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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 101 HON. J. STEPHEN CZULEGER, JUDGE

IN RE )  
JOSEPH HUNT )  
ON HABEAS CORPUS. ) NO. A 090435

COURT OF APPEAL - SECOND DIST.  
REPORTERS' DAILY TRANSCRIPT FILED  
VOLUME 11  
MONDAY, MAY 13, 1996  
PAGE 1759 THROUGH 2009, INCL. 2009-2012  
Clerk  
Deputy Clerk

APPEARANCES:

FOR THE PETITIONER  
JOSEPH HUNT:

ROWAN KLEIN  
ATTORNEY AT LAW  
3201 WILSHIRE BOULEVARD  
SUITE 312  
SANTA MONICA, CALIFORNIA 90403  
AND  
MICHAEL CRAIN  
ATTORNEY AT LAW  
3201 WILSHIRE BOULEVARD  
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FOR THE RESPONDENT  
THE PEOPLE OF THE  
STATE OF CALIFORNIA:

GIL GARCETTI  
DISTRICT ATTORNEY  
BY: ANDREW MC MULLEN, DEPUTY  
AND  
IMOGENE KATAYANA, DEPUTY  
18000 CRIMINAL COURTS BUILDING  
210 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012  
M. HELEN THEISS, CSR, #2264  
PAUL RUNYON, CSR, #8797  
OFFICIAL COURT REPORTER



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IN RE JOE HUNT ON HABEAS CORPUS, B059613  
IN RE JOE HUNT ON HABEAS CORPUS, B059615  
LASC CASE NO. A090435

**2. HUNT EVIDENTIARY HEARING FILE**

e. TRANSCRIPTS

Volume V

<u>No.</u>	<u>Description of Document</u>	<u>Date Generated</u>
9	Reporter's Transcript of Proceedings, 05/09/96, Vol. 10, Evidentiary Hearing, Testimony of Joe Hunt, D. O'Donnell, W. Kilpatrick	Rcv'd 05-13-96
10	Reporter's Transcript of Proceedings, 05/13/96, Vol. 11, Evidentiary Hearing, Testimony of D. Karny, W. Kilpatrick, J. Eisenberg, D. Steier, B. Pierce	Rcv'd 05-14-96





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16 PROCEEDINGS PAGE

17 HEARING 18 1759

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M A S T E R I N D E X

CHRONOLOGICAL INDEX OF WITNESSES

HEARING:

<u>PETITIONER'S</u>					<u>VOIR</u>
<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>DIRE VOL</u>

(NONE)

<u>RESPONDENT'S</u>					<u>VOIR</u>
<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>DIRE VOL</u>

KARNY, DEAN (OUT OF ORDER) (FURTHER)	1763	1775 (C)	1797	1800 (C) 1802 (C)	11 11
KILPATRICK, WILLIAM A. (RESUMED) (FURTHER)		1804 (C)	1887 1911	1899 (C)	11 11
EISENBERG, JEROME JAY	1912	1925 (C)		1940 (C)	11
STEIER, DONALD (FURTHER)	1942	1950 (K)		1954 (K) 1956 (K)	11 11
PIERCE, WILLIAM R. (FURTHER)	1967	1977	1997 2002	1998 2003	11 11

LEGEND: (C) - MR. CRAIN  
(K) - MR. KLEIN



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M A S T E R I N D E X

EXHIBITS

PETITIONER'S EXHIBITS	FOR IDENTIFICATION		IN EVIDENCE		WITHDRAWN OR REJECTED	
	VOL.	PG.	VOL.	PG.	VOL.	PG.
291 - DOCUMENT	11	1806				
301 - DOCUMENT	11	1827				
292 - DOCUMENT	11	1829				
32 - DOCUMENT	11	1837				
294 - DOCUMENT	11	1849				
295 - DOCUMENT	11	1856				
297 - DOCUMENT	11	1861				
298 - DOCUMENT	11	1864				
300 - DOCUMENT	11	1870				
302 - DOCUMENT	11	1930				
303 - DOCUMENT	11	1938				

RESPONDENT'S EXHIBITS	FOR IDENTIFICATION		IN EVIDENCE		WITHDRAWN OR REJECTED	
	VOL.	PG.	VOL.	PG.	VOL.	PG.
U - DECLARATION OF DEAN KARNY	11	1764				
M - DOCUMENT	11	1765				
TT - DOCUMENT	11	1893				
Y - DECLARATION OF JEROME EISENBERG	11	1916				
GG - DOCUMENT	11	1943				

1 LOS ANGELES, CALIFORNIA, MONDAY, MAY 13, 1995

2 9:05 A. M.

3 DEPARTMENT NO. 101

HON. J. STEPHEN CZULEGER, JUDGE

4  
5 APPEARANCES:

6 THE PETITIONER, JOSEPH HUNT, WITH HIS COUNSEL,  
7 ROWAN KLEIN, BAR PANEL APPOINTMENT; AND MICHAEL  
8 CRAIN, BAR PANEL APPOINTMENT; ANDREW MC MULLEN,  
9 DEPUTY DISTRICT ATTORNEY OF LOS ANGELES COUNTY;  
10 IMOGENE KATAYAMA, DEPUTY DISTRICT ATTORNEY OF LOS  
11 ANGELES COUNTY, REPRESENTING THE PEOPLE OF THE  
12 STATE OF CALIFORNIA.

13  
14 (M. HELEN THEISS, CSR #2264, OFFICIAL REPORTER.)

15  
16 (PAUL RUNYON, CSR #8797, OFFICIAL REPORTER.)

17  
18 THE COURT: IN THE CASE OF PEOPLE VERSUS JOSEPH  
19 HUNT, THE RECORD WILL REFLECT ALL COUNSEL ARE PRESENT,  
20 PETITIONER IS PRESENT.

21 MR. KILPATRICK WAS ON THE STAND ON THURSDAY  
22 WHEN WE BROKE. YOU HAVE YOUR WITNESS WHO YOU CALLED, WHO  
23 YOU WANTED TO TAKE OUT OF ORDER LAST WEEK.

24 MR. MC MULLEN: YES, YOUR HONOR. WE HAVE MR. DEAN  
25 KARNY. WE WOULD REQUEST TO TAKE HIM OUT OF ORDER AT THIS  
26 POINT IN TIME. HE IS A PROTECTED WITNESS, AND IF --  
27 THAT'S WITH THE COURT'S PERMISSION.

28 THE COURT: ALL RIGHT.

1 ANY OBJECTION?

2 MR. CRAIN: I AM SORRY?

3 THE COURT: THIS IS WHAT WE DISCUSSED LAST WEEK.

4 MR. CRAIN: MAY I HAVE A MOMENT WITH MR. MC MULLEN?

5

6 (A CONFERENCE WAS HELD BETWEEN  
7 COUNSEL, NOT REPORTED.)

8

9 MR. CRAIN: YOUR HONOR, ONE THING I THINK REMAINS  
10 TO BE RESOLVED ABOUT THE TESTIMONY OF THIS WITNESS THAT  
11 THE COURT PUT ON HOLD, I BELIEVE, AND THAT IS, I BELIEVE,  
12 THE OFFER OF PROOF WAS THEY WERE GOING TO ASK HIM  
13 QUESTIONS CONCERNING TWO THINGS, WHETHER HE SAW THE  
14 SEVEN-PAGE LIST, ACCORDING TO HIS TESTIMONY, AND TO HIS  
15 TESTIMONY AT THE CANTOR-FITZGERALD DEPOSITION.

16 AND THE COURT I THINK WAS INCLINED, LEANING  
17 TOWARDS OUR POSITION THAT THE QUESTION -- THAT TO QUESTION  
18 HIM ABOUT THE CANTOR-FITZGERALD DEPOSITION HAS NO  
19 RELEVANCE. HIS DEPOSITION IS A MATTER OF PUBLIC RECORD.  
20 THE ONLY ISSUE IS WHY DID BARENS DID NOT USE THE  
21 DEPOSITION IN ORDER TO IMPEACH MR. KARNY.

22 SO HAVING MR. KARNY REVIVE WHAT HE SAID AT  
23 THE DEPOSITION WOULD BE IRRELEVANT AND A WASTE OF THE  
24 COURT'S TIME, IT WOULD SEEM TO ME. I HAVE NO PROBLEM WITH  
25 THE OTHER ISSUE.

26 MR. MC MULLEN: WE WEREN'T GOING TO GO INTO WHAT  
27 MR. KARNY TESTIFIED AT THE DEPOSITION, ONLY THAT  
28 PETITIONER COACHED HIM AND SUGGESTED THAT HE LIE, WHETHER

1 THEY TALKED ABOUT THAT APPROACH TO THE DEPOSITION.

2 THE COURT: SO THIS IS RESPONSIVE TO MR. HUNT'S  
3 TESTIMONY ON DIRECT.

4 MR. MC MULLEN: YES. MR. HUNT DID TESTIFY IN THIS  
5 AREA.

6 THE COURT: I WILL ALLOW IT.

7 MR. MC MULLEN: BEFORE WE BRING THE WITNESS OUT,  
8 YOUR HONOR, WE WOULD REQUEST THAT THE COURT ENTER AN ORDER  
9 THAT DURING THE TESTIMONY OF MR. KARNY THAT THERE BE NO  
10 RECORDING DEVICES OR SKETCH ARTIST OR ANY TYPES OF CAMERAS  
11 IN THE COURTROOM. I KNOW THERE ISN'T ANYBODY IN THE  
12 COURTROOM RIGHT HOW, BUT TO THE EXTENT THAT SOMEONE MIGHT  
13 COME IN.

14 THE COURT: FOR THEM TO DO ANYTHING LIKE THAT THEY  
15 WOULD HAVE TO GET AN ORDER OF HE COURT. I AM NOT GOING  
16 ISSUE A COURT ORDER FOR THEM TO DO SO. FIRST OF ALL, THEY  
17 HAVE GOT TO DO A POSITIVE THING TO GET AN ORDER.

18 MR. MC MULLEN: WOULD YOU ENTERTAIN SUCH A REQUEST?

19 THE COURT: IF SOMEBODY SHOWS UP WITH SOME DESIRE  
20 TO RECORD HIS APPEARANCE, WE WILL CROSS THAT BRIDGE WHEN  
21 WE GET TO IT. IT WILL PROBABLY BE GRANTED. RIGHT KNOW WE  
22 DON'T HAVE ANYTHING AT -- IN FACT WE DON'T SEEM TO HAVE A  
23 WHOLE LOT OF INTEREST RIGHT NOW, WHICH IS ALL THE BETTER.

24 MR. MC MULLEN: YES.

25 WE WOULD CALL DEAN KARNY.

26 MR. CRAIN: YOUR HONOR, I HAVE A PROBLEM -- MY  
27 UNDERSTANDING WAS KARNY WAS SCHEDULED FOR TUESDAY. I CAME  
28 HERE WORKING ALL WEEKEND PREPARED TO RESUME THE

1 EXAMINATION OF THE LAST WITNESS. I HAVEN'T HAD AN  
2 OPPORTUNITY TO TALK TO MR. HUNT SINCE LAST THURSDAY IN  
3 REFERENCE TO CERTAIN ASPECTS, YOU KNOW.

4 THE COURT: WE TALKED ABOUT THIS LAST WEEK THAT  
5 KARNY WOULD TESTIFY MONDAY. HE WAS BROUGHT IN ON SUNDAY.

6 MR. KLEIN: YOU MAY HAVE DONE IT WITH SOMEBODY, BUT  
7 NOT WITH THE DEFENSE. NOBODY EVER DISCUSSED IT WITH US.

8 MR. CRAIN: THE LAST DISCUSSION I RECALL HAVING ON  
9 THIS, ALTHOUGH AT ONE TIME WE THOUGHT THAT KARNY MIGHT BE  
10 LAST WEEK, ANOTHER TIME IT WAS MONDAY. THE LAST  
11 DISCUSSION WAS THAT IT WAS GOING TO BE TUESDAY.

12 THE COURT: MR. MC MULLEN?

13 MR. MC MULLEN: I REMEMBER VIVIDLY ON FRIDAY THAT  
14 YOUR HONOR SAID --

15 THE COURT: THURSDAY.

16 MR. MC MULLEN: OR THURSDAY -- EXCUSE ME. THAT'S  
17 RIGHT, ON THURSDAY THAT YOUR HONOR MENTIONED MR. KARNY  
18 BEING HERE ON MONDAY, AND I RESPONDED, YES. IT STICKS IN  
19 MY MIND BECAUSE --

20 THE COURT: IT IS TRUE. WE ARE GOING TO CALL  
21 KARNY.

22 MR. MC MULLEN: THANK YOU.

23 THE COURT: STAND RIGHT THERE, RAISE YOUR RIGHT  
24 HAND AND FACE THE CLERK.

25

26 DEAN KARNY, +  
27 CALLED AS A WITNESS, OUT OF ORDER, BY THE PETITIONER, WAS  
28 SWORN AND TESTIFIED AS FOLLOWS:



1 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE  
2 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE  
3 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH, AND  
4 NOTHING BUT THE TRUTH, SO HELP YOU GOD?

5 THE WITNESS: YES, I DO.

6 THE CLERK: YOU MAY BE SEATED IN THE WITNESS STAND.

7 PLEASE STATE YOUR NAME AND SPELL YOUR NAME.

8 THE WITNESS: DEAN KARNY, D-E-A-N, K-A-R-N-Y.

9 THE COURT: PULL THE MICROPHONE RIGHT UP UNDERNEATH  
10 YOUR CHIN, PLEASE.

11 IS THAT ON?

12 THE WITNESS: YES.

13 THE COURT: YOU MAY INQUIRE.

14 MR. MC MULLEN: THANK YOU

15  
16 DIRECT EXAMINATION @

17  
18 BY MR. MC MULLEN:

19 Q SIR, WERE YOU IN AN ORGANIZATION KNOWN AS THE  
20 B.B.C.?

21 A YES, I WAS.

22 Q AND WHEN WAS THAT? WHEN WERE YOU IN THAT  
23 ORGANIZATION?

24 MR. CRAIN: THESE ARE MATTERS NOT IN DISPUTE. IF  
25 WE ARE GOING TO LITIGATE --

26 THE COURT: I ASSUME IT IS PRELIMINARY TO THE  
27 EVIDENCE --

28 MR. MC MULLEN: JUST A COUPLE OF FOUNDATIONAL

1 QUESTIONS. THAT'S ALL?

2 THE WITNESS: DURING THE EARLY '80'S.

3 BY MR. MC MULLEN:

4 Q AND DO YOU KNOW PETITIONER MR. JOE HUNT IN  
5 THIS CASE?

6 A YES, I DO.

7 Q COULD YOU IDENTIFY HIM IN THE COURTROOM?

8 A THE PERSON SITTING AT THE FAR RIGHT FROM ME  
9 AT THE TABLE.

10 THE COURT: INDICATING PETITIONER JOSEPH HUNT.

11 MR. MC MULLEN: WITH THE COURT'S PERMISSION, WE  
12 WOULD REQUEST THAT RESPONDENT'S EXHIBIT U BE MARKED FOR  
13 IDENTIFICATION, DECLARATION OF DEAN KARNY.

14 THE COURT: U?

15 MR. MC MULLEN: U.

16 THE COURT: SO MARKED AS U.

17

18 (MARKED FOR ID = RESPONDENT'S U,  
19 DECLARATION OF DEAN KARNY.)

20

21 MR. MC MULLEN: MAY I APPROACH THE WITNESS?

22 THE COURT: YES.

23 BY MR. MC MULLEN:

24 Q SHOWING YOU WHAT'S BEEN MARKED AS EXHIBIT U,  
25 WOULD YOU PLEASE TAKE A LOOK AT THAT EXHIBIT?

26

27 (WITNESS COMPLIES.)

28

1 Q DO YOU RECOGNIZE THAT AS YOUR DECLARATION?

2 A YES, I DO.

3 Q AND YOU SIGNED A COPY OF THAT DECLARATION; IS  
4 THAT CORRECT?

5 A YES, I DID.

6 Q AS YOU SIT HERE NOW TODAY TESTIFYING, IS  
7 EVERYTHING IN THAT DECLARATION TRUE AND ACCURATE?

8 A YES.

9 MR. MC MULLEN: YOUR HONOR, WE WOULD REQUEST FOR  
10 THE COURT'S PERMISSION TO HAVE MARKED AS EXHIBIT M. I AM  
11 NOT SURE IF THIS HAS BEEN IDENTIFIED BEFORE.

12 THE COURT: M?

13 MR. MC MULLEN: M.

14 THE COURT: NO.

15 MR. MC MULLEN: SEVEN PAGES OF A LIST, FIRST ONE  
16 STARTING WITH, "AT LEVIN'S TO-DO."

17 THE COURT: THE TO-DO LIST. IT WILL BE MARKED AS  
18 M.

19

20 (MARKED FOR ID = RESPONDENT'S M,

21 DOCUMENT.)

22

23 MR. MC MULLEN: YES.

24 YOUR HONOR, WE HAVE PULLED THE ORIGINAL TRIAL  
25 EXHIBIT, WHICH IS TRIAL EXHIBIT 55-, M IS A COPY OF THAT.  
26 IN TALKING TO THE WITNESS THERE WE WOULD REQUEST TO USE  
27 THE ORIGINAL TRIAL EXHIBIT BECAUSE IT IS --

28 THE COURT: WE WILL SUBSTITUTE THE COPY FOR THE

1 RECORD, THEN.

2 MR. CRAIN: AS LONG AS THE COPY --

3 THE COURT: CHECK THE COPY JUST TO MAKE SURE, BUT  
4 YOU CAN USE YOUR ORIGINAL, AND THEN -- ACCORDING TO THE  
5 CLERK'S RECORD IT WAS MARKED ON APRIL 22ND.

6 MR. MC MULLEN: I THOUGHT MAYBE IT WAS MARKED.

7 THE COURT: I DIDN'T HAVE IT ON MINE.

8 BY MR. MC MULLEN:

9 Q SHOWING YOU WHAT'S BEEN PREVIOUSLY MARKED AS  
10 EXHIBIT M, AND ACTUALLY THE ORIGINAL OF THAT, THE TRIAL  
11 EXHIBIT 55, DO YOU RECOGNIZE THOSE PAGES?

12 A YES, I DO.

13 Q AND WHEN WAS THE FIRST TIME THAT YOU ACTUALLY  
14 SAW THOSE LISTS?

15 A IT WAS TOWARDS THE VERY END OF MAY OR EARLY  
16 JUNE IN 1984.

17 Q AND DID YOU TALK TO MR. HUNT WITH RESPECT TO  
18 THE SUBJECT MATTER OF THOSE LISTS?

19 A YES, I DID.

20 Q AND WHEN DID YOU FIRST TALK TO HIM ABOUT THE  
21 SUBJECT MATTER OF THOSE LISTS?

22 A FIRST TIME THAT I SAW THEM.

23 Q AND BASED UPON YOUR CONVERSATIONS WITH  
24 MR. HUNT WHAT WAS THE PURPOSE OF THOSE LISTS?

25 A IT WAS --

26 MR. MC MULLEN: YOUR HONOR -- EXCUSE ME. THIS IS  
27 IRRELEVANT. THE QUESTION THE OFFER OF PROOF.

28 THE COURT: THE OBJECTION IS IT CALLS FOR

1 SPECULATION. I WILL SUSTAIN THAT OBJECTION. IT IS  
2 RELEVANT HOWEVER.

3 BY MR. MC MULLEN:

4 Q DID MR. HUNT TELL WHAT YOU THE PURPOSE OF  
5 THAT LIST WAS?

6 MR. CRAIN: I OBJECT AGAIN. THE OFFER OF PROOF IS  
7 WHEN HE CLAIMS HE SAW THE LIST. WHAT MR. MC MULLEN IS NOW  
8 TRYING TO DO IS TO GET BEFORE THE COURT THE ENTIRE HISTORY  
9 OF LEVIN, THE LIST, THIS WITNESS'S RELATIONSHIP TO  
10 MR. HUNT AND THE B.B.C. THAT'S EXACTLY WHAT HE IS TRYING  
11 TO DO. IT IS WAY OUTSIDE THE OFFER OF PROOF, AND THIS --  
12 WHAT THIS COURT HAS RULED, THAT IT WOULD BE TAKE VERY  
13 LIMITED TESTIMONY FROM BOTH SIDES AS TO MR. KARNY.

14 THE COURT: IT WILL BE LIMITED. I WILL HEAR THE  
15 CONTEXT UNDER WHICH HE SAW THE LIST. THIS IS RESPONSIVE  
16 TO MR. HUNT'S TESTIMONY.

17 THE COURT: I AM SORRY.

18 COULD YOU REPEAT THE QUESTION?

19 MR. MC MULLEN: YES.

20 BY MR. MC MULLEN:

21 Q DID MR. HUNT TELL YOU WHAT THE PURPOSE OF  
22 THAT LIST WAS?

23 A WE DISCUSSED IT, YES.

24 Q WHAT DID HE SAY?

25 A THAT IT WAS THE THINGS THAT HE HAD TO DO, AND  
26 THE ORDER IN WHICH THEY SHOULD BE DONE WHEN HE WAS AT RON  
27 LEVIN'S HOUSE.

28 Q DID HE SAY -- DID HE SAY WHAT HE WAS GOING TO

1 DO AT RON LEVIN'S HOUSE? WHAT HE WAS GOING TO DO TO RON  
2 LEVIN?

3 A HE WAS GOING TO KILL RON LEVIN.

4 Q HAD MR. HUNT EVER MENTIONED THAT HE WAS GOING  
5 TO KILL RON LEVIN PRIOR TO WHEN YOU TALKED TO HIM ABOUT  
6 THE LIST?

7 MR. CRAIN: YOUR HONOR, AGAIN THIS IS DIRECTLY IN  
8 VIOLATION OF WHAT THIS COURT SAID IT WOULD TAKE VERY  
9 LIMITED TESTIMONY FROM THIS WITNESS ON. WE HAD  
10 DISCUSSIONS A WEEK AGO TUESDAY ABOUT THE PARAMETERS OF  
11 THIS TESTIMONY, A VAST SCOPE OF MATERIAL WOULD BE  
12 AVAILABLE IF THE COURT WOULD HAVE PERMITTED IT. THE COURT  
13 MADE NUMEROUS STATEMENTS ABOUT --

14 THE COURT: THE OBJECTION IS OVERRULED. IT IS  
15 LIMITED. LET'S MOVE TO IT. LET'S MOVE OUT OF IT.

16 MR. MC MULLEN: YES.

17 BY MR. MC MULLEN:

18 Q DO YOU HAVE THE QUESTION IN MIND?

19 A NO.

20 Q PRIOR TO WHEN YOU HAD THE DISCUSSION WITH  
21 MR. HUNT WITH RESPECT TO THOSE LISTS, HAD HE EVER SAID TO  
22 YOU THAT HE, THAT HE WANTED TO KILL RON LEVIN?

23 A YES.

24 Q AND WHEN WAS THAT IN RELATION TO THE FIRST  
25 TIME THAT YOU SAW THOSE LISTS?

26 A TWO TO THREE MONTHS BEFORE.

27 Q WHAT DID HE SAY?

28 A ON ONE OCCASION HE SAID THAT ONE OF THESE

1 DAYS HE WAS GOING TO GET AROUND TO KILLING RON LEVIN.

2 Q AND BETWEEN THE TIME THAT HE SAID THAT AND  
3 WHEN YOU SAW THE LIST, DID MR. HUNT DO ANYTHING -- WHAT,  
4 IF ANYTHING, DID MR. HUNT DO WITH RESPECT TO FULFILLING  
5 HIS DESIRE TO KILL MR. LEVIN?

6 MR. CRAIN: YOUR HONOR, AGAIN. I HAVE TO OBJECT.  
7 IT SEEMS TO ME --

8 THE COURT: EXCUSE ME, COUNSEL.

9 STATE THE GROUNDS FOR THE OBJECTION. DO NOT  
10 MAKE SPEAKING OBJECTIONS.

11 IS THE OBJECTION RELEVANCE?

12 MR. CRAIN: I WOULD LIKE TO EXPLAIN WHY IT IS  
13 IRRELEVANT.

14 THE COURT: IS THE OBJECTION RELEVANCE?

15 MR. CRAIN: THE OBJECTION IS RELEVANCE?

16 THE COURT: SUSTAINED AS TO THAT QUESTION.

17 MR. CRAIN: THANK YOU

18 THE COURT: PLEASE DO NOT MAKE SPEAKING OBJECTIONS.  
19 IF I NEED HELP, I WILL LET YOU KNOW.

20 MR. CRAIN: THANK YOU.

21 BY MR. MC MULLEN:

22 Q ON THE EVENING OF JUNE 6, 1984, DO YOU  
23 REMEMBER GOING TO A MOVIE THEATER?

24 A YES.

25 Q AND PRIOR TO GOING TO THE MOVIE THEATER DID  
26 YOU SEE MR. HUNT?

27 A YES, I DID.

28 Q AND WHERE DID YOU SEE MR. HUNT?

1           A           I SAW HIM AT THE OFFICE DURING THE DAY, AND I  
2 SAW HIM AT THE APARTMENT TOWARD THE EVENING.

3           Q           AND WHERE DID YOU SEE HIM IN THE APARTMENT?

4           A           IN HIS BEDROOM.

5           Q           AND WHAT WAS MR. HUNT DOING IN THE BEDROOM?

6           A           HE WAS LOOKING OVER SOME OF THESE PAPERS.

7           Q           WHEN YOU SAY "THESE PAPERS," YOU ARE  
8 REFERRING TO EXHIBIT M; IS THAT CORRECT, THE LIST IN FRONT  
9 OF YOU?

10          A           THAT'S RIGHT.

11          Q           DO YOU KNOW APPROXIMATELY WHAT TIME THAT WAS?

12          A           IT WAS LATE AFTERNOON, EARLY EVENING, MAYBE  
13 5:00 OR 6:00 OR SO.

14          Q           AND WHAT TIME DID YOU GO TO THE MOVIES THAT  
15 NIGHT?

16          A           I THINK ABOUT AN HOUR AFTER THAT.   MAYBE  
17 AROUND 7:00.

18          Q           PRIOR TO THAT POINT IN TIME, THE NIGHT THAT  
19 YOU WENT TO THE MOVIES, YOU HAD DISCUSSIONS WITH MR. HUNT  
20 WITH RESPECT TO THE LIST THAT'S IN FRONT OF YOU THERE?

21          A           YES.

22          Q           AND WHEN DID THOSE DISCUSSIONS OCCUR?

23          A           THEY OCCURRED THE FIRST TIME THAT I SAW THESE  
24 LISTS IN THE EVENING AT THE B.B.C. OFFICES.

25          Q           DID MR. HUNT EVER TELL YOU THAT THOSE LISTS  
26 WERE RELATED TO A MOVIE SCRIPT IDEA THAT HE WAS WORKING ON  
27 WITH MR. LEVIN?

28          A           NO.



1 Q DID HE EVER TELL YOU THAT THERE WAS AN  
2 ELEMENT OF THOSE LISTS THAT INVOLVED THE MAFIA?

3 A YES.

4 Q WHAT DID HE SAY WITH RESPECT TO THAT?

5 A THERE IS A PART ON THE LIST, ONE OF THEM THAT  
6 SAYS SOMETHING WITH RESPECT TO LEVIN, "HIS SITUATION" OR  
7 "EXPLAIN SITUATION," AND WHAT MR. HUNT EXPLAINED TO ME WAS  
8 THAT THAT REFERRED TO THE PART OF HIS PLAN WHERE HE WAS  
9 GOING TO SOMEHOW CONVINCING RON LEVIN THAT HE, JOE HUNT,  
10 OWED MONEY TO THE MAFIA, AND THAT BECAUSE OF THAT THAT WAS  
11 WHY HE WAS THERE TRYING TO GET MONEY FROM LEVIN, AND THE  
12 WHOLE POINT WOULD BE TO CONVINCING RON LEVIN THAT HE WAS  
13 GOING TO SURVIVE THAT NIGHT, AND THAT IN FACT JOE WAS JUST  
14 AS MUCH UNDER THREAT AS RON LEVIN WAS.

15 Q EXCUSE ME.

16 DID YOU EVER PARTICIPATE IN A CONFERENCE  
17 MEETING WITH MR. HUNT, MR. MAY, MR. TAGLANETTI AND  
18 MR. DICKER AND YOURSELF WITH RESPECT TO THAT LIST?

19 A NEVER.

20 Q TO YOUR KNOWLEDGE WAS THERE SUCH A MEETING  
21 INVOLVING OTHER PEOPLE BESIDES YOURSELF AND THAT LIST?

22 A NO.

23 Q WHEN YOU TALKED TO MR. HUNT WITH RESPECT TO  
24 THE LIST THAT'S IN FRONT OF YOU, WAS THERE ANYBODY ELSE  
25 PRESENT IN THE ROOM?

26 A NO.

27 Q WHERE DID YOU TALK TO MR. HUNT, WHEN YOU  
28 FIRST SAW THAT LIST?

1           A           IT WAS IN HIS OFFICE, AT THE B.B.C. OFFICE ON  
2 3RD STREET.

3           Q           OTHER THAN A PLAN WITH RESPECT TO MURDERING  
4 RON LEVIN, WAS THERE ANY OTHER PLAN THAT'S NOTED IN THAT  
5 LIST THAT YOU DISCUSSED WITH MR. HUNT?

6           A           YES.

7           MR. CRAIN:   AGAIN, IRRELEVANT.

8           THE COURT:   OVERRULED.

9           THE WITNESS:  THE PLAN TO COVER UP AFTER THE MURDER  
10 WAS A LARGE PART OF THIS.

11 BY MR. MC MULLEN:

12          Q           DO YOU REMEMBER A CIVIL LAWSUIT WHEREIN YOU  
13 WERE NAMED AS A DEFENDANT INVOLVING CANTOR-FITZGERALD?

14          A           YES.

15          Q           AND WAS MR. HUNT ALSO A NAMED DEFENDANT IN  
16 THAT CASE?

17          A           YES.

18          Q           AND WAS YOUR DEPOSITION TAKEN IN THAT CASE?

19          A           YES.

20          Q           AND WAS MR. HUNT'S DEPOSITION TAKEN IN THE  
21 CANTOR-FITZGERALD CIVIL LAWSUIT?

22          A           YES.

23          Q           WAS HIS DEPOSITION PRIOR TO YOUR DEPOSITION?

24          A           YES.

25          Q           AND DID YOU HAVE DISCUSSIONS WITH MR. HUNT  
26 PRIOR TO YOUR DEPOSITION IN THE CANTOR-FITZGERALD LAWSUIT  
27 ABOUT YOUR DEPOSITION?

28          A           YES, I DID.

1 Q WHAT WAS DISCUSSED BETWEEN YOU AND MR. HUNT  
2 WITH RESPECT TO YOUR DEPOSITION?

3 MR. CRAIN: OBJECTION, VAGUE AS TO TIME.

4 THE COURT: THIS IS AFTER THE HUNT DEPOSITION,  
5 PRIOR TO THE KARNY DEPOSITION?

6 MR. MC MULLEN: LET ME ASK ANOTHER QUESTION.

7 THE COURT: GO AHEAD.

8 BY MR. MC MULLEN:

9 Q AFTER MR. HUNT HAD HIS DEPOSITION AND PRIOR  
10 TO YOUR DEPOSITION, DID YOU HAVE A DISCUSSION WITH  
11 MR. HUNT WITH RESPECT TO YOUR DEPOSITION?

12 A YES, I DID.

13 Q AND WHAT DID YOU TALK ABOUT WITH RESPECT TO  
14 YOUR DEPOSITION OF CANTOR-FITZGERALD LAWSUIT?

15 A JOE TOLD ME THE KIND OF THINGS THAT HE  
16 EXPECTED THEM TO ASK ME, AND WE TALKED ABOUT THE KIND OF  
17 ANSWERS THAT I COULD GIVE.

18 Q AND WAS THERE ANY SUGGESTION THAT -- WELL,  
19 LET ME WITHDRAW THAT.

20 DID MR. HUNT TELL YOU THAT HE HAD LIED IN HIS  
21 DEPOSITION?

22 A YES.

23 Q WAS THERE DISCUSSION ABOUT, BETWEEN YOU AND  
24 MR. HUNT ABOUT YOU LYING IN YOUR DEPOSITION?

25 A YES.

26 Q AND WHAT DID HE SAY TO YOU WITH RESPECT TO  
27 THE KIND OF THINGS YOU WERE TO LIE ABOUT?

28 A WELL, PRIMARILY IT WAS ABOUT THE ISSUE OF

1 WHAT MY -- WHAT MY NET WORTH WAS PRIOR TO STARTING THE  
2 ACCOUNT AT CANTOR-FITZGERALD. I GUESS THAT WAS THE LARGE  
3 PART OF THE BASIS OF THAT SUIT IS THAT I HAD SIGNED A  
4 STATEMENT ABOUT WHAT MY NET WORTH WAS AS A REPRESENTATION  
5 IN ORDER TO GET THE ACCOUNT OPEN, AND THE THINGS ON THAT  
6 STATEMENT WERE NOT TRUE.

7 AND AS FAR AS WHAT I WAS GOING TO SAY AT THE  
8 DEPOSITION THAT I DISCUSSED WITH JOE WAS MAINLY TO BE  
9 EVASIVE AND NOT TO ADMIT THAT THOSE THINGS WEREN'T TRUE.

10 Q AND DID MR. HUNT TELL YOU TO BE EVASIVE IN  
11 YOUR DEPOSITION?

12 A YES.

13 Q DID YOU REVIEW MR. HUNT'S DEPOSITION PRIOR TO  
14 YOUR DEPOSITION?

15 A I THINK I DID.

16 MR. MC MULLEN: MAY I JUST HAVE A MOMENT?

17 THE COURT: YES.

18

19 (PAUSE.)

20

21 BY MR. MC MULLEN:

22 Q JUST SO IT IS CLEAR, ON JUNE 6TH PRIOR TO  
23 GOING TO THE MOVIE THEATER, YOU SAW MR. HUNT WORKING ON  
24 THAT LIST; IS THAT CORRECT?

25 A YES.

26 Q AND WHEN WAS THE FIRST TIME THAT YOU SAW THAT  
27 LIST PRIOR TO JUNE 6TH?

28 A A FEW DAYS BEFORE.

1 MR. MC MULLEN: NOTHING FURTHER.

2 THE COURT: CROSS-EXAMINATION.

3 MR. CRAIN: YOUR HONOR, I NEED A MINUTE OR TWO.

4 THE COURT: GO AHEAD.

5 MR. CRAIN: THANK YOU.

6 MR. KLEIN: YOUR HONOR, CAN WE BORROW EXHIBIT 15-E  
7 FROM THE PETITION?

8 THE COURT: I AM SORRY.

9 MR. KLEIN: CAN WE BORROW EXHIBIT 15-E FROM THE  
10 PETITION?

11 THE COURT: OURS ARE IN A FILE CABINET. IT IS ALL  
12 BOUND.

13 MR. KLEIN: WE DIDN'T EXPECT THIS TO HAPPEN, SO WE  
14 ARE MISSING SOMETHING WE NEEDED.

15 DO YOU HAVE EXHIBIT 15-E TO THE PETITION?

16 MR. MC MULLEN: I AM NOT SURE.

17 MR. KLEIN: IT IS EXHIBIT 15-E TO THE PETITION. IT  
18 IS THE CANTOR-FITZGERALD DEPOSITION HERE.

19 MR. KLEIN: DO YOU HAVE IT UPSTAIRS?

20 MR. MC MULLEN: YES, WE DO.

21 MR. CRAIN: THANK YOU

22 THE COURT: GO AHEAD.

23

24 CROSS-EXAMINATION +

25

26 BY MR. CRAIN:

27 Q MR. KARNY, BACK IN NOVEMBER OF 1984 WERE YOU  
28 INTERVIEWED BY DETECTIVE ZOELLER OF THE BEVERLY HILLS

1 POLICE DEPARTMENT?

2 MR. MC MULLEN: OBJECTION. RELEVANCE.

3 THE COURT: I WILL ALLOW IT.

4 WHERE IT IS GOING?

5 MR. CRAIN: PRIOR STATEMENT.

6 BY MR. CRAIN:

7 Q WERE YOU?

8 A YES, I WAS.

9 Q AND HE TAPED YOU IN THAT REGARD; IS THAT  
10 RIGHT?

11 A I THINK SO.

12 Q YOU THINK SO.

13 YOU SAW HIM TAPING YOU, DIDN'T YOU? YOU WERE  
14 THERE?

15 A YES.

16 Q SO HE DID TAPE IT; RIGHT?

17 A I NEVER HEARD THE TAPE, BUT I THINK THERE WAS  
18 A TAPE.

19 Q YOU READ THE TRANSCRIPT AT SOME POINT LATER  
20 ON; IS THAT RIGHT?

21 A YES, I DID.

22 Q THAT WAS A TRANSCRIPT OF THE DISCUSSION  
23 BETWEEN YOU AND ZOELLER AND OTHER POLICE OFFICERS IN  
24 NOVEMBER OF 1984; RIGHT?

25 A RIGHT.

26 Q AND YOU TESTIFIED AT MR. HUNT'S 1987 TRIAL  
27 CONCERNING EXHIBIT M; DIDN'T YOU?

28 A IS THIS EXHIBIT M?

1 Q YES.

2 MR. CRAIN: HE IS NOW HOLDING IT UP, YOUR HONOR,  
3 THE LIST.

4 THE COURT: YES, EXHIBIT M.

5 THE WITNESS: YES.

6 BY MR. CRAIN:

7 Q WERE YOU ASKED QUESTIONS ABOUT IT, ASKED  
8 ASKED QUESTIONS ABOUT WHETHER YOU HAD SEEN IT ON THE  
9 EVENING OF JUNE 6, 1984; IS THAT RIGHT?

10 A RIGHT.

11 Q NOW, WHEN YOU LEFT TO GO TO THE MOVIES THAT  
12 EVENING -- IS THAT RIGHT?

13 A RIGHT.

14 Q -- YOU LEFT FROM THE CONDOMINIUM AT MANNING  
15 AND WILSHIRE; IS THAT RIGHT?

16 A THAT'S RIGHT.

17 Q WHEN YOU LEFT THE CONDOMINIUM WAS MR. HUNT  
18 STILL THERE?

19 A YES.

20 Q AND, IN FACT, YOU TESTIFIED THAT HE WAS STILL  
21 THERE PREVIOUSLY; IS THAT RIGHT, AT THAT TIME WHEN YOU  
22 LEFT TO GO TO THE MOVIES; IS THAT CORRECT?

