAT IN YOUR PAPERS. NOW YOU CUT THAT OUT. I AM NOT MUZZLING
21 YOU.

22 GO AHEAD AND TALK.

23 MR. CHIER: I AM SPEAKING WITH RESPECT TO MY -- THE
24 RESTRAINT IMPOSED UPON ME VIS-A-VIS THE JURY AND THE
25 WITNESSES IN THIS CASE.

26 THEE COURT: IT IS FOR THE BEST INTERESTS OF THIS
27 DEFENDANT THAT I DON'T WANT YOU ADDRESSING THE JURY IN ANY
28 WAY BECAUSE YOU ARE GOING TO BE BAD FOR HIS CASE. I WANT

1 TO BE SURE THAT LATER ON -- THAT LATER ON IF THE CASE GOES
2 UP ON APPEAL, IF HE IS CONVICTED AND IF IT GOES UP ON APPEAL,
3 THERE WON'T BE ANY CLAIM MADE OF INADEQUACY OF COUNSEL, THAT
4 IS WHAT I AM CONCERNED ABOUT, AND THAT IS WHY I DON'T WANT
5 YOU APPEARING BEFORE THE JURY IN ANY WAY.

6 MR. BARENS IS TEN TIMES THE KIND OF A LAWYER YOU
7 ARE AND HE CAN BEST REPRESENT THIS DEFENDANT. HE DOESN'T
8 NEED YOU TO PARTICIPATE IN ANYTHING TO DO WITH THIS PARTICULAR
9 JURY.

10 MR. CHIER: ARE YOU MAKING A FINDING I AM INEFFECTIVE
11 OR INADEQUATE?

12 THE COURT: I DON'T WANT ANY CLAIM MADE LATER ON THAT
13 YOU WERE INADEQUATE.

14 MR. CHIER: WE SHOULD HAVE A HEARING ABOUT THIS, YOUR
15 HONOR.

16 THE COURT: I DON'T WANT TO HAVE ANY FURTHER HEARING.

17 MR. CHIER: THERE IS NO --

18 THE COURT: YOU WANT ME TO DENY THE MOTION BECAUSE YOU
19 WANT TO TAKE ANOTHER APPEAL, THAT IS WHAT YOU HAVE BEEN DOING,
20 APPEALING, APPEALING AND APPEALING, ALWAYS RUNNING CRYING
21 TO THE COURT OF APPEALS OR THE SUPREME COURT. GO AHEAD AND
22 DO IT AGAIN. I AM GOING TO DENY YOUR MOTION.

23 MR. CHIER: THANK YOU, YOUR HONOR.

24 MR. BARENS: YOUR HONOR, MAY I BE HEARD JUST BRIEFLY?

25 THE COURT: GO AHEAD.

26 MR. BARENS: IRRESPECTIVE OF ANY ARRANGEMENT YOUR HONOR
27 HAS REFERRED TO, I DO NOT BELIEVE EITHER MYSELF NOR THE COURT
28 NOR MR. WAPNER NOR MR. CHIER CAN ABROGATE OR WAIVE THE

1 STATUTORILY CONFERRED RIGHT THAT THE DEFENDANT HAS, WHICH
2 HE HAS REQUESTED IN HIS AFFIDAVIT ON FILE.

3 I HAVE GRAVE CONCERN, YOUR HONOR, AS TO A LATER
4 REVIEW OF THIS MATTER ALLEGING THAT HE WAS INADEQUATELY
5 REPRESENTED.

6 THE DEFENDANT HAS SAID IN HIS AFFIDAVIT THAT UNLESS
7 HE HAS THE STATUTORY RIGHTS CONVEYED IN WHAT I BELIEVE TO
8 BE --

9 THE COURT: MR. BARENS, YOU CAN BETTER REPRESENT THIS
10 DEFENDANT IN EVERY PHASE OF THIS TRIAL AND THAT INCLUDES YOUR
11 CONCLUDING ARGUMENT TO THE JURY. WE DON'T NEED HIM. WE DON'T
12 NEED MR. CHIER TO DO THAT FOR YOU. YOU ARE THOROUGHLY FAMILIAR
13 WITH EVERY ASPECT OF THIS CASE.

14 MY IMPRESSION OF YOU IS THAT YOU ARE AN EXCELLENT
15 LAWYER, INFINITELY MORE SUPERIOR, IN MY OPINION, IN PRESENTING
16 THE CASE TO THE JURY AND ANY ARGUMENT TO THE JURY.

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1 MR. BARENS: ALTHOUGH I APPRECIATE YOUR HONOR'S
2 COMMENT IN THAT REGARD, MY CONCERN, YOUR HONOR, GOES TO THE
3 STATUTORY RIGHTS APPARENTLY HELD BY THE DEFENDANT.

4 THE COURT: WELL, I DIFFER WITH YOU AS TO THE
5 STATUTORY RIGHTS. LET'S PROCEED WITH THIS CASE.

6 GO AND TAKE IT UP ON APPEAL. LET'S PROCEED
7 WITH THE JURY.

8 MR. BARENS: ALL RIGHT. THANK YOU.

9 (PAUSE.)

10 (JURY ENTERS THE COURTROOM.)

11 THE COURT: ALL RIGHT. GOOD MORNING, LADIES AND
12 GENTLEMEN. SORRY FOR THE DELAY. WE HAD SOME MOTIONS OUT-
13 SIDE THE PRESENCE OF THE JURY.

14
15 LESLIE H. ZOELLER,
16 THE WITNESS ON THE STAND AT THE TIME OF ADJOURNMENT, RESUMED
17 THE STAND AND TESTIFIED AS FOLLOWS:

18 THE CLERK: YOU HAVE PREVIOUSLY BEEN SWORN. YOU ARE
19 STILL UNDER OATH. STATE YOUR NAME ONCE AGAIN.

20 THE WITNESS: LESLIE H. ZOELLER.

21
22 DIRECT EXAMINATION (CONTINUED)

23 BY MR. WAPNER:

24 Q DETECTIVE ZOELLER, SHOWING YOU AN EXHIBIT
25 MARKED AS 28 FOR IDENTIFICATION, DO YOU RECOGNIZE THAT?

26 A YES, I DO.

27 Q WHAT IS IT?

28 A IT IS A TELEPHONE RECORD BOOK THAT I OBTAINED

1 FROM MR. LEVIN'S HOUSE ON HIS DESK.

2 Q AND THAT WAS ON AUGUST 16?

3 A THAT'S CORRECT.

4 Q AND THAT IS A RECORD OF PHONE CALLS APPARENTLY
5 KEPT BY RONALD LEVIN?

6 A YES.

7 Q WHAT IS THE BEGINNING DATE OF THOSE PHONE CALLS?

8 A 7-13-82.

9 Q AND WHAT IS THE LAST DATE THAT HE RECORDED
10 ANY PHONE CALLS?

11 A JUNE 6, 1984.

12 Q NO CALLS AFTER THAT AT ALL RECORDED IN THAT
13 BOOK?

14 A NONE.

15 Q DID YOU ALSO TAKE -- YOU TOLD US YESTERDAY THAT
16 YOU TOOK SEVERAL ITEMS FROM A FILE AT MR. LEVIN'S HOUSE
17 ENTITLED "MAY BROTHERS LAND CORPORATION."

18 DID YOU ALSO TAKE THE MAY BROTHERS LAND
19 CORPORATION FILE FOLDER?

20 A YES.

21 MR. WAPNER: I HAVE HERE AN EXHIBIT I WOULD LIKE
22 TO HAVE MARKED AS 101 FOR IDENTIFICATION. IT APPEARS TO
23 BE AN EMPTY FILE FOLDER WITH THE LABEL ON THE BOTTOM
24 "MAY BROTHERS LAND CORPORATION."

25 MAY THAT BE 101?

26 THE COURT: YES.

27 Q BY MR. WAPNER: SHOWING YOU 101 FOR IDENTIFICATION,
28 DO YOU RECOGNIZE THAT?

1 A I DO.

2 Q WHAT IS IT?

3 A THIS IS THE FOLDER WHICH HAD THE MAY BROTHERS
4 LAND CORPORATION PAPER WORK IN IT.

5 Q THAT ALSO HAD THE STATEMENTS FROM THE CLAYTON
6 BROKERAGE COMPANY?

7 A YES.

8 Q AND THERE IS A LABEL ON IT THAT SAYS "MAY
9 BROTHERS LAND CORPORATION," IS THAT RIGHT?

10 A THAT'S CORRECT.

11 Q WOULD YOU HOLD IT UP JUST SO THE JURY CAN SEE
12 IT?

13 (THE WITNESS COMPLIES.)

14 Q BY MR. WAPNER: THAT APPEARS TO BE SOME TYPE
15 OF A GUMMED LABEL THAT HAS THE WORDS "MAY BROTHERS LAND
16 CORPORATION" TYPED ON IT?

17 A THAT'S CORRECT.

18 Q DID YOU SEE A LOT OF OTHER FILES IN RON LEVIN'S
19 APARTMENT?

20 A YES.

21 Q AND WITH RESPECT TO THE MANNER IN WHICH THE
22 FILES WERE LABELED, WHAT DID YOU NOTICE ABOUT THEM?

23 MR. BARENS: OBJECTION, BEST EVIDENCE.

24 MR. WAPNER: IT IS NOT OFFERED TO PROVE THE CONTENT
25 OF THE WRITING. THAT IS WHAT THEY SAID, BUT ONLY THE
26 MANNER IN WHICH HE WENT ABOUT LABELING IT.

27 MR. BARENS: THAT IS WHAT MY OBJECTION GOES TO.

28 THE COURT: IT WILL BE LIMITED TO THAT. OVERRULED.

4-4

1 GO AHEAD.

2 Q BY MR. WAPNER: WHAT DID YOU SEE IN TERMS OF
3 THE MANNER IN WHICH THESE FILES WERE LABELED?

4 A THE MAJORITY OF THEM WERE FILES SIMILAR TO THIS,
5 WHICH HAD LABELS AT THE BOTTOM SIMILAR TO THIS ONE AND OTHER
6 FILES.

7 THE BLACK, THREE-RING BINDERS HAD TYPED LABELS
8 ON THE FRONT OF THEM.

9 Q DID ALL OF THE LABELS THAT YOU SAW OR AT LEAST
10 MOST OF THEM, APPEAR TO BE TYPED?

11 A YES.

12 Q AND THE FILE THAT YOU TOOK THAT WE HAVE LABELED
13 AS 100 FOR IDENTIFICATION, WAS DIFFERENT FROM THAT, IS THAT
14 RIGHT?

15 A THAT'S CORRECT.

16 Q AND THAT WAS WRITTEN ON THE FRONT WITH SOME KIND
17 OF SCRIBBLING, APPARENTLY?

18 A YES.

19 Q THIS IS A PORTION OF 100?

20 A YES.

21 Q THERE WAS NO TYPED LABEL THAT WAS THERE?

22 A NONE, NO.

23 Q SHOWING YOU ANOTHER ITEM WE HAVE MARKED AS
24 59 FOR IDENTIFICATION, DO YOU RECOGNIZE THAT?

25 A YES, I DO.

26 Q WHAT IS IT?

27 A THAT IS A COPY OF THE MEETINGS (SIC) OF A
28 SPECIAL MEETING WHICH WAS HOW IT WAS TITLED OF THE BOARD

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1 OF DIRECTORS OF MICROGENESIS OF NORTH AMERICA. THIS
2 AUTHORIZES BEN DOSTI TO NEGOTIATE THE LEVIN CHECK.

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1 Q AND WHERE DID YOU GET THAT FROM?

2 A THIS IS THE OTHER ITEM FROM THE MAY BROTHERS
3 AT THE INITIAL MEETING ON THE 9TH OF AUGUST OF 1984.

4 Q AND YOU KEPT THAT WITH YOU AND THE POLICE
5 REPORTS AND AT SOME POINT BROUGHT IT TO COURT?

6 A THAT'S CORRECT.

7 MR. WAPNER: AND I HAVE, YOUR HONOR, A MANILA
8 ENVELOPE THAT BEARS THE NUMBER, I BELIEVE IT HAS BEEN
9 PREVIOUSLY MARKED, AS 109 FOR IDENTIFICATION.

10 THE COURT: ALL RIGHT.

11 Q BY MR. WAPNER: DETECTIVE ZOELLER, SHOWING YOU
12 109 FOR IDENTIFICATION, DO YOU RECOGNIZE THAT?

13 A YES, I DO.

14 Q WHAT IS IT?

15 A THIS IS A COPY OR RECEIPT FROM THE WORLD TRADE
16 BANK FOR THE NEGOTIATION OF THE 1.5 MILLION DOLLAR CHECK
17 THAT DEAN KARNY GAVE ME ON THE INTERVIEW OF NOVEMBER 29 OF
18 1984.

19 Q AND AFTER YOU GOT THAT FROM MR. KARNY, WHAT DID
20 YOU DO WITH IT?

21 A I PLACED IT IN THIS ENVELOPE AND PLACED IT
22 IN EVIDENCE AT BEVERLY HILLS P.D.

23 Q AND AT SOME TIME, DID YOU BRING THAT TO COURT
24 WITH YOU?

25 A YES.

26 Q AND AT THAT POINT, WAS IT PLACED IN THE CUSTODY
27 OF THE COURT?

28 A THAT'S CORRECT.

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

2 THE COURT: YES.

3 Q BY MR. WAPNER: IN YOUR INVESTIGATION OF THIS
4 CASE, DID YOU DO ANYTHING TO TRY AND CHECK VARIOUS AIRLINES
5 FOR RESERVATIONS IN THE NAME OF MR. LEVIN OR OTHER PEOPLE?

6 A YES.

7 Q SPECIFICALLY, WHAT DID YOU DO?

8 A I CHECKED ALL OF THE MAJOR AIRLINES FROM
9 CALIFORNIA TO NEW YORK TO SEE IF THERE WAS A FLIGHT TAKEN
10 BY MR. LEVIN OR OTHER PEOPLE INVOLVED IN THE CASE ON THE
11 MORNING OF THE 7TH OR LATE EVENING OF THE 6TH.

12 Q WHAT DID YOU FIND?

13 A I FOUND NOTHING.

14 Q YOU WERE UNABLE TO FIND A RESERVATION IN THE
15 NAME OF MR. LEVIN TO GO TO NEW YORK?

16 A I DON'T BELIEVE SO, NO.

17 Q AND SPECIFICALLY, ON ONE OF THE PAGES OF THE
18 EXHIBIT, PEOPLE'S 55, WAS THERE A NOTATION ABOUT A FLIGHT,
19 TWA FLIGHT NUMBER 840?

20 A YES.

21 Q DID YOU MAKE SOME ATTEMPT TO CHECK THAT OUT?

22 A YES.

23 Q AND WHAT DID YOU FIND?

24 A THAT THERE --

25 MR. BARENS: CALLS FOR A HEARSAY RESPONSE, YOUR HONOR.

26 THE COURT: READ THAT BACK, PLEASE.

27 (WHEREUPON, THE RECORD WAS READ BY THE
28 REPORTER.)

1 THE COURT: OVERRULED.

2 Q BY MR. WAPNER: WHAT DID YOU FIND?

3 A I FOUND THERE IS IN FACT A TWA FLIGHT 840 THAT
4 LEFT LOS ANGELES AT 8:30 IN THE MORNING AND I CHECKED TO
5 SEE WHETHER, ONE, RONALD LEVIN WAS SCHEDULED TO GO ON THAT
6 FLIGHT, WHETHER HE HAD A RESERVATION OR WHETHER MR. HUNT
7 OR MR. PITTMAN OR GRAHAM HAD, AND I FOUND THAT THOSE NAMES
8 DID NOT SHOW ON THE RECORDS AT ALL.

9 Q WAS THAT A FLIGHT THAT GOES AT 8:30 IN THE
10 MORNING EVERY MORNING?

11 A I BELIEVE SO, YES.

12 Q YOU WERE SHOWN SOME PICTURES YESTERDAY OF
13 SOLEDAD CANYON, INCLUDING SOME PICTURES OF WHAT APPEARS TO
14 BE MR. HUNT'S JEEP.

15 A THAT'S CORRECT.

16 Q AND SHOWING YOU THE PICTURES THAT ARE 228,
17 WHICH ARE THE PICTURES OF THE JEEP, AND 108, WHICH ARE THE
18 THREE PHOTOGRAPHS PLACED TOGETHER TO MAKE ONE, OF SOLEDAD
19 CANYON, AND 211, WHICH IS THE BLOW-UP OF SOLEDAD CANYON,
20 CAN YOU TELL ME HOW IT WAS THAT YOU WENT ABOUT TRYING TO
21 LOCATE THE AREA WHERE THE JEEP WAS, APPEARS TO BE IN THOSE
22 PICTURES?

23 A AT ONE PARTICULAR TIME IN THE INVESTIGATION,
24 I SPOKE WITH STEVE LOPEZ, WHO STATED THAT HE WAS ONE OF THE
25 INDIVIDUALS THAT THE MOTORCYCLES WERE BOUGHT FOR, AND I HAD
26 AN INTEREST IN LOCATING IN THIS PICTURE, THE LOCATION IN
27 THE PICTURE.

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6-
1 Q THAT IS THE ONE DEPICTED IN 228?

2 A THAT'S CORRECT. AND HE SAID THAT HE WENT TO THAT
3 LOCATION ON THE MOTORCYCLES WITH JOE HUNT AND HE SUBSEQUENTLY
4 WENT UP WITH ME AND SHOWED ME WHERE THAT WAS.

5 Q AND IS THAT WHY YOU CAUSED KURT KUHN TO TAKE
6 A PICTURE OF THAT AREA?

7 A YES.

8 Q AND IN THE TIMES THAT YOU HAD GONE UP TO SOLEDAD
9 CANYON, ARE THERE AREAS OR PORTIONS OF THAT CANYON THAT ARE
10 DESIGNATED AS SHOOTING AREAS?

11 A YES.

12 Q AND IN THOSE AREAS, WHEN YOU DRIVE THROUGH THOSE
13 PORTIONS OF SOLEDAD CANYON, IS THERE ANYTHING THAT YOU NOTICE
14 IN TERMS OF DEBRIS OR ANYTHING LIKE THAT?

15 A IN CERTAIN AREAS OF THE SHOOTING AREA, IT SEEMS
16 TO BE HEAVILY USED AS A SHOOTING AREA, WHERE OTHER PORTIONS
17 DON'T APPEAR TO BE.

18 SO ON CERTAIN AREAS, THERE APPEARS TO BE A LOT
19 OF TARGETS, SHOT-UP TARGETS OR CANS, DEBRIS.

20 Q AND IN THE AREA WHERE THE -- THAT IS DEPICTED
21 IN THE PHOTOGRAPH THAT IS 108 AND ALSO 228 WHERE THE JEEP
22 IS, IS THAT A SHOOTING AREA OR NOT A SHOOTING AREA?

23 A IT IS NOT A SHOOTING AREA.

24 Q AND IN THE TIMES THAT YOU HAVE BEEN UP TO THAT
25 AREA -- WELL, STRIKE THAT.

26 CAN YOU DESCRIBE FOR US, THAT AREA IN TERMS OF
27 WHETHER IT APPEARS TO BE TO YOU, REMOTE OR WHETHER IT APPEARS
28 TO BE FREQUENTED BY A LOT OF PEOPLE?

6-0
1 A THE AREA WHERE IT IS FREQUENTED BY A LOT OF PEOPLE
2 IS PROBABLY WITHIN THE FIRST THREE MILES OFF OF SOLEDAD
3 CANYON. SO APPROXIMATELY FROM THIS POINT HERE, WHICH IS THE
4 BEGINNING OF INDIAN CANYON, UP APPROXIMATELY HALFWAY.

5 Q AND HOW FAR IS IT FROM SOLEDAD CANYON ROAD UP
6 TO WHAT YOU HAVE TOLD US IS THE INTERSECTION AT THE TOP?

7 A 6.5 MILES, I BELIEVE.

8 Q SO, AFTER A LITTLE LESS THAN HALFWAY UP TO THE
9 TOP, IT BECOMES LESS AND LESS USED OR IT BECOMES LESS AND
10 LESS EVIDENT THAT PEOPLE ARE GOING UP THERE?

11 A THAT'S CORRECT.

12 Q IN YOUR INVESTIGATION OF THIS CASE, DID YOU DO
13 ANYTHING WITH RESPECT TO THE CREDIT CARDS THAT YOU WERE GIVEN
14 BY MARTIN LEVIN?

15 A YES.

16 Q WHAT DID YOU DO?

17 A I CHECKED WITH THE CREDIT CARDS OF EACH CREDIT
18 CARD COMPANY AND DETERMINED THAT AT THE TIME I CHECKED IT,
19 THAT THEY WERE ALL CANCELED.

20 Q AND WHAT WAS YOUR PURPOSE IN DOING THAT?

21 A JUST TO DETERMINE WHETHER THERE WAS ANY ACTIVITY
22 ON THEM.

23 Q DID YOU TRY TO FIND OUT WHETHER THERE WAS ANY
24 ACTIVITY ON ANY OF THOSE AFTER JUNE 6, 1984?

25 A YES.

26 Q WAS THERE?

27 A NO.

28 Q AND DID YOU DO ANYTHING WITH RESPECT TO RON LEVIN'S

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1 RECORDS WITH THE DEPARTMENT OF JUSTICE?

2 A I INQUIRED WITH THE MISSING PERSONS BUREAU OF
3 THE DEPARTMENT OF JUSTICE TO MAKE SURE THAT I WAS NOTIFIED
4 IF THERE WAS ANY ACTIVITY AT ALL ON THE MISSING, AS FAR AS
5 IF HE WERE ARRESTED AND IF THERE WERE INQUIRIES OR ANYTHING
6 OF THAT SORT.

7 Q AND DID YOU PUT SOME KIND OF FLAG ON HIS
8 FINGERPRINT RECORD THERE?

9 A YES, TO BE NOTIFIED, FOR ME TO BE NOTIFIED.

10 Q AND HAVE YOU BEEN BY THEM AT ANY POINT?

11 A NO.

12 Q IN THE INVESTIGATION OF THIS CASE, DID YOU TALK
13 TO A PERSON NAMED OLIVER WENDELL HOLMES, III?

14 A YES.

15 Q AND HAD YOU ON OTHER OCCASIONS NOT CONNECTED WITH
16 THIS CASE, BUT BEFORE YOU WERE INVESTIGATING THIS CASE, EARLIER
17 IN 1984 OR 1983, ACTUALLY TALKED TO RONALD LEVIN?

18 A YES, BOTH IN PERSON AND ON THE PHONE.

19 Q AND WHEN YOU TALKED TO OLIVER HOLMES, WAS IT ON
20 THE PHONE OR JUST IN PERSON?

21 A IT WAS JUST ON THE PHONE.

22 Q AND DID THAT PERSON APPEAR TO BE DISTINCTLY
23 DIFFERENT -- HAVE A DISTINCTLY DIFFERENT VOICE THAN THE ONE
24 THAT YOU RECOGNIZED AS RON LEVIN'S VOICE?

25 A YES.

26 Q DID YOU HAVE A CHANCE TO SEE MR. PITTMAN WHEN
27 HE WAS BROUGHT INTO THE COURTROOM DURING THE COURSE OF THIS
28 TRIAL?

6-
1 A YES.

2 Q AND WERE YOU ABLE TO OBSERVE MR. PITTMAN AT OR
3 SHORTLY AFTER THE TIME HE WAS ARRESTED IN 1984?

4 A YES.

5 Q HOW DOES HE COMPARE NOW TO HOW HE LOOKED THEN
6 IN TERMS OF PHYSIQUE?

7 MR. BARENS: OBJECTION.

8 THE COURT: SUSTAINED.

9 MR. WAPNER: THANK YOU. NOTHING FURTHER.

10 THE COURT: YOU MAY EXAMINE.

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CROSS-EXAMINATION

BY MR. BARENS:

Q DETECTIVE ZOELLER, PRIOR TO JUNE OF 1984, YOU WERE FAMILIAR WITH MR. LEVIN?

A YES.

Q AND YOU WERE FAMILIAR WITH HIM FROM WHAT, INVESTIGATIONS YOU HAD DONE ON OTHER CRIMINAL CASES?

A THAT, AND AT ONE POINT, I WAS INVOLVED IN THE SOUTHERN CALIFORNIA SAFE AND BURGLARY ASSOCIATION AND HE HAD SET UP MUHAMMAD ALI AS A SPEAKER FOR THAT ASSOCIATION.

Q IN JUNE OF 1984, WERE YOU AWARE THAT HE HAD A PENDING CRIMINAL CASE IN BEVERLY HILLS?

A YES.

Q AND WERE YOU MADE AWARE OF THAT BY DETECTIVE EDHOLM?

A YES.

Q WAS THAT PRIOR TO THE TIME THAT YOU SPOKE TO DETECTIVE EDHOLM ON JULY 6?

A MUCH PRIOR, YES.

I KNEW -- FORTUNATELY FOR BEVERLY HILLS, IT IS A SMALL DEPARTMENT AND EACH DETAIL GENERALLY KNOWS OF THE CASES THEY ARE HANDLING OR THE LARGER CASES.

Q SO ON JUNE 21ST, YOU HAD GOTTEN A MISSING PERSON'S REPORT, I THINK YOU SAID, FROM DETECTIVE KING REGARDING RON LEVIN?

A I STATED THAT AFTER JUNE 21ST, OUR TABLE RECEIVED THE REPORT, YES.

Q WHEN DID YOU FIRST BECOME AWARE OF IT?

A PROBABLY THE DAY AFTER, IF IT WAS A WEEKDAY.

1 I AM NOT SURE WHAT THE 21ST IS.

2 Q WHATEVER, BUT IT WOULD HAVE BEEN SEQUENTIALLY,
3 THE NEXT DAY OR THE TWO DAYS LATER IF IT WAS THE WEEKEND?

4 A IT WAS THE NEXT WORKING DAY.

5 Q WHEN YOU BECAME AWARE OF THAT, DID YOU HAVE A
6 DISCUSSION WITH ANYONE CONCERNING WHETHER OR NOT HE WAS A
7 FUGITIVE RELATIVE TO THAT CASE AT THAT POINT IN TIME?

8 A NO.

9 Q YOU JUST BECAME AWARE OF IT AND DID NOTHING AT
10 THAT POINT IN TIME?

11 A I DID NOTHING WITH THE CASE UNTIL I CALLED NANCY
12 UNDERWOOD ON THE 6TH OF JULY.

13 Q AND YOUR NEXT CONVERSATION WAS WITH UNDERWOOD
14 AT THE FBI; WHY WAS THAT?

15 A JUST THAT SHE HAD INFORMATION ON MR. LEVIN
16 INVOLVING THE PROGRESSIVE SAVINGS CASE.

17 Q AND WAS NANCY UNDERWOOD DOING SOME SORT OF
18 INVESTIGATION?

19 A YES.

20 Q WAS SHE LOOKING FOR MR. LEVIN?

21 A NO.

22 Q WERE YOU LOOKING FOR HIM AT THAT POINT IN TIME?

23 A NO.

24 Q WAS ANYONE, TO YOUR KNOWLEDGE, LOOKING FOR HIM?

25 A IN WHAT RESPECT, AS A FUGITIVE OR --

26 Q WE ARE NOW AT JUNE 22ND OR JUNE 24, I BELIEVE,
27 AS YOU HAD A MISSING PERSON'S REPORT CONCERNING RON LEVIN.

28 TO YOUR KNOWLEDGE, WAS ANYBODY LOOKING FOR HIM

1 AT THAT POINT IN TIME?

2 A I DON'T --

3 MR. WAPNER: OBJECTION. VAGUE AS TO THE FORM OF THE
4 QUESTION. "ANYBODY" IS FAIRLY BROAD.

5 DOES THAT INCLUDE ANYBODY IN THE WORLD?

6 MR. BARENS: TO HIS RECOLLECTION.

7 THE COURT: WHY DON'T YOU REPHRASE YOUR QUESTION?
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1 Q BY MR. BARENS: WAS THERE ANYBODY LOOKING FOR
2 HIM THAT YOU PERSONALLY WERE AWARE OF THAT WAS INVOLVED IN
3 SOME SORT OF SEARCH?

4 A I KNOW DETECTIVE KING RETAINED THE CASE. NOW
5 WHAT HE WAS DOING WITH IT, I DON'T KNOW.

6 Q OKAY. HAD YOU BECOME AWARE FROM UNDERWOOD THAT
7 LEVIN HAD CRIMINAL EXPOSURE ON THE PROGRESSIVE CASE?

8 MR. WAPNER: OBJECTION, RELEVANCY AND IT ALSO CALLS
9 FOR HEARSAY.

10 THE COURT: I WILL OVERRULE THE OBJECTION. GO AHEAD.

11 Q BY MR. BARENS: SIR --

12 THE COURT: IT WILL BE MORE ON THIS PECK'S BAD BOY AGAIN.

13 MR. BARENS: I AM TRYING TO ASCERTAIN HOW MANY CRIMINAL
14 MATTERS ARE PENDING AT THIS POINT, YOUR HONOR.

15 MR. WAPNER: YOUR HONOR, MAY WE APPROACH THE BENCH?

16 THE COURT: WE HAVE GONE INTO THAT VERY THOROUGHLY,
17 DIDN'T WE, BEFORE THIS?

18 MR. BARENS: ACTUALLY, THERE HAS BEEN SOMETHING NEW
19 THAT HAS COME UP.

20 MR. WAPNER: MAY WE APPROACH?

21 THE COURT: YES.

22 (THE FOLLOWING PROCEEDINGS WERE HELD

23 AT THE BENCH:)

24 THE COURT: HAVEN'T WE THOROUGHLY DISCREDITED HIM FOR
25 BEING A SCUMBAG AND EVERYTHING ELSE? WHAT DO YOU HAVE TO
26 GO INTO IT MORE FOR?

27 MR. WAPNER: YOUR HONOR, MAY I BE HEARD?

28 THE COURT: YES.

1 MR. WAPNER: THE ONLY RELEVANCE TO THIS TESTIMONY IS
2 THE DEFENSE WANTS TO CREATE AN INFERENCE THAT MR. LEVIN HAD
3 A NEED TO AVOID THIS.

4 BUT WHEN WE GET TO THAT INFERENCE, THERE HAS TO
5 BE SOMEBODY TO SUGGEST THAT HE KNEW ABOUT IT. JUST THE FACT
6 THAT THERE IS SOME INVESTIGATION --

7 EXCUSE ME, MR. CHIER, I CAN'T HEAR WHEN YOU ARE
8 TALKING.

9 THERE HAS TO BE SOME CONNECTION BETWEEN THE
10 INVESTIGATION AND THE FACT THAT MR. LEVIN KNEW ABOUT IT. NOW,
11 JUST TO THROW IT IN THERE TO MAKE HIM LOOK DIRTY IS NOT
12 RELEVANT, UNLESS THEY CAN FIRST MAKE AN OFFER OF PROOF TO
13 SHOW HE WAS AWARE OF THIS. UNTIL THEY DO THAT, THEN I THINK
14 THE COURT SHOULDN'T PERMIT JUST A FISHING EXPEDITION JUST
15 TO MAKE HIM LOOK DIRTY.

16 MR. BARENS: I CAN ASSURE YOUR HONOR, I AM NOT FISHING.

17 I AM NOW GOING TO GO THROUGH A SERIES OF THINGS
18 THAT WILL DEMONSTRATE MR. LEVIN'S AWARENESS OF THE --

19 THE COURT: OF WHAT?

20 MR. BARENS: OF THE PROBLEMS HE WAS FACING IN HIS LIFE,
21 WHICH WILL BECOME APPARENT IN THE NEXT FEW MINUTES, JUDGE.

22 MR. WAPNER: WAIT A SECOND. THAT IS A LITTLE VAGUE
23 IN TERMS OF AN OFFER OF PROOF.

24 THE COURT: WHAT IS YOUR OFFER OF PROOF?

25 MR. BARENS: YOUR HONOR, I AM GOING TO, THROUGH NOW THE
26 DATE BOOK THAT MR. WAPNER MADE REFERENCE TO YESTERDAY AND
27 WHAT IS GOING TO BECOME OBVIOUS IS THE ONLY THING --

28 THE COURT: WHAT DATE BOOK ARE YOU TALKING ABOUT?

1 MR. BARENS: MR. LEVIN MAINTAINED A PERSONAL DATE BOOK,
2 A DAY TO DAY BOOK.

3 THE COURT: WHAT DID THEY CALL THAT AGAIN?

4 MR. BARENS: I CALL IT A DAY TO DAY BOOK -- PLANNING
5 DIARY, THEY CALLED IT YESTERDAY.

6 THE COURT: A PLANNING DIARY.

7 MR. BARENS: IN THAT PLANNING DIARY, IT IS INTERESTING
8 TO NOTE THAT ABOUT 90 PERCENT OF THE MATERIAL IN THERE ARE
9 COURT APPEARANCES, PEOPLE VERSUS, PEOPLE VERSUS, DEPOSITIONS,
10 JUDGEMENT DEBTOR HEARING, ET CETERA, ET CETERA, AND I BELIEVE
11 THAT WILL AMPLY DEMONSTRATE HE WAS AWARE OF ALL OF THAT.

12 THE COURT: YOU CAN ARGUE TO THE JURY FROM THAT. WHAT
13 DO YOU NEED HIM TO TELL YOU ABOUT IT FOR? IT IS IN THE BOOK
14 ITSELF.

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1 MR. WAPNER: YOUR HONOR, THAT STILL DOESN'T ANSWER
2 IT. THAT IS A GREAT WAY AROUND THE PROBLEM. BUT MR. BARENS
3 STILL HAS NOT MADE AN OFFER OF PROOF THAT THERE IS SPECIFIC
4 REFERENCE IN THERE TO NANCY UNDERWOOD FROM THE FBI BECAUSE
5 I WILL SUBMIT TO YOU, THAT THAT INVESTIGATION DIED AND
6 NOTHING BECAME OF IT. IT NEVER FORMALIZED INTO CRIMINAL
7 CHARGES.

8 SO, HOW IS THERE GOING TO BE ANYTHING ABOUT THE
9 U.S. VERSUS LEVIN, IF THAT INVESTIGATION DIED? SO LET HIM
10 MAKE A SPECIFIC OFFER OF PROOF THAT HE WILL CONNECT UP THIS
11 ITEM.

12 MR. BARENS: I WILL TELL YOU WHAT. I AM NOT GOING
13 TO BELABOR IT. I WILL JUST MOVE AHEAD.

14 THE COURT: ALL RIGHT. I WILL SUSTAIN THE OBJECTION.

15 (THE FOLLOWING PROCEEDINGS WERE HELD
16 IN OPEN COURT IN THE PRESENCE AND
17 HEARING OF THE JURY:)

18 Q BY MR. BARENS: YOU MENTIONED THAT ON OR AROUND
19 JULY 6, YOU MET WITH DETECTIVE EDHOLM. WAS THERE A
20 PARTICULAR REASON WHY YOU MET WITH HIM?

21 A WHEN I STATED I MET WITH HIM, I STATED I
22 RECEIVED INFORMATION FROM HIM, ANOTHER NOTE WITH NANCY
23 UNDERWOOD'S NAME AND A PHONE NUMBER ON IT.

24 Q ALL RIGHT. DID YOU DISCUSS WITH DETECTIVE
25 EDHOLM AN ONGOING INVESTIGATION THAT HE HAD CONCERNING MR.
26 LEVIN?

27 A I KNEW OF AN ONGOING INVESTIGATION.

28 Q AND THAT HAD BEEN ONGOING FOR YEARS, TO YOUR

1 KNOWLEDGE?

2 A I KNEW OF THE INVESTIGATION THAT HE HAD, WHERE
3 HE HAD ARRESTED MR. LEVIN. HOW LONG THAT HAD BEEN GOING
4 ON AT THAT TIME, I WAS NOT AWARE.

5 Q OKAY. WAS EDHOLM LOOKING FOR LEVIN AT THAT
6 PARTICULAR TIME?

7 A NO HE WAS NOT.

8 Q OKAY. NOW, THIS IS NOW ON JULY 6. EDHOLM IS
9 NOT LOOKING FOR LEVIN AND YOU ARE NOT ACTIVELY LOOKING FOR
10 LEVIN AT THAT POINT?

11 A ME PERSONALLY? NO.

12 Q OKAY. NOW, YOU MENTIONED YESTERDAY THAT YOU
13 FOUND THIS DIARY OR DAILY PLANNER I THINK, IN MR. LEVIN'S
14 APARTMENT?

15 A THAT'S CORRECT.

16 Q YOU MENTIONED THAT NONE OF THE CORNERS APPEAR
17 TO BE TORN OFF IN THE BOOK AFTER THE WEEK COMMENCING WITH
18 THE DATE OF JUNE 4TH, SIR?

19 A THAT'S CORRECT.

20 Q NOW, LOOKING AT THE ENTRIES NOW ON THE APPOINTMENT
21 SECTION OF THE BOOK, LOOKING IN OTHER WORDS -- YOU TALKED
22 ABOUT DURING JUNE 5TH, FOR INSTANCE, THERE IS SOME APPOINT-
23 MENTS AND THEN THE NEXT APPOINTMENT -- AND I WILL FLIP
24 THROUGH THIS WITH YOU -- THAT I COME TO, APPEARS TO BE
25 NO APPOINTMENTS THE WEEK OF THE 11TH, THE WEEK OF THE 18TH --
26 WHAT IS THE FIRST APPOINTMENT THAT WE SEE?

27 A I CAN'T READ HIS WRITING. IT IS SOMETHING
28 VERSUS LEVIN, DEBIT EXAM.

1 Q OKAY. AND THEN WHAT IS THE NEXT APPOINTMENT
2 THAT WE SEE?

3 THE COURT: DEBTOR EXAMINATION?

4 MR. BARENS: IT APPEARS TO BE AN ABBREVIATION.

5 THE COURT: A JUDGMENT OBTAINED AGAINST HIM?

6 THE WITNESS: I HAVE NO IDEA. I AM JUST READING WHAT
7 IS IN THE BOOK.

8 THE COURT: ALL RIGHT.

9 Q BY MR. BARENS: THAT IS ON THE 18TH. WHAT IS
10 AHEAD FOR MR. LEVIN ON THE 20TH?

11 A ON THE 20TH IT SAYS "DEPO" AND THEN CIRCLED
12 AT 1:30 IS "CANTOR VERSUS LEVIN DEPO."

13 Q OKAY. DID YOU FIND OUT WHO THAT CANTOR WAS IN
14 THAT INSTANCE?

15 A CANTOR FITZGERALD.
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1 Q ALL RIGHT. THERE IS NO APPOINTMENT FOR THE
2 WEEK OF THE 25TH. AND GOING ALONG, WE DON'T SEE ANY MORE
3 APPOINTMENTS AT LEAST SO FAR IN JULY.

4 MR. WAPNER: EXCUSE ME. WHO IS TESTIFYING AT THIS
5 POINT? ARE THESE QUESTIONS?

6 MR. BARENS: IF I AM WRONG, HE CAN STOP ME.

7 THE COURT: IT IS ALL RIGHT. GO AHEAD.

8 MR. WAPNER: THERE IS GOING TO BE AN OBJECTION TO THE
9 FORM OF THE QUESTION. THIS IS NOT EVIDENCE.

10 THE COURT: WELL, THE TESTIMONY IS HARMLESS, IN ANY
11 EVENT.

12 Q BY MR. BARENS: WELL, YOU TELL ME. DO YOU SEE
13 ANYTHING IN JULY?

14 A NO. YOU KEEP THUMBING THROUGH.

15 Q OKAY. YOU STOP ME WHEN WE COME TO SOMETHING
16 THAT WE SEE.

17 A SEPTEMBER 11 IT HAS CROSSED OUT "PEOPLE VERSUS
18 LEVIN PRELIM" CIRCLED AT 9:00 O'CLOCK, "BHPD." I ASSUME
19 THAT IT IS PEOPLE VERSUS LEVIN AND THEN THE ENTIRE NOTE
20 IS CROSSED OUT.

21 Q THAT IS DATED SEPTEMBER 11?

22 A THAT'S CORRECT.

23 Q WE DON'T SEE ANYTHING ELSE -- WHAT IS THE NEXT
24 THING WE COME TO?

25 A IT IS OCTOBER THE 9TH AT THE TOP "PRELIM" CIRCLED
26 AT 8:00 O'CLOCK, "PRELIM BEVERLY HILLS P.D. VERSUS LEVIN."

27 Q ALL RIGHT. NOW, I SUBMIT TO YOU THAT WE ARE
28 ALMOST AT THE END OF THE YEAR. I DON'T FIND ANY OTHER

1 ENTRIES. DO YOU, DETECTIVE ZOELLER, ON ANY OF THE PAGES
2 OTHER THAN WHAT YOU HAVE DESCRIBED TO THE COURT SO FAR?

3 A NO.

4 Q ALL RIGHT. THUS, ALL WE COULD FIND IN THIS
5 PLANNING DIARY FROM THE WEEK OF JUNE 6 FORWARD FOR JUNE --
6 I GUESS IT STARTED JUNE 4TH FORWARD, WERE LITIGATION OR
7 PEOPLE VERSUS MATTERS IN TERMS OF WHAT IS BOOKED IN THE
8 FUTURE?