23 A I THINK I DID.

24 Q YOU WERE ASKED ABOUT THAT SAME SUBJECT IN  
25 YOUR NOVEMBER, 1984, INTERVIEW BY DETECTIVE ZOELLER,  
26 WEREN'T YOU?

27 A I AM NOT SURE EXACTLY WHAT I WAS ASKED AND  
28 WHEN, AS YOU KNOW I HAVE TESTIFIED AND BEEN INTERVIEWED A

1 LOT OF TIMES ABOUT THIS, AND EXACTLY WHAT I SAID ON WHICH  
2 OCCASION OR WHAT I WAS ASKED ON WHICH OCCASION, I CAN'T  
3 TELL YOU FOR SURE.

4 Q MR. KARNY, DIDN'T YOU TELL DETECTIVE ZOELLER  
5 THAT AT THE TIME THAT YOU LEFT TO GO TO THE MOVIES ON THE  
6 EVENING OF JUNE 6, 1984, MR. HUNT HAD ALREADY LEFT?

7 A I DON'T RECALL THAT.

8 Q LET ME SHOW YOU.

9 MR. CRAIN: PARDON ME, YOUR HONOR, IF I MAY.

10 THE COURT: YES,  
11

12 (A CONFERENCE WAS HELD BETWEEN COUNSEL  
13 AND THE PETITIONER, NOT REPORTED.)  
14

15 BY MR. CRAIN:

16 Q SO YOU ARE TELLING THIS COURT WHEN YOU LEFT  
17 TO GO TO THE MOVIES MR. HUNT WAS STILL AT THE CONDO ON  
18 MANNING, HE WAS WORKING ON THE LIST; IS THAT --

19 MR. MC MULLEN: OBJECTION. MISSTATES THE EVIDENCE.

20 THE COURT: SUSTAINED.

21 BY MR. CRAIN:

22 Q HAVE YOU EVER CLAIMED THAT HE WAS WORKING ON  
23 THE LIST WHEN YOU LEFT FOR THE MOVIES?

24 MR. MC MULLEN: OBJECTION. IRRELEVANT.

25 THE COURT: OVERRULED.

26 THE WITNESS: I DON'T THINK I HAVE SPECIFICALLY  
27 SAID THAT.  
28



1 BY MR. CRAIN:

2 Q MR. HUNT'S 1987 TRIAL IN SANTA MONICA WERE  
3 YOU ASKED THE FOLLOWING QUESTIONS, AND DID YOU GIVE THE  
4 FOLLOWING ANSWERS?

5 MR. CRAIN: CALLING COUNSEL'S ATTENTION AND THE  
6 COURT'S TO PAGE 1,940 OF THAT TRIAL TRANSCRIPT.

7 BY MR. CRAIN:

8 Q (READING): "QUESTION --

9 THE COURT: WHAT IS THE PAGE NUMBER?

10 MR. CRAIN: 1,940.

11 THE COURT: WHAT DID YOU SAY?

12 MR. CRAIN: 10,940 -- EXCUSE ME.

13 THE COURT: I CAN GUARANTEE YOU I DIDN'T MEMORIZE  
14 THE PAGES OF THE TRIAL, BUT THAT DID NOT SOUND RIGHT.

15 MR. CRAIN: I AM USED TO SMALL NUMBERS ESPECIALLY  
16 SINCE I GOT INTO THIS COURTROOM, YOUR HONOR, SO I AM SURE  
17 THE COURT WILL UNDERSTAND.

18 THE COURT: WHAT ARE YOU REFERRING TO MR. CRAIN?

19 MR. CRAIN: ON AN UNRELATED SUBJECT, WHICH I AM  
20 SURE WILL BE RESOLVED TO THE SATISFACTION OF EVERYONE.

21 BY MR. CRAIN:

22 Q GOING BACK TO THIS AT PAGE 10,940, WERE YOU  
23 ASKED THESE QUESTIONS, MR. KARNY, AND DID YOU GIVE THESE  
24 ANSWERS BEGINNING AT LINE 8 (READING):

25 "Q DID YOU SEE JOE -- WELL,  
26 BEFORE YOU WENT TO THE MOVIES YOU  
27 WERE AT MANNING?

28 A YES.

1 Q AND DO YOU REMEMBER WHETHER  
2 OR NOT YOU SAW JOE HUNT AT THE  
3 MANNING BEFORE YOU WENT TO THE  
4 MOVIES?

5 A YES, I DO.

6 Q AND WHERE IN THE WILSHIRE  
7 MANNING DID YOU SEE HIM, AND WHAT  
8 WAS HE DOING?

9 A HE WAS AT THE DESK IN HIS  
10 BEDROOM, AND HE WAS LOOKING AT THESE  
11 LISTS.

12 Q THE LISTS THAT ARE PART OF  
13 PEOPLE'S 55?

14 A THAT'S RIGHT.

15 Q AND WAS HE STILL THERE, WHEN  
16 YOU LEFT TO GO TO THE MOVIES?

17 A YEAH."

18 WAS THAT YOUR TESTIMONY AT MR. HUNT'S 1987  
19 TRIAL IN SANTA MONICA?

20 MR. MC MULLEN: OBJECTION.

21 THE COURT: IT IS FOR IMPEACHMENT. THAT WAS YOUR  
22 TESTIMONY?

23 THE WITNESS: I BELIEVE IT WAS.

24 BY MR. CRAIN:

25 Q NOW, IN YOUR NOVEMBER, 1984, INTERVIEW WITH  
26 DETECTIVE ZOELLER, DIDN'T YOU TELL HIM THAT AT THE TIME  
27 YOU LEFT FOR THE MOVIES MR. HUNT HAD ALREADY LEFT THE  
28 MANNING?

1 A I DON'T RECALL SAYING THAT.

2 Q DID YOU MAKE THIS STATEMENT TO DETECTIVE  
3 ZOELLER, QUESTION -- STRIKE THAT.

4 MAKE THIS STATEMENT (READING):

5 "DEAN KARNY: WELL, HE --" REFERRING  
6 TO MR. HUNT -- "HE LEFT TELLING US  
7 TO GO OUT TO DINNER AND THE MOVIES.  
8 DETECTIVE ZOELLER: AT ABOUT WHAT  
9 TIME?

10 DEAN KARNY: SO IT WAS ABOUT, ABOUT  
11 DINNER TIME. HE WENT TO HAVE DINNER  
12 WITH LEVIN, THAT WAS HIS PLAN."

13 NOW, DID YOU TELL, DID YOU MAKE THOSE  
14 STATEMENTS TO DETECTIVE ZOELLER IN YOUR INTERVIEW THE  
15 TRANSCRIPT OF WHICH YOU HAVE READ IN NOVEMBER, 1984?

16 MR. MC MULLEN: OBJECTION. INAPPROPRIATE  
17 IMPEACHMENT BEFORE --

18 THE COURT: OVERRULED.

19 THE WITNESS: I DON'T RECALL.

20 BY MR. CRAIN:

21 Q WAS YOUR MEMORY BETTER IN 1984, NOVEMBER OF  
22 1984 ABOUT THESE EVENTS THAN IT WAS IN 1987?

23 MR. MC MULLEN: OBJECTION. CALLS FOR SPECULATION?

24 THE COURT: SUSTAINED.

25 MR. CRAIN: WAS IT BETTER IN 1984 THAN IT IS  
26 TODAY?

27 MR. MC MULLEN: SAME OBJECTION. SPECULATION.

28 THE COURT: THESE ARE NOT HELPFUL. YOU DON'T HAVE

1 A JURY IN THE BOX.

2 MR. CRAIN: WE HAVE A TRIER OF FACT ABOUT --

3 THE COURT: BUT THOSE WORK WITH JURORS, NOT WITH  
4 ME.

5 MR. CRAIN: I HOPE THE INCONSISTENT STATEMENTS HAVE  
6 SOMETHING --

7 THE COURT: THAT'S WHY I ALLOWED IT.

8 MR. CRAIN: EXCUSE ME, FOR A MOMENT.

9 BY MR. CRAIN:

10 Q MR. KARNY, IS IT YOUR TESTIMONY THAT EXHIBIT  
11 M IS THE LIST THAT YOU SAW MR. HUNT ALLEGEDLY WORKING ON  
12 THE NIGHT OF JUNE 6, 1984?

13 A IS EXHIBIT M ALL SEVEN OF THE PAGES; IS THAT  
14 WHAT YOU CONSIDER EXHIBIT M?

15 THE COURT: EXHIBIT M IS ALL OF THOSE PAGES.

16 THE WITNESS: OKAY. THERE WERE DIFFERENT VERSIONS  
17 AND SOME OF THESE PAGES, AT LEAST SOME OF THEM ARE WHAT I  
18 SAW, YES.

19 BY MR. CRAIN:

20 Q WELL, ARE ALL THE PAGES WHAT YOU CLAIM YOU  
21 SAW MR. HUNT WORKING ON ON THAT EVENING OR NOT?

22 A WELL, I DON'T -- I HAVE NEVER SAID THAT I  
23 HAVE A SPECIFIC RECOLLECTION OF EVERY SINGLE ONE OF THESE  
24 PAGES, BUT SOME OF -- AT LEAST A COUPLE OF THEM WERE  
25 THERE.

26 Q WHICH COUPLE?

27 A THE ONE THAT SAYS, "AT LEVIN'S TO DO."

28 Q IS THAT THE ONE THAT, ON TOP OF EXHIBIT M, AS

1 YOU ARE LOOKING AT IT NOW IN THE PLASTIC WRAPPER?

2 A YES.

3 Q WHAT OTHER ONE DID YOU SPECIFICALLY SEE THAT  
4 EVENING OF JUNE 6, 1984?

5 A THE ONE THAT IS ALSO A LIST, AND LET'S SEE  
6 WHAT IT SAYS ON HERE -- WELL, I CAN SHOW YOU THE ONE, IF  
7 YOU LIKE.

8 THE COURT: WHAT DOES IT SAY ON TOP?

9 THE WITNESS: IT STARTS WITH (READING), "GET ALARM  
10 CODE."

11 BY MR. CRAIN:

12 Q NOW, IN YOUR TESTIMONY ABOUT SEEING THE LIST  
13 IN THIS COURT, YOU WERE REFERRING TO --

14 MR. CRAIN: MAY I APPROACH THE WITNESS, YOUR HONOR?

15 THE COURT: YES.

16 MR. CRAIN: THANK YOU.

17 BY MR. CRAIN:

18 Q MR. KARNY, IN YOUR TESTIMONY IN THIS COURT  
19 ABOUT SEEING THE LIST YOU WERE REFERRING TO THE PAGE HERE,  
20 I AM POINTING TO THE TOP OF EXHIBIT M, THAT SAYS  
21 (READING): "AT LEVIN'S TO DO," IS THAT WHAT YOU ARE  
22 TELLING US, YOU ARE SAYING YOU SAW THAT EVENING?

23 A WELL, I AM SAYING THAT I SAW EITHER THIS ONE  
24 OR THE OTHER ONE THAT I MENTIONED OR BOTH OF THEM.

25 Q NOW, IN YOUR INTERVIEW WITH DETECTIVE ZOELLER  
26 IN NOVEMBER OF 1984 --

27 MR. CRAIN: MAYBE THE RECORD SHOULD REFLECT WHAT HE  
28 WAS JUST POINTING TO AGAIN.

1 THE COURT: THE ONE THAT'S MARKED "TO-DO LIST," AND  
2 THE OTHER ONE THAT'S STARTS, "GET CODE."

3 BY MR. CRAIN:

4 Q IN YOUR INTERVIEW WITH DETECTIVE ZOELLER IN  
5 NOVEMBER, 1984, DID YOU TELL DETECTIVE ZOELLER THAT YOU  
6 DIDN'T KNOW -- STRIKE THAT.

7 HE SHOWED YOU THE LIST DURING THAT INTERVIEW,  
8 DIDN'T HE, EXHIBIT M?

9 A I DON'T REMEMBER IF HE DID OR NOT.

10 Q DIDN'T HE ASK YOU QUESTIONS ABOUT WHETHER OR  
11 NOT YOU HAD SEEN THAT LIST ON THE EVENING OF JUNE 6, 1984,  
12 DIDN'T HE?

13 A I DON'T REMEMBER THE SPECIFIC QUESTIONS THAT  
14 HE ASKED.

15 Q WELL, WHETHER YOU REMEMBER THE SPECIFIC  
16 QUESTIONS, DID HE ASK YOU ABOUT THE SUBJECT DURING THAT  
17 INTERVIEW?

18 A YES.

19 Q OF WHETHER OR NOT ON THE EVENING OF JUNE 6TH  
20 YOU HAD SEEN THAT LIST EXHIBIT M?

21 A AS I SAY, I DON'T REMEMBER EXACTLY WHAT HE  
22 ASKED ME ON THAT PARTICULAR INTERVIEW, BUT OVER THE TIME  
23 THAT I TESTIFIED ABOUT THIS AND BEEN INTERVIEWED ABOUT IT,  
24 I HAVE BEEN ASKED QUESTIONS ABOUT THAT, BUT I COULDN'T  
25 TELL YOU WHAT I WAS ASKED IN 1987 OR 1984.

26 Q DIDN'T YOU TELL DETECTIVE ZOELLER THAT YOU  
27 WEREN'T SURE IF THAT LIST WAS THE EXACT LIST THAT YOU  
28 CLAIM YOU SAW ON THE EVENING OF JUNE 6TH, AND THAT YOU

1 MIGHT HAVE BEEN LOOKING AT A DIFFERENT VERSION?

2 A I DON'T SPECIFICALLY REMEMBER WHAT I TOLD  
3 HIM. IF YOU WANT TO SHOW ME SOMETHING THAT IS A  
4 TRANSCRIPT OF WHAT I SAID, MAYBE I WILL REMEMBER.

5 MR. CRAIN: MAY I APPROACH THE WITNESS, AGAIN?

6 THE COURT: YES.

7 MR. MC MULLEN: MAY I APPROACH AS WELL?

8 THE COURT: YES.

9

10 (PAUSE.)

11

12 MR. CRAIN: YOUR HONOR, THIS IS A PORTION OF  
13 EXHIBIT D OF THE ORIGINAL PETITION --

14 THE COURT: D?

15 MR. CRAIN: D, AS IN DAVID.

16 MR. CRAIN: IT IS A PARTIAL TRANSCRIPT OF PAGES 44  
17 AND 45 OF THE INTERVIEW WITH DETECTIVE ZOELLER, AND IT  
18 APPEARS TO BE A SUPPLEMENTAL REPORT OF THE BEVERLY HILLS  
19 POLICE DEPARTMENT.

20 THE COURT: I AM SORRY, I THOUGHT YOU WERE TALKING  
21 ABOUT THE DEPOSITION.

22 MR. CRAIN: NO, I AM SORRY.

23 GO AHEAD.

24 MR. CRAIN: THIS IS 15-D.

25 BY MR. CRAIN:

26 Q SHOWING YOU THIS, DID YOU MAKE A STATEMENT --  
27 DO YOU SEE WHERE IT SAYS, "DEAN," HERE ON PAGE 44 OF THIS  
28 BEVERLY HILLS POLICE DEPARTMENT REPORT?

1           A       YES.

2           Q       AND YOU SEE WHERE IT SAYS, "DETECTIVE  
3   ZOELLER," ABOVE THAT?

4           A       YES.

5           Q       AND DOES THIS APPEAR TO BE A REPORT YOU HAVE  
6   SEEN BEFORE OF THAT INTERVIEW?

7           A       YES, IT IS.

8           Q       AND DID YOU MAKE THE STATEMENT (READING):  
9                   "GEE, BEFORE THE KILLING TOOK PLACE  
10                  I DIDN'T SEE THE EXACT LIST THAT WAS  
11                  FOUND AT RON'S HOUSE THAT I SAW IN  
12                  THE EARLIER VERSION."

13           Q       IS THAT WHAT YOU SAID TO ZOELLER DURING THAT  
14   INTERVIEW?

15           A       PROBABLY CLOSE TO IT.

16           Q       WHEN YOU TALKED TO ZOELLER IN 1984 IN  
17   NOVEMBER, YOU TOLD HIM YOU WEREN'T SURE IF THE LIST HE WAS  
18   SHOWING YOU WAS THE SAME LIST YOU SAY YOU SAW ON JUNE 6TH  
19   OR NOT; RIGHT?

20           MR. MC MULLEN:  OBJECTION.  WELL, I WITHDRAW THE  
21   OBJECTION.

22           THE WITNESS:  WHATEVER MY -- WHATEVER MY WORDS WERE  
23   IS WHAT I TOLD HIM.

24           BY MR. CRAIN:

25           Q       SO YOU CAN'T REMEMBER NOW WHETHER OR NOT YOU  
26   TOLD ZOELLER YOU MIGHT HAVE SEEN A DIFFERENT LIST ON THE  
27   NIGHT OF JUNE 6TH THAN THE ONE HE WAS SHOWING YOU; IS THAT  
28   RIGHT?



1 A IF YOU DON'T MIND, RESTATE THE QUESTION.

2 Q ARE YOU TELLING US NOW YOU DON'T REMEMBER  
3 WHETHER IN NOVEMBER OF 1984 YOU TOLD ZOELLER THAT ON THE  
4 NIGHT OF JUNE 6TH YOU MIGHT HAVE SEEN MR. HUNT WITH A  
5 DIFFERENT LIST THAN THE LIST THAT MR. ZOELLER HAD DURING  
6 THAT INTERVIEW?

7 A I DON'T EVEN REMEMBER WHICH LIST IT IS WHICH  
8 MR. ZOELLER HAD DURING THE INTERVIEW. MY POINT IS, AND MY  
9 POINT WAS THEN, THERE WERE DIFFERENT VERSIONS OF THE LIST,  
10 ONE WAS AN EARLIER ONE, ONE WAS A LATER ONE. AND I DON'T  
11 REMEMBER WHICH ONE I -- OR BOTH I SAW, BUT I SAW THEM.

12 Q YOU ACKNOWLEDGE THERE WERE SEVERAL DIFFERENT  
13 VERSIONS OF THE SAME LIST THAT YOU HAD SEEN PRIOR TO JUNE  
14 6TH; IS THAT RIGHT?

15 A I DON'T KNOW SEVERAL. ALL I KNOW IS THESE --

16 Q NOW, AT MR. PITTMAN'S PRELIMINARY HEARING IN  
17 1985 YOU TESTIFIED ALSO; IS THAT RIGHT?

18 A YES, I DID.

19 Q AND I BELIEVE THIS WAS AT VOLUME 5 PAGE 49  
20 WHERE YOU ASKED THIS QUESTION, AND DID YOU -- STRIKE  
21 THAT -- DID YOU MAKE THIS STATEMENT AT PAGE 49, I THINK IT  
22 IS AROUND LINE 16 (READING):

23 "SEE WHAT JOE DID, HE FREQUENTLY  
24 MADE A NUMBER OF LISTS AS HE WAS  
25 PLANNING, SOMETIMES THEY WERE  
26 EARLIER VERSIONS OF THE LIST OR A  
27 LATER VERSION OF THE LIST.

28 Q OH, I SEE. SO" --

1 "BY MR. BRODEY, QUESTION: OH, I  
2 SEE. SO YOU CAN SAY FOR CERTAIN  
3 THAT THIS IS A COPY OF A LIST THAT  
4 YOU SAW JOE MAKING?

5 A NO, I CAN'T SAY FOR CERTAIN."

6 Q DID YOU GIVE THAT TESTIMONY AT MR. JAMES  
7 PITTMAN PRELIMINARY HEARING 1985?

8 MR. MC MULLEN: OBJECTION. INAPPROPRIATE  
9 IMPEACHMENT.

10 THE COURT: OVERRULED.

11 THE WITNESS: I DON'T SPECIFICALLY REMEMBER THAT.  
12 IT WAS A LONG TIME AGO.

13 BY MR. CRAIN:

14 Q WELL, DID YOU TESTIFY TRUTHFULLY ABOUT THIS  
15 SUBJECT AT MR. PITTMAN'S PRELIMINARY HEARING?

16 A YES, I DID.

17 Q NOW PRIOR TO YOUR INTERVIEW OF DETECTIVE  
18 ZOELLER IN NOVEMBER OF 1984, IS IT TRUE THAT YOU HAD  
19 OBTAINED AND VIEWED POLICE REPORTS PERTAINING TO THE  
20 INVESTIGATION INTO THE DISAPPEARANCE OF RON LEVIN?

21 A YES, THAT'S TRUE.

22 Q YOU OBTAINED THEM WHEN, APPROXIMATELY?

23 A PROBABLY A WEEK OR TWO BEFORE.

24 Q SO THAT WOULD HAVE BEEN AROUND THE BEGINNING  
25 OF NOVEMBER, 1984?

26 A OCTOBER OR NOVEMBER.

27 Q YOU READ THOSE REPORTS THOROUGHLY; DIDN'T  
28 YOU?

1           A       YES, I DID.

2           Q       YOU READ THEM THOROUGHLY BEFORE YOU WENT TO  
3 TALK TO DETECTIVE ZOELLER AND IN THE TAPED INTERVIEW WE  
4 HAVE BEEN DISCUSSING; RIGHT?

5           A       THAT'S RIGHT.

6           Q       IN VIEWING THOSE POLICE REPORTS, YOU LEARNED  
7 THAT THE EXHIBIT M, THAT A LIST, A TO-DO LIST HAD BEEN  
8 FOUND AT MR. LEVIN'S APARTMENT; IS THAT RIGHT?

9           A       I LEARNED THAT BEFORE THAT, I BELIEVE.

10          Q       SO YOU KNEW IT BEFORE YOU WENT TO TALK TO  
11 DETECTIVE ZOELLER IN THIS TAPED INTERVIEW THAT THE TO-DO  
12 LIST HAD BEEN, A TO-DO LIST HAD BEEN FOUND AT LEVIN'S  
13 APARTMENT; RIGHT?

14          A       THAT'S RIGHT.

15          Q       THAT ONE LIST YOU SAW IT BEFORE THIS  
16 INTERVIEW WAS IN THE BEVERLY HILLS POLICE REPORTS, WHICH  
17 YOU REVIEWED WHICH RELATED TO THE DISAPPEARANCE OF LEVIN;  
18 RIGHT?

19          A       YES.

20          Q       AND A COPY OF A TO-DO LIST WAS ATTACHED TO  
21 THOSE REPORTS; RIGHT?

22          A       YES.

23          Q       SO YOU HAD SEEN THIS COPY OF THE TO-DO LIST  
24 BEFORE YOU WENT IN FOR THE TAPED INTERVIEW THAT WE HAVE  
25 BEEN DISCUSSING; CORRECT?

26          A       YES, I DID.

27          Q       ALSO, DURING THAT INTERVIEW DIDN'T YOU TELL  
28 DETECTIVE ZOELLER THAT YOU ONLY HAD A VAGUE RECOLLECTION

1 OF WHETHER THERE WAS ANY KIND OF LIST THAT YOU HAD SEEN  
2 MR. HUNT PREPARING?

3 A I DON'T RECALL THAT.

4 Q SO YOU MAY OR MAY HAVE NOT, AT THIS TIME YOU  
5 JUST DON'T RECALL; IS THAT A FAIR STATEMENT?

6 A NO. I AM JUST SAYING THAT I DON'T RECALL  
7 WHAT YOU ASKED ME.

8 Q YOU DON'T RECALL ONE WAY OR THE OTHER; RIGHT?

9 A YOUR QUESTION IS WHETHER I MADE A SPECIFIC  
10 STATEMENT TO HIM, AND I SAID I DON'T RECALL MAKING THAT  
11 STATEMENT. I RECALL A LOT OF SPECIFIC THINGS ABOUT THE  
12 LISTS THAT I SAW AND DISCUSSED.

13 Q DID YOU TELL -- DID YOU TESTIFY AT  
14 MR. PITTMAN'S PRELIMINARY HEARING THAT YOU HAD ONLY  
15 VAGUELY DISCUSSED WITH MR. HUNT A PLAN TO KILL LEVIN?

16 A THAT I HAD ONLY VAGUELY DISCUSSED A PLAN TO  
17 KILL RON LEVIN?

18 Q DID YOU MAKE THAT STATEMENT DURING YOUR  
19 TESTIMONY AT MR. PITTMAN'S PRELIMINARY HEARING?

20 A WHAT YEAR WAS THAT?

21 MR. CRAIN: REPORTER'S TRANSCRIPT PAGE 502, FOR  
22 COUNSEL'S BENEFIT.

23 BY MR. CRAIN:

24 Q DID YOU SAY THAT?

25 A I DON'T RECALL THE SPECIFIC STATEMENTS I  
26 MADE. THAT WAS PROBABLY IN 1985 OR SO. IT WAS PROBABLY  
27 11 YEARS AGO. YOU NEED TO SHOW IT TO ME.

28 Q WELL, IF YOU SAID THAT AT THE PRELIMINARY

1 HEARING OF MR. PITTMAN WOULD IT HAVE BEEN A TRUE STATEMENT  
2 THEN?

3 A YES.

4 MR. CRAIN: YOUR HONOR -- EXCUSE ME. I APPRECIATE  
5 THE COURT'S CONSIDERATION.

6

7 (PAUSE.)

8

9 BY MR. CRAIN:

10 Q NOW, YOU TESTIFIED A LITTLE WHILE AGO THAT  
11 YOU WERE -- YOU HAD YOUR DEPOSITION TAKEN RELATIVE TO THE  
12 CANTOR-FITZGERALD LAWSUIT AGAINST YOU AND OTHER  
13 INDIVIDUALS; RIGHT?

14 A THAT'S RIGHT.

15 Q AND THAT DEPOSITION WAS TAKEN FEBRUARY 28,  
16 1984?

17 A I DON'T REMEMBER EXACTLY, BUT THAT SOUNDS  
18 ABOUT RIGHT.

19 MR. CRAIN: MAY I APPROACH THE WITNESS?

20 THE COURT: YES.

21 BY MR. CRAIN:

22 Q SHOWING YOU WHAT APPEARS TO BE A TRANSCRIPT  
23 OF A DEPOSITION WHERE IT SAYS, "DEPOSITION OF DEAN L.  
24 KARNY," AND A DATE OF FEBRUARY 28, 1984, YOU HAVE SEEN  
25 THIS COPY OF THIS BEFORE?

26 A YES, I HAVE.

27 Q DOES THAT REFRESH YOUR RECOLLECTION AS TO  
28 WHEN THAT DEPOSITION WAS TAKEN?

1           A       I GUESS IT DOES.

2           Q       OKAY.

3                   NOW, DURING THE -- AT THE BEGINNING OF THE  
4 DEPOSITION YOU WERE PLACED UNDER OATH; IS THAT RIGHT?

5           A       RIGHT.

6           Q       AND YOU UNDERSTOOD WHAT TAKING THAT OATH  
7 MEANT; IS THAT RIGHT?

8           A       YES, I DID.

9           Q       YOU UNDERSTOOD THAT TESTIFYING FALSELY DURING  
10 A DEPOSITION WAS A COMMISSION OF A PERJURY; IS THAT RIGHT?

11          A       YES, I DID.

12          Q       AND YOU WERE ASKED QUESTIONS OVER A SERIES OF  
13 SOME 53 OR SO PAGES DURING THAT DEPOSITION?

14          A       RIGHT.

15          Q       AND AFTER THE DEPOSITION YOU READ IT OVER;  
16 DIDN'T YOU?

17          A       YES, I DID.

18          Q       AND YOU DIDN'T GO BACK AND MAKE ANY CHANGES  
19 IN IT, DID YOU?

20          A       NO, I DID NOT.

21          Q       DURING THE DEPOSITION YOU TOLD APPROXIMATELY  
22 18 LIES; IS THAT RIGHT?

23          A       I DON'T KNOW HOW MUCH, BUT THERE WERE SOME  
24 SUBJECTS THAT I WAS DEFINITELY LYING ABOUT DURING THAT  
25 DEPOSITION.

26          Q       YOU LIED ABOUT SUCH SUBJECTS AS THE AMOUNT OF  
27 A LOAN THAT YOU HAD ALLEGEDLY GIVEN TO THE B.B.C.?

28          A       RIGHT.

1 Q YOU TOLD A LIE IN WHICH YOU GROSSLY  
2 OVERSTATED YOUR PERSONAL NET WORTH?

3 A THAT'S RIGHT.

4 Q YOU TOLD A LIE IN WHICH YOU GROSSLY  
5 OVERSTATED THE AMOUNT OF ASSETS YOU HAD READILY  
6 CONVERTIBLE TO CASH?

7 A THAT'S RIGHT.

8 Q YOU LIED ABOUT ATTENDING A MEETING REGARDING  
9 THE MAY BROTHER'S LAND CORPORATION?

10 A I DON'T RECALL ANYTHING ABOUT THAT.

11 Q YOU TOLD A WHOLE BUNCH OF LIES; RIGHT?

12 A AS I SAY, THEY WERE ON PARTICULAR SUBJECTS.  
13 I DON'T KNOW ANYTHING RIGHT NOW ABOUT THE MAY BROTHER'S  
14 LAND CORPORATION.

15 Q NOW, YOU SUBSEQUENTLY ADMITTED IN LEGAL  
16 PROCEDURES BEFORE TODAY THAT YOU LIED UNDER OATH DURING  
17 THAT DEPOSITION, AREN'T -- HAVEN'T YOU?

18 A YES.

19 Q YOU ADMITTED THAT BEFORE MR. HUNT'S JURY IN  
20 SAN MATEO; DIDN'T YOU?

21 MR. MC MULLEN: OBJECTION. RELEVANCY.

22 THE COURT: SUSTAINED.

23 BY MR. CRAIN:

24 Q NOW, YOU TESTIFIED ALSO AT MR. PITTMAN'S  
25 TRIALS, DID YOU?

26 A YES.

27 Q AND AT MR. PITTMAN'S TRIAL, MR. BRODEY,  
28 MR. PITTMAN'S ATTORNEY, ASKED YOU AS TO WHETHER OR NOT IT

1 HAD BEEN YOUR IDEA TO LIE ABOUT CERTAIN ITEMS; ISN'T THAT  
2 RIGHT?

3 MR. MC MULLEN: OBJECTION. VAGUE.

4 THE COURT: DO YOU UNDERSTAND THE QUESTION?

5 THE WITNESS: WHETHER IT HAD BEEN MY IDEA OR  
6 SOMEONE ELSE'S IDEA TO LIE?

7 BY MR. CRAIN:

8 Q YES.

9 A I DON'T RECALL THAT QUESTION.

10 Q DIDN'T YOU TELL PITTMAN'S JURY WHEN YOU WERE  
11 ASKED ABOUT CERTAIN LIES THAT YOU HAD ENGAGED IN THESE  
12 LIES ON YOUR OWN DOING? IT WAS YOUR OWN IDEA ENTIRELY TO  
13 GIVE THAT FALSE TESTIMONY AT THE DEPOSITION?

14 A I DON'T THINK SO.

15 Q DID YOU GIVE TRUTHFUL TESTIMONY AT THE  
16 PITTMAN TRIAL REGARDING THE SUBJECT OF THE  
17 CANTOR-FITZGERALD DEPOSITION?

18 A YES, I DID.

19 MR. CRAIN: MAY I HAVE A MOMENT?

20 THE COURT: YES.

21

22 (A CONFERENCE WAS HELD BETWEEN COUNSEL  
23 AND THE PETITIONER, NOT REPORTED.)

24

25 MR. CRAIN:

26 Q NOW, THE CANTOR-FITZGERALD DEPOSITION WASN'T  
27 THE ONLY TIME THAT YOU HAD LIED UNDER OATH; IS THAT RIGHT?

28 A PARDON ME?



1 Q THE CANTOR-FITZGERALD DEPOSITION WASN'T THE  
2 ONLY TIME YOU DELIBERATELY LIED UNDER OATH, WAS IT?

3 A IN COURT PROCEEDINGS?

4 Q IN ANY PROCEEDING?

5 A YES, IT IS.

6 Q IT WASN'T THE ONLY TIME YOU LIED UNDER OATH  
7 WHERE YOU TOOK AN -- LEGALLY ENFORCEABLE OATH TO TELL THE  
8 TRUTH; ISN'T THAT RIGHT?

9 MR. MC MULLEN: OBJECTION. CALLS FOR AN OPINION.

10 THE COURT: OVERRULED.

11 THE WITNESS: WELL, I KNEW THAT ON MY APPLICATION  
12 TO THE STATE BAR I OMITTED SOME INFORMATION AND, YOU KNOW,  
13 I WASN'T ENTIRELY TRUTHFUL THERE. ANYTIME THAT I HAVE  
14 TESTIFIED I HAVE ALWAYS BEEN TRUTHFUL.

15 BY MR. CRAIN:

16 Q IN YOUR STATE BAR APPLICATION, IN OTHER  
17 WORDS, NOT TO MINCE WORDS, YOU TOLD LIES UNDER OATH; IS  
18 THAT RIGHT?

19 MR. MC MULLEN: OBJECTION. RELEVANCY. ASKED AND  
20 ANSWERED.

21 THE COURT: I WILL ALLOW THE QUESTION.

22 BY MR. CRAIN:

23 Q IS THE RIGHT?

24 A I WITHHELD AND MISREPRESENTED MATERIAL  
25 INFORMATION.

26 THE COURT: IN OTHER WORDS, YOU LIED?

27 THE WITNESS: NOT TO MINCE WORDS, YES.

28

1 BY MR. CRAIN:

2 Q IN OTHER WORDS, YOU LIED; IS THAT RIGHT?

3 A I TOLD YOU WHAT I DID.

4 Q WELL, WHEN YOU WITHHELD INFORMATION AND  
5 MISREPRESENTED THINGS TO THE STATE BAR, YOU WERE  
6 ATTEMPTING TO DECEIVE THE STATE BAR; IS THAT RIGHT?

7 A THAT I WAS TRYING TO DO.

8 Q YOU WERE TRYING TO GIVE THEM FALSE  
9 INFORMATION CONCERNING YOURSELF IN ORDER TO BECOME AN  
10 ATTORNEY TO PRACTICE LAW IN THIS STATE; RIGHT?

11 MR. MC MULLEN: OBJECTION. RELEVANCE.

12 THE COURT: OVERRULED.

13 THE WITNESS: YEAH. I HAD THE UNREASONABLE IDEA  
14 THAT I COULD ONE DAY BECOME AN ATTORNEY. IT WAS KIND OF  
15 UNREALISTIC, AND AT THE TIME I KEPT SOME INFORMATION OUT  
16 OF THERE, AND I WAS NOT CLEAR ON SOME OTHER INFORMATION  
17 THAT I SHOULD HAVE BEEN MORE CLEAR ON, AND IT WAS  
18 DECEPTIVE, YES.

19 BY MR. CRAIN:

20 Q LET'S GET THIS STRAIGHT. YOU WANTED TO BE AN  
21 ATTORNEY WHEN YOU FILLED OUT YOUR APPLICATION; RIGHT?

22 A YES.

23 Q AND YOU THOUGHT THAT IF YOU WERE TRUTHFUL TO  
24 THE STATE BAR YOU WEREN'T GOING TO BECOME AN ATTORNEY, SO  
25 YOU MISLED THEM AND LIED TO THEM; CORRECT?

26 A NOT EXACTLY, NO.

27 Q YOU THOUGHT IF YOU ANSWERED THE QUESTIONS  
28 TRUTHFULLY JEOPARDIZING YOUR CHANCES OF BECOMING AN

1 ATTORNEY; IS THAT RIGHT?

2 A RIGHT. RIGHT.

3 Q SO YOU GAVE THEM FALSE INFORMATION  
4 DELIBERATELY; RIGHT?

5 A YES.

6 Q TO ENHANCE YOUR OWN PERSONAL ENDS; RIGHT?

7 A THAT'S RIGHT.

8 Q DIDN'T YOU TESTIFY AT THE PITTMAN TRIAL WHEN  
9 YOU WERE ASKED ABOUT HOW MANY TIMES YOU HAD LIED UNDER  
10 OATH YOU TOLD THAT JURY YOU ONLY LIED ONCE, AND YOU WERE  
11 REFERRING TO THE CANTOR-FITZGERALD TESTIMONY?

12 MR. MC MULLEN: OBJECTION. RELEVANCE.

13 THE COURT: SUSTAINED.

14 MR. CRAIN: NOTHING FURTHER.

15 THE COURT: ANY REDIRECT?

16 MR. MC MULLEN: JUST A FEW QUESTIONS.

17

18 REDIRECT EXAMINATION @

19

20 BY MR. MC MULLEN:

21 Q YOU TESTIFIED ABOUT DIFFERENT VERSIONS OF THE  
22 LIST THAT'S IN FRONT OF YOU, EXHIBIT M. WHAT DID YOU MEAN  
23 BY DIFFERENT VERSIONS?

24 A WELL, I MEANT THAT AT LEAST ONE OF THESE  
25 LISTS, I BELIEVE, WAS AN EARLIER VERSION OF ONE OF THESE  
26 OTHER LISTS.

27 Q SO ALL OF THOSE PAGES THAT ARE BEFORE YOU NOW  
28 INCLUDE THE DIFFERENT VERSIONS YOU HAVE REFERRED TO?

1 MR. CRAIN: OBJECTION. LEADING THE WITNESS.

2 THE COURT: SUSTAINED.

3 BY MR. MC MULLEN:

4 Q ALL OF THOSE LISTS THAT ARE IN FRONT OF YOU  
5 DO THEY INCLUDE ALL OF THE VERSIONS YOU REFERRED TO WHEN  
6 YOU SAW DIFFERENT VERSIONS?

7 A YEAH.

8 MR. KLEIN: ASSUMES FACTS NOT IN EVIDENCE, SINCE HE  
9 COULDN'T EVEN IDENTIFY THE VAST MAJORITY OF THE DOCUMENTS.

10 THE COURT: OVERRULED. JUST STATE THE GROUNDS OF  
11 THE OBJECTION.

12 OVERRULED.

13 THE WITNESS: THESE ARE THE ONLY LISTS LIKE THIS  
14 THAT I HAVE SEEN. I HAVE NOT SEEN ANY OTHER VERSIONS.  
15 WHEN I WAS TALKING ABOUT DIFFERENT VERSIONS, I MEANT  
16 WITHIN THIS PILE OF PAPERS HERE.

17 THE COURT: MEANING M.

18 MR. MC MULLEN: NOTHING FURTHER.

19 THE COURT: MR. KARNY, WHAT DID MR. HUNT TELL YOU  
20 THAT HE HAD LIED ABOUT DURING THE CANTOR-FITZGERALD  
21 DEPOSITION? WHAT KIND OF THINGS, I SHOULD SAY?

22 THE WITNESS: WELL, PRIMARILY ISSUES OF THE WHOLE  
23 WAY THAT THE LOSSES ACTUALLY CAME TO PASS. BASICALLY HE  
24 WAS TRYING TO GET OUT FROM UNDER THE RESPONSIBILITY OF IT  
25 BY BLAMING IT ON THEM.

26 THE COURT: "THEM" MEANING?

27 MR. KLEIN: OBJECTION.

28 THE WITNESS: MEANING CANTOR-FITZGERALD.

1 THE COURT: OVERRULED.

2 THE WITNESS: I MEAN, THERE IS KIND OF A LONG STORY  
3 TO HOW IT HAPPENED, BUT THE MAIN POINT OF IT IS THAT THEY  
4 WERE MAKING MARGIN CALLS.

5 THE COURT: I DON'T WANT TO GET INTO THAT. I AM  
6 MORE INTERESTED IN WHAT IS IT THAT MR. HUNT TOLD YOU THAT  
7 HE LIED ABOUT DURING HIS DEPOSITION, AND IT WAS ALL  
8 FOCUSED ON SHIFTING BLAME TO CANTOR-FITZGERALD; IS THAT  
9 WHAT YOU ARE SAYING?

10 THE WITNESS: THAT WAS PART OF IT BECAUSE OTHERWISE  
11 WE WERE THE ONES WHO WERE GOING TO BE RESPONSIBLE, BECAUSE  
12 IF IT WASN'T THEIR FAULT, THEN IT HAD TO BE OURS.

13 MR. KLEIN: I ALSO MOVE TO STRIKE HIS -- WHAT MR.  
14 HUNT SAID HE DID AS BEING IRRELEVANT.

15 THE COURT: OVERRULED.

16 MR. KLEIN: UNLESS IT IS SOMEHOW TIES INTO THE  
17 ISSUE THAT'S BEFORE THE COURT.

18 THE COURT: MR. HUNT TESTIFIED SPECIFICALLY DURING  
19 HIS TESTIMONY THE TYPE OF THINGS THAT HE LIED ABOUT DURING  
20 HIS DEPOSITION. I AM TRYING TO DETERMINE WHETHER IT IS  
21 THE SAME THINGS THAT HE TOLD MR. KARNY.

22 MR. CRAIN: I THINK THIS IS SOMETHING THAT WE  
23 LODGED, WHICH I WILL DISCUSS AT A LATER DATE WITH THE  
24 COURT, WITH THE COURT'S PERMISSION, WE LODGED AN  
25 IRRELEVANCY OBJECTION TO THE SUBJECT OF WHETHER OR NOT  
26 MR. HUNT LIED. I THINK THE COURT, I HOPE THE COURT WILL  
27 SEE WHY IT IS IRRELEVANT WHEN WE HAVE A CHANCE TO ARGUE IT  
28 LATER.

1 THE COURT: ALL RIGHT.

2 ANYTHING ELSE THAT MR. HUNT TOLD YOU THAT HE  
3 LIED ABOUT DURING HIS DEPOSITION?

4 THE WITNESS: I REALLY DON'T REMEMBER SPECIFICALLY.  
5 THE MAIN POINT THAT I WANTED HIM TO TELL ME IS WHAT I WAS  
6 SUPPOSED TO LIE ABOUT IN MY DEPOSITION. THAT IS WHAT I  
7 WAS THE MOST CONCERNED WITH AT THE TIME, AND THE  
8 DISCUSSIONS THAT WE HAD ABOUT THE DEPOSITION WERE MOSTLY  
9 HIM COACHING ME ON WHAT TO SAY IN MY DEPOSITION.

10 THE COURT: ALL RIGHT.

11 ANYTHING FURTHER, MR. CRAIN?

12 MR. CRAIN: ONE OR TWO QUESTIONS.

13

14 (A CONFERENCE WAS HELD BETWEEN COUNSEL  
15 AND THE PETITIONER, NOT REPORTED.)

16

17 MR. CRAIN: JUST A COUPLE OF OTHER FOLLOW-UP  
18 QUESTIONS TO THE COURT'S QUESTIONS.

19

20 RECROSS-EXAMINATION +

21

22 BY MR. CRAIN:

23 Q AND AT THIS DEPOSITION, MR. KARNY, DO YOU  
24 REMEMBER WHO WAS PRESENT?

25 MR. MC MULLEN: OBJECTION. VAGUE.

26 MR. CRAIN: I AM SORRY, YOU ARE RIGHT.

27 MR. KARNY'S DEPOSITION, THE ONE ON APRIL 28,  
28 1984.

1 THE COURT: DOES HE REMEMBER WHO WAS PRESENT AT THE  
2 DEPOSITION? IS THAT WHAT THE QUESTION IS?

3 MR. CRAIN: YES.

4 THE WITNESS: I THINK THERE WAS MYSELF, TOM MAY WAS  
5 PRESENT. I FORGET THE NAME OF THE ATTORNEY THAT WE HAD.  
6 AND ALSO THE OPPOSING COUNSEL FROM GIBSON, DUNN & CRUTCHER  
7 AND --

8 BY MR. CRAIN:

9 Q MR. HUNT WASN'T PRESENT --

10 THE COURT: LET ME HIM FINISH HIS ANSWER.

11 WAS THERE ANYBODY ELSE?

12 THE WITNESS: THAT MAY HAVE -- THOSE ARE THE PEOPLE  
13 THAT I REMEMBER NOW.

14 BY MR. CRAIN:

15 Q MR. HUNT WASN'T PRESENT AT THE DEPOSITION,  
16 WAS HE?

17 A NO, HE WASN'T.

18 Q YOUR TESTIMONY IS: YOU DON'T REMEMBER THE --  
19 YOUR TESTIMONY TODAY IS YOU DON'T REMEMBER THE SUBJECTS  
20 YOU LIED ABOUT; RIGHT?

21 A THE SUBJECTS THAT I LIED ABOUT?

22 Q RIGHT.

23 A YEAH, I DO REMEMBER GENERALLY WHAT THEY WERE.

24 Q THEY WERE WHAT, 18 DIFFERENT SUBJECTS?

25 MR. MC MULLEN: OBJECTION. ASKED AND ANSWERED.

26 THE COURT: SUSTAINED.

27 MR. CRAIN: NOTHING FURTHER.

28 THE COURT: ANYTHING FURTHER, MR. MC MULLEN?

1 MR. MC MULLEN: I WOULD LIKE ONE MOMENT.

2

3 (PAUSE.)

4

5 MR. MC MULLEN: NOTHING FURTHER.

6 THE COURT: MAY THE WITNESS BE EXCUSED?

7 MR. MC MULLEN: YES.

8 THE COURT: ANY OBJECTION?

9 MR. CRAIN: CAN WE HAVE JUST ONE MOMENT?

10 MR. CRAIN: JUST TO FINISH UP ON THIS DEPOSITION OF  
11 MR. KARNY.

12

13 FURTHER RECROSS-EXAMINATION +

14

15 BY MR. CRAIN:

16 Q SO DURING THE DEPOSITION YOU WERE ASKED  
17 QUESTIONS BY ONE OR MORE ATTORNEYS; CORRECT?

18 A RIGHT.

19 Q AND YOU IMMEDIATELY GAVE ANSWERS THAT CAME  
20 OUT OF YOUR OWN HEAD; RIGHT?

21 A I WAS ANSWERING THE QUESTIONS, YES.

22 Q WERE YOU READING FROM A SCRIPT?

23 A NO, I WAS NOT.

24 Q SO YOU WEREN'T USING NOTES OR SOME OTHER PROP  
25 IN ORDER TO ANSWER THE QUESTIONS THAT THE ATTORNEY ASKED  
26 YOU AT THE DEPOSITION; RIGHT?

27 A PHYSICAL PROP?

28 Q YES. RIGHT.



1 Q YES. RIGHT.

2 A NO, I WAS NOT.

3 Q YOU JUST SAT THERE LIKE YOU SAT THERE, AND AS  
4 SOON AS HE ASKED THE QUESTIONS YOU GAVE AN ANSWER; RIGHT?

5 A PRETTY MUCH.

6 MR. CRAIN: NOTHING FURTHER.

7 THE COURT: ANYTHING FURTHER, MR. MC MULLEN?

8 MR. MC MULLEN: NOTHING FURTHER.

9 THE COURT: ALL RIGHT.

10 THANK YOU, SIR, YOU ARE EXCUSED.

11 ALL RIGHT.

12 YOU WANT TO TAKE HIM OUT. EVERYONE IN THE  
13 COURTROOM PLEASE REMAIN SEATED UNTIL THE WITNESS HAS LEFT  
14 THE COURTROOM.

15 THE COURT: LET'S TAKE A RECESS NOW.

16 THE BAILIFF: BILL IS ON HIS WAY UP.

17 THE COURT: YOU ARE GOING THIS WAY?

18 ALL RIGHT.

19 LET'S TAKE OUR MORNING RECESS NOW. WE NEED  
20 TO LET THE DEPUTY GO GET A BACKUP FOR MR. KILPATRICK SO --

21 MR. CRAIN: ABOUT 45 MINUTES, YOUR HONOR?

22 THE COURT: 15 MINUTES.

23

24 (RECESS.)

25

26 THE COURT: IN THE MATTER OF IN RE JOSEPH HUNT, THE  
27 RECORD WILL REFLECT ALL COUNSEL WITH THE EXCEPTION OF MR.  
28 KLEIN ARE PRESENT.

1 MR. CRAIN: HE IS COMING OUT. YOU WANT ME TO KNOCK  
2 ON THE DOOR?

3 THE COURT: THE PETITIONER IS PRESENT.  
4

5 (PAUSE.)  
6

7 THE COURT: THE RECORD WILL REFLECT MR. KLEIN IS  
8 ALSO PRESENT.

9 THE WITNESS WILLIAM KILPATRICK IS ON THE  
10 STAND.

11 YOU ARE REMINDED, SIR, YOU ARE STILL UNDER  
12 OATH.

13 YOU MAY CONCLUDE YOUR CROSS EXAMINATION,  
14 MR. CRAIN?

15 MR. CRAIN: THANK YOU.  
16

17 WILLIAM A. KILPATRICK, @  
18 CALLED AS A WITNESS BY THE RESPONDENT, HAVING BEEN  
19 PREVIOUSLY SWORN, RESUMED THE STAND AND TESTIFIED FURTHER  
20 AS FOLLOWS:  
21

22 CROSS-EXAMINATION RESUMED +  
23

24 BY MR. CRAIN:

25 Q MR. KILPATRICK, GOING BACK TO WHAT YOU WERE  
26 TELLING US THURSDAY, ARE YOU SAYING YOUR STATE OF MIND WAS  
27 THAT THE MICROGENESIS ATTRITION MILLS WAS NOT SUFFICIENTLY  
28 DEVELOPED IN 1984 AND SIGNIFICANTLY DEVELOPED AND TESTED

1 FOR ITS APPLICATION IN COAL TECHNOLOGY?

2 A THAT WAS MY IMPRESSION. THIS WAS APPARENTLY  
3 MR. BROWNING'S POSITION AS WELL. HE EXPLAINED TO US QUITE  
4 EMPHATICALLY IT HAD TO BE DONE IN A NON OXYGEN ATMOSPHERE.

5 Q AS YOU SAID THURSDAY THAT IT WASN'T, THE  
6 MACHINE WASN'T CONFIGURED TO GRIND COAL IN AN OXYGEN FREE  
7 ENVIRONMENT; IS THAT RIGHT?

8 A IT WAS CONFIGURED TO GRIND ANYTHING, BUT IN  
9 AN OXYGEN, TWO BE AN OXYGEN FREE ENVIRONMENT, AS I  
10 UNDERSTOOD FROM MR. BROWNING, OTHERWISE IT WOULD EXPLODE.

11 Q SO IN ESSENCE, THEN YOU ARE SAYING THAT YOUR  
12 STATE OF MIND UP UNTIL THE END OF YOUR DEALINGS WITH  
13 MR. HUNT IN 1984 WAS THAT THE ATTRITION MILLS TECHNOLOGY  
14 WAS NOT FULLY PROVEN; IS THAT RIGHT?

15 A THE GRINDING WAS FULLY PROVEN. IT DOESN'T  
16 TAKE EXPERIMENTATION TO DO THIS. THE ONLY THING WE HAD TO  
17 DO WAS DESIGN AND CREATE THE FACILITIES, THE MECHANICALS  
18 WITH WHICH TO DO IT. IT NEEDED TO BE GROUND IN A ENCLOSED  
19 CONTAINER THAT WOULD HAVE ONLY, YOU KNOW, HAVE ONLY  
20 NITROGEN IN THERE AND NITROGEN OR SOME OTHER, NITROGEN WAS  
21 WHAT WAS SUGGESTED.

22 Q WELL, ISN'T IT A FACT THAT IN 1984 YOU  
23 BELIEVED THAT ANY REMAINING PROBLEMS WITH ATTRITION MILLS  
24 ITSELF COULD BE MEANT WITH SHELF STOCK EQUIPMENT THAT WAS  
25 READILY AVAILABLE FROM MULTITUDE OF MANUFACTURERS?

26 A YES. THAT'S TRUE. IT WOULD TAKE THE  
27 ASSEMBLY, IT WOULD TAKE THE TESTING, IT WOULD TAKE THE  
28 WORKING OUT OF WHAT IT IS THAT IT IS GOING TO TAKE TO DO

1 THIS ONE AND IT WOULD -- TO ENCLOSE IT AND ENCASE IT IN  
2 SUCH A MANNER THAT NO ONE COULD -- WHEN WE PUT IT OUTSIDE  
3 TO BE USED SOME PLACE, THAT NO ONE COULD GET INTO IT TO  
4 TAKE THE MEASUREMENTS AND DISCOVER WHAT IT IS THAT WE WERE  
5 DOING IT AND HOW WE WERE DOING IT THAT WOULD ALLOW THEM TO  
6 DUPLICATE THE EQUIPMENT.

7 MR. KLEIN: I WOULD LIKE MARKED NEXT AS AN EXHIBIT  
8 9, HANDWRITTEN PAGES, YOUR HONOR. I THINK IT IS 291; IS  
9 THAT RIGHT?

10 THE COURT: 291 WILL BE PETITIONER'S NEXT EXHIBIT.

11 MR. CRAIN: MAY I APPROACH?

12 THE PETITIONER: YOUR HONOR, IT WILL BE MARKED 291.

13  
14 (MARKED FOR ID = PETITIONER'S 291,  
15 DOCUMENT.)

16  
17 MR. CRAIN: MAY I APPROACH THE WITNESS?

18 THE COURT: YES.

19 MR. CRAIN: CAN I JUST HAND THIS TO THE COURT?

20 THE COURT: YES.

21 MR. CRAIN: LET ME HAVE ONE MORE COPY.

22 BY MR. CRAIN:

23 Q HAVE YOU HAD A CHANCE TO LOOK AT THAT EXHIBIT  
24 WHICH I HAVE JUST HANDED TO YOU, WHICH HAS BEEN MARKED AS  
25 291 MR. KILPATRICK?

26  
27 (WITNESS READING.)  
28

1 THE COURT: DO YOU HAVE A QUESTION FOR HIM?

2 BY MR. CRAIN:

3 Q HAVE YOU HAD A CHANCE TO LOOK AT THE EXHIBIT  
4 THERE IN THE LAST FEW MINUTES THAT YOU HAVE BEEN STUDYING  
5 IT, SIR?

6 THE WITNESS: I AM STILL READING IT.

7 THE COURT: WELL, LAY A FOUNDATION. IS THIS  
8 SOMETHING THAT HE WROTE?

9 MR. CRAIN: YES.

10 BY MR. CRAIN:

11 Q DO YOU RECOGNIZE YOUR HANDWRITING ON THIS  
12 DOCUMENT THROUGHOUT IT, DON'T YOU?

13 A YES, I DO.

14 Q IN FACT, ALL THE PAGES WERE WRITTEN BY YOU;  
15 ISN'T THAT RIGHT, MR. KILPATRICK?

16 A I HAVEN'T LOOKED AT ALL THE PAGES, BUT I WILL  
17 DO SO.

18 Q WHY DON'T YOU TAKE A LOOK AT EACH PAGE AND  
19 SEE IF IT APPEARS TO BE, EACH PAGE APPEARS TO BE YOURS.

20

21 (WITNESS COMPLIES.)

22

23 A IT ALL APPEARS TO BE MY HANDWRITING.

24 Q ALL RIGHT.

25 WHY DON'T WE TURN TO WHAT'S BEEN MARKED, I  
26 THINK ON YOUR COPY, AS PAGE FIVE, THAT WILL BE PAGE FIVE  
27 IN ORDER.

28

1 (WITNESS COMPLIES.)

2

3 A OKAY.

4 Q ON PAGE FIVE YOU SEE A REFERENCE TO  
5 MICROGENESIS; DON'T YOU?

6 THE COURT: YOU WANT TO FOCUS --

7 THE WITNESS: ARE YOU TALKING ABOUT ONE WHERE IT  
8 SAYS, "MICROGENESIS" --

9 MR. MC MULLEN: MAY --

10 MR. CRAIN: LET ME APPROACH THE WITNESS?

11 MR. MC MULLEN: MAY I APPROACH?

12 THE COURT: YES.

13 BY MR. CRAIN:

14 Q I HAVE HIGHLIGHTED THIS ONE. TAKE THE COPY I  
15 WAS WORKING WITH.

16 YOU SEE PAGE FIVE IT APPEARS IN, REFERS IN  
17 PARAGRAPH ONE WHERE IT TALKS ABOUT SATURN ACQUIRES AND  
18 THEN IN THAT SAME --

19 A SATURN'S INTEREST.

20 Q RIGHT WHERE IT BEGINS (READING): "SATURN'S  
21 INTEREST," AND TALKS ABOUT, "SIMULTANEOUSLY WITH THE  
22 ACQUISITION OF U.F.O.I.'S ASSETS SATURN ACQUIRES THE  
23 INTERNATIONAL LICENSE SALES RIGHTS TO ALL ENERGY POLLUTION  
24 ABATEMENT APPLICATIONS OF THIS TECHNOLOGY," PARENTHESIS,  
25 "(SEE ENCLOSURE NO. 1 - MICROGENESIS SLASH U.F.O.I.  
26 AGREEMENT."

27 DO YOU SEE THAT?

28 A YES, I DO.

1 Q AND THIS DOCUMENT REFERRING TO ALL OF -- LET  
2 ME CALL YOUR ATTENTION FIRST TO PAGE SEVEN. I WILL TURN  
3 IT FOR YOU HERE.

4 OKAY. YOU SEE PAGE SEVEN.

5 A PAGE NINE.

6 THE COURT: I THINK IT IS ACTUALLY THE PAGE AFTER  
7 SIX, IT BEGINS (READING): "CURRENT TECH," UP AT THE TOP  
8 OF THAT PAGE.

9 THE WITNESS: OKAY.

10 BY MR. CRAIN:

11 Q HAVE YOU HAD A CHANCE TO LOOK THROUGH THAT?  
12 YOU SEE REFERENCES DOWN AT THE BOTTOM UNDER "FACTS" WHERE  
13 IT REFERS TO MICROGENESIS IN A NUMBER OF PLACES?

14 A YES. UH-HUH.

15 Q OKAY.

16 NOW, WAS THIS A DOCUMENT, REFERRING TO THIS  
17 ENTIRE EXHIBIT, THAT WAS WRITTEN IN 1984 WHEN YOU WERE  
18 DEALING WITH MR. HUNT?

19 A I DON'T KNOW WHEN IT WAS WRITTEN. IT IS NOT  
20 A -- DATED.

21 THE COURT: HOLD IT A SECOND.

22 WHY DON'T YOU LAY A FOUNDATION. I DON'T KNOW  
23 WHEN THIS CAME INTO EXISTENCE IN THIS RECORD.

24 MR. CRAIN: ALL RIGHT.

25 BY MR. CRAIN:

26 Q YOU FIRST BEGAN DEALING WITH MR. HUNT IN  
27 1983; CORRECT?

28 A I THINK THAT'S CORRECT.

1 Q YOU CEASED YOUR DEALINGS WITH MR. HUNT  
2 SOMETIME IN 1984; IS THAT RIGHT?

3 A I THINK WE DEALT WITH HIM THROUGH THE SUMMER  
4 OF '84, YES.

5 Q AND THEN YOU CONCLUDED YOUR DEALINGS WITH HIM  
6 RELATIVE TO U.S. MICROGENESIS AT THAT TIME; RIGHT?

7 A WELL, YEAH, OTHER THINGS HAPPENED WHERE THERE  
8 WAS NOWHERE TO DEAL.

9 Q SO YOUR ANSWER IS "YES"?

10 A PARDON ME?

11 Q YOUR ANSWER IS "YES"?

12 A YES.

13 Q SO IT WAS DURING THAT TIME PERIOD THAT WE  
14 JUST TALKED ABOUT, LATE 1983 TO THE END OF THE SUMMER OF  
15 1984, THAT YOU WROTE THE DOCUMENT WHICH HAS BEEN MARKED AS  
16 EXHIBIT 291; IS THAT RIGHT?

17 MR. MC MULLEN: OBJECTION. LEADING.

18 THE COURT: OVERRULED.

19 MR. CRAIN: CROSS-EXAMINATION.

20 THE WITNESS: I WOULD PRESUME SOMETIME DURING THAT  
21 PERIOD OF TIME.

22 BY MR. CRAIN:

23 Q OKAY.

24 NOW, PAGE FOUR WAS WRITTEN BY YOU, WASN'T IT,  
25 IF YOU TAKE A LOOK AT THAT PAGE?

26 A THE FRONT PAGE?

27 Q THIS WOULD BE THE PAGE WHERE IT SAYS  
28 (READING): "SATURN'S INTEREST," UP AT THE UPPER LEFT-HAND



1 CORNER?

2 THE COURT: THAT'S NOT PAGE FOUR ON MINE.

3 MR. CRAIN: IT IS NOT?

4 THE WITNESS: IT IS PAGE SEVEN.

5 PAGE FOUR OF MINE SAYS --

6 THE COURT: ONE AT A TIME.

7 MR. CRAIN: LET ME APPROACH THE WITNESS SO WE ARE

8 BOTH WORKING OFF THE SAME COPY HERE.

9 THE COURT: ALL RIGHT.

10

11 (PAUSE.)

12

13 BY MR. CRAIN:

14 Q OKAY.

15 PAGE FOUR WHERE IT SAYS (READING): "SATURN  
16 BUSINESS PLAN." THAT WAS WRITTEN BY YOU; RIGHT?

17 A YES.

18 Q AND HAVE YOU HAD A CHANCE TO LOOK AT IT THIS  
19 MORNING?

20 A I AM LOOKING AT IT NOW, YES, SIR.

21 Q OKAY.

22 THIS IS ENTITLED (READING): "SATURN BUSINESS  
23 PLAN FOR IMPLEMENTATION OF ATTRITION MACHINE ENERGY"; IS  
24 THAT RIGHT?

25 A CORRECT?

26 Q AND IN THE COURSE OF THAT PAGE YOU REFER UP  
27 AT THE TOP WHERE IT SAYS, "CAPABILITY," YOU STATE  
28 (READING): "THE ATTRITION MACHINE IS FULLY PROVEN

1 EQUIPMENT THAT HAS BEEN OPTIMIZED TO PRODUCTION SCALE  
2 SIZE, CAPABLE OF REDUCING ANY SOLID FORM MATERIAL TO A  
3 MINUS 600 MESH, ABOUT THE SIZE OF SMOKE PARTICLES";  
4 CORRECT?

5 A THAT'S WHAT THIS SAYS RIGHT HERE, YES.

6 Q THAT'S WHAT YOU WROTE; RIGHT?

7 A THAT'S WHAT I WROTE.

8 Q AND YOU WROTE (READING): "NO FURTHER  
9 RESEARCH IS REQUIRED AS TO CAPABILITY OF THE UNIT"; RIGHT?

10 A IT GOES ON (READING): "OTHER THAN -- "

11 Q RIGHT. (READING): "OTHER THAN METALURGY,  
12 FEEDING AND" --

13 A DISBURSEMENT.

14 Q (READING): "-- DISBURSEMENT AND  
15 MANUFACTURING FOR MULTIPLE UNITS FOR LARGER SIZED  
16 REQUIREMENTS"; CORRECT?

17 A CORRECT?

18 Q NOW, IN THE COURSE OF THIS ENTIRE PARAGRAPH  
19 HERE YOU CONCLUDE, HOWEVER, THAT ANYTHING THAT NEEDS TO BE  
20 DONE IN TERMS OF HAVING THE MACHINE FULLY PROVEN CAN BE  
21 RESOLVED BY THE OBTAINING OF SHELF STOCKED EQUIPMENT," TO  
22 USE YOUR TERM; ISN'T THAT RIGHT?

23 A CORRECT?

24 Q IT IS READY AVAILABLE; CORRECT?

25 A RIGHT.

26 Q THAT'S WHAT YOU WROTE ON PAGE FOUR; RIGHT?

27 A RIGHT.

28 Q NOW, AS YOU SAID, IT HAS BEEN -- YOU SAID ON

1 THE STAND THURSDAY THAT SOME OF THESE EVENTS ARE SOMEWHAT  
2 HAZY IN YOUR MIND NOW BECAUSE OF THE --

3 A ALL OF THESE EVENTS ARE SOMEWHAT HAZY IN MY  
4 MIND RIGHT NOW.

5 Q ALL OF THEM ARE BECAUSE OF THE PASSAGE OF  
6 TIME?

7 A 12, 13 YEARS.

8 Q WHEN YOU WERE ASKED QUESTIONS ABOUT THE  
9 DISTRICT ATTORNEY ON THURSDAY WERE YOU ATTEMPTING TO  
10 ANSWER TO THE BEST OF YOUR RECOLLECTION?

11 A YES.

12 Q YOU HAD INTERVIEWS WITH THE DISTRICT ATTORNEY  
13 PRIOR TO TAKING THE STAND ON THURSDAY; RIGHT?

14 A YES.

15 Q I BELIEVE YOU MADE THE STATEMENT THAT YOUR  
16 FILES AND RECORDS RELATING TO THE NEGOTIATIONS OF  
17 MICROGENESIS DON'T EXIST ANYMORE, YOU CAN'T FIND THEM; IS  
18 THAT RIGHT?

19 A THEY ARE IN STORAGE.

20 Q WELL, IN YOUR --

21 A I HAVE NOT SEEN THEM SINCE I HAVE BEEN IN  
22 PRISON.

23 Q I AM SORRY?

24 A I HAVE NOT SEEN THEM, AND I DO NOT HAVE THEM  
25 HANDY TO REFER TO AT THIS POINT IN TIME.

26 Q SO PRIOR TO TESTIFYING IN HERE ON THURSDAY ON  
27 DIREST EXAMINATION BY MR. MC CULLEN HERE, YOU WEREN'T ABLE  
28 TO REVIEW YOUR RECORDS FROM 1983 AND 1984 CONCERNING YOUR

1 NEGOTIATIONS WITH MICROGENESIS; IS THAT CORRECT?

2 A THAT'S A CORRECT STATEMENT.

3 Q IS THAT A CORRECT STATEMENT, SIR?

4 A THAT'S CORRECT.

5 Q WOULD IT BE FAIR TO SAY, MR. KILPATRICK, THAT  
6 YOUR RECORDS AND MEMORANDA MADE CONTEMPORANEOUSLY WITH  
7 YOUR INVOLVEMENT WITH MICROGENESIS MORE ACCURATELY REFLECT  
8 THE NEGOTIATIONS AND DEALINGS OF MICROGENESIS THAN DOES  
9 YOUR MEMORY ALONE AFTER ALL THESE YEARS?

10 A WHAT YOU ARE ASKING ME IS THE DOCUMENTS, DO  
11 THEY MORE ACCURATELY REFLECT THAN MY MEMORY; IS THAT A  
12 SUMMATION OF WHAT YOU JUST ASKED?

13 Q YES.

14 MR. MC MULLEN: OBJECTION. CALLS FOR SPECULATION.  
15 THE COURT: OVERRULED.

16 MR. MC MULLEN: IRRELEVANT.

17 THE COURT: OVERRULED.

18 THE WITNESS: POSSIBLY. ALTHOUGH THIS IS NOT A  
19 DOCUMENT, THESE ARE MY NOTES. THIS IS A PROPOSED -- THIS  
20 WAS NEVER REDUCED TO A CONTRACT, REDUCED TO WRITING,  
21 REDUCED TO ANYTHING THAT WAS FOR ANYBODY OTHER THAN ME.  
22 BY MR. CRAIN:

23 Q THESE WERE NOTES THAT YOU WERE MAKING DURING  
24 YOUR INVOLVEMENT WITH MICROGENESIS CONCERNING --

25 A THESE ARE NOTES THAT I CAN -- WHAT I AM  
26 SAYING HERE IS WHAT CONDITIONS WOULD BE IN THE EVENT  
27 BEFORE WE CAN DO INTO THE AGREEMENT WITH SATURN, AND AS WE  
28 GO INTO THE AGREEMENT WITH SATURN AND THE CONDITIONS THAT

1 I WOULD PRESUME WOULD BE ENTERED AT THAT TIME.

2           THERE IS NO BUSINESS PLAN FOR SATURN UNLESS  
3 THEY MERGE WITH SATURN, I PRESUME. I DON'T KNOW. THIS IS  
4 A LONG TIME AGO. THESE ARE JUST NOTES. I HAVE NO IDEA  
5 WHAT THEY WERE PREPARED FOR AND WHAT TIME FRAME THEY WERE  
6 PROJECTED TO REFLECT.

7           Q       IS IT CORRECT THAT THE DESCRIPTION OF THE  
8 STATE OF THE TECHNOLOGY THAT YOU PLACED IN YOUR NOTES MORE  
9 ACCURATELY REFLECTS WHAT YOU BELIEVED AT THAT TIME THAN  
10 YOUR UNAIDED MEMORY AFTER 12 OR 13 YEARS; IS THAT RIGHT?

11           A       IT WOULD REFLECT EITHER THE STATUS AT THAT  
12 TIME OR WHAT THE STATUS WOULD BE AT THE TIME THAT SATURN  
13 WOULD NEED A BUSINESS PLAN IN ORDER TO START SELLING IT.  
14 IN ORDER TO SELL IT WE WOULD HAVE TO HAVE IT IN THIS  
15 CONDITION. I DON'T KNOW, IT'S A PROJECTIONS, IF IT IS A  
16 PROJECTIONS. I PRESUME IT IS BECAUSE IT WAS NEVER REDUCED  
17 TO ANY SORT OF A FORM, APPARENTLY, OR YOU WOULD BE  
18 PRESENTING ME WITH IT IF YOU HAD GOTTEN AN ACTUAL  
19 TYPEWRITTEN FORMAL DOCUMENT, BUT THESE ARE NOTES LIKE I  
20 WOULD HAVE IN MY DAYTIMER OR SOMETHING.

21           Q       CALLING YOUR ATTENTION TO PAGE FOUR, YOU DO  
22 MAKE THE STATEMENT (READING): "NO FURTHER RESEARCH IS  
23 REQUIRED," ETC.; CORRECT?

24           A       BEFORE WE RELEASED IT TO ANYONE TO PUT ON THE  
25 SHELF OF THE POWER PLANTS WE WOULD HAVE TO HAVE MORE  
26 RESEARCH LIKE, FOR EXAMPLE, ONE OF THE PRIMARY RESEARCHES  
27 THAT I -- AS I SAID THE OTHER DAY, YOU HAVE GOT TO HAVE  
28 APPROVAL OF E.P.R.I. WITHOUT APPROVAL OF E.P.R.I. YOU

1 DON'T PUT ANYTHING ON ANYTHING.

2 MR. CRAIN: CAN THE WITNESS BE DIRECTED TO SIMPLY  
3 ANSWER THE QUESTIONS ASKED OF HIM.

4 THE COURT: JUST ANSWER THE QUESTION THAT'S PUT TO  
5 YOU. DON'T VOLUNTEER ANYTHING.

6 GO AHEAD.

7 BY MR. CRAIN:

8 Q ALL RIGHT.

9 SO THE PART ABOUT ALL THE PROBLEMS REMAINING  
10 AT THE BOTTOM OF THAT PAGE YOU HAVE IN FRONT OF YOU  
11 (READING): SATURN BUSINESS PLAN FOR IMPLEMENTATION OF  
12 ATTRITION MACHINE ENERGY," WHERE YOU STATE NEAR THE  
13 BOTTOM, "ALL THE PROBLEMS REMAINING CAN BE MET WITH  
14 STANDARD SHELF STOCKED EQUIPMENT THAT REQUIRES NO PROOF OF  
15 PERFORMANCE, BUT RATHER A SELECTION PROCESS OF THE HEAT  
16 EQUIPMENT FROM A MULTITUDE OF BRAND NAMES ALL OF WHICH  
17 SUPPLY IT." THAT REFLECTS YOUR STATE OF MIND AS TO THE  
18 READINESS OF THE MACHINE DURING THIS TIME FRAME; IS THAT  
19 RIGHT?

20 MR. MC MULLEN: OBJECTION. RELEVANCY. VAGUE AS TO  
21 TIME.

22 THE COURT: OVERRULED.

23 BY MR. CRAIN:

24 Q IS THAT RIGHT?

25 A THIS IS WHAT I HAVE WRITTEN ON THIS PAPER,  
26 AND I DON'T KNOW WHAT I WAS REFERRING TO, SIR, IS WHAT I  
27 AM TRYING TO SAY. I DON'T THINK I CAN ANSWER THAT "YES"  
28 OR "NO".

1 Q NOW --

2 A IT IS WHAT IT SAYS HERE. I DO NOT KNOW WHAT  
3 MY STATE OF MIND, WHAT I WAS REFERRING TO AT THE TIME.

4 Q ALL RIGHT.

5 NOW, IF YOU TURN NOW TO PAGE FIVE OF THAT  
6 SAME EXHIBIT NO. 291 --

7 A PARDON ME?

8 Q PAGE FIVE.

9 DO YOU SEE THAT THERE BEFORE YOU?

10 A CORRECT?

11 Q AND THIS PAGE REFERS TO THE LICENSE OF THE  
12 COAL APPLICATION OF THE MICROGENESIS ATTRITION MILLS  
13 TECHNOLOGY TO BE ACQUIRED BY SATURN AND U.F.O.I.; IS THAT  
14 RIGHT?

15 MR. MC MULLEN: MAY I APPROACH, YOUR HONOR?

16 THE COURT: YES.

17 THE WITNESS: I DON'T KNOW WHERE YOU ARE READING,  
18 SIR.

19 BY MR. CRAIN:

20 Q YOU SEE WHERE IT SAYS (READING); "SATURN'S  
21 INTERESTS"?

22 A SATURN ACQUIRES, YES.

23 Q YOU HAVE ALREADY ACKNOWLEDGED THE REFERENCE  
24 TO THE MICROGENESIS U.F.O.I. AGREEMENT THERE; CORRECT?

25 A CORRECT?

26 Q OKAY.

27 AND DO YOU SEE WHERE YOU WROTE THAT, "THE  
28 MACHINE, THE ATTRITION MACHINE USES THE COAL IMPACT AT

1 HIGH SPEEDS AIR STREAM TO GRIND THE COAL." I THINK THAT  
2 WOULD BEGIN DOWN HERE RIGHT ABOUT IN THE MIDDLE OF PAGE  
3 FIVE OF THIS EXHIBIT.

4 YOU WOULD HAVE TO TURN TO THE SIDE BECAUSE  
5 YOU HAVE AN ARROW POINTING THERE.

6 DO YOU SEE THAT? (READING): "THE ATTRITION  
7 MACHINE" --

8 A OKAY, YES.

9 Q -- (READING): "USES THE COAL  
10 IMPLEMENTING" -- PARDON ME, WHAT'S THAT WORD?

11 A IMPACT.

12 Q (READING): "IMPACTING" -- EXCUSE ME, "AT  
13 HIGH SPEED IN AIR STREAMS TO GRIND THE COAL" -- AND WHAT'S  
14 THAT WORD?

15 A "AND INCURS."

16 Q (READING): "AND INCURS VIRTUALLY NO WEAR ON  
17 THE MACHINE ITSELF," AND SO FORTH?

18 A (READING): "REQUIRING NO HEAVY STAMPING OR  
19 ROLLER EQUIPMENT, AND THUS VASTLY REDUCING ENERGY  
20 OPERATION COSTS."

21 THE COURT: I AM SORRY.

22 YOU ARE MUTTERING, MR. KILPATRICK. I CAN'T  
23 HEAR YOU. YOUR VOICE DROPS OFF.

24 THE WITNESS: I AM SORRY. I WAS READING THE  
25 SENTENCE (READING): "THUS VASTLY REDUCING ENERGY  
26 OPERATION COSTS."

27 BY MR. CRAIN:

28 Q AND THIS, WHAT WE HAVE BEEN READING NOW ABOUT



1 THE MACHINE WORKING IN AIR STREAMS IS RIGHT UNDER THE  
2 DESIGNATION, THE HEADING "FACTS"; IS THAT RIGHT?

3 A CORRECT.

4 Q IN YOUR WRITING; IS THAT RIGHT?

5 A CORRECT?

6 Q SO IF THE OTHER DAY YOU SAID THAT THE MACHINE  
7 IN ORDER TO HAVE APPLICATION TO COAL NEEDED TO BE  
8 RECONFIGURED TO OPERATE IN AN AIRLESS OR VACUUM TYPE  
9 ENVIRONMENT, THAT WAS SOME MISTAKE ON YOUR PART NOW THAT  
10 YOU HAD A CHANCE TO LOOK AT YOUR HANDWRITTEN DESIGNATION  
11 OF FACTS IN THAT EXHIBIT; IS THAT RIGHT?

12 MR. MC MULLEN: OBJECTION. INAPPROPRIATE  
13 IMPEACHMENT. AND NO FOUNDATION FOR THIS DOCUMENT, IN  
14 TERMS OF A PRIOR INCONSISTENT STATEMENT.