9 A I DID NOTICE ON ONE OF THOSE THAT IT SAID
10 "FATHER'S DAY" ON IT.

11 Q YES. THAT IS ON THE WEEK THAT FATHER'S DAY FALLS
12 IN JUNE AT THE BOTTOM? IT IS NOT AN APPOINTMENT, SIR?

13 A THAT'S CORRECT.

14 Q I AM TALKING TO YOU ACTUALLY -- MY QUESTION
15 DETECTIVE -- PERHAPS YOU DID NOT UNDERSTAND IT, WAS DURING
16 THE REST OF THE YEAR, FROM JUNE 6 FORWARD, DO WE HAVE ANY
17 APPOINTMENTS THAT DON'T INVOLVE SOMETHING TO DO WITH EITHER
18 LITIGATION OR PEOPLE VERSUS?

19 A NO.

20 Q NOW, YOU THEN TESTIFIED ABOUT PEOPLE'S 100.
21 WHEN YOU LOCATED PEOPLE'S 100, WHICH ARE THESE GREEN PAGES,
22 IT DIDN'T LOOK LIKE THIS, DID IT?

23 A NO, IT DID NOT.

24 Q OKAY. IT WAS ACTUALLY IN SOME FORMAT WHERE THESE REPRE-
25 SENTED THE OUTSIDES OF A FILE FOLDER WITH A WHOLE BUNCH OF
26 PAPER WORK IN IT?

27 A THAT'S CORRECT.

28 Q THAT INCLUDED THOSE LETTERS THAT YOU TALKED ABOUT

1 THAT MR. HUNT HAD EVIDENTLY SENT TO MR. LEVIN AND IT INCLUDED
2 THE MICROGENESIS OPTION AGREEMENT AND THESE DOCUMENTS THAT
3 YOU MADE REFERENCE TO?

4 A THAT'S CORRECT.

5 Q ALL RIGHT. THEY WERE ALL FASTENED TOGETHER IN
6 THIS FILE?

7 A YES.

8 Q WAS IT NEATLY PUT TOGETHER, SIR?

9 A APPEARED TO BE, YES.

10 Q OKAY. DID YOU SEE ANY FILE FOLDERS LIKE THIS
11 AT LEVIN'S HOUSE OTHER THAN WHAT I HAVE IN MY HAND?

12 A YES.

13 Q OKAY. DID YOU SEE A LOT OF THEM THAT LOOKED
14 LIKE THIS?

15 A I SAW A FEW. I DON'T RECALL A LOT.

16 Q OKAY. A FEW. BUT CERTAINLY, THIS WAS NOT THE
17 ONLY ONE, SIR?

18 A THAT'S CORRECT.

19 Q OKAY. YOU MENTIONED THAT YOU SAW A DIFFERENT
20 TYPE OF FILE FOLDER WHICH YOU REFERENCED THIS MORNING BEING
21 PEOPLE'S 101, WHICH SAID, "MAY BROTHERS LAND" ON IT, I
22 BELIEVE?

23 A THAT'S CORRECT.

24 Q NOW, THAT IS A DIFFERENT TYPE OF FILE FOLDER?

25 A YES.

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9-1
1 Q DID YOU SEE OTHER FILE FOLDERS LIKE THAT THERE?

2 A YES.

3 Q NOW, THE MAY BROTHERS FILE FOLDER THAT DATES BACK
4 TO AT LEAST A YEAR BEFORE JUNE 6, 1984, DOES IT NOT?

5 A AT LEAST TO DECEMBER OF '83. POSSIBLY BEFORE,
6 YES.

7 Q SO THAT IN POINT OF TIME, BASED ON THE SUBJECT
8 MATTER IN IT, THAT WOULD PREDATE BY A LONG TIME THIS FILE
9 FOLDER?

10 A YES.

11 Q THIS FILE FOLDER HAVING DATES ON IT OF JUNE 6,
12 1984 --

13 A AND MAY, YES.

14 Q -- AND MAY, 1984?

15 WHERE DID YOU FIND THE OTHER FILE FOLDERS THAT
16 LOOKED LIKE THIS?

17 MR. WAPNER: INDICATING PEOPLE'S 100.

18 MR. BARENS: PEOPLE'S 100, THE GREEN ONE.

19 THE WITNESS: IN THE SMALL OFFICE -- WHOOPS -- OR THE
20 CONVERTED CLOSET OF THE MAIN OFFICE.

21 Q BY MR. BARENS: WHERE DID YOU FIND THIS PEOPLE'S
22 100?

23 A THAT WAS ACTUALLY POINTED OUT TO ME BY MR. MARTIN
24 LEVIN IN THE SMALL OFFICE.

25 Q OKAY. SO IN OTHER WORDS, WHERE MR. LEVIN DISCUSSED
26 THIS WITH YOU WAS IN THE SAME AREA WHERE YOU FOUND THOSE OTHER
27 FILE FOLDERS OF A SIMILAR DESCRIPTION?

28 A THAT'S CORRECT.

9-2
1 Q OKAY. AND YOU UNDERSTAND, DO YOU, THAT MR. LEVIN'S
2 FINGERPRINTS WERE FOUND IN VARIOUS PLACES ON THIS FILE FOLDER?

3 A MR. MARTIN LEVIN OR RONALD LEVIN?

4 Q I AM SORRY.

5 RON LEVIN.

6 A THAT IS MY UNDERSTANDING, YES.

7 Q I AM GOING TO HOLD JUST A MINUTE FOR MR. WAPNER
8 TO FINISH HIS ACTIVITY. THANK YOU.

9 IN ANY EVENT, I THINK YOUR ANSWER WAS THAT YOU
10 WERE AWARE THAT MR. RON LEVIN'S FINGERPRINTS WERE FOUND IN
11 VARIOUS PLACES ON EXHIBIT 100?

12 A YES.

13 Q OKAY. DID YOU EVER FINGERPRINT THE ACCO FASTENER
14 THAT HELD THIS DOCUMENT TOGETHER?

15 A I DIDN'T, NO.

16 Q DID YOU EVER REQUEST THAT IT BE FINGERPRINTED?

17 A NO.

18 Q ALL RIGHT. NOW BY THE TIME THAT YOU WENT TO THE
19 SCENE OF MR. LEVIN'S APARTMENT THAT WAS ON THE FIRST TIME
20 ON WHAT DATE, SIR?

21 A THE 16TH OF AUGUST OF 1984, FOR THIS MATTER.

22 Q NOW, BY THAT TIME, DID YOU HAVE A CASE ORIENTATION?

23 MR. WAPNER: OBJECTION. VAGUE.

24 Q BY MR. BARENS: ALL RIGHT, DID YOU HAVE A THEORY
25 CONCERNING WHAT HAPPENED IN THE MATTER OF RONALD LEVIN AND
26 WHAT FATE HE MIGHT HAVE REACHED AND HOW HE GOT THERE?

27 A TO SOME EXTENT, YES.

28 Q ALL RIGHT. IS IT NOT TRUE THAT THE INVESTIGATION

3-7
1 YOU DID AT THE SCENE WAS AN INVESTIGATION TO TRY TO FIND
2 EVIDENCE CONSISTENT WITH THE THEORY YOU HAD IN MIND?

3 A YES.

4 Q ALL RIGHT. IS IT NOT TRUE THAT YOU DID NOT DO
5 AN INVESTIGATION THAT COULD HAVE PROVEN A THEORY INCONSISTENT
6 WITH YOUR OWN?

7 A I THINK IT WOULD HAVE ENCOMPASSED WHAT I FOUND.
8 HAD I FOUND SOMETHING INCONSISTENT, I CERTAINLY
9 WAS NOT GOING TO DISMISS IT.

10 Q DID YOU LOOK, SIR, FOR ANYTHING INCONSISTENT?
11 AND BY THIS I MEAN, SIR, DID YOU FINGERPRINT ANY AREAS IN
12 THE HOUSE?

13 A NO.

14 Q BY THAT, YOU DID NOT FINGERPRINT ANY OF THE SURFACE
15 AREAS IN THE HOUSE, FOR INSTANCE, THE DOORS OR THE WINDOWS
16 OR THE GARAGE DOORS, ET CETERA?

17 A THAT'S CORRECT.

18 Q YOU DID NOT FINGERPRINT MR. LEVIN'S CAR?

19 A NO.

20 Q ALL RIGHT. WITH REFERENCE TO THE ITEMS THAT YOU
21 FOUND IN THE HOUSE --

22 NOW, BY THE WAY, WHEN YOU WERE IN THE HOUSE, YOU
23 BECAME AWARE OF A SEVEN-PAGE LIST, I BELIEVE?

24 A THAT IS CORRECT.

25 Q AND THE LIST MADE REFERENCE TO A VARIETY OF THINGS,
26 DID IT NOT?

27 A YES.

28 Q ALL RIGHT. THE LIST MADE REFERENCE TO A VARIETY

1 OF THINGS THAT YOU COULD LOCATE IN THE APARTMENT, DID IT NOT?

2 A IT DID.

3 Q ALL RIGHT. WITH THAT IN MIND, DID YOU FINGERPRINT
4 THE DATE STAMP?

5 A NO.

6 Q WOULD NOT A FINGERPRINTING OF THE DATE STAMP HAVE
7 GIVEN YOU AN OPPORTUNITY TO DETERMINE WHO HANDLED THE DATE
8 STAMP?

9 A POSSIBLY.

10 Q THAT WAS NOT DONE?

11 A NO.

12 Q DID YOU FINGERPRINT THE XEROX MACHINE?

13 A NO.

14 Q YOU SAW THE XEROX, AT LEAST THE WORD "XEROX" WAS
15 REFERRED TO ON THE SEVEN-PAGE LIST?

16 A YES.

17 Q WOULD NOT A FINGERPRINTING OF THE XEROX MACHINE
18 HAVE GIVEN EVIDENCE AS TO WHO DEALT WITH THE XEROX MACHINE?

19 A POSSIBLY, YES.

20 Q YOU HAD IN YOUR POSSESSION A COPY, AT LEAST, OR
21 KNOWLEDGE OF A \$1.5 MILLION CHECK, DID YOU NOT, SIR?

22 A YES.

23 Q THE FACE ON THAT CHECK WAS PRODUCED BY A TYPEWRITER,
24 WAS IT NOT, SIR, AT LEAST IN PART AS FAR AS THE AMOUNT AND
25 THE NUMBER REPRESENTATION?

26 A YES.

27 Q DID YOU FINGERPRINT THE TYPEWRITER IN LEVIN'S
28 HOUSE?

1 A NO.

2 Q WOULD NOT A FINGERPRINTING OF THE TYPEWRITER,
3 AT LEAST IN SOME MANNER, HAVE GIVEN YOU AN OPPORTUNITY TO
4 SHOW WHO HAD HANDLED THE TYPEWRITER?

5 A POSSIBLY.

6 Q DID YOU TAKE POSSESSION OF THE TYPEWRITER BALL
7 FROM THE TYPING MACHINE IN LEVIN'S HOUSE?

8 A NO.

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1 Q ARE YOU AWARE THAT FORENSIC STUDIES ARE AVAILABLE
2 WHEREBY FROM THE USE OF THE TYPEWRITER BALL, ONE CAN LATER
3 MAKE ASSESSMENT AS TO WHETHER EVIDENCE YOU POSSESSED WAS
4 PRODUCED ON THAT TYPEWRITER?

5 A YES.

6 Q DID YOU UNDERTAKE SUCH AN INVESTIGATION TO
7 CORRELATE WHETHER THE ONE-POINT-FIVE-MILLION-DOLLAR CHECK
8 WAS PRODUCED IN THE LEVIN HOME?

9 A NO.

10 Q THERE WAS A COMPUTER FOUND -- STRIKE THAT.

11 I PRESUME YOU WERE ALSO AWARE THAT THE SAME FORENSIC
12 EXAMINATION COULD BE DONE WITH THE TYPEWRITER TAPE OR RIBBON;
13 IS THAT NOT CORRECT, SIR?

14 A THAT'S CORRECT.

15 Q DID YOU MAKE ANY EFFORT TO ASCERTAIN WHETHER THE
16 RIBBON ON THE LEVIN TYPEWRITER WAS UTILIZED TO PRODUCE THE
17 ONE-POINT-FIVE-MILLION-DOLLAR CHECK?

18 A NO.

19 Q DID YOU MAKE ANY ATTEMPT TO FINGERPRINT THE
20 TELEPHONE RECEIVER IN THE LEVIN RESIDENCE?

21 A NO.

22 Q ALL RIGHT. YOU ARE FAMILIAR, OF COURSE, THAT
23 THE TELEPHONE RECEIVER PROBABLY COULD BE FINGERPRINTED, BASED
24 ON YOUR PRIOR EXPERIENCE?

25 A THAT'S CORRECT.

26 Q AND I SUPPOSE AN EFFORT LIKE THAT COULD HAVE SHOWN
27 WHO WAS THE LAST PERSON TO UTILIZE THE TELEPHONE?

28 A YES.

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MR. WAPNER: OBJECTION, VAGUE AS TO TIME. LAST PERSON
WHEN? RELATIVE TO AUGUST 16?

THE COURT: HE HAS ALREADY ANSWERED, I WILL LET IT STAND.

10F

1 Q BY MR. BARENS: NOW, THERE WAS A HOLE PUNCH
2 THAT YOU FOUND AT LEVIN'S PLACE?

3 A I DON'T RECALL SEEING A HOLE PUNCH.

4 Q ALL RIGHT. DID YOU LOOK FOR ONE, SIR?

5 A I DON'T RECALL SEEING ONE.

6 Q ALL RIGHT. YOU FOUND A CLOSET DOOR TO A CLOSET
7 WHERE SPARE BEDDING WAS KEPT AT LEVIN'S RESIDENCE, KNOWN
8 AS A LINEN CLOSET, SIR?

9 A I LOOKED THROUGH THE HOUSE, YES.

10 Q DID YOU FIND AN AREA THAT MIGHT CONVENTIONALLY
11 BE RECOGNIZED AS A LINEN CLOSET?

12 A YES.

13 Q DID YOU ATTEMPT TO FINGERPRINT THE AREA OF THE
14 LINEN CLOSET, TO SEE WHO MIGHT HAVE BEEN IN THERE DEALING
15 WITH THE LINENS?

16 A NO.

17 Q DID YOU REMOVE CORPORATE SEALS FROM LEVIN'S
18 RESIDENCE?

19 A I DID NOT.

20 Q NOW, YOU FOUND A COMPUTER AT MR. LEVIN'S HOUSE?

21 A YES.

22 Q AND DID YOU ATTEMPT TO FINGERPRINT THE COMPUTER?

23 A NO.

24 Q DID YOU ACCESS THE MEMORY DISK ON THE COMPUTER?

25 A NO.

26 Q DID YOU TAKE POSSESSION OF THOSE DISKS?

27 A NO.

28 Q DID YOU DO ANYTHING TO TAKE POSSESSION OF ANY

1 OF THE ITEMS THAT I HAVE REFERRED TO SIR, FOR PURPOSES OF
2 FORENSIC INVESTIGATION?

3 MR. WAPNER: OBJECTION, VAGUE. ANY OF THEM I HAVE
4 REFERRED TO? WHAT DOES THAT MEAN?

5 MR. BARENS: WELL, I WILL GO BACK.

6 THE COURT: I THINK IT WOULD BE EASIER TO ASK HIM WHAT
7 HE FINGERPRINTED INSTEAD OF GOING THROUGH A LOT OF STUFF
8 WHICH MAY BE COMPLETELY IMMATERIAL.

9 TELL US WHAT YOU PRINTED. THAT WILL EXCLUDE
10 EVERYTHING ELSE, WOULDN'T IT?

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

12 THE COURT: YOU CAN GO THROUGH ENDLESSLY, ALL THROUGH
13 ALL OF THE ARTICLES IN THE APARTMENT. LET'S ASK HIM WHAT
14 DID HE PHOTOGRAPH OR FINGERPRINT.

15 MR. BARENS: NO. I WANTED TO MAKE A POINT WITH
16 REFERENCE TO THE SEVEN PAGES THAT WE HAVE ALL MADE QUITE
17 A POINT ABOUT.

18 THE COURT: I DON'T KNOW THAT THAT HAS ANYTHING TO
19 DO WITH THE SEVEN PAGES.

20 MR. BARENS: YEAH. I ASKED HIM ABOUT ALL OF THE THINGS
21 I FOUND LISTED ON THE SEVEN PAGES AND ASKED TO SEE IF HE
22 DID ANY INVESTIGATION.

23 THE COURT: ALL RIGHT. GO AHEAD.

24 MR. BARENS: THANK YOU.

25 Q THERE IS A HOLE PUNCH MENTIONED ON THE SEVEN
26 PAGES, IS THERE NOT?

27 A YES.

28 Q AND YOU DID NOT LOCATE ONE?

0-3

1 A I DON'T RECALL.

2 Q OKAY. NOW, YOU MENTIONED THAT AT A POINT IN
3 TIME, YOU DROVE TO SOLEDAD CANYON. I THINK YOU SAID THAT
4 IT WAS THE FIRST TIME THAT YOU DID THAT ACTIVITY ON THE
5 19TH OF OCTOBER?

6 A I BELIEVE SO. I RECALL IT BEING THE FRIDAY
7 AFTER SPEAKING TO STEVE TAGLIANETTI, FRIDAY AFTER THAT
8 WHICH IS THE 19TH OF OCTOBER. YES.

9 Q AND THEN YOU WENT TO THE LOCATION WITH BOTH MR.
10 TAGLIANETTI AND TOM MAY?

11 A THAT'S CORRECT.

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10B-1

1 Q AND YOU GENTLEMEN NEEDED A MAP TO FIND WHERE
2 YOU WERE GOING TO GO TO?

3 A NO. I WANTED A MAP TO REFER TO IT AFTER THEY
4 SHOWED ME WHERE IT WAS THEY WERE GOING TO TAKE ME.

5 Q DID THEY SEEM TO KNOW HOW TO GET THERE THEM-
6 SELVES?

7 A YES.

8 Q THEY TOLD YOU THEY BOTH HAD BEEN THERE WITH MR.
9 HUNT, HAD THEY NOT?

10 A THAT'S CORRECT.

11 Q DID MR. LOPEZ TELL YOU HE HAD BEEN THERE WITH
12 MR. HUNT?

13 A YES.

14 Q SO THEY DIDN'T HAVE A PROBLEM FINDING THE AREA?

15 A NO.

16 Q OKAY. NOW, ONCE THEY FOUND THIS AREA, HOW LONG
17 DID IT TAKE YOU ALTOGETHER TO DRIVE FROM BEVERLY HILLS,
18 CALIFORNIA, TO THE TOP OF THE AREA DEPICTED IN THIS
19 PHOTOGRAPH?

20 A WHEN I WENT WITH THE MAY BROTHERS OR TOM MAY
21 AND STEVE TAGLIANETTI, I STOPPED BY THE RANGER STATION
22 FIRST, SO THERE WAS A BREAK IN THE DIRECT TRAVEL.

23 WHEN I WENT WITH STEVE LOPEZ, I HAD COME FROM
24 LITTLE TUJUNGA CANYON, WHICH IS ON THE OTHER SIDE OF THE
25 HILL. SO I DIDN'T GO BY WAY OF SOLEDAD CANYON.

26 Q WELL, PUTTING TOGETHER FOR ME AS BEST YOU CAN,
27 THE TIMES THAT YOU DID KEEP AND WHAT YOU CAN ASSESS, HOW
28 LONG DID IT TAKE YOU? HOW LONG WOULD IT TAKE YOU TO GET

1 FROM LOS ANGELES OR BEVERLY HILLS TO THE TOP OF THE T
2 INTERSECTION YOU HAVE BEEN REFERRING TO, SIR?

3 A APPROXIMATELY AN HOUR AND 15 MINUTES TO AN HOUR
4 AND A HALF.

5 Q ALL RIGHT. AND THEN I SUPPOSE IF I WERE THERE
6 AND I WAS COMING BACK, IT WOULD TAKE ME AN EQUAL AMOUNT OF
7 TIME?

8 A YES.

9 Q SO A ROUND TRIP, I GUESS, COULD TAKE AROUND THREE
10 HOURS?

11 A AS AN ESTIMATE, YES.

12 Q OKAY. NOW, YOU MENTIONED THAT YOU HAD MADE
13 CERTAIN OBSERVATIONS ABOUT THINGS UP THERE. I WILL SHOW
14 YOU A DRAWING HERE. CAN YOU SEE THAT?

15 A YES.

16 Q TELL ME HOW --

17 MR. WAPNER: MAY THAT BE MARKED AS DEFENDANT'S NEXT?

18 MR. BARENS: WE'LL DO IT AS DEFENDANT'S NEXT.

19 THE COURT: ALL RIGHT.

20 MR. BARENS: WHERE AM I ON THAT, JUDGE?

21 THE COURT: YOU WERE DOWN TO --

22 MR. WAPNER: I THINK THAT IS DD.

23 THE COURT: GG WAS THE LAST ONE. THIS IS HH.

24 MR. BARENS: ALL RIGHT. I WILL MARK IT HH.

25 Q SIR, CAN YOU HELP ME OF COURSE, FROM YOUR TESTI-
26 MONY -- I TRIED TO MAKE A MAP, YESTERDAY. AND DOES THAT
27 MAP HERE OR THIS DRAWING HERE, SOMEWHAT GENERALLY GIVE YOU
28 THE LAY OF THE LAND THAT YOU WERE DESCRIBING IN YOUR TESTIMONY

1 YESTERDAY?

2 A GENERALLY, YES.

3 Q OKAY. IN OTHER WORDS, YOU DESCRIBED THIS ROAD
4 THAT KIND OF GOES UP TO A T INTERSECTION AND THESE ARE THE
5 DIRECTIONAL FINDINGS OR BEARINGS THAT YOU WERE MAKING
6 REFERENCE TO, IN LOOKING AT THIS THING, RIGHT?

7 A CORRECT.

8 Q AND THEN YOU SHOW THIS RANGER STATION OVER HERE,
9 WHICH IS TO THE EAST OR OUR LEFT, IS THAT CORRECT?

10 A THAT'S CORRECT.

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1 Q NOW, PUTTING UP THIS DRAWING THAT IS PART OF THE
2 SEVEN PAGES, FOUND AS OR IDENTIFIED AS PART OF PEOPLE'S 55,
3 MARKED AS 55, DO WE SEE ANY DIFFERENCES HERE BETWEEN THESE
4 TWO DRAWINGS?

5 A YES.

6 Q ALL RIGHT, YOU MENTIONED YESTERDAY THAT THERE
7 WAS SOME INACCURACIES IN THE DRAWING ASSOCIATED WITH PEOPLE'S
8 55, DID YOU NOT, SIR?

9 A YES.

10 Q COULD YOU HELP TELL ME WHAT THOSE INACCURACIES
11 ARE, DETECTIVE ZOELLER?

12 A JUST THAT THE DIRECTION OF WHERE IT SAYS "ROAD,"
13 WHICH I HAVE REFERRED TO AS SOLEDAD CANYON ROAD.

14 Q WELL, HELP ME WITH THIS, SIR.

15 IF THE ROAD IS HERE IN THIS DRAWING, THE ROAD
16 IS HERE IN THIS DRAWING, IS IT NOT (COUNSEL INDICATING)?

17 A THAT'S CORRECT.

18 Q THIS IS THE WAY YOU BETTER ORIENT TO THIS WHOLE
19 SETTING?

20 A PARDON ME?

21 Q IS THIS THE WAY YOU BETTER ORIENT TO THIS WHOLE
22 SETTING, BASED ON YOUR TESTIMONY YESTERDAY?

23 MR. WAPNER: OBJECTION. VAGUE.

24 Q BY MR. BARENS: IN OTHER WORDS, THIS DEPICTION
25 MORE APPROXIMATES YOUR TESTIMONY FROM YESTERDAY, DOES IT NOT?

26 MR. WAPNER: SAME OBJECTION. I DON'T UNDERSTAND WHAT
27 THE QUESTION IS.

28 MR. BARENS: WHAT I AM ASKING HIM, FOR PURPOSES OF THIS

1 DISCUSSION, I WOULD LIKE TO GET TO THE ONE THAT LOOKS LIKE
2 THE LAY OF THE LAND AS HE FOUND IT TO BE.

3 THE COURT: OVERRULED.

4 Q BY MR. BARENS: THIS DRAWING HERE, DEFENDANT'S GG,
5 IS MORE ORIENTATION CONSISTENT WITH THE LAY OF THE LAND
6 YOU DESCRIBED YESTERDAY AS YOU FOUND IT, SIR?

7 A WITH THE SOLEDAD CANYON GOING IN THE DIRECTION
8 I FEEL THAT IT IS PROBABLY GOING IN, YES.

9 Q OKAY. NOW HERE YOU HAVE THE WORD "ROAD," IT DOESN'T
10 SAY "SOLEDAD CANYON ROAD," DOES IT, SIR?

11 A NO, IT DOES NOT.

12 Q SO FOR YOU TO CALL THIS SOLEDAD CANYON ROAD, THAT
13 IS A SUPPOSITION YOU MAKE, SIR?

14 A YES.

15 Q HERE, WHEN WE SEE "SOLEDAD CANYON ROAD" YOU AND
16 I BOTH KNOW WHAT I AM TALKING ABOUT?

17 A THAT'S CORRECT.

18 Q NOW, WHEN I GO UP SOLEDAD CANYON ROAD TOWARDS
19 A DIRECTION INDICATED AS SOUTH, WHICH YOU KNOW TO BE SOUTH;
20 IS THAT CORRECT, SIR?

21 A THAT'S CORRECT.

22 Q I THEN FIND AT THE TOP OF THE ROAD HERE, THE
23 RANGER STATION, SIR?

24 A AFTER IT WINDS AROUND, YES.

25 IT IS NOT AT THE TOP THERE, NO.

26 Q WHERE IS IT?

27 A IT IS FARTHER EAST AND IT WINDS ALMOST ON THE
28 BACK SIDE, IF THE -- IF THE DEPICTION IN THIS DRAWING OF

11-7
1 YOURS IS THE FRONT SIDE.

2 Q OKAY. SO ACTUALLY, THE TRUTH OF THE MATTER IS
3 THE RANGER STATION IS REALLY OVER THE MOUNTAIN, DOWN ON THE
4 OTHER SIDE?

5 A A SHORT DISTANCE, YES.

6 Q OKAY. THE ONE THING WE ARE SURE OF IS THAT THIS
7 RANGER STATION IS NOT ON SOLEDAD CANYON ROAD AS SHOWN IN MY
8 DRAWING HERE?

9 A THAT'S CORRECT.

10 Q OKAY, GOING BACK TO PEOPLE'S 55, I SEE "ROAD"
11 HERE AND THEN ON ROUGHLY THE SAME LATITUDE OF THE DRAWING,
12 SIR, I FIND THE WORD "RANGER STATION".

13 A YES.
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1 Q OKAY. ON THE DRAWING OF PEOPLE'S 55, WE HAVE
2 A ROAD THAT STARTS IN WHAT WE WILL NOW CALL THE SOUTHERN PART
3 OF THE PICTURE, THAT APPEARS TO MY EYE TO BE TRAVELING NORTH;
4 WOULD THAT BE THE ORIENTATION YOU SEE HERE, SIR, ASSUMING
5 THE MERIDIAN I HAVE CREATED HERE, I HAVE TRANSFERRED HERE,
6 THE ROAD SEEMS TO BE TRAVELING SOUTH TO NORTH HERE, SIR.

7 MR. WAPNER: SAME OBJECTION AS VAGUE. I DON'T UNDERSTAND
8 WHAT IT MEANS, "ASSUMING THE MERIDIAN HERE TRANSFERS TO ONE
9 PICTURE."

10 Q BY MR. BARENS: WELL, WE WILL HELP HIM. I WON'T
11 WANT TO DRAW ON THAT SO WHAT I AM GOING TO ASK YOU TO DO IN
12 YOUR MIND IS TRANSFER NORTH, EAST, WEST, SOUTH HERE, WHICH
13 I THINK YOU HAVE ALREADY DONE IN YOUR MIND, HAVE YOU NOT,
14 SIR, WHEN YOU LOOK AT THIS?

15 A YES.

16 Q SO YOU DON'T HAVE A PROBLEM, DO YOU, IN PLACING
17 THESE DIRECTIONAL ARROWS OVER HERE FOR THE PURPOSES OF OUR
18 DISCUSSION?

19 A NO.

20 Q OKAY. NOW DETECTIVE, THE QUESTION I PUT TO YOU
21 A MOMENT AGO WAS THAT THE ROAD I SEE DEPICTED HERE APPEARS
22 TO TRAVEL FROM SOUTH TO NORTH; IS THAT NOT CORRECT?

23 A IT IS NOT CORRECT, NO.

24 Q OKAY. WHY IS THAT?

25 A BECAUSE LOOKING AT THIS, IF YOU ARE USING YOUR
26 DIRECTIONS, THEN IT APPEARS THAT THEY ARE GOING FROM EAST
27 TO WEST AND THEN SOUTH.

28 Q NOW, WHERE ARE YOU STARTING IN YOUR MIND, SIR?

1 A I AM STARTING WHERE IT SAYS "ROAD," I AM WORKING
2 MY WAY WEST OR DOWN THE PAGE.

3 Q AND ON THIS, YOU AND I AGREED, DID WE NOT, SIR,
4 THAT SOUTH WAS UP HERE, SIR?

5 MR. WAPNER: LOOKING AT "THIS," REFERRING TO HH.

6 Q BY MR. BARENS: YES.

7 IN HH, SOUTH IS UP HERE?

8 A YES.

9 Q IS NOT SOUTH UP HERE?

10 A WELL, NOT ACCORDING TO THIS WHERE IT IS POINTING
11 AN ARROW AND IT SAYS "EAST."

12 Q NOW, I AM NOT ASKING YOU ACCORDING TO THAT, SIR.
13 I AM ASKING YOU, ACCORDING TO WHAT YOU CAN SEE
14 YOURSELF WITH USING YOUR EYES THIS MINUTE.

15 MR. WAPNER: OBJECTION. THE EXHIBIT SPEAKS FOR ITSELF.

16 MR. BARENS: I AM TRYING TO LET THEM SPEAK OUT LOUD
17 ACTUALLY, SINCE WE ARE DOING THIS, WE MIGHT AS WELL DO IT
18 AS WE DID THIS YESTERDAY.

19 THE COURT: DETECTIVE ZOELLER, DO YOU UNDERSTAND THESE
20 QUESTIONS OR ARE YOU CONFUSED?

21 THE WITNESS: I AM GETTING CONFUSED NOW.

22 IF HE IS PUTTING VARIABLES IN THERE THAT DON'T
23 ADD UP TO WHAT THE DRAWINGS --

24 Q BY MR. BARENS: DON'T ADD UP TO WHAT, SIR?

25 A WHAT THE DRAWING STATES TO ME.

26 Q OH, STATES TO YOU. YOU SEE, THAT IS WHAT I WANT
27 TO DO, SIR, IS FIND OUT WHAT IT STATES TO YOU THAT WE CAN
28 ALL AGREE UPON, OKAY?

1 A OKAY.

2 Q NOW WHAT WE ARE DOING HERE IS HERE IN THE RIGHT --
3 LET'S GO BACK TO MAYBE WHAT IS BEING A SOURCE
4 OF CONFUSION HERE. WE FIND THE WORD "EAST" OVER HERE IN
5 PEOPLE'S 55, DO WE NOT, SIR?

6 A YES.

7 Q AND IN THIS HH I HAVE GIVEN YOU, ON THAT HALF
8 OF THE DRAWING, IN OTHER WORDS, IF THIS IS THE RIGHT-HAND
9 HALF THAT I HAVE OVER HERE, ACCORDING TO THE DIRECTIONALS
10 WE HAVE HERE, THAT TURNS OUT TO BE WEST, DOES IT NOT, SIR?

11 A THAT IS THE WEST SIDE, YES.

12 Q OKAY, LET'S NOT BE CONFUSED BY THIS INCONSISTENT
13 WORD.

14 LET'S TRY TO MOVE ON WITHOUT IT, OKAY, FOR PURPOSES
15 OF OUR DISCUSSION, CAN WE DO THAT?

16 A WE CAN ACCEPT I AM NOT CONFUSED WITH IT.

17 Q WELL, LET'S SAY I AM SO LET'S LEAVE THAT WORD
18 OUT BECAUSE I AM ACTUALLY CONFUSED.

19 MR. WAPNER: OBJECTION AS VAGUE AND MISLEADING. HE
20 IS GOING TO A PIECE OF EVIDENCE AND SAYING "WE ARE GOING TO
21 LEAVE SOMETHING OUT OF IT," AND THAT IS CONFUSING TO THE JURY.

22 MR. BARENS: THE PROBLEM IS IT IS CONFUSING. HE IS
23 SAYING THIS IS SOLEDAD CANYON AND I CAN'T FIND THE WORD.
24 SINCE WE ARE USING THE WORD AND APPLYING IT, WHY DON'T WE
25 LEAVE OUT A WORD THAT IS THERE, SINCE WE ARE PUTTING IN WORDS
26 THAT AREN'T THERE?

27 THE COURT: ARE YOU STILL CONFUSED, MR. ZOELLER? DO
28 YOU KNOW WHAT THE DRIFT OF THE QUESTION IS?

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THE WITNESS: SOMEWHAT, YES, YOUR HONOR.

THE COURT: ALL RIGHT, GO AHEAD, AS LONG AS YOU UNDER-
STAND IT.

I HOPE THE JURY WOULD UNDERSTAND IT, TOO.

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1 MR. BARENS: WELL, EITHER THEY WILL OR THEY WILL NOT,
2 YOUR HONOR.

3 Q IN ANY EVENT, AS WE GO ALONG HERE, YOU MADE
4 REFERENCE TO A T INTERSECTION THAT -- COULD YOU AND I
5 BELIEVE THAT I HAVE THE T INTERSECTION UP HERE WITH AN ARROW?
6 IS THAT WHERE YOU FOUND THE INTERSECTION TO BE?

7 A YES.

8 Q BY THE WAY, I THINK THAT IS WHERE YOU TOLD US
9 THAT YOU GOT YOUR PHOTOGRAPHS SHOWING MR. HUNT'S JEEP?

10 A I STATED IT WAS ABOVE THE T INTERSECTION.

11 Q OKAY. SO IT WOULD BE ABOVE THE T INTERSECTION,
12 INDEED. YOU MENTIONED THAT THAT SEEMS TO BE A LESS USED
13 AREA THAN PERHAPS FURTHER DOWN IS ON HH, THAT FIRST PORTION
14 OF THE ROAD LEADING SOUTH FROM SOLEDAD CANYON? YOU MENTIONED
15 THAT THIS APPEARS TO BE MORE USED?

16 A YES.

17 Q OKAY. IS IT NOT A FACT, THAT YOU GET UP TO THE
18 T INTERSECTION AND THAT AREA AS WELL, IS WORN WITH TIRE
19 TRACKS?

20 A YES.

21 Q OKAY. ARE YOU TELLING ME THAT THAT AREA IS
22 MORE WORN WITH TIRE TRACKS THAN THE AREA NORTH OF IT?

23 A NO.

24 Q WHEN YOU THEN SAY IF IT SEEMS TO HAVE THE SAME
25 AMOUNT OF TIRE TRACKING THERE, WHERE DO YOU TELL ME IT
26 APPEARS TO BE LESS USED?

27 MR. WAPNER: OBJECTION, MISSTATES THE EVIDENCE.

28 MR. BARENS: WELL, YOU HAVE GOT TIRE TRACKS EVERYWHERE,

1 DO YOU NOT?

2 MR. WAPNER: WELL, FIRST OF ALL, THE OBJECTION IS THAT
3 AT LEAST THE COURT CAN RECALL, THAT IT HAD THE SAME AMOUNT,
4 MORE OR LESS THAN --

5 MR. BARENS: LET'S JUST ASK --

6 THE COURT: GO AHEAD. REPHRASE IT.

7 Q BY MR. BARENS: COULD YOU TELL ME FROM SOME
8 KNOWLEDGE SYSTEM THAT YOU HAVE DEVELOPED AS TO WHETHER OR
9 NOT THERE ARE MORE TIRE TRACKS IN THIS AREA OF THE ROAD THAN
10 THERE ARE IN THIS AREA OF THE ROAD?

11 A I MADE NO DETERMINATION WITH TIRE TRACKS.

12 Q OKAY. ISN'T IT A FACT THAT THE SOUTHERN AREA
13 THAT YOU HAVE REFERENCED HERE IS PRIMARILY APPARENTLY USED
14 FOR DIRT BIKERS OR PEOPLE ON MOTORCYCLES, AS OPPOSED TO
15 PEOPLE IN INDIVIDUAL VEHICLES?

16 A I DON'T KNOW THAT, NO.

17 Q OKAY. YOU DON'T KNOW THAT EITHER WAY?

18 A NO.

19 Q OKAY. IN ANY EVENT, EARLY ON WHEN YOU TESTIFIED
20 THAT THE HUNT VEHICLE IS PHOTOGRAPHED SOMEWHERE SOUTH OF
21 THE T INTERSECTION, WITH REFERENCE TO THOSE SPECIFIC
22 PHOTOGRAPHS, CAN YOU TELL ME WHEN HUNT'S VEHICLE WAS THERE
23 THAT IS DEPICTED IN THOSE PHOTOGRAPHS?

24 A I DON'T KNOW.

25 Q OKAY. YOU ARE NOT TELLING ME, ARE YOU, THAT
26 YOU HAVE SOME REASON TO BELIEVE THAT THE PHOTOGRAPHS OF MR.
27 HUNT'S JEEP THAT ARE IN THAT PICTURE, WERE TAKEN DURING THE
28 MONTH OF JUNE, 1984?

1 A NO, I AM NOT.

2 Q YOU ARE NOT SAYING THAT?

3 A NO.

4 Q OKAY. ALL RIGHT. NOW, GETTING BACK TO THE
5 MAP HERE, THE T INTERSECTION THAT WE SEE HERE, WHERE DO YOU
6 SEE THAT HERE?

7 MR. WAPNER: IN PEOPLE'S 55?

8 THE WITNESS: I JUST MAKE IT AS LOGICALLY, THE ROAD
9 OR THE LINE GOING ACROSS FROM YOUR LEFT TO THE RIGHT,
10 CONNECTING.

11 Q BY MR. BARENS: DOWN HERE?

12 A TO THE TOP OF THE MOUNTAINS.

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12-4

1 Q DOWN HERE IN THIS DRAWING?

2 A TO YOUR RIGHT.

3 Q TO MY RIGHT DOWN THERE?

4 A NO, STRAIGHT ACROSS.

5 Q AM I WARM?

6 A STRAIGHT ACROSS.

7 Q HERE?

8 A YES.

9 Q OKAY. WELL, THAT IS INTERESTING. I NOTICE ON
10 PEOPLE'S 65 -- STRIKE THAT.

11 ON DEFENDANT'S HH, WHICH I BELIEVE COMPORTS WITH
12 211, WE ARE ABLE ARE WE NOT, SIR, TO DRAW AN UNINTERRUPTED
13 LINE OF THIS ROAD THAT TAKES ME FROM SOLEDAD CANYON ROAD
14 UP TO THE ALLEGED T INTERSECTION?

15 A JUST A LITTLE FARTHER TO THE SIDE THERE, YES.

16 Q WE ARE ABLE TO DO THAT, ARE WE NOT?

17 A YES.

18 Q ALL RIGHT. IN SOME CONTINUOUS FASHION, I HAVE
19 TRIED TO DUPLICATE IT FOR US ON HH, HAVE I NOT?

20 A YES.

21 Q IT IS NOTABLE, SIR, IS IT NOT, THAT ASSUMING
22 THAT YOU ARE RIGHT, WHICH I AM NOT CONCEDEING, BUT ASSUMING
23 THAT YOU ARE RIGHT, THAT THIS IS SOMEHOW OR ANOTHER A
24 DEPICTATION OF THIS, I NOTICE --

25 MR. WAPNER: THIS BEING HH FOR IDENTIFICATION?

26 MR. BARENS: HH.

27 THE COURT: YES.

28 Q BY MR. BARENS: AND YOU HAVE TOLD ME THAT THE

1 T INTERSECTION IS AT THIS LINE HERE, BEING I WILL DESCRIBE
2 FOR THE RECORD, THE FARTHEST TO MY RIGHT, A RELATIVELY
3 STRAIGHT LINE ON PEOPLE'S 55, THERE IS AN INTERRUPTION IS
4 THERE NOT SIR, BETWEEN THE LINE THAT YOU ARE DESCRIBING AS
5 REPRESENTING THIS ROAD AND WHERE THE T INTERSECTION WOULD
6 BE FOUND?