15 THE COURT: WELL, IT MISSTATES THE TESTIMONY.

16 REFRAME IT.

17 YOU REFERRED TO IT AS HIS STATEMENT OF THE  
18 FACTS. I THINK HE HAS TESTIFIED TO SOMETHING --

19 MR. CRAIN: ALL RIGHT.

20 BY MR. CRAIN:

21 Q JUST TO END THIS PARTICULAR TOPIC, THURSDAY,  
22 YOUR TESTIMONY THURSDAY WAS THAT THE MACHINE NEEDED TO  
23 WORK IN A VACUUM TYPE ENVIRONMENT --

24 A NO. IT WON'T WORK IN A VACUUM, SIR, IT NEEDS  
25 TO BE IN AN OXYGEN FREE ENVIRONMENT.

26 Q YOU DRAW A DISTINCTION BETWEEN A VACUUM TYPE  
27 AND OXYGEN FREE; IS THAT RIGHT?

28 A NO. IT IS NOT A VACUUM. YOU TAKE AIR TO

1 OPERATE THE MACHINE, PERIOD. YOU CAN'T OPERATE AT ALL  
2 WITHOUT SOME AIR TO MOVE THE PARTICLES. SO IT IS NOT A  
3 VACUUM UNDER ANY CIRCUMSTANCES.

4 Q BUT YOU DESIGNATED IN YOUR TESTIMONY --

5 A YOU NEED INERT ATMOSPHERE.

6 THE COURT: WAIT.

7 PUT THE QUESTION.

8 BY MR. CRAIN:

9 Q IN YOUR TESTIMONY YOU SAID IN ORDER FOR THE  
10 MACHINE TO WORK AS FAR AS COAL GRINDING IT NEEDS AN  
11 AIR-FREE, OXYGEN FREE ATMOSPHERE; IS THAT CORRECT?

12 A OXYGEN FREE ATMOSPHERE.

13 Q AND YOU OBSERVED THERE ON PAGE FIVE OF THAT  
14 PARTICULAR DOCUMENT UNDER "FACTS" THAT THE MACHINE INSOFAR  
15 AS THE APPLICABILITY TO COAL GOES REQUIRES OR USES AIR  
16 STREAM; IS THAT RIGHT?

17 A CORRECT?

18 Q ISN'T AIR MADE UP OF OXYGEN?

19 A IF YOU ARE TALKING ABOUT ATMOSPHERIC AIR.  
20 HYDROGEN IN A CYLINDER IS AIR, PURE HYDROGEN, NITROGEN IS  
21 AIR.

22 Q IN THE DOCUMENT THERE THAT YOU HAVE BEFORE  
23 YOU YOU REFER TO AIR STREAM; IS THAT RIGHT?

24 A YES, SIR.

25 Q OKAY.

26 MR. CRAIN: I HAVE ANOTHER DOCUMENT, YOUR HONOR,  
27 WHICH HAS ALREADY BEEN MARKED AS PETITIONER'S EXHIBIT NO.  
28 25.

1 THE COURT: THAT HAS BEEN MARKED, YES.

2 MR. CRAIN: PARDON ME?

3 THE COURT: THAT HAS BEEN MARKED.

4 MR. CRAIN: THANK YOU.

5 MR. CRAIN: DOES THE COURT -- I GUESS COUNSEL HAS A  
6 COPY OF THIS ONE. DOES THE COURT HAVE ONE?

7 THE COURT: I DON'T KNOW IF THAT IS ONE THAT I HAVE  
8 OR --

9 MR. CRAIN: I HAVE ONE FOR THE COURT, WHICH I  
10 PERSONALLY XEROXED, YOUR HONOR, SUNDAY EVENING.

11 THE COURT: SO WE KNOW IT IS ACCURATE; CORRECT?

12 MR. CRAIN: WELL, I DON'T WANT TO GO THAT FAR. I  
13 HOPE SO.

14 BY MR. CRAIN:

15 Q HAVE YOU TURNED YOUR ATTENTION TO,  
16 MR. KILPATRICK, TO THIS DOCUMENT, WHICH HAS NOW BEEN  
17 MARKED, OR HAS BEEN MARKED AS EXHIBIT 25, DO YOU RECOGNIZE  
18 THIS APPRAISAL?

19 A I REMEMBER IT.

20 Q AND YOU PRESENTED THIS APPRAISAL TO THE --  
21 YOU PRESENTED THIS TO THE BANKRUPTCY COURT DURING  
22 U.F.O.I.'S BANKRUPTCY REORGANIZATION; IS THAT RIGHT?

23 MR. MC MULLEN: OBJECTION. RELEVANCE.

24 THE WITNESS: I DON'T KNOW.

25 THE COURT: OVERRULED.

26 THE WITNESS: I DON'T KNOW.

27 BY MR. CRAIN:

28 Q YOU ALSO PRESENTED IT TO THE SATURN

1 CORPORATION AND RELIED UPON THE ACCURACY OF THAT  
2 PARTICULAR DOCUMENT IN YOUR DEALINGS WITH SATURN; DIDN'T  
3 YOU?

4 A THIS IS ADDRESSED TO MR. ROY ROBINSON, SO I  
5 PRESUMED IT WENT TO HIM. I DON'T KNOW. APPARENTLY THIS  
6 WAS PREPARED BY HIM AND CHEUNG FOR MR. --

7 THE COURT: WHO IS MR. ROBINSON?

8 THE WITNESS: PRESIDENT OF SATURN ENERGY.

9 BY MR. CRAIN:

10 Q THAT'S MR. ROY ROBINSON, WHOSE HANDWRITING  
11 YOU PREVIOUSLY IDENTIFIED ON THE NOVEMBER, 1983, CONTRACT;  
12 CORRECT? EXHIBIT 287, RIGHT, THE SAME PERSON?

13 A YES.

14 Q DID YOU HEAR THE QUESTION, MR. KILPATRICK?

15 A NO, I DIDN'T.

16 Q THURSDAY, YOU WERE SHOWN EXHIBIT 287, THAT  
17 NOVEMBER, 1983, CONTRACT. YOU WERE ASKED BY  
18 MR. MC CULLEN TO IDENTIFY A SIGNATURE, AND YOU TOLD US WHO  
19 HE WAS, THE PRESIDENT OF SATURN. SO NOW WE ARE TALKING  
20 ABOUT THE SAME PERSON HERE TODAY; IS THAT RIGHT?

21 A YES, THAT'S CORRECT.

22 Q OKAY.

23 NOW, DO YOU RECALL MR. HUNT HERE PAYING \$5000  
24 TO DR. CHEUNG TO DO AN INDEPENDENT APPRAISAL OF THE  
25 TECHNOLOGIES THAT WERE THE SUBJECT OF THAT NOVEMBER, 1983,  
26 AGREEMENT?

27 A I DO NOT REMEMBER IT, NO.

28 MR. MC MULLEN: OBJECTION.

1 THE COURT: OVERRULED.

2 THE ANSWER WILL STAND.

3 BY MR. CRAIN:

4 Q NOW, YOU READ THIS PARTICULAR APPRAISAL THAT  
5 YOU HAVE BEFORE YOU, EXHIBIT 25, BACK IN 1984; DIDN'T YOU?

6 A PROBABLY.

7 Q AND YOU IN FACT SELECTED DR. CHEUNG; DIDN'T  
8 YOU?

9 A I DON'T REMEMBER. I DID NOT -- I WAS NOT  
10 OPPOSED TO DR. CHEUNG. DR. CHEUNG WAS FINE. I HAVE USED  
11 HIM FOR OTHER THINGS SUBSEQUENT TO THIS, BUT I DON'T KNOW  
12 THAT I CHOOSE HIM FOR THIS. I THINK THIS WAS THE FIRST  
13 THING THAT HE EVER DID FOR US.

14 Q YOU KNEW DR. CHEUNG'S REPUTATION AT THAT  
15 TIME, AND THAT'S WHY YOU DIDN'T OPPOSE HIS BEING USED AS  
16 AN EXPERT TO PROVIDE AN APPRAISAL AS TO THE VALUE OF THE  
17 TECHNOLOGY; IS THAT RIGHT?

18 A I DID NOT OBJECT, APPARENTLY, TO DR. CHEUNG  
19 PREPARING THIS, NO, SIR.

20 Q NOW, LOOKING AT THAT EXHIBIT THAT YOU NOW  
21 HAVE BEFORE YOU, EXHIBIT 25, DO YOU SEE PAGE TWO WHERE IT  
22 SAYS --

23 A PAGE TWO OR THE SECOND PAGE?

24 THE COURT: PAGE TWO OF THE REPORT OR SECOND PAGE  
25 OF THE EXHIBIT?

26 BY MR. CRAIN:

27 Q IT IS SECOND PAGE OF THE EXHIBIT,  
28 MR. KILPATRICK. IT IS RIGHT, IT IS PAGE ONE. AT THE

1 BOTTOM IT SAYS (READING): "ASSESSMENT OF CERTAIN COAL  
2 TECHNOLOGIES."

3 THE COURT: ALL RIGHT.

4 BY MR. CRAIN:

5 Q DO YOU SEE THE LAST LINE OF THAT PAGE UNDER  
6 THE SUBHEADING, "ATTRITION MACHINE"?

7 A YES.

8 Q OKAY.

9 AND YOU READ THAT SENTENCE, THE LAST COUPLE  
10 OF SENTENCES THERE?

11 A LAST COUPLE OF LINES?

12 Q YES.

13 A YES.

14 Q AND IT REFLECTS THE FACT THAT USING THE  
15 MACHINE REQUIRES THAT MATERIAL PARTICLES BE CARRIED BY AIR  
16 CURRENT; IS THAT RIGHT?

17 A CORRECT?

18 Q NOW, IF YOU TURN UP TO THE BEGINNING OF THE  
19 APPRAISAL, YOU SEE WHERE IT SAYS THE SIGNATURE, "HENRY  
20 CHEUNG, PH.D., PRESIDENT," DOWN AT THE BOTTOM?

21 A CORRECT?

22 Q OKAY.

23 AND YOU NOTE IN THERE THAT DR. CHEUNG  
24 APPRAISED THE VALUE OF THE DESIGN OF THE MILL AT 114  
25 MILLION DOLLARS; IS THAT CORRECT?

26 A CORRECT.

27 MR. MC MULLEN: OBJECTION. MISSTATES THE EVIDENCE.  
28 IT SAID HE NOTED IN HIS QUESTION.

1 THE COURT: WELL, THAT'S WHAT THE EXHIBIT, FIRST  
2 PAGE OF THE EXHIBIT SAYS. THE DOCUMENT SPEAKS FOR ITSELF.

3 MR. MC MULLEN: THANK YOU.

4 BY MR. CRAIN:

5 Q SO IN 1984 YOU RELIED ON DR. CHEUNG'S  
6 APPRAISAL AND ACCEPTED HIS VALUATION OF THE BROWNING  
7 ATTRITION MACHINE, PRESENT VALUE BEING 114 MILLION  
8 DOLLARS; IS THAT A FAIR STATEMENT, SIR?

9 MR. MC MULLEN: OBJECTION. MISSTATES THE EVIDENCE.

10 THE COURT: OVERRULED.

11 BY MR. CRAIN:

12 Q IS THAT RIGHT?

13 A I RELIED ON IT, IS THAT WHAT YOU ARE SAYING?

14 Q YES.

15 A IN WHAT MANNER?

16 Q IN THE MANNER -- IN TERMS OF ATTEMPTING TO  
17 PLACE A VALUE ON THE ATTRITION MILLS TECHNOLOGY?

18 A I DON'T KNOW THAT I EVER RELIED ON IT. THE  
19 BANKRUPTCY COURT DID NOT ACCEPT IT. THEIR APPRAISAL OF  
20 THE UNITED FINANCIAL COMING OUT OF THE BANKRUPTCY WAS THAT  
21 IT WAS PROBABLY LESS THAN THAT. THE BANKRUPTCY COURT  
22 CLEARLY STATED THEY WOULD NOT ACCEPT THAT AS AN APPRAISAL.  
23 I HAVE FORGOTTEN WHAT IT WAS --

24 MR. MC MULLEN: MOTION TO STRIKE.

25 THE COURT: I WILL ALLOW THE ANSWER TO STAND.

26 BY MR. CRAIN:

27 Q OKAY.

28 DR. CHEUNG IS A RESPECTED SCIENTIST IN THE

1 FIELD; CORRECT?

2 A TO THE BEST OF MY KNOWLEDGE I BELIEVE HE IS,  
3 YES.

4 Q YOU HAVE USED HIM IN APPRAISALS ON A NUMBER  
5 OF OCCASIONS; IS THAT RIGHT?

6 A ON MORE THAN ONE. I DON'T THINK "A NUMBER"  
7 IS ACCURATE.

8 Q AND THE QUESTION IS: BACK IN 1984 YOU  
9 REVIEWED THAT DOCUMENT AND SAW THAT DR. CHEUNG HAD  
10 EVALUATED THE ATTRITION MILLS TECHNOLOGY AT 114 MILLION  
11 DOLLARS; DIDN'T YOU?

12 A YES, I DID.

13 MR. CRAIN: YOUR HONOR, CAN WE MARK ANOTHER EXHIBIT  
14 AS 291-A?

15 THE COURT: WHAT IS IT FIRST?

16 MR. CRAIN: IT IS A ONE-PAGE DOCUMENT FROM SATURN  
17 ENERGY. I WANT TO SHOW --

18 THE COURT: WHY DON'T YOU MARK IT AS 292?

19 MR. CRAIN: I CAN DO THAT. I HAD JUST MARKED ALL  
20 THE OTHERS -- I GUESS I CAN RE-MARK THEM.

21 COULD THIS BE MARKED OUT OF THE ORDER? THE  
22 LAST EXHIBIT I HAVE FOR THIS WITNESSES IS 300, SO COULD IT  
23 BE MARKED 301?

24 THE COURT: HOLD ON. ONE SECOND.

25

26 (PAUSE.)

27

28 THE COURT: YOU WANT TO MARK THAT AS 301?



1 MR. CRAIN: YES, THANK YOU.

2 THE COURT: IT WILL BE MARKED AS 301.

3

4 (MARKED FOR ID = PETITIONER'S 301,  
5 DOCUMENT.)

6

7 THE WITNESS: YOUR HONOR, MAY I HAVE SOME WATER?

8 THE COURT: YES.

9

10 (PAUSE.)

11

12 BY MR. CRAIN:

13 Q SHOWING YOU THIS DOCUMENT, WHICH APPEARS TO  
14 BE A NEWS RELEASE, "SATURN ENERGY AND RESOURCES." IT IS  
15 DATED 6, DECEMBER, 1983, HAVE YOU SEEN THAT BEFORE?

16 A I DON'T RECALL SEEING IT, BUT IT LOOKS LIKE  
17 SOMETHING --

18 Q LET ME ASK YOU THIS: THE BANKRUPTCY COURT  
19 WAS GIVEN A PLAN OF MERGER REGARDING SATURN AND U.F.O.I.;  
20 IS THAT CORRECT?

21 A THAT'S CORRECT.

22 Q I CALL YOUR ATTENTION TO PARAGRAPH THREE  
23 HERE -- BY THE WAY, YOU USED TO KEEP UP WITH YOUR  
24 CORRESPONDENCE BACK AND FORTH WITH MR. ROBINSON AND HIS  
25 CORPORATION DURING THE PENDENCY OF THIS MERGER; RIGHT?

26 A CORRECT.

27 Q YOU WERE AWARE OF WHAT SORT OF PUBLIC  
28 STATEMENTS MR. ROBINSON WAS MAKING ON BEHALF OF SATURN;

1 RIGHT?

2 MR. MC MULLEN: OBJECTION. CALLS FOR SPECULATION.

3 THE COURT: SUSTAINED.

4 BY MR. CRAIN:

5 Q YOU WERE ATTEMPTING TO KEEP ABREAST OF WHAT  
6 SORT OF PUBLIC REPRESENTATIONS MR. ROBINSON WAS MAKING  
7 RELATIVE TO THE NEGOTIATIONS BETWEEN SATURN AND U.F.O.I.?

8 A I THINK TO SOME DEGREE, YES, WE WERE. THERE  
9 WAS THINGS THAT HE DID THAT I HEARD ABOUT AFTER THE FACT.

10 Q YOU DIDN'T WANT HIM DOING THINGS BEHIND YOUR  
11 BACK; RIGHT?

12 A HE IS THE PRESIDENT OF THE COMPANY, OF WHAT'S  
13 GOING TO BE THE SURVIVING COMPANY, THEREFORE, I DON'T  
14 CONTROL HIM.

15 Q YOU WANTED TO FIND OUT AS MUCH AS YOU COULD  
16 ABOUT WHAT HE WAS DOING IN ORDER TO PROPERLY PROTECT YOUR  
17 FINANCIAL INTEREST; DIDN'T YOU?

18 A I WANTED TO DO AS MUCH AS I COULD, YES.

19 Q SURE.

20 DID YOU SEE IN HERE WHERE A PLAN OF MARKETING  
21 WAS PRESENTED TO THE COURT, IT INVESTIGATES VARIOUS  
22 TECHNOLOGIES WORTH 156 MILLION DOLLARS. DOES THAT REFRESH  
23 YOUR RECOLLECTION AS TO WHAT SORT OF INFORMATION WAS  
24 PROVIDED TO THE BANKRUPTCY COURT ABOUT THE VALUE OF THE  
25 TECHNOLOGY?

26 A IT DOESN'T REFRESH MY MEMORY. I DON'T  
27 REMEMBER WHAT IT WAS. AND IF HE SAYS THAT WE PRESENTED IT  
28 TO THE COURT, WE PROBABLY DID. ALL I AM SAYING IS THAT

1 THE COURT DID NOT ACCEPT IT AS THAT VALUE.

2 MR. CRAIN: I HAVE ANOTHER DOCUMENT HERE I WOULD  
3 LIKE THIS MARKED AS EXHIBIT 292.

4 THE COURT: ALL RIGHT.

5

6 (MARKED FOR ID = PETITIONER'S 292,  
7 DOCUMENT.)

8

9 MR. CRAIN: I HAVE ONE FOR THE COURT. I HOPE IT IS  
10 IN ORDER.

11 OKAY.

12 BY MR. CRAIN:

13 Q TAKE A LOOK AT THAT EXHIBIT 292,  
14 MR. KILPATRICK?

15 A ARE YOU CONCERNED WITH THE RED MARK OR THE  
16 WHOLE THING?

17 Q JUST LOOK IT OVER PRELIMINARILY.

18

19 (WITNESS COMPLIES.)

20

21 Q HAVE YOU HAD A CHANCE TO LOOK AT IT, SIR?

22 A NO, SIR. I HAVE GLANCED AT IT.

23 Q WITHOUT READING IT WORD FOR WORD, JUST  
24 PRELIMINARILY, I CAN ASK YOU A FEW QUESTIONS?

25 A I CAN'T READ THE TOP OF IT. WHAT IS IT?  
26 WHAT'S THE TITLE?

27 Q LET ME COME OVER THERE AND SEE IF I CAN --

28 THE COURT: I DON'T HAVE IT ON MINE EITHER.

1 MR. MC MULLEN: MAY I APPROACH?

2 THE COURT: YES.

3 MR. KLEIN: JUDGE, ON THE TOP (READING): "ANALYSIS  
4 OF U.F.O.I./SATURN ASSET/STOCKS SWAP."

5 MR. CRAIN: THAT'S WHAT IT SAYS, YOUR HONOR.

6 THE COURT: IF WE HAVE GOT A BETTER COPY LET'S USE  
7 THAT, AND MARK THAT AS AN EXHIBIT.

8 MR. CRAIN: OKAY.

9 MR. KLEIN: I WILL TRADE IT.

10 MR. CRAIN: I AM SORRY.

11 MR. MC MULLEN: THAT'S FINE. THANK YOU.

12 BY MR. CRAIN:

13 Q YOU WANT TO LOOK AT WHAT IT ACTUALLY SAYS  
14 HERE.

15 MR. KLEIN: IT DIDN'T PRINT OUT.

16 BY MR. CRAIN:

17 Q I AM NOW SHOWING YOU WHAT HAS BEEN NOW MARKED  
18 AS EXHIBIT 292. DO YOU SEE THAT IT SAYS AT THE TOP  
19 (READING): "ANALYSIS OF U.F.O.I./SATURN ASSETS/STOCK  
20 SWAP"?

21 A ALL RIGHT.

22 Q AND DO YOU RECOGNIZE THAT AS SOMETHING YOU  
23 PREPARED, DON'T YOU?

24 A NO, SIR.

25 Q PARDON ME?

26 A NO, SIR, I DON'T RECOGNIZE IT. I DON'T KNOW.  
27 THERE WERE ABOUT FIVE FILING CABINETS FULL OF DOCUMENTS  
28 SUBMITTED TO BANKRUPTCY COURT. I DON'T HAVE ANYWHERE

1 CLOSE TO ALL OF THEM MEMORIZED, SIR.

2 Q WELL --

3 A I DON'T SEE ANYTHING ON THERE THAT -- WHERE  
4 IT SAYS THAT I PREPARED IT.

5 Q YOU RECOGNIZED FROM THE TYPE THAT THAT  
6 APPEARS TO BE SIMILAR TO OTHER DOCUMENTS GENERATED AT YOUR  
7 OFFICE, DON'T YOU?

8 A IT WOULD BE VERY DIFFERENT. WE HAVE FIVE  
9 TYPEWRITERS THERE. THEY DO NOT ALL HAVE THE SAME TYPE. I  
10 DON'T KNOW.

11 MR. CRAIN: NOW, I DON'T KNOW HOW THE COURT --  
12 BY MR. CRAIN:

13 Q WELL, I AM GOING TO ASK YOU SPECIFIC  
14 QUESTIONS ABOUT IT.

15 A OKAY.

16 Q YOU CAN'T TELL US THAT'S NOT SOMETHING THAT  
17 YOU PREPARED, CAN YOU?

18 MR. MC MULLEN: OBJECTION. RELEVANCE.

19 THE WITNESS: NO.

20 THE COURT: SUSTAINED.

21 BY MR. CRAIN:

22 Q OKAY.

23 SO YOU SEE WHERE IT REFERS, IF I CAN JUST  
24 HOLD THIS FOR A SECOND, TO SUCH THINGS AS "METHOD AND  
25 RATIONAL OF VALUATION AND STOCK PAYMENT"; CORRECT?

26 MR. MC MULLEN: OBJECTION. RELEVANCE.

27 THE COURT: SUSTAINED. THERE IS NO FOUNDATION FOR  
28 THIS DOCUMENT.

1 BY MR. CRAIN:

2 Q WELL, I WOULD LIKE THE WITNESS TO LOOK  
3 THROUGH IT BECAUSE I THINK IT WILL REFRESH -- I THINK IT  
4 WAS PREPARED BY THE WITNESS, AND I THINK IF HE HAS AN  
5 OPPORTUNITY TO READ IT, IT WILL REFRESH HIS RECOLLECTION.

6 THE COURT: WELL --

7 MR. CRAIN: THE NEXT SERIES OF QUESTIONS GO TO IT  
8 BECAUSE THAT --

9 THE COURT: WHY DON'T YOU PAGE THROUGH IT, SEE IF  
10 YOU RECOGNIZE IT. IF YOU DON'T RECOGNIZE IT, LET US KNOW.  
11 AND IF YOU DO RECOGNIZE IT, LET US KNOW

12

13 (WITNESS COMPLIES.)

14

15 THE COURT: WHY DON'T YOU LET HIM LOOK AT IT, SEE  
16 IF HE RECOGNIZES IT.

17 MR. MC MULLEN: THANK YOU

18

19 (WITNESS COMPLIES.)

20

21 THE COURT: HOLD ON. LET HIM SEE.

22 MR. CRAIN: I JUST THOUGHT IT WOULD BE FASTER. HE  
23 IS A HOSTILE WITNESS IN A LEGAL SENSE SO --

24 THE COURT: WHETHER HE IS HOSTILE OR NOT HOSTILE --

25 MR. CRAIN: NOTHING PERSONAL, MR. KILPATRICK.

26 THE COURT: -- PAGE THROUGH IT, SEE IF YOU  
27 RECOGNIZE THIS DOCUMENT. LET US KNOW IF YOU RECOGNIZE IT.

28

1 (WITNESS COMPLIES.)

2

3 THE WITNESS: YOUR HONOR, I RECOGNIZE A LOT OF THE  
4 FACTS. I DO NOT RECOGNIZE IT AS SOMETHING I PREPARED, OR  
5 THAT I DID NOT PREPARE. I MAY WELL HAVE PREPARED IT. I  
6 DON'T KNOW.

7 MR. CRAIN: IS THAT A SUFFICIENT FOUNDATION?

8 THE COURT: NO.

9 BY MR. CRAIN:

10 Q IS THIS SOMETHING THAT YOU CAN TELL US YOU  
11 WOULD HAVE REVIEWED DURING YOUR TIME PERIOD THAT YOU WERE  
12 NEGOTIATING WITH MICROGENESIS?

13 A IT WAS PRESENTED TO ME I WOULD HAVE REVIEWED  
14 IT.

15 Q CALLING YOUR ATTENTION TO PAGE FOUR, DO YOU  
16 SEE THE NAME OF THE CPA DOWN THERE FROM DENVER?

17 MR. MC MULLEN: OBJECTION. FOUNDATION.

18 MR. CRAIN: WOLF AND COMPANY.

19 THE COURT: I WILL ALLOW THAT QUESTION.

20 THE WITNESS: I DON'T SEE IT, BUT -- I DON'T.

21 BY MR. CRAIN:

22 Q YOU SEE "C," IT SHOWS "WOLF AND COMPANY," AT  
23 THE BOTTOM OF THE PAGE?

24 A YES.

25 Q WAS WOLF AND COMPANY YOUR CPA?

26 A THEY WERE ONE OF THE CPA'S THAT WE USED AT  
27 ONE TIME, YES.

28 Q DOES THAT REFRESH YOUR RECOLLECTION AS TO

1 WHETHER OR NOT THIS IS A DOCUMENT THAT YOU HAVE SEEN  
2 BEFORE?

3 A NO, SIR.

4 MR. CRAIN: MAY I HAVE JUST A MINUTE HERE?

5 THE COURT: YES.

6  
7 (PAUSE.)

8  
9 MR. CRAIN: FOR CLARIFICATION, YOUR HONOR, IS IT  
10 THE COURT'S VIEW AT THIS POINT THAT QUESTIONS ABOUT THIS,  
11 WITH THIS WITNESS ABOUT THIS PARTICULAR EXHIBIT CAN'T BE  
12 ASKED?

13 THE COURT: YES.

14 MR. CRAIN: ALL RIGHT.

15 MR. CRAIN: MAY I JUST REGROUP HERE FOR JUST A  
16 SECOND?

17 THE COURT: YES.

18  
19 (PAUSE.)

20  
21 MR. CRAIN: THANK YOU.

22  
23 (PAUSE.)

24  
25 BY MR. CRAIN:

26 Q DURING THE COURSE OF THE TIME FRAME THAT WE  
27 HAVE BEEN DISCUSSING, LATE 1983 THROUGH THE SUMMER OF  
28 1984, WHEN YOU AND MR. HUNT CEASED YOUR DEALINGS WITH EACH



1 OTHER RELATIVE TO THE ATTRITION MILLS, DID YOU MAKE THE  
2 STATEMENT ANYWHERE THAT, "INSTALLATION OF THE ATTRITION  
3 MILLS MAY WELL OCCUR WITHIN SIX MONTHS OF REGULATORY  
4 APPROVAL OF THE MERGER. IMMEDIATELY AFTER CLOSING OF THE  
5 ACQUISITION OF SATURN APPLY TO E.P.R.I. FOR AN EQUIPMENT  
6 CERTIFICATION, WHICH SHOULD NOT BE TOO DIFFICULT OR TIME  
7 CONSUMING"?

8 DID YOU MAKE THOSE STATEMENTS, SIR?

9 A I DON'T KNOW. SOUNDS LIKE SOMETHING THAT  
10 WOULD PROBABLY WOULD HAVE BEEN A VALID STATEMENT. I DON'T  
11 KNOW THAT I MADE SUCH A STATEMENT.

12 Q OKAY.

13 YOU SAY IT WOULD HAVE BEEN A VALID STATEMENT.  
14 YOU MEAN THAT WAS VALID IN THE SENSE THAT WAS YOUR STATE  
15 OF MIND, AND IT WAS OBJECTIVELY TRUE; IS THAT RIGHT?

16 A IT WAS SUBJECTIVELY TRUE TO THE EXTENT THAT  
17 THERE WAS SEVERAL THINGS THAT HAD TO OCCUR. THE MERGER  
18 WAS NOT THE ONLY THING THAT -- BEFORE THE MERGER CAN  
19 ACTUALLY TAKE PLACE, WE HAVE TO HAVE APPROVAL BY  
20 VANCOUVER, WE HAVE TO BE CLEAR OF BANKRUPTCY. I HAVE GOT  
21 TO BE OUT OF INDICTMENT CONCERNING MY TAX SHELTERS, SO  
22 THAT I CAN START COLLECTING MY RECEIVABLES. ALL THOSE  
23 THINGS ARE NECESSARY THINGS FOR US TO GO INTO THE FULL  
24 OPERATIONS AND TO DO THE THINGS WE WANTED TO DO.

25 FOR EXAMPLE, SATURN DOES NOT WANT TO MERGE  
26 UNLESS WE ARE GOING TO HAVE THE RECEIVABLES. THE  
27 RECEIVABLES WE WILL NOT HAVE UNLESS THE COURT ORDERS THEM,  
28 AND COURT WON'T ORDER THEM AS LONG AS I AM UNDER

1 INDICTMENT.

2 MR. CRAIN: I WILL MAKE A MOTION TO STRIKE THE LAST  
3 PORTION WHERE IT BEGAN TO GET NONRESPONSIVE.

4 THE COURT: I WILL ALLOW THE ANSWER TO STAND.

5 MR. CRAIN: ALL RIGHT.

6 BY MR. CRAIN:

7 Q NOW, IN CONNECTION WITH THE NEGOTIATIONS WITH  
8 SATURN THERE WERE 22 LIMITED PARTNERSHIPS THAT WERE IN  
9 SOME WAY INVOLVED; IS THAT RIGHT?

10 A I BELIEVE THAT'S CORRECT.

11 Q PARDON ME?

12 A I BELIEVE THAT'S CORRECT.

13 Q AND THE LIMITED PARTNERSHIPS WOULD BE  
14 REQUIRED TO PURCHASE ONE PLANT EACH; IS THAT RIGHT?

15 A SOME OF THEM WERE GOING TO PURCHASE ONE  
16 PLANT, SOME WERE REQUIRED TO PURCHASE TWO.

17 Q AND AT THE COST OF 22 MILLION DOLLARS PER  
18 PLANT; IS THAT RIGHT?

19 A I DON'T THINK SO.

20 Q PER YEAR?

21 A I DON'T THINK SO.

22 Q PARDON ME?

23 A I DON'T THINK SO. WHAT DO YOU MEAN "COST"?  
24 ARE YOU TALKING ABOUT WHAT WE SELL THE PLANTS FOR?

25 Q AT THE COST OF -- YOU WOULD OPERATE THE PLANT  
26 AND RECEIVE 22 MILLION PER PLANT PER YEAR AFTER EXPENSES;  
27 IS THAT RIGHT?

28 A SATURN WILL OPERATE THE PLANTS. THAT'S WHEN

1 WE LEASE THEM. THE PARTNERSHIPS WILL BUY THE PLANTS, THEN  
2 SATURN WILL OPERATE THE PLANTS FOR THE PARTNERSHIPS ON A  
3 PERCENTAGE BASIS. I DON'T REMEMBER WHAT THE AMOUNTS WERE,  
4 WHAT THE SPLIT WAS.

5 Q SO YOU DON'T REMEMBER WHAT THE ACTUAL FIGURE  
6 WAS IN MILLIONS OF DOLLARS PER PLANT PER YEAR; IS THAT  
7 RIGHT?

8 A I REMEMBER THAT WE ANTICIPATED LEASING THEM  
9 FOR SEVEN AND A HALF MILLION. IT WOULD COST ABOUT A  
10 MILLION AND A HALF TO OPERATE.

11 Q YOU ORDERED THESE 22 OR SO ATTRITION MILLING  
12 PLANTS FROM THE MICROGENESIS COMPANY; DIDN'T YOU?

13 A I DON'T REMEMBER HAVING ORDERED THEM. THEY  
14 DIDN'T HAVE ANYTHING TO DELIVER, TO THE BEST OF MY  
15 KNOWLEDGE, BUT IT WAS THE INTENT TO ORDER THEM FROM THEM.  
16 THERE IS NO QUESTION ABOUT THAT.

17 MR. CRAIN: I WOULD LIKE MARKED AS NEXT IN ORDER --  
18 THIS HAS ALREADY BEEN MARKED. THIS IS EXHIBIT 32, YOUR  
19 HONOR.

20 THE COURT: IT HASN'T BEEN MARKED, BUT WE WILL MARK  
21 IT AS 32. THAT'S A MICROGENESIS TELEX.

22  
23 (MARKED FOR ID = PETITIONER'S 32,  
24 DOCUMENT.)

25  
26 MR. CRAIN: SHOWING YOU THIS DOCUMENT.

27 MR. MC MULLEN: MAY I APPROACH, YOUR HONOR?

28 THE COURT: YES.

1 BY MR. CRAIN:

2 Q DO YOU RECOGNIZE THAT? DO YOU RECOGNIZE  
3 THAT, MR. KILPATRICK?

4 A YES.

5 Q IT HAS THE DATE OF, SHOWN AS JUNE 11, 1984;  
6 CORRECT?

7 A CORRECT.

8 Q AND IT STATES THAT IT IS FROM U.F.O.I. AND  
9 YOURSELF, IT APPEARS AS THE SENDER; IS THAT RIGHT?

10 A YES.

11 Q PARDON ME?

12 A YES.

13 Q COULD YOU PULL THE MICROPHONE --

14 THE COURT: WE ARE GOING TO LOOSEN ONE OF THESE --

15 MR. CRAIN: LET ME MOVE IT TOWARDS HIM.

16 THE COURT: WE ARE GOING TO -- WE ARE GOING TO GET  
17 ONE OF HIS CUFFS LOOSENED.

18 MR. CRAIN: GREAT.

19 ALL RIGHT.

20 BY MR. CRAIN:

21 Q AS YOU SAID, YOU ARE THE SENDER AS SHOWN ON  
22 THERE (READING): "WILLIAM KILPATRICK, UNITED FINANCIAL  
23 OPERATIONS, IN COLORADO"; RIGHT?

24 A CORRECT.

25 Q (READING): "RROY ROBINSON, SATURN ENERGY  
26 RESOURCES, VANCOUVER, BRITISH COLUMBIA"; RIGHT?

27 A THAT'S CORRECT.

28 Q AND YOU SEE THE ONE-LINE MESSAGE THERE?

1           A           YES, I DO.

2           Q           IN THIS YOU ANNOUNCE TO MR. ROBINSON, YOU  
3 APPEAR TO ANNOUNCE, "22 ATTRITION MILLS DEVICES AT A PRICE  
4 OF FIVE MILLION DOLLARS U.S. CURRENCY EACH FOR A TOTAL  
5 VALUE OF 110 MILLION DOLLARS U.S. SUBJECT ONLY TO THE  
6 DELIVERY AND PLACEMENT INTO OPERATION"; IS THAT RIGHT?

7           MR. MC MULLEN: OBJECTION. FOUNDATION. HE CITED  
8 IT FROM THE DOCUMENT, BUT HE HASN'T SAID WHETHER THIS IS A  
9 DOCUMENT THAT HE HAS SEEN.

10           THE COURT: LAY A FOUNDATION.

11 BY MR. CRAIN:

12           Q           YOU SENT THIS DOCUMENT TO MR. ROBINSON,  
13 DIDN'T YOU?

14           A           PROBABLY.

15           Q           AND IN IT YOU STATED JUST WHAT I SAID IN THE  
16 LAST QUESTION; RIGHT?

17           A           CORRECT. THOSE PLANTS WERE SOLD IN 1986, WE  
18 ARE NOT TALKING ABOUT THE LEASES AND PUTTING THEM IN  
19 OPERATION. WE ARE TALKING ABOUT THE SALE OF THE PLANTS  
20 MR. ROBINSON HAD ASKED ME FOR. I AM NOT SUPPOSED TO DO  
21 THIS.

22           THE COURT: DOES THIS EXPLAIN THIS TELEX?

23           THE WITNESS: YES, SIR.

24           THE COURT: FINISH YOUR ANSWER.

25           THE WITNESS: MR. ROBINSON HAD ASKED ME FOR  
26 VALIDATION THAT THERE WERE 22 PLANTS THAT WERE TO BE SOLD  
27 AND SO I SENT HIM THIS.

28           MR. CRAIN: LET ME GIVE A COPY TO THE JUDGE WHILE

1 YOU ARE GIVING YOUR ANSWER.

2 THE WITNESS: WHAT I DID, THIS IS CONFIRMATION TO  
3 MR. ROBINSON THAT WE DID IN FACT HAVE 22 PLANTS SOLD, EACH  
4 LIMITED PARTNERSHIP AT THE TIME THAT THEY ENTERED INTO THE  
5 LIMITED PARTNERSHIP, EACH PARTNERSHIP AT THE TIME THEY  
6 WERE GRANTED THE LICENSE RIGHTS AND THE QUOTATION AND  
7 THINGS OF THIS NATURE AGREED TO PURCHASE WHATEVER WAS THE  
8 RESULT OR WHATEVER WE DECLARED TO BE THE RESULT OF THE R  
9 AND D. IN THIS PARTICULAR INSTANCE IT WOULD BE ALL OR ANY  
10 PORTION OF WHAT WAS TO BE A METHANOL PLANT. WE HAD GONE  
11 BACK, AS I RECALL, TO THE LIMITED PARTNERSHIPS.

12 THE COURT: YOU ARE TALKING ABOUT A METHANOL PLANT.  
13 YOU WOULDN'T HAVE NEEDED ONE OF THESE GRINDERS, WOULD YOU?

14 THE WITNESS: YES, SIR.

15 BY MR. CRAIN:

16 Q THAT'S --

17 A THAT'S WHAT WE GOT TO DO. WE NEED TO GRIND  
18 THE COAL IN ORDER TO TURN IT INTO CO. YOU TAKE CO AND H2  
19 TO MAKE IT. SO THIS WAS THE SOURCE OF THE CO. LIKE IN --

20 THE COURT: HOLD ON. HOLD ON.

21 PUT A QUESTION.

22 BY MR. CRAIN:

23 Q WOULDN'T YOU SAY MR. ROBINSON IS ANNOUNCING  
24 THE SALE OF 22 ATTRITION, MICROGENESIS ATTRITION MILLS  
25 SUBJECT ONLY TO DELIVERY AND PLACEMENT INTO OPERATION;  
26 RIGHT.

27 A CORRECT?

28 Q AND AS A MATTER OF FACT, THIS ORDER, ALTHOUGH

1 IT IS ANNOUNCED HERE IN JUNE 11, 1984, WAS ACTUALLY FIRST  
2 MADE MAY 22, 1984, WHEN YOU AND MR. HUNT MET AT THE SATURN  
3 SHAREHOLDERS' MEETING; IS THAT RIGHT?

4 A WHAT WAS MADE?

5 Q THE ANNOUNCEMENT ABOUT THAT IS REFLECTED HERE  
6 ABOUT THE SALE OF THE 22 MICROGENESIS ATTRITION MILLS?

7 A IT WAS FIRST ANNOUNCED WHEN?

8 Q MAY 22, 1984, AT THE SATURN SHAREHOLDERS  
9 MEETING WHEN YOU AND MR. HUNT MET THERE IN VANCOUVER?

10 A MR. ROBINSON, AS I RECALL IT, ASKED ME FOR  
11 DOCUMENTATION THAT HE COULD HAVE FOR HIS USE. THE FACT  
12 THAT WE DO HAVE THIS, OTHER THAN WHAT I MADE IN THE  
13 SPEECH, AND THIS WAS WHAT I SENT HIM TO CONFIRM THAT THEY  
14 HAD BEEN SOLD, THAT THE PARTNERSHIPS HAD AGREED TO  
15 REPLACEMENT OF METHANOL PLANTS WITH THIS WITH THE  
16 MICROGENESIS ATTRITION MILLS.

17 Q SO WHAT'S ANNOUNCEMENT THERE IN THE TELEX WAS  
18 WORKED OUT ON MAY 22, 1984, WITH MR. HUNT; ISN'T THAT  
19 RIGHT.

20 A NO. THIS WAS WORKED OUT IN 1989 AND '90 WHEN  
21 WE SOLD THE PLANTS. WHAT I AM TALKING ABOUT HERE WAS THAT  
22 THIS SALE OF THE PLANTS WAS WORKED OUT IN 1989 AND  
23 FINALIZED AT THE TIME THAT WE SOLD THE METHANOL  
24 PARTNERSHIP.

25 THE COURT: I AM SORRY, '89.

26 THE WITNESS: I AM SORRY.

27 MR. KLEIN: '79 AND '80.

28

1 BY MR. CRAIN:

2 Q WHAT YOU ANNOUNCED IN THAT TELEX TO  
3 MR. ROBINSON WAS ACTUALLY WORKED OUT WITH MR. HUNT TWO TO  
4 THREE WEEKS EARLIER ON MAY 22, 1984, IN VANCOUVER AT THE  
5 SHAREHOLDERS MEETING; WASN'T IT?

6 A I DON'T REMEMBER.

7 Q NOW, YOU SENT COPIES OF THAT TELEX, BY THE  
8 WAY, TO MR. HUNT, DIDN'T YOU, SHORTLY AFTER YOU SENT IT TO  
9 MR. ROBINSON?

10 A AGAIN, I DON'T REMEMBER THAT, BUT I WOULD  
11 LIKE TO COMMENT ON THE TELEX. I DON'T HAVE A TELEX.

12 MR. CRAIN: I MOVE TO STRIKE. HE HAS A TENDENCY TO  
13 WANT TO RAMBLE ON.

14 THE COURT: I AGREE. I WILL ALLOW THAT ANSWER,  
15 THAT HE DOESN'T HAVE A TELEX TO STAND.

16 YOU SAID YOU SENT THE TELEX?

17 THE WITNESS: I DID NOT OWN -- I DON'T KNOW. IF  
18 YOU SEND TELEGRAM WOULD THAT BE ON THERE, THE TELEX? I  
19 DON'T KNOW BUT --

20 BY MR. CRAIN:

21 Q YOU SENT THAT BY WAY OF A PROCESS KNOWN AS  
22 EASY LINK TO MR. ROBINSON IN VANCOUVER, CANADA; DIDN'T  
23 YOU?

24 A IS THAT A TELEX? IS EASY LINK A TELEX?

25 Q DID YOU SEND IT TO MR. ROBINSON? ISN'T THAT  
26 WHAT YOU TOLD THE COURT A FEW MINUTES AGO OR NOT?

27 A I SENT IT TO MR. ROBINSON PROBABLY THEN BY  
28 TELEGRAM. I DON'T THINK I SEND HIM A TELEX. HE MAY HAVE



1 RECEIVED IT ON HIS TELEX. I DON'T KNOW IF THAT'S POSSIBLE  
2 BUT --

3 Q SHORTLY AFTER YOU SENT THIS COMMUNICATION TO  
4 MR. ROBINSON YOU AND MR. DECLAN O'DONNELL WENT TO LOS  
5 ANGELES FOR FURTHER NEGOTIATIONS WITH MR. HUNT; DIDN'T  
6 YOU?

7 A SOMETIME IN THERE, YES.

8 Q AND DO YOU REMEMBER THAT HANDWRITTEN EXHIBIT  
9 291 THAT I ASKED YOU ABOUT A LITTLE WHILE AGO? I WILL  
10 SHOW IT TO YOU AGAIN. THE TEN PAGES, NINE PAGES IN YOUR  
11 HANDWRITING.

12 A CORRECT.

13 Q NOW, YOU WROTE ALL THOSE NOTES DURING ONE OF  
14 YOUR TRIPS TO LOS ANGELES TO NEGOTIATE WITH MICROGENESIS  
15 AND LEFT IT BEHIND; DIDN'T YOU?

16 A I HAVE NO IDEA, SIR. I KNOW I WROTE ALL  
17 THESE NOTES. THIS IS MY HANDWRITING.

18 Q AND AT THE OFFICES OF THE B.B.C. YOU WERE  
19 ALLOWED TO USE A OFFICE DURING YOUR TRIPS TO LOS ANGELES;  
20 IS THAT RIGHT?

21 A AT CERTAIN -- AFTER A CERTAIN PERIOD OF TIME  
22 I DID, YES.

23 Q AND I CALL YOUR ATTENTION TO PAGE FOUR AGAIN  
24 OF THAT SAME DOCUMENT.

25 THE COURT: THAT SAME DOCUMENT MEANING 291?

26 MR. CRAIN: YES, YOUR HONOR.

27 BY MR. CRAIN:

28 Q WHERE IT SAYS "FACTS," ITEMS ONE THROUGH

1 FOUR.

2 THE COURT: THAT'S PAGE SEVEN?

3 MR. CRAIN: I AM SORRY, THAT'S PAGE SEVEN. MY  
4 APOLOGIES.

5 BY MR. CRAIN:

6 Q DOWN AT THE BOTTOM IT SAYS "FACTS" ONE  
7 THROUGH FOUR?

8 A UH-HUH.

9 Q DO YOU SEE THAT?

10 A YES, I DO.

11 Q AND ONE THROUGH FOUR FAIRLY STATE THE FACTS  
12 PREVAILING IN 1984 DURING THE PERIOD OF TIME YOU WERE  
13 NEGOTIATING WITH MICROGENESIS; CORRECT?

14 A I DON'T KNOW, SIR. I DON'T KNOW WHEN THIS  
15 WAS WRITTEN. I DON'T KNOW THE PURPOSE FOR WHAT IT WAS  
16 WRITTEN, AND I DON'T KNOW THE NAME OF THE PROJECT THAT IT  
17 WOULD BE WRITTEN FOR. I JUST KNOW I WROTE IT. IT WAS  
18 CERTAINLY MY STATE OF MIND AT SOME TIME.

19 Q WELL, YOU NOTE THAT IN YOUR WRITING YOU  
20 INCLUDED THE CONFIRMED SALES OF 22 MACHINES. DO YOU SEE  
21 THAT IN NO. 3 ON THE BOTTOM OF PAGE SEVEN OF EXHIBIT 291?

22 A YES. HERE (INDICATING).

23 Q WHERE IT SAYS (READING): "SATURN HAS  
24 CONFIRMED SALES OF 22 MACHINES"?

25 A CORRECT.

26 Q THOSE ARE THE 22 MACHINES YOU WERE REFERRING  
27 TO IN THE COMMUNICATION ON JUNE 11TH TO MR. ROBINSON?

28 A PROBABLY, BUT IT COULD REFER TO 22 SALES

1 ANYTIME. I STARTED TALKING TO SATURN IN 1981 OR '82, AS  
2 FAR AS THAT IS CONCERNED.

3 Q AND IT ALSO TALKS ABOUT UNDER "FACTS" THAT  
4 SATURN, UNDER NO. 2, (READING): "SATURN AND MICROGENESIS  
5 WILL SPLIT MANUFACTURING PROFIT"; IS THAT RIGHT?

6 A THAT'S CORRECT?

7 Q AND REFERS TO THE FACT THAT SATURN AND  
8 MICROGENESIS WILL SUPPLY LESS PROFIT IN NO. 3 THERE ON  
9 THAT PAGE?

10 A CORRECT.

11 Q NOW, SHOWING YOU EXHIBIT 5. I BELIEVE YOU  
12 WERE SHOWN IT THE OTHER DAY. TURNING TO PAGE EIGHT.

13 MR. MC MULLEN: MAY I APPROACH, YOUR HONOR?

14 THE COURT: YES.

15 BY MR. CRAIN:

16 Q NOW, YOU SEE PARAGRAPH C ON PAGE EIGHT?

17 A PARAGRAPH C ON EIGHT, YES.

18 Q AND THAT REFERS TO MICROGENESIS AND SATURN  
19 DIVIDING EQUALLY THE MANUFACTURING PROFIT, DOESN'T IT?  
20 WHERE IT SAYS (READING): "THEN MICROGENESIS AND SATURN  
21 SHALL SHARE EQUALLY." ISN'T THAT WHAT IT SAYS?

22 A YES.

23 Q AND AT PAGE FIVE -- STRIKE THAT.

24 PAGE TEN OF THE SAME EXHIBIT, PETITIONER'S 5.  
25 DO YOU HAVE THAT THERE? THAT WOULD BE PARAGRAPH F. DO  
26 YOU SEE THAT? THAT ALSO REFERS TO THE FACT THAT  
27 (READING): "MICROGENESIS AND SATURN WILL SPLIT THE  
28 ADJUSTED GROSS PROFIT ON LICENSE PROPERTIES;" IS THAT

1 RIGHT?

2 A THAT'S CORRECT.

3 Q NOW, I NEED TO CLARIFY ONE THING --

4 THE COURT: HOW MUCH MORE DO YOU HAVE ON CROSS? WE  
5 ARE REALLY GETTING INTO MINUTIAE. THAT IS NOT HELPFUL AT  
6 ALL.

7 MR. CRAIN: I THINK IT WILL BY THE TIME ITS TRUE  
8 STATE -- THE TRUE SET OF AFFAIRS AND NEGOTIATIONS ARE  
9 KNOWN, IT WILL REFUTE WHAT THIS WITNESS REPRESENTED ON  
10 DIRECT EXAMINATION.

11 THE COURT: GOING THROUGH THIS WITH THIS TYPE OF  
12 LINE ITEM IS NOT HELPFUL, MR. CRAIN. IN OTHER WORDS, I AM  
13 TELLING YOU GET TO THE POINT, OR I AM GOING TO CUT YOU  
14 OFF.

15

16 MR. CRAIN: YES, YOUR HONOR.

17

18 (A CONFERENCE WAS HELD BETWEEN COUNSEL  
19 AND THE PETITIONER, NOT REPORTED.)

20

21 BY MR. CRAIN:

22 Q THE OTHER DAY YOU WERE ASKED QUESTIONS, I  
23 BELIEVE, BY THE DISTRICT ATTORNEY ABOUT EXHIBIT NO. 4,  
24 WHICH I AM NOW SHOWING YOU, AND YOU SAID YOU DIDN'T RECALL  
25 ANYTHING ABOUT THERE BEING A NONREFUNDABLE SUM PAYABLE BY  
26 SATURN TO MICROGENESIS IN THE AMOUNT OF SIX MILLION  
27 DOLLARS; IS THAT YOUR TESTIMONY ON THURSDAY?

28 A I THINK -- I DON'T REMEMBER ANYTHING ABOUT

1 THAT, NO, SIR.

2 Q AS A MATTER OF FACT, YOU REFERRED TO THAT SIX  
3 MILLION DOLLARS, WHICH IS SHOWN ON PAGE TWO OF EXHIBIT 4,  
4 IN YOUR HANDWRITTEN NOTES?

5 A I THOUGHT YOU WERE TALKING ABOUT SIX MILLION  
6 DOLLARS.

7 Q RIGHT. SEE THE SIX MILLION IN EXHIBIT 4?  
8 YOU REFERRED TO THE SAME THING OVER HERE IN THE NOTES ON  
9 EXHIBIT --

10 THE COURT: 291.

11 BY MR. CRAIN:

12 Q -- EXHIBIT 291 UNDER "CURRENT TECHNOLOGY."  
13 YOU REFERRED TO THE SAME SIX MILLION THAT IS REFLECTED IN  
14 EXHIBIT 4; ISN'T THAT RIGHT?

15 THE COURT: YOU MEAN PAGE SEVEN?

16 MR. CRAIN: PAGE SEVEN.

17 THE WITNESS: THAT'S GRINDING EXPENSE.

18 BY MR. CRAIN:

19 Q YOU ARE REFERRING TO THE SIX MILLIONS DOLLAR  
20 IN THOSE --

21 A THAT'S AN ANNUAL EXPENSE.

22 Q SO ALL THESE DOCUMENTS HAVE HELPED YOU  
23 REFRESH YOUR RECOLLECTION ABOUT --

24 A EVERYTHING I AM RECEIVING HELPS SOME, BUT I  
25 MEAN, THAT'S NOT THE SIX MILLION WE ARE TALKING ABOUT OVER  
26 HERE, I DON'T THINK.

27 Q THEY REFLECT, REFRESH YOUR RECOLLECTION ABOUT  
28 THE NEGOTIATIONS OF MR. HUNT DURING THIS TIME PERIOD?

1           A           I HAVE ALWAYS REMEMBERED WE HAD NEGOTIATIONS  
2 BUT -- EXCUSE ME, JUST A SECOND.

3                       THIS IS THE CURRENT EXPENSE. THAT IS BEING  
4 SPENT BY THE ACTUAL COMPANIES THAT ARE DOING, THIS SIX  
5 MILLION DOLLARS ARE WHAT THEIR EXPENSES ARE, WHAT THE  
6 CAPITAL COST IS, WHAT THEIR ANNUAL EXPENSES ARE, THEIR  
7 POLLUTION MAINTENANCE EXPENSES ARE, CAPITAL COSTS, ANNUAL  
8 EXPENSES. THAT HAS NOTHING IN THE WORLD TO DO WITH THAT  
9 OTHER SITUATION.

10           MR. CRAIN: MAY I HAVE A MOMENT, YOUR HONOR?

11           THE COURT: YES.

12

13                       (PAUSE.)

14

15 BY MR. CRAIN:

16           Q           LET ME CALL YOUR ATTENTION TO ANOTHER  
17 EXHIBIT -- HANG ON.

18                       YOU TOLD US ON THURSDAY MR. O'DONNELL WAS  
19 YOUR ATTORNEY DURING THIS TIME PERIOD; RIGHT?

20           A           YES, SIR.

21           Q           PARDON ME?

22           A           YES, SIR.

23           MR. CRAIN: AND I HAVE HERE WHAT I WOULD LIKE  
24 MARKED AS EXHIBIT 294.

25           THE COURT: 293.

26           MR. CRAIN: I AM GOING TO SKIP 293 IN VIEW OF THE  
27 COURT'S DESIRE TO -- I HAD OTHER QUESTIONS ABOUT SOME OF  
28 THESE THINGS, BUT LET ME GO TO 294 FOR NOW.

1 MR. MC MULLEN: MAY I APPROACH, YOUR HONOR?

2 THE COURT: YES.

3 MR. CRAIN: I WILL GIVE A COPY TO THE COURT.

4 MR. MC MULLEN: HAVE YOU GOT COPIES FOR US,  
5 COUNSEL?

6 MR. CRAIN: I THINK SO, IF YOU WILL HOLD ON.  
7 THAT'S THE ORIGINAL.

8 THE COURT: ALL RIGHT.

9 THIS LETTER FROM DECLAN O'DONNELL WILL BE  
10 MARKED AS 294.

11

12 (MARKED FOR ID = PETITIONER'S 294,  
13 DOCUMENT.)

14

15 BY MR. CRAIN:

16 Q ALL RIGHT.

17 YOU NOTICE THAT APPEARS, IT IS IN FACT  
18 MR. DECLAN O'DONNELL'S SIGNATURE ON PAGE TWO; IS THAT  
19 RIGHT?

20 A I DON'T HAVE ANYTHING, SIR.

21 Q I AM SORRY.

22 SHOWING YOU NOW THIS EXHIBIT THAT'S BEEN  
23 MARKED 294, A TWO-PAGE DOCUMENT. IT APPEARS TO BE A  
24 LETTER FROM DECLAN O'DONNELL, YOUR ATTORNEY, TO NEIL  
25 ADELMAN, ANOTHER ATTORNEY; IS THAT RIGHT?

26 MR. MC MULLEN: JUST FOR THE RECORD, THIS IS THE  
27 FIRST TIME WE HAVE SEEN THIS DOCUMENT.

28 THE COURT: COUNSEL, YOU HAVE TO BE SHARING THESE

1 THINGS.

2 BY MR. CRAIN:

3 Q DO YOU RECOGNIZE IT, MR. KILPATRICK?

4 A I REMEMBER IT, YES.

5 Q AND WHAT'S THE DATE ON THERE?

6 A AUGUST 7TH.

7 Q THAT APPEARS TO BE SENT BY YOUR ATTORNEY

8 MR. O'DONNELL?

9 A YES.

10 Q MR. O'DONNELL'S CUSTOM WOULD BE TO MAKE SURE  
11 YOU HAD SEEN HIS CORRESPONDENCE REGARDING HIS NEGOTIATIONS  
12 WITH OTHER BUSINESSES; RIGHT?

13 MR. MC MULLEN: OBJECTION. CALLS FOR SPECULATION.

14 THE COURT: OVERRULED.

15 THE WITNESS: I WOULD BE VERY ANGRY IF HE DIDN'T.

16 I DON'T RECALL HIS DOING SO WITHOUT ME APPROVING IT.

17 BY MR. CRAIN:

18 Q OKAY.

19 AND THIS LETTER FAIRLY STATES THE POSITION  
20 YOU HAD TAKEN WITH MR. HUNT AS TO THE FACTS THAT THE  
21 NOVEMBER, 1983, AGREEMENTS WERE VALID AND ENFORCEABLE,  
22 DOESN'T IT?

23 A MAY I READ IT?

24 Q SURE.

25

26 (PAUSE.)

27

28



1 BY MR. CRAIN:

2 Q HAVE YOU HAD A CHANCE TO LOOK AT IT THERE,  
3 MR. KILPATRICK?

4 A I AM READING IT.

5

6 (PAUSE.)

7

8 A IT SAYS WE RELIED ON THAT, YES.

9 Q SO IT SAYS IN THAT, THIS LETTER TO THE  
10 ATTORNEY FROM MICROGENESIS, THAT BOTH SATURN AND UNITED  
11 RELIED ON THE VALIDITY OF THE LICENSE AGREEMENT AND UNITED  
12 RELIED ON THE VALIDITY OF THE SALES AGREEMENTS AS WELL AS  
13 RELIED ON THE INTEGRITY OF THE PERSONS INVOLVED, THEY  
14 RELIED ON THE AGREEMENT AS BEING LEGALLY SUFFICIENT  
15 BECAUSE THE FORMULA FOR COMPENSATION IS CLEAR, AND THERE  
16 WAS A REAL MEETING OF THE MINDS ON THE UNDERLYING  
17 SUBSTANCE OF THE CONTRACTS?

18 DO YOU SEE THAT?

19 MR. MC MULLEN: OBJECTION. NO FOUNDATION.

20 THE WITNESS: I AM ABOUT TO --

21 THE COURT: HE SAYS THAT -- LET'S SEE IF THERE IS A  
22 QUESTION.

23 BY MR. CRAIN:

24 Q THE QUESTION IS: THAT STATEMENT REFLECTS THE  
25 POSITION YOU HAD TAKEN WITH MR. HUNT AS TO THE FACT THAT  
26 THE NOVEMBER, 1983, AGREEMENT, IN YOUR VIEW, WAS VALID AND  
27 ENFORCEABLE BY ALL PARTIES TO IT?

28 MR. MC MULLEN: OBJECTION. NO FOUNDATION.

1 HEARSAY.

2 THE COURT: OVERRULED.

3 IS THAT THE POSITION THAT YOU ARE TAKING AT  
4 THIS TIME? IN OTHER WORDS, WAS YOUR ATTORNEY SPEAKING ON  
5 YOUR BEHALF WHEN HE SAID THAT?

6 THE WITNESS: YES, I THINK SO.

7 BY MR. CRAIN:

8 Q SO THAT WAS YOUR POSITION; RIGHT?

9 A YES.

10 Q AND IN THAT YOU WERE REFERRING TO EXHIBIT  
11 287, THE EXCLUSIVE MANUFACTURING AGREEMENT THAT YOU,  
12 MR. HUNT AND MR. ROBINSON HAD ENTERED INTO IN NOVEMBER OF  
13 1983; IS THAT RIGHT?

14 A THIS AGREEMENT IS NOT DATED.

15 MR. KLEIN: LOOK AT THE LAST PAGE OF THE DOCUMENT.

16

17 (WITNESS COMPLIES.)

18

19 THE COURT: WAIT. ONE PERSON. HOLD ON. HOLD ON.

20 ONE PERSON DIRECTS THE QUESTIONS TO THE

21 WITNESS.

22 ALL RIGHT.

23 MR. KLEIN: I WAS JUST TRYING TO SPEED THINGS UP.

24 BY MR. CRAIN:

25 Q SEE ON PAGE 6 OF EXHIBIT 287?

26 A THE LAST PAGE?

27 Q WE WENT THROUGH THIS THE OTHER DAY.

28 MR. CRAIN: EXCUSE ME, ONE SECOND HERE, YOUR HONOR.

1 THE COURT: ALL RIGHT.

2

3 (PAUSE.)

4

5 BY MR. CRAIN:

6 Q PAGE FOUR THIS AGREEMENT MADE THIS 19TH DAY  
7 OF NOVEMBER, 1983, AND GOES ONTO PAGE 6 WHERE THE PARTIES  
8 SIGNED IT.

9 DO YOU SEE THOSE PAGES?

10 A YES. I SEE THAT PURSUANT TO THE LICENSE  
11 AGREEMENT. I DO NOT SEE A DATE ON THE MARKETING  
12 AGREEMENT.

13 Q SO THE LETTER THAT MR. O'DONNELL SENT TO  
14 MR. ADELMAN REFLECTED YOUR VIEWS AS REFERENCED TO THE  
15 CONTRACT IN EXHIBIT 287; CORRECT?

16 MR. MC MULLEN: OBJECTION. CALLS FOR SPECULATION.

17 THE COURT: OVERRULED.

18 THE WITNESS: I THINK IT REFERS TO THE NOVEMBER  
19 19TH AGREEMENT, BUT THE OTHER ONE IS NOT DATED NOVEMBER  
20 THE 19TH, IT IS NOT DATED ANYTHING. I DON'T KNOW. IT IS  
21 NOT THE ONE THAT WAS THERE, BUT I DON'T KNOW.

22 BY MR. CRAIN:

23 Q YOUR BELIEF IS THAT EXHIBIT 287 IS WHAT  
24 O'DONNELL IS REFERRING TO IN THE LETTER, WHICH WAS EXHIBIT  
25 284?

26 A IT IS MY BELIEF THAT HE IS REFERRING,  
27 CERTAINLY, TO THE LICENSE AGREEMENT. I DON'T KNOW ABOUT  
28 THE MARKETING AGREEMENT.

1 Q LET ME TURN TO ANOTHER SUBJECT HERE.

2 YOU TESTIFIED ON DIRECT EXAMINATION THAT  
3 THERE WERE CONDITIONS THAT ARE CONTINGENCIES THAT  
4 PROCEEDED THE MERGER AS BEING ABLE TO TAKE AFFECT; IS THAT  
5 RIGHT?

6 A CORRECT.

7 Q AND ONE OF THEM YOU SAID WAS U.F.O.I., YOUR  
8 CORPORATION, WOULD HAVE TO EMERGE FROM BANKRUPTCY; IS THAT  
9 RIGHT?

10 A I THINK WHAT I SAID WAS THAT ALL THESE THINGS  
11 HAVE TO HAPPEN, THAT'S ONE OF THE THINGS, IN ORDER FOR US  
12 TO BE IN BUSINESS AND DOING WHAT WE ARE GOING TO DO. THEY  
13 ALL HAVE TO HAPPEN. IT IS DOES NOT HAVE TO BE A SEQUENCE.

14 Q I DIDN'T SAY A SEQUENCE. YOU SAID, DIDN'T  
15 YOU, ONE OF THE FACTORS THAT HAD TO TAKE PLACE BEFORE THE  
16 MERGER COULD OCCUR WAS THAT U.F.O.I. HAD TO GET OUT OF THE  
17 BANKRUPTCY?

18 A IF I SAID THAT PER SE, THEN I MISSTATED. THE  
19 BANKRUPTCY IS WHAT TAKES US INTO THE MERGER. THE  
20 BANKRUPTCY COURT WAS OFFERING THE MERGER, SO WE HAD TO GET  
21 THE CLEARANCE FROM THE BANKRUPTCY AND SO FORTH, BUT THAT  
22 COULD --

23 Q WAS YOUR TESTIMONY ON THURSDAY GETTING YOUR  
24 CORPORATION OUT OF BANKRUPTCY WAS A CONDITION PRECEDENT TO  
25 YOUR BEING ABLE TO CARRY OUT ANY AGREEMENT WITH MR. HUNT'S  
26 CORPORATION, MICROGENESIS?

27 A I THOUGHT, AS I RECALL -- MAYBE. I DON'T  
28 KNOW. AS I RECALL, I AM TALKING ABOUT, I THINK, TALKING

1 ABOUT CASH FLOW FUNDS. WE HAVE TO GET OUT OF BANKRUPTCY,  
2 WE HAVE TO BE IN BUSINESS. AT THAT POINT IN TIME I HAD  
3 BEEN OUT OF BUSINESS FOR LIKE SIX YEARS, FOUR YEARS.

4 Q SO YOUR ANSWER IS, "YES" OR "NO"?

5 A RESTATE THE QUESTION.

6 Q OR YOU DON'T KNOW?

7 A RESTATE THE QUESTION.

8 Q WAS THE -- IS IT YOUR TESTIMONY THAT THE  
9 BANKRUPTCY WAS A CONDITION PRECEDENT TO BEING ABLE TO PUT  
10 INTO AFFECT THE NEGOTIATIONS AND FINALIZE THEM WITH  
11 MICROGENESIS? HAS THAT BEEN YOUR TESTIMONY IN HERE OR  
12 NOT?

13 A BEFORE WE GET INTO ACTUAL OPERATION,  
14 COMMENCING TO MAKE SALES PROMISES, TO MAKE DELIVERIES, TO  
15 DO THE ACTUAL OPERATION, THAT IS, WE ARE TRYING TO GET  
16 INTO POSITION TO DO THOSE THINGS, ALL THOSE THINGS HAVE TO  
17 BE COMPLETED.

18 Q OKAY.

19 SO BANKRUPTCY WAS ONE OF THEM; RIGHT?

20 A CORRECT.

21 Q YOU HAD TO BE CLEARED OF ALL CRIMINAL  
22 CHARGES; RIGHT?

23 A CORRECT.

24 Q THAT'S WHAT YOU TOLD US THE OTHER DAY; RIGHT?

25 A YES.

26 Q IS THAT RIGHT?

27 A THAT'S CORRECT.

28 MR. CRAIN: I WOULD LIKE TO MARK THIS AS NEXT

1 EXHIBIT, 295. I HAVE A COPY HERE FOR THE COURT, AND WE  
2 ARE GOING TO HAVE TO --

3 THE COURT: THANK YOU.

4

5 (PAUSE.)

6

7 BY MR. CRAIN:

8 Q DID YOU SEE THIS DOCUMENT, MR. KILPATRICK?

9 A NO, SIR.

10 Q PARDON ME?

11 A I DON'T HAVE A DOCUMENT.

12 THE COURT: THIS WILL BE MARKED AS 295.

13 MR. CRAIN: YES, YOUR HONOR. THANK YOU.

14

15 (MARKED FOR ID = PETITIONER'S 295,  
16 DOCUMENT.)

17

18 BY MR. CRAIN:

19 Q SHOWING YOU THAT DOCUMENT, MR. KILPATRICK.

20 MR. MC MULLEN: FOR THE RECORD, THIS IS THE FIRST  
21 TIME WE HAVE SEEN THIS DOCUMENT.

22 THE COURT: COUNSEL, HAVE GOT THESE THINGS MARKED.  
23 YOU HAVE GOT TO BE SHOWING IT TO OPPOSING COUNSEL. IF --  
24 EVEN IF YOU DON'T HAVE IT MARKED, YOU HAVE TO BE SHOWING  
25 IT TO OPPOSING COUNSEL.

26 MR. CRAIN: OKAY. I APOLOGIZE TO THE COURT. I  
27 JUST WANT TO SAY WE HAVE TRIED TO DO AS MUCH AS WE CAN TO  
28 EXTRACT FROM THE HOST OF DOCUMENTS THE ONES THAT WE

1 BELIEVE WOULD BE THE MOST BENEFICIAL OR HELPFUL FOR THE  
2 COURT, AND THIS IS ALL ARISING SINCE THIS WITNESS'  
3 TESTIMONY, AS IT DEVELOPED IN OPEN COURT ON THURSDAY.

4 THE COURT: IF NOTHING ELSE, PICK UP THE PHONE,  
5 CALL OPPOSING SIDE, AND SAY "WE HAVE GOT THESE EXHIBITS, I  
6 WILL SHOW THEM TO YOU AT 8:30." IF NOTHING ELSE.

7 MR. CRAIN: OKAY.

8 BY MR. CRAIN:

9 Q YOU DO SEE THAT ONE, MR. KILPATRICK?

10 A YES.

11 Q THIS IS A U.F.O.I. NEWS RELEASE OF MARCH 30,  
12 1984, ISN'T IT?

13 A I DON'T THINK IT IS A U.F.O.I. NEWS RELEASE.  
14 I WOULD NEVER SAY THEY RESCUED.

15 Q I BEG YOU PARDON?

16 A I DON'T KNOW WHO RELEASED THIS.

17 Q THAT IS SOMETHING YOU HAVE SEEN BEFORE,  
18 THOUGH; RIGHT? YOU EXAMINED THIS IN CONNECTION WITH YOUR  
19 MERGER NEGOTIATIONS WITH SATURN; ISN'T THAT RIGHT?

20 A I DON'T REMEMBER THIS, NO, SIR. THIS IS NOT  
21 TO SAY THAT WE DIDN'T DO IT. I DON'T KNOW WHO DID IT.  
22 THE FIRST SENTENCE IS NOT, WOULD NOT BE MY WORDING.

23 Q YOU SEE ON PAGE TWO WHERE IT PURPORTS TO  
24 QUOTE YOU. DOES THAT, PAGE TWO, CONTAIN A STATEMENT THAT  
25 YOU MADE RELATIVE TO THE SATURN AND U.F.O.I. NEGOTIATIONS?

26 MR. MC MULLEN: OBJECTION. NO FOUNDATION.  
27 RELEVANCY.

28 THE COURT: OVERRULED.

1 THE WITNESS: THAT IS NOT SOMETHING THAT -- SOUNDS  
2 LIKE SOMETHING I WOULD SAY.

3 THE COURT: SOUNDS LIKE YOU WOULD OR WOULD NOT SAY?

4 THE WITNESS: WOULD SAY.

5 BY MR. CRAIN:

6 Q WHEN WAS THE BANKRUPTCY -- WHEN DID THE  
7 BANKRUPTCY JUDGE CONFIRM THE REORGANIZATION, DO YOU  
8 REMEMBER?

9 A I DON'T REMEMBER THE DATES, NO, SIR.

10 Q LET ME ASK YOU IF, CALLING YOUR ATTENTION TO  
11 THE FIRST SENTENCE ON PAGE ONE UNDER THE HEADING,  
12 "CANADIAN FIRM RESCUES DENVER BANKRUPTCY BUSINESS." IF  
13 IT, THAT COUPLED WITH THE DATE MARCH 30, 1984, REFRESHES  
14 YOUR MEMORY AS TO WHEN THE BANKRUPTCY REORGANIZATION PLAN  
15 WAS CONFIRMED BY THE COURT?

16 A NO, SIR.

17 Q ACTUALLY, THE BANKRUPTCY PLAN WAS CONFIRMED  
18 IN THE SPRING OF 1984; ISN'T THAT RIGHT?

19 A THEY MAY HAVE APPROACHED THE FIRST JOINT PLAN  
20 OF REORGANIZATION AT THAT TIME. I DON'T -- WE DID NOT  
21 ACTUALLY COME OUT OF BANKRUPTCY UNTIL OCTOBER OF 1986.

22 Q NOW, ISN'T IT A FACT THAT YOU KNOW WHO JUDGE  
23 KANE WAS, K-A-N-E?

24 A DO I KNOW WHO HE WAS?

25 Q YES.

26 A YES.

27 Q THE FEDERAL JUDGE WHO PRESIDED OVER THIS 27  
28 COUNT INDICTMENT YOU WERE FACING?



1 A YES, SIR.

2 Q OKAY.

3 AND HE DISMISSED ALL THE CHARGES AGAINST YOU  
4 AND OTHER MEMBERS OF U.F.O.I. CORPORATE STAFF AND THE  
5 OTHER DEFENDANTS IN FEBRUARY OF '83; DIDN'T HE?

6 A CORRECT. BUT THE DEPARTMENT OF JUSTICE  
7 APPEALED THAT RULING AND PUT IT RIGHT BACK INTO U.S.  
8 CIRCUIT COURT, WHICH LEFT US IN THE SAME POSITION AS IF HE  
9 HAD DONE NOTHING AS FAR AS BEING FREE TO OPERATE.

10 Q I WOULD LIKE TO DIRECT YOUR ATTENTION TO THE  
11 LAST PAGE OF THE DOCUMENT. IT CONTINUES ON WITH THE  
12 STATEMENT ATTRIBUTED TO YOU. DO YOU SEE THAT?

13 A I HADN'T FINISHED READING WHEN YOU STARTED  
14 ASKING THE QUESTION. YOU WANT ME TO FINISH READING IT  
15 ALL.

16 Q SURE. YOU BEGIN ON PAGE THREE; RIGHT?

17 A ON PAGE TWO.

18

19 (WITNESS COMPLIES.)

20

21 Q WHY DON'T YOU JUST LOOK AT THE LAST LINE OF  
22 THE NEXT TO LAST PAGE THERE?

23 A NEXT TO LAST LINE OF THIS SAME PAGE?

24 Q LET ME JUST POINT RIGHT TO IT FOR YOU.

25 MR. MC MULLEN: MAY I APPROACH, YOUR HONOR?

26 THE COURT: YES.

27 BY MR. CRAIN:

28 Q SEE HERE THERE IS A QUOTE WHERE YOU ARE

1 SAYING (READING): "JUDGE KANE TOOK LESS THAN FOUR HOURS  
2 OF HEARING TO THROW OUT THE ENTIRE CASE." DO YOU SEE  
3 THAT?

4 A I SEE THAT.

5 Q OKAY.

6 SO NOW THAT YOU HAVE LOOKED AT THAT, DO YOU  
7 RECALL THAT JUDGE KANE THREW OUT THE CASE IN FEBRUARY OF  
8 '83, AGAINST U.F.O.I., YOU AND THE OTHER DIRECTORS OF THE  
9 CORPORATION, THE OFFICERS; RIGHT?

10 A YES -- NO. I DON'T RECALL THAT, BUT HE THREW  
11 IT OUT EARLIER, AT AN EARLIER DATE. HE THREW IT OUT, I  
12 THINK, IN SPRING OF, YES -- NO, I THINK HE THREW IT OUT IN  
13 SPRING OF -- I DON'T REMEMBER.

14 Q IT WAS THE SPRING OF '83 OR THE SPRING OF '84  
15 THAT JUDGE KANE THREW OUT THE ENTIRE INDICTMENT AGAINST  
16 YOU AND THE OTHER PERSONS; RIGHT?

17 A THAT WOULD BE RIGHT, EITHER ONE OF THE TWO.

18 Q IS THAT WHEN YOU DECIDED IT WOULD BE A GOOD  
19 IDEA TO SUE THE UNITED STATES ATTORNEY'S WHO PROSECUTED  
20 YOU ON THOSE CHARGES; RIGHT?

21 A YES. WE COULDN'T DO IT.

22 MR. CRAIN: NOW, I HAVE HERE EXHIBIT 297, YOUR  
23 HONOR, WHICH IS --

24 THE COURT: YOU ARE NOT USING 296?

25 MR. CRAIN: I THINK I WOULD LIKE TO SKIP OVER 296.  
26 BY MR. CRAIN:

27 Q SHOWING YOU THIS DOCUMENT. ANOTHER LETTER  
28 FROM SATURN DATED MAY 16, '94.

1 THE COURT: IT WILL BE MARKED AS 297.

2

3 (MARKED FOR ID = PETITIONER'S 297,  
4 DOCUMENT.)

5

6 BY MR. CRAIN:

7 Q READ THE THIRD PARAGRAPH THERE ON PAGE ONE,  
8 IF YOU WOULD?

9 A "JUST RECEIVED ON MR. KILPATRICK"?

10 Q DO YOU SEE PARAGRAPH THREE ON, "JUST  
11 RECEIVED"?

12 A "JUST RECEIVED"?

13 Q YES.

14 A OKAY.

15

16 (WITNESS COMPLIES.)

17

18 A OKAY.

19 Q DO YOU SEE MR. ROBINSON'S SIGNATURE ON PAGE  
20 TWO?

21 A APPEARS TO BE.

22 Q AND WAS THIS -- BY THE WAY, DO YOU RECALL  
23 WHEN THE FINAL MERGER PAPERS WERE FILED WITH THE CANADIAN  
24 AUTHORITIES INDEPENDENT OF LOOKING AT THAT DOCUMENT?