7 A YES.

8 Q WHAT DO YOU THINK THOSE THINGS ARE, THESE
9 ROUGHLY -- WELL, A DRAFTSMAN WOULD CALL IT A 90-DEGREE
10 ANGLE. YOU WILL HAVE TO SEE THIS APPROXIMATE 90-DEGREE
11 ANGLE DEPICTION. WHAT DO YOU THINK THESE ARE?

12 A KNOWING THE AREA AND LOOKING AT THAT, I WOULD
13 SAY THAT THAT IS THE TOP OF THE MOUNTAIN RIDGE THAT BECOMES
14 PEAKS.

15 Q DO YOU MEAN LIKE, THOSE THINGS HERE IN 211?

16 A YES.

17 Q WELL, WHERE WE FIND THE RANGER STATION -- SORRY.
18 WHERE WE FIND THE T INTERSECTION, DO WE FIND THOSE?

19 A THAT IS AT THE TOP OF THE MOUNTAIN RANGE, YES.

20 Q OKAY. WHERE YOU ARE SUGGESTING THE T INTER-
21 SECTION WOULD INDICATE TO INTERDICT, I NOTICE THAT THE TOP
22 OF THE MOUNTAIN IS HERE, IN ITS TOPOGRAPHY, IS RELATIVELY
23 UNDULATING, RATHER THAN RELATIVELY POINTED, IS THAT CORRECT?

24 A BY LOOKING AT THE PHOTO, YOU COULD MAKE THAT
25 REFERENCE, YES.

26 MR. BARENS: OKAY. WE'LL COME BACK WITH THAT IN A
27 MOMENT. JUST A MOMENT, YOUR HONOR.

28 (PAUSE.)

1301
1 Q BY MR. BARENS: ONE THING AS TO ACCURACY ON THE
2 MAP THAT PERHAPS I HAVEN'T MADE CLEAR ENOUGH.

3 IS THE RANGER STATION IN FACT EAST OF SOLEDAD
4 CANYON ROAD, SIR?

5 A NO.

6 Q NO, IT IS NOT?

7 YOU SEE, WE WILL TAKE PEOPLE'S 55 AND PUT IT ON
8 THE OTHER SIDE. NOW WHEN I HAVE IT ON THE OTHER SIDE, SIR,
9 THE ARROW POINTING EAST IS RELATIVELY ACCURATE, IS IT NOT?

10 A THAT'S CORRECT.

11 Q NOW WHY DON'T YOU POINT OUT FOR ME RELATIVE TO
12 THAT WHERE WE FIND THE RANGER STATION.

13 A THE ROAD, IF IT WOULD CONTINUE, CONTINUES AROUND
14 AND WINDS, STARTING GOING DOWN THE OTHER SIDE, AND THE RANGER
15 STATION IS ON THE DECLINE OF THE OTHER SIDE.

16 Q SO WE WOULD BE ONCE AGAIN, IF I HAD YOU DRAW AN
17 ARROW TO THE RANGER STATION THEN, MY ARROW WOULD BE POINTING
18 SOUTH, WOULD IT NOT, SIR?

19 A IF YOU ARE GOING TO CONTINUE ON THE ROAD THAT
20 GOES ALONG THE TOP, DEPENDING ON WHERE YOU STOPPED THE
21 DRAWING, YOU CONTINUE WITH AN ARROW EAST TO THE RANGER STATION.

22 Q IS THE RANGER STATION, YOU ARE TELLING ME NOW,
23 SIR, TRUE EAST?

24 A WELL, YOU GO EAST ON THE ROAD AND THEN IT WINDS
25 DOWN TO THE RANGER STATION.

26 Q WINDS IN A DIFFERENT DIRECTION, SIR?

27 A IT WINDS PROBABLY IN A SOUTHEAST DIRECTION.

28 Q ALL RIGHT, NOW THE DRAWING, AT LEAST TO ORIENT

13-2
1 THE WAY THE ENGLISH LANGUAGE IS WRITTEN ON IT, IS PROPERLY
2 PLACED THUSLY, IS IT NOT (COUNSEL DEMONSTRATING)?

3 A YES.

4 MR. WAPNER: INDICATING "EAST" WITH AN ARROW AND POINTING
5 TO THE TOP, YOUR HONOR?

6 THE COURT: YES.

7 MR. BARENS: RIGHT, OR AT LEAST THE WAY IT HAS BEEN
8 DISPLAYED TO THIS MOMENT IN THE TRIAL.

9 Q NOW, AFTER GOING TO THE HOUSE AND LOCATING
10 PEOPLE'S NO. 55, I SUPPOSE THAT THAT GAVE ENHANCEMENT TO YOUR
11 CASE THEORY THAT YOU ARRIVED WITH?

12 A YES.

13 Q OKAY, NOW BETWEEN JUNE AND AUGUST, HAD YOU DONE
14 ANY LOOKING FOR RON LEVIN?

15 A I PERSONALLY HAD NOT, NO.

16 Q OKAY. WELL, AFTER AUGUST, DID YOU DO ANY LOOKING
17 FOR RON LEVIN?

18 A NO.

19 Q NO? WERE YOU FAMILIAR WITH THE FACT THAT RON
20 LEVIN HAD A VARIETY OF OTHER NAMES HE APPEARED TO USE ON
21 VARIOUS OCCASIONS?

22 A AT WHAT POINT I FOUND OUT, I AM NOT SURE BUT I
23 KNEW THAT HE HAD OTHER NAMES THAT HE USED, YES.

24 Q DID YOU DO ANY INVESTIGATION TO DETERMINE WHETHER
25 OR NOT HE MIGHT BE USING SOME OF THOSE NAMES IN THE YEAR 1984,
26 SIR?

27 A NO.

28 Q ALL RIGHT, 1985?

1 A THE ONLY THING THAT I DID IN REFERENCE TO THE
2 OTHER NAMES IS -- NAMES IS DETERMINE THAT THEY WERE, IN FACT
3 THE MAJORITY -- THE ONLY ONE I WAS NOT ABLE TO DETERMINE WAS
4 THE ROTHCHILD NAME -- TO DETERMINE IN FACT THAT THEY ARE OTHER
5 PEOPLE AND RUNNING THOSE PEOPLE AS FAR AS DRIVER'S LICENSE
6 INFORMATION, I DETERMINED THAT THEY WERE REAL PEOPLE.

7 Q WERE YOU AWARE THAT MR. LEVIN USED A DRIVER'S
8 LICENSE OTHER THAN HIS OWN, A DRIVER'S LICENSE OTHER THAN
9 IN THE NAME OF RON LEVIN?

10 A NO.

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1 Q ARE YOU NOW AWARE OF THAT?

2 A I DON'T BELIEVE SO, NO.

3 I KNOW THAT THE NAME GLICK CAME UP ONE TIME.

4 I AM NOT SURE WHETHER THIS WAS A DRIVER'S LICENSE, I BELIEVE
5 IT WAS.

6 Q DID HE EVER USE THE NAME PRESLEY REED IN THE FORMAT
7 OF A DRIVER'S LICENSE?

8 A I DON'T BELIEVE SO, NO.

9 Q WELL, NOW GOING BACK, LATER ON, YOU ENCOUNTER
10 MR. HUNT ON A COUPLE OF OCCASIONS WHICH WE WILL COME TO. BUT
11 FOR NOW, PRIOR TO MEETING MR. HUNT, HAD YOU TALKED TO A PERSON
12 NAMED LAUREN RABB?

13 A PRIOR TO TALKING TO MR. HUNT?

14 Q YES, SIR.

15 A NO.

16 Q YOU HAD NEVER SPOKEN TO HER PRIOR TO SPEAKING
17 TO MR. HUNT THE FIRST TIME?

18 A NO.

19 Q HOW ABOUT BETWEEN MR. HUNT'S FIRST AND SECOND
20 ARREST?

21 A YOU JUST SAID PRIOR TO SPEAKING TO HUNT.

22 Q NOW I AM ASKING YOU A DIFFERENT -- YES, NOW I
23 AM ASKING YOU A DIFFERENT QUESTION ACTUALLY.

24 A YES.

25 Q THE QUESTION BEING: YOU HAD SPOKEN TO HER BETWEEN
26 MR. HUNT'S FIRST AND SECOND ARREST?

27 A YES.

28 MR. BARENS: OKAY, JUST A MOMENT, PLEASE.

1 (UNREPORTED COLLOQUY BETWEEN MR. BARENS
2 AND MR. CHIER.)

3 Q BY MR. BARENS: SIR, IT IS YOUR TESTIMONY, AS
4 I UNDERSTAND IT, THAT PRIOR TO MR. HUNT'S FIRST ARREST, YOU
5 HAD NEVER SPOKEN TO LAUREN RABB?

6 A THAT'S CORRECT.

7 Q OKAY. AND THEN I PRESUME THAT YOU HAD NEVER TOLD
8 LAUREN RABB ANY SPECIFIC WORDS TO SAY TO MR. HUNT TO SEE IF
9 THEY WOULD PROVOKE A REACTION, DID YOU EVER DO THAT, SIR?

10 A NO.

11 Q OKAY, NOT ON ANY OCCASION?

12 A NO.

13 Q NOW, WERE YOU AWARE OF THE FACT THAT PRIOR TO
14 THE TIME THAT YOU SPOKE TO MR. HUNT THAT HE HAD BEEN TO SEE
15 DETECTIVE KING?

16 A I WAS NOT AWARE OF THAT, NO.

17 Q DID YOU BECOME AWARE OF THAT?

18 A YES.

19 Q AND WHEN DID YOU BECOME AWARE OF THAT?

20 A AT OPENING STATEMENT.

21 Q YOU HAD NEVER TALKED TO DETECTIVE KING PRIOR TO
22 THE TIME WE HAD OPENING -- YOU MEAN OPENING STATEMENT IN THIS
23 TRIAL, SIR?

24 A THAT'S CORRECT.

25 Q YOU HAD NEVER TALKED TO DETECTIVE KING PRIOR TO
26 OPENING STATEMENT HERE?

27 A I DON'T RECALL BEING AWARE OF A STATEMENT BY
28 DETECTIVE KING THAT MR. HUNT AND LAUREN RABB CAME IN, NO.

1 Q DID YOU, AFTER OPENING STATEMENT, SPEAK TO
2 DETECTIVE KING ABOUT THAT?

3 A YES.

4 Q AND DID YOU BECOME AWARE OF THE FACT THAT
5 MR. HUNT --

6 MR. WAPNER: OBJECTION. CALLS FOR A HEARSAY RESPONSE,
7 YOUR HONOR. HE IS NOW ASKING --

8 MR. EARENS: I AM ASKING HIM NOW --

9 MR. WAPNER: EXCUSE ME, COUNSEL.

10 HE IS ASKING HIM IN THE FORM OF A QUESTION TO
11 ASK THIS OFFICER TO RELATE WHAT SOMEBODY ELSE TOLD HIM WAS
12 SAID TO HIM AND THOSE WITNESSES ARE AVAILABLE.

13 TO PERMIT HEARSAY BY THIS WITNESS, I DON'T THINK
14 WOULD BE PROPER.

15 THE COURT: I WILL SUSTAIN THE OBJECTION.

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1 Q ALL RIGHT. DID YOU EVER BECOME AWARE -- DID
2 YOU EVER READ ANY REPORTS THAT SHOWED THAT MR. HUNT HAD
3 VOLUNTARILY BEEN IN THE BEVERLY HILLS POLICE DEPARTMENT --

4 MR. WAPNER: SAME OBJECTION. CALLING FOR HEARSAY.

5 MR. BARENS: EXCUSE ME.

6 Q -- PRIOR TO THE TIME THAT YOU FIRST ENCOUNTERED
7 HIM, SIR?

8 MR. WAPNER: OBJECTION. IT CALLS FOR THE SUBSTANCE
9 OF THE REPORT. HE IS OFFERING IT FOR THE TRUTH OF WHAT IS
10 IN THE REPORT AND IT IS HEARSAY, YOUR HONOR.

11 MR. BARENS: WELL, THERE IS ONLY ONE POLICE DEPARTMENT
12 THAT WE ARE DEALING WITH HERE, JUDGE. THEY HAVE A SINGLE
13 AGENCY, HERE. THEY ARE ALL EXCHANGING ALL OF THEIR INTERNAL
14 DATA, HERE.

15 I THINK HE IS COMPETENT TO TESTIFY, AS HE HAS
16 BEEN, ABOUT ALL OF THIS DATA THAT HE OBSERVED AND READ.

17 MR. WAPNER: AS TO THE CONTENTS OF THE REPORT, HE IS
18 ASKING THE OFFICER, SINCE THE COURT WON'T PERMIT HIM TO SAY,
19 DID YOU TALK TO DETECTIVE KING, NOW HE SAYS, WELL, DID YOU
20 READ HIS REPORT. IT IS THE SAME PROBLEM.

21 THE COURT: WELL, HAVE YOU GOT THE REPORT TO REFRESH
22 HIS RECOLLECTION?

23 MR. WAPNER: NO. I DON'T, ACTUALLY.

24 THE COURT: WELL THEN, I WILL SUSTAIN THE OBJECTION.

25 MR. BARENS: ALL RIGHT. AS I UNDERSTAND IT, JUDGE,
26 THEN HE CAN ONLY TESTIFY ABOUT HIS OWN REPORT?

27 THE COURT: NO. I AM NOT GOING TO MAKE ANY BLANKET
28 RULING. I WILL RULE ON EVERY QUESTION AS IT IS ASKED.

1 MR. BARENS: OKAY.

2 Q DO YOU AND DETECTIVE KING WORK OFF OF THE SAME
3 DESK?

4 A ADJOINING DESKS, YES.

5 Q DID YOU WORK CONJUNCTIVELY ON THIS CASE IN ITS
6 INITIAL STAGES?

7 A INITIAL STAGES, NO.

8 Q WHEN DID YOU AND DETECTIVE KING BEGIN WORKING
9 TOGETHER ON THIS CASE?

10 A WITH THE MEETING OF THE MAY BROTHERS AND THEIR
11 ATTORNEY.

12 Q OKAY. AND YOU AT THE TIME THAT YOU SAW THE MAY
13 BROTHERS -- THAT WAS WHAT MONTH?

14 A AUGUST 9, 1984.

15 Q OKAY. AND DETECTIVE KING NEVER MADE YOU AWARE
16 DURING THE MONTH OF SEPTEMBER, THAT HE HAD SEEN MR. HUNT?

17 A NOT TO MY RECOLLECTION, NO.

18 Q OKAY. YOU WERE STILL WORKING WITH DETECTIVE
19 KING ON THIS MATTER, WERE YOU NOT, IN SEPTEMBER?

20 A FOR A WEEK IN SEPTEMBER, YES.

21 Q WHICH WEEK?

22 A THE LAST WEEK OF SEPTEMBER, I BELIEVE.

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1 Q OKAY. AND YOU HAD NEVER BEEN SHOWN ANY SORT
2 OF A REPORT ABOUT AN INTERVIEW OR DIALOGUE BETWEEN KING
3 AND HUNT DURING SEPTEMBER, 1984?

4 A NO.

5 Q HAVE YOU -- YOU ARE SAYING NO UP TO TODAY'S
6 DATE?

7 A THAT'S CORRECT.

8 Q OKAY. NOW, AFTER SEEING MR. HUNT ON THIS FIRST
9 OCCASION, WHEN WAS IT THAT YOU SAW MR. HUNT ON THE FIRST
10 OCCASION?

11 A THE 28TH OF SEPTEMBER OF 1984.

12 Q OKAY. AND THEN, YOU DID SOME YOU KNOW, ARRESTING
13 THAT DAY. AND YOU TOOK HIM OVER THERE.

14 AND THEN I SUPPOSE, HE WAS PROCESSED TO SOME
15 DEGREE AND THEN WE ARE IN AN INTERVIEW ROOM, SIR?

16 A ULTIMATELY, YES.

17 Q ULTIMATELY? ABOUT HOW LONG AFTER HE GETS THERE,
18 ARE YOU IN THE INTERVIEW ROOM?

19 A POSSIBLY THREE HOURS.

20 Q OKAY. AND IN THE INTERVIEW ROOM IS YOURSELF
21 AND DENNIS DECUIR AND MR. HUNT?

22 A THAT'S CORRECT.

23 Q ANYBODY ELSE?

24 A NO.

25 Q OKAY. HAD YOU HAD ANY DISCUSSIONS WITH MR. HUNT
26 PRIOR TO THE TIME YOU ENTERED THE INTERVIEW ROOM?

27 A I AM SURE THAT HE WAS SPOKEN TO WHILE TRANSPORTATION
28 WAS BEING CONDUCTED, PLUS, DURING THE BOOKING SEARCH, WHICH

1 IS WHEN MR. HUNT MADE REFERENCE TO THE WATCH.

2 Q RIGHT. BY THE WAY, YOU STILL HAVE THAT WATCH,
3 DO YOU NOT, SIR?

4 A IT IS BOOKED INTO EVIDENCE AT THE POLICE
5 DEPARTMENT, YES.

6 Q WHY DO YOU STILL HAVE IT?

7 A WHY?

8 Q YES. WHY?

9 A BECAUSE IT IS STILL IN EVIDENCE AND NOBODY HAS
10 REQUESTED IT, YET.

11 Q I SEE. WHAT IS THE WATCH EVIDENCE OF, SIR?

12 A I DIDN'T KNOW AT THE TIME.

13 Q DO YOU NOW?

14 A YES. IT IS NOT EVIDENCE.

15 Q IT IS NOT EVIDENCE?

16 A I MEAN, IT IS BOOKED INTO EVIDENCE BUT AS FAR
17 AS BEING NEEDED IN THE CASE, I DON'T THINK IT IS OF VALUE.
18 SO IT IS STILL IN EVIDENCE.

19 Q I SUPPOSE YOU WOULDN'T MIND RETURNING THAT, THEN?

20 A NO.

21 Q ALL RIGHT. THANK YOU. NOW, WE ARE PAST THE
22 WATCH.

23 SO ANYHOW, WE END UP IN THE INTERVIEW ROOM.
24 BEFORE YOU GO INTO THE INTERVIEW ROOM, HAD YOU EXTENDED AN
25 INVITATION? HOW DID YOU END UP IN THE INTERVIEW ROOM?

26 A BY HAVING MR. HUNT BROUGHT UP AND TAKEN INTO
27 THE INTERVIEW ROOM.

28 Q OKAY. YOU DIDN'T BRING HIM UP PERSONALLY?

1 A I HAVE IN THE PAST. WHETHER I DID IN THIS
2 INSTANCE, I DON'T RECALL.

3 Q YOU SAY THAT YOU HAVE IN THE PAST. DO YOU MEAN
4 IN THE PAST WITH OTHER PERSONS THAT ARE AT THE BHPD?

5 A YES.

6 Q IN THIS INSTANCE, YOU DON'T KNOW EXACTLY HOW
7 HE GETS FROM WHERE HE WAS TO THE INTERVIEW ROOM?

8 A NO.

9 Q OKAY. DO YOU RECALL ANY DISCUSSION ABOUT TAPE
10 RECORDING YOUR INTERVIEW WITH MR. HUNT?

11 A NO.

12 Q NO ONE MENTIONED THAT?

13 A NO.

14 Q WOULD IT NOT BE A TYPICAL POLICE PROCEDURE TO
15 TAPE RECORD THE INTERVIEW WITH A FIRST DEGREE MURDER SUSPECT?

16 A YES.

17 Q ALL RIGHT. THAT IS YOUR NORMAL COURSE OF
18 CONDUCT, IS IT NOT, SIR?

19 A NOT NORMAL, NO.

20 Q HAVE YOU EVER DONE THAT?

21 A YES.

22 Q ALL RIGHT. HOW DO YOU DECIDE WHICH OF YOUR MURDER
23 SUSPECTS YOU ARE GOING TO TAPE RECORD AND WHICH YOU ARE NOT
24 GOING TO?

25 A NO DETERMINATION BEFOREHAND.

26 Q OKAY. HOW MANY -- STRIKE THAT.

27 YOU ALSO HAVE VIDEOTAPE EQUIPMENT DOWN AT YOUR
28 DISPOSAL FOR THOSE INTERVIEWS?

1 A NO.

2 Q YOU DON'T HAVE ANY OF THAT TYPE OF THING?

3 A NO.

4 Q DOESN'T OFFICER GATES OVER THERE USE THEM FOR
5 YOUR DRUNK DRIVING CASES ALL OF THE TIME?

6 A I DON'T KNOW.

7 Q OKAY. WHEN YOU WENT INTO THE ROOM WITH HUNT
8 THEN, DID EITHER YOU OR DENNIS DEQUIR EVER DISCUSS WHETHER
9 OR NOT YOU SHOULD TAPE RECORD THE INTERVIEW?

10 A NO.

11 Q WAS THERE A REASON YOU DID NOT TAPE RECORD HIS
12 INTERVIEW?

13 A NO.

14 Q IN ANY EVENT, YOU GO UP THERE AND YOU DESCRIBE
15 THAT THERE WAS CERTAIN DIALOGUE BACK AND FORTH WHICH CAME
16 TO A POINT WHERE YOU TOOK OUT THE SEVEN PAGES WHICH YOU GAVE
17 MR. HUNT TO READ AND ET CETERA AND ET CETERA?

18 A CORRECT.

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1 Q OKAY. AND THEN YOU MADE A POINT YESTERDAY OF
2 DESCRIBING TO ALL OF US THIS LENGTHY TIME IT TOOK MR. HUNT
3 TO THUMB THROUGH THE DOCUMENTS TOP TO BOTTOM AND BOTTOM TO
4 TOP, WHICH I THINK YOU TOLD ME TOOK SOME SEVEN TO TEN MINUTES.

5 A THAT'S CORRECT.

6 THE COURT: I THINK THIS WOULD BE A GOOD TIME TO TAKE
7 OUR RECESS.

8 MR. BARENS: OH, LORD, JUDGE, COULD I HAVE ANOTHER
9 MINUTE?

10 THE COURT: GO AHEAD.

11 MR. BARENS: I WILL JUST CAP THIS ONE, JUDGE.

12 THE COURT: GO AHEAD.

13 Q BY MR. BARENS: AND YOU MENTIONED YESTERDAY THAT
14 IT SEEMED IMPORTANT TO YOU HOW LONG IT HAD TAKEN AND THIS
15 BLANK STARE ON HIS FACE AS HE SO DID THIS?

16 A YES.

17 Q AND IT WAS IMPORTANT, WAS IT NOT?

18 A YES.

19 Q AND YOU PUT THAT IN YOUR REPORT, DID YOU NOT?

20 A YES.

21 Q IT IS IN YOUR REPORT, THE DESCRIPTION OF ALL OF
22 THIS YOU HAVE RELATED TO US?

23 DO YOU HAVE YOUR REPORT WITH YOU?

24 A I DON'T, NO.

25 Q COULD YOU TELL ME WHERE YOU REFERENCED -- I HAVE
26 A PAGE FROM HIS REPORT HERE -- COULD YOU TELL ME WHERE YOU
27 DISCUSSED THIS BLANK LOOK, THIS CHANGE IN COUNTENANCE ON
28 MR. HUNT'S FACE IN YOUR REPORT?

5-2
1 A WELL, YOU HAVE GIVEN ME ONE PAGE OF FOUR, OF FOUR
2 PAGES.

3 Q I HAVE YOUR CONCLUDING REMARKS, PERHAPS WE WILL
4 HAVE TO GO THROUGH IT BECAUSE I DIDN'T FIND IT.

5 THE COURT: IT IS ON THE OTHER PAGE, IS THAT IT?

6 THE WITNESS: I BELIEVE SO, YOUR HONOR.

7 Q BY MR. BARENS: LET'S JUST SEE THAT.

8 A DO YOU WANT ME TO READ IT FOR YOU?

9 Q IF YOU FIND IT.

10 A OKAY:

11 "I.O." -- WHO IS MYSELF -- "THEN PUT
12 COPIES OF THE SEVEN PAGES OF VARIOUS LISTS,
13 ORIGINALS, ITEM NO. 2 OF CASE NO. 84-05436,
14 REGISTER NUMBER 20504, IN FRONT OF THE SUSPECT,
15 MR. HUNT, AND ASKED HIM, 'WHAT DO YOU KNOW ABOUT
16 THESE?'

17 "THE SUSPECT STARTED TO LOOK AT THEM
18 AND BECAME VISIBLY SHAKEN, BLANK LOOK ON HIS FACE.
19 NERVOUSLY GOING FROM PAGE TO PAGE OVER AND OVER
20 AGAIN.

21 "AND THE FACT THAT IN THE CONVERSATION,
22 THE SUSPECT WAS NOT AT A LOSS FOR WORDS AND NOW
23 COULD NOT SPEAK."

24 Q OKAY, NOW YOU SAY YOU COULD NOT -- WHAT YOU ARE
25 LEADING UP TO WITH ALL OF THIS IS, HE COULD NOT SPEAK AT ALL
26 AT THAT POINT?

27 A BY HIS OWN.

28 Q FAILURE TO SPEAK?

1 A JUST THAT HE DIDN'T SPEAK, THAT WAS MY IMPRESSION,
2 THAT BECAUSE OF SEEING WHAT HE SAW, THAT HE WAS -- HE COULD
3 NOT SPEAK.

4 Q AND AFTER THAT, WHEN HE DIDN'T SPEAK, DID HE EVER
5 SPEAK AGAIN?

6 A AFTER I ASKED HIM AGAIN WHAT HE KNEW OF THE SEVEN
7 PAGES.

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1 Q WHAT DID HE TELL YOU?

2 A HE STATED "I DON'T KNOW ANYTHING OF THESE,"
3 IN QUOTES.

4 THE COURT: WHAT ELSE DID HE SAY?

5 MR. WAPNER: YOUR HONOR, I THINK WE DISCUSSED THAT
6 YESTERDAY AT THE BENCH.

7 THE COURT: HE WANTED TO KNOW WHAT HE SAID AFTER THAT.

8 Q BY MR. BARENS: I WILL HELP: DID HE SAY HE
9 WANTED TO SPEAK TO A LAWYER?

10 A YES.

11 Q OKAY, AT THAT POINT, WHAT DID YOU DO?

12 A AT THAT POINT, HE CONTINUED TO LOOK AT THE PAGES
13 FOR A MOMENT OR SO AND I CONCLUDED THE INTERVIEW BY TAKING
14 THE PAGES AND EITHER PUTTING HIM BACK IN THE CELL OR RETURNING
15 HIM TO THE JAIL.

16 Q SO NOBODY SPOKE AFTER THE "I WANT TO SEE A
17 LAWYER" COMMENTARY?

18 A THAT'S CORRECT.

19 THE COURT: ALL RIGHT, WE WILL TAKE A RECESS.

20 MR. BARENS: RIGHT.

21 THE COURT: I WOULD LIKE TO HAVE YOU REMAIN A MINUTE
22 AFTER THE JURY LEAVES.

23 LADIES AND GENTLEMEN OF THE JURY, WE WILL TAKE
24 A RECESS NOW UNTIL 1:30 THIS AFTERNOON.

25 THE SAME ADMONITION I HAVE BEEN GIVING YOU WILL
26 STILL APPLY.

27 (THE FOLLOWING PROCEEDINGS WERE HELD
28 OUTSIDE THE PRESENCE AND HEARING OF

1 THE JURY:)

2 THE COURT: I WANTED FOR THE RECORD, THIS IS OUT OF
3 THE HEARING OF THE JURY.

4 CLOSE THE DOOR, PLEASE.

5 ON THE RECORD, THE JURORS ARE NOT PRESENT.

6 I HAVE MADE THE STATEMENT, IN CONNECTION WITH
7 THE MOTION WHICH WAS MADE BY THE DEFENDANT TO ARGUE, THAT
8 MR. CHIER IN AN AFFIDAVIT WHICH HE HAD SIGNED HAD SAID THAT
9 HE WAS A PARTNER OF MR. BARENS, AND I NOW HAVE REFERENCE
10 TO A DOCUMENT FILED IN THIS COURT ON DECEMBER 11, 1986, WHICH
11 WAS A MOTION MADE BY MR. CHIER TO DISQUALIFY ME IN THE CASE,
12 THAT I BE REMOVED FROM THE CASE, AND ON PAGE 3 OF THAT
13 DOCUMENT, THIS IS THE AFFIDAVIT OF MR. CHIER WHERE HE STATES
14 AS FOLLOWS, UNDER THE PENALTY OF PERJURY:

15 "IN APPROXIMATELY MARCH OF 1985, MY
16 CO-COUNSEL AND PARTNER, ARTHUR H. BARENS, REQUESTED
17 THAT I ASSIST HIM AS CO-COUNSEL IN THE WITHIN CASE
18 ENTITLED PEOPLE OF THE STATE OF CALIFORNIA V.
19 JOE HUNT, DEFENDANT, THE NAME OF THE CASE IN WHICH
20 MR. HUNT HAD RECENTLY BEEN HELD TO ANSWER FOR
21 MURDER WITH THE ALLEGATION OF SPECIAL CIRCUMSTANCES."

22 LET THE RECORD SHOW --

23 MR. CHIER: MAY I RESPOND TO THAT, YOUR HONOR?

24 THE COURT: PARDON ME?

25 MR. CHIER: MAY I RESPOND?

26 THE COURT: I DON'T WANT YOU TO RESPOND. IT IS THERE,
27 ISN'T IT?

28 MR. CHIER: WOULD YOUR HONOR --

1 THE COURT: COUNSEL, YOU STATED YOU HAD NEVER MADE
2 THAT STATEMENT. I AM SHOWING YOU THAT UNDER OATH YOU DID.

3 MR. CHIER: WE HAVE NEVER BEEN PARTNERS, YOUR HONOR.

4 (AT 12:10 P.M. AN ADJOURNMENT WAS TAKEN
5 UNTIL 1:30 P.M. OF THE SAME DAY.)

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1 SANTA MONICA, CALIFORNIA; TUESDAY, MARCH 17, 1987; 1:37 P.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS HERETOFORE NOTED.)
4

5 (THE FOLLOWING PROCEEDINGS WERE HELD
6 IN OPEN COURT OUTSIDE THE PRESENCE OF
7 THE JURY, WITH MR. WAPNER, MR. CHIER,
8 MR. BARENS, MR. PHILLIPS, MR. SCHOENBERG,
9 REPRESENTING CBS, INC., MR. PHILLIPS,
10 REPRESENTING CAPITAL CITIES/ABC, INC.
11 AND MR. MORROW REPRESENTING DEAN KARNY,
12 BEING PRESENT.)

13 THE COURT: ALL RIGHT. IS THERE A MOTION BY THE
14 PEOPLE?

15 MR. WAPNER: YES, YOUR HONOR. WITH RESPECT TO THE
16 ORDER THAT THE COURT SIGNED AS TO THE CAMERAS IN THE COURT-
17 ROOM, THERE ARE A COUPLE OF THINGS THAT I WOULD LIKE. ONE
18 THING IN PARTICULAR I WOULD LIKE TO ASK THE COURT TO MODIFY
19 AND THAT IS THAT THE ORDER PROVIDES THAT THE ORIGINAL
20 TAPE --

21 THE COURT: WHICH PARAGRAPH?

22 MR. WAPNER: TWO. THE LAST PORTION OF PARAGRAPH 2
23 WHERE IT SAYS, "ALL UNEDITED PORTIONS OF THE TAPE OF MR.
24 KARNY'S TESTIMONY SHALL BE ERASED OR DESTROYED."

25 THE ONLY THING THAT I WOULD LIKE THE COURT TO
26 ADD IN THERE, IS THE PHRASE "IMMEDIATELY UPON THE PRODUCTION
27 OF THE ALTERED COPY."

28 THE REASON IS, THE WAY THAT THIS ORDER IS WORDED,

1 THEY WOULD KEEP THE ORIGINAL COPY ON THE SHELF FOR WHO KNOWS
2 HOW LONG BEFORE THEY MADE A DECISION TO DESTROY IT AND WHEN
3 THEY MAKE A DECISION TO DESTROY IT PURSUANT TO THIS ORDER,
4 WOULD BE UP TO THE NETWORKS.

5 SO WHAT I WOULD ASK THE COURT TO DO IS, TO PUT
6 THAT IN THERE, TOO.

7 THE COURT: ONE WORD? "SHALL BE THEREAFTER IMMEDIATELY
8 ERASED OR DESTROYED"?

9 MR. WAPNER: IF YOU PUT THE WORD "IMMEDIATELY", THEN --

10 THE COURT: I WANT TO GET THE RESPONSE OF COUNSEL.

11 MR. PHILLIPS: YOUR HONOR, MY ONLY CONCERN IS THIS.
12 THAT IS, THAT IT BE CLEAR THAT THE "IMMEDIATELY THEREAFTER"
13 IS IMMEDIATELY THEREAFTER THE LAST TELECAST THAT WE WANT
14 TO USE IT FOR.

15 IN OTHER WORDS, IF WE WANT TO DO A STORY ONE DAY
16 AND YOU KNOW, ONE MINUTE AND DO ANOTHER STORY THREE DAYS
17 LATER AND USE ONE MINUTE, THAT WE DON'T HAVE TO DESTROY IT
18 AFTER THE FIRST TELECAST, IF WE INTEND TO USE IT FOR ANOTHER
19 TELECAST. DO YOU UNDERSTAND MY PROBLEM?

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1 THE COURT: YES.

2 MR. PHILLIPS: THAT WOULD BE MY ONLY OBJECTION -- NOT
3 OBJECTION -- BUT ONLY CLARIFICATION WITH THAT RESPECT.

4 MR. WAPNER: WHAT I AM ASKING BE DESTROYED IS NOT THE
5 ALTERED PORTION BUT THE ORIGINAL PORTION.

6 IT IS MY UNDERSTANDING THEY WERE GOING TO MAKE
7 A DECISION AT THE BEGINNING AS TO WHAT THEY WERE GOING TO
8 USE AND THAT WAS EXPLAINED BY MR. PHILLIPS THE LAST TIME HE
9 WAS HERE. THEY SAID, "WE WILL DECIDE WHAT WE WANT TO USE.
10 WE WILL ALTER THAT PORTION AND WE WILL DESTROY THE REST."

11 SO LET THEM MAKE THE DECISION WHATEVER IT IS THEY
12 ARE GOING TO USE AND COPY IT. IF THEY WANT TO USE IT THREE
13 OR FOUR DAYS LATER, THAT IS THEIR BUSINESS. BUT I DON'T WANT
14 AN ORIGINAL UNALTERED COPY HANGING AROUND FOR THREE OR FOUR
15 DAYS, BECAUSE THAT IS EXACTLY THE PROBLEM THAT I WAS TRYING
16 TO ADDRESS.

17 THE MORE TIME YOU HAVE WITH AN ORIGINAL COPY
18 HANGING AROUND WITH NO SAFEGUARDS PROVIDED IN THIS ORDER FOR
19 PEOPLE WATCHING AFTER IT, PEOPLE BEING ABLE TO GET HOLD
20 OF IT, THE MORE TIME YOU HAVE FOR PEOPLE TO BE ABLE TO TAPE
21 PORTIONS OF THAT.

22 IT IS MY UNDERSTANDING THAT 20-20, A PORTION OF
23 ABC NEWS, WANTS MR. KARNY'S TESTIMONY IN ITS ENTIRETY FOR
24 USE AT SOME FUTURE TIME. THEY MAY NOT USE THE WHOLE THING
25 BUT IT WAS MY UNDERSTANDING THAT THEY WANT TO HAVE TAPE OF
26 THE WHOLE THING AND, THEREFORE, THAT THEY WERE GOING TO ALTER
27 THE ENTIRE TAPE. NOW IF THAT IS TRUE, THEY WILL HAVE IN THEIR
28 POSSESSION AN ALTERED COPY OF THE ENTIRE TAPE THAT THEY OR

1 ANYBODY ELSE THAT WANTS TO HAVE COPIES OF THAT ALTERED PORTION
2 CAN HAVE.

3 BUT I DON'T WANT AN ORIGINAL OF THIS TAPE SITTING
4 AROUND ON THE SHELF FOR A DAY, TWO DAYS, THREE DAYS OR THREE
5 YEARS, UNTIL THE NETWORK DECIDES WHEN IT IS THAT THEY WANT,
6 AT THEIR DISCRETION, TO USE THIS.

7 MR. PHILLIPS: WELL, YOUR HONOR, COUNSEL'S POINT --
8 FIRST OF ALL, WHERE MR. WAPNER GOT THE IDEA WE ARE GOING TO
9 EDIT, ALTER THE ENTIRE TAPE, I DON'T KNOW BECAUSE I DO NOT
10 BELIEVE ABC HAS EVER MADE THAT STATEMENT. THAT IS NOT 20-20'S
11 INTENTION.

12 20-20'S INTENTION IS, AFTER THE TRIAL IS OVER,
13 TO DO A STORY OR STORIES ABOUT THE TRIAL AND TO USE PORTIONS
14 OF MR. KARNY'S TESTIMONY. THEY DON'T KNOW WHAT PORTIONS THEY
15 ARE GOING TO USE BECAUSE, FIRST OF ALL, WITH RESPECT TO DAY
16 ONE, DAY FOUR MAY HAVE THINGS THAT ARE MORE INTERESTING THAN
17 DAY ONE BUT THEY DON'T KNOW THAT UNTIL AFTER DAY FOUR IS OVER
18 OR THE OUTCOME OF THE TRIAL MAY AFFECT WHAT IT IS THEY WANT
19 TO USE AND WHAT IT IS THEY DON'T WANT TO USE.

20 ALL WE ARE SAYING IS WE WOULD LIKE TO BE ABLE
21 TO HAVE THE TAPE. WE WILL ALTER THOSE PORTIONS WE ARE GOING
22 TO USE FOR A PARTICULAR TELECAST AND WHEN WE ARE FINISHED
23 WITH ANY PORTION OF IT, FOR ANY TELECAST, IT WILL BE ERASED
24 OR DESTROYED. THERE ARE ADEQUATE SAFEGUARDS IN THIS ORDER.
25 THIS ORDER IS QUITE CLEAR THAT WE ARE NOT TO TRANSPORT OR
26 DELIVER ANY PORTION OF THE TAPE TO ANYONE FOR ANY PURPOSE
27 AFTER WE COME INTO POSSESSION OF IT AND WE ARE TO USE IT ONLY
28 FOR PURPOSES OF BROADCASTING WITH IT AND ONLY THEN, IF WE

1 HAVE ALTERED THOSE PORTIONS THAT WE ARE GOING TO USE TO
2 BROADCAST, AND IT SEEMS AS IF THE SAFEGUARDS ARE QUITE
3 ADEQUATE.

4 THE COURT: WILL THERE BE ANY KIND OF TAPES WITH YOU
5 THAT SHOW THE FACE OF THE WITNESS AT ANY TIME AFTER YOU HAVE
6 ALTERED THE FIRST TIME? IN OTHER WORDS, IF HE IS ON THE STAND
7 FOR MORE THAN ONE DAY, OBVIOUSLY, YOU WILL HAVE TAPES OF EACH
8 ONE OF HIS APPEARANCES.

9 MR. PHILLIPS: MY UNDERSTANDING IS, YOUR HONOR, THAT
10 THE TAPE WOULD BE, YES, THERE WOULD BE A TAPE IN THE POSSESSION
11 OF ABC AND, PRESUMABLY, WITH THE OTHER NETWORKS, WHICH WOULD
12 SHOW MR. KARNY'S FACE AND THAT TAPE WOULD BE MAINTAINED IN THE
13 CUSTODY OF THAT NETWORK WITHOUT ANY TRANSFER TO ANYBODY ELSE
14 OR ANY USE OF IT.

15 WHEN WE DECIDE TO DO A TELECAST, WE WOULD ALTER
16 THAT PORTION OF THE TAPE WE ARE GOING TO USE FOR THAT
17 TELECAST.

18 IF WE KNEW THAT WAS THE ONLY TELECAST WE WERE
19 GOING TO DO AT THAT POINT, THE ENTIRE REMAINDER OF IT WOULD
20 BE DESTROYED.

21 BUT IF WE WANT TO DO A SECOND OR THIRD TELECAST,
22 WE WOULD MAINTAIN THE SAME CUSTODY OVER IT AND THEN WE WOULD
23 DECIDE WHICH OTHER PORTIONS WE ARE GOING TO USE. WE WOULD
24 ALTER THOSE PORTIONS AND USE THEM AND THEN WHEN WE ARE FINISHED
25 WITH IT, WE WOULD DESTROY THE WHOLE THING.

26 THE COURT: HOW ARE YOU GOING TO -- THEY WANT IT ALTERED
27 NOW.

1 MR. PHILLIPS: SORRY, YOUR HONOR. I DON'T UNDERSTAND.

2 THE COURT: THEY WANT TO ALTER THE FACE, THE FIRST,
3 THE SECOND, THE THIRD, THE FOURTH OR WHATEVER FILMS THAT
4 YOU MIGHT HAVE OF THE VIDEOS THAT THEY MIGHT HAVE ON IT SO
5 THAT THEREAFTER, IT CAN'T BE USED BY ANYBODY. COULD THIS
6 BE DONE?

7 MR. PHILLIPS: MODIFY THE ENTIRE TAPE? IS THAT WHAT
8 YOUR HONOR IS SAYING?

9 THE COURT: NO, NO, JUST HIS FACE.

10 MR. PHILLIPS: THE PROBLEM WITH THAT, YOUR HONOR, IS
11 THAT IT IS EXTREMELY TIME-CONSUMING AND EXTREMELY EXPENSIVE
12 PROCESS TO ALTER THE ENTIRE TAPE. YOU ARE TALKING ABOUT
13 SEVERAL DAYS OF TESTIMONY. IT COULD TAKE TWICE THAT LONG
14 TO ACTUALLY GO THROUGH AND DO THAT.

15 THE COURT: IS THERE ANY WAY OF SETTING IT UP SO THAT
16 THE WAY THE PICTURE IS TAKEN, WHEN THE TAPE IS MADE, A
17 PICTURE IS TAKEN -- RATHER, A VIDEO THAT HIS FACE COULD
18 BE ELIMINATED FROM IT?

19 MR. PHILLIPS: MY UNDERSTANDING IS THAT THAT IS NOT
20 ACCEPTABLE TO ABC, BECAUSE THEY DO NOT BELIEVE THE RESULTING
21 PRODUCT IS OF THE QUALITY THAT CAN BE SHOWN ON NATIONAL
22 TV.

23 MR. WAPNER: YOUR HONOR, MAY I ADDRESS THAT PARTICULAR
24 POINT? WE HAVE SEEN -- EXCUSE ME. MR. MORROW IS MR.
25 KARNY'S COUNSEL. HE HAS SEEN A DEMONSTRATION TAPE ACTUALLY
26 PRODUCED BY PEOPLE FROM CBS.

27 THEY TAKE A FILTER AND THEY PUT IT OVER THE LENS.
28 THEY TAKE A PICTURE OF THE WITNESS AND YOU SEE FROM HIS CHEST

1 DOWN PERFECTLY AND HIS FACE, YOU DON'T SEE AT ALL.

2 I CAN'T BELIEVE AND I CAN'T ACCEPT THAT IN THIS
3 TECHNOLOGICAL AGE, THAT IT COULDN'T BE DONE IN THE COURTROOM
4 SO THAT HIS FACE CAN'T BE SEEN AT ALL.

5 IN THE PROCEDURE THAT MR. PHILLIPS IS TALKING
6 ABOUT, FIRST OF ALL, IS DRAMATICALLY DIFFERENT THAN HE
7 REPRESENTED TO THE COURT WHEN WE HAD THE ARGUMENT ON THIS
8 ORDER THE FIRST TIME.

9 SECOND OF ALL, HE IS TALKING -- MAKING THE
10 ARGUMENT THAT BECAUSE IT IS TOO TIME-CONSUMING AND EXPENSIVE
11 TO THE NETWORK, THEREFORE, IT IS PERMISSIBLE TO ENDANGER
12 THE LIFE OF THIS WITNESS.

13 I FIND THAT TOTALLY UNACCEPTABLE. THE AMOUNT
14 OF TIME AND THE AMOUNT OF MONEY IS NOTHING, WHEN WEIGHED
15 IN THE BALANCE, COMPARED TO THE LIFE OF THIS WITNESS. THERE
16 ARE NO SAFEGUARDS IN THIS ORDER FOR WHAT HE IS TALKING ABOUT.

17 WHAT HE IS SAYING IS, WHEN WE DECIDE AS A NETWORK
18 THAT WE WANT TO USE IT, THEN WE'LL ALTER IT. AND HE DOESN'T
19 SAY WHEN THAT IS.

20 WHAT IF THAT IS IN TWO, THREE, FOUR YEARS FROM
21 NOW? MEANTIME, THEY HAVE THAT TAPE SITTING ON THEIR SHELF
22 AVAILABLE FOR ANYBODY TO USE. THAT IS EXACTLY WHAT I AM
23 TRYING TO PREVENT.

24 THE BEST WAY TO DO IT IS TO GET THEM TO GET A
25 FILTER AND TAKE A PICTURE OF THE WITNESS AND YOU WILL NEVER
26 BE ABLE TO SEE HIS FACE. WE DON'T HAVE TO WORRY ABOUT ALL
27 OF THIS STUFF. THEN THEY DO IT.

28 THEY HAD A DEMONSTRATION TAPE. MR. MORROW HAS

1 SEEN THAT. THERE IS NO QUESTION IT CAN BE DONE. I DON'T
2 KNOW WHAT THE ARGUMENT IS THAT THEY HAVE TO DO IT SOME OTHER
3 WAY. THEY ARE SAYING IT IS TIME-CONSUMING AND EXPENSIVE
4 AND THEY DON'T KNOW HOW TO DO IT.

5 THEY DO. THEY HAVE SHOWN MR. MORROW THE WAY
6 IT CAN BE DONE.

7 MR. MORROW: YOUR HONOR, I SAW IT. IT WAS IN THE
8 COURTROOM LAST THURSDAY, THE LAST TIME THE MOTION WAS HEARD.
9 MR. SCHOENBERG GAVE IT TO ME.

10 I DIDN'T HAVE THE FACILITY FOR REPLAYING A THREE-
11 QUARTER INCH TAPE. WE DROPPED IT INTO A MACHINE. IT
12 SHOWED A FILTER THAT GOES OVER THE LENS IN THE COURTROOM.

13 SO, THERE IS NEVER THAT ORIGINAL. IF CNN OR
14 ABC DOESN'T LIKE THE QUALITY, THAT IS TOO BAD. THEIR IDEA
15 IS PROBABLY TO GET A LITTLE BIT OF ALTERATION WHICH THE COURT
16 WOULD HAVE NO SUPERVISION OVER AND THIS COULD ENDANGER MY
17 CLIENT.

18 WHAT WAS SHOWN TO ME IS JUST A FILTER THAT IS
19 DROPPED OVER AND THEN IT IS CONTROLLED. THERE IS NEVER ANY
20 CHANCE OF ABUSE.

21 MR. PHILLIPS: YOUR HONOR, A COUPLE OF THINGS. I HAVE
22 NEVER REPRESENTED TO THIS COURT AT ANY TIME THAT ABC WANTED
23 TO ALTER THE ENTIRE TAPE. THAT IS SIMPLY A MISSTATEMENT.
24 I JUST WANT TO MAKE THAT CLEAR ON THE RECORD.

25 SECONDLY, YOUR HONOR, IT IS NOT OUR POSITION
26 THAT IT IS IMPOSSIBLE TO DO. WHAT WE ARE SAYING IS THAT
27 IT CAN'T BE DONE WITH A FILTER. THE POINT IS THAT IT IS
28 NOT WORTH SHOWING ON NATIONAL TELEVISION. A NATIONAL

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1 TELEVISION AUDIENCE WILL THEREFORE, BE DEPRIVED OF EVER
2 SEEING IT.

3 WE ARE NOT SAYING THAT WE ARE GOING TO ALTER
4 IT A TINY BIT. THAT IS ALSO FALSE, YOUR HONOR. WE HAVE
5 REPEATEDLY REPRESENTED TO THE COURT, THAT WE WILL ALTER
6 MR. KARNY'S FACE AND VOICE SO THAT THEY ARE UNRECOGNIZABLE.
7 THAT IS THE CASE.

8 AND IT IS ALSO NOT TRUE YOUR HONOR, THAT THIS
9 IS GOING TO BE SETTING (SIC) ON THE SHELF FOR ANYONE TO USE.
10 IT IS GOING TO BE IN A SECURE PLACE AT ABC, WHICH WILL NOT
11 BE AVAILABLE TO ANYONE EXCEPT THE PRODUCER, WHO IS GOING
12 TO ALTER THAT TAPE FOR PURPOSES OF BROADCAST. I WILL MAKE
13 THAT REPRESENTATION TO THE COURT RIGHT NOW, THAT IS WHERE
14 IT IS GOING TO BE. IT WILL NOT BE AVAILABLE TO ANYONE OTHER
15 THAN THE PRODUCER OF 20-20.

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1 THE COURT: ISN'T THAT SATISFACTORY WITH YOU, MR.
2 MORROW?

3 MR. MORROW: NO.

4 THE COURT: WHY?

5 MR. MORROW: BECAUSE IT CAN BE STOLEN. YOUR HONOR,
6 THERE IS NO NEED TO --

7 THE COURT: IT IS EXTREMELY UNLIKELY. WE ARE NOT
8 DEALING WITH EXTREME POSSIBILITIES BUT PRACTICALITIES.

9 IT IS EXTREMELY DOUBTFUL SOMEBODY WILL COME INTO
10 THE VAULT MAINTAINED BY ABC OR ANY BROADCASTING COMPANY AND
11 RIFLE IT AND OPEN IT UP TO STEAL IT. WHAT ARE THEY GOING
12 TO DO WITH IT?

13 MR. MORROW: MAKE DOCUMENTARIES TO MAKE MONEY. THE
14 ORDER NOW CONTEMPLATES THREE NETWORKS. IT ALSO PROVIDES
15 FOR OTHER PEOPLE WHO WANT TO SEE IT. I EXPECT THAT THERE
16 WILL BE PLENTY OF NETWORKS GETTING THEIR FEED FROM --

17 THE COURT: WE HAVE UNDERTAKEN NOT TO DISTRIBUTE IT
18 TO ANYBODY IN THE ORIGINAL CONDITION.

19 MR. MORROW: YOUR HONOR, THERE IS NO NEED FOR THERE
20 TO EVER BE AN ORIGINAL, UNALTERED VIDEO OF HIS FACE,
21 ESPECIALLY SINCE IT CAN BE DONE BEFORE IT LEAVES THE COURTROOM,
22 BEFORE IT IS ON THE MONITOR, RIGHT HERE AT THE CAMERA.

23 THEN YOU DON'T HAVE TO WORRY ABOUT THE PROBLEM
24 OF PEOPLE GOING WRONG IN 20 YEARS. WHEN MR. PHILLIPS SAID
25 IT WILL BE AFTER THE LAST BROADCAST, WHEN IS THAT? TWENTY,
26 THIRTY --

27 MR. PHILLIPS: FIRST OF ALL, I DON'T THINK THAT THEY
28 ARE GOING TO BE PARTICULARLY INTERESTED -- HE KEEPS TALKING

1 ABOUT 20 YEARS, MR. WAPNER AND HE KEEPS TALKING ABOUT 20
2 YEARS.

3 A FEW DAYS AGO WE TALKED ABOUT THE FACT THAT
4 THERE WERE PICTURES OF MR. KARNY WHICH HAD ALREADY BEEN SHOWN
5 ON TELEVISION AND IN THE NEWSPAPERS. THE RESPONSE TO THAT
6 WAS THAT THOSE PICTURES WERE TWO YEARS OLD. WELL, WHAT GOOD
7 IS A TWO-YEAR-OLD PICTURE? IT IS NOT RELEVANT HERE.

8 THEN IT SEEMS TO ME THAT THE POSSIBILITIES OF
9 20 YEARS FROM NOW OR 10 YEARS FROM NOW, SOMEHOW, SOMEBODY
10 MIGHT GET AHOLD OF THIS, WHICH WOULDN'T EXIST AT THAT POINT,
11 SEEMS EQUALLY IRRELEVANT, YOUR HONOR.

12 MR. WAPNER: MY POINT IS, THERE WAS A REPRESENTATION
13 MADE TO THE COURT THE LAST TIME, THAT THESE TAPES WOULD BE
14 TAKEN BACK TO THE STATION, THEY WOULD DECIDE WHAT PORTIONS
15 THEY WANTED TO USE. THEY COULD COPY THOSE PORTIONS AND THEN
16 THEY WOULD DESTROY THEM.

17 IT GAVE THE COURT THE IMPRESSION THAT THAT WAS
18 GOING TO BE DONE RIGHT THEN. THEY WOULDN'T HAVE THESE
19 ORIGINALS SITTING AROUND.

20 NOW THEY ARE TELLING YOU THAT WE ARE NOT GOING
21 TO DO THAT. MAYBE WE WILL DECIDE NEXT WEEK OR NEXT YEAR
22 THAT WE WANT TO. BUT THAT WE ARE JUST GOING TO HAVE THIS
23 ORIGINAL SITTING AROUND. SO, WHAT --

24 THE COURT: SUPPOSE IT DOES? SUPPOSE IT SITS AROUND?
25 WHAT CHANCE IS THERE OF THAT BEING STOLEN?

26 MR. WAPNER: WELL FIRST OF ALL, WHEN WE STARTED THE
27 HEARING ON THESE MOTIONS, I ASKED MR. PHILLIPS TO BE SPECIFIC
28 ABOUT THE TECHNICAL ASPECTS OF PRODUCING THIS AND HE SAID --

1 WHAT IT THEN TURNED OUT OF COURSE, IS THAT HE DIDN'T KNOW
2 ABOUT THEM AND WE FOUND OUT ABOUT THAT AT THE NEXT HEARING.

3 THERE IS A REPRESENTATION NOW THAT ONLY THE
4 PRODUCER -- THAT IT WILL BE IN SOME VAULT. I DON'T KNOW
5 WHERE IT IS GOING TO BE. I DON'T KNOW WHO IS GOING TO HAVE
6 ACCESS TO IT. THERE IS NO REPRESENTATION MADE ABOUT THAT.
7 AND CERTAINLY, THERE IS NOTHING IN THE RECORD ABOUT THAT.

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1 AND I THINK THAT UNLESS WE HAVE SOME UNDERSTANDINGS
 2 AND AS I SUGGESTED TO THE COURT, SOMEBODY FROM THE NETWORK
 3 SPECIFICALLY HELD RESPONSIBLE AND ACCOUNTABLE AND FILING
 4 SOME AFFIDAVIT WITH THE COURT UNDER PENALTY OF PERJURY TO
 5 THE FACT THAT THIS TAPE HAS BEEN SAFEGUARDED, THAT THE COURT
 6 DOESN'T HAVE ADEQUATE SAFEGUARDS ABOUT IT.

7 THE COURT: WELL, PARAGRAPH 4 READS:

8 "NO MEDIA AGENCY PARTICIPATING IN THE
 9 POOLING AGENCY SHALL TRANSFER OR DELIVER TO ANY
 10 OTHER PERSON OR ANY OTHER ENTITY BY ANY MEANS,
 11 ANY PORTION OF THE TAPE OF MR. KARNY'S TESTIMONY,
 12 UNLESS SUCH PORTION HAS BEEN EDITED SO THAT MR.
 13 KARNY'S FACE AND VOICE ARE NOT RECOGNIZABLE."

14 MR. PHILLIPS: YOUR HONOR, I WOULD OFFER TO AMEND THAT,
 15 IF YOU WOULD LIKE, TO AMEND THAT TO PROFFER A PROVISION THAT
 16 THE TAPE SHALL BE SECURED IN A SAFE PLACE AND ONLY THOSE
 17 PERSONS RESPONSIBLE FOR BROADCAST PRODUCTION SHALL -- CAN
 18 HAVE ACCESS TO IT, IF THAT IS TO YOUR HONOR'S SATISFACTION.

19 THE COURT: WILL THAT BE ACCEPTABLE?

20 THE WAPNER: THAT IS ACCEPTABLE. BUT WHERE WE STATED,
 21 THIS WOULD BE DONE IMMEDIATELY AND THEY WOULD DESTROY THE
 22 ORIGINAL IMMEDIATELY. NOW THEY ARE SAYING WE ARE NOT GOING
 23 TO DO IT, WE WILL KEEP THEM AMONG OURSELVES AS LONG AS WE
 24 WANT.

25 MR. PHILLIPS: NO SUCH REPRESENTATION HAS EVER BEEN
 26 MADE ON BEHALF OF CNN OR ABC. I DON'T BELIEVE IT IS CONSISTENT
 27 WITH THE FIRST AMENDMENT TO REQUIRE THAT THE MEDIA SHOW
 28 SOMETHING ON THE NEXT DAY RATHER THAN THREE WEEKS LATER WHEN

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1 IT IS MORE NEWSWORTHY BECAUSE THE TRIAL IS OVER.

2 MR. WAPNER: THE POINT IS THAT THE COURT HAS AUTHORITY
3 NOT TO ALLOW THEM TO TAKE THE PICTURES AT ALL. IT IS WITHIN
4 THE DISCRETION OF THE COURT TO PUT REASONABLE LIMITS ON THIS
5 AND THAT IS WHAT WE ARE TALKING ABOUT.

6 THE COURT: I, FRANKLY, THINK THAT THE LIMITS WHICH
7 HAVE BEEN SET FORTH ALONG THE LINES THAT ARE SET FORTH IN
8 THE ORDER, WITH THIS ADDITION ABOUT THE SECURITY OF THE TAPE,
9 IS SUFFICIENT TO PROTECT THE RIGHTS OF MR. KARNY.

10 MR. SCHOENBERG: YOUR HONOR, CBS CAN LIVE WITH THE
11 ORDER AS PRESENTLY PREPARED AND AS THE COURT HAS SUGGESTED
12 FOR MR. PHILLIPS AMENDING.

13 THE COURT: ALL RIGHT. I TELL YOU WHAT YOU DO, WHY
14 DON'T YOU ADD AN ADDENDUM IN YOUR HANDWRITING?

15 MR. PHILLIPS: YES, SIR.

16 THE COURT: I WILL AUTHORIZE THE ADDENDUM, YOU ADD
17 THAT, AND BE SURE THEY ARE NOT AVAILABLE OR ACCESSIBLE TO
18 ANYBODY EXCEPT YOU PEOPLE.

19 MR. PHILLIPS: CAN I SUGGEST THIS LANGUAGE, SO IT IS
20 ORDERED THAT ALL COPIES OF THE TAPE OF MR. KARNY'S TESTIMONY
21 SHALL BE MAINTAINED IN A SECURED LOCATION AND SHALL BE
22 AVAILABLE ONLY TO INDIVIDUALS RESPONSIBLE FOR BROADCAST
23 PRODUCTION WITH RESPECT TO SUCH TAPE.

24 THE COURT: AND WITH THE SAFEGUARDS CONTAINED IN THE
25 ORDER.

26 MR. PHILLIPS: RIGHT. IN OTHER WORDS, THIS IS SIMPLY
27 GOING TO BE ADDED TO THE LAST PARAGRAPH ON THE ORDER.

28 THE COURT: HAVE YOU ANYTHING TO SUGGEST?

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1 MR. BARENS: NO. I WILL GO WITH YOUR HONOR'S CONCEPT.

2 MR. PHILLIPS: OBVIOUSLY, WE WOULD BE FREE NOT TO
3 SO MAINTAIN BUT TO DESTROY IT.

4 MR. SCHOENBERG: CBS MAY WANT TO DESTROY IT INSTEAD
5 OF MAINTAINING IT.

6 THE COURT: ALL RIGHT.

7 MR. BARENS: YOUR HONOR, WE HAD SOME OTHER MATTERS
8 PRELIMINARY TO MR. KARNY'S TESTIMONY FOR MY PART AND I
9 BELIEVE MR. --

10 MR. WAPNER: MAY WE APPROACH?

11 THE COURT: SURELY.

12 MR. BARENS: ALL RIGHT.

13 (THE FOLLOWING PROCEEDINGS WERE HELD
14 AT THE BENCH:)

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1 THE COURT: YOU CAN TELL ME WITHOUT HAVING TO WAIT
2 FOR HER. I ASKED YOU A VERY SIMPLE QUESTION, WHY MAKE SUCH
3 A BIG ISSUE OUT OF IT?

4 MR. WAPNER: YES, I ANTICIPATE PUTTING HIM ON TODAY
5 AND THAT IS PART OF THE REASON I WANTED TO COME UP HERE.

6 THE CROSS-EXAMINATION AND REDIRECT OF THIS
7 WITNESS WILL PROBABLY TAKE ANOTHER HOUR AND IF IT DOESN'T,
8 THERE ARE CERTAIN MOTIONS IN LIMINE THAT I WOULD LIKE TO
9 HAVE BEFORE MR. KARNY TESTIFIES.

10 THE COURT: YOU WANT TO HAVE -- WHO WANTS TO MAKE THE
11 MOTIONS?

12 MR. WAPNER: I DO.

13 THE COURT: YOU DO?

14 MR. WAPNER: YES. SO I JUST WANTED TO FIND OUT IF
15 IT WOULD BE ALL RIGHT TO HAVE HIM HERE AFTER THE 3:00 O'CLOCK
16 RECESS, EVEN ASSUMING WE DON'T FILL UP TIME WITH THE OTHER
17 WITNESS.

18 THE COURT: AFTER 3:00 O'CLOCK?

19 MR. WAPNER: YES. IS THAT ACCEPTABLE?

20 THE COURT: THAT IS PERFECTLY ALL RIGHT WITH ME.

21 MR. BARENS: YES, YOUR HONOR.

22 SOMEWHAT ANALOGOUS TO THE QUESTION WE HAD WITH
23 MR. PITTMAN AND HIS APPEARANCE, WHICH UNFORTUNATELY CERTAIN
24 THINGS WERE JUST NOT AVOIDABLE IN THE PITTMAN SETTING, BUT
25 THEY ARE AVOIDABLE IN THIS SETTING, WHAT I HAD PROPOSED AND
26 DISCUSSED WITH MR. WAPNER WAS THAT MR. KARNY BE SEATED IN
27 THE WITNESS BOX AT A TIME PRIOR TO THE JURORS' ENTRANCE
28 INTO YOUR COURTROOM AND THAT HE REMAIN ON THE WITNESS STAND

1 AFTER THEY DEPART THE COURTROOM. I AM TRYING --

2 THE COURT: YOU MEAN INSTEAD OF GOING THERE?

3 MR. BARENS: NO, YOUR HONOR, IN THE WITNESS CHAIR.

4 I AM TRYING TO AVOID ANY EMPHASIS ON MR. KARNEY OTHER THAN
5 HE WILL PROVIDE BY HIS TESTIMONY, BUT NOT TO ENHANCE IT
6 THROUGH ANY APPEARANCE OF SPECIAL TREATMENT FOR MR. KARNY
7 OR ANY DIFFERENCE THAN ANY OTHER WITNESS WE HAVE HAD IN THIS
8 TRIAL.

9 THE COURT: EVERY OTHER WITNESS STEPPED DOWN FROM THE
10 WITNESS STAND AFTER HE WAS FINISHED.

11 MR. BARENS: WELL, WHAT WILL HAPPEN, YOU SEE, JUDGE,
12 I DON'T KNOW WHY --

13 MR. WAPNER: THE POINT IS, EXCUSE ME.

14 MR. BARENS: I AM SORRY.

15 MR. WAPNER: THE POINT OF THIS IS THAT MR. KARNY IS
16 NOT GOING TO BE COMING AND GOING IN THE COURTROOM IN THE
17 SAME MANNER AS EVERY OTHER WITNESS AND WHAT MR. BARENS --

18 THE COURT: YOU WANT THE JURY NOT TO SEE HIM COME IN
19 THROUGH THE DOOR OR GO THROUGH THE DOOR WHILE THEY ARE IN
20 THE COURTROOM, IS THAT THE IDEA?

21 MR. BARENS: I AM PRESUMING SOMETHING.

22 THE COURT: I AM PERFECTLY WILLING TO DO THAT.

23 MR. BARENS: I AM PRESUMING FROM WHAT MR. WAPNER HAS
24 INDICATED THAT HE WOULDN'T EXACTLY ENTER THROUGH THE MAIN
25 DOORS AND LEAVE THROUGH THE MAIN DOORS, WHICH IS OF NO
26 CONCERN TO ME, JUDGE.

27 THE COURT: BUT YOU DON'T WANT THE JURY TO SEE HIM
28 DOING THAT?

1 MR. BARENS: ONE THING I MIGHT SUGGEST IS THAT AT THE
2 END OF THE DAY WHEN HE WOULD NORMALLY STEP DOWN, IF MR.
3 WAPNER WOULD NOT MIND PUTTING A CHAIR AT THE END OF COUNSEL
4 TABLE NEXT TO HIMSELF ON THE OTHER SIDE OF HIMSELF, OPPOSITE
5 MR. ZOELLER, AND HAVE MR. KARNY JUST WALK OVER THERE AND
6 SIT DOWN NEXT TO MR. WAPNER AND LET THE JURY BE EXCUSED AND
7 THEN THEY CAN DO WHATEVER THEY WANT.

8 MR. WAPNER: WELL, I THINK THE FIRST SUGGESTION IS
9 BETTER. LET HIM STAY ON THE WITNESS STAND.

10 THE COURT: LET HIM STAY ON THE WITNESS STAND, ALL
11 RIGHT.

12 MR. BARENS: YOUR HONOR POINTED OUT, THOUGH, SOMETHING,
13 TO BE HONEST, I HAD NOT CONSIDERED THE FACT THAT -- AND YOUR
14 HONOR IS RIGHT -- THE JURY HAS SEEN EVERY OTHER WITNESS STAND
15 DOWN AND IF THEY DON'T SEE THIS WITNESS STAND DOWN, THERE
16 IS OBVIOUSLY ANOTHER APPEARANCE.

17 TO STEP OVER TO COUNSEL TABLE, YOUR HONOR, I
18 DON'T SEE WITH THE JUDGE HERE AND THERE ARE TWO BAILIFFS
19 AND ALL OF THIS STUFF GOING ON AND THE POLICE OFFICER SITTING
20 THERE --

21 THE COURT: HE WOULD HAVE TO HAVE AN EXTRA CHAIR PUT
22 THERE.

23 MR. BARENS: SO WE PUT AN EXTRA CHAIR THERE.

24 MR. WAPNER: I THINK, WITH ALL DUE RESPECT TO COUNSEL,
25 THAT IS NOT NECESSARILY TRUE, THAT EVERY OTHER WITNESS HAS
26 STOOD DOWN. THERE ARE SEVERAL WITNESSES THAT JUST SAT IN
27 THE WITNESS CHAIR AFTER THE JURY GOES OUT, SOME OF THEM HAVE
28 SAT THERE THROUGH ALMOST THE ENTIRE RECESS OF THIS COURT.

1 THE COURT: I DON'T THINK IT WILL BE SUSPICIOUS AND
2 THERE IS NOTHING ELSE, IF I TURN TO THE JURY AND EXCUSE THEM
3 AND THEN THEY WALK OUT OF THE COURTROOM AND HE SITS IN THE
4 WITNESS BOX.

5 MR. BARENS: OKAY. THERE ARE SOME OTHER LEGAL MATTERS
6 TO DISCUSS, YOUR HONOR, WHILE WE ARE HERE.

7 THE COURT: THIS HAS TO DO WITH KARNY?

8 MR. BARENS: YES, YOUR HONOR, AT LEAST THE FIRST THING
9 I HAVE, AND I DON'T KNOW WHAT ELSE MR. WARNER MIGHT HAVE.

10 MR. MORROW IS HERE.

11 THE COURT: WHO?

12 MR. BARENS: MR. MORROW, MR. KARNY'S COUNSEL IS HERE.

13 THE COURT: YES.

14 MR. BARENS: I DON'T MIND THAT AT ALL, OTHER THAN
15 IF HE SOUGHT TO PARTICIPATE IN FRONT OF THE JURY IN THIS
16 TRIAL, I DON'T WANT THAT, YOUR HONOR.

17 THE COURT: NO, THERE WON'T BE ANY OF THAT.

18 MR. BARENS: I WANT TO MAKE THAT CLEAR.

19 COULD YOUR HONOR GIVE ME JUST ONE MOMENT? I
20 HAVE A QUESTION OF MR. CHIER.

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1 (PAUSE.)

2 THE COURT: ALL RIGHT. ANYTHING FURTHER?

3 MR. BARENS: YOUR HONOR, JUST ONE LAST COMMENT ON THE
4 MATTER OF MR. KARNY REMAINING IN THE JURY BOX AT THE END OF
5 THE TESTIMONY --

6 MR. WAPNER: EXCUSE ME. THE WITNESS STAND?

7 MR. BARENS: SORRY, THE WITNESS STAND. I DON'T WANT
8 HIM IN THE JURY BOX, YOUR HONOR.

9 IT MIGHT BE SUGGESTED THAT TO MAKE SURE THERE
10 WAS NO APPEARANCE OF A DIFFERENCE FOR THE JURY, THAT YOUR
11 HONOR IN EXCUSING THE JURY, MIGHT SAY THAT WE HAVE SOME
12 DISCUSSION WITH THE WITNESS OUTSIDE OF THE HEARING OF THE
13 JURY OR OUTSIDE OF THE PRESENCE OF THE JURY AND --

14 THE COURT: THAT IS ONE MORE WAY THAT IT WILL LOOK
15 SUSPICIOUS. I THINK IT IS BETTER LEFT ALONE.

16 MR. WAPNER: WHILE WE ARE HERE, YOUR HONOR, I ASKED
17 THE QUESTION OF DETECTIVE ZOELLER AND THE COURT SUSTAINED
18 THE OBJECTION REGARDING THE DIFFERENCE IN THE APPEARANCE NOW
19 OF MR. PITTMAN.

20 THE COURT: YES. WHAT DO YOU WANT THAT FOR?

21 MR. WAPNER: ONLY BECAUSE --

22 THE COURT: TO SHOW THAT HE WAS MUCH STRONGER THEN?

23 MR. BARENS: HE LOOKED STRONGER TO ME NOW.

24 THE COURT: ANYBODY WOULD SAY THAT OBVIOUSLY, TWO YEARS
25 LATER, PEOPLE LOOK DIFFERENTLY.

26 MR. WAPNER: WELL, THAT IS EXACTLY THE POINT. IN OTHER
27 WORDS, I DON'T WANT TO BE PUT IN THE POSITION OF ARGUING TO
28 THE JURY, YOU SAW THE GUY, YOU KNOW WHAT HE LOOKS LIKE AND

20 1 THEN HAVING SOMEBODY SAY YES, BUT IT IS TWO YEARS LATER. HOW
2 DO WE KNOW WHAT HE LOOKED LIKE THEN? I JUST WANT SOMEBODY
3 WHO SAW HIM THEN, TO SAY --

4 THE COURT: WELL, EVERYBODY HAS DESCRIBED HIM AS BEING
5 VERY VIGOROUS, TALL, STRONG, EVERYTHING ELSE. I DON'T SEE
6 THAT YOU NEED ANYTHING BESIDES THAT.

7 MR. WAPNER: WELL, I THINK IT IS IMPORTANT TO HAVE
8 SOMEONE WHO --

9 THE COURT: HE WAS A JUDO EXPERT, BLACK BELT AND THE
10 REST OF IT. HE IS NOT A WEAKLING AND --

11 MR. BARENS: WELL, THEN I WILL --

12 THE COURT: I WILL LET IT STAND THE WAY IT IS.

13 MR. WAPNER: ALL RIGHT.

14 THE COURT: I DON'T THINK YOU HAVE TO GO INTO IT.

15 (THE FOLLOWING PROCEEDINGS WERE HELD
16 IN OPEN COURT OUTSIDE THE PRESENCE OF
17 THE JURY:)

18 MR. BARENS: PRIOR TO WHATEVER NEXT WITNESS WE ARE GOING
19 TO HAVE, WE'LL HAVE AN OPPORTUNITY TO DISCUSS SOME MOTIONS
20 IN LIMINE PRIOR TO THE TESTIMONY?

21 THE COURT: YES. SURE.

22 MR. BARENS: ALL RIGHT. THANK YOU.

23 (THE JURY ENTERS THE COURTROOM AND
24 THE FOLLOWING PROCEEDINGS WERE HELD:)

25 THE COURT: ALL RIGHT. THE RECORD WILL SHOW THAT THE
26 JURY IS WITH US. YOU MAY CONTINUE.

27 MR. BARENS: THANK YOU, YOUR HONOR.
28

1 LESLIE H. ZOELLER,
2 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN PREVIOUSLY
3 SWORN, RESUMED THE STAND AND TESTIFIED FURTHER AS FOLLOWS:

4

5 CROSS-EXAMINATION (CONTINUED)

6 BY MR. BARENS:

7 Q DETECTIVE ZOELLER, WITH REFERENCE TO THE REPORT
8 THAT YOU PREPARED OF YOUR INTERVIEW WITH MR. HUNT ON THE FIRST
9 OCCASION YOU WERE WITH HIM, DID YOU PREPARE NOTES AS YOU WERE
10 SPEAKING TO HIM?

11 A YES.

12 Q DO YOU HAVE THOSE NOTES WITH YOU?

13 A NO.

14 Q WHERE ARE THOSE NOTES?

15 A I BELIEVE, BACK IN THE FILE AT THE OFFICE.

16 Q ALL RIGHT. AND HOW LONG AFTER THE INTERVIEW DID
17 YOU PREPARE THE REPORT?

18 A IT SHOULD SAY EITHER AT THE TOP OR THE BOTTOM
19 OF THE REPORT WHEN THE REPORT WAS PREPARED.

20 Q I DON'T RECALL WHAT THAT SAYS. BUT DO YOU HAVE
21 ANY KIND OF RECOLLECTION AS YOU SIT THERE TODAY?

22 A NO, I DON'T.

23 Q OKAY. BE THAT AS IT MAY, YOU MADE THE REPORT
24 BASED ON A REVIEW OF YOUR NOTES AND YOUR RECOLLECTIONS?

25 A YES.

26 Q AND THE NOTES THAT YOU MADE CONTAINED VERBATIM
27 QUOTES OF YOURSELF AND OF MR. HUNT?

28 A PRETTY MUCH SO, YES.

1 Q I DON'T QUITE UNDERSTAND THAT. WHEN YOU SAY
2 "PRETTY MUCH SO," YOU --

3 A QUOTES TO THE BEST OF MY RECOLLECTION.

4 Q SO THE QUOTES WERE BASED ON YOUR RECOLLECTION
5 I PRESUME, SIR?

6 A NO. TO THE BEST OF MY RECOLLECTION, THE QUOTES
7 WERE VERBATIM FROM THE NOTES.

8 Q I SEE. ACTUALLY IN LOOKING AT THE REPORT, I SEE
9 A REFERENCE OF 9-30-84 AT 1030 HOURS. IS THAT WHAT YOU
10 INDICATE BEING THE DATE THAT THE REPORT IS PREPARED?

11 MR. WAPNER: WELL, EXCUSE ME. COULD YOU SHOW IT TO
12 HIM?

13 MR. BARENS: I WILL SHOW IT TO HIM.

14 THE WITNESS: COULD I SEE THE FIRST PAGE OF THE REPORT?

15 MR. WAPNER: COUNSEL?

16 MR. BARENS: SURE. ALL RIGHT. WE ARE BOTH GOING TO
17 SHOW YOU THINGS.

18 THE WITNESS: THANK YOU. THE DATE IT WAS PREPARED IS
19 9-30-84 AT 930 HOURS.

20 Q BY MR. BARENS: THEN YOU HAVE ON THE LAST PAGE,
21 10:30?

22 A PROBABLY THAT IS HOW LONG IT TOOK ME TO TYPE IT.

23 Q ALL RIGHT. SO YOU STARTED AT 9:30 AND YOU ENDED
24 AT 10:30?

25 A THAT'S CORRECT.

26 Q THIS WAS THEN A COUPLE OF DAYS AFTER THE INTERVIEW
27 ITSELF?

28 A YES.

20-5 1 Q OKAY. DID DETECTIVE DECUIR PREPARE A REPORT?

2 A NO. HE DID NOT.

3 Q SO, DID HE MAKE NOTES?

4 A I DON'T RECALL.

5 Q AT LEAST YOU HAVE NEVER SEEN ANY NOTES HE PREPARED?

6 A I DON'T RECALL WHETHER I HAVE OR NOT, TO TELL
7 YOU THE TRUTH.

8 Q ALL RIGHT. I SUPPOSE YOU COULD LOOK FOR THAT,
9 IF WE ASKED YOU TO, WHICH WE ARE GOING TO ASK YOU TO DO?

10 A YES.

11 Q AS WELL AS YOUR NOTES.

12 HAD YOU HANDLED THE INVESTIGATION OF A MURDER
13 CASE PRIOR TO THIS ONE, HAD YOU NOT, SIR?

14 A YES.

15 Q ON HOW MANY OCCASIONS?

16 A POSSIBLY SIX.

17 Q AND DURING THOSE SIX, HOW MANY OF THOSE SIX HAD
18 YOU INTERVIEWED THE DEFENDANT ON?

19 A I ATTENDED AN INTERVIEW ON ALL SIX.

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1 Q I UNDERSTAND THAT.
2 HOW MANY THEN DID YOU ACTUALLY INTERVIEW?
3 A I DON'T RECALL.
4 Q WOULD IT BE HALF OF THAT NUMBER, ROUGHLY SPEAKING?
5 A YES, POSSIBLY.
6 Q DID YOU TAPE RECORD ANY OF THOSE PEOPLE?
7 A YES.
8 Q HOW MANY OF THEM?
9 A I RECALL OFFHAND, ONE.
10 Q AND WHAT IS THE BENEFIT OF THE TAPE RECORDING
11 THAT YOU DID, SIR?
12 A THE BENEFIT OF THAT ONE WAS BECAUSE IT WAS SO
13 LENGTHY AND WE WANTED A TRANSCRIPTION OF IT.
14 Q YOU DON'T KNOW WHEN YOU START ONE OF THOSE
15 INTERVIEWS HOW LENGTHY THEY ARE GOING TO BE, DO YOU?
16 A THAT'S CORRECT.
17 Q WOULDN'T YOU LIKE TO BE ABLE TO TRANSCRIBE ALL
18 OF THE DEFENDANT'S INTERVIEWS YOU DO?
19 MR. WAPNER: OBJECTION. ARGUMENTATIVE.
20 THE COURT: OVERRULED.
21 THE WITNESS: NOT NECESSARILY. IT DEPENDS, AS YOU SAID,
22 ON THE LENGTH.
23 Q BY MR. BARENS: WELL, HOW WOULD YOU KNOW BEFORE
24 YOU DO THE INTERVIEW HOW LONG IT IS GOING TO BE?
25 A YOU DON'T KNOW.
26 Q I UNDERSTAND THAT, IT APPEARS TO ME.
27 WOULDNT IT BE A GOOD PRACTICE IN THE WAY YOU
28 CONDUCT BUSINESS THERE TO, YOU KNOW, MAKE SOME WAY TO

21. ?
1 MEMORIALIZE WHAT THESE PEOPLE SAY TO YOU SO THAT LATER ON
2 WHEN YOU DO YOUR REPORTS, YOU COULD HAVE SOME EVIDENCE OF
3 THAT IN A PRACTICAL FASHION?

4 A IT WOULD BE A GOOD PRACTICE, YES.

5 Q THAT WOULD ALLOW YOU TO BE EXACT INSTEAD OF
6 APPROXIMATE, SIR?

7 A YES.

8 Q SO YOU HAVE ONLY DONE THAT ONCE IN THE WAY YOU
9 INVESTIGATE?

10 A FOR MURDER CASES, YES, TO MY RECOLLECTION.

11 Q AND YOU MADE A POINT JUST NOW OF SAYING "FOR MURDER
12 CASES," DO YOU INVESTIGATE ANYTHING OTHER THAN MURDER CASES?

13 A I HAVE, YES.

14 Q DID YOU USE TAPE REORDERING DEVICES IN THOSE
15 INTERVIEWS?

16 A I HAVE.

17 Q DID YOU DO IT MOST OF THE TIME OR JUST SOME OF
18 THE TIME?

19 A SOME OF THE TIME.

20 Q WHEN YOU WERE DEALING WITH THE DEFENDANT?

21 A CORRECT.

22 Q AGAIN, WAS THAT DONE JUST BASED ON YOUR ASSESSMENT
23 IN ADVANCE AS TO WHETHER OR NOT THIS WAS GOING TO BE A LONG
24 OR SHORT DIALOGUE?

25 A NOT NECESSARILY IN ADVANCE ONCE THE INTERVIEW
26 STARTED.

27 Q THE QUOTES THAT YOU HAVE RESULTING IN THE HUNT
28 MATTER, ARE MADE WITHOUT BENEFIT OF TAPE, OBVIOUSLY?

1 A THAT'S CORRECT.

2 Q THOSE ARE THEN BASED ON A COMBINATION OF YOUR
3 RECOLLECTION AND YOUR NOTES?

4 A THAT'S CORRECT.

5 Q CAN YOU SAY WITHOUT DOUBT IN YOUR OWN MIND THAT
6 THEY ARE EXACT QUOTES AS FAR AS YOUR STATEMENTS AND THE RESPONSES
7 YOU GOT?