25 A NO, I DO NOT.

26 Q DOES THAT REFRESH YOUR MEMORY THAT AS OF MAY,  
27 THE MIDDLE OF MAY, 1984, THOSE DOCUMENTS HAD BEEN FILED  
28 WITH THE -- THAT IS THE MERGER, FINAL MERGER DOCUMENTS HAD

1 BEEN FILED WITH THE CANADIAN AUTHORITIES?

2 A NO. BUT IT IS SOMEWHERE IN THAT AREA. I  
3 DON'T KNOW WHEN THEY FILED. I WAS NOT IN CANADA WHEN THEY  
4 FILED. I DON'T KNOW WHEN THEY FILED.

5 Q BUT THAT SOUNDS ABOUT RIGHT?

6 A I DON'T HAVE ANY WAY --

7 Q PARDON ME?

8 A I HAVE NOTHING THAT WOULD CONTRADICT IT.

9 Q BACK IN 1984 YOU EXPECTED A RAPID APPROVAL OF  
10 THE U.F.O.I. SATURN MERGER; DIDN'T YOU?

11 A I THINK THAT WOULD BE A GOOD DESCRIPTION,  
12 YES.

13 Q AND YOU WERE OPTIMISTIC ABOUT THAT, YOU HAD  
14 GOTTEN OUT OF THE BANKRUPTCY CLAIM, JUDGE KANE HAD THROWN  
15 OUT ALL THE CRIMINAL CHARGES, FINAL PAPERS FOR THE MERGER  
16 WERE COMING FROM THE CANADIAN AUTHORITIES; ISN'T THAT A  
17 CORRECT STATEMENT?

18 A RIGHT UP UNTIL WHEN THE DEPARTMENT OF JUSTICE  
19 GAVE THEIR NOTICE OF APPEAL.

20 Q SO IN MAY AND EARLY JUNE, 1984, THAT WAS YOUR  
21 STATE OF MIND; RIGHT?

22 MR. MC MULLEN: OBJECTION. VAGUE.

23 THE WITNESS: I THINK THE APPEAL CAME DOWN EARLIER  
24 THAN THAT.

25 THE COURT: HOLD ON. STOP.

26 MR. MC MULLEN: OBJECTION.

27 THE WITNESS: GENERALLY SPEAKING --

28 THE COURT: MR. KILPATRICK, STOP WHEN I TELL YOU TO

1 STOP.

2 WHAT IS THE OBJECTION?

3 THE WITNESS: OH, OKAY.

4 MR. MC MULLEN: VAGUE. VAGUENESS.

5 THE COURT: SUSTAINED.

6 I DID NOT UNDERSTAND THE QUESTION EITHER.

7 BY MR. CRAIN:

8 Q ALL RIGHT.

9 SO YOU ARE A PERSON WHO CONVEYS, IF YOU ARE  
10 OPTIMISTIC ABOUT SOMETHING, YOU WANT TO CONVEY THAT, YOU  
11 WOULD CONVEY IT IN YOUR BUSINESS DEALINGS, IN YOUR  
12 NEGOTIATIONS AND DEALINGS WITH OTHER PARTIES; RIGHT?

13 MR. MC MULLEN: OBJECTION. RELEVANCY AND  
14 SPECULATION.

15 THE COURT: SUSTAINED.

16 MR. CRAIN: I WOULD LIKE MARKED AS EXHIBIT 298  
17 NEXT, THIRD TO LAST EXHIBIT HERE.

18 BY MR. CRAIN:

19 Q SHOWING YOU THIS, MR. KILPATRICK, I WILL GIVE  
20 YOU A COPY OF IT RIGHT NOW.

21 MR. MC MULLEN: JUST FOR THE --

22 BY MR. CRAIN:

23 Q DID YOU SEE THIS DOCUMENT?

24 THE COURT: HOLD ON ONE SECOND.

25 MR. CRAIN: SORRY, YOUR HONOR.

26 THE COURT: IT IS A NEWSPAPER ARTICLE?

27 MR. CRAIN: YES.

28 THE COURT: IT WILL BE MARKED AS 298.

1 (MARKED FOR ID = PETITIONER'S 298,  
2 DOCUMENT.)

3

4 BY MR. CRAIN:

5 Q YOU SEE, MR. KILPATRICK, THIS APPEARS TO BE  
6 THE KAMLOOPS NEWS DATED MONDAY, JUNE 4TH, 1984.

7 MR. MC MULLEN: FOR THE RECORD, THIS IS THE FIRST  
8 TIME WE HAVE SEEN THIS DOCUMENT.

9 BY MR. CRAIN:

10 Q DO YOU SEE THAT?

11 A I SEE IT, YES.

12 Q YOU WENT TO KAMLOOPS IN CANADA AT ABOUT THAT  
13 TIME; DIDN'T YOU?

14 A THAT'S CORRECT.

15 Q AND MR. ROBINSON AND YOU MET THERE; DIDN'T  
16 YOU?

17 A I DON'T REMEMBER ROBINSON THERE WITH US,  
18 WHETHER HE WAS THERE OR NOT. I KNOW I MET WITH BARRY  
19 WHATEVER HIS NAME WAS.

20 Q DOES THE ARTICLE, WHERE IT DESCRIBES YOU AND  
21 ROBINSON BEING THERE, REFRESH YOUR RECOLLECTION THAT HE  
22 WAS THERE MEETING WITH YOU?

23 MR. MC MULLEN: OBJECTION. NO FOUNDATION.

24 THE COURT: WELL, I WILL ALLOW THAT QUESTION.

25 THE WITNESS: WHERE DOES IT SAY THAT?

26

27

(WITNESS REVIEWING DOCUMENT.)

28

1 THE WITNESS: ROBINSON SAYS HE WAS THERE WITH ME.

2 BY MR. CRAIN:

3 Q DOES IT REFRESH YOUR RECOLLECTION?

4 A I WAS IN KAMLOOPS. I WILL TESTIFY TO THAT.

5 Q YOU WERE IN KAMLOOPS IN CONNECTION WITH  
6 TRYING TO WORK OUT THIS DEAL YOU HAD GOING WITH SATURN;  
7 RIGHT?

8 A I THINK I WAS THERE IN REFERENCE TO  
9 MR. ROBINSON WANTING SOME PUBLICITY FOR IT.

10 Q HOW ABOUT BARRY BAMTON, WAS HE THERE WITH  
11 YOU?

12 A BARRY BAMTON WAS AN EMPLOYEE OF THE BROKERAGE  
13 FIRM IN THAT CITY. THAT'S WHO I WAS -- WENT TO MEET WITH.

14 Q IN CONNECTION WITH YOUR DEALINGS WITH SATURN?

15 A IN CONNECTION WITH MR. ROBINSON GETTING OUT A  
16 PRESS RELEASE ON THAT.

17 Q GETTING IT OUT?

18 A GETTING OUT A PRESS RELEASE, OR GETTING OUT A  
19 NEWS STORY LIKE THIS.

20 Q GETTING OUT A NEWS STORY ABOUT ONGOING  
21 NEGOTIATIONS BETWEEN U.F.O.I. AND SATURN ATTEMPTING TO  
22 FINALIZE THE MERGER?

23 A CORRECT.

24 Q THAT'S WHY YOU WENT TO KAMLOOPS AND TALKED TO  
25 THESE PEOPLE; RIGHT?

26 A RIGHT. I REMEMBER THEY DID A TELEVISION  
27 SHOW. I DON'T REMEMBER THIS. I DON'T KNOW THAT I HAVE  
28 SEEN THIS BEFORE.

1 Q AND DO YOU REMEMBER REPRESENTATIVES OF  
2 MICROGENESIS, SUCH AS MOSHE GREENBERG, MR. DOSTI AND LEWIS  
3 RAYMOND BEING THERE ON BEHALF OF MICROGENESIS?

4 A I DON'T REMEMBER IT, BUT I DON'T REMEMBER  
5 THAT THEY WEREN'T THERE EITHER. I DON'T REMEMBER WHETHER  
6 THEY WERE OR WEREN'T. I WAS THINKING I WENT THERE ALONE.  
7 I DON'T REMEMBER ANYONE ELSE, BUT IT SAYS THEY ARE HERE,  
8 THEY PROBABLY WERE.

9 Q OKAY.  
10 AND YOU SEE IN THERE WHERE, I AM GOING TO ASK  
11 YOU ABOUT THIS, WHERE MR. BAMPTON, THE INDIVIDUAL WHO YOU  
12 JUST IDENTIFIED FOR THE COURT, LOCAL INVESTMENT  
13 CONSULTANT, WHERE HE MADE THE STATEMENT THAT U.F.O.I. AND  
14 THE SATURN MERGER WOULD TAKE PLACE WITHIN MONTHS? DO YOU  
15 SEE THAT?

16 MR. MC MULLEN: OBJECTION. RELEVANCY.

17 THE COURT: SUSTAINED.

18 MR. KLEIN: YOUR HONOR, IT IS DIRECTLY CONTRARY TO  
19 HIS TESTIMONY.

20 THE COURT: I REALLY DO NOT CARE WHAT IS IN THE  
21 KAMLOOPS NEWS. LET'S ASK THIS WITNESS QUESTIONS, THEN  
22 LET'S MOVE ON.

23 MOVE ON.

24 BY MR. CRAIN:

25 Q DOES REVIEWING -- YOU SEE MR. BAMPTON'S  
26 STATEMENT THERE, DON'T YOU?

27 A I DON'T KNOW WHAT YOU ARE TALKING ABOUT HERE.

28 Q LET ME JUST FIND IT FOR YOU.



1 A THERE ARE SEVERAL STATEMENTS.

2 THE WITNESS: WHAT WAS THE QUESTION?

3 THE COURT: HOLD ON.

4 THE COURT: PUT A QUESTION.

5 BY MR. CRAIN:

6 Q IN YOUR MIND AT THE TIME OF THE MEETING WITH  
7 MR. BAMPTON IN KAMLOOPS YOU BELIEVED THAT THE MERGER  
8 BETWEEN U.F.O.I. AND SATURN WOULD TAKE PLACE WITHIN A FEW  
9 MONTHS; RIGHT?

10 A I BELIEVE THE MERGER WOULD DEFINITELY TAKE  
11 PLACE.

12 Q THE ANSWER IS "YES"?

13 A NO. NOT WITHIN A FEW MONTHS. I FELT IT  
14 WOULD TAKE PLACE. I WAS HAVING, I THINK, SOMEWHERE IN  
15 HERE IS WHEN THE GOVERNMENT APPEALED, WHICH --

16 Q DID YOU MAKE ANY STATEMENTS TO MR. BAMPTON TO  
17 CAUSE HIM TO -- ANY ATTEMPTS TO CAUSE HIM TO BELIEVE IT  
18 WOULD TAKE PLACE IN A FEW MONTHS?

19 A I HAVE NO RECOLLECTION OF THAT OR ANYTHING TO  
20 THE CONTRARY.

21 Q SO YOU MIGHT HAVE TOLD MR. BAMPTON THAT;  
22 RIGHT?

23 MR. MC MULLEN: OBJECTION. RELEVANCY.

24 THE COURT: SUSTAINED.

25 BY MR. CRAIN:

26 Q AS A MATTER OF FACT, YOU CONVEYED THIS TO  
27 MR. HUNT, DIDN'T YOU, THAT YOU BELIEVED THAT THE MERGER  
28 WOULD TAKE PLACE WITHIN A FEW MONTHS?

1 MR. MC MULLEN: OBJECTION. VAGUE AS TO TIME.

2 THE COURT: REFRAME IT. DID YOU SAY AT THE TIME OF  
3 THE MEETING IN KAMLOOPS WHAT --

4 BY MR. CRAIN:

5 Q ABOUT THE TIME OF THE MEETING IN KAMLOOPS YOU  
6 WERE CONVEYING TO MR. HUNT THAT THIS MERGER MIGHT VERY  
7 WELL TAKE PLACE WITHIN A FEW MONTHS; DIDN'T YOU?

8 A I THINK I MAY HAVE BELIEVED THAT AT THE TIME.

9 Q MAY HAVE BELIEVED IT AND TOLD MR. HUNT THAT;  
10 ISN'T THAT RIGHT?

11 A I DON'T KNOW IF I TOLD THAT TO MR. HUNT OR  
12 NOT. I THINK AT THAT TIME I DID NOT BELIEVE THE  
13 GOVERNMENT WOULD WIN THEIR APPEAL, SO I THOUGHT THAT THE  
14 APPEAL WOULD COME BACK SHORTLY, THOUGH WE WOULD PROBABLY  
15 BE -- WE WOULD GO AHEAD WITH IT.

16 Q YOU ARE TRYING TO GIVE TO MR. HUNT -- WERE  
17 YOU TRYING TO DECEIVE MR. HUNT ABOUT YOUR BELIEF ABOUT  
18 WHEN THIS MERGER MIGHT TAKE PLACE OR NOT?

19 MR. MC MULLEN: OBJECTION. VAGUE AS TO TIME.

20 THE COURT: OVERRULED.

21 THE WITNESS: CAN I ANSWER THAT?

22 BY MR. CRAIN:

23 Q WERE YOU OR NOT?

24 A I HAVE NEVER TRIED TO DECEIVE MR. HUNT, SIR.  
25 BUT I DON'T KNOW THAT I TOLD MR. HUNT THAT.

26 Q SO YOUR NEWS ABOUT WHEN THE MERGER MIGHT TAKE  
27 PLACE, WHAT I JUST GOT THROUGH SAYING, YOU MAY WELL HAVE  
28 BELIEVED THAT IT WOULD TAKE PLACE IN A FEW MONTHS, WAS

1 SOMETHING THAT YOU DID CONVEY TO MR. HUNT AND DID CONVEY  
2 THAT --

3 A I DON'T KNOW THAT IT IS SOMETHING THAT I  
4 DID --

5 MR. MC MULLEN: OBJECTION.

6 THE WITNESS: -- BUT I MIGHT WOULD HAVE.

7 THE COURT: MR. KILPATRICK, WAIT UNTIL --

8 MR. MC MULLEN: OBJECTION.

9 THE COURT: MISSTATES THE EVIDENCE.

10 MR. CRAIN: PARDON ME?

11 THE COURT: YOU LOADED THE QUESTION. IT WAS  
12 COMPOUND AND YOU MISSTATED THE TESTIMONY.

13 MR. CRAIN: I BELIEVE HE TOLD US --

14 THE COURT: RESTATE THE QUESTION.

15 MR. CRAIN: I AM. THAT'S WHAT I AM TRYING TO DO.

16 BY MR. CRAIN:

17 Q YOU TOLD US THAT YOU MAY WELL HAVE -- I AM  
18 GOING TO -- A MOMENT AGO YOU SAID YOU MAY VERY WELL  
19 BELIEVED THAT THE MERGER COULD TAKE PLACE WITHIN A FEW  
20 MONTHS; RIGHT?

21 A TRUE.

22 Q OKAY.

23 AND YOU JUST GOT THROUGH TELLING US THAT YOU  
24 NEVER TRIED TO DECEIVE MR. HUNT ABOUT WHEN YOU BELIEVED  
25 THE MERGER MIGHT TAKE PLACE; CORRECT?

26 A NO.

27 Q YOU DID OR NOT DID TRY TO DO --

28 A I DID NOT TRY TO DECEIVE HIM OR ANYONE ELSE.

1 Q YOU WANTED TO GIVE MR. HUNT WHAT YOUR BELIEFS  
2 WERE, SO THAT HE WAS FULLY INFORMED IN HIS NEGOTIATIONS  
3 WITH YOU ABOUT YOUR ABILITY TO PERFORM?

4 MR. MC MULLEN: OBJECTION. VAGUE.

5 THE COURT: SUSTAINED.

6 BY MR. CRAIN:

7 Q LET ME CALL YOUR ATTENTION NOW TO EXHIBIT  
8 300, WHICH WILL BE, I THINK, OUR FINAL EXHIBIT.

9 THE COURT: YOU ARE SKIPPING 299?

10 MR. CRAIN: YES. I HAD A NUMBER OF QUESTIONS ABOUT  
11 THAT, BUT I THINK THE COURT --

12 THE COURT: WHAT'S 300?

13 MR. CRAIN: I THINK THE AREA HAS BEEN COVERED. I  
14 HOPE SO.

15 NUMBER 300 IS, YOUR HONOR, THIS IS A DOCUMENT  
16 PREPARED BY WOLF AND COMPANY. LET ME GIVE A COPY TO THE  
17 COURT.

18 THE COURT: JUST WHAT IS IT, SO WE CAN DESCRIBE IT.

19 MR. CRAIN: IT APPEARS TO BE A PAGE ONE, A  
20 STATEMENT TO SATURN ENERGY FROM WOLF, SIGNED WOLF AND  
21 COMPANY OF COLORADO, INCORPORATED, CERTIFIED PUBLIC  
22 ACCOUNTANTS, DATED NOVEMBER THE 18TH, 1983, AND IT  
23 CONTAINS FOUR PAGES IN ALL, THE REMAINING PAGES APPEAR TO  
24 BE BALANCE SHEETS AND THINGS OF THAT NATURE.

25 THE COURT: IT WILL BE MARKED AS 300.

26  
27 (MARKED FOR ID = PETITIONER'S 300,  
28 DOCUMENT.)

1 BY MR. CRAIN:

2 Q I WOULD LIKE YOU TO TAKE A LOOK AT THIS, AND  
3 I WILL GIVE A COURT A COPY HERE. I WANT YOU TO TAKE A  
4 LOOK AT THAT, MR. KILPATRICK, IF YOU WOULD.

5 MR. MC MULLEN: FOR THE RECORD, THIS IS THE FIRST  
6 TIME WE HAVE SEEN THIS DOCUMENT.

7 THE COURT: ALL RIGHT.

8 BY MR. CRAIN:

9 Q HAVE YOU HAD A CHANCE TO JUST LOOK OVER IT?

10 A I HAVE GLANCED AT IT, YES, SIR.

11 Q YOU HAVE SEEN THAT BEFORE; RIGHT? DO YOU  
12 RECALL IT?

13 A YES.

14 MR. MC MULLEN: BEFORE HE ASKS ANY FURTHER  
15 QUESTIONS, MAY I HAVE A MOMENT TO READ THE LETTER?

16 THE COURT: YES.

17 MR. MC MULLEN: THANK YOU.

18

19 (PAUSE.)

20 MR. MC MULLEN: THANK YOU.

21

22 (PAUSE.)

23

24 BY MR. CRAIN:

25 Q HAVE YOU HAD A CHANCE TO LOOK AT THAT NOW?

26 A YES.

27 Q I BELIEVE YOU TOLD US A MINUTE AGO THAT YOU  
28 RECOGNIZE IT AS SOMETHING YOU HAVE SEEN BEFORE; RIGHT?

1           A       YES.

2           Q       SOMETHING YOU GAVE TO MR. HUNT, A COPY OF IT  
3 OR PERHAPS THAT ORIGINAL; RIGHT?

4           A       I WOULD PRESUME I WOULD HAVE GIVEN HIM ONE,  
5 YES, SIR.

6           Q       THAT WOULD BE RELATIVE TO YOUR NEGOTIATIONS  
7 WITH HIM AND MICROGENESIS; RIGHT?

8           A       I WOULD THINK SO. I THINK THIS -- OKAY.  
9 YES, DATED NOVEMBER THE 18TH, YES.

10          Q       OKAY.  
11                   THE ANSWER IS "YES"?

12          A       YES.

13          Q       WERE YOU HONEST IN THE INFORMATION THAT YOU  
14 IMPARTED TO WOLF AND COMPANY, CPA?

15          A       TO THE BEST OF MY KNOWLEDGE.

16          Q       AND YOU NOTICE ON PAGE ONE HERE WHERE THEY  
17 STATE THE PROJECTED FINANCIAL STATEMENTS ARE BASED ON  
18 ASSUMPTIONS AND ESTIMATES BY YOU (READING): "AND ARE NOT  
19 INTENDED TO PREDICT THE MOST PROBABLE FUTURE FINANCIAL  
20 RESULTS."

21                   WHAT THEY ARE SAYING IS THAT THEY ARE RELYING  
22 ON WHAT YOU ARE TELLING THEM, AND THEY ARE NOT MAKING ANY  
23 PERSONAL REPRESENTATIONS ON BEHALF OF WOLF AND COMPANY AS  
24 TO THE ACCURACY OF ANYTHING; RIGHT? ISN'T THAT YOUR  
25 UNDERSTANDING OF THAT?

26           MR. MC MULLEN: OBJECTION. CALLS FOR SPECULATION.  
27           THE COURT: SUSTAINED.

28           THE WITNESS: "PROBABLE FUTURE FINANCIAL RESULT."

1 THE COURT: SUSTAINED.

2 MR. MC MULLEN: MOVE TO STRIKE THE ANSWER.

3 THE COURT: THE ANSWER IS STRICKEN.

4 GO.

5 BY MR. CRAIN:

6 Q WOLF AND COMPANY WERE RELYING ON THE  
7 INFORMATION THAT YOU YOURSELF GAVE THEM IN ORDER TO PUT  
8 TOGETHER THAT DOCUMENT?

9 MR. MC MULLEN: SAME OBJECTION. SPECULATION.

10 THE COURT: SUSTAINED.

11 MR. CRAIN: THE ONLY REASON I BRING THAT UP --

12 THE COURT: I UNDERSTAND THAT THEY WOULD HAVE  
13 CREATED THIS REPORT BASED ON WHAT THIS --

14 MR. CRAIN: THEY ALWAYS PUT IN A DISCOUNT PHRASE,

15 A --

16 MR. KLEIN: DISCLAIMER.

17 MR. CRAIN: WHAT?

18 MR. KLEIN: DISCLAIMER.

19 MR. CRAIN: A DISCLAIMER.

20 THE COURT: I UNDERSTAND.

21 MR. CRAIN: OKAY.

22 THE COURT UNDERSTANDS, AND I AM SURE YOU DID,  
23 I JUST WANT TO MAKE THE RECORD CLEAR, IF IT NEEDS TO BE  
24 CLEAR.

25 THE COURT: OKAY.

26 BY MR. CRAIN:

27 Q SO YOU GAVE THESE ESTIMATES TO WOLF AND  
28 COMPANY AFTER CONSIDERING THE MOST PROBABLE TIME LINE OF

1 THINGS THAT AFFECTED PUTTING INTO FINAL FORM THESE  
2 NEGOTIATIONS; RIGHT?

3 A I GAVE THEM WHAT I BELIEVED BASED ON MY  
4 KNOWLEDGE OF THE SITUATION WOULD BE THE MOST PROBABLE  
5 FUTURE, YES.

6 Q DID YOU TRY TO BE CONSERVATIVE IN YOUR  
7 ESTIMATE BECAUSE YOU REALIZED THAT INVESTORS WOULD BE  
8 READING THE PROJECTIONS AND YOU DIDN'T WANT TO MISLEAD  
9 ANYONE?

10 MR. MC MULLEN: OBJECTION. RELEVANCE.

11 THE COURT: OVERRULED.

12 THE WITNESS: YEAH. I THINK I WOULD BE  
13 CONSERVATIVE IN THAT.

14 BY MR. CRAIN:

15 Q OKAY.

16 THIS DOCUMENT IS ADDRESSED TO SATURN ENERGY  
17 COMPANY; RIGHT?

18 A CORRECT.

19 Q AND TURN TO PAGE TWO THERE. DO YOU SEE WHERE  
20 IT SAYS (READING): "CASH FLOW PROJECTIONS"?

21 A CORRECT.

22 Q THAT'S PREPARED BY THE CPA ON INFORMATION  
23 PROVIDED BY YOU; IS THAT RIGHT?

24 MR. MC MULLEN: OBJECTION. CALLS FOR SPECULATION.

25 THE COURT: DID YOU HIRE WOLF AND COMPANY TO  
26 PREPARE THIS REPORT?

27 THE WITNESS: YES, SIR.

28 THE COURT: DID YOU PROVIDE THE INFORMATION TO WOLF



1 AND COMPANY FOR THIS REPORT?

2 THE WITNESS: YES, SIR.

3 THE COURT: DID YOU HAVE THE INTENTION THAT THIS  
4 REPORT COULD BE GOING TO SATURN FOR THE PURPOSES OF  
5 FACILITATING THE MARKETING?

6 THE WITNESS: YES, SIR.

7 THE COURT: OBJECTION OVERRULED.

8 LET'S WRAP IT UP.

9 MR. CRAIN: I AM TRYING TO. THIS WILL BE THE LAST  
10 EXHIBIT, I BELIEVE.

11 BY MR. CRAIN:

12 Q OKAY.

13 NOW, JUST A FEW QUESTIONS WITH REGARD TO  
14 THIS, HOW MUCH MONEY DOES IT SHOW SATURN SELECTING FROM  
15 TAX SHELTER PROMISSORY NOTES CONVEYED BY U.F.O.I. TO  
16 SATURN DURING 1984?

17 THE COURT: THE DOCUMENT SPEAKS FOR ITSELF.

18 THE WITNESS: ON --

19 MR. MC MULLEN: OBJECTION. BEST EVIDENCE.

20 THE COURT: SUSTAINED.

21 MR. KLEIN: THE COURT CAN READ PAGE TWO.

22 THE COURT: YES.

23 BY MR. CRAIN:

24 Q IT WAS 14 MILLION DOLLARS, WASN'T IT?

25 A PARDON?

26 MR. MC MULLEN: OBJECTION. BEST EVIDENCE.

27 MR. CRAIN: I THINK THE WITNESS IS TRYING TO  
28 EXPLAIN YOUR HONOR, WHAT --

1 THE COURT: WHICH AREA ARE YOU TALKING ABOUT?

2 MR. CRAIN: I AM TALKING ABOUT 1984 WHERE IT SAYS

3 (READING): "PROJECTED COLLECTION OF PROMISSORY NOTES

4 \$14,000,000."

5 THE COURT: 14,023,000.

6 BY MR. CRAIN:

7 Q THAT'S WHAT YOU TOLD THE CPA?

8 A THAT WAS OUR ESTIMATE APPARENTLY IN '83, YES.

9 Q SATURN COULDN'T COLLECT THESE NOTES UNTIL THE  
10 MERGER WAS APPROVED; IS THAT RIGHT?

11 A UNTIL EVERYTHING WENT TOGETHER, YES.

12 Q SO BEING AT THE TIME THAT YOU PREPARED THIS,  
13 THESE INFORMATION YOU THOUGHT THAT MERGER WOULD BE  
14 COMPLETED EARLY ENOUGH IN 1984 TO ALLOW THE PAPERWORK AND  
15 COLLECTION OF TAX SHELTER MONEY TO BE COMPLETED IN 1984;  
16 IS THAT RIGHT?

17 MR. MC MULLEN: OBJECTION. CALLS FOR SPECULATION.

18 THE COURT: SUSTAINED.

19 BY MR. CRAIN:

20 Q YOUR PROJECTION FOR 1984 INCLUDES ABOUT A  
21 SEVEN AND A HALF MILLION OPTION FOR CAPITAL EXPENDITURES  
22 AND NET CASH FLOW OF 6.5 MILLION; IS THAT RIGHT?

23 MR. MC MULLEN: OBJECTION. BEST EVIDENCE.  
24 RELEVANCE.

25 THE COURT: IT SPEAKS FOR ITSELF.

26 MR. CRAIN: I GUESS, IS THE COURT LOOKING AT THIS?

27 THE COURT: YES. IT IS RIGHT IN FRONT OF ME.

28 BY MR. CRAIN:

1 Q AND SO BASED ON THESE DOCUMENTS HERE, PAGE  
2 TWO, WHICH SHOWS THE AMOUNT OF PROMISSORY NOTES RECEIVABLE  
3 PROJECTED INCOME FROM VARIOUS OPERATIONS, SATURN WOULD  
4 HAVE HAD THE CASH FLOW TO BE ABLE TO PAY MICROGENESIS  
5 \$333,000 A MONTH, LET'S SAY, BEGINNING JULY OR AUGUST,  
6 1984, AND CONTINUING FOR 18 MONTHS; RIGHT?

7 MR. MC MULLEN: OBJECTION. SPECULATION.

8 THE COURT: OVERRULED.

9 BY MR. CRAIN:

10 Q ISN'T THAT RIGHT?

11 A THEY WOULD HAVE THE MONEY TO PAY SATURN --  
12 EXCUSE ME -- MICROGENESIS SOMETIME IN '84, YES.

13 Q THE ANSWER IS "YES" TO THE QUESTION; RIGHT?  
14 OKAY.

15 NOW, YOU REPRESENTED TO MR. HUNT DURING YOUR  
16 NEGOTIATIONS THAT SATURN WOULD HAVE THE KIND OF CASH FLOW  
17 SHOWN IN THESE PROJECTIONS ON PAGE 20 OF EXHIBIT 300  
18 SOMETIME DURING 1984; DIDN'T YOU?

19 A I DON'T KNOW. I DON'T KNOW THAT I GAVE  
20 HIM --

21 Q DIDN'T YOU TESTIFY A LITTLE WHILE AGO YOU  
22 FURNISHED THIS DOCUMENT TO MR. HUNT?

23 A NO. I SAID I PROBABLY WOULD HAVE, BUT I  
24 DON'T KNOW THAT I DID.

25 Q IF YOU FURNISHED IT TO HIM, IT WOULD HAVE TO  
26 GIVE HIM INFORMATION ABOUT THE AMOUNT OF MONEY THAT SATURN  
27 WOULD BE ABLE TO PAY OUT ONCE THE MERGER TOOK EFFECT;  
28 ISN'T THAT RIGHT?

1           A           IT WOULD BE MORE OF A STATUS REPORT ON MY  
2 COMPANY, NOT WHAT IT IS THAT HE IS GOING TO BE ABLE TO DO.

3           Q           ALL RIGHT.

4                        SO, IN OTHER WORDS, YOU WANTED TO KEEP  
5 MR. HUNT INFORMED DURING THESE NEGOTIATIONS AS TO THE  
6 AMOUNT OF MONEY THAT WAS ON HAND FOR PROMISSORY NOTES,  
7 COLLECTIONS AND OTHER INCOME IN ORDER TO GIVE MR. HUNT THE  
8 PICTURE OF HOW MUCH MONEY WOULD BE AVAILABLE ONCE THIS  
9 MERGER TOOK EFFECT; RIGHT?

10           MR. MC MULLEN: OBJECTION. RELEVANCY. CALLS FOR  
11 SPECULATION.

12           THE COURT: OVERRULED.

13 BY MR. CRAIN:

14           Q           THAT IS RIGHT?

15           A           I AM JUST LOOKING AT THE STATEMENT HERE ON  
16 THE BACK OF IT AS TO WHAT IT IS THAT THIS WOULD BE  
17 PROJECTING.

18           Q           WELL --

19           A           ASSUMES THAT INTEREST WAS PAID TO DECEMBER  
20 '84.

21           MR. MC MULLEN: PARDON ME FOR INTERRUPTING. THERE  
22 IS A QUESTION PENDING.

23           THE COURT: PUT A QUESTION.

24           MR. CRAIN: OKAY.

25                        I WILL WITHDRAW THE QUESTION AND RE-ASK IT.

26 BY MR. CRAIN:

27           Q           SO THE PURPOSE OF THIS DOCUMENT IN PART IS TO  
28 SHOW WHAT KIND OF MONEY WOULD BE ON HAND TO PAY TO

1 MICROGENESIS ONCE THIS U.F.O.I. SATURN MERGER TOOK EFFECT;  
2 RIGHT?

3 A NO, THAT WAS NOT THE PURPOSE OF THIS  
4 DOCUMENT.

5 Q BUT ANYWAY, THE INFORMATION IN THERE WAS NOT,  
6 YOU DIDN'T TRY TO HIDE IT FROM MR. HUNT IN ANY WAY, DID  
7 YOU?

8 A NO.

9 Q OKAY.

10 NOW, DOESN'T THE DOCUMENT ALSO SHOW THAT  
11 SATURN WOULD HAVE REVENUE TOTALING ABOUT 70 MILLION  
12 DOLLARS, AND EXPENDITURES OF ROUGHLY 27 MILLION, FOR A NET  
13 CASH FLOW OF 43 MILLION DOLLARS IN 1985?

14 MR. MC MULLEN: OBJECTION. BEST EVIDENCE.  
15 RELEVANCE.

16 THE COURT: SUSTAINED. THE DOCUMENT SPEAKS FOR  
17 ITSELF.

18 BY MR. CRAIN:

19 Q WITH REGARDS TO THOSE AMOUNTS AND NET CASH  
20 FLOW OF SATURN, 1985, THAT WAS INFORMATION THAT YOU  
21 FURNISHED TO THE CPA TO PREPARE EXHIBIT 300; IS THAT  
22 CORRECT?

23 MR. MC MULLEN: OBJECTION. RELEVANCY.

24 THE COURT: OVERRULED.

25 I WILL SUSTAIN IT. I ALREADY ASKED HIM THAT  
26 QUESTION. HE SAID, YES, HE PROVIDED THAT INFORMATION.

27 BY MR. CRAIN:

28 Q I BELIEVE UNDER THE MOST LIKELY SCENARIO,

1 1985, SATURN WOULD MAKE 12 MILLION DOLLARS NET ON SALES OF  
2 SYNTHETIC FUEL PLANTS?

3 MR. MC MULLEN: OBJECTION. RELEVANCE.

4 THE COURT: SUSTAINED.

5 MR. CRAIN: I APPRECIATE THE COURT'S PATIENCE.

6 WHAT I AM TRYING TO SHOW --

7 THE COURT: I UNDERSTAND THAT THERE WAS MONEY HERE.

8

9 MR. CRAIN: -- THERE WAS MONEY.

10 THE COURT: AND ENOUGH MONEY TO FULFILL.

11 MR. CRAIN: DID HE TRY TO WITHHOLD ANYTHING? HE  
12 WAS CONVEYING TO MR. HUNT WHAT THE MONEY SITUATION WAS  
13 LIKE.

14 THE COURT: I UNDERSTAND, BUT WHAT SATURN WOULD  
15 HAVE MADE DOWN THE ROAD IS IRRELEVANT. THE QUESTION AT  
16 THIS POINT IN TIME IS: WAS THERE SUFFICIENT FUNDS  
17 SOMEWHERE, OR WAS THERE REASONABLE BELIEF THERE WAS  
18 REASONABLE FUNDS SOMEWHERE SUCH THAT THEY COULD REASONABLY  
19 PROCEED WITH THE MICROGENESIS CONTRACTS.

20 MR. CRAIN: OKAY.

21 BY MR. CRAIN:

22 Q THE DATE OF THE DOCUMENT NOVEMBER 18, 1983,  
23 IS THAT ACCURATE?

24 MR. MC MULLEN: OBJECTION. BEST EVIDENCE.

25 THE COURT: OVERRULED.

26 MR. CRAIN: I WANT TO GET THIS TIME SEQUENCE FOR  
27 THIS SEVEN MONTHS BEFORE JUNE OF 1984?

28 THE WITNESS: YES, THE DATE OF THE DOCUMENT IS

1 NOVEMBER.

2 BY MR. CRAIN:

3 Q WHEN?

4 A '83.

5 MR. CRAIN: YOUR HONOR, PERHAPS IF I MAY HAVE A FEW  
6 MORE MINUTES. I AM GOING TO TRY TO TIGHTEN THIS DOWN. I  
7 MAY BE JUST ABOUT THROUGH. I NOTICE --

8 THE COURT: WHY DON'T WE TAKE OUR NOONTIME RECESS.

9 MR. CRAIN: ALL RIGHT.

10 THE COURT: DON'T EAT AT THE SNACK STAND.

11 MR. CRAIN: NO, I WON'T.

12 THE COURT: 1:30.

13 DEFENDANT AND COUNSEL AND THE WITNESS ARE  
14 ORDERED TO RETURN AT 1:30.

15

16 (AT 12:10 P.M. A RECESS WAS TAKEN  
17 UNTIL 1:30 P.M. OF THE SAME DAY.)

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1 LOS ANGELES, CALIFORNIA; MONDAY, MAY 13, 1996

2 1:32 P.M.

3  
4 (APPEARANCES AS HERETOFORE NOTED.)

5  
6 (M. HELEN THEISS, CSR #2264, OFFICIAL REPORTER.)

7  
8 (PAUL RUNYON, CSR #8797, OFFICIAL REPORTER.)

9  
10 THE COURT: IN THE MATTER OF JOSEPH HUNT, THE  
11 RECORD WILL REFLECT ALL COUNSEL AND PETITIONER ARE  
12 PRESENT. MR. KILPATRICK IS ON THE STAND.

13 ANYTHING FURTHER, MR. CRAIN?

14 MR. CRAIN: YOUR HONOR, I DON'T THINK SO. I THINK  
15 THAT THE OTHER MATTERS I INTENDED TO QUESTION THE WITNESS  
16 ABOUT WOULD BE, IN VIEW OF THE TESTIMONY THE COURT HAS  
17 HEARD, SEEN AS CUMULATIVE. THERE ARE OTHER DOCUMENTS, BUT  
18 I THINK THAT'S ALL I HAVE.

19 THE COURT: I HAVE A COUPLE OF QUESTIONS.

20 DID YOU EVER PROMISE MR. HUNT ANY MONEY?

21 THE WITNESS: NOT OTHER THAN PURSUANT TO WHAT THE  
22 BUSINESS WOULD GENERATE WHEN WE WENT INTO BUSINESS.

23 THE COURT: DID YOU EVER PROMISE HIM ANY STOCK?  
24 WHEN I SAY "HIM," I MEAN HE OR ANY OF HIS COMPANIES.

25 THE WITNESS: NOTHING OTHER THAN THE -- THAN  
26 PURSUANT TO THE AGREEMENTS THAT WE HAD DISCUSSED. NOTHING  
27 PERSONALLY TO HIM, NO, SIR.

28 THE COURT: I AM STILL NOT CLEAR. HOW IS IT THAT



1 YOU FIRST CAME TO TALK TO MR. HUNT? HOW DID YOU FIRST  
2 MAKE CONTACT WITH MR. HUNT?

3 THE WITNESS: MY RECOLLECTION OF IT IS THAT I HAD  
4 ENTERED INTO A CONTRACT WITH MR. BROWNING AND AT SOME  
5 LATER DATE MR. BROWNING TOLD ME SOMETHING ABOUT THIS  
6 CONTRACT THAT HE'S ENTERED INTO WITH THESE PEOPLE OUT IN  
7 CALIFORNIA TO GIVE THEM WHATEVER, AND WE MET AND THEY SAID  
8 WE OWN WHAT I THOUGHT WAS -- I THOUGHT I OWNED, AND THAT'S  
9 WHERE THE DISCUSSION STARTED. I DON'T REMEMBER WHO  
10 INTRODUCED ME TO WHO.

11 THE COURT: DID YOU CONTACT HUNT, OR DID HUNT  
12 CONTACT YOU?

13 THE WITNESS: I REALLY DON'T REMEMBER, SIR. THE  
14 FIRST KNOWLEDGE, I BELIEVE, WAS OF MR. BROWNING TELLING ME  
15 THAT HE EXISTED.

16 THE COURT: YOU ARE IN BANKRUPTCY AND YOUR COMPANY  
17 WAS IN BANKRUPTCY IN '83, TO '84; RIGHT?

18 THE WITNESS: YES, SIR.

19 MAY I EXPLAIN SOMETHING OF THIS? THERE WAS  
20 THE POSSIBILITY THAT I WOULD OWE BACK TO EVERYBODY THAT I  
21 HAD SOLD TAX SHELTERS TO. IF MY TAX SHELTERS WERE RULED  
22 ILLEGAL I'D HAVE OWED BACK EVERY PENNY, WHICH WAS QUITE A  
23 FEW MILLION, AND THE IRS HAD FROZEN MY BANK ACCOUNTS.

24 AT THAT TIME I OWNED HERCULES, CALIFORNIA.  
25 THEY CLOSED BANK ACCOUNTS, THEY CLOSED LINES OF CREDIT,  
26 THEY CLOSED EVERYTHING. UNTIL -- WHEN I OWNED THE WHOLE  
27 TOWN -- I ONLY OWED FOUR AND A HALF MILLION MORE ON THE  
28 PROPERTY IN HERCULES IN CALIFORNIA.

1                   AT THAT TIME WE HAD TO FIND SOMEBODY WITH  
2 MORE AUTHORITY THAN THE IRS. THE ONLY PLACE I COULD THINK  
3 OF TO FIND MORE AUTHORITY WAS IN BANKRUPTCY COURT WITH A  
4 FEDERAL JUDGE. BASED ON THE FACT THAT WE WOULD OWE THESE  
5 HUNDREDS OF MILLIONS --

6                   THE COURT: YOU SAID THEY FROZE THE ACCOUNTS. HOW  
7 MUCH CASH DID YOU ACTUALLY HAVE IN THE BANKS OR IN SOME  
8 ACCOUNTS?

9                   MR. MC MULLEN: I'M SORRY, YOUR HONOR, '83, '84?

10                  THE COURT: '83, '84.

11                  THE WITNESS: I THINK LIKE -- AT ANY GIVEN MOMENT  
12 MAYBE 50-, 75-, 100,000.

13                  THE COURT: 50-, 75- OR \$100,000?

14                  THE WITNESS: LIKE ON THE STATEMENT HERE. THERE  
15 WAS 55,000 CASH IN THE BANK AT THAT TIME. WHAT I DID  
16 THEN --

17                  THE COURT: DID YOU EVER HAVE MORE THAN \$100,000  
18 CASH IN THE BANK AT ANY TIME DURING '83, '84?

19                  THE WITNESS: '83, '84. PROBABLY NOT, SIR, BECAUSE  
20 WE FROZE ALL THE PAYMENTS. WE -- UNILATERALLY. WE  
21 NOTIFIED ALL THE TAX SHELTER CUSTOMERS THAT WERE MAKING  
22 MONTHLY PAYMENTS. THOSE MONTHLY PAYMENTS WOULD AMOUNT TO  
23 AROUND THREE-QUARTERS OF A MILLION DOLLARS.

24                  THE COURT: WHEN DID YOU FREEZE THOSE?

25                  THE WITNESS: WE FROZE THOSE WHEN THE INDICTMENT  
26 CAME DOWN, WHICH I BELIEVE -- WITHIN 90 TO 120 DAYS AFTER  
27 THE INDICTMENT CAME DOWN, I BELIEVE IN '81, EARLY '81 --  
28 EXCUSE ME, SEPTEMBER -- SEPTEMBER OF '81.

1 THE COURT: WHAT IS THE E.P.R.I.? WHAT DOES THAT  
2 STAND FOR?

3 THE COURT: THAT STANDS FOR ELECTRICAL POWER  
4 RESEARCH INSTITUTE. I DON'T KNOW WHAT YOU'D EXACTLY CALL  
5 IT.

6 ALL THE POWER PLANTS IN THE UNITED STATES GO  
7 TOGETHER AND THEY CONTRIBUTE TO THIS, AND ANYTHING THAT IS  
8 GOING TO BE -- ANY EQUIPMENT THAT IS TO BE PLACED ON A  
9 POWER PLANT MUST GO THROUGH A SERIES OF TESTS BY AN  
10 E.P.R.I. PLANT.

11 THEY DESIGNATE CERTAIN PLANTS THROUGHOUT THE  
12 UNITED STATES. IT MUST GO THROUGH THE TESTING AND MUST  
13 SURVIVE THE TESTING AND MUST PROVE ITS VALIDITY FOR A  
14 PERIOD OF TIME BEFORE THEY PUT OUT ON A POWER PLANT THAT'S  
15 IN OPERATION 24 HOURS A DAY.

16 THE COURT: YOU HAVE TO RECEIVE AN E.P.R.I.  
17 CERTIFICATION?

18 THE WITNESS: IT'S LIKE A GOOD HOUSEKEEPING SEAL OF  
19 APPROVAL, ALTHOUGH --

20 THE COURT: IT'S LIKE UNDERWRITERS LABORATORY, A UL  
21 CERTIFICATION?

22 THE WITNESS: LIKE THAT, BUT IT'S IN-HOUSE FOR  
23 THEM, FOR THE POWER PLANTS.

24 THE COURT: HOW OFTEN DID YOU COME OUT AND USE THE  
25 B.B.C. OFFICES?

26 THE WITNESS: I -- THE ONLY TIME I CAME OUT WAS TO  
27 BE WITH B.B.C.. THAT WAS THE ONLY THING I WAS COMING OUT  
28 HERE FOR. I DON'T RECALL HAVING ANYTHING ELSE GOING ON IN

1 THIS STATE.

2 THE COURT: HOW MANY TIMES DO YOU RECALL COMING  
3 OUT?

4 THE WITNESS: FOUR.

5 THE COURT: WHAT DID YOU DO --

6 THE WITNESS: THREE, FOUR, FIVE TIMES.

7 THE COURT: WHAT WAS THE PURPOSE OF THOSE FOUR  
8 VISITS?

9 THE WITNESS: IN ONE INSTANCE I THINK THEY CALLED  
10 ME. IN THE OTHER INSTANCE WHERE WE WOULD TALK ON THE  
11 TELEPHONE AND DO THINGS TO TRY TO -- TO COMPLETE THE  
12 STRAIGHTENING UP OF THE AFFAIRS THAT WE WERE TRYING TO GET  
13 GOING. WHEN I STRUCK THE TENTATIVE AGREEMENT, WE CAME --  
14 THERE WAS SOMETHING THAT HAPPENED WITH THE AGREEMENT WITH  
15 SATURN, PROBABLY IN ANTICIPATION OF GOING UP FOR THAT  
16 MEETING. I THINK I CAME OUT IN ADVANCE OF THAT.

17 THE COURT: DID YOU WANT MR. HUNT TO GO UP WITH YOU  
18 TO CANADA TO PRESENT --

19 THE WITNESS: I DON'T REALLY REMEMBER WHETHER I DID  
20 OR I DIDN'T. APPARENTLY SOME OF THE PEOPLE WERE UP THERE  
21 WITH ME AT THAT TIME. EXCUSE ME, I KNOW SOME OF THE  
22 PEOPLE WENT. I'M THINKING KAMLOOPS AND YOU'RE TALKING  
23 ABOUT VANCOUVER.

24 THEY DID GO TO VANCOUVER WITH ME AT THAT  
25 POINT IN TIME, AND I THINK WE -- THAT WAS THE POINT IN  
26 TIME WHEN WE ARE TRYING TO -- WHATEVER THE SITUATION IS,  
27 WE CANNOT GO ON WITH THE MERGER WITH THIS THING HANGING IN  
28 LIMBO. DOES MICROGENESIS OWN IT? DOES BROWNING OWN IT?

1 DO I OWN IT? WHO OWNS THIS THING? WE CAN'T -- YOU KNOW,  
2 DO THE MERGER, AND SAY, "WE'LL TELL YOU WHAT THE STATUS OF  
3 THE OWNERSHIP IS AT A FUTURE DATE."

4 I WANTED THEM TO MEET THE PEOPLE IN CANADA.  
5 I WANTED BROWNING TO MEET THE PEOPLE IN CANADA. I WANTED  
6 EVERYBODY TO GET TOGETHER, AND LET'S RESOLVE THIS PROBLEM  
7 ONE WAY OR THE OTHER.

8 THE COURT: ANY REDIRECT?

9 MR. MC MULLEN: YES, YOUR HONOR. A FEW QUESTIONS.

10 MAY I APPROACH THE WITNESS WITH EXHIBIT 291,  
11 YOUR HONOR?

12 THE COURT: YES.

13 291?

14 MR. MC MULLEN: YES, HANDWRITTEN NOTES.

15

16 REDIRECT EXAMINATION @

17

18 BY MR. MC MULLEN:

19 Q SIR, YOU HAVE IDENTIFIED EXHIBIT 291 AS SOME  
20 NOTES THAT YOU MADE?

21 A AT SOME TIME OR OTHER.

22 Q DO YOU HAVE ANY IDEA WHAT THE CONTEXT OF  
23 THESE -- THE CONTEXT THAT THESE NOTES WERE MADE IN?

24 A SOMETHING THAT I WOULD DO IS, I THINK -- I  
25 THINK WHAT THIS IS IS A -- IT WAS A PRE-PLANNING OF  
26 BUSINESS. AFTER THE MERGER WITH SATURN WE WOULD BE GOING  
27 INTO BUSINESS. IT WAS TO BE THE SEQUENCE OF EVENTS, HOW  
28 WE WOULD DO THINGS.

1 I FELT THAT THE -- I ALWAYS FELT THE PRIMARY  
2 THING TO DO WAS TO DO THE POWER PLANTS. THERE WERE  
3 SEVERAL HUNDRED OF THESE VERY EASILY SOLD, THE POWER  
4 PLANTS, TO GO INTO THE POWER PLANTS FIRST.

5 I WAS TRYING TO FORECAST, FROM THE  
6 CONVERSATIONS THAT I HAD WITH VARIOUS ASSORTED POWER  
7 PLANTS, WHAT THEY WOULD BE WILLING TO PAY, HOW MUCH MONEY.  
8 WE WOULD SAVE TIME, AND WHY THEY WOULD WANT TO DO THIS,  
9 AND GENERALLY WHAT WE COULD PLAN ON AN INCOME STREAM BEING  
10 AT THE TIME THAT THESE THINGS OCCURRED.

11 Q BUT DO YOU KNOW AS YOU SIT HERE TODAY IF  
12 THOSE NOTES WERE PREPARED FOR A PARTICULAR MEETING OR  
13 ANYTHING LIKE THAT?

14 A I WOULD DOUBT IT.

15 Q JUST FOR YOUR OWN USE?

16 MR. CRAIN: OBJECTION. LEADING THE WITNESS.

17 THE WITNESS: NOT AUTOMATICALLY --

18 THE COURT: SUSTAINED.

19 HOLD ON.

20 BY MR. MC MULLEN:

21 Q FOR WHAT PURPOSE, IF YOU CAN REMEMBER, WOULD  
22 YOU HAVE MADE THOSE NOTES, EXHIBIT 291?

23 A THEY WOULD PROBABLY START OFF AS MY OWN NOTES  
24 FROM MY OWN THOUGHTS FOR WHAT IT IS I'M GOING TO DO.  
25 WHETHER I SHARED THEM WITH SOMEONE ELSE I HAVE NO IDEA.  
26 APPARENTLY SOMEONE ELSE HAD THEM. I LEFT THEM OR THEY GOT  
27 LOST.

28 MR. MC MULLEN: MAY I APPROACH THE WITNESS AGAIN

1 WITH EXHIBIT 32?

2 THE COURT: YES.

3 BY MR. MC MULLEN:

4 Q SHOWING YOU 32, YOU HAVE TESTIFIED ABOUT THAT  
5 EXHIBIT, AND IN PARTICULAR YOU TESTIFIED WITH RESPECT TO  
6 THE SALES OF 22 MILLS. WHEN YOU WERE TESTIFYING --  
7 CORRECT ME IF I'M WRONG, BUT I THOUGHT YOU SAID SOMETHING  
8 TO THE EFFECT THAT THESE CONTRACTS, 22 CONTRACTS WERE  
9 ALREADY SOLD IN 1978, '79 OR '80. WHAT DID YOU MEAN BY  
10 THAT?

11 A WELL, WHAT I MEAN BY THAT IS IN 1989 AND  
12 '90 --

13 Q DID YOU MEAN '79 --

14 A '79 AND '80. EXCUSE ME. 1979 AND '80 WERE  
15 THE TWO YEARS THAT WE SOLD THE RESEARCH AND DEVELOPMENT  
16 CONTRACTS FOR THE PURPOSE OF DEVELOPING METHANOL PLANTS.

17 Q WHO DID YOU SELL THOSE TO?

18 A I SOLD THEM TO 22 SEPARATE LIMITED  
19 PARTNERSHIPS CONTAINING 45 OR MORE INVESTORS IN EACH OF  
20 THOSE PARTNERSHIPS AND THE GENERAL PARTNERS THAT PUT IT  
21 TOGETHER. THE GENERAL PARTNERS WERE -- AT ONE TIME WERE  
22 VICE PRESIDENTS OF MY COMPANY, AND THEY WERE SEPARATED  
23 FROM OUR COMPANY TO FORM THE PARTNERSHIPS AND TO BECOME  
24 GENERAL PARTNERS OF THAT.

25 Q IN EXHIBIT 32 WHEN YOU SAY 22 UNITS OR 22  
26 MILLS ARE SOLD, ARE YOU REFERRING BACK TO THE -- THESE 22  
27 CONTRACTS WITH YOUR -- THESE LIMITED PARTNERSHIPS?

28 A THERE WERE TWO THINGS. I CALLED A MEETING --

1 IT WAS A MEETING OF LIMITED PARTNERS, AS I RECALL.  
2 THERE -- I DON'T KNOW IF IT WAS A FORMAL MEETING, OR I  
3 JUST TALKED TO THEM AND SAID, "THERE IS A LOT MORE MONEY  
4 TO BE MADE IN THE ATTRITION MILLS THAN THERE IS IN TRYING  
5 TO PUT TOGETHER THE METHANOL PLANTS.

6 "2. THE ATTRITION MILLS IS MUCH CLOSER TO  
7 COMPLETION.

8 "3. IF WE GO INTO THIS MERGER WITH SATURN  
9 I'LL RECOMMEND THE SUBSTITUTION OF THE ATTRITION MILL AS  
10 THE UNIT TO BE DELIVERED PURSUANT TO THE CONTRACT THAT WE  
11 HAVE TO DELIVER THE PRODUCTS OF RESEARCH AND DEVELOPMENT."

12 I REMEMBER THAT WE ACCEPTED THE EXCHANGE OF  
13 THIS. THEY AGREED TO THE EXCHANGE. I DON'T KNOW THAT IT  
14 WAS IMMEDIATELY PRIOR TO THIS. I DON'T KNOW THAT IT WAS  
15 FOR THE PURPOSE OF SENDING THIS.

16 WHAT I DO KNOW IS THAT MR. ROBINSON, OR WHAT  
17 I RECALL IS THAT MR. ROBINSON CALLED ME AND SAID THAT FOR  
18 HIS NEGOTIATIONS WITH THE B.C. EXCHANGE HE NEEDED  
19 CONFIRMATION. SOMETHING IN WRITING FOR ME TO SEND HIM  
20 THAT THE MILLS HAD BEEN ACCEPTED AND THAT THE MILLS WERE  
21 ACCEPTABLE AND WE COULD GO FORWARD USING THE ATTRITION  
22 MILLS RATHER THAN TRYING TO GO AHEAD AND COMPLETE THE  
23 METHANOL PLANTS.

24 Q HAD THESE 22 LIMITED PARTNERSHIPS THAT YOU  
25 TESTIFIED TO, HAD THEY INVESTED IN SOME KIND OF RESEARCH  
26 AND DEVELOPMENT?

27 A YES, THE 22 LIMITED PARTNERSHIPS -- EACH  
28 LIMITED PARTNER INVESTED \$12,550 THREE YEARS IN A ROW INTO



1 THE PARTNERSHIPS FOR EACH PLANT THAT THEY WERE ENTITLED TO  
2 EACH, AND THAT'S TIMES 45. I HAVE FORGOTTEN NOW WHAT THAT  
3 NUMBER IS. IT'S 45 LIMITED PARTNERS INVESTED 12,500 EACH  
4 PER ANNUM FOR THREE YEARS. THEN WE FROZE THE PAYMENTS ON  
5 THOSE WHEN THE INDICTMENT CAME DOWN.

6 Q OKAY.

7 WHAT WAS THE PURPOSE OF THE RESEARCH WITH  
8 RESPECT TO THOSE LIMITED PARTNERS? WHAT WERE YOU TRYING  
9 TO DEVELOP?

10 A THE STATED GOAL OF THE RESEARCH WAS TO  
11 DEVELOP A NEW WAY OF CREATING METHANOL FROM COAL RATHER  
12 THAN FROM NATURAL GAS, WHICH IS THE STANDARD, HISTORIC  
13 METHOD OF MAKING --

14 Q IT WAS THROUGH THAT INVESTMENT VEHICLE  
15 THAT -- WHERE THERE WAS A TAX SHELTER; IS THAT CORRECT?

16 A CORRECT. THAT WE COULD -- WHAT WE'RE TRYING  
17 TO DO IS FIND A MORE ECONOMIC AND FASTER METHOD OF  
18 CONVERTING COAL TO WHAT WAS CALLED TOWN GAS IN THE 16- AND  
19 1700S IN ENGLAND, WHICH IS NOTHING BUT CARBON MONOXIDE.

20 YOU HAVE TWO BASIC RAW MATERIALS HYDROGEN AND  
21 CARBON MONOXIDE. HYDROGEN IS EASILY OBTAINED FROM JUST  
22 THE ELECTRICALIZATION OF WATER. IT'S A CHEAPER WAY TO GO.  
23 ALL WE NEED IS A CHEAP SOURCE OF CARBON MONOXIDE FROM  
24 COAL.

25 BEARING IN MIND AT THAT TIME UNITED FINANCIAL  
26 OPERATIONS OWNED 70 SOMETHING MILLION TONS OF ECONOMICALLY  
27 RECOVERABLE COAL RESERVES.

28

1 BY MR. MC MULLEN:

2 Q WERE THE 22 LIMITED PARTNERSHIPS TO SHARE IN  
3 WHATEVER RESEARCH HAD BEEN DEVELOPED THROUGH THEIR  
4 CONTRIBUTIONS?

5 A THEY JOINT VENTURED THE COST OF IT AND -- TO  
6 THE EXTENT THAT THEY WERE ENTITLED TO EITHER ONE OR TWO  
7 PLANTS DEPENDING ON WHICH LIMITED PARTNERSHIP.

8 Q THEN DURING THAT PERIOD OF TIME THAT THIS  
9 RESEARCH WAS BEING DEVELOPED, SO I UNDERSTAND YOU  
10 CORRECTLY, THEN, THE -- THE THRUST OF THE RESEARCH CHANGED  
11 FROM ECONOMIC -- OR A CHEAPER PRODUCTION OF METHANOL TO  
12 ACTUALLY USE OF COAL FOR ELECTRIFICATION, DIRECT  
13 ELECTRIFICATION; IS THAT CORRECT?

14 A THE REASON FOR THE ORIGINAL INTEREST IN THE  
15 ATTRITION MILLS, IT SEEMED TO BE THE MOST ECONOMIC WAY OF  
16 GRINDING THE COAL DOWN TO THE SIZES THAT WE COULD MOST  
17 ECONOMICALLY TAKE OUT THE CO<sub>2</sub>.

18 WHEN WE GOT INTO IT, IT BECAME OBVIOUS THAT  
19 THERE WERE SO MANY APPLICATIONS OF COAL GROUND TO THAT  
20 SIZE THAT JUST THE PLANT STANDING ALONE WAS AT LEAST AS  
21 FEASIBLE AND MORE READILY FEASIBLE THAN IF WE WERE TO GO  
22 FORWARD WITH THE METHANOL AT THAT TIME. IF NOTHING ELSE,  
23 BECAUSE OF THE MARKETING PROBLEMS INVOLVING METHANOL,  
24 WHICH DID NOT EXIST INVOLVING THE PLANTS.

25 MR. MC MULLEN: AT THIS TIME, YOUR HONOR, WE WOULD  
26 REQUEST THAT RESPONDENT'S NEXT IN ORDER BE MARKED.  
27 EXHIBIT TT AT THE END OF THE LIST. IT'S NOT ON OUR LIST.  
28 HERE IS A COPY FOR COUNSEL. I HAVE A COPY FOR THE COURT.

1 IF I MAY APPROACH?

2 THE COURT: YES. WHAT IS IT?

3 MR. MC MULLEN: IT'S A --

4 MR. CRAIN: YOUR HONOR, THIS HAS NOTHING TO DO WITH  
5 THE ISSUE. IT'S IRRELEVANT.

6 MR. MC MULLEN: IT'S THREE PAGES ENTITLED AT THE  
7 TOP "OPTION AGREEMENT."

8 THE COURT: IT WILL BE MARKED AS TT.

9 LET'S SEE WHAT IT IS.

10

11 (MARKED FOR ID = RESPONDENT'S TT,  
12 DOCUMENT.)

13

14 BY MR. MC MULLEN:

15 Q SIR, HAVE YOU SEEN THAT DOCUMENT, JUST "YES"  
16 OR "NO"?

17 MR. CRAIN: THIS HAS NOTHING TO DO WITH THE  
18 CROSS-EXAMINATION. IT'S OUTSIDE THE SCOPE, AND IT'S  
19 IRRELEVANT TO THE ISSUES BEFORE THE COURT INVOLVING --  
20 INVOLVING THIS MAN'S BUSINESS AND MR. HUNT'S BUSINESS.

21 THE COURT: YOU MAY BE RIGHT. LET ME HEAR WHAT THE  
22 QUESTION IS. I'M NOT SURE WHAT WE'RE LOOKING AT.

23 BY MR. MC MULLEN:

24 Q SIR, DURING THE TIME THAT YOU WERE  
25 NEGOTIATING WITH MR. HUNT AND HIS ORGANIZATION WITH  
26 RESPECT TO THE ATTRITION MILLS IN THE MONTHS THAT YOU HAVE  
27 TESTIFIED TO IN 1984, WERE YOU EVER SHOWN THAT DOCUMENT,  
28 EXHIBIT TT?

1 A YES, SIR.

2 MR. CRAIN: OBJECTION. IRRELEVANT. MOTION TO  
3 STRIKE.

4 THE COURT: WELL, THERE IS NO ANSWER. OBJECTION ON  
5 RELEVANCY GROUNDS OVERRULED AT THIS TIME.

6 BY MR. MC MULLEN:

7 Q WERE YOU EVER SHOWN THAT DOCUMENT?

8 A YES, SIR.

9 Q AND WHO SHOWED YOU THAT DOCUMENT?

10 A I WAS SHOWN THE DOCUMENT BY MICROGENESIS AND,  
11 I PRESUME, MR. HUNT. I KNOW I WAS -- I KNOW HE WAS IN THE  
12 ROOM. I DON'T KNOW WHO HANDED IT TO ME.

13 MR. CRAIN: THAT'S A CONCLUSION AND MOVE TO STRIKE.  
14 AGAIN, I HAVE A CONTINUING OBJECTION TO ANY QUESTIONING  
15 ABOUT THIS. IT'S TOTALLY IRRELEVANT.

16 THE COURT: LAY A FOUNDATION. BUT I'M SEEING THIS  
17 FOR THE FIRST TIME. YOU FOLKS SEEM TO ME TO KNOW WHAT IT  
18 IS MORE THAN I DO. IF YOU WANT, I'LL TAKE A MOMENT TO  
19 STOP AND --

20 MR. CRAIN: THIS IS THE HUNT-LEVIN CONTRACT WITH  
21 MR. HUNT'S BUSINESS. THIS IS IRRELEVANT.

22 THE COURT: WHERE ARE YOU GOING?

23 MR. MC MULLEN: AS AN OFFER OF PROOF, WHAT WE  
24 EXPECT TO SHOW FROM THIS WITNESS WITH REGARD TO THIS  
25 EXHIBIT IS THAT SOMETIME DURING THE NEGOTIATING PROCESS HE  
26 WAS SHOWN THIS DOCUMENT, AND IT'S A DOCUMENT WHICH WAS  
27 USED AS A TOOL TO CHANGE THE TERMS OF THE NEGOTIATIONS  
28 THAT WAS GOING ON AT THAT PARTICULAR TIME.

1 THE COURT: THIS IS NEGOTIATION BETWEEN THIS  
2 WITNESS AND MR. HUNT?

3 MR. MC MULLEN: CORRECT.

4 THE COURT: OVERRULED.

5 BY MR. MC MULLEN:

6 Q WAS MR. HUNT PRESENT IN THE ROOM WHEN YOU  
7 WERE SHOWN EXHIBIT TT BEFORE YOU THERE, SIR?

8 A I HAD -- I DON'T KNOW WHEN I WAS SHOWN THIS,  
9 BUT I HAD DISCUSSIONS WITH MR. HUNT ABOUT THIS, AND I  
10 DON'T REMEMBER WHO HANDED ME THE DOCUMENT. I DON'T KNOW  
11 IF HE WAS IN THE ROOM AT THAT SPECIFIC MOMENT. MR. HUNT  
12 AND I DID HAVE DISCUSSIONS ABOUT THIS DOCUMENT AND THINGS  
13 RELEVANT TO IT.

14 Q WHAT DID MR. HUNT SAY TO YOU WITH RESPECT TO  
15 THAT DOCUMENT, EXHIBIT TT OR DOUBLE T?

16 A WELL, HE SHOWED ME THIS AND THERE'S -- YOU  
17 KNOW, THERE'S A CHECK ON THE BACK OF IT THAT HE HAD --  
18 WHERE HE HAD SIGNED THIS CONTRACT WITH MR. LEVIN FOR THE  
19 UTILIZATION OF THE ATTRITION MILLS FOR THE GRINDING OF  
20 CERAMICS AND SILICA, AND THAT -- THIS MAN WAS PAYING, YOU  
21 KNOW, A MILLION DOLLARS FOR THAT, AND THAT -- WHAT IT  
22 FINALLY CAME DOWN TO IS WHAT B.B.C. AND THE GROUP THAT WAS  
23 HERE, I DON'T REMEMBER WHO WAS SAYING WHICH --

24 MR. CRAIN: YOUR HONOR, PARDON ME JUST A MINUTE.  
25 THE ANSWER IS NOT RESPONSIVE. HE IS ALSO RAMBLING INTO  
26 OUTER SPACE AGAIN.

27 THE COURT: COUNSEL, JUST STATE THE GROUNDS OF THE  
28 OBJECTION.

1 MR. CRAIN: MOTION TO STRIKE THE LAST ANSWER.

2 THE COURT: LAST ANSWER WILL GO OUT AS  
3 NONRESPONSIVE.

4 BY MR. MC MULLEN:

5 Q WHEN MR. HUNT WAS PRESENT AND DISCUSSING THIS  
6 DOCUMENT, DOUBLE T, WHAT WAS SAID TO YOU WITH RESPECT TO  
7 THAT DOCUMENT?

8 A WHAT WAS THE DOCUMENT?

9 Q WHAT WAS SAID TO YOU BY MR. HUNT WITH RESPECT  
10 TO THAT DOCUMENT, EXHIBIT TT?

11 A WELL, THE SUMMATION WAS THAT I HAD SOMEHOW  
12 CHEATED THEM, THAT THEY COULD GET A MILLION DOLLARS FOR  
13 ONE USE OF THE MACHINE TO ONE PARTY, AND THAT I HAD -- AND  
14 THAT I HAD ALL USES OF THE MACHINE FOR FAR LESS THAN THAT,  
15 AND THAT I SHOULD PAY THEM A LOT MORE MONEY FOR THE RIGHTS  
16 THAT I HAVE GOTTEN. THAT I HAD SOMEHOW OR ANOTHER CHEATED  
17 THEM BY NOT --

18 Q I'M SORRY, FINISH YOUR ANSWER.

19 A -- CHEATED THEM BY NOT PAYING A LOT MORE  
20 MONEY FOR IT BY VIRTUE OF THIS. I SAID --

21 Q HOW MUCH MONEY DID THEY WANT, IF YOU  
22 REMEMBER?

23 A A HUGE SUM. IT SEEMS LIKE WE WERE TALKING  
24 ABOUT 80 MILLION. THEY WERE GOING TO GIVE ME A TIME  
25 PAYMENT PLAN, BUT IT WAS HUGE QUANTITY OF MONEY.

26 Q WHAT WAS YOUR RESPONSE TO MR. HUNT?

27 A ME FIRST RESPONSE WAS I WAS FURIOUS BECAUSE I  
28 DIDN'T THINK THEY HAD THE RIGHT. I SAID THERE, "YOU HAD

1 NO RIGHT TO SELL THIS TO LEVIN OR ANYONE ELSE. WE HAVE  
2 THE MARKETING RIGHTS TO THIS THING, ONE."

3 "TWO, THAT IF YOU SELL THAT TO HIM, THERE  
4 WILL BE -- THERE WILL BE NO SECRECY OR NO RESIDUAL VALUE  
5 TO THE TECHNOLOGY BECAUSE THEN IN AN EXTREMELY SHORT OF  
6 PERIOD OF TIME SOMEBODY WILL GET INTO THAT MACHINE SITTING  
7 THERE ON A SILICA SITE AND IT WILL HAVE 10,000 COPIES  
8 BEFORE WE COULD CONCEIVABLY START DELIVERING TO ALL THE  
9 POWER PLANTS," AND THINGS OF THIS NATURE WHERE THE  
10 MAJORITY OF THE MONEY IS.

11 AND FOR THE SECOND THING, "YOU ARE TRYING TO  
12 RESELL ME WHAT I ALREADY OWN."

13 I HAD AGREEMENTS ON THIS FROM BROWNING AND  
14 APPARENTLY I HAD THEM ALSO WITH THEM --

15 THE COURT: BY "THEM" YOU MEAN MR. HUNT? WHEN YOU  
16 SAY --

17 THE WITNESS: I HAD AGREEMENTS WITH MR. BROWNING,  
18 THE ORIGINAL -- AND I ALSO HAD SOME WITH MICROGENESIS OR  
19 MR. HUNT APPARENTLY FROM THE THINGS I HAVE BEEN SHOWN HERE  
20 THAT, YOU KNOW, IT'S -- WHEN YOU ENTERED INTO A CONTRACT  
21 YOU ENTERED INTO A CONTRACT. YOU DON'T -- AT A FUTURE  
22 DATE SAY, "YOU GOT A BETTER DEAL THAN I DID," AND COME  
23 BACK.

24 EVEN IF THEY WERE RIGHT, IF I DID GET A GOOD  
25 DEAL, THAT IS THE PURPOSE OF A CONTRACT. YOU TRY TO GET  
26 AS A GOOD DEAL AS YOU CAN. WE AGREED AND SIGNED IT, AND  
27 THAT IS THE WAY IT IS.

28

1 BY MR. MC MULLEN:

2 Q WITH RESPECT TO YOUR TESTIMONY HERE IN COURT  
3 OVER THE LAST DAY OR TWO, HAS THE DISTRICT ATTORNEY'S  
4 OFFICE MADE ANY PROMISES TO YOU WITH RESPECT TO YOUR BEING  
5 IN CUSTODY IN A FEDERAL PENITENTIARY?

6 A WE HAVE NEVER DISCUSSED IT.

7 Q HAVE YOU EVER ASKED THE DISTRICT ATTORNEY'S  
8 TO DO ANYTHING ON YOUR BEHALF WITH RESPECT TO THE FEDERAL  
9 AUTHORITIES THAT ARE HOLDING YOU?

10 A NO, SIR. IN FACT, I THINK MOST OF THIS  
11 OCCURRED WITH MR. ZOELLER BEFORE I EVER DREAMT THAT I WAS  
12 GOING TO BE INDICTED FOR ANY OF THIS STUFF.

13 Q HAVE YOU HAD ANY EXPECTATIONS WITH RESPECT TO  
14 YOUR TESTIMONY REGARDING ANYTHING THAT THE DISTRICT  
15 ATTORNEY'S MAYBE WOULD DO FOR YOU ON YOUR BEHALF WITH  
16 RESPECT TO YOUR BEING IN CUSTODY IN A FEDERAL INSTITUTION?

17 A YOU ALL CAN'T DO MUCH FOR ME IN THE COUNTY  
18 JAIL. I DON'T KNOW WHAT YOU ARE GOING TO DO FOR ME BACK  
19 THERE.

20 MR. MC MULLEN: COULD I HAVE A MOMENT, YOUR HONOR?

21 THE COURT: YES.

22

23 (PAUSE.)

24

25 MR. MC MULLEN: NOTHING FURTHER.

26 THE COURT: ANY RECROSS?

27 MR. CRAIN: A LITTLE BIT.

28



1 RECCROSS-EXAMINATION +  
2

3 BY MR. CRAIN:

4 Q LET --

5 MR. CRAIN: LET ME ASK MR. MC MULLEN A QUESTION.  
67 (COUNSEL CONFER.)  
8

9 BY MR. CRAIN:

10 Q MR. KILPATRICK, THURSDAY, I BELIEVE, YOU WERE  
11 ASKED BY THE DISTRICT ATTORNEY ABOUT THIS DECLARATION OF  
12 WILLIAM KILPATRICK DATED JUNE 29, 1995, EXHIBIT SS.

13 A YES, SIR.

14 Q AND YOU TESTIFIED THAT YOU READ IT, AND THEN  
15 MADE A FEW AMENDMENTS TO IT IN YOUR OWN HANDWRITING THAT  
16 ARE ON THERE NOW?

17 A YES.

18 Q IS THAT RIGHT?

19 A YES.

20 Q YOU SAID AFTER YOU MADE THOSE AMENDMENTS THAT  
21 IT WAS A TRUE STATEMENT THAT YOU SIGNED THIS --

22 A TO THE BEST OF MY RECOLLECTION, YES, SIR.

23 THE COURT: WAIT TILL THE QUESTION IS OUT.

24 BY MR. CRAIN:

25 Q LET ME FINISH MY STATEMENT.

26 AFTER YOU MADE THE AMENDMENTS YOU WERE ASKED  
27 IF THAT WAS TRUE STATEMENT THAT YOU HAD SIGNED UNDER  
28 PENALTY OF PERJURY, AND YOU SAID THAT IT WAS; IS THAT

1 RIGHT?

2 A YES, WITH THE CHANGES, I THINK.

3 Q AND SHOWING YOU PARAGRAPH TWO, THE LAST  
4 SENTENCE IN THERE. YOU STATED YOU NEVER SIGNED A CONTRACT  
5 WITH JOE HUNT OR THE B.B.C.; IS THAT RIGHT?

6 A THAT'S WHAT IT SAID.

7 Q THAT'S NOT TRUE, IS IT?

8 A NO, SIR, BUT I ALSO --

9 Q IS THAT TRUE OR NOT?

10 A TO THE BEST OF MY RECOLLECTION --

11 THE COURT: MR. KILPATRICK, JUST PLEASE ANSWER THE  
12 QUESTION. YOUR ANSWER IS: "NO, IT IS NOT TRUE"?

13 THE WITNESS: NO, THAT IS NOT TRUE.

14 THE COURT: OKAY.

15 BY MR. CRAIN:

16 Q YOUR STATEMENT ON PAGE ONE OF EXHIBIT SS  
17 (READING), "I NEVER AGREED TO OR SIGNED A CONTRACT WITH  
18 HUNT OR THE B.B.C." IS AN UNTRUE STATEMENT; IS THAT RIGHT?

19 A YES, SIR --

20 MR. MC CULLEN: ASKED AND ANSWERED.

21 THE COURT: OVERRULED.

22 I DID NOT HEAR THE ANSWER.

23 BY MR. CRAIN:

24 Q YOUR ANSWER --

25 A THAT THAT IS AN UNTRUE STATEMENT.

26 THE COURT: OKAY.

27 BY MR. CRAIN:

28 Q YOU ALSO WERE INTERVIEWED PREVIOUS TO FILLING

1 OUT THAT DECLARATION BY -- I BELIEVE HE JUST STEPPED OUT,  
2 MR. -- BY MR. SIMPSON, THE GENTLEMAN WHO JUST STEPPED OUT,  
3 THE DISTRICT ATTORNEY INVESTIGATOR; IS THAT RIGHT?

4 A I DID NOT MEET HIM UNTIL I CAME OUT HERE. IT  
5 WAS ON THE TELEPHONE. I DON'T KNOW WHO I GAVE THE  
6 STATEMENTS TO. I THINK SIMPSON WAS ONE OF THEM, YES, SIR.

7 Q HE CALLED ON APRIL 18, 1995, AT YOUR  
8 RESIDENCE, THE FEDERAL PRISON IN COLORADO?

9 A I DON'T KNOW THE DATES, BUT HE CALLED ME  
10 SOMETIME UP THERE. THAT'S WHERE THIS WAS ORIGINATED, YES.

11 Q HAVE YOU REVIEWED HIS REPORT OF THAT  
12 CONVERSATION OVER THE TELEPHONE? HAVE YOU REVIEWED THAT  
13 REPORT?

14 A IS THAT WHAT THIS IS?

15 Q HAVE YOU EVER REVIEWED THE REPORT OF  
16 SIMPSON'S TELEPHONE CONVERSATION WITH YOU?

17 A I THINK THIS IS THE ONLY THING I HAVE  
18 REVIEWED (INDICATING). IS THIS WHAT YOU ARE TALKING  
19 ABOUT?

20 THE COURT: REFERRING TO SS.

21 BY MR. CRAIN:

22 Q NO, REFERRING TO A FOUR-PAGE REPORT OF HIS  
23 INTERVIEW WITH YOU ON THE TELEPHONE ON APRIL 18, 1995?

24 A I HAVE NO RECOLLECTION OF IT, NO, SIR.

25 Q DURING THAT TELEPHONE CONVERSATION, DID YOU  
26 REPRESENT TO INVESTIGATOR SIMPSON, WHO HAS NOW REJOINED US  
27 HERE IN THE COURTROOM, THAT YOU HAD NEVER SIGNED A  
28 CONTRACT WITH THE B.B.C.?