8 A I WOULD BELIEVE SO, YES.

9 Q AND YOU BELIEVE THAT BASED ON YOUR RECOLLECTION?

10 A MY RECOLLECTION TODAY, YES.

11 Q ALL RIGHT, SIR. NOW LATER ON WHEN YOU WENT TO
12 THE ADDRESS ON PECK, I BELIEVE THAT YOU MADE WHAT YOU ONE
13 TIME REFERRED TO AS A CURSORY VISUAL SEARCH?

14 A YES.

15 Q WHEN YOU WENT TO THAT PREMISES, DID YOU FIND ANY
16 BULLET HOLES?

17 A NO.

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1 Q ANY BLOOD?

2 A NO.

3 Q ANY RESIDUE OF A GUN BEING EXPLODED AT THAT
4 LOCATION?

5 A NO.

6 Q ANY WEAPONS?

7 A NO.

8 Q ANY FOOTPRINTS THAT YOU TOOK NOTE OF?

9 A NO.

10 Q NOW, YOU HAD AVAILABLE TO YOU WHEN YOU WENT THERE
11 A VARIETY OF FORENSIC EXPERTS, DID YOU NOT?

12 A YES.

13 Q I MEAN BY THAT, YOU UNDERSTAND I AM TALKING ABOUT
14 GUYS THAT ARE FORENSIC EXPERTS IN GUNSHOTS AND IN BLOOD TESTING
15 AND IN FOLLICLE SAMPLES AND IN TAKING SAMPLES FROM CARPETS
16 AND ALL OF THAT CONSTELLATION OF FORENSIC EVIDENCE THAT IS
17 AVAILABLE TO US?

18 A FOR THE MOST PART, YES.

19 Q WHAT DON'T YOU HAVE?

20 A WELL, TO ANSWER YOUR QUESTION, YES.

21 Q YOU HAVE A WHOLE BUNCH OF PEOPLE IN BEVERLY HILLS
22 WHO PROVIDE YOU WITH ALL OF THAT STUFF, HAVEN'T THEY?

23 A BEVERLY HILLS AND THE COUNTY, YES.

24 Q WHY DIDN'T YOU DO ALL OF THE FORENSIC STUFF THAT
25 WAS AVAILABLE TO YOU AT THE SCENE?

26 MR. WAPNER: OBJECTION. "AVAILABLE" AS TO WHAT, ALL
27 OF THE FORENSIC STUFF THAT IS AVAILABLE?

28 Q BY MR. BARENS: OKAY, WE WILL GO THROUGH IT ONE

1 AT A TIME THEN.

2 SIR, DID YOU DO ANY CHECKING ON THE CARPETS, EITHER
3 MICROSCOPICALLY OR BY REMOVING SAMPLES OF THE CARPETS TO
4 DETERMINE WHETHER OR NOT THERE WAS ANY RESIDUE OF A GUNSHOT
5 OR OTHER WEAPON EXPLOSION?

6 A NO.

7 Q ALL RIGHT. DID YOU DO A SEARCH ON ANY CHEMICAL
8 BASIS FOR THE PRESENCE OF ANY BLOOD?

9 A YES.

10 Q WHAT DID YOU DO?

11 A WHAT DID I DO?

12 Q WHAT DID YOU DO, DIRECT TO BE DONE.

13 A AS I EXPLAINED, I BELIEVE YESTERDAY, I THOUGHT
14 THERE WAS POSSIBLY A BLOOD STAIN ON THE DRAIN OF THE TUB OF
15 THE MASTER BATH AND I HAD THAT CHECKED.

16 Q NOW, THAT WAS BASED ON SOME VISUAL SIGHTING YOU
17 HAD OF WHAT TURNED OUT TO BE RUST?

18 A I BELIEVE SO, YES.

19 IT WAS DETERMINED NOT TO BE BLOOD.

20 Q RIGHT.

21 OTHER THAN THE RUST STAIN, WHAT DID YOU DO IN
22 TERMS OF BLOOD?

23 A NOTHING.

24 Q NOTHING?

25 NOW THE BED IN THE MASTER BULLET -- IN THE MASTER
26 BEDROOM, DID YOU CHECK THAT FOR BLOOD STAINS?

27 A ON THE 16TH, CURSORILY, AND ON THE 27TH, I CHECKED
28 MORE EXTENSIVELY.

1 Q HOW DID YOU CHECK MORE EXTENSIVELY?

2 A BY VISUAL CHECK, BY VISUAL, TEARING THE BED APART.

3 Q DID YOU DO ANYTHING OF A SCIENTIFIC FORENSIC NATURE
4 AT THAT JUNCTURE?

5 A NO.

6 Q AS FAR AS THE BEDDING, DID YOU TAKE THE BEDDING
7 BACK TO THE BEVERLY HILLS P.D. AND DO CERTAIN FORENSIC THINGS
8 TO IT?

9 A I PRESERVED THE MATTRESS COVER.

10 Q AND DID YOU DO SOME FORENSIC THING TO IT?

11 A NO.

12 Q WHY DID YOU PRESERVE IT?

13 A FOR THE POSSIBILITY OF DOING ANY TESTING ON IT.

14 Q BUT YOU HAVEN'T UP TO THIS POINT?

15 A NO.

16 Q TO YOUR KNOWLEDGE, AS POLICE PERSONNEL, DON'T
17 GUNSHOTS LIKE SHOTGUN SHOTS LEAVE SOME SORT OF RESIDUE?

18 A IT CAN, YES.

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1 Q AND WITH THAT IN MIND AND BEING AWARE OF THAT
2 AT THE TIME, DID YOU DO ANY SEARCHING FOR THAT SORT OF THING?

3 A AT WHAT TIME?

4 Q WELL, WE STARTED ON THE 16TH, I GUESS, OF AUGUST.

5 A AT THAT TIME, NO.

6 Q DID YOU DO THAT LATER?

7 A NO. I WAS NOT AWARE OF ANY POSSIBLE GUNSHOTS
8 BEING FIRED INSIDE THE ROOM UNTIL THE 27TH OF NOVEMBER.

9 Q I GUESS YOU DID IT AFTER THE 27TH OF NOVEMBER,
10 YOU DECIDED TO GO BACK IN THERE?

11 A I WENT BACK IN THERE AND THAT IS WHEN WE TOOK
12 THE BED APART.

13 Q TOOK THE BED APART. DID YOU GO BACK IN THERE
14 WITH ANY SCIENTIFIC EQUIPMENT OTHER THAN YOUR HANDS AND
15 EYES?

16 A NO.

17 Q ALL RIGHT. DID YOU DO ANY INVESTIGATION WHAT-
18 SOEVER, THAT COULD HAVE BEEN HELPFUL TO THE DEFENDANT?
19 FOR INSTANCE, I ASK YOU SIR, SOME OF THE FINGERPRINTING WE
20 TALKED ABOUT, TO SEE WHETHER HIS FINGERPRINTS WERE ON THINGS
21 LIKE THE DATE STAMP, THE XEROX, THE TYPEWRITER, THE ACCO
22 CLIP. DID YOU DO ANY OF THAT?

23 A NO.

24 Q ALL RIGHT. NOW, WHEN YOU SEARCHED HUNT'S
25 RESIDENCE AT THE WILSHIRE MANNING, YOU FOUND A TYPEWRITER
26 THERE, DIDN'T YOU?

27 A I DON'T RECALL SEEING A TYPEWRITER, NO.

28 Q HOW ABOUT AT THE OFFICE ON THIRD STREET?

1 A THERE WERE TYPEWRITERS AT THE OFFICE, YES.

2 Q OKAY. DID YOU DO ANYTHING WITH THOSE TYPEWRITERS?

3 A NO.

4 Q DID YOU MAKE ANY ATTEMPT WHATSOEVER TO ASCERTAIN
5 WHETHER OR NOT THE MILLION FIVE CHECK AND THE OPTION AGREE-
6 MENT WERE TYPED ON THOSE TYPEWRITERS?

7 A NO.

8 Q DID YOU MAKE ANY ATTEMPT TO FIND OUT WHETHER
9 OR NOT THE XEROXES THAT YOU FOUND IN PEOPLE'S 55, THE GREEN
10 FOLDER AT THE RESIDENCE, WERE XEROXED ON THE XEROX MACHINE
11 YOU FOUND AT THE BBC OFFICES?

12 A I DON'T KNOW HOW YOU COULD TELL THAT. BUT, NO.

13 Q YOU ARE NOT AWARE THAT THERE ARE FORENSIC TESTS
14 AVAILABLE AND SCIENTIFIC STUDIES THAT CAN BE DONE TO FIND
15 OUT BY CERTAIN PATTERNS, BACKGROUND PATTERNS WHETHER SOMETHING
16 HAS BEEN XEROXED ON THE SAME MACHINE?

17 A NO. I WAS NOT.

18 Q YOU ARE NOT AS YOU SIT HERE TODAY, AWARE THAT
19 MACHINES HAVE WHAT WE CALL A SIGNATURE THAT WE LEAVE BY A
20 PATTERN ON A XEROX? IN XEROGRAPHY, THAT IS IDENTIFIABLE?

21 A NO.

22 Q DID YOU IN LOOKING IN THE BBC OFFICES, MAKE ANY
23 ATTEMPT TO DETERMINE WHETHER ANY OF THE PAPER WORK YOU FOUND
24 IN THE LEVIN HOME, WAS IN FACT, PREPARED AT THE BBC OFFICES?

25 A DID I -- REPEAT THAT QUESTION, PLEASE.

26 Q DID YOU MAKE ANY ATTEMPT AT ALL, TO DETERMINE
27 IN SOME FORENSIC OR SCIENTIFIC METHOD, WHETHER THE STUFF,
28 THE MILLION FIVE CHECK AND THE OPTION AGREEMENT, WAS PREPARED

22-3

1 AT THE BBC OFFICES THAT YOU FOUND AT PECK?

2 A NO.

3 Q ALL RIGHT. THE SWISS CASHIER'S CHECKS THAT YOU
4 FOUND IN THE LEVIN APARTMENT, WERE FOUND ON TOP OF AN
5 AREA, IS THAT CORRECT?

6 A WHAT SWISS CASHIER'S CHECKS?

7 Q DIDN'T YOU FIND TWO SWISS CASHIER'S CHECKS AT
8 LEVIN'S HOME?

9 A NO.

10 Q YOU NEVER WERE TOLD THAT THERE WERE TWO SWISS --
11 LET'S CALL THEM BANK CHECKS?

12 A I WAS TOLD, YES. I DIDN'T FIND THEM AT THE
13 RESIDENCE, NO.

14 Q YOU NEVER SAW THEM?

15 A I HAVE SEEN THEM BUT NOT AT THE RESIDENCE, NO.

16 Q WHO GAVE THEM TO YOU ON THE OCCASION THAT YOU
17 SAW THEM?

18 MR. WAPNER: OBJECTION, ASSUMES FACTS NOT IN EVIDENCE,
19 THAT THEY WERE EVER GIVEN TO HIM.

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1 MR. BARENS: WELL, I SUPPOSE SOME ENTITY IN BEING HAD
2 TO PROVIDE THEM.

3 THE COURT: WELL, REPHRASE YOUR QUESTION.

4 Q BY MR. BARENS: DID YOU SEE THEM AT ANY TIME?

5 A IN COURT, YES.

6 Q THE FIRST TIME YOU EVER SAW THOSE CHECKS WAS
7 IN COURT?

8 A YES. I BELIEVE SO, THROUGH MR. OSTROVE.

9 Q THAT IS HOW YOU THINK THEY GOT HERE?

10 A I BELIEVE SO, YES.

11 Q DO YOU KNOW IF THEY WERE FOUND IN MR. LEVIN'S
12 APARTMENT?

13 A I DON'T KNOW FOR SURE, NO.

14 Q OKAY. ALL RIGHT. JUST OUT OF CURIOSITY, SIR,
15 THE BATHTUB STAIN THAT YOU LOCATED, TURNED OUT YOU SAY,
16 NOT TO BE BLOOD?

17 A THAT'S CORRECT.

18 Q WHERE EXACTLY WAS THAT?

19 A IT WAS IN THE MASTER BATH.

20 Q AND WHERE IN THE BATHTUB WAS IT? AT THE DRAIN
21 OR BACKEND?

22 A AT THE DRAIN.

23 Q AT THE DRAIN? ACTUALLY CONTIGUOUS WITH THE DRAIN?

24 A YES.

25 Q AND WAS THAT LARGE OR SMALL?

26 A THE STAIN WAS SMALL.

27 Q AND HOW DID YOU DETERMINE IT WAS NOT BLOOD, SIR?

28 A JUST THE I.D. PEOPLE, I BELIEVE, I.D. TECHNICIAN

1 KUHN HAD A TEST FOR THAT TO DETERMINE WHETHER IT WAS BLOOD
2 OR NOT.

3 Q ALL RIGHT. DO YOU KNOW WHAT THE TEST WAS CALLED?

4 A NO, I DON'T.

5 Q AND THAT HAD A COLOR THAT APPEARED TO BE A RUST
6 OR BLOOD COLOR?

7 A YES.

8 Q NOW, DID YOU MAKE ANY EFFORT TO DETERMINE WHETHER
9 OR NOT THE CLOTHING THAT LEVIN BOUGHT DURING MAY, WAS STILL
10 IN THE APARTMENT?

11 A DID I MAKE A DETERMINATION?

12 Q DID YOU MAKE AN EFFORT AT ALL TO DETERMINE WHETHER
13 OR NOT ANY --

14 A NO.

15 Q -- OF THAT CLOTHING THAT HE BOUGHT IN MAY WAS
16 FOUND IN THE APARTMENT?

17 A NO.

18 Q YOU MADE NO EFFORT WHATSOEVER ON THAT?

19 A NO.

20 Q ALL RIGHT. LATER ON, THAT STUFF WAS AUCTIONED
21 OFF?

22 MR. WAPNER: OBJECTION TO THE LAST QUESTION AS ASSUMING
23 FACTS NOT IN EVIDENCE, THAT HE EVEN KNEW WHAT CLOTHES HE
24 BOUGHT IN MAY.

25 MR. BARENS: I SUPPOSE THEY ARE INVESTIGATING --

26 THE COURT: I SUSTAIN THE OBJECTION. I STRIKE THE
27 ANSWER.

28 Q BY MR. BARENS: WELL, HAVE YOU EVER BECOME AWARE

1 OF THE FACT THAT MR. LEVIN BOUGHT A LOT OF CLOTHES IN MAY?

2 MR. WAPNER: OBJECTION, RELEVANCE. HAS HE EVER BECOME
3 AWARE?

4 IF HE BECAME AWARE OF IT NOW, WHAT RELEVANCE
5 DOES IT HAVE TO WHAT HE DID BACK THEN?

6 MR. BARENS: JUST TO THE EXTENT OF INVESTIGATION HE
7 DID, I SUPPOSE, OR DIDN'T DO.

8 THE COURT: I UNDERSTAND THE PURPOSE OF THE QUESTION
9 BUT HE MAY ASK IT.

10 MR. BARENS: WELL, I THINK I ASKED AND HE ANSWERED
11 IT.

12 Q I THINK YOU HAVE ANSWERED THAT YOU MADE NO
13 ATTEMPT TO DO THAT EXERCISE?

14 A AT THE TIME, THAT IS CORRECT.

15 THE COURT: YOU DIDN'T GO TO ANY OF THE STORES TO
16 FIND OUT THE COLOR OF THE SUITS HE BOUGHT AND THE SIZE OF
17 IT AND TO TRY TO CHECK WHAT WAS IN THE WARDROBE?

18 THE WITNESS: AT THE TIME THAT I KNEW OF THE PURCHASES,
19 THE SUITS HAD BEEN DISPOSED OF.

20 THE COURT: ALL RIGHT. AUCTIONED OFF, YOU MEAN?

21 THE WITNESS: THAT'S CORRECT.

22 Q BY MR. BARENS: WELL, WE DON'T KNOW WHICH SUITS
23 WERE AUCTIONED OFF, DO WE, SIR?

24 A NO.

25

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23 1 Q DID YOU CHECK ON MR. LEVIN'S PHONE IN ANY WAY
2 TO SEE IF ANY RESERVATIONS HAD BEEN CANCELED TO NEW YORK FROM
3 THAT TELEPHONE?

4 A AS FAR AS LONG DISTANCE CALLS?

5 Q YES.

6 A I KNOW I HAVE HIS PHONE BILLS. I DON'T RECALL
7 ANY LONG DISTANCE CALLS TO NEW YORK CANCELING HIS RESERVATIONS.

8 Q OKAY. AND YOU WERE HERE WHEN WE HAD ANOTHER
9 WITNESS TESTIFY THAT IN FACT HIS RESERVATION WASN'T CANCELED?

10 A THAT'S CORRECT.

11 Q OKAY. WHERE DID YOU FIND THE DATE STAMP THAT
12 WAS IN MR. LEVIN'S APARTMENT?

13 A ON HIS DESK.

14 Q IN THE BIG OFFICE?

15 A THAT'S CORRECT.

16 Q AND YOU SAY WHEN YOU WERE IN THE BIG OFFICE, YOU
17 DID NOT SEE THESE TWO SWISS CASHIER'S CHECKS I MADE REFERENCE
18 TO?

19 A THAT'S CORRECT.

20 Q OKAY. NOW WHERE DID YOU FIND THE HOUSE OPTION?

21 THE COURT: THE WHAT?

22 MR. BARENS: THE HOUSE OPTION, WE HAD SOME TESTIMONY
23 ABOUT AN OPTION THAT LEVIN HAD ACQUIRED.

24 THE COURT: YOU MEAN THE BUILDING ON PECK?

25 MR. BARENS: YES, YOUR HONOR.

26 MR. WAPNER: OBJECTION. ASSUMES FACTS NOT IN EVIDENCE.

27 MR. BARENS: ALL HE HAS TO DO IS TELL ME HE DIDN'T FIND
28 IT AND THERE IT IS.

23 2
1 THE COURT: THAT IS ASSUMING IT WAS THERE.

2 MR. BARENS: HE HAS TOLD ME THAT HE WAS THERE.

3 THE COURT: YES, BUT IT IS ASSUMING IT WAS THERE.

4 Q BY MR. BARENS: ALL RIGHT, DID YOU EVER SEE, WHILE
5 YOU WERE AT MR. LEVIN'S HOUSE, ANYTHING HAVING TO DO WITH
6 AN OPTION FOR THE PURCHASE OF THE PROPERTY?

7 A THE ONLY THING I RECALL IS WHAT WAS INTRODUCED
8 EARLIER, BEING IN THE MAY BROTHERS LAND CORPORATION FOLDER,
9 WHICH HAD "VOID" ALL OVER IT.

10 Q RIGHT.

11 AND IT HAD SOME LANGUAGE IN THAT ABOUT THE
12 ACQUISITION OF AN OPTION TO THE PROPERTY YOU WERE THEN AT?

13 A I BELIEVE SO, YES.

14 Q WHERE DID YOU FIND THAT? AS PART OF EXHIBIT 100,
15 OR THE CONTENTS, YOU KNOW, WHEN 100 WAS ALL IN ONE PIECE?

16 A IT WAS NOT PART OF 100, NO.

17 Q IT WAS PART OF THE MAY BROTHERS?

18 A THAT'S CORRECT.

19 Q AND WHERE DID YOU FIND THAT?

20 A IT WAS IN THE SMALL OFFICE.

21 Q THAT WAS THE SAME PLACE WHERE YOU FOUND 100?

22 A YES.

23 Q OKAY. DID YOU FIND ANY PERSONAL DIARY OF RON
24 LEVIN?

25 A NO.

26 Q YOU HESITATED, SIR, WHEN I ASKED YOU THAT QUESTION.
27 WERE YOU THINKING ABOUT SOMETHING ELSE?

28 A I WAS THINKING OF A REPORTER'S NOTEBOOK WHICH --

3-7
1 Q DID YOU FIND THAT?

2 A YES.

3 Q DO YOU HAVE THAT IN COURT WITH YOU?

4 A IT IS IN AS AN EXHIBIT, YES.

5 Q I AM NOW TALKING ABOUT NOT THAT.

6 DID YOU FIND A DIARY?

7 A NO.

8 Q OKAY. WERE YOU AWARE THAT HE KEPT A DIARY?

9 A NO, I WAS NOT.

10 Q NOW, DID YOU EXAMINE MR. LEVIN'S, RON LEVIN'S
11 VEHICLE?

12 A I LOOKED AT --

13 NO, I DID NOT.

14 IT WAS GONE BY THE TIME I GOT THERE.

15 Q DID YOU AT A LATER DATE LOOK AT IT?

16 A NO.

17 Q SO YOU NEVER LOOKED AT IT?

18 A NO.

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1 Q DID YOU EXAMINE THE GARAGE?

2 A I WAS INSIDE THE GARAGE AND CURSORILY LOOKED AT
3 IT, YES.

4 Q YOU DID NOTHING OF ANY -- OTHER THAN A CURSORY --
5 AND WHEN YOU SAY "CURSORY," DETECTIVE, I PRESUME YOU MEAN
6 YOU KIND OF STOOD THERE AND LOOKED ABOUT YOU?

7 A YES.

8 Q OKAY. WAS THAT ABOUT IT?

9 A YES.

10 Q NOW, DID YOU FIND ANY FOOD STUFFS THAT LOOKED
11 LIKE TAKE-OUT FOODS WHEN YOU WERE IN THE APARTMENT IN AUGUST?

12 A NO.

13 Q YOU HEARD ABOUT IT BUT YOU DIDN'T SEE IT?

14 A THAT'S CORRECT.

15 Q DID YOU CHECK ANY OF THE DRYCLEANERS IN THE
16 NEIGHBORHOOD WHERE MR. LEVIN LIVED IN THE COMMUNITY OF
17 BEVERLY HILLS TO LOCATE HIS COMFORTER?

18 THE COURT: TO LOCATE WHAT?

19 MR. BARENS: THE COMFORTER, SIR.

20 THE WITNESS: NO.

21 Q BY MR. BARENS: DID ANYONE EVER TELL YOU THAT
22 LEVIN TOOK HIS THINGS TO THE DRYCLEANER?

23 A NO.

24 Q DID YOU HEAR THAT IN THIS COURTROOM?

25 A I HEARD THAT PEOPLE CAME AND PICKED STUFF UP AT
26 HIS APARTMENT, IN THE COURTROOM.

27 Q YOU DIDN'T HEAR A WITNESS SAY THAT HE TOOK SOME
28 OF HIS OWN THINGS TO THE DRYCLEANERS?

1 A I DON'T RECALL.

2 Q OKAY. BUT, IN ANY EVENT, YOU DIDN'T CHECK ANYTHING
3 LIKE THAT?

4 A NO.

5 Q NOW RETURNING TO THE INTERVIEW YOU HAD WITH
6 MR. HUNT AND LOOKING AT YOUR REPORT, DID MR. HUNT EVER TELL
7 YOU THAT HE DID NOT WRITE THE SEVEN PAGES?

8 A NO.

9 THE COURT: WHAT, AGAIN, DID HE TELL YOU ABOUT IT?

10 THE WITNESS: I ASKED HIM IF HE -- IF HE KNEW ANYTHING
11 ABOUT THEM, AND I ASKED HIM TWICE, WITH A SPAN OF APPROXIMATELY
12 SEVEN TO TEN MINUTES, AND HIS RESPONSE AFTER THE SECOND
13 QUESTION WAS, "I DON'T KNOW ANYTHING ABOUT THEM."

14 Q BY MR. BARENS: AND THE NEXT THING, SINCE WE ARE
15 ON THAT HERE, WHY DON'T I JUST HAVE YOU READ FROM YOUR REPORT
16 JUST SO WE WILL SAVE A LITTLE TIME HERE, IF YOU WOULD?

17 ALTHOUGH I DON'T SEE WHERE YOU SAID YOU ASKED
18 HIM TWICE, BUT IT DOESN'T MATTER.

19 A IT IS ON THE PRIOR PAGE.

20 Q I GUESS IF YOU COULD READ FOR US -- I DON'T KNOW,
21 START WITH, YOU KNOW, LIKE THE TOP LINE AND JUST READ THE
22 REST OF IT.

23 A (READING:)

24 "I.O. AGAIN ASKED THE SUSPECT,
25 'WHAT DO YOU KNOW ABOUT THESE' REFERRING TO THE
26 COPIES OF THE LIST.

27 "THE SUSPECT STATED, 'I DON'T
28 KNOW ANYTHING ABOUT THESE.'"

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DID YOU WANT ME TO CONTINUE, COUNSEL?

Q RIGHT.

A (READING:)

"I.O. ASKED THE SUSPECT IF HE WROTE
THEM.

"THE SUSPECT STATED, 'ON AN ISSUE LIKE
THIS, I WANT TO CONFER WITH MY ATTORNEY.'"

24 F

24-1

1 Q THANK YOU. OKAY. SO IN THAT CONJUNCTION, IS WHEN
2 THE INTERVIEW CONCLUDED?

3 A THAT'S CORRECT.

4 MR. BARENS: YOUR HONOR, MAY WE APPROACH THE BENCH
5 BRIEFLY?

6 THE COURT: ALL RIGHT.

7 (THE FOLLOWING PROCEEDINGS WERE HELD
8 AT THE BENCH OUTSIDE THE HEARING OF
9 THE JURY:)

10 MR. WAPNER: YOUR HONOR, COUNSEL YESTERDAY OBJECTED
11 BEFORE THE OFFICER TESTIFIED AND WANTED TO MAKE SURE THAT
12 THERE WAS NO REFERENCE TO THE DEFENDANT INVOKING HIS RIGHTS.
13 I JUST WANT TO MAKE SURE THAT THE RECORD IS CLEAR THAT THERE
14 WAS A SPECIFIC, TACTICAL DECISION ON THE PART OF COUNSEL
15 TO INQUIRE OF THE OFFICER ABOUT THE FACT THAT THE DEFENDANT
16 INVOKED HIS RIGHT TO COUNSEL. HE WAS ASKED --

17 THE COURT: IT IS ON THE RECORD.

18 MR. WAPNER: HE WAS ASKED SPECIFICALLY BEFORE THE
19 NOON BREAK. NOW HE HAS ASKED HIM SPECIFICALLY AGAIN.

20 THE COURT: WHAT IS IT THAT YOU WANT? WHAT POINT ARE
21 YOU MAKING? HE WAIVED IT BY ASKING IT.

22 HE HIMSELF, ELICITED IT.

23 MR. WAPNER: I WANT HIM TO MAKE THE STATEMENT ON THE
24 RECORD.

25 THE COURT: HE DOESN'T HAVE TO MAKE A STATEMENT ON
26 THE RECORD. IT IS ALREADY OBVIOUS IN THE RECORD THAT HE
27 WAIVED IT.

28 HE ASKED ABOUT IT. HE HAS WAIVED IT. WHAT ELSE

1 IS THERE?

2 MR. WAPNER: WHAT ELSE CAN HE SAY? HE CAN PUT IT ON
3 THE RECORD.

4 MR. BARENS: I DON'T HAVE TO PUT ANYTHING ON THE
5 RECORD, JUDGE.

6 THE COURT: WELL, HE WANTS YOU TO PUT IT ON THE RECORD.

7 MR. BARENS: I DON'T WANT TO OBLIGE HIM. THE RECORD
8 SPEAKS FOR ITSELF.

9 THE COURT: HE DOESN'T HAVE TO PUT IT ON THE RECORD.
10 THE RECORD SPEAKS FOR ITSELF. THEY OPENED THE DOOR. THEY
11 PUT IT ON THE RECORD. HE ASKED HIM, HIMSELF. THAT
12 CONSTITUTES A WAIVER OF HIS RIGHTS.

13 MR. WAPNER: WELL, SPECIFICALLY THE PORTION THAT WAS
14 READ OF THE POLICE REPORT OBVIOUSLY, COUNSEL MUST HAVE KNOWN
15 WHAT WAS GOING TO BE IN THERE WHEN HE HAD THE WITNESS READ
16 IT, THAT THERE WAS GOING TO BE AN INVOCATION OF HIS RIGHTS.
17 HE GAVE IT TO HIM AND HE ASKED HIM TO READ IT.

18 THE COURT: THEN HE DECIDED TO WAIVE IT BY ASKING HIM
19 ABOUT IT. IT HAS BEEN WAIVED NOW. DON'T MAKE A BIG POINT
20 OF IT.

21 MR. WAPNER: I AM JUST ASKING HIM TO MAKE THE STATEMENT
22 FOR THE RECORD THAT IT WAS INTENTIONALLY DONE.

23 THE COURT: HE DOESN'T HAVE TO MAKE THE STATEMENT ON
24 THE RECORD. IT IS OBVIOUS THAT THEY HAVE WAIVED IT.

25 (THE FOLLOWING PROCEEDINGS WERE HELD
26 IN OPEN COURT IN THE PRESENCE AND HEARING
27 OF THE JURY:)

28 MR. BARENS: JUST A MOMENT, IF WE MIGHT, YOUR HONOR.

1 (PAUSE.)

2 MR. BARENS: THANK YOU, DETECTIVE ZOELLER.

3 THE COURT: ALL RIGHT. ANY REDIRECT, PLEASE?

4 MR. WAPNER: YES. THANK YOU.

5

6 REDIRECT EXAMINATION

7 BY MR. WAPNER:

8 Q YOU WERE ASKED IF YOU WENT TO MR. LEVIN'S
9 APARTMENT WITH A PARTICULAR THEORY OF THE CASE. WHAT WAS
10 THAT THEORY?

11 MR. BARENS: OBJECTION, YOUR HONOR. THAT IS NOT
12 PERMISSIBLE UNDER 352, AT ALL.

13 THE COURT: OVERRULED.

14 MR. BARENS: MIGHT WE APPROACH, YOUR HONOR? THAT IS
15 IMPORTANT TO ME, YOUR HONOR.

16 THE COURT: ALL RIGHT.

17 (THE FOLLOWING PROCEEDINGS WERE HELD
18 AT THE BENCH OUTSIDE THE HEARING OF
19 THE JURY:)

20 MR. BARENS: YOUR HONOR, I WAS EXTREMELY AND CAREFUL
21 WHEN I EXAMINED THIS WITNESS, WHEN I ASKED HIM ABOUT DID
22 HE HAVE A THEORY PURSUANT TO WHICH HE MADE CERTAIN INVESTI-
23 GATIONS, NOT TO EVER GO INTO ASKING HIM WHAT THE FACTS WERE
24 OF THE THEORY THAT HE WAS PURSUING.

25 I THINK IT IS HIGHLY PREJUDICIAL FOR A POLICE
26 OFFICER TO SIT HERE AND, LIKE SHERLOCK HOLMES, SAY TO THE
27 JURY, LISTEN, I HAD A THEORY OF THE CASE THAT WAS A, B, C,
28 D, E, F AND G AND BECOME AN ADVOCATE OF THAT THEORY BY

1 ARTICULATING THOSE WORDS TO THE JURY.

24b 2 NOW, EITHER THE PEOPLE PROVE THEIR CASE OR THEY
3 DON'T. BUT THEY DON'T GET A POLICE OFFICER UP THERE TO
4 SANCTIFY THE PROSECUTION THEORY AND SAY THAT THE PEOPLE WILL
5 LAY IT OUT FOR YOU AND --

6 THE COURT: ALL OF THESE QUESTIONS ABOUT DID HE EXAMINE
7 FOR THIS, FOR GUN POWDER OR THIS OR FINGERPRINTING OR FOR
8 THIS, DID HE EXAMINE THE CARPETING, DID HE EXAMINE THAT,
9 WHAT DID HE DO WITH THAT, ALL OF THAT WAS WHAT THEORY HE
10 WAS GOING TO HAVE.

11 YOU, YOURSELF, OPENED THE DOOR BY ASKING HIM
12 THAT. YOU ASKED HIM IF HE FOUND FINGERPRINTS FOR EXAMPLE
13 FROM THE DEFENDANT, IS THAT CORRECT?

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1 MR. BARENS: YES.

2 THE COURT: NOW, HE HAS A RIGHT TO SAY TO HIM THAT,
3 YOU DIDN'T GET ANY FINGERPRINTS? AND THEN DO YOU GET FINGER-
4 PRINTS IF YOU PUT GLOVES ON? IT IS IN THERE.

5 MR. BARENS: YOUR HONOR, COULD I HAVE JUST A MOMENT?
6 THIS IS VERY IMPORTANT TO THE DEFENSE, PLEASE.

7 THE COURT: YES.

8 (PAUSE.)

9 MR. BARENS: WHAT WE ARE DOING JUDGE IS, I DON'T AS
10 I UNDERSTAND IT -- I DON'T MIND ASKING HIM WHAT HE DIDN'T
11 DO AND WHY HE DIDN'T DO IT. BUT WHAT I DON'T WANT HERE,
12 IS A NARRATIVE FROM HIM ON A THEORY. IN OTHER WORDS, HE
13 CAN SAY TO HIM --

14 THE COURT: WELL, CAN YOU REPHRASE YOUR QUESTION?

15 MR. WAPNER: I WAS TRYING TO ASK MORE SPECIFICALLY
16 AND --

17 THE COURT: WHAT DID HE TAKE OR WHAT DID HE DO IN THE
18 COURSE OF THE INVESTIGATION. THAT WILL BRING OUT THE SIMILAR
19 FACTS.

20 MR. WAPNER: WELL, I ALSO THINK IT IS REALLY NOT
21 PERMISSIBLE FOR COUNSEL TO SAY, DID YOU HAVE A THEORY AND
22 THEREFORE, YOU DIDN'T DO ALL THESE THINGS AND LEAVE THE JURY
23 IN THE DARK AS TO WHAT IT WAS.

24 HE IS ENTITLED TO EXPLAIN IT. I WILL ASK MORE
25 SPECIFICALLY ABOUT THE THEORY.

26 THE COURT: YOU DON'T HAVE TO USE THE WORD "THEORY."

27 MR. BARENS: COULD I ASK FOR A CAUTION, NOW? IN DOING
28 THIS, I DON'T WANT HIM TO USE LANGUAGE WHERE HE SAYS WELL,

1 JOE HUNT HAD KILLED RON LEVIN AND MAKE A STATEMENT ABOUT
2 THE ULTIMATE FACT.

3 WOULD YOU JUST PLEASE -- I KNOW THAT YOU HAVE
4 GOT A PROFESSIONAL OFFICER. BUT I WOULD LIKE A CAUTION MADE
5 NOW THAT HE NOT --

6 THE COURT: HE IS NOT GOING TO SAY THAT HE HAS A THEORY
7 THAT HE KILLED HIM.

8 MR. BARENS: I THINK HE IS GOING TO SAY THAT, JUDGE.

9 MR. WAPNER: EVEN IF HE SAYS THAT, I AM TIRED OF
10 CAUTIONS TO US. BECAUSE IF HE GIVES HIS STATEMENT, IT IS
11 AN EXPLANATION OF HIS CONDUCT. IT IS NOT A STATEMENT OF
12 WHETHER THE DEFENDANT DID IT OR THE DEFENDANT DIDN'T DO IT.

13 AND IT CAN ONLY BE TAKEN FOR THE VALUE THAT IT
14 IS GIVEN BY THE OFFICER.

15 THE OFFICER MAKES CERTAIN ATTENTIONS DURING THE
16 COURSE OF HIS INVESTIGATION THAT ARE RELEVANT TO WHY HE DID
17 OR DIDN'T DO THINGS, THEN THAT IS RELEVANT. HE IS NOT STATING
18 THAT YOUR CLIENT KILLED HIM. AND I DON'T EXPECT HIM TO SAY
19 THAT.

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1 BUT IF HE WAS TOLD CERTAIN THINGS BY CERTAIN PEOPLE,
2 THEN WHAT HE WAS TOLD AND THEREFORE DID, HE DID DO OR NOT
3 DO CERTAIN THINGS IS RELEVANT. YOU CAN'T STRUCTURE THE FORM
4 THAT THE EVIDENCE COMES IN.

5 THE COURT: ALL COUNSEL IS INTERESTED IN, HE DOESN'T
6 SAY "I HAVE A THEORY THAT HUNT KILLED HIM."

7 DIDN'T YOU ASK HIM SOMETHING ABOUT -- DIDN'T YOU
8 ASK HIM HIS STATE OF MIND WHEN HE WENT IN THERE?

9 MR. BARENS: NO.

10 I SAID TO HIM, "DID YOU HAVE A THEORY" AND THEN
11 I BELIEVE HE --

12 THE COURT: "YOU HAVE A THEORY," YOU ASKED HIM THAT.

13 MR. BARENS: I SAID "YOU HAVE A THEORY" AND THEN HE
14 SAID YES.

15 THEN I WENT IN TO MY SPECIFIC QUESTION.

16 THE COURT: THEN HE CAN GO INTO "WHAT THEORY DID YOU
17 HAVE?"

18 MR. BARENS: MR. WAPNER SAID THAT HE IS SICK AND TIRED --

19 THE COURT: TELL HIM NOT TO SAY "I THINK HE KILLED HIM,"
20 OTHERWISE, HE IS EXPRESSING HIS OPINION.

21 IS THAT WHAT YOU ARE CONCERNED ABOUT?

22 MR. BARENS: THAT IS THE ONLY CAUTION I AM ASKING FOR.

23 MR. WAPNER: I DON'T THINK IT IS APPROPRIATE TO TELL
24 HIM WHAT TO SAY AND WHAT NOT TO SAY.

25 THE COURT: THEN HE IS EXPRESSING A BELIEF AND NOT A
26 THEORY.

27 THAT IS ALL HE IS CONCERNED ABOUT.

28 MR. BARENS: I WANT A CAUTION.

25-2
1 THE COURT: YOU DON'T HAVE TO HAVE HIM TELL YOU THAT
2 HE BELIEVES THAT HE KILLED HIM. YOU BELIEVE HE KILLED HIM,
3 TOO.

4 MR. WAPNER: IT IS NOT HIS CURRENT BELIEF THAT IS
5 IMPORTANT. I AM NOT ASKING FOR ANY OF THAT. IT'S IF HIS
6 THEORY WAS THAT HE WAS TOLD THIS BY THE MAYS.

7 THE COURT: LET'S BE SURE THAT YOU DON'T ASK HIM WHETHER
8 OR NOT HE KILLED HIM, THAT IS ALL.

9 MR. WAPNER: YES.

10 (THE FOLLOWING PROCEEDINGS WERE HELD
11 IN OPEN COURT IN THE PRESENCE OF THE
12 JURY:)

13 Q BY MR. WAPNER: DETECTIVE ZOELLER, UP UNTIL
14 AUGUST THE 9TH WHEN YOU TALKED TO TOM MAY, DAVE MAY, GENE
15 BROWNING AND JEFF RAYMOND, DID YOU HAVE ANY THEORY ABOUT WHY
16 IT WAS THAT RON LEVIN WAS MISSING OR WHAT HAD HAPPENED TO
17 HIM?

18 A NO.

19 Q AND YOU TALKED TO THEM ON AUGUST THE 9TH, RIGHT?

20 A THAT'S CORRECT.

21 Q AND AFTER TALKING TO THEM, IT WAS A WEEK LATER
22 THAT YOU WENT TO RON LEVIN'S APARTMENT?

23 A YES.

24 Q DID YOU GO THERE ARMED WITH THE INFORMATION THAT
25 THOSE PEOPLE HAD GIVEN YOU ON AUGUST THE 9TH?

26 A YES.

27 Q AND HOW LONG AFTER YOU GOT THERE WAS IT THAT YOU
28 FOUND OR WERE SHOWN THE SEVEN PIECES OF YELLOW PAPER THAT

25-3
1 ARE PEOPLE'S 55 FOR IDENTIFICATION?

2 A ALMOST IMMEDIATELY.

3 Q DID YOU READ PEOPLE'S 55 FOR IDENTIFICATION?

4 A PRETTY MUCH SO, YES.

5 Q PRETTY MUCH SO?

6 A YES.

7 Q HAD YOU BEEN TOLD ANYTHING UP TO THAT POINT ABOUT
8 JOE HUNT'S RELATIONSHIP WITH RON LEVIN?

9 A YES.

10 Q WHAT INFORMATION DID YOU HAVE AT THAT TIME REGARDING
11 HOW OFTEN MR. HUNT HAD BEEN AT MR. LEVIN'S HOUSE?

12 MR. BARENS: HEARSAY, YOUR HONOR.

13 THE COURT: OVERRULED.

14 MR. BARENS: COULD WE GET AT LEAST AN IDENTITY AS TO
15 WHO TOLD HIM?

16 THE COURT: YES.

17 HOW OFTEN, AND THEN TELL US WHO TOLD YOU.
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1 THE WITNESS: NOT AS FAR AS -- I DON'T KNOW AS FAR AS
2 HOW MANY TIMES, BUT OFTEN HE WAS WITH LEVIN AND OVER AT HIS
3 HOUSE AND I WAS TOLD BY THE MAY BROTHERS AND JEFF RAYMOND.

4 Q BY MR. WAPNER: AND WHEN YOU FOUND THE LIST THAT
5 IS PEOPLE'S 55, ON THE FIRST PAGE THAT YOU LOOKED AT, IT SAID
6 "AT LEVIN'S TO DO," RIGHT?

7 A THAT'S CORRECT.

8 Q AND WHEN YOU LOOKED AT THIS LIST AND THE OTHER
9 SIX PAGES, DID THEY APPEAR TO YOU TO BE CONSISTENT OR
10 INCONSISTENT WITH THE INFORMATION THAT YOU HAD RECEIVED A
11 WEEK BEFORE?

12 A APPEARED TO BE VERY CONSISTENT.

13 Q DID YOU NOTICE ON THAT LIST --

14 MR. BARENS: OBJECTION. THAT IS AN OPINION WHICH GOES
15 TO THE ULTIMATE FACT AND TAKES EVERYTHING AWAY FROM THE JURY
16 AND THAT IS IMPERMISSIBLE AND I MOVE TO STRIKE.

17 THE COURT: I WILL LET IT STAND. THE JURY CAN EVALUATE
18 IT IN THEIR OWN WAY.

19 Q BY MR. WAPNER: IN TERMS OF WHEN YOU LOOKED AT
20 THE LIST, DID YOU NOTICE ON THERE AN ITEM THAT HAS THE NUMBER
21 3 WITH THE CIRCLE AROUND IT?

22 A YES.

23 Q AND WHAT DOES IT SAY THERE?

24 A "PUT GLOVES ON."

25 Q AND WITH RESPECT TO EXAMINING MR. LEVIN'S APARTMENT
26 FOR FINGERPRINTS AND SPECIFIC ITEMS IN THE APARTMENT, WHY
27 DIDN'T YOU DO MORE EXAMINATION FOR FINGERPRINTS IN THE
28 APARTMENT?

1 A ONE IS BECAUSE OF THE TIME THAT HAD PASSED, TWO
2 MONTHS AT THAT TIME.

3 MR. LEVIN STATING THAT HE AND HIS SON, ROBERT
4 LEVIN, HAD BEEN STRAIGHTENING UP, CLEANING UP.

5 Q BY MR. LEVIN, YOU MEAN MARTIN LEVIN?

6 A THAT'S CORRECT.

7 BLANCHE SPENT A COUPLE OF DAYS STRAIGHTENING,
8 CLEANING UP.

9 I KNEW THAT RON LEVIN'S BROTHER, ROBERT, HAD TAKEN
10 THE TYPEWRITER AND BROUGHT IT BACK.

11 THE FACT OF JOE HUNT HAVING ACCESS TO THE APARTMENT
12 PRIOR TO THE 6TH OR 7TH OF JUNE.

13 AND THE FACT THAT IT SAYS "PUT GLOVES ON."

14 Q WHAT EFFECT WOULD YOUR KNOWLEDGE OF JOE HUNT HAVING
15 ACCESS TO THE APARTMENT BEFORE JUNE 6TH HAVE ON YOUR DECISION
16 TO LOOK FOR FINGERPRINTS?

17 A IT WOULD HAVE NO BENEFIT TO FIND JOE HUNT'S
18 FINGERPRINTS INSIDE THE APARTMENT WHEN I KNOW -- I KNEW HE
19 HAD ACCESS TO THE APARTMENT.

20 Q THAT THEY COULD HAVE BEEN PUT THERE AT ANY TIME?

21 A THAT'S CORRECT.

22 Q IN THE PLANNING DIARY -- I DON'T HAVE THE EXHIBIT
23 IN FRONT OF ME SO I CAN'T GIVE YOU THE EXACT NUMBER -- DO
24 YOU KNOW WHAT I AM REFERRING TO --

25 A YES.

26 Q -- WHEN I SAY THE PLANNING DIARY?

27 A YES.

28 Q THERE WAS A NOTATION THERE ABOUT FATHER'S DAY;

1 IS THAT RIGHT?

2 A THAT'S CORRECT.

3 Q WAS THAT PRINTED IN BY THE MANUFACTURER OF THE
4 BOOK OR DID IT APPEAR TO HAVE BEEN WRITTEN IN BY MR. RON LEVIN?

5 A IT WAS WRITTEN IN BY THE SAME PERSON AND APPEARED
6 TO BE THE SAME PEN OR AT LEAST THE SAME COLOR OF ALL THE OTHER
7 NOTATIONS IN THE BOOK.

8 Q THAT IS, ALL OF THE HANDWRITTEN NOTATIONS?

9 A THAT'S CORRECT.

10 Q WAS THERE ALSO A NOTATION IN THAT PLANNING
11 DIARY IN THE BACK, DOES IT HAVE THE NAME PRESLEY REED AND AN
12 ADDRESS AND PHONE NUMBER IN COLORADO OR AT LEAST A PHONE
13 NUMBER IN COLORADO?

14 A YES.

15 Q AND THAT PLANNING DIARY WAS INTRODUCED INTO
16 EVIDENCE AT ANOTHER TIME WHEN YOU WERE IN COURT APPROXIMATELY
17 A YEAR TO A YEAR AND A HALF AGO?

18 A YES.

19 Q AND IT HAS BEEN IN THE CUSTODY OF THE COURT EVER
20 SINCE, AS FAR AS YOU KNOW?

21 A AS FAR AS I KNOW.

22 Q AND SHOWING YOU A PICTURE THAT HAS BEEN MARKED
23 AS 16 FOR IDENTIFICATION, IS THAT THE SMALL OFFICE AT
24 MR. LEVIN'S HOUSE?

25 A YES, IT IS.

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1 Q AND THAT IS ALSO A PICTURE THAT HAS THE YELLOW
2 PIECES OF PAPER IN IT?

3 A YES.

4 Q DO YOU SEE A CABINET ON THE LEFT SIDE OF THIS
5 PHOTOGRAPH?

6 A YES.

7 Q IT APPEARS TO BE A CABINET WITH WHITE, SMALL
8 DRAWERS IN IT?

9 A YES.

10 Q DID YOU EXAMINE THAT CABINET AT ALL WHEN YOU
11 WERE THERE ON AUGUST THE 16TH?

12 A I LOOKED THROUGH IT, YES.

13 Q WHAT WAS IN THERE?

14 A MOSTLY, BLANK PIECES OF PAPER WITH VARIOUS RON
15 LEVIN CORPORATION LETTERHEADS ON IT.

16 Q STATIONERY?

17 A AND OTHER STATIONERY, YES.

18 Q DO YOU KNOW WHETHER THERE WERE ANY FILE FOLDERS
19 IN THERE? DO YOU REMEMBER?

20 A I DON'T RECALL OFFHAND, NO.

21 Q THE PHOTOGRAPH OF SOLEDAD CANYON THAT I BELIEVE
22 IS #11 FOR IDENTIFICATION, DO THERE APPEAR TO BE SEVERAL
23 HILLS AND VALLEYS, FOR LACK OF A BETTER WORD, IN THAT
24 PHOTOGRAPH?

25 A YES, SEVERAL.

26 Q AND THE T INTERSECTION THAT YOU REFERRED TO AS
27 BEING AT THE TOP OF THE MOUNTAIN, WOULD THAT BE AT THE TOP
28 OF THE RANGE THAT IS MOSTLY IN THE FOREGROUND OF THIS

26-2

1 PHOTOGRAPH?

2 A YES.

3 Q SHOWING YOU AN EXHIBIT THAT WE HAVE MARKED AS
4 PEOPLE'S 90 FOR IDENTIFICATION, DO YOU RECOGNIZE THAT?

5 A YES, I DO.

6 Q WHAT IS IT?

7 A IT IS A BEVERLY HILLS POLICE DEPARTMENT HAND-
8 WRITING EXEMPLAR, THE FIRST TWO PAGES WHICH JOE HUNT FILLED
9 OUT. THE FIRST ONE IS ALL PRINTING. THE SECOND ONE IS ALL
10 WRITING AND IT WAS WITNESSED BY MYSELF.

11 AND THERE IS A SECOND AND THIRD AND FOURTH AND
12 FIFTH PAGES WHICH ARE JUST VARIED WRITINGS OF JOSEPH HUNT
13 UNDER THE DIRECTION OF MYSELF ON THE 20TH OF NOVEMBER, 1984,
14 ALL PART OF THE HANDWRITING EXEMPLARS.

15 Q SO BOTH OF THOSE ARE PIECES OF PAPER -- OR ALL
16 OF THE PIECES OF PAPER WERE WRITTEN BY MR. HUNT WHILE YOU
17 WATCHED HIM?

18 A THAT'S CORRECT. IT SO STATES ON EACH PIECE OF
19 PAPER.

20 Q HOW LONG WAS DETECTIVE KING WORKING ON THIS CASE
21 WITH YOU?

22 A HE AND I WORKED ON IT TOGETHER FROM APPROXIMATELY
23 THE PHONE CALL OF PAUL TOBIN, AROUND THE 8TH OF AUGUST TO
24 THE MIDDLE OF OCTOBER.

25 Q AND HAS HE WORKED NO IT AT ALL SINCE THE MIDDLE
26 OF OCTOBER OF 1984?

27 A NO.

28 Q AND WHEN YOU SAID THE MIDDLE OF OCTOBER, YOU

1 ARE REFERRING TO 1984?

2 A THAT'S CORRECT.

3 Q WHEN YOU MADE A REPORT OF THIS CONVERSATION THAT
4 YOU HAD WITH JOE HUNT -- EXCUSE ME, ON SEPTEMBER 28, 1984,
5 DID YOU WRITE A NARRATIVE PRETTY MUCH OF THE STATEMENTS THAT
6 HE GAVE YOU?

7 A YES.

8 Q WERE THERE VARIOUS TIMES THROUGHOUT THE REPORT
9 THAT YOU PUT CERTAIN ITEMS IN QUOTES?

10 A YES.

11 Q WHERE DID YOU GET THOSE QUOTES FROM?

12 A FROM JOSEPH HUNT.

13 Q AND WHEN HE MADE THOSE STATEMENTS, DID YOU WRITE
14 THEM DOWN AT THE TIME?

15 A YES.

16 Q AND WHEN YOU FIRST SHOWED HIM THE SEVEN PAGES
17 ON THE LIST, DID YOU ASK HIM WHAT HE KNEW ABOUT THEM?

18 A YES.

19 Q AND WAS THERE ANY RESPONSE AT ALL?

20 A NONE WHATSOEVER.

21 Q AND IT WAS AFTER THAT THAT YOU SHOWED HIM THE
22 PAGES AND ASKED HIM THE QUESTIONS AND THERE WAS SILENCE FOR
23 ABOUT SEVEN TO TEN MINUTES?

24 A THAT'S CORRECT.

25 Q AND THEN, DID YOU PUT YOUR QUESTION TO HIM,
26 "WHAT DO YOU KNOW ABOUT THOSE," IN YOUR REPORT?

27 A YES.

28 Q AND THAT WAS THE QUESTION THAT YOU ASKED HIM

6-4
1 THE FIRST TIME THAT YOU PUT THAT IN QUOTES?

2 A YES.

3 Q AND WHEN YOU INDICATED IN YOUR REPORT THAT YOU
4 ASKED HIM AGAIN, "WHAT DO YOU KNOW ABOUT THOSE," DID YOU
5 PUT THAT IN QUOTES ALSO?

6 A I BELIEVE SO, YES.

7 Q SHOWING YOU THE REPORT AND DIRECTING YOU TO PAGE
8 3, THE BOTTOM OF PAGE 3 AND THE TOP OF PAGE 4, WOULD YOU
9 LOOK AT THAT?

10 A YES. IT IS IN QUOTES BOTH TIMES.

11 Q AND HIS RESPONSE, DID YOU PUT THAT IN QUOTES?

12 A I DID, YES.

13 Q AND WHAT IS THAT RESPONSE?

14 A "I DON'T KNOW ANYTHING ABOUT THESE."

15 Q SHOWING YOU THE PHOTOGRAPH THAT IS PEOPLE'S 9
16 FOR IDENTIFICATION, DO YOU REMEMBER WHEN THAT WAS TAKEN?
17 IT APPEARS TO BE A PHOTOGRAPH OF RON LEVIN'S BEDROOM.

18 A IT WAS TAKEN ON THE 16TH OF AUGUST, 1984.
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27-
1 Q WAS THERE SOME PICTURES THAT WERE ALSO TAKEN OF
2 THE BEDROOM AT SOME LATER TIME?

3 A YES.

4 Q AND THERE IS ANOTHER PICTURE OF THE BEDROOM THAT
5 I DON'T HAVE IN FRONT OF ME AT THIS TIME WHERE IT APPEARS
6 TO BE, THE BED APPEARS TO BE A LITTLE LIGHTER IN COLOR, THE
7 COMFORTER?

8 A YES.

9 Q DOES THE PHOTOGRAPH, PEOPLE'S 9, ACCURATELY DEPICT
10 THE COLOR OF THE COMFORTER, THE WAY YOU SAW IT ON AUGUST THE
11 16TH?

12 A YES.

13 Q AT ANY OF THE TIMES THAT YOU WENT TO RON LEVIN'S
14 APARTMENT, DID YOU KNOW WHETHER OR NOT HE HAD PURCHASED ANY
15 CLOTHING IN THE MONTH OF MAY OF 1984?

16 A NO.

17 Q AND TO THIS DAY, DO YOU KNOW WHETHER HE PURCHASED
18 ANY CLOTHING FOR HIMSELF IN MAY OF 1984?

19 A NO.

20 Q WITH RESPECT TO ANY BILLS FOR CLOTHING THAT MAY
21 HAVE BEEN PURCHASED, YOU DON'T KNOW IF THAT WAS CLOTHING FOR
22 HIMSELF OR GIFTS FOR OTHER PEOPLE?

23 A THAT'S CORRECT.

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

25
26 RE-CROSS-EXAMINATION

27 BY MR. BARENS:

28 Q A QUESTION, SIR, CAME UP, AND I SUPPOSE WHAT YOU

27 ?
1 TOLD US WAS THAT YOU DIDN'T DO ANY FINGERPRINTS, I GUESS,
2 AT LEAST IN PART, BECAUSE YOU THOUGHT THAT THE SEVEN PAGES
3 SAID SOMEBODY HAD GLOVES ON SO IT DIDN'T MATTER?

4 A IN PART, YES.

5 Q OKAY. I GUESS THE ONLY FINGERPRINTS THAT WOULD
6 HAVE MADE ANY DIFFERENCE TO YOU WOULD HAVE BEEN MR. HUNT'S?

7 A YES.

8 Q WELL, AND YOU ALSO, OF COURSE, BOUGHT THE IDEA
9 THAT EVERYTHING ON THE SEVEN PAGES IS TRUE AND THE WAY THINGS
10 ARE IN THE REAL WORLD?

11 MR. WAPNER: OBJECTION. ARGUMENTATIVE.

12 THE COURT: SUSTAINED.

13 Q BY MR. BARENS: WELL, DIDN'T YOU TESTIFY THAT
14 YOU BELIEVED THE SEVEN PAGES WERE TRUE?

15 A YES.

16 Q OKAY. AND I GUESS YOU KNEW THAT BASED ON YOUR
17 INVESTIGATION, WHEN YOU WENT IN THERE, IT ALL LOOKED TRUE,
18 DIDN'T IT?

19 A IT FOLLOWED WHAT WAS EXPLAINED TO ME BY THE MAY
20 BROTHERS, JEFF RAYMOND AND GENE BROWNING.

21 Q WHEN YOU LOOKED AT IT, IT SEEMED TO VALIDATE
22 EVERYTHING YOU KNEW TO BE TRUE?

23 A TO A CERTAIN EXTENT, YES.

24 Q TO A CERTAIN EXTENT?

25 A YES.

26 Q NOT ENTIRELY?

27 A NOT THE LIST ENTIRELY -- ENTIRELY VALIDATING IT,
28 THAT'S CORRECT.

27-3
1 Q NOW, THE LIST MAKES REFERENCE TO A LOT OF SPECIFIC
2 THINGS, I SUPPOSE, THAT WERE LOCATED IN MR. LEVIN'S APARTMENT?

3 A CORRECT.

4 Q AND YOU DIDN'T ATTEMPT TO TAKE PRINTS OFF OF ANY
5 OF THOSE SPECIFIC THINGS LISTED ON THAT LIST BECAUSE YOU
6 FIGURED HUNT HAD GLOVES ON?

7 A IN PART. AS I EXPLAINED, I KNEW THAT JOE HUNT
8 HAD ACCESS TO THE APARTMENT AND THAT HIS PRINTS WOULD MOST
9 LIKELY BE INSIDE THE APARTMENT.

10 Q BUT BECAUSE HE HAD ACCESS TO THE APARTMENT, WOULD
11 YOU THINK HIS FINGERPRINTS WOULD BE ON THE DATE STAMP AND
12 ON THE CORPORATE SEAL AND THE XEROX MACHINE AND THE TYPEWRITER
13 KEYS AND THE TYPEWRITER RIBBON AND THE TYPEWRITER BALL AND
14 ALL OF THAT, YOU THOUGHT THAT BECAUSE HE HAD ACCESS TO THAT,
15 YOU COULD FIND IT ON ALL OF THAT STUFF ANYHOW, SO WHY LOOK
16 NOW?

17 A I DIDN'T KNOW WHETHER HE HAD ACCESS TO IT OR NOT.

18 Q JUST SOMETHING YOU HAD BEEN TOLD.

19 WELL, HOW WOULD YOU KNOW IF IT WAS TRUE OR NOT
20 IF YOU DIDN'T DUST FOR PRINTS, HOW DO WE EVER KNOW?

21 HOW DO WE KNOW IT, EXCEPT FROM SOMETHING THAT
22 HAS BEEN TOLD TO YOU, HOW DO WE DO ANY KIND OF PROVING CASES?

23 MR. WAPNER: OBJECTION AS ARGUMENTATIVE.

24 THE COURT: SUSTAINED. SAVE THAT FOR THE JURY, IF YOU
25 WILL.

26 Q BY MR. BARENS: WELL, IT ENABLES US WITH WHAT
27 WE DO, OF COURSE.

28 WHAT YOU DID, AS IT TURNS OUT, MADE SURE YOU DIDN'T

17- 1 FIND ANYTHING INCONSISTENT WITH YOUR THEORY, RIGHT?

2 A I CERTAINLY WASN'T GOING TO DISMISS ANYTHING THAT
3 WAS CONTRARY TO MY THEORY.

4 Q OKAY. WELL, YOU KNEW LEVIN WAS A CON MAN, DIDN'T
5 YOU?

6 A YES.

7 Q YOU KNEW HE WAS FACING A LOT OF CRIMINAL CHARGES,
8 DIDN'T YOU?

9 MR. WAPNER: OBJECTION. RELEVANCE.

10 THE COURT: YOU ARE GOING OVER THINGS WE HAVE ALREADY
11 HEARD FOR FOUR OR FIVE TIMES.

12 GO ON TO SOMETHING ELSE, WILL YOU PLEASE?
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27-5

1 Q BY MR. BARENS: I AM JUST SETTING IT UP.

2 DID IT EVER OCCUR TO YOU, AS YOU STOOD THERE ON
3 AUGUST 16TH, I WONDER IF ALL THIS COULD BE THE APPEARANCE
4 OF SOMETHING THAT ISN'T NECESSARILY TRUE?

5 MR. WAPNER: OBJECTION. RELEVANCE.

6 MR. BARENS: RELEVANCY?

7 THAT IS THE DEFENSE POSITION.

8 THE COURT: ARGUMENTATIVE. SUSTAINED.

9 MR. WAPNER: ALSO ARGUMENTATIVE. THANK YOU.

10 Q BY MR. BARENS: IT NEVER OCCURRED TO YOU --

11 MR. WAPNER: SAME OBJECTION. ARGUMENTATIVE.

12 MR. BARENS: I HAVEN'T ASKED THE QUESTION YET.

13 MR. WAPNER: IT IS THE SAME QUESTION.

14 (LAUGHTER IN COURTROOM.)

15 MR. BARENS: WELL --

16 THE COURT: WHY DON'T YOU SAY, DID IT OCCUR TO YOU?

17 Q BY MR. BARENS: OH, OKAY. DID IT OCCUR TO YOU
18 THAT LEVIN MIGHT HAVE SPLIT?

19 A NO.

20 Q NEVER?

21 A NO.

22 Q OKAY, SO YOU NEVER DID ANY INVESTIGATION CONSISTENT
23 WITH THAT APPROACH TO THE CASE, DID YOU?

24 A I DID NOT, NO.

25 Q OKAY, NOW IF I TOLD YOU THAT THE MATERIAL BETWEEN
26 THE PAGES OF THE GREEN FOLDER HAD LEVIN'S PRINTS ALL OVER
27 IT, THAT MATERIAL, OKAY --

28 A OKAY.

1 MR. WAPNER: OBJECTION AS ASSUMING FACTS NOT IN EVIDENCE.

2 MAY WE APPROACH THE BENCH?

3 THE COURT: YOU MEAN ASSUMING --

4 MR. WAPNER: MAY WE APPROACH THE BENCH?

5 MR. BARENS: EVERYBODY GETS TO USE A HYPOTHETICAL, I
6 SHOULD, TOO.

7 MR. WAPNER: MAY WE APPROACH THE BENCH, PLEASE?

8 THE COURT: DON'T GET EXCITED.

9 MR. BARENS: IT IS JUST I HAVE TO PUT ON A DEFENSE
10 EVENTUALLY.

11 MR. WAPNER: IF HE IS GOING TO ARGUE THE CASE IN FRONT
12 OF THE JURY, CAN WE DO IT AT THE BENCH?

13 MR. BARENS: I WANT TO ASK MY QUESTION.

14 THE COURT: GO AHEAD AND ASK YOUR QUESTION.

15 MR. BARENS: THANK YOU.

16 THE COURT: IF YOU OBJECT TO IT, I WILL RULE ON IT.

17 MR. WAPNER: WELL, THE OBJECTION IS HE HAS ASSUMED --

18 MR. BARENS: I HAVEN'T ASKED IT.

19 MR. WAPNER: HE HAS ASSUMED BY THE BEGINNING OF THE
20 QUESTION, FACTS THAT ARE NOT IN EVIDENCE IN THIS CASE, THAT
21 THERE WERE FINGERPRINTS SOMEWHERE AND THERE IS NO EVIDENCE
22 OF THAT.

23 THE COURT: ASK YOUR QUESTION.

24 Q BY MR. BARENS: IF I TOLD YOU FOR THIS HYPOTHETICAL
25 QUESTION I AM GIVING YOU FOR THE MOMENT, AT LEAST HYPOTHETICALLY,
26 THAT RON LEVIN'S FINGERPRINTS WERE ALL OVER THE CONTENTS BETWEEN
27 THOSE GREEN PAGES, GREEN FILE FOLDERS IN PEOPLE'S 100, ON
28 ALL OF THOSE CONTRACTS AND CHECKS AND EVERYTHING, THAT HIS

1 FINGERPRINTS ARE THERE, WOULDN'T THAT SUGGEST TO YOU THAT
2 YOUR WHOLE THEORY THAT HUNT HAD PLANTED THAT STUFF THERE,
3 WOULDN'T THAT SUGGEST TO YOU THAT THAT WAS WRONG?

4 A I EXPECTED TO FIND HIS FINGERPRINTS ON THE CONTRACT.

5 Q DID YOU CHECK?

6 A NO, BECAUSE I EXPECTED TO SEE THEM ON THERE.

7 Q HOW ABOUT ON THOSE LETTERS DATED IN MAY? THERE
8 ARE FOUR LETTERS THERE WITH MAY DATES.

9 MR. WAPNER: OBJECTION. THAT MISSTATES THE EVIDENCE.
10 THERE ARE THREE LETTERS.

11 Q BY MR. BARENS: THERE ARE THREE LETTERS IN THERE
12 WITH MAY DATES --

13 THE COURT: DID YOU SAY THERE ARE FINGERPRINTS ON THERE?

14 MR. BARENS: I AM ASKING HIM, SIR, IF WE DON'T LOOK TO
15 SEE WHETHER FINGERPRINTS ARE THERE ON THOSE FOUR LETTERS,
16 HOW CAN HE SUPPORT A THEORY --

17 MR. WAPNER: OBJECTION, YOUR HONOR.

18 MR. BARENS: HOW CAN YOU SUPPORT THE THEORY THAT THEY
19 WERE --

20 THE COURT: DO YOU KNOW WHETHER OR NOT THERE WERE ANY
21 FINGERPRINTS OF MR. LEVIN'S ON THE THREE LETTERS WHICH WERE
22 PICKED UP BY THE DEFENDANT, ACCORDING TO THE TESTIMONY, AND
23 PERSONALLY DELIVERED?

24 THE WITNESS: NO, YOUR HONOR.

25 THE COURT: DO YOU KNOW WHETHER OR NOT THERE WERE ANY
26 FINGERPRINTS ON THOSE THREE LETTERS?

27 THE WITNESS: NO, YOUR HONOR.

28

1 Q BY MR. BARENS: AND IS THE REASON THAT YOU DON'T
2 KNOW BECAUSE YOU DIDN'T PRINT IT?

3 A YES.

4 THE COURT: IS THAT CONTAINED IN 94, IS THAT RIGHT?
5 THOSE THREE LETTERS THAT WE TALKED ABOUT?

6 THE WITNESS: THAT'S RIGHT.

7 THE COURT: ALL RIGHT.

8 Q BY MR. BARENS: NOW, WHEN YOU SPOKE TO MR. HUNT
9 ON THE 29TH OF SEPTEMBER, 1984, YOU ASKED HIM WHEN WAS THE
10 LAST TIME HE HAD SEEN MR. LEVIN?

11 A CORRECT.

12 Q HE TOLD YOU THAT THAT WAS IN EARLY JUNE?

13 A CORRECT.

14 Q IT IS TRUE, ISN'T IT, AS FAR AS YOU KNOW?

15 A AS FAR AS I KNOW.

16 Q OKAY. WHEN YOU ASKED HIM HIS RELATIONSHIP WITH
17 MR. LEVIN, HE TOLD YOU THAT THEY WERE VERY GOOD FRIENDS?

18 A CORRECT.

19 Q THAT WAS TRUE AS FAR AS YOU KNOW?

20 A PURPORTEDLY, YES.

21 MR. WAPNER: OBJECTION.

22 Q BY MR. BARENS: THAT IS WHAT EVERYBODY ELSE SEEMS
23 TO BE TELLING YOU, TOO? DIDN'T YOU JUST TELL US THAT THE
24 MAYS AND RAYMOND TOLD YOU THAT JOE HUNT WAS OVER THERE ALL
25 THE TIME?

26 A YES.

27 Q AND IN FACT, I SUPPOSE YOU HAD SOME IMPRESSION
28 THAT HE WAS OVER THERE ALL OF THE TIME IN THE RECENT PAST

1 TO JUNE 8TH, OTHERWISE ALL THOSE FINGERPRINTS WOULDN'T BE
2 THERE?

3 A CORRECT.

4 Q OKAY. NOW, HE TOLD YOU THAT A COUPLE OF MONTHS
5 BEFORE MR. LEVIN'S DISAPPEARANCE, THAT HE HAD GONE WITH THE
6 VICTIM TO SAN FRANCISCO FOR A COUPLE OF DAYS, DIDN'T HE?

7 A YES.

8 Q WAS THAT TRUE, TO THE BEST YOU KNOW?

9 A I DON'T KNOW.

10 Q OKAY. DIDN'T HE TELL YOU THAT AROUND JUNE, HE
11 HAD BEEN TALKING TO MR. LEVIN ABOUT THE MICROGENESIS
12 TRANSACTION?

13 A YES.

14 Q THAT WAS TRUE, WASN'T IT?

15 A YES.

16 Q ALL RIGHT. HE TOLD YOU THAT HE AND MR. LEVIN
17 HAD SHARED AN ATTORNEY, ONE JEFFREY MELCZER. THAT WAS TRUE,
18 WASN'T IT?

19 A ARE YOU ASKING ME IF THAT IS TRUE? I AM SAYING
20 YES TO THE STATEMENTS BEING MADE. YES.

21 THE COURT: YOU DON'T KNOW WHETHER IT IS TRUE, OR WHETHER
22 HE WAS?

23 THE WITNESS: THAT'S CORRECT. I AM SAYING THAT IT
24 IS TRUE THAT THE STATEMENTS WERE MADE.

25 Q BY MR. BARENS: DID YOU EVER CHECK THAT OUT?

26 A I FOUND OUT LATER THAT ONE MR. MELCZER WAS MR.
27 LEVIN'S ATTORNEY AND THAT AT ONE TIME, HE EVEN REPRESENTED
28 MR. HUNT IN THE EARLY PROCEEDINGS OF THIS CASE.

1 Q ALL RIGHT. SO THAT STATEMENT WAS ULTIMATELY
2 TRUE, WASN'T IT?

3 A YES.

4 Q ALL RIGHT. NOW, YOU ASKED MR. HUNT ABOUT THE
5 MICROGENESIS STATUS AND THE TRANSACTION, DIDN'T YOU?

6 A YES.

7 Q AND MR. HUNT TOLD YOU THAT MR. LEVIN WAS OPTIONING
8 INTO MICROGENESIS FOR A MILLION FIVE AND THAT THERE WAS
9 A CHECK, IN THIS INSTANCE, THAT WOULD APPARENTLY VERIFY THAT?

10 A YES.

11 Q AND THAT TURNED OUT TO BE EVIDENTLY TRUE?

12 MR. WAPNER: OBJECTION. THAT ASSUMES -- IT IS CALLING
13 FOR A CONCLUSION.

14 MR. BARENS: THE CHECK IS THERE. I ASKED HIM IF THERE
15 WAS A CHECK THERE. THAT SHOWS THAT IT IS EVIDENCE. WE HAVE
16 THE CHECK THAT IS EVIDENCE.

17 MR. WAPNER: MAY WE ARGUE THIS CASE EITHER AT THE BENCH
18 OR JUST AFTER AN OBJECTION IS MADE? HE IS ASKING THIS
19 WITNESS TO DRAW A CONCLUSION AS TO WHAT THE FACTS REPRESENT.
20 THAT IS THE PROVINCE OF THE JURY.

21 THAT IS ONE OF THE ULTIMATE ISSUES IN THE CASE.

22 MR. BARENS: WELL, HE ASKED HIM FOR CONCLUSIONS BEFORE.

23 THE COURT: WELL, I WILL SUSTAIN THE OBJECTION.

24 MR. WAPNER: THANK YOU.

25 Q BY MR. BARENS: DID YOU SEE A CHECK FOR A MILLION
26 FIVE ABOUT MICROGENESIS?

27 A I SAW A COPY OF IT INITIALLY. AND I SAW THE
28 ORIGINAL IN COURT, YES.

1 Q ABOUT MICROGENESIS?

2 A YES.

3 Q OKAY. DID MR. HUNT TELL YOU THAT MICROGENESIS
4 HAD SOME FINANCIAL PROBLEMS AND THAT THE MILLION FIVE WOULD
5 HAVE CLEARED UP THE FINANCIAL PROBLEMS FOR MICROGENESIS?

6 A YES.

7 Q AND DID THAT TURN OUT TO BE TRUE, DIDN'T IT,
8 AS FAR AS YOU FOUND OUT LATER ON?

9 A YES.

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1 MR. BARENS: OKAY. THANK YOU, SIR.

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FURTHER REDIRECT EXAMINATION

4

BY MR. WAPNER:

5

Q ALL OF THESE STATEMENTS WERE MADE DURING THE
6 TIME MR. HUNT WAS VERY CONFIDENT?

7

A THAT'S CORRECT.

8

Q AND GLIB?

9

A YES.

10

Q AND TRYING TO CONTROL THE INTERVIEW?

11

A YES.

12

Q IT WAS IN CONTRAST TO HIS DEMEANOR LATER WHEN
13 YOU SHOWED HIM THE SEVEN PAGES?

14

A THAT'S CORRECT.

15

MR. WAPNER: THANK YOU. NOTHING FURTHER.

16

MR. BARENS: A MOMENT, YOUR HONOR.

17

(PAUSE.)

18

19

FURTHER RECROSS-EXAMINATION

20

BY MR. BARENS:

21

Q YOU WERE ONE OF THE OFFICERS THAT WENT TO
22 ARIZONA HAVING TO DO WITH THIS CASE?

23

MR. WAPNER: OBJECTION, RELEVANCE.

24

MR. BARENS: RELEVANCE, INDEED. MR. WAPNER KNOWS WHAT
25 I AM DOING.

26

MR. WAPNER: NEVER MIND. I KNOW THE ANSWER TO THE
27 QUESTION.

28

Q BY MR. BARENS: DID YOU GO TO ARIZONA?

1 A NO.

2 Q YOU WERE NOT ONE OF THOSE PEOPLE?

3 A NO.

4 MR. BARENS: WHAT IS THE OBJECTION? YOU KNEW THAT.

5 ANYHOW, WE WOULD LIKE TO KEEP HIM ON CALL. HE
6 IS HERE EVERY DAY.

7 THE COURT: SURE. HE WILL BE HERE EVERY DAY.

8 INCIDENTALLY, DID YOU ASK HIM SPECIFICALLY ABOUT
9 ANY OF THE ITEMS WHICH APPEARED ON THE SEVEN SHEETS?

10 THE WITNESS: I NEVER GOT TO THAT POINT, YOUR HONOR.

11 THE COURT: BECAUSE HE REFUSED TO ANSWER ANY QUESTIONS?

12 THE WITNESS: THAT'S CORRECT.

13 THE COURT: ALL RIGHT. THANK YOU.

14 MR. BARENS: YOUR HONOR, YOU MIGHT BE MISCHARACTERIZING
15 IT. THAT IS, WITH THE STATEMENT THAT HE REFUSED TO ANSWER
16 ANY QUESTIONS.

17 THE COURT: NO. HE SAID HE WANTED AN ATTORNEY. THAT
18 IS WHY.

19 MR. BARENS: I BELIEVE THAT HE EXERCISED HIS RIGHTS.

20

21 FURTHER REDIRECT EXAMINATION.

22 BY MR. WARNER:

23 Q BY THE WAY, AS FAR AS YOUR TRAINING AS A POLICE
24 OFFICER IS CONCERNED, WHEN A SUSPECT THAT YOU ARE INTERVIEWING
25 IS ASKING TO SEE THEIR ATTORNEY, THAT INDICATES TO YOU THAT
26 THEY ARE INVOKING THEIR CONSTITUTIONAL RIGHTS, CORRECT?

27 A CORRECT.

28 MR. BARENS: OBJECTION TO THAT COMMENT AS TO THE EXERCISE

28-7

1 OF RIGHTS. THAT IS A MISCHARACTERIZATION.

2 THE COURT: YOU OPENED UP THE DOOR TO IT.

3 Q BY MR. WAPNER: AND THAT MEANS TO YOU AS AN
4 EXPERIENCED POLICE OFFICER, THEREFORE, YOU HAVE TO STOP
5 TALKING TO THEM, RIGHT?

6 A THAT'S CORRECT.

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1 Q AND DID YOU IN FACT, STOP TALKING TO HIM AT
2 THAT POINT?

3 A YES.

4 THE COURT: YOU NEVER HAD A CHANCE TO ACTUALLY ASK
5 HIM ABOUT ANY OF THE ITEMS APPEARING ON THOSE SEVEN SHEETS?

6 THE WITNESS: THAT'S CORRECT.

7 MR. BARENS: YOUR HONOR, I LEFT SOMETHING OUT. HERE,
8 WE SPENT ALL THIS TIME ON IT. I WILL SEE. WE CAN SAVE SOME
9 TIME ON IT.

10

11 FURTHER RECROSS-EXAMINATION

12 BY MR. BARENS:

13 Q WHEN YOU ASKED MR. HUNT ABOUT WHAT WAS HAPPENING
14 WITH MICROGENESIS, ISN'T IT A FACT THAT HE VOLUNTEERED TO
15 YOU, THAT THE INVESTORS HAD LOST A MILLION ONE?

16 A YES.

17 Q HE DIDN'T HIDE THAT?

18 A NO.

19 Q AND HE TOLD YOU THAT HE HAD NO LEGAL OBLIGATION
20 TO PAY THEM BACK?

21 A THAT'S WHAT HE TOLD ME, THAT'S CORRECT.

22 Q AND DID HE TELL YOU THAT ON SEPTEMBER 22ND OF
23 THEREABOUTS, A WEEK BEFORE HIM TALKING TO YOU, THAT HE TOLD
24 THE INVESTORS ALL ABOUT THIS AND HAD A MEETING WITH THEM?

25 A YES.

26 Q AND HE DIDN'T TRY TO TELL YOU THAT THEY HAD ALL
27 MADE A LOT OF MONEY IN THIS INVESTMENT AND THAT HE HAD DONE
28 ALL THIS WONDERFUL COMMODITIES TRADING, DID HE?

1 A NO.

2 Q HE WAS PRETTY -- FROM WHAT YOU HEARD LATER ON
3 IN THIS COURTROOM, AND FROM ALL OF THAT STUFF THAT HE TOLD
4 YOU, IT THEN TURNED OUT TO BE WHAT YOU HEARD HERE?

5 MR. WAPNER: OBJECTION, CALLING FOR A CONCLUSION ON
6 THE PART OF THE WITNESS. IT IS ARGUMENTATIVE.

7 MR. BARENS: WELL, THIS QUESTION WAS ASKED HIM
8 YESTERDAY, IN SUBSTANCE IS THIS WHAT MR. MAY TOLD YOU AND
9 IN SUBSTANCE IS THAT WHAT MR. RAYMOND TOLD YOU. I AM ASKING
10 HIM IN SUBSTANCE, IF THAT IS WHAT HE HEARD WHILE HE WAS
11 SITTING HERE.

12 THE COURT: YOU MAY ASNWER THAT QUESTION AND THEN WE
13 WILL FINISH WITH THIS.

14 THE WITNESS: AS FAR AS THE ULTIMATE END OF MICROGENESIS,
15 YES.

16 MR. BARENS: THANK YOU.

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1 THE COURT: ALL RIGHT. WHAT WAS THAT DIARY YOU WERE
2 CHARACTERIZING? WHAT KIND OF DIARY WAS THAT?

3 MR. BARENS: DATE PLANNER.

4 MR. WAPNER: PLANNING DIARY.

5 THE WITNESS: PLANNING DIARY.

6
7 THE COURT: DO YOU RECALL WHETHER OR NOT THAT CONTAINED
8 ANY DATES OR ANY APPOINTMENTS WHICH WERE MADE BETWEEN
9 MR. HUNT AND MR. LEVIN?

10 THE WITNESS: THERE IS NONE IN THERE, NO, YOUR HONOR.

11 THE COURT: THROUGH THE MONTH OF MAY WHEN THOSE
12 NEGOTIATIONS FOR MICROGENESIS WERE GOING ON, WERE THERE
13 APPOINTMENTS, OR ANY OTHER APPOINTMENTS IN JUNE?

14 MR. BARENS: WE CAN HELP WITH THAT, JUDGE.

15 THE COURT: IS IT IN THERE?

16 MR. BARENS: YES. COULD WE JUST HAVE THE DIARY BACK?

17 THE COURT: YES, SURE.

18 MR. BARENS: IT IS 94, IS IT?

19 THE WITNESS: SIX.

20 MR. BARENS: OR 96.

21 THE COURT: YOU TAKE A LOOK AT THE DIARY AND SEE WHETHER
22 THERE ARE ANY ENTRIES.

23 MR. BARENS: COULD I JUST ASK HIM ABOUT THAT?

24 THE COURT: OH, SURE.

25 MR. BARENS: WHY DON'T WE JUST GET IT OUT?

26 (PAUSE IN PROCEEDINGS.)

27 Q BY MR. BARENS: SIR, YOU RECALL IN EARLIER TESTIMONY
28 THIS MORNING WHEN I WENT FORWARD WITH YOU FOR THE WEEK OF

1 JUNE 4TH, WE CAME TO A CONCLUSION TOGETHER THAT THE ONLY
2 APPOINTMENT WE SAW IN THERE OR REFERENCES ALL APPEAR THAT
3 HAD TO DEAL WITH LITIGATION MATTERS OR PEOPLE VERSUS MATTERS,
4 CORRECT?

5 A CORRECT.

6 Q NOW WHEN WE GO BACKWARDS, LET'S TRY TO IDENTIFY
7 IF MR. LEVIN EVER HAS ANY BUSINESS MATTERS IN THERE, WHERE
8 WE HAVE APPOINTMENTS.

9 THE COURT: I ASKED A VERY SIMPLE QUESTION: WHETHER
10 OR NOT IN THIS DIARY IT SHOWED ANY APPOINTMENT AT ALL WITH
11 THE DEFENDANT --

12 MR. BARENS: YES.

13 THE COURT: -- DURING MAY AND DURING THE FIRST WEEK
14 IN JUNE, THAT IS ALL THE COURT WAS INTERESTED IN.

15 MR. BARENS: RIGHT.

16 THE COURT: YOU CAN ARGUE ANYTHING YOU WANT TO THE JURY.

17 MR. BARENS: I AM NOT ARGUING.

18 THE COURT: YOU CAN ARGUE AS TO ANY ENTRY IN THERE IF
19 YOU WANT TO.

20 MR. BARENS: I AM JUST ASKING HIM TO LOOK AT THE ENTRIES,
21 YOUR HONOR.

22 THE COURT: YOU MAY LOOK FOR ENTRIES FOR ANY APPOINTMENT
23 HE MADE WITH HIM.

24 MR. BARENS: YES.

25 THE COURT: TAKE A LOOK AT IT AND SEE.

26 Q BY MR. BARENS: TAKE A LOOK AT MARCH 28TH, FOR
27 INSTANCE, AND THEN LOOK AT MARCH 29TH, FOR INSTANCE.

28 THE COURT: WITH MR. HUNT?

9-3
1 MR. BARENS: I DON'T KNOW UNTIL HE ANSWERS IT.

2 THE COURT: LOOK AT MARCH 28TH AND MARCH 29TH, ARE THERE
3 ANY RECORDS OF ANY APPOINTMENTS THAT WERE MADE BY MR. LEVIN
4 WITH MR. HUNT?

5 THE WITNESS: ON WEDNESDAY, THE 28TH, IT SAYS "PEOPLE
6 VERSUS --" I AM BACK TO NOT READING HIS WRITING. IT IS
7 EVERSTEIN OR SOMETHING OF SUCH. B.H.M.C.

8 AND THEN ON THE 29TH, IT APPEARS TO BE -- COUNSEL,
9 WOULD YOU SAY THAT IS MICROGEN --

10 THE COURT: ANYTHING THAT LOOKS LIKE HUNT THERE?

11 MR. BARENS: OR MICROGENESIS, YOUR HONOR?

12 THE COURT: OR MICROGENESIS?

13 THE WITNESS: THE WAY I SEE IT, IT IS M-O-I-C-I-O-C-Y
14 AND THEN A --

15 MR. BARENS: G.

16 MR. WAPNER: WELL, PERHAPS IT WOULD BE BEST TO JUST
17 PASS IT IN FRONT OF THE JURY AND THEY CAN DRAW THEIR OWN
18 CONCLUSION.

19 MR. BARENS: I WOULD MAKE AN OFFER OF PROOF.

20 THE COURT: ALL I ASKED HIM SPECIFICALLY WAS IF THERE
21 WAS AN ENTRY WHOSE NAME WAS HUNT, ANYTHING ON THERE WHICH
22 WOULD INDICATE HE HAD AN APPOINTMENT DURING THE MONTH OF MAY
23 AND THE FIRST WEEK OF JUNE.

24 MR. BARENS: I DON'T KNOW WHY I TEND TO ASSOCIATE --

25 THE COURT: OR IF MICROGENESIS WILL BE THERE.

26 MR. BARENS: I TEND TO ASSOCIATE MR. HUNT WITH
27 MICROGENESIS.

28 THE COURT: IT SAYS THERE AN APPOINTMENT WITH

1 MICRO GENESIS?

2 MR. BARENS: WELL, GUESS SO.

3 THE COURT: ALL RIGHT.

4 MR. BARENS: THAT IS ANOTHER SUBJECT. COULD I JUST
5 PASS THAT, JUDGE?

6 THE COURT: SURELY.

7 MR. BARENS: THEN EVERYONE CAN DETERMINE THAT.

8 (MR. BARENS SHOWING EXHIBIT TO THE JURY.)

9 THE COURT: ALL RIGHT, NOW WE WILL TAKE A RECESS.

10 MR. BARENS: OH, ALL RIGHT, THANK YOU, JUDGE.

11 THE COURT: LADIES AND GENTLEMEN OF THE JURY, WE WILL
12 TAKE A 15-MINUTE RECESS AT THIS TIME.

13 THE SAME ADMONITION I GAVE YOU WILL STILL APPLY.

14 MR. WAPNER: YOUR HONOR, BECAUSE OF THE FACT THAT WE
15 HAVE SOME MOTIONS IN LIMINE, COULD WE MAKE IT 3:30?

16 THE COURT: ALL RIGHT, YOU COME BACK AT 3:30.

17 MR. BARENS: I HOPE WE WILL HAVE TIME FOR A LITTLE BIT
18 OF A BREAK FOR COUNSEL, TOO, YOUR HONOR.

19 THE COURT: YES, SURELY.

20 (RECESS.)
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1 THE COURT: PEOPLE VERSUS HUNT.

2 (THE FOLLOWING PROCEEDINGS WERE HELD
3 AT THE BENCH OUTSIDE THE HEARING OF
4 THE JURY:)

5 MR. BARENS: YOUR HONOR, I WOULD LIKE YOUR HONOR TO
6 MAKE AN INSTRUCTION TO THE JURY NOW, THAT THE EXERCISE OF
7 THE SIXTH AMENDMENT RIGHT TO COUNSEL, THAT THEY CANNOT DRAW
8 A NEGATIVE INFERENCE OF GUILT OR CONSCIOUSNESS OF GUILT FROM
9 THE EXERCISE OF THE RIGHT TO COUNSEL.

10 THE COURT: I DON'T THINK I HAVE TO DO IT AT THIS TIME.
11 LATER, I WILL GIVE THEM INSTRUCTIONS, IF IT IS APPLICABLE.

12 MR. BARENS: MY ONLY CONCERN, JUDGE, IS WHEN THAT IS
13 DONE, PERHAPS A MONTH FROM NOW OR THREE WEEKS FROM NOW, IT
14 LOSES THE IMPACT THAT IT HAS NOW.

15 THE COURT: I DON'T THINK I HAVE TO GIVE THEM ANY KIND
16 OF ADMONITION.

17 MR. BARENS: I AM ONLY ASKING.

18 THE COURT: THAT IS A LEGAL MATTER. THE DISTRICT
19 ATTORNEY COULD NOT HAVE INQUIRED INTO HIS EXERCISE OF HIS
20 CONSTITUTIONAL RIGHTS. BUT ONCE THERE HAD BEEN A WAIVER OF
21 IT AND YOU DID INQUIRE AND HE DID TESTIFY THAT HE WANTED
22 TO CONSULT A LAWYER, THAT IS THE END OF IT. WHY EMPHASIZE
23 IT?

24 MR. BARENS: I ONLY FEEL THAT THE CASE LAW IS SUCH
25 THAT THERE IS AN INSTRUCTION. WELL, MR. WAPNER IS SHAKING
26 HIS HEAD. REASONABLE MINDS MAY DISAGREE AT TIMES.

27 MR. WAPNER: EXCUSE ME. I SHOOK MY HEAD BECAUSE THE
28 BAILIFF ASKED ME IF WE WERE READY FOR THE JURY.

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MR. BARENS: WE HAVE TO BE A LITTLE CAREFUL ABOUT
HEAD-SHAKING IN HERE.

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1 THE COURT: I DON'T PROPOSE TO MAKE ANY ADMONITIONS
2 TO THE JURY. I WILL JUST LEAVE IT THE WAY IT IS.

3 MR. BARENS: I ONLY REQUESTED IT, YOUR HONOR. ALL RIGHT.

4 THE COURT: IF, WHEN WE GIVE INSTRUCTIONS, THEN I WILL
5 CONSIDER IT AT THAT TIME.

6 MR. BARENS: ALL RIGHT, THANK YOU, YOUR HONOR.

7 THE COURT: ANYTHING ELSE?

8 MR. WAPNER: NO.

9 I UNDERSTAND HOW WE ARE GOING TO PROCEED IS TO
10 FINISH THE TESTIMONY OF DETECTIVE ZOELLER AND THEN TAKE A
11 BREAK AND THEN DO THE MOTIONS AND THEN BRING IN MR. KARNY.

12 THE COURT: WHAT MOTIONS ARE THERE?

13 MR. WAPNER: JUST BRIEF MOTIONS IN LIMINE.

14 THE COURT: ON KARNY?

15 MR. WAPNER: YES.

16 THE COURT: CAN WE MAKE THEM NOW?

17 MR. BARENS: LET'S DO IT AT THE BREAK, JUDGE, BECAUSE
18 THEY HAVE TO ACCESS KARNY IN THE COURTROOM, IN ANY EVENT.

19 THE COURT: ALL RIGHT.

20 (THE FOLLOWING PROCEEDINGS WERE HELD
21 IN OPEN COURT IN THE PRESENCE OF THE
22 JURY:)

23 THE COURT: I THINK WE HAD SOME QUESTIONS, DID WE?

24 MR. BARENS: YES, YOUR HONOR.

25
26 FURTHER RE-CROSS-EXAMINATION (CONTINUED)

27 BY MR. BARENS:

28 Q SIR, WITH REFERENCE TO THE DATE PLANNER OR WEEKLY

1 PLANNING DIARY THAT WE HAVE BEEN REFERRING TO, THERE HAS BEEN
2 A QUESTION ABOUT WHETHER YOU SAW AN APPOINTMENT IN THERE WITH
3 MR. HUNT AT ANY TIME OR THINGS OF THAT NATURE.

4 THE COURT: I SAID DURING THE MONTH OF MAY AND THE FIRST
5 WEEK IN JUNE.

6 MR. BARENS: I HAVE EVEN EXPANDED IT TO ANY TIME.

7 Q DO YOU SEE ANYTHING IN HERE WHERE MR. LEVIN MAKES
8 REFERENCE TO PERSONAL APPOINTMENTS, SAY, WITH TERE TEREBA,
9 DO YOU SEE ANY OF THAT IN THERE, OR MARK GELLER OR WHILE YOU
10 ARE LOOKING, FOR DR. KROGER OR LEN MARMOR, DO YOU SEE ANY
11 APPOINTMENTS WITH ANY OF THOSE PEOPLE, OR DEAN FACTOR, HIS
12 MOTHER?

13 A AS FAR AS DOCTORS, I SEE A DR. FABE, F-A-B-E,
14 ON JANUARY 20.

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1 Q AND WHAT WAS THAT ONE FOR, SIR?

2 MR. WAPNER: OBJECTION, RELEVANCE.

3 THE COURT: I WILL SUSTAIN THE OBJECTION. GO AHEAD.

4 MR. BARENS: ALL RIGHT.

5 Q ABOUT THE PEOPLE I MENTIONED, DO YOU SEE ANY
6 APPOINTMENTS WITH ANY OF THE NAMES THAT I JUST MENTIONED,
7 SIR? TEREBA? FACTOR? BRODER? HIS MOTHER?

8 A THOSE NAMES, NO.

9 MR. BARENS: I WILL LEAVE IT ALONE.

10 THE COURT: HAVE YOU GOT AN ENTRY FOR JUNE 7?

11 THE WITNESS: YES, YOUR HONOR.

12 THE COURT: WHAT DOES IT SAY?

13 THE WITNESS: NEW YORK.

14 THE COURT: ALL RIGHT. THANK YOU.

15 MR. BARENS: ACTUALLY, IT DOESN'T SAY NEW YORK.

16 THE COURT: IT SAYS "VACATION"?

17 MR. BARENS: IT DOESN'T SAY VACATION. EITHER. IT SAYS
18 "N.Y."

19 THE COURT: WHAT DO YOU SUPPOSE THAT STANDS FOR?

20 MR. BARENS: YOU KNOW, WHAT WE LOST OUT OF THAT, THE
21 JUDGE MAKES A GOOD POINT. A MOMENT, IF I MIGHT.

22 (PAUSE...)

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FURTHER RE-CROSS-EXAMINATION

26

BY MR. BARENS:

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Q IS THERE ANY REFERENCE THERE, THE FOLLOWING WEEK
AFTER JUNE THE 7TH, ABOUT RETURN FROM NEW YORK OR L.A. OR

1 ANY OF THAT?

2 THE COURT: FIVE DAYS LATER?

3 Q BY MR. BARENS: YES. IS THERE ANY OF THAT THERE?

4 A NO.

5 MR. BARENS: THANK YOU.

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FURTHER REDIRECT EXAMINATION

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9 BY MR. WAPNER:

10 Q THERE IS THE NOTATION ABOUT OCTOBER THE 9TH,
11 THE PRELIMINARY HEARING?

12 A YES. ALSO, HE HAS OTHER ITEMS OF JUNE 18, JUNE
13 20 --

14 Q DO YOU THINK THAT HE WAS PLANNING TO ATTEND THE
15 PRELIMINARY HEARING FROM NEW YORK BY TELEPHONE?

16 MR. BARENS: OBJECTION. HOW DOES HE KNOW WHAT HIS
17 INTENTION WAS.

18 THE COURT: ALL RIGHT. THAT IS ENOUGH. THANK YOU
19 VERY MUCH.

20 WHAT I WILL DO LADIES AND GENTLEMEN, I WILL
21 ASK YOU TO TAKE A LITTLE RECESS. WE HAVE TO HAVE SOMETHING
22 OUTSIDE THE PRESENCE OF THE JURY. SO, IF YOU WILL WAIT JUST
23 A MOMENT -- DO YOU WANT TO HAVE IT AT THE BENCH?

24 MR. WAPNER: SHOULD BE OUTSIDE THE PRESENCE.

25 THE COURT: OUTSIDE THE PRESENCE OF THE JURY. SORRY.
26 WE'LL GET YOU BACK.

27 (THE JURY LEAVES THE COURTROOM.)

28 (THE FOLLOWING PROCEEDINGS WERE HELD

1 AT THE BENCH OUTSIDE THE HEARING AND
2 PRESENCE OF THE JURY:)

3 MR. BARENS: THANK YOU.

4 MR. WAPNER: FIRST OF ALL, SINCE WE KNOW THAT MR. KARNY
5 IS IN THE STATE WITNESS PROTECTION PROGRAM, I WOULD LIKE
6 AN ORDER THAT HE MAY NOT BE EXAMINED ON ANY OF THE DETAILS
7 OF THE WITNESS PROTECTION PROGRAM.

8 MR. BARENS: I WOULD NOT. I WOULD NOT.

9 MR. WAPNER: BECAUSE THAT WOULD ENDANGER HIS SAFETY.

10 MR. BARENS: I WOULD NOT.

11 MR. WAPNER: AND WE HAVE PREVIOUSLY DISCUSSED THE FACT
12 THAT THERE IS GOING TO BE NO MENTION OF THE MURDER IN
13 HOLLYWOOD. I WOULD LIKE THE COURT TO REITERATE THAT THAT
14 IS NOT A PERMISSIBLE SUBJECT OF INQUIRY WITH THIS WITNESS.

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1 THE COURT: YOU AGREED TO THAT?

2 MR. BARENS: I BELIEVE SO.

3 THE COURT: WHAT IS THE FELLOW'S NAME? MYERS?

4 MR. BARENS: WELL, I THINK MAYER WAS THE FELLOW IN
5 HOLLYWOOD, I BELIEVE.

6 MR. WAPNER: MAYER.

7 THE COURT: PARDON ME. WAS HE THE CELL MATE OF THE
8 DEFENDANT?

9 MR. CHIER: MAY I HAVE A MOMENT WITH COUNSEL?

10 (UNREPORTED COLLOQUY BETWEEN DEFENSE
11 COUNSEL.)

12 MR. BARENS: YOUR HONOR, MY AGREEMENT IS IN ACCORDANCE
13 WITH THE ORDER YOUR HONOR MADE IN CHAMBERS ON THIS SUBJECT
14 AT THAT TIME.

15 BUT OBVIOUSLY, IT IS SUBJECT TO WHAT HE TESTIFIES
16 ABOUT HERE. IF HE GETS INTO IT ON HIS OWN, I MEAN, I DON'T
17 KNOW WHAT --

18 THE COURT: THERE WON'T BE ANY OCCASION FOR HIS GETTING
19 INTO IT. YOU ARE NOT GOING TO ASK HIM ANYTHING ABOUT IT.

20 MR. BARENS: I DON'T THINK I WILL.

21 THE COURT: ARE YOU GOING TO ASK HIM ANYTHING ABOUT
22 IT?

23 MR. WAPNER: OF COURSE NOT.

24 THE COURT: WELL, HE WON'T ASK HIM ANYTHING ABOUT IT.

25 MR. BARENS: WELL, I WILL TELL YOU WHAT CAUSED ME
26 CONCERN FOR A MOMENT. THERE IS SOME OBLIQUE -- WELL, NOT
27 THAT OBLIQUE REFERENCES IN MR. WAPNER'S PAPER WORK ABOUT
28 THE PRESS RESTRICTION DEAL, YOU KNOW, WITH THIS CAMERA STUFF

1 AND THAT IS WHAT ALL OF THAT SEEMS TO REFERENCE. THAT KIND
2 OF MAKES ASPERSIONS AT THE DEFENDANT. I DON'T WANT TO USE
3 THIS WITNESS TO MAKE THOSE KINDS OF ASPERSIONS.

4 MR. WAPNER: WHAT?

5 THE COURT: I DON'T KNOW WHAT YOU ARE TALKING ABOUT.

6 MR. BARENS: WELL, IN OTHER WORDS, WHEN MR. WAPNER
7 FILED HIS PAPERS IN SUPPORT OF THE FACT THAT THE CLIENT'S
8 LIFE WAS IN DANGER AND ALL THAT SORT OF STUFF, I DON'T WANT
9 TO USE THIS WITNESS GETTING UP HERE, IF WE ARE NOT GOING
10 TO EXAMINE HIM ON THE WITNESS PROTECTION PROGRAM -- I DON'T
11 WANT TO BE WHIPSAWED BACK THE OTHER WAY.

12 THE COURT: NO. NO.

13 MR. BARENS: I DON'T WANT MR. WAPNER SAYING THAT HE
14 IS IN THE WITNESS PROTECTION PROGRAM BECAUSE HE IS AFRAID.

15 THE COURT: NO. KEEP AWAY FROM THAT, WON'T YOU?

16 MR. WAPNER: YES.

17 MR. BARENS: IT GOES BOTH WAYS.

18 THE COURT: I WANT TO BE SURE WITH RESPECT TO WHETHER
19 ANYBODY HAS TAPE RECORDERS. DO YOU WANT THAT NOW?

20 MR. WAPNER: NO TAPE RECORDERS AT ALL.

21 (THE BAILIFF APPROACHES THE BENCH.)

22 THE COURT: TELL THE AUDIENCE THAT IT IS THE ORDER
23 OF THE COURT THAT THERE BE NO TAPE RECORDINGS. ANYBODY THAT
24 HAS A TAPE RECORDER ON THEM, TELL THEM THAT IT WON'T BE
25 PERMITTED.

26 THE BAILIFF: OKAY.

27 (THE BAILIFF SPEAKS TO THE AUDIENCE:)

28 THE BAILIFF: IT IS THE ORDER OF THE COURT THAT ANYBODY

1 THAT HAS ANY TAPE RECORDERS, IS NOT PERMITTED TO USE THEM
2 IN THE COURTROOM.

3 THE COURT: DOES ANYBODY HAVE ANY?

4 THE BAILIFF: ANYBODY HAVE ANY TAPE RECORDERS? DOES
5 ANYBODY HAVE ANY? IF YOU HAVE THEM, PLEASE REMOVE THEM FROM
6 THE COURTROOM NOW.

7 THE COURT: NOBODY HAS ANY?

8 THE BAILIFF: NOBODY IS COMING FORWARD.

9 (LAUGHTER FROM THE AUDIENCE.)

10 (THE FOLLOWING PROCEEDINGS WERE HELD AT
11 THE BENCH:)

12 THE COURT: ANYTHING FURTHER?

13 MR. BARENS: ACTUALLY, IT IS FUNNY THAT --

14 THE COURT: GET HIM IN HERE.

15 MR. WAPNER: MIGHT I HAVE JUST A FEW MOMENTS WITH THE
16 WITNESS BEFORE WE START? I AM JUST TALKING ABOUT ONE OR
17 TWO MINUTES.

18 THE COURT: GO AHEAD.

19 MR. BARENS: COULD I JUST STEP OUT IN THE HALL FOR
20 TWO MINUTES?

21 THE COURT: SURE.

22 MR. BARENS: WAIT A MINUTE. NOW, YOU ARE GOING TO
23 PUT HIM IN THE BOX BEFORE WE BRING THE JURY IN?

24 MR. WAPNER: BEFORE THE JURY COMES IN.

25 MR. BARENS: ARE WE GOING TO HAVE ANY ADDITIONAL
26 SECURITY AROUND HIM, LIKE AROUND THE JURY BOX?

27 THE COURT: NO, NOTHING OBVIOUS.

28 MR. WAPNER: THERE WON'T BE ANYTHING OBVIOUS.

1 MR. BARENS: OKAY. THAT IS ALL.

2 MR. WAPNER: ALL RIGHT. I WILL BE RIGHT BACK.

3 (BRIEF RECESS.)

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

4 THE COURT: IF YOU WOULD PLEASE STAND.

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6 DEAN KARNY,
7 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
8 AS FOLLOWS:

9 THE CLERK: IF YOU WOULD RAISE YOUR RIGHT HAND TO BE
10 SWORN, PLEASE.

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

15 THE WITNESS: I DO.

16 THE CLERK: WOULD YOU PLEASE BE SEATED THERE.

17 NOW IF YOU WOULD STATE AND SPELL YOUR NAME FOR
18 THE RECORD, PLEASE.

19 THE WITNESS: DEAN KARNY, K-A-R-N-Y.

20
21 DIRECT EXAMINATION

22 BY MR. WARNER;

23 Q MR. KARNY, DO YOU KNOW THE DEFENDANT IN THIS CASE?

24 A YES, I DO.

25 Q AND WHEN DID YOU FIRST MEET HIM?

26 A IN JUNIOR HIGH SCHOOL.

27 Q WHAT GRADE WERE YOU IN?

28 A EIGHTH GRADE.

33.?
1 Q AND WAS MR. HUNT IN THE EIGHTH GRADE ALSO?

2 A YES, HE WAS.

3 Q BY THE WAY, WAS HIS NAME HUNT AT THAT TIME?

4 A NO, IT WASN'T.

5 Q WHAT WAS HIS NAME AT THAT TIME?

6 A JOE GAMSKY.

7 Q AND WHAT KIND OF FRIENDSHIP OR ASSOCIATION, IF
8 ANY, DID YOU HAVE WITH HIM IN THE EIGHTH GRADE?

9 A WE WERE CLASSMATES.

10 WE DIDN'T KNOW EACH OTHER THAT WELL.

11 Q WHAT SCHOOL DID YOU GO TO?

12 A HARVARD SCHOOL.

13 Q WHERE IS THAT LOCATED?

14 A ON COLDWATER CANYON IN STUDIO CITY.

15 Q AND AT SOME POINT DURING THE TIME THAT YOU WERE
16 AT HARVARD SCHOOL, DID YOU GET TO KNOW THE DEFENDANT AT ALL?

17 A THE SIZE OF OUR CLASSES WAS ABOUT A HUNDRED, SO
18 I KNEW HIM SOMEWHAT, BUT I DIDN'T KNOW HIM WELL.

19 Q DID YOU EVER DO ANY DEBATING WITH OR AGAINST HIM
20 IN HIGH SCHOOL?

21 A NO, I DIDN'T.

22 Q DID YOU DO ANY DEBATING AT ALL IN HIGH SCHOOL?

23 A YES, I DID.

24 Q DID YOU EVER TAKE ANY DEBATE CLASSES WITH HIM?

25 A NO, I DIDN'T.

26 Q AND WAS DEBATE A MANDATORY SUBJECT AT HARVARD
27 SCHOOL?

28 A NO, DEBATE WAS NOT MANDATORY.

1 Q DID YOU TAKE IT, HOWEVER, OR DID YOU JUST
2 PARTICIPATE IN CERTAIN DEBATES DURING SCHOOL?

3 A I TOOK A SPEECH CLASS AT HARVARD. SPEECH WAS
4 A MANDATORY CLASS.

5 DEBATE WAS AN EXTRACURRICULAR THING THAT WAS CHOSEN
6 BY CERTAIN PEOPLE.

7 Q DID YOU GO TO SPEECH OR DEBATE TOURNAMENTS?

8 A YES, I DID.

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10 I WENT TO TWO SPEECH TOURNAMENTS AND ABOUT FIVE
11 DEBATE TOURNAMENTS.

12 Q DURING THE COURSE OF GOING TO DEBATE TOURNAMENTS,
13 DID YOU LEARN A CONCEPT ASSOCIATED WITH DEBATING THAT IS
14 SIMILAR TO SOME CONCEPT YOU LATER LEARNED WAS A LEGAL CONCEPT?

15 MR. BARENS: RELEVANCY, YOUR HONOR.

16 MR. WAPNER: REGARDING THE BURDEN OF PROOF, SPECIFICALLY.

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1 MR. BARENS: RELEVANCY, YOUR HONOR.

2 THE COURT: OVERRULED.

3 I DON'T KNOW WHERE HE IS GOING TO. SUBJECT TO
4 A MOTION TO STRIKE THEN.

5 THE WITNESS: YES, I DID.

6 Q BY MR. WAPNER: IS THERE A CONCEPT IN DEBATE CALLED
7 THE BURDEN OF PROOF?

8 A YES, THERE IS.

9 MR. BARENS: I OBJECT, YOUR HONOR.

10 YOUR HONOR IS GOING TO GIVE INSTRUCTIONS IN THIS
11 COURT ABOUT BURDEN OF PROOF AND JURY INSTRUCTIONS THAT ARE
12 RECOGNIZED BY LAW.

13 THE COURT: GO AHEAD. OVERRULED.

14 MR. WAPNER: THANK YOU. ALL RIGHT.

15 Q AND AT SOME POINT LATER, WHICH WE WILL GET TO --
16 WHEN YOU BECAME REACQUAINTED WITH MR. HUNT, DID YOU HAVE SOME
17 DISCUSSIONS WITH HIM WHERE THE IDEA OF BURDEN OF PROOF CAME
18 UP?

19 A YES, I DID.

20 Q OKAY, NOW DID YOU KNOW --

21 WHAT WAS THE EXTENT OF YOUR RELATIONSHIP WITH
22 HIM IN HIGH SCHOOL?

23 A I DON'T UNDERSTAND WHAT YOU MEAN, "THE EXTENT."

24 Q OKAY, WHEN YOU FIRST MET HIM, YOU WERE IN THE
25 EIGHTH GRADE, RIGHT?

26 A YES.

27 Q DID YOU STAY AT HARVARD IN HIGH SCHOOL THROUGH
28 WHAT WOULD HAVE BEEN THE END OF THE TWELFTH GRADE?

3-5
1 A THAT'S RIGHT.

2 Q DURING THE TIME THAT YOU WERE AT HARVARD SCHOOL,
3 DID YOU EVER SOCIALIZE WITH MR. GAMSKY?

4 A THERE WAS ONE TIME BEFORE A SPEECH TOURNAMENT
5 IN THE NINTH GRADE WHEN, I GUESS IN ORDER TO GET A RIDE TO
6 THE TOURNAMENT, I SLEPT OVER AT JOE'S HOUSE.

7 Q WHERE DID HE LIVE AT THAT TIME?

8 A IN VAN NUYS.

9 Q AND OTHER THAN THAT, DID YOU SOCIALIZE WITH
10 MR. GAMSKY IN HIGH SCHOOL?

11 A NO, I DIDN'T.

12 Q AND AFTER YOU LEFT HARVARD SCHOOL, DID YOU HAVE
13 ANY CONTACT --

14 WHERE DID YOU GO AFTER YOU LEFT HARVARD SCHOOL?

15 A I WENT TO UCLA.

16 Q AND DURING THE TIME THAT YOU WERE AT UCLA, DID
17 YOU EVER SEE MR. GAMSKY?

18 A YES, I DID.

19 Q WHEN WAS THAT?

20 A ABOUT 1979, I RAN INTO HIM ONCE IN THE EVENING.

21 Q WERE YOU WITH YOUR PARENTS AT THAT TIME?

22 A YES, I WAS.

23 Q WHAT DID YOU DO AT THAT TIME?

24 A WELL, MY PARENTS AND I WERE THERE TO SEE A PLAY
25 THAT THE UNIVERSITY WAS PUTTING ON AND RAN INTO JOE IN THE
26 PARKING LOT AND WE HAD AN EXTRA TICKET, SO WE INVITED HIM.

27 Q AFTER THAT ONE TIME, DID YOU SEE HIM AGAIN?

28 A YES, I DID.

1 Q WHEN?
2 A SOMETIME DURING 1980, I THINK MID-1980 APPROXIMATELY.
3 Q AND WHERE DID YOU SEE HIM IN MID-1980?
4 A IN WESTWOOD.
5 Q WHEN YOU SAW HIM IN WESTWOOD, WERE YOU BY YOURSELF?
6 A NO, I WASN'T.
7 Q WHO WERE YOU WITH?
8 A I WAS WITH BEN DOSTI.
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1 Q WAS MR. DOSTI A FRIEND OF YOURS?

2 A YES, HE WAS.

3 Q WHEN DID YOU FIRST MEET HIM?

4 A I FIRST MET HIM AT HARVARD. I WOULD SAY IN ABOUT
5 1975, I THINK. I AM NOT POSITIVE.

6 Q THAT IS HARVARD SCHOOL?

7 A YEAH.

8 Q AND DID HE, MR. DOSTI, STAY AT HARVARD SCHOOL
9 OR DID HE LEAVE AND GO SOMEWHERE ELSE?

10 A HE LEFT IN THE NINTH GRADE AND WENT TO BEVERLY
11 HILLS HIGH SCHOOL.

12 Q AND DID YOU MAINTAIN A FRIENDSHIP WITH HIM WHILE
13 HE WAS AT BEVERLY HILLS HIGH SCHOOL?

14 A I ACTUALLY DIDN'T HAVE A FRIENDSHIP WITH HIM
15 DURING THE TIME HE WAS AT HARVARD OR --

16 Q HOW ABOUT WHEN YOU WERE AT UCLA?

17 A AT UCLA, YES. I SORT OF BECAME REACQUAINTED
18 WITH HIM, AS HE WAS FINISHING BEVERLY HILLS HIGH SCHOOL.

19 Q AND HOW LONG HAD YOU BEEN AT UCLA WITH MR. DOSTI
20 BEFORE THE TWO OF YOU RAN INTO THE DEFENDANT?

21 A ABOUT A YEAR.

22 Q THAT WAS IN THE MIDDLE OF 1980?

23 A RIGHT.

24 Q LET ME JUST BACK UP A LITTLE BIT. WHAT WAS THE
25 NATURE OF YOUR FRIENDSHIP WITH MR. DOSTI AT THE TIME?

26 A WE WERE CLOSE FRIENDS.

27 Q CAN YOU EXPLAIN THAT? JUST EXPLAIN THAT A LITTLE
28 BIT FURTHER.

1 A WELL, WE USED TO GO TO MOVIES. WE USED TO GO
2 TO PARTIES AND GO OUT TO RESTAURANTS AND HANG OUT TOGETHER.

3 Q WERE YOU IN THE SAME YEAR OF SCHOOL AT UCLA?

4 A NO.

5 Q WHO WAS AHEAD OF WHOM?

6 A I WAS TWO YEARS AHEAD OF BEN.

7 Q AND WHERE WAS IT IN WESTWOOD THAT YOU RAN INTO
8 MR. HUNT -- OR EXCUSE ME, MR. GAMSKY, AT THAT TIME?

9 A IT WAS IN THE VILLAGE. I DON'T REMEMBER EXACTLY
10 WHICH STREET IT WAS.

11 Q WHAT HAPPENED WHEN YOU RAN INTO HIM?

12 A WE JUST STARTED TALKING. JOE WAS WITH HIS BROTHER,
13 AT THE TIME.

14 AND WE SPENT THE EVENING. I THINK WE WENT TO
15 A MOVIE AND WE HAD DINNER TOGETHER.

16 Q DO YOU REMEMBER WHAT YOU TALKED ABOUT AT THAT
17 TIME?

18 A YEAH. I DO.

19 Q WHAT WAS IT?

20 A WELL, STARTED OUT JUST TALKING ABOUT WHAT WE
21 HAD ALL BEEN DOING.

22 Q SINCE THE LAST TIME YOU SAW HIM?

23 A SINCE THE LAST TIME WE HAD SEEN EACH OTHER.

24 Q INCIDENTALLY, WAS THE DEFENDANT STILL GOING BY
25 THE NAME OF GAMSKY AT THAT TIME?

26 A YES.

27 Q AND WHAT DID HE TELL YOU HE HAD BEEN DOING?

28 A HE SAID THAT HE HAD BEEN WORKING FOR AN ACCOUNTING

1 FIRM CALLED PEAT, MARWICK & MITCHELL AND THAT NOW HE WAS
2 TRADING COMMODITIES FOR HIMSELF.

3 Q WHEN YOU SAW HIM IN WESTWOOD, HOW WAS HE DRESSED?
4 DO YOU REMEMBER?

5 A I REALLY DON'T REMEMBER.

6 Q ALL RIGHT. WHEN HE SAID THAT HE WAS WORKING
7 FOR PEAT, MARWICK & MITCHELL, DID HE TELL YOU WHAT HE WAS
8 DOING FOR THEM?

9 A YEAH. HE SAID THAT HE WAS -- HE SAID THAT HE
10 WAS ESSENTIALLY IN A CONSULTING CAPACITY, THAT HE DIDN'T
11 DO THE AUDITING YOUNG ACCOUNTANTS USUALLY DID BECAUSE HE
12 HAD A MORE ADVANCED KNOWLEDGE OF WHAT WAS GOING ON IN THE
13 ACCOUNTING.

14 Q AND WHAT ELSE DID HE TELL YOU ABOUT HIS TRADING
15 COMMODITIES FOR HIMSELF? WHAT DID HE TELL YOU?

16 A NOT TOO MUCH AT THE TIME. I REALLY DIDN'T KNOW
17 WHAT IT WAS. AND I DON'T REMEMBER TOO MUCH ABOUT WHAT WAS
18 DISCUSSED WITH REGARDS TO COMMODITIES.

19 Q AND DURING THE TIME THAT YOU TALKED TO HIM, WHAT
20 IMPRESSION, IF ANY, DID HE MAKE ON YOU AT THAT TIME?

21 A WELL, THAT HE WAS REMARKABLY INTELLIGENT AND
22 WELL-ESTABLISHED FOR SOMEONE OF OUR AGE.

23 Q ALL RIGHT. WHAT WAS IT THAT HE DID OR SAID THAT
24 MADE YOU THINK THAT HE WAS WELL-ESTABLISHED FOR SOMEONE OF
25 YOUR AGE?

26 A WELL, I WAS STILL IN COLLEGE AND I HAD BEEN GOING
27 TO SUMMER SCHOOL AND I HAD SOME ADVANCED CREDIT FROM HIGH
28 SCHOOL. BUT I WAS STILL IN COLLEGE.

1 AND HE SAID THAT HE WAS ALREADY FINISHED WITH
2 COLLEGE.

3 Q DID HE TELL YOU HOW HE FINISHED COLLEGE?

4 A YEAH. HE DID.

5 Q WHAT DID HE SAY?

6 A HE SAID THAT HE HAD COMBINED SOME ADVANCED PLACE-
7 MENT CREDITS FROM HIGH SCHOOL AND THAT HE HAD COMBINED THOSE
8 WITH CHALLENGING EXAMS AT USC AND THAT HE HAD BEEN ABLE TO
9 GET AN ENORMOUS AMOUNT OF UNITS OF CREDIT WITHOUT ACTUALLY
10 TAKING THE TIME TO GO THROUGH THE SEMESTERS.

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1 Q AND DID HE TELL YOU ANYTHING ELSE THAT HE HAD
2 DONE OR ACCOMPLISHED AT THAT POINT?

3 A HE SAID THAT HE HAD PASSED THE CPA EXAM AND ALL
4 KINDS OF OTHER THINGS.

5 Q DID HE MAKE ANY STATEMENT TO YOU ABOUT BEING
6 THE YOUNGEST PERSON EVER TO PASS THE CPA EXAM OR SOMETHING
7 LIKE THAT?

8 A YES. HE DID.

9 Q WHAT DID HE SAY TO YOU, SPECIFICALLY? DO YOU
10 REMEMBER?

11 A THAT HE WAS THE YOUNGEST PERSON TO HAVE PASSED
12 THE CPA EXAM AND THAT HE ALSO SAID THAT IN A COUPLE OF SECTIONS
13 OF THAT EXAM, HE HAD SCORED THE HIGHEST IN THE NATION OR
14 SOMETHING LIKE THAT.

15 Q AND AFTER YOU MET HIM, WAS THIS ALL DURING THE
16 FIRST TIME THAT YOU MET HIM AND GOT REACQUAINTED WITH HIM
17 IN WESTWOOD IN 1980?

18 A IN THAT SINGLE EVENING.

19 Q YES?

20 A TO MY RECOLLECTION, MOST OF IT WAS. WE SPENT
21 A LOT OF HOURS THAT NIGHT TALKING.

22 BUT IT COULD BE THAT IN CONVERSATIONS JUST AFTER
23 THAT, WITHIN THE NEXT WEEK OR SO, THAT SOME OF IT CAME OUT.

24 Q ALL RIGHT. WHEN YOU LEFT THAT EVENING, HOW
25 WAS IT LEFT IN TERMS OF WHETHER YOU WERE GOING TO SEE HIM
26 OR WHETHER YOU WEREN'T?

27 A WE PLANNED TO SEE ONE ANOTHER AGAIN.

28 Q AND FROM THAT MEETING OVER THE NEXT FEW WEEKS

1 OR MONTHS, WHAT HAPPENED?

2 A WE BECAME GOOD FRIENDS.

3 Q WOULD YOU EXPLAIN THAT?

4 A WELL, JOE AND BEN AND I AND ANOTHER FRIEND OF
5 OURS, RONALD, WHOM WE INTRODUCED TO JOE LATER, BEGAN TO
6 SOCIALIZE FREQUENTLY.

7 Q WHAT WAS RONALD'S LAST NAME?

8 A PARDOVITCH.

9 Q DO YOU KNOW HOW TO SPELL THAT?

10 A I BELIEVE IT IS P-A-R-D-O-V-I-T-C-H.

11 Q AND AFTER YOU MET HIM ON THAT OCCASION, DID YOU
12 OVER THE NEXT PERIOD OF TIME, BECOME CLOSE FRIENDS WITH
13 HIM?

14 A YES.

15 Q HOW WOULD YOU DESCRIBE YOUR FRIENDSHIP WITH HIM
16 AFTER THAT FIRST MEETING IN RELATION TO YOUR FRIENDSHIP WITH
17 MR. DOSTIS?

18 A I WOULD SAY THAT EVENTUALLY, I CAME TO REGARD
19 JOE AS MY BEST FRIEND.
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35-1

1 Q AND DO YOU KNOW HOW MR. DOSTI CAME TO REGARD HIM?

2 A I THINK HE THOUGHT HE WAS HIS BEST FRIEND, TOO.

3 Q FROM THE TIME THAT YOU FIRST GOT REACQUAINTED
4 WITH HIM IN 1980, OVER THE NEXT SEVERAL MONTHS, HOW OFTEN
5 DID YOU SEE HIM?

6 A I WOULD SAY QUITE A FEW TIMES A WEEK, SOMEWHERE
7 BETWEEN, I DON'T KNOW, BETWEEN THREE AND SIX TIMES A WEEK.

8 WE USED TO MEET AFTER SCHOOL IN WESTWOOD PRETTY
9 OFTEN.

10 Q DURING THAT TIME, DID HE REPRESENT TO YOU THAT
11 HE WAS WORKING?

12 A HE SAID THAT HE WAS GOING TO A BROKER'S OFFICE
13 EVERY MORNING AND TRADING COMMODITIES UNTIL THE EXCHANGE ON
14 THE EAST COAST CLOSED AND THAT IS WHY HE WAS FREE TO MEET
15 WITH US AFTER 1:00 OR 2:00 O'CLOCK.

16 Q AND WITH WHOM WERE YOU LIVING AT THAT TIME?

17 A I WAS LIVING WITH MY PARENTS.

18 Q AND DURING THIS TIME, FOLLOWING THE MIDDLE OF
19 1980 WHEN YOU BECAME REACQUAINTED WITH MR. GAMSKY, DID HE
20 EVER STAY AT YOUR HOUSE?

21 A YES, HE DID.

22 Q HOW OFTEN?

23 A OH, I WOULD SAY ABOUT FOUR OR FIVE TIMES A MONTH.

24 Q DID HE APPEAR TO GET ALONG WITH YOUR PARENTS?

25 A YES, HE DID.

26 Q AND DID HE HAVE A PARTICULAR PLACE IN YOUR HOUSE
27 WHERE HE STAYED?

28 A HE HAD AN EXTRA BED IN MY ROOM AND HE STAYED THERE.

1 Q AND DURING THE TIME THAT HE STAYED THERE, WAS
2 THERE ANY REFERENCE MADE TO THAT PARTICULAR BED BY ANYBODY?

3 A YEAH. MY MOM USED TO CALL IT "JOE'S BED."

4 Q AND WAS THAT A REFERENCE TO THE FACT THAT HE WAS
5 THERE FREQUENTLY?

6 A YES.

7 Q AND DURING THE NEXT SEVERAL MONTHS, DID HE EVER
8 TALK TO YOU ABOUT HIS IDEAS ABOUT THE CORPORATE SYSTEM AND
9 WHAT IT DID OR DID NOT ALLOW PEOPLE OF HIS TYPE TO DO?

10 A YEAH, WE DISCUSSED THAT.

11 Q WHAT DID HE SAY?

12 A WELL, HE -- WHEN HE WAS EXPLAINING TO ME WHAT
13 HAD HAPPENED WITH HIM AT THE JOB HE HAD AT PEAT, MARWICK &
14 MITCHELL --

15 MR. BARENS: WE OBJECT AT THIS POINT AND ASK TO APPROACH.

16 THE COURT: OBJECTION TO WHAT, THE CONVERSATION ABOUT
17 PEAT, MARWICK & MITCHELL?

18 MR. BARENS: ANTICIPATING IT, YES, 352 MATERIAL, YOUR
19 HONOR.

20 THE COURT: ALL RIGHT, GO AHEAD.

21 (THE FOLLOWING PROCEEDINGS WERE HELD
22 AT THE BENCH:)

23 THE COURT: YES?

24 MR. BARENS: YOUR HONOR, WE ARE INTO STATEMENTS THAT
25 DO NOT GO TO SHOW STATE OF MIND OR FURTHERANCE OF CONSPIRACY
26 OR ANYTHING.

27 ONE OF THE THINGS I AM CONCERNED ABOUT FROM SOME
28 OF THE KARNY READING I HAVE DONE IS, HE IS GOING TO TESTIFY

35-7
1 THAT HUNT EITHER GOT FIRED AT PEAT-MARWICK OR WAS ASKED TO
2 LEAVE OR SOME OTHER REASON THAT WOULD NOT BE COMPLIMENTARY
3 TO MR. HUNT. I DON'T SEE THE RELEVANCY OF ANY OF THAT, OTHER
4 THAN JUST PURE CHARACTER ASSASSINATION, WHICH WE CAN GET TO
5 LATER WITH THE WITNESS, BUT FOR NOW, WHAT IS THE RELEVANCY
6 OF IT?

7 MR. WAPNER: IT IS NOT OFFERED TO SHOW WHETHER HE WAS
8 FIRED OR HOW IT WAS THAT HE LEFT. I DON'T THINK THAT IS EVEN --
9 THAT IS NOT THE POINT.

10 THE POINT IS THAT THESE CONVERSATIONS WERE THE
11 GENESIS OF THE IDEAS FOR THE BBC. IT WAS FROM THESE
12 CONVERSATIONS AT THE VERY BEGINNING THAT THE IDEA FOR THE
13 BBC STARTED AND THEN GREW AND EVENTUALLY BECAME THE ORGANIZATION
14 ABOUT WHICH WE HAVE HAD LOTS OF TESTIMONY.
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35-4
1 MR. BARENS: WELL, YOUR HONOR --

2 THE COURT: ALL RIGHT, GO AHEAD.

3 MR. BARENS: YOUR HONOR, FOR A MOMENT WHILE WE ARE HERE,
4 A LONG, LONG TIME AGO IN THIS CASE, WE CAME TO AN UNDERSTANDING
5 ABOUT THIS GAMSKY-HUNT BUSINESS AND WE CAME TO AN UNDERSTANDING
6 THAT MR. HUNT WAS GOING TO BE CALLED MR. HUNT DURING THE TRIAL.

7 THE COURT: WELL, WHY DON'T YOU SAY HEREAFTER, REFER
8 TO HIM AS MR. HUNT, INSTEAD OF GAMSKY? IS THAT WHAT YOU WANT
9 TO DO?

10 MR. WAPNER: WELL, THE ONLY THING, FIRST OF ALL, I WILL
11 APOLOGIZE TO COUNSEL BECAUSE I DIDN'T REMEMBER THAT.

12 THE COURT: LET'S CALL HIM HUNT. HEREAFTER, LET'S CALL
13 HIM HUNT.

14 MR. WAPNER: LET ME ASK THE COURT AND COUNSEL WHETHER
15 IT IS PERMISSIBLE TO ASK THIS WITNESS AT SOME POINT, DID HE
16 CHANGE HIS NAME.

17 THE COURT: HE CHANGED HIS NAME.

18 MR. BARENS: IT IS NOT RELEVANT. IT DIDN'T HAVE ANYTHING
19 TO DO WITH MR. HUNT CHANGING HIS NAME.

20 THE COURT: I KNOW, HIS FATHER DID.

21 MR. BARENS: IT CASTS AN ASPERSION LIKE HUNT IS TRYING
22 TO DECEIVE PEOPLE AS TO WHO HE IS.

23 THE COURT: ALL RIGHT, WHEN YOU ASK HIM A QUESTION,
24 TELL HIM TO REFER TO HIM AS MR. HUNT AFTER THIS.

25 (THE FOLLOWING PROCEEDINGS WERE HELD
26 IN OPEN COURT IN THE PRESENCE OF THE
27 JURY:)

28 Q BY MR. WAPNER: MR. KARNY, FROM HEREON OUT, I

1 AM GOING TO REFER TO THE DEFENDANT BY THE USE OF THE DEFENDANT
2 OR HUNT SO YOU UNDERSTAND THAT, ALL RIGHT?

3 A OKAY.

4 Q NOW, WHEN HE WAS DISCUSSING THESE IDEAS WITH YOU
5 ABOUT THE CORPORATE SYSTEM, DID THIS START FROM THE FIRST
6 TIME YOU GOT REACQUAINTED WITH HIM IN THE MIDDLE OF 1980?

7 A YES, IT DID.

8 Q WHEN YOU SAY THE MIDDLE OF 1980, IS THERE ANY
9 WAY FOR YOU TO RECALL WITH ANY MORE SPECIFICITY APPROXIMATELY
10 WHEN THAT WAS?

11 A I REALLY -- I REALLY DON'T REMEMBER. I AM TRYING
12 TO PLACE IT WITH REGARD TO WHAT SEMESTER I WAS IN IN SCHOOL
13 AND I JUST DON'T REMEMBER.

14 I KNOW THAT I GRADUATED COLLEGE IN DECEMBER OF
15 1980 AND IT WAS SOME MONTHS BEFORE THAT. WHETHER IT WAS IN
16 THE SUMMER OR IN THE SPRING, I REALLY -- I REALLY DON'T KNOW.

17 Q WHEN YOU FIRST SAW HIM IN WESTWOOD AND YOU WERE
18 WITH MR. DOSTI, WHAT DID HE TELL YOU WITH REGARD TO THE
19 CORPORATE SYSTEM AND ITS EFFECT ON PEOPLE LIKE MR. HUNT?

20 A WHAT HE SAID WAS THAT THE SYSTEM IN MANY WAYS
21 STIFLES THE ABILITIES AND THE INITIATIVE THAT BRIGHT AND
22 CAPABLE PEOPLE HAVE. HE USED WORDS LIKE INSULARISM AND PETTY
23 INTRIGUE IN ORDER TO DESCRIBE THE TYPE OF THING THAT HE HAD
24 MET WITH AND THAT HE FELT WAS SORT OF INHERENT IN A SYSTEM
25 OF CORPORATE HIERARCHY.

26

27

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36-1

1 Q CAN YOU EXPLAIN THAT FURTHER IN TERMS OF
2 INSULARISM AND PETTY INTRIQUE AND WHAT HE MEANT BY THAT?

3 A WELL, HE GAVE AN EXAMPLE THAT IF FOR EXAMPLE,
4 YOU HELD A PARTICULAR POSITION IN A COMPANY AND YOU HAD SOME
5 GOOD IDEAS, YOU MIGHT TELL THEM TO YOUR DIRECT SUPERIOR AND
6 HE WOULD EITHER TELL THE PEOPLE ABOVE HIM THAT IT WAS HIS
7 IDEA OR HE WOULD TELL YOU NOT TO COME UP WITH SUGGESTIONS
8 ANYMORE. AND JUST IN GENERAL, THAT PEOPLE WOULD FEEL
9 THREATENED BY AN INTELLIGENT PRESENCE IN A CORPORATE STRUCTURE.

10 Q AND WHEN HE TOLD YOU THAT, WHAT ELSE DID HE SAY
11 ABOUT PEOPLE BEING THREATENED BY AN INTELLIGENT PRESENCE?
12 DID HE SAY WHAT EFFECT FOR EXAMPLE, THAT WOULD HAVE ON PEOPLE
13 LIKE HIM?

14 A WELL, THAT IT WOULD KEEP PEOPLE LIKE HIM BACK,
15 THAT IT WOULD PREVENT THOSE BRIGHT AND CAPABLE PEOPLE FROM
16 SUCCEEDING TO THE LEVEL THAT THEY WERE REALLY ABLE TO.

17 Q DID HE MAKE ANY SUGGESTIONS OR GIVE ANY
18 SUGGESTIONS ABOUT WHAT HE WANTED TO DO ABOUT THAT?

19 A YES.

20 Q WHAT DID HE SAY?

21 A HE TALKED ABOUT STARTING A GROUP OF THIS TYPE
22 OF INTELLIGENT AND CAPABLE, MOTIVATED PEOPLE IN WHICH THEY
23 WOULDN'T BE BOUND BY SOME EXTERNAL STRUCTURE THAT THEY HADN'T
24 THOUGHT OF FOR THEMSELVES AND THAT WOULD LIMIT THEM AND THEY
25 SHOULD GET TOGETHER AND FORM THEIR OWN GROUP AND DO THINGS
26 ON THEIR OWN, BASED ON WHAT EACH OF THEM WAS ABLE AND CAPABLE
27 OF DOING RATHER THAN WHAT SOME EXTERNAL SOURCE TOLD THEM
28 THEY SHOULD OR COULD DO.

1 Q DID HE MENTION THAT TO YOU THE FIRST TIME THAT YOU
2 SAW HIM AGAIN IN 1980, WHEN YOU WERE IN WESTWOOD?

3 A I THINK THERE WAS SOME MENTION OF THAT. BUT
4 IT WAS MORE OF A PASSING MENTION. WE TALKED ABOUT IT MORE
5 AS THE MONTHS WENT ON.

6 Q AND DURING THIS PASSAGE OF TIME, YOU WERE SEEING
7 HIM FIVE TIMES A WEEK OR SO?

8 A IT SEEMS LIKE THAT TO ME, YES.

9 Q AND HOW OFTEN WHEN YOU SAW HIM, WOULD YOU DISCUSS
10 THINGS LIKE THIS? HOW OFTEN WOULD HE DISCUSS IT WITH YOU?

11 A ALL I CAN SAY, FROM TIME TO TIME IT WAS --
12 YOU SEE, THE WAY I UNDERSTOOD SOMETHING LIKE THAT, IS THAT
13 I FELT COMPLIMENTED THAT I WAS BEING INCLUDED IN THE
14 CONVERSATION LIKE THAT.

15 BECAUSE I FELT LIKE I WAS BEING LABELED AS ONE
16 OF THESE BRIGHT AND INTELLIGENT PEOPLE. SO IT WAS MY --
17 I GUESS I AM NOT REALLY ANSWERING YOUR QUESTION. SORRY.

18 Q HOW OFTEN DID HE TALK TO YOU ABOUT IT?

19 A PRETTY OFTEN.

20 Q AND DID HE FURTHER EXPAND ON THAT TALKING? DID
21 HE EVER USE THE TERM "ENLIGHTENMENT" OR "ENLIGHTENED WAY"
22 DURING THOSE DISCUSSIONS WITH YOU?

23 A NOT RIGHT THEN, NO.

24 Q AT SOME POINT LATER?

25 A YES.

26 Q AND AT SOME POINT IN 1980, DID -- WELL, DURING
27 THE TIME THAT YOU HAD THOSE DISCUSSIONS, WERE THEY ALL
28 THEORETICAL OR DID YOU EVER DISCUSS WITH HIM THE POSSIBILITY

1 OF FORMING SUCH A GROUP?

2 A WE DISCUSSED IT AS AN ACTUAL POSSIBILITY.

3 Q WHAT WAS DISCUSSED? WHAT DID HE SAY? WHAT DID
4 YOU SAY?

5 A WHAT HE SAID WAS, THAT THE REASON IT WAS SO
6 DIFFICULT FOR SUCH A GROUP TO ACTUALLY GET STARTED WAS THAT
7 EACH OF THE INDIVIDUALS, BY THE TIME THEY GET TO WANTING
8 TO DO SOMETHING LIKE THAT, THEY ARE USUALLY ENTRENCHED IN
9 SOME KIND OF A SITUATION, WHETHER IT IS A JOB OR WHETHER
10 IT IS SCHOOL OR ANY NUMBER OF THINGS AND THAT IT IS VERY
11 DIFFICULT FOR AN INDIVIDUAL TO GET FREE OF THAT SITUATION
12 SO THEY CAN DEVOTE THEIR TIME AND ENERGY INTO SETTING UP
13 SUCH A GROUP.

14 AND THAT THERE IS SORT OF, SOME LAG TIME, THAT
15 IT WAS VERY DIFFICULT TO GET THROUGH, SIMPLY BECAUSE PEOPLE
16 CAN'T AFFORD TO QUIT THEIR JOBS AND START A GROUP.

17 AND SO, WE TALKED ABOUT HIS ABILITY TO TRADE
18 COMMODITIES AND HE OFFERED THAT ONCE WE DECIDED TO START
19 THIS, HE WOULD COME UP WITH THE MONEY IN ORDER TO HELP US
20 FINANCE OURSELVES AND THE OTHER MEMBERS WHICH WE HOPED TO
21 GET.

22 Q AND WHAT KIND OF A GROUP WAS IT THAT YOU WERE
23 ACTUALLY CONTEMPLATING STARTING?

24 A WELL, A GROUP THAT WAS ABLE TO ACCOMPLISH SOME
25 BUSINESS VENTURES AS WELL AS SOME PERSONAL AND SOCIALLY
26 FULFILLING VENTURES FOR THE INDIVIDUALS.

27 Q AND WOULD THAT BE A GROUP THAT WOULD NOT BE BOUND
28 BY THE KINDS OF CORPORATE CONSTRAINTS THAT MR. HUNT HAD TALKED

1 TO YOU ABOUT?

2 MR. BARENS: LEADING AND SUGGESTIVE, YOUR HONOR.

3 THE COURT: OVERRULED.

4 THE WITNESS: EXACTLY THAT SORT OF A GROUP.

5 Q BY MR. WAPNER: AND IN TALKING WITH MR. HUNT
6 ABOUT HIS TRADING COMMODITIES, WHAT CAME OF THAT, IF ANYTHING?

7 A EVENTUALLY, HE MOVED TO CHICAGO IN ORDER TO
8 TRADE COMMODITIES ON THE FLOOR OF THE MERCANTILE EXCHANGE
9 THERE.

10 Q WHEN WAS THAT DONE?

11 A I THINK HE MOVED TO CHICAGO ABOUT NOVEMBER OF
12 1980.

13 Q ALL RIGHT. WHEN YOU SAY "EVENTUALLY", DID YOU
14 HAVE ASOME DISCUSSION WITH HIM ABOUT THE FACT THAT HE WAS
15 GOING TO CHICAGO AND WHY?

16 A YES.

17 Q WHAT WAS THE DISCUSSION YOU HAD WITH HIM?

18 A THAT EVEN THOUGH HE WAS ALREADY TRADING
19 COMMODITIES THROUGH A BROKER HERE IN LOS ANGELES, THAT IF
20 HE WERE ABLE TO GET A SEAT ON THE EXCHANGE WHERE HE COULD
21 TRADE ON THE FLOOR, HE COULD CUT DOWN HIS TRANSACTION COSTS
22 AND TAKE ADVANTAGE OF A GREAT NUMBER OF OTHER OPPORTUNITIES
23 WHICH PRESENT THEMSELVES ONLY WHEN YOU ARE ON THE FLOOR OF
24 THE EXCHANGE.

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37-1
1 Q AND WHAT WAS THE PURPOSE OF HIS -- BESIDES GETTING
2 A SEAT ON THE EXCHANGE, WHAT WAS THE PURPOSE OF HIS GOING
3 THERE AND RAISING MONEY?

4 A SO THAT SOME DAY WE COULD START THE GROUP THAT
5 WE HAD TALKED ABOUT.

6 Q DID YOU HAVE ANY DISCUSSION WITH HIM ABOUT RAISING
7 MONEY FOR HIM WHEN HE WENT TO CHICAGO?

8 A NOT SO MUCH RAISING MONEY FOR HIM, BUT I WANTED
9 TO GET INTO SOMETHING GOOD SO I EVENTUALLY SENT SOME OF MY
10 MONEY THERE AND MY PARENTS SENT SOME OF THEIRS.

11 Q WHEN MR. HUNT WENT TO CHICAGO, DO YOU KNOW WHERE
12 HE GOT THAT MONEY INITIALLY TO USE FOR THE TRADING?

13 A NO, I DON'T.

14 Q AND WHEN YOU SAY YOU GAVE MONEY AND YOUR PARENTS
15 GAVE MONEY, WHEN DID THAT HAPPEN?

16 A ABOUT JANUARY OF '81.

17 Q AND HOW MUCH MONEY DID YOU GIVE HIM AT THAT TIME?

18 MR. BARENS: RELEVANCY, YOUR HONOR.

19 THE COURT: OVERRULED.

20 THE WITNESS: I SENT ABOUT \$4,000.

21 Q BY MR. WARNER: WHEN YOUR PARENTS GAVE MONEY,
22 DID THEY EVER MEET WITH THE DEFENDANT PERSONALLY BEFORE THEY
23 INVESTED SOME MONEY WITH HIM?

24 A YES.

25 Q WHERE WAS THAT?

26 A THEY HAD MET WITH HIM AT OUR HOUSE AND THEY HAD
27 SPOKEN WITH HIM ON THE PHONE.

28 Q WERE YOU EVER AT YOUR HOUSE WHEN THE DEFENDANT

37. 2 1 DISCUSSED WITH YOUR PARENTS HIS APPROACH TO TRADING COMMODITIES?

2 A YES, I WAS.

3 Q WAS THAT BEFORE THEY INVESTED MONEY?

4 A YES.

5 Q AND WHY WAS HE DISCUSSING HIS APPROACH WITH THEM?

6 A I THINK IT WAS A COMBINATION OF TRYING TO EXPLAIN
7 TO THEM WHAT IT WAS THAT HE WAS DOING BECAUSE THEY WERE
8 INTERESTED IN IT AND THEY ALSO WERE INTERESTED IN INVESTING
9 WITH HIM AND IT WAS JUST A MATTER OF EXPLAINING WHAT THE NATURE
10 OF SUCH AN INVESTMENT WAS.

11 Q WHAT DID HE EXPLAIN TO THEM?

12 A HE EXPLAINED TO THEM THAT HE HAD A SYSTEM OF
13 TRADING COMMODITIES, SOMETHING THAT HE HAD THOUGHT UP ON HIS
14 OWN THAT WAS NEW AND RELATIVELY LOW RISK IN COMPARISON TO
15 OTHER TRADING APPROACHES. AND HE EXPLAINED THAT IT WAS
16 POSSIBLE -- POSSIBLE TO LIMIT THE AMOUNT OF MONEY THAT YOU
17 STOOD TO LOSE THROUGH USING THIS SYSTEM.

18 Q DID HE SAY TO WHAT EXTENT HE WAS GOING TO LIMIT
19 THE AMOUNT OF MONEY THAT HE STOOD TO LOSE OR THEY STOOD TO
20 LOSE IF THEY INVESTED?

21 A HE SAID THAT IN A PARTICULAR TRADE, I THINK HE
22 SAID THAT HE COULD -- HE COULD LIMIT THE AMOUNT LOST TO ABOUT
23 2 PERCENT.

24 AND HE ALSO PROMISED MY PARENTS THAT IF THEIR
25 INVESTMENT WENT DOWN BY AS MUCH AS 20 PERCENT, THAT HE WOULD
26 REMOVE THE INVESTMENT.

27 Q AND DID YOUR PARENTS INVEST MONEY WITH HIM?

28 A YES, THEY DID.

B7-2
1 Q HOW MUCH?

2 A AT FIRST A HUNDRED FIFTY THOUSAND DOLLARS.

3 Q AND WAS THAT GIVEN OR SENT TO HIM WHEN HE WAS
4 IN CHICAGO?

5 A YES.

6 Q DO YOU KNOW WHEN IT WAS THAT THEY MADE THAT
7 INVESTMENT OF \$150,000?

8 A AS I SAID, I THINK SOMETIME IN JANUARY OF 1981.

9 Q SO YOU AND YOUR PARENTS INVESTED AT THE SAME TIME
10 APPROXIMATELY?

11 A APPROXIMATELY.

12 Q WHEN MR. HUNT WENT TO CHICAGO, WHAT WERE YOU DOING
13 AT THAT TIME?

14 A I WAS STILL IN COLLEGE. I WAS FINISHING UP
15 COLLEGE.

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37. " 1 Q WHERE WERE YOU LIVING AT THAT TIME?

2 A AT MY PARENTS HOUSE.

3 Q DID YOU TALK TO MR. HUNT DURING THE TIME THAT
4 HE WAS IN CHICAGO?

5 A YES, I DID.

6 Q AND DID HE EVER COME BACK TO LOS ANGELES TO VISIT?

7 A YES.

8 Q WHEN HE FIRST LEFT TO GO TO CHICAGO -- EXCUSE
9 ME IF YOU HAVE ALREADY SAID THIS -- WHEN WAS IT?

10 A I THINK IN NOVEMBER OF 1980.

11 Q WHEN WAS THE FIRST TIME HE EVER CAME BACK TO
12 LOS ANGELES AFTER HE HAD LEFT TO GO TO LIVE IN CHICAGO?

13 A I THINK IT WAS THE NEXT WEEKEND.

14 Q AND PERIODICALLY, WHEN HE WOULD COME BACK, WOULD
15 HE TELL YOU HOW HE WAS DOING?

16 A YES, HE WOULD.

17 Q WHAT DID HE SAY?

18 A HE SAID THAT HE WAS DOING GREAT.

19 Q DID YOU SEE ANY EVIDENCE THAT YOU THOUGHT SUPPORTED
20 THAT?

21 A WELL, WHEN HE USED TO COME BACK ON THE WEEKEND,
22 HE WOULD COME BACK WITH A LOT OF CASH IN HIS POCKET AND HE
23 HAD BEEN GENEROUS WITH HIS MONEY BEFORE THAT, BUT THAT WAS
24 THE EXTENT OF PAYING FOR A MOVIE NOW AND THEN.

25 BUT HE CAME BACK WITH LIKE A FEW THOUSAND DOLLARS
26 IN HIS POCKET ON THOSE WEEKENDS AND THAT WAS A LOT.

27 Q AND DID HE TELL YOU THAT THAT WAS AS A RESULT
28 OF HIS SUCCESSES, TRADING COMMODITIES?

37 1 A I DON'T RECALL ASKING HIM SPECIFICALLY. I JUST
2 HAD THAT IMPRESSION.

3 Q AND WHEN HE CAME BACK, WOULD HE TAKE YOU TO MOVIES
4 AND OUT TO DINNER AND THINGS LIKE THAT?

5 A YES.

6 Q AND EVENTUALLY, WHEN HE WAS IN CHICAGO, DID YOU
7 TALK TO HIM ABOUT THE POSSIBILITY OF MOVING OUT OF YOUR PARENTS'
8 HOUSE?

9 A YES.

10 Q WHAT DID YOU TALK TO HIM ABOUT?

11 A BEN AND I WANTED TO MOVE OUT TOGETHER TO GET AN
12 APARTMENT AND BEN HAD FOUND A TOWNHOUSE IN BEVERLY HILLS THAT
13 WAS A VERY GOOD DEAL.

14 AND SO AT THAT TIME, WE TOOK THE OPPORTUNITY TO
15 ASK JOE IF WE HAD ENOUGH MONEY FROM WHAT WE HAD INVESTED IN
16 THE PROFITS, THAT WE WOULD BE ABLE TO AFFORD MOVING OUT.

17 Q WHAT DID HE SAY?

18 A AND HE SAID, "YES."

19 Q AND DID YOU AND MR. DOSTI GET A PLACE IN
20 BEVERLY HILLS?

21 A YES, WE DID.
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8-1

1 Q AND WERE YOU STILL IN COLLEGE AT THAT TIME?

2 A NO. I HAD FINISHED ABOUT A MONTH BEFORE.

3 Q AND HOW LONG DID YOU STAY IN THAT PLACE?

4 A ABOUT FIVE MONTHS.

5 Q DID MR. HUNT EVER PROVIDE YOU ANY MONEY TO USE
6 FOR THE RENT ON THAT APARTMENT?

7 A I DON'T THINK THAT HE DID.

8 Q ALL RIGHT. HE TOLD YOU THAT HE WAS GOING TO?

9 A THAT'S RIGHT. AND BEN HAD SOLD HIS CAR, SO HE
10 HAD SOME MONEY WHICH HE FRONTED FOR THE APARTMENT. AND JOE
11 SAID THAT HE WAS GOING TO SEND MONEY TO REPLACE THAT.

12 MR. BARENS: IS THERE ANY RELEVANCE TO THIS, YOUR HONOR?
13 WE HAVE A RELEVANCY OBJECTION.

14 THE COURT: OVERRULED.

15 Q BY MR. WARNER: AND THROUGH THE BEGINNING TO
16 THE MIDDLE OF 1981, DID HE CONTINUE TO TELL YOU THAT HE WAS
17 DOING WELL IN TRADING COMMODITIES, YOU AND YOUR PARENTS?

18 A HE DID FOR A FEW MONTHS.

19 Q WHAT HAPPENED AFTER THAT FEW MONTHS?

20 A FROM JANUARY THROUGH ABOUT MARCH OR SO. AND
21 THEN HE GREW RATHER DIFFICULT TO CONTACT.

22 Q AND WHAT HAPPENED AFTER THAT?

23 A WELL, AFTER A COUPLE OF WEEKS OF HIM NOT RETURNING
24 PHONE CALLS AND IF I DID CATCH HIM AT HOME OR IF I CAUGHT
25 HIM AT HOME, WHEN I CALLED, HE WOULD SAY THAT HE HAD TO GO
26 AND HE HUNG UP IMMEDIATELY.

27 EVENTUALLY, HE SAID THERE HAD BEEN A BIG LOSS
28 ON THE MARKET.

1 Q AND WHEN WAS IT THAT HE TOLD YOU THAT?

2 A I THINK IT WAS THE END OF APRIL OF 1981.

3 Q DID HE TELL YOU HOW MUCH HE LOST?

4 A HE SAID THAT HE HAD THE ACCOUNT UP TO ABOUT
5 14 MILLION DOLLARS AND THAT HE WAS ALMOST CLEANED OUT BUT
6 THAT THERE WAS STILL SOME MONEY TO START TRADING AGAIN.

7 Q AS A RESULT OF SAYING THAT THERE WAS STILL SOME
8 MONEY, WHAT HAPPENED? DID HE SAY -- LET ME BACK UP.

9 A YES.

10 Q DID HE SAY ANYTHING AT THAT TIME ABOUT WHETHER
11 HE WAS STILL ABLE TO TRADE ON THE FLOOR OF THE EXCHANGE?

12 A YES. HE PLANNED TO KEEP TRADING.

13 Q AND DID YOU OR YOUR PARENTS SEND HIM MORE MONEY
14 AT THAT TIME?

15 A NOT RIGHT THEN, NO.

16 Q AND DID HE STAY BACK THERE AND APPARENTLY
17 CONTINUE TO TRADE?

18 A YES.

19 Q ALL RIGHT. AT SOME POINT, DID MR. DOSTI GO BACK
20 TO CHICAGO?

21 A YES. HE DID.

22 Q WHEN WAS THAT?

23 A IT WAS ABOUT A YEAR LATER, I THINK.

24 Q AND WHY WAS THAT?

25 A HE WENT BACK THERE TO TRADE COMMODITIES BECAUSE
26 JOE HAD BEEN KICKED OFF OF THE EXCHANGE.

27 Q AND WHEN MR. --

28 MR. BARENS: OBJECTION TO THIS CHARACTER EVIDENCE.

1 THE COURT: OVERRULED.

2 Q BY MR. WAPNER: DID THE DEFENDANT EVER GIVE YOU
3 OR YOUR PARENTS ANY REASON WHY ALL OF THE MONEY HAD BEEN
4 LOST INITIALLY IN CHICAGO?

5 A YES. HE DID.

6 Q WHAT DID HE SAY?

7 A HE SAID THAT IN THE COURSE OF HIS TRADING ON
8 THE FLOOR, THAT SINCE THERE WAS SO MUCH PERSONAL INTERACTION
9 BETWEEN THE TRADERS, SOMEONE WHO WOULD MAKE MONEY ON A TRADE
10 AND SOMEONE WHO WOULD LOSE MONEY ON A TRADE, HE SAID THAT
11 HE HAD GOTTEN A LOT OF PEOPLE ANGRY BECAUSE HE WAS SO GOOD
12 AT IT, SO QUICK AND SO ABLE TO TAKE ADVANTAGE OF OPPORTUNITIES.

13 AND HE SAID THAT A LARGE BROKERAGE HOUSE HAD
14 SOMEHOW, CONSPIRED TO SQUEEZE HIM OUT OF A LARGE POSITION
15 THAT HE WAS HOLDING AND THAT THEY HAD SUCCEEDED IN DOING
16 THAT.

17 Q SO THAT THE LOSS WAS NOT HIS FAULT, IN ESSENCE?

18 A YES. SPECIFICALLY, HE SAID THAT IT WAS NOT DUE
19 TO A FLAW IN HIS TRADING APPROACH.

20 Q ALL RIGHT. AND HE MAINTAINED THAT THE APPROACH
21 THAT HE HAD FOR TRADING WAS STILL GOOD, THEN?

22 A RIGHT.

23 Q DID HE TELL YOU THIS LONG BEFORE MR. DOSTI WENT
24 TO CHICAGO?

25 A YES.

26 MR. WAPNER: MIGHT THIS BE AN APPROPRIATE TIME, YOUR
27 HONOR?

28 THE COURT: YES. LADIES AND GENTLEMEN OF THE JURY,

1 WE'LL TAKE A RECESS NOW, AN ADJOURNMENT NOW UNTIL 10:30
2 TOMORROW MORNING AND THE SAME ADMONITION I GAVE YOU STILL
3 APPLIES. GOOD NIGHT.

4 (THE JURY EXITS THE COURTROOM.)
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1 (THE FOLLOWING PROCEEDINGS WERE HELD AT
2 THE BENCH OUTSIDE THE PRESENCE AND HEARING
3 OF THE JURY:)

4 MR. BARENS: TWO THINGS, YOUR HONOR. ONE IS THAT IT
5 OCCURS TO ME THAT THE DEFENSE WOULD APPRECIATE IT IF YOUR
6 HONOR COULD STAY ON THE BENCH WHILE THE JURY EXITS, WHILE
7 MR. KARNY IS STILL IN PLACE, FOR OBVIOUS REASONS.

8 THE COURT: YES.

9 MR. BARENS: I DON'T MEAN TO INCONVENIENCE YOUR HONOR.
10 AND SECONDLY, I AM REALLY CONCERNED ABOUT THE EXCESSIVE
11 CHARACTER EVIDENCE THAT IS COMING IN, HERE. AND I KNOW THAT
12 WE HAD SOME KIND OF DIFFICULT --

13 THE COURT: WHAT DO YOU WANT HIM TO DO, MAKE A DOLL
14 OUT OF THIS GUY? I DON'T UNDERSTAND THAT. KEEP MAKING AS
15 THOUGH IT IS SWEET AND LOVELY AND EVERYTHING IS FINE?

16 HE IS A MAN. HE DOES THINGS THAT ARE WRONG.
17 HE DOES THINGS THAT MAY BE RIGHT AND EVERYTHING ELSE. I
18 CAN'T UNDERSTAND IT.

19 YOU CALL IT CHARACTER ASSASSINATION. I DON'T.
20 HE WAS FIRED FROM THE EXCHANGE. WHAT DIFFERENCE DOES IT
21 MAKE?

22 MR. BARENS: WELL, AS I UNDERSTAND THE EVIDENCE CODE,
23 IT SEEMS TO PRECLUDE CHARACTER ASSASSINATION EVIDENCE BEFORE
24 THE --

25 THE COURT: THERE IS NO EVIDENCE HERE OF CHARACTER
26 AT ALL. ALL THEY ARE DOING IS TALKING ABOUT WHAT HAPPENED.

27 MR. BARENS: WELL YOUR HONOR, IT IS A NEGATIVE CHARACTER
28 INFERENCE, IF HE WAS KICKED OFF OF THE EXCHANGE.

1 THE COURT: WHAT DIFFERENCE DOES IT MAKE? IT EXPLAINS
2 CERTAIN CONDUCT, THAT HE CAME BACK AND --

3 MR. BARENS: I WOULD LIKE MY CLIENT TO GET CONVICTED
4 ON THE STRAIGHT-UPS ABOUT WHETHER HE KILLED RON LEVIN, NOT
5 ABOUT HIS BEING A BAD GUY.

6 THERE IS NO QUESTION THAT THERE WILL BE A LOT
7 OF TESTIMONY. WE CAN DO THIS FOR THE NEXT COUPLE OF DAYS
8 ABOUT HUNT TELLING LIES AND HUNT LOSES OTHER PEOPLE'S
9 MONEY AND TRIES TO COVER IT UP.

10 HUNT LOSES MONEY AND DENIES THAT IT IS HIS FAULT.
11 HE GOT THAT PREVIOUS BUSINESS IN OVER OBJECTION.

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1 AND ALL I AM SAYING IS WE ARE NOT HERE TO CONVICT
2 HUNT OF ANY OF THOSE OFFENSES, JUDGE, AND WHAT WE ARE
3 ACCOMPLISHING BY BEATING HIM UP --

4 THE COURT: WHAT DO YOU SAY?

5 MR. WAPNER: NONE OF THIS IS OFFERED FOR THE PURPOSE
6 OF, SHOWING THAT HE IS A BAD PERSON.

7 MOST OF THIS IS OFFERED AS BACKGROUND TO THE
8 RELATIONSHIP BETWEEN MR. HUNT AND MR. KARNY.

9 IF HE WANTS TO TAKE OUT THE REFERENCE -- STRIKE
10 THE REFERENCE TO HAVING BEEN KICKED OFF THE EXCHANGE, I HAVE
11 NO OBJECTION TO THE COURT STRIKING IT.

12 THE COURT: HAVEN'T WE HAD TESTIMONY ALREADY THAT HE
13 HAS BEEN KICKED OFF THE EXCHANGE? I REMEMBER DISTINCTLY
14 SOMEBODY TESTIFYING TO THAT. ISN'T THAT TRUE?

15 MR. WAPNER: I THINK WE DID ALREADY, I THINK, YOUR HONOR.

16 THE COURT: DIDN'T WE HAVE TESTIMONY TO THAT EFFECT?

17 MR. BARENS: JUDGE --

18 THE COURT: I AM ASKING YOU, MR. BARENS, DO YOU RECALL?

19 MR. BARENS: QUITE SO, I OBJECTED AT THAT TIME.
20 I OBJECTED AT THE TIME AND I AM OBJECTING AGAIN.

21 THE PROBLEM IS WE CAN GET KARNY TO TESTIFY THAT
22 HIS PARENTS SENT HUNT MORE MONEY AND HUNT DENIED THEY LOST
23 MONEY IN THE FIRST PLACE AND WHATEVER HIS THEORY WAS ON
24 TRADING ON SECURITIES, AND SO ON, BUT, JUDGE, IF THAT ISN'T
25 CHARACTER TESTIMONY, I DON'T KNOW WHAT IS.

26 THE COURT: I DON'T THINK IT IS A MATTER OF CHARACTER
27 TESTIMONY. IT HAPPENED BECAUSE THEY DIDN'T LIKE HIM ON THE
28 EXCHANGE AND THEY ASKED HIM TO LEAVE OR THEY KICKED HIM OFF,

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1 WHAT DIFFERENCE DOES IT MAKE?

2 MR. BARENS: JUDGE, THEY USUALLY DON'T ASK THE GOOD
3 GUYS TO LEAVE.

4 THE COURT: WELL, AS MUCH AS POSSIBLE, IF YOU CAN AVOID
5 THIS SO-CALLED CHARACTER ASSASSINATION, WHICH IT ISN'T, DO
6 IT SO WE WON'T HAVE ALL OF THE TIME TAKEN UP WITH THIS.

7 MR. WAPNER: I WILL AND I ACCEPT THE COURT'S RULING
8 ON THAT.

9 BUT SO WE DON'T GET INTO THESE LONG DISCUSSIONS
10 AT THE BENCH THAT JUST DON'T GO ANYWHERE, IF THIS IS MADE
11 IN THE FORM OF AN OBJECTION AND THERE IS SOME RELIEF BEING
12 ASKED, THERE SHOULD BE AN OBJECTION AND THEN THERE SHOULD
13 BE SOME RELIEF.

14 MR. BARENS: THE RELIEF I WOULD LIKE AT THIS POINT IN
15 TIME IS TWOFOLD: ONE, I WOULD LIKE THE JUDGE TO DECLARE THAT
16 THE RESPONSE THAT HUNT WAS FIRED OR KICKED OFF THE EXCHANGE
17 BE STRICKEN.

18 SECONDARILY, TO THE EXTENT THAT THE DISTRICT
19 ATTORNEY IS GOING TO GO INTO EXAMINATION SOLELY OF AN AREA
20 THAT KARNY'S PARENTS SENT HIM MORE MONEY AND HE LOST THE MONEY
21 IN THE EXCHANGE.

22 THE COURT: YOU WANT THAT STRICKEN?

23 MR. BARENS: I DON'T WANT TO EVEN GET TO THAT. WE HAVEN'T
24 EVEN GOT TO THE SECOND MONEY.

25 IT IS JUST THE FIRST MONEY NOW.

26 MR. WAPNER: THE SECOND MONEY, THAT IS SOMETHING DIFFERENT
27 ALTOGETHER. THAT DOESN'T HAVE ANYTHING TO DO WITH CHARACTER.
28 IT GOES TO SHOW A PATTERN OF CONDUCT THAT STARTED, LET'S SEE,

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1 TWO YEARS BEFORE HE STARTED, IN MY OPINION, STEALING MONEY
2 FROM THE INVESTORS IN THIS CASE AND IT IS EXACTLY THE SAME
3 TYPE OF CONDUCT THAT HE EXHIBITED IN THIS CASE, I.E., "I AM
4 TAKING THE MONEY, I'VE GOT THIS GREAT TRADING APPROACH AND
5 ALL OF THE MONEY IS LOST AND IT IS NOT MY FAULT."

6 MR. BARENS: JUDGE, THERE IS NOT A JUROR IN THIS
7 COURTROOM THAT DOESN'T ALREADY BELIEVE THAT HUNT LOSES MONEY
8 IN THE COMMODITIES MARKET. HE IS NOT ON TRIAL HERE FOR
9 STEALING INVESTORS MONEY. THAT IS ANOTHER TRIAL WE CAN DO.

10 THE COURT: HE GOT MONEY SO HE CAN LOSE SOME MORE MONEY,
11 ISN'T THAT IT?

12 MR. BARENS: HE IS NOT ON TRIAL FOR ANY OF THAT STUFF.

13 MR. WAPNER: WHAT IS THE OBJECTION?

14 MR. BARENS: MY OBJECTION IS IT IS IRRELEVANT, IT IS
15 PREJUDICIAL, UNDER 352, IT ACCOMPLISHES NOTHING IN TERMS OF
16 VERIFYING A CONSPIRACY EXECUTED TO EXECUTE OR KILL RONALD
17 LEVIN, THOSE THREE THINGS.

18 THE COURT: ALL RIGHT, I WILL LET IT STAND THE WAY IT
19 IS.

20 MR. BARENS: BUT I AM TALKING ABOUT TOMORROW, MORE OF
21 THE SAME.

22 THE COURT: WELL, I TOLD COUNSEL TO TRY AS MUCH AS
23 POSSIBLE TO AVOID SITUATIONS WHERE WE HAVE TO COME BEFORE
24 THE BENCH AND HAVE THESE LONG, EXTENDED ARGUMENTS.

25 MR. BARENS: THANK YOU.

26 THE COURT: AT THE SAME TIME, I CAN'T SAY TO HIM, PAINT
27 HIM AS A LILY-WHITE KIND OF MAN THAT NEVER MADE A MISTAKE,
28 ALL RIGHT?

1 MR. BARENS: IT WOULDN'T BE POSSIBLE, JUDGE.

2 (AT 4:30 P.M. AN ADJOURNMENT WAS TAKEN
3 UNTIL WEDNESDAY, MARCH 18, 1987, AT
4 10:30 A.M.)

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