1           A       I THINK I DID, YES, SIR.

2           Q       THAT WAS A FALSE STATEMENT, ALSO; IS THAT  
3 RIGHT?

4           A       THAT'S A FALSE STATEMENT, YES, SIR.

5           Q       NOW, YOU SAID THAT DURING THE COURSE OF YOUR  
6 NEGOTIATIONS WITH MR. HUNT JUST NOW THAT -- THIS IS  
7 EXHIBIT DOUBLE T, THIS OPTION AGREEMENT THAT YOU NOW HAVE  
8 BEFORE YOU WAS SHOWN TO YOU AND MR. HUNT MADE COMMENTS  
9 ABOUT IT; IS THAT RIGHT?

10          A       YES, SIR.

11          Q       AND YOU TOLD MR. HUNT OR MR. HUNT TOLD YOU  
12 THAT YOU HAD BEEN CHEATING THE B.B.C.; RIGHT?

13          A       THAT I SHOULD HAVE BEEN -- THAT I SHOULD HAVE  
14 PAID MORE -- YES.

15          Q       THAT YOU SHOULD HAVE PAID MORE BECAUSE OF THE  
16 EXISTING AGREEMENT THAT YOU HAD WITH MR. HUNT?

17          A       WITH HUNT AND B.B.C.

18          Q       PARDON ME?

19          A       B.B.C., MICROGENESIS, WHOEVER IT IS.

20          Q       HUNT SHOWED YOU THAT AGREEMENT AND SAID, "YOU  
21 HAVE BEEN CHEATING THE B.B.C.," AND SAID, "YOU ARE  
22 CONTRACTUALLY OBLIGATED TO PAY MORE TO US"; ISN'T THAT  
23 WHAT HE SAID?

24          A       NO.

25               MR. MC MULLEN: OBJECTION. ASSUMES FACTS NOT IN  
26 EVIDENCE.

27               THE COURT: OVERRULED. THE ANSWER "NO" WILL STAND.

28

1 (PAUSE.)

2

3 (PETITIONER'S COUNSEL CONFER.)

4

5 MR. CRAIN: YOUR HONOR, I NEED TO CLARIFY  
6 SOMETHING.

7

8 (A CONFERENCE WAS HELD BETWEEN COUNSEL  
9 AND THE PETITIONER, NOT REPORTED.)

10

11 BY MR. CRAIN:

12 Q LET ME GET BACK.

13 YOU HAD A DISCUSSION WITH MR. HUNT ABOUT  
14 EXHIBIT DOUBLE T, THAT OPTION AGREEMENT THAT HAS RON  
15 LEVIN'S NAME ON IT; RIGHT?

16 A OKAY.

17 Q IS THAT RIGHT?

18 A THAT'S WHAT I HAVE IN MY HAND, YES. WHAT IS  
19 THE QUESTION?

20 Q THE QUESTION IS: YOU HAD A DISCUSSION WITH  
21 MR. HUNT ABOUT THAT IN EARLY JUNE, 1984, ABOUT THAT  
22 PARTICULAR DOCUMENT; RIGHT?

23 A YES, WE DID. WE HAD ONE SOMETIME. I DON'T  
24 KNOW WHEN IT WAS.

25 Q HE SHOWED YOU THE CHECK ON THE BACK, THE LAST  
26 PAGE THERE; RIGHT?

27 A CORRECT.

28 Q AND HE SAID THAT -- THAT BASED ON THE 1.5

1 MILLION THAT THESE DOCUMENTS SHOWED LEVIN WAS WILLING TO  
2 PAY, YOU HAD BEEN CHEATING THE B.B.C.; RIGHT?

3 A THE TERMS UNDER WHICH I TOOK THE CONTRACT  
4 WITH B.B.C. WAS WORTH A LOT MORE, THAT THEY HAD BEEN  
5 CHEATED ON THE PRICE.

6 Q SO HE TOLD YOU UNDER THE TERMS OF THE  
7 CONTRACT THAT YOU HAD WITH HIM YOU WERE OBLIGATED TO PAY A  
8 LOT LESS, AND THIS WAS WHAT THESE MACHINES WERE REALLY  
9 WORTH; RIGHT?

10 A BASED ON ONE APPLICATION, ONE OR TWO  
11 APPLICATIONS OF THE THINGS THAT WOULD BE GROUND, AND THAT  
12 I HAD ALL THE APPLICATIONS, THAT I SHOULD PAY MUCH MORE  
13 FOR THE AGREEMENT THAT I HAD.

14 Q YOU SHOULD PAY MUCH MORE, JUST LIKE LEVIN WAS  
15 WILLING TO PAY IN THAT AGREEMENT?

16 A SOMETHING TO THAT, YES.

17 Q YOU SAID YOUR INITIAL INVESTORS -- YOU  
18 STARTED ROUNDING THEM UP IN '79 AND '80?

19 A MY INVESTORS IN THE LIMITED PARTNERSHIPS?

20 Q RIGHT.

21 A YES.

22 Q HOW MANY LIMITED INVESTORS WERE THERE?

23 A IT'S ABOUT 750, 800, SOMETHING LIKE THIS  
24 TOTAL.

25 Q SO THEY WERE PAYING OVER A THREE-YEAR PERIOD  
26 OVER \$36,000 EACH?

27 A THEY VARIED, SOME TWO, SOME THREE, I THINK  
28 THERE WERE SOME WITH FOUR, MAYBE.

1 Q AND --

2 A BUT THEY HAD STOPPED PAYING AT THIS TIME.

3 Q AND IN EXHIBIT 300, WHICH YOU WERE SHOWN THIS  
4 MORNING, YOUR CPA HAS MADE REFERENCE TO THOSE INVESTMENTS  
5 HERE ON PAGE THREE WHERE IT SAYS UNDER (READING), "PRESENT  
6 VALUE, APPRAISALS. RESOURCE NOTES RECEIVABLE. U.F.O.I.  
7 30 MILLION." THAT IS A REFERENCE TO WHAT THOSE INVESTORS  
8 HAD PAID IN; RIGHT?

9 MR. MC MULLEN: OBJECTION. BEST EVIDENCE.

10 THE COURT: OVERRULED.

11 I'M JUST -- I AM NOT SURE WHERE YOU ARE AT.  
12 WHERE ARE YOU?

13 MR. CRAIN: EXHIBIT 300. IT IS THE THIRD PAGE IN  
14 THE DOCUMENT WHERE IT SAYS (READING), "SATURN ENERGY AND  
15 RESOURCES PROJECTED BALANCE SHEET."

16 THE COURT: OKAY.

17 BY MR. CRAIN:

18 Q SEE THE 30 MILLION HERE IN THE MIDDLE OF THE  
19 PAGE?

20 A YES.

21 Q THAT'S A REFERENCE TO THOSE LIMITED  
22 PARTNERSHIP INVESTMENTS; ISN'T THAT RIGHT?

23 A I THINK THAT'S PROBABLY THE UNPAID BALANCE OF  
24 THE RECOURSE R AND D INVESTMENTS.

25 Q 30 MILLION OWING TO U.F.O.I.; RIGHT?

26 A CORRECT.

27 Q AND YOU MENTIONED SOMETHING HAD BEEN FROZEN  
28 WHILE THIS MATTER WAS PENDING BANKRUPTCY; IS THAT RIGHT?

1 A YES, THIS IS WHAT HAD BEEN FROZEN.

2 Q AND YOU EXPECTED -- WHAT WAS FROZEN AS PART  
3 OF THAT WAS A THREE-QUARTERS MILLION PAYMENT PER MONTH?

4 A THAT IS THE SAME THING. THESE WERE BEING --  
5 I THINK THE PAYMENTS WERE \$1171 PER UNIT WITH 700  
6 SOMETHING UNITS.

7 Q THAT FREEZING WAS TO BECOME UNFROZEN WHEN THE  
8 BANKRUPTCY PROCEEDINGS WERE CLEARED UP; RIGHT?

9 A WHEN THE BANKRUPTCY, THE FEDERAL INDICTMENT,  
10 THE -- THE THINGS THAT I SAID HAD TO BE CLEARED UP EARLIER  
11 THIS MORNING.

12 Q THE THINGS YOU ADMITTED THIS MORNING TOOK  
13 PLACE IN THE SPRING OF 1984 AT LATEST, IN OTHER WORDS;  
14 CORRECT?

15 A NO, THEY DIDN'T ALL -- THEY DIDN'T END ALL AT  
16 THAT TIME. WE DIDN'T GET OUT OF THE FEDERAL INDICTMENT  
17 UNTIL 1989.

18 Q I'LL ADDRESS THE COURT TO YOUR PREVIOUS  
19 TESTIMONY ON THAT POINT.

20 MR. CRAIN: UNLESS THE COURT WANTS TO HEAR FURTHER  
21 QUESTIONING ABOUT IT.

22 THE COURT: NO. I UNDERSTAND THE POINT.

23 MR. CRAIN: OKAY.

24 BY MR. CRAIN:

25 Q NOW, DID YOU HAVE A CONVERSATION WITH  
26 DETECTIVE ZOELLER BACK IN -- OF THE BEVERLY HILLS POLICE  
27 DEPARTMENT BACK IN NOVEMBER, '85, ABOUT THIS?

28 A I HAVE HAD SEVERAL CONVERSATIONS WITH



1 MR. ZOELLER.

2 Q WHEN WAS THE FIRST CONVERSATION YOU HAD WITH  
3 THAT DETECTIVE.

4 A I HAVE NO RECOLLECTION AT THIS TIME, SIR.

5 Q IF I WERE TO TELL YOU NOVEMBER 13, 1985, YOU  
6 HAD A CONVERSATION, WOULD THAT RING A BELL?

7 A NOT PER SE. IF YOU HAVE SOMETHING. I DON'T  
8 REMEMBER THE CONVERSATION.

9 Q DID YOU TELL DETECTIVE ZOELLER THAT IT WAS  
10 NOT UNTIL APRIL OR MAY OF 1984 THAT YOU BECAME AWARE OF  
11 MR. HUNT'S BUSINESSES?

12 A WHEN -- I WOULDN'T THINK SO.

13 Q DO YOU SEE THIS POLICE REPORT DATED 11-13-85  
14 REFERRING TO -- RECORDING OFFICER L. ZOELLER?

15 A OKAY.

16 Q DO YOU SEE YOUR NAME ON IT UP HERE?

17 A YES, I DO.

18 Q DO YOU SEE A STATEMENT -- WHERE YOU ARE  
19 LISTED AS P-29, BILL KILPATRICK?

20 A YES.

21 Q DO YOU SEE IN HERE THAT YOU MADE A STATEMENT  
22 IN APRIL OR MAY OF 1984 YOU BECAME AWARE OF THE B.B.C.?

23

24 (WITNESS REVIEWING DOCUMENT.)

25

26 A I SEE WHERE HE MADE THE STATEMENT. I DON'T  
27 KNOW -- THAT HE COPIED ME CORRECTLY OR THAT I MISSTATED  
28 IT.

1 Q DID YOU TELL HIM THAT?

2 A I DON'T KNOW. HE PUT IT DOWN. I DON'T  
3 REMEMBER TELLING HIM THAT. THAT IS NOT CORRECT. I WOULD  
4 TELL YOU IN, WHEN THEY CALLED ME, '95 I ALSO HAD  
5 DIFFICULTIES REMEMBERING WHAT YEARS WE WERE TALKING ABOUT  
6 THEN. I HAVE DIFFICULTY NOW REMEMBERING WHAT YEARS WE ARE  
7 TALKING ABOUT.

8 Q IN FACT, YOU NEVER TOLD ZOELLER ANYTHING  
9 ABOUT HAVING HAD A CONTRACT IN NOVEMBER, '83, WITH  
10 MR. HUNT'S BUSINESS; IS THAT RIGHT?

11 A NO, AS A MATTER OF FACT --

12 MR. MC CULLEN: OBJECTION --

13 THE WITNESS: I THINK --

14 THE COURT: HOLD ON, MR. KILPATRICK.

15 MR. MC MULLEN: OBJECTION. RELEVANCY.

16 THE COURT: OVERRULED.

17 YOU MAY ANSWER.

18 THE WITNESS: I HAVE FORGOTTEN THE QUESTION NOW.

19 THE COURT: DID YOU EVER TELL ZOELLER THAT YOU HAD  
20 THAT CONTRACT WITH HUNT IN NOVEMBER OF 1983?

21 THE WITNESS: I TOLD HIM ABOUT THE CONTRACTS AND  
22 THAT THEY HAD TRIED TO SELL ME THE SAME 50 PERCENT TWICE,  
23 SAME THING I WAS TALKING ABOUT A MOMENT AGO. IF THERE WAS  
24 A MISTAKE ON THE YEAR, THERE WAS A MISTAKE ON THE YEAR.

25

26 (A CONFERENCE WAS HELD BETWEEN COUNSEL  
27 AND THE PETITIONER, NOT REPORTED.)

28

1 BY MR. CRAIN:

2 Q DID YOU TELL DETECTIVE ZOELLER ON NOVEMBER  
3 13, 1985, THAT AT A GENERAL, 1984, MEETING BETWEEN YOU AND  
4 MR. HUNT AND OTHERS THAT MR. HUNT, QUOTE (READING), "TRIED  
5 TO PERSUADE HIM," REFERRING TO YOU, "TO PURCHASE ALL THE  
6 RIGHTS TO THE TECHNOLOGY BY SHOWING HIM A CONTRACT SIGNED  
7 BY RON LEVIN OPTING INTO MICROGENESIS FOR THE ATTRITION  
8 MILLS, AND SHOWING HIM A CHECK IN EXCESS OF 1 MILLION FOR  
9 THAT OPTION SIGNED BY RON LEVIN AND SUBSEQUENT MEETINGS  
10 WERE SET UP IN LOS ANGELES TO TRY TO CONSUMMATE THE DEAL."

11 DID YOU MAKE THAT STATEMENT TO DETECTIVE  
12 ZOELLER?

13 A I HONESTLY DON'T REMEMBER AT THIS POINT IN  
14 TIME WHAT I SAID TO HIM AND WHAT -- WHAT HE ASKED ME AT  
15 THAT TIME.

16 Q DID YOU TELL US YOU WERE SERVING A SENTENCE  
17 FOR DEFRAUDING VARIOUS PEOPLE?

18 A I'M SERVING A SENTENCE FOR MAIL FRAUD,  
19 SECURITIES FRAUD AND --

20 THE COURT: WIRE FRAUD?

21 THE WITNESS: WIRE FRAUD.

22 BY MR. CRAIN:

23 Q THOSE WERE IN THE COURSE OF BUSINESS DEALINGS  
24 THAT YOU HAD WITH THE VICTIMS OF THOSE CRIMES; IS THAT  
25 RIGHT?

26 A I HAD NO DEALINGS WITH THEM. THE OTHER  
27 PARTIES DID IT, AND SWORE THAT I ASKED THEM TO.

28 Q SO, IN OTHER WORDS, OTHER PEOPLE SWORE IN

1 COURT THAT YOU HAD BEEN BEHIND THESE MANIPULATIVE FRAUDS;  
2 IS THAT RIGHT?

3 MR. MC MULLEN: OBJECTION. RELEVANCY. CALLS FOR  
4 CONCLUSION.

5 THE COURT: SUSTAINED.

6 BY MR. CRAIN:

7 Q HOW MANY PEOPLE WERE YOU ACCUSED OF  
8 DEFRAUDING IN THESE VARIOUS DEALS?

9 MR. MC CULLEN: OBJECTION. RELEVANCY.

10 THE COURT: SUSTAINED.

11 MR. CRAIN: I'LL ABIDE BY THE COURT'S RULING. I  
12 WANTED TO SAY THAT UNDER PEOPLE VERSUS HARRIS AND PEOPLE  
13 VERSUS WHEELER, IF THIS IS IN FACT A CRIMINAL PROCEEDING  
14 OR QUASI CRIMINAL --

15 THE COURT: YOU GOT THE FELONY CONVICTIONS OUT.

16 MR. CRAIN: -- THE SPECIFIC ACTS --

17 I 'D LIKE THE COURT TO HEAR THE NATURE OF HIS  
18 BUSINESS DEALINGS IN THIS OTHER WAY. I WOULD LIKE TO GO  
19 BEYOND THE FACT OF THE FELONY CONVICTION TO THE UNDERLYING  
20 ACTS AS THOSE CASES PERMIT US, WITH THE COURT'S  
21 PERMISSION, TO.

22 THE COURT: I'LL SUSTAIN THE OBJECTION. YOU GOT  
23 MAIL FRAUD, SECURITIES FRAUD AND WIRE FRAUD.

24 MR. CRAIN: NOTHING FURTHER.

25 MR. MC MULLEN: JUST A COUPLE OF QUESTIONS.

26 THE COURT: YES.

27

28

1 FURTHER REDIRECT EXAMINATION @  
2

3 BY MR. MC MULLEN:

4 Q DO YOU KNOW IF THE ATTRITION MILLS COULD  
5 GRIND CERAMICS?6 MR. CRAIN: THAT'S BEYOND THE SCOPE OF RECROSS, I  
7 BELIEVE, AND IT IS IRRELEVANT.

8 THE COURT: IT IS BEYOND THE SCOPE.

9 LET ME SEE WHERE YOU ARE GOING.

10 PUT A QUESTION. GO.

11 BY MR. MC MULLEN:

12 Q DO YOU KNOW IF THE ATTRITION MILLS COULD  
13 GRIND CERAMICS OR SILICA?

14 A I DON'T KNOW, NO.

15 Q COULD YOU REFER THEN TO EXHIBIT TT IN FRONT  
16 OF YOU, YOUR AMENDED DECLARATION, AND --

17 A WHICH --

18 THE COURT: NOT TT, SS YOU MEAN.

19 BY MR. MC MULLEN:

20 Q IS IT SS? I MISSPOKE. YOUR DECLARATION.  
21 DO YOU HAVE IT THERE IN FRONT OF YOU? WOULD  
22 YOU BE GOOD ENOUGH TO READ TO YOURSELF PARAGRAPH TWO?

23 A THE ENTIRE THING?

24 Q YES, JUST TO YOURSELF, AND LET US KNOW WHEN  
25 YOU ARE DONE.26  
27 (WITNESS REVIEWING EXHIBIT.)  
28

1 A ALL RIGHT.

2 Q DRAWING YOUR ATTENTION TO THE LAST SENTENCE  
3 IN THE CONTEXT OF THAT WHOLE PARAGRAPH, IS THAT LAST  
4 SENTENCE IN THAT PARAGRAPH A TRUE STATEMENT?

5 MR. CRAIN: OBJECTION. UNINTELLIGIBLE.

6 THE COURT: SUSTAINED. CALLS FOR SPECULATION.

7 BY MR. CRAIN:

8 Q IN READING THAT PARAGRAPH TWO, DID YOUR -- IN  
9 YOUR DECLARATION, IS THAT LAST SENTENCE A TRUE STATEMENT?

10 MR. CRAIN: THAT'S UNINTELLIGIBLE. HE'S ALREADY  
11 ACKNOWLEDGED THAT THE LAST STATEMENT IS FALSE. HE CAN  
12 EITHER TESTIFY ABOUT IT --

13 THE COURT: JUST THE GROUNDS OF THE OBJECTION.

14 MR. CRAIN: YES, YOUR HONOR.

15 THE COURT: SUSTAINED.

16 MR. MC MULLEN: MAY I HAVE A MOMENT?

17

18 (PAUSE.)

19

20 MR. MC MULLEN: NOTHING FURTHER.

21 THE WITNESS: MAY I?

22 THE COURT: HOLD ON.

23 ANYTHING FURTHER, MR. CRAIN?

24 MR. CRAIN: NO, YOUR HONOR.

25 THE COURT: MAY THE WITNESS BE EXCUSED AND RETURNED  
26 TO HIS PRESENT LOCATION?

27 MR. MC CULLEN: YES, YOUR HONOR.

28 MR. CRAIN: YES, YOUR HONOR.

1 THE COURT: HE'S ORDERED EXCUSED AND RETURNED TO  
2 FEDERAL CUSTODY.

3 CALL YOUR NEXT WITNESS.

4 MR. MC MULLEN: MR. JEROME EISENBERG.

5 MR. CRAIN: COULD WE HAVE A MOMENT TO GET THE  
6 EXHIBITS BACK TO THE COURT?

7 THE COURT: YEAH, GO AHEAD.

8  
9 (PAUSE.)

10  
11 MR. CRAIN: COULD MR. HUNT HAVE FIVE MINUTES TO GO  
12 GET HIS FILES RELATING TO EISENBERG. HE CAN ONLY BRING SO  
13 MUCH UP TO COURT.

14 MR. KLEIN: HE DIDN'T EXPECT EISENBERG SO HE DIDN'T  
15 BRING IT OUT.

16 THE COURT: WHERE IS IT?

17 PETITIONER: MY WIFE HAD TO GO DOWNSTAIRS TO GET  
18 THEM OUT OF THE CAR.

19 THE COURT: LET'S GO FORWARD.

20 MR. MC MULLEN: MR. EISENBERG, WOULD YOU COME  
21 FORWARD.

22 THE COURT: STAND RIGHT THERE, SIR.

23 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

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

28 THE WITNESS: YES.

1 THE CLERK: PLEASE BE SEATED.

2 STATE YOUR NAME FOR THE RECORD AND SPELL YOUR  
3 FIRST AND LAST NAME, PLEASE.

4

5 JEROME JAY EISENBERG, +  
6 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED  
7 AS FOLLOWS:

8

9 THE WITNESS: JEROME, J-E-R-O-M-E, MIDDLE NAME JAY,  
10 J-A-Y, LAST NAME, E-I-S-E-N-B-E-R-G, EISENBERG.

11 THE COURT: YOU MAY INQUIRE.

12

13 DIRECT EXAMINATION @

14

15 BY MR. MC MULLEN:

16 Q SIR, WHAT WAS YOUR OCCUPATION IN 1983 TO  
17 1984?

18 A AN ATTORNEY AT LAW.

19 Q AND DID YOU WORK AS A LAWYER FOR THE B.B.C.  
20 AT THAT TIME?

21 A YES, I DID.

22 Q AND DO YOU KNOW JOE HUNT?

23 A YES, I DO.

24 Q IS HE HERE IN THE COURTROOM?

25 A YES, HE'S SITTING AT DEFENSE TABLE.

26 THE COURT: WHAT IS HE WEARING?

27 THE WITNESS: BLEW AND WHITE JUMPSUIT.

28 THE COURT: INDICATING PETITIONER HUNT.



1 BY MR. MC MULLEN:

2 Q SIR, DO YOU HAVE PENDING NOW AGAINST YOU A  
3 CRIMINAL MATTER THAT IS BEING PROSECUTED BY THE OFFICE OF  
4 THE DISTRICT ATTORNEY IN LOS ANGELES COUNTY?

5 A YES, I DO.

6 Q AND A FEW WEEKS PRIOR TO YOU COMING IN TODAY  
7 AND TESTIFYING DID YOU ASK ME TO CONVEY TO THE PROSECUTOR  
8 IN THAT CASE, EITHER BY A LETTER OR BY TALKING TO HIM,  
9 THAT YOU WERE COOPERATIVE IN YOUR TESTIMONY AND YOUR  
10 DECLARATION IN THIS CASE?

11 A YES, I DID.

12 Q AND DO YOU HAVE ANY EXPECTATION AS YOU  
13 TESTIFY TODAY THAT ANY BENEFIT WILL INURE TO YOU WITH  
14 RESPECT TO YOUR COOPERATION IN THIS CASE AS RELATING TO  
15 THE CASE THAT'S PENDING AGAINST YOU?

16 A NO, NONE WAS PROMISED, NOR DID I SEEK IT.

17 Q DO YOU HAVE ANY EXPECTATION THAT I, IN FACT,  
18 WILL WRITE A LETTER FOR YOU INFORMING MR. TAMURA,  
19 T-A-M-U-R-A, THE PROSECUTOR IN YOUR CASE THAT YOU  
20 COOPERATED AND CAME IN HERE AND TESTIFIED?

21 A NO.

22 Q HAVE I PROMISED YOU THAT I WOULD WRITE YOU A  
23 LETTER?

24 A YOU CERTAINLY DID NOT.

25 MR. MC MULLEN: WITH THE COURT'S PERMISSION, WE  
26 WOULD LIKE TO HAVE MARKED AS RESPONDENT'S Y FOR  
27 IDENTIFICATION THE DECLARATION OF JEROME EISENBERG.

28 MR. MC MULLEN: MAY I APPROACH THE WITNESS?

1 THE COURT: YES.

2 IT WILL BE MARKED AS Y.

3

4 (MARKED FOR ID = RESPONDENT'S Y,  
5 DECLARATION OF JEROME EISENBERG.)

6

7 MR. MC MULLEN: THANK YOU.

8 BY MR. MC MULLEN:

9 Q SIR, I AM SHOWING YOU WHAT'S BEEN MARKED AS  
10 RESPONDENT'S EXHIBIT Y FOR IDENTIFICATION. DO YOU  
11 RECOGNIZE THAT DOCUMENT, DECLARATION?

12 A YES, I DO.

13 Q IS THAT A DECLARATION THAT YOU SIGNED?

14 A YES, I DID.

15 Q IS EVERYTHING TRUE AND CORRECT IN THAT  
16 DECLARATION?

17 A YES, IT IS.

18 Q SIR, DID YOU PARTICIPATE IN NEGOTIATIONS  
19 BETWEEN MR. HUNT AND THE B.B.C. WITH RESPECT TO  
20 MR. KILPATRICK AND THE ATTRITION MILLS?

21 A BRIEFLY, YES.

22 Q AND WAS THAT AS -- IN YOUR CAPACITY AS LAWYER  
23 FOR THE B.B.C.?

24 A YES.

25 Q AND WHEN DID THAT OCCUR?

26 A IT WOULD HAVE TO BE 1984. I WOULD RECOLLECT  
27 MARCH, APRIL-ISH.

28 Q DRAWING YOUR ATTENTION TO EXHIBIT Y ON THE

1 FIRST PAGE IN PARAGRAPH FOUR, WOULD YOU PLEASE LOOK AT  
2 THAT?

3 A OKAY.

4 Q AT THAT PARAGRAPH.

5

6 (WITNESS REVIEWING EXHIBIT.)

7

8 A YES.

9 Q IN THAT PARAGRAPH IT IS STATED THAT THE  
10 B.B.C. HAD NOTHING TO SELL KILPATRICK. WHAT DID YOU MEAN  
11 BY THAT?

12 A I THINK THAT SENTENCE IS ACTUALLY MODIFIED BY  
13 TWO SENTENCES DOWN WHERE IT STATES THE ATTRITION MILLS DID  
14 NOT WORK AND IT WOULD TAKE A LONG TIME BEFORE ANYONE COULD  
15 REALIZE A PROFIT.

16 Q OKAY.

17 WHY IS IT THAT IT WOULD TAKE A LONG TIME  
18 BEFORE ANYONE WOULD REALIZE A PROFIT?

19 MR. CRAIN: YOU KNOW, WAIT A MINUTE. EXCUSE ME,  
20 YOUR HONOR. HIS TESTIMONY IS CONCLUSIONARY. IT'S BASED  
21 ON HEARSAY, THERE IS NO PERSONAL KNOWLEDGE FOUNDATION. I  
22 MOVE TO STRIKE IT.

23 THE COURT: THE OBJECTION IS FOUNDATION?

24 MR. CRAIN: YES.

25 THE COURT: SUSTAINED.

26 MR. CRAIN: MOTION TO STRIKE HIS TESTIMONY.

27 THE COURT: SUBJECT TO -- I'LL DENY IT AT THIS  
28 TIME. IF THEY CAN'T LAY A FOUNDATION.

1 LAY A FOUNDATION.

2 MR. MC MULLEN: YES.

3 BY MR. MC MULLEN:

4 Q DID YOU BECOME ACQUAINTED WITH THE TERMS AND  
5 CONDITIONS THAT WERE BEING DISCUSSED WITH -- RELATING TO  
6 THE NEGOTIATIONS WITH MR. KILPATRICK FOR THE ATTRITION  
7 MILLS AND THE APPLICATION HE DESIRED?

8 A YES, I DID IN THE INITIAL PHASE.

9 Q AND BASED ON YOUR UNDERSTANDING OF THE --  
10 MR. CRAIN: EXCUSE ME, THERE IS STILL NO PERSONAL  
11 FOUNDATION. WE DON'T KNOW WHETHER HE HEARD IT FROM RUMOR  
12 ON THE STREET --

13 THE COURT: GIVE HIM A CHANCE.

14 MR. CRAIN: EXCUSE ME, YOUR HONOR, BUT HE'S JUMPED  
15 FROM, "DID YOU HEAR, HEAR SOMETHING," NOW, HE HAS AN  
16 UNDERSTANDING. "BASED ON YOUR UNDERSTANDING."

17 WHAT DOES HE MEAN? THAT'S WHY THERE IS NO  
18 FOUNDATION.

19 THE COURT: YOU WON'T GET THE "WHAT DO YOU KNOW,"  
20 OUT UNTIL HE LAYS THE FOUNDATION.

21 LAY A FOUNDATION.

22 BY MR. MC CULLEN:

23 Q WHERE WERE YOU GETTING YOUR INFORMATION WITH  
24 RESPECT TO THE NEGOTIATIONS INVOLVED WITH MR. KILPATRICK?  
25 WHO WAS TELLING YOU?

26 A EITHER MR. HUNT OR IT WOULD BE MR. DOSTI AT  
27 THE TIME.

28 Q HOW ABOUT MR. KILPATRICK? DID YOU TALK TO

1 HIM DURING THIS INITIAL STAGE?

2 A I DON'T RECOLLECT DEALING WITH HIM DIRECTLY,  
3 NO.

4 Q DID MR. HUNT TELL YOU ANYTHING WITH RESPECT  
5 TO WHETHER THERE WOULD BE AN EXPECTATION OF MONEY COMING  
6 IN WITH THE KILPATRICK NEGOTIATIONS?

7 A NO, I DID NOT TALK TO MR. HUNT DIRECTLY ABOUT  
8 THAT, NO.

9 Q DID YOU TALK TO ANYBODY WITH RESPECT TO WHAT  
10 THE EXPECTATION WAS WITH REGARD TO THE B.B.C. AND THEM  
11 EXPECTING MONEY FROM THE KILPATRICK NEGOTIATIONS?

12 A I DID HAVE A CONVERSATION AT ONE POINT WITH  
13 BEN DOSTI ABOUT THAT.

14 Q WAS ANYBODY PRESENT, IF YOU CAN REMEMBER,  
15 DURING THAT CONVERSATION?

16 A NO, I DO NOT BELIEVE ANYONE ELSE WAS PRESENT.

17 Q WHAT DID MR. DOSTI TELL YOU?

18 MR. CRAIN: PARDON ME, YOUR HONOR, I BELIEVE THAT  
19 CALLS FOR HEARSAY. OBJECTION.

20 THE COURT: SUSTAINED.

21 BY MR. MC MULLEN:

22 Q BASED UPON YOUR PERSONAL KNOWLEDGE, DO YOU  
23 KNOW IF THE B.B.C. HAD A WORKING ATTRITION MILL WITH  
24 RESPECT TO THE KILPATRICK NEGOTIATIONS?

25 MR. CRAIN: OBJECTION. ASSUMES FACTS NOT IN  
26 EVIDENCE. NO FOUNDATION.

27 THE COURT: SUSTAINED ON FOUNDATION GROUNDS.

28

1 BY MR. MC MULLEN:

2 Q LET ME ASK ANOTHER QUESTION.

3 WERE YOU INVOLVED IN THE BUSINESS RELATING TO  
4 THE B.B.C. PROVIDING AN ATTRITION MILL TO BILL MORTON?

5 A YES, I WAS.

6 Q AND DID YOU BECOME AWARE AT SOME POINT IN  
7 TIME THAT BILL MORTON STOPPED MAKING HIS PAYMENTS ON THE  
8 LEASE OF AN ATTRITION MILL?

9 MR. CRAIN: OBJECTION. TOTALLY IRRELEVANT.  
10 OUTSIDE THE SCOPE OF THE O.S.C..

11 THE COURT: OVERRULED.

12 MR. CRAIN: AND ALSO NO FOUNDATION. I MEAN, HE  
13 MIGHT HAVE HEARD IT FROM -- SOMEONE ON ONE OF THESE CRAZY  
14 TALK SHOWS ON T.V..

15 THE COURT: LAY THE FOUNDATION.

16 JUST STATE THE GROUNDS.

17 MR. MC MULLEN: YES.

18 BY MR. MC MULLEN:

19 Q DID YOU HEAR FROM ANYBODY THAT MR. MORTON  
20 STOPPED MAKING PAYMENTS ON THE LEASE WITH RESPECT TO THE  
21 ATTRITION MILL?

22 A YES, I DID.

23 Q WHO DID YOU HEAR IT FROM?

24 MR. CRAIN: WAIT A MINUTE. OBJECTION. THAT COULD  
25 CALL FOR HEARSAY. THERE IS NO FOUNDATION.

26 THE COURT: LET ME HEAR WHAT THE ANSWER IS.

27 WHO DID YOU HEAR IT FROM?

28 THE WITNESS: BOTH MR. HUNT AND MR. MORTON.

1 THE COURT: OVERRULED.

2 BY MR. MC MULLEN:

3 Q WHAT DID MR. HUNT TELL YOU WITH RESPECT TO  
4 MR. MORTON NOT PAYING HIS LEASE PAYMENT ON THE ATTRITION  
5 MILL?

6 A MR. HUNT HAD SENT ME AND SEVERAL OTHER  
7 PARTIES TO ARIZONA TO REPOSSESS THE MACHINE. AT ONE POINT  
8 PRIOR TO THAT HE HAD REQUESTED THAT I GET -- THAT I  
9 ATTEMPT TO GET MR. MORTON TO PAY THE BALANCE OF THE MONEY  
10 HE OWED ON THE MACHINE.

11 Q DID MR. HUNT TELL YOU WHY MR. MORTON QUIT  
12 PAYING ON THE LEASE?

13 A NO, I DON'T RECOLLECT.

14 Q DID MR. MORTON TELL YOU --

15 MR. CRAIN: OBJECTION. THAT WOULD CALL FOR  
16 HEARSAY.

17 THE COURT: SUSTAINED.

18 BY MR. MC MULLEN:

19 Q DID YOU AT SOME POINT GO OUT TO REPOSSESS THE  
20 ATTRITION MILL THAT MR. MORTON HAD IN HIS POSSESSION?

21 A YES, I DID.

22 Q WHO DID YOU GO OUT WITH?

23 A I BELIEVE IT WAS STEVE TAGLLANETTI, DAVID  
24 MAY, AND I BELIEVE IT WAS JOHN ALLEN AS WELL.

25 MR. CRAIN: COULD THE RECORD REFLECT, SO THAT I  
26 DON'T HAVE TO KEEP OBJECTING, AS LONG AS WE ARE PROCEEDING  
27 ALONG THESE THINGS THERE WOULD BE A CONTINUING OBJECTION  
28 TO ANYTHING INVOLVING MR. MORTON AS BEING TOTALLY

1 IRRELEVANT.

2 THE COURT: YES.

3 ALTHOUGH MR. HUNT TESTIFIED AT SOME LENGTH  
4 ABOUT THIS AREA.

5 BY MR. MC MULLEN:

6 Q DID MR. HUNT GO OUT WITH RESPECT TO THE  
7 REPOSSESSION OF THIS ATTRITION MILL?

8 A YES, LATER IN THE DAY AFTER I HAD GONE  
9 EARLIER.

10 Q DID YOU ACTUALLY GO OUT AND SEE THE ATTRITION  
11 MILL THAT MR. MORTON HAD?

12 A YES, I DID.

13 Q WAS IT WORKING WHEN YOU SAY THAT?

14 MR. CRAIN: THERE IS NO FOUNDATION. HE IS NOT  
15 QUALIFIED TO TESTIFY AS TO WHETHER OR NOT SOMETHING WAS  
16 WORKING OR NOT.

17 THE COURT: OVERRULED. HE CAN DESCRIBE WAS HE --

18 MR. CRAIN: CAN I BE HEARD? THAT'S LIKE ME GOING  
19 TO AN ATOMIC ENERGY PLANT, I DON'T KNOW ANYTHING ABOUT IT,  
20 AND I DON'T KNOW IF ANYBODY IN HERE DOES, AND THEN GOING  
21 IN TO COURT SAYING, "DID IT WORK?" HOW AM I GOING TO KNOW  
22 IF IT WORKS? THAT CALLS FOR EXPERT TESTIMONY.

23 THE COURT: MR. HUNT TESTIFIED AT SOME LENGTH ABOUT  
24 HOW THINGS DID OR DIDN'T WORK. AND THEY ALL WERE INVOLVED  
25 IN GETTING THE THINGS TO GET GOING. THIS PERSON SEEMS TO  
26 BE INTIMATELY INVOLVED.

27 MR. CRAIN: THIS PERSON WAS SOME SORT OF A  
28 HALF-BAKED ATTORNEY AT THE TIME. HE IS NOT QUALIFIED TO



1 GIVE ANY KIND OF AN OPINION. WHETHER MR. HUNT WAS  
2 QUALIFIED OR NOT, THERE WAS NO OBJECTION TO IT AS THERE IS  
3 NOW.

4 THE COURT: YOU CAN TESTIFY AS TO WHAT YOU OBSERVED  
5 THE MACHINE WAS DOING OR NOT DOING.

6 BY MR. MC MULLEN:

7 Q WAS THE MACHINE DOING ANYTHING?

8 A NO, IT WASN'T. IT WAS JUST SITTING THERE.

9 Q TO YOUR KNOWLEDGE WAS -- DID THE B.B.C. HAVE  
10 ANY OTHER ATTRITION MILLS OTHER THAN THE ONE THAT  
11 MR. MORTON HAD.

12 MR. CRAIN: WELL, TO HIS KNOWLEDGE, EXCUSE ME, THAT  
13 DOESN'T PROPERLY LAY A FOUNDATION. HIS KNOWLEDGE COULD BE  
14 BASED ON, AGAIN, RUMORS IN THE AIR.

15 THE COURT: OVERRULED.

16 THE WITNESS: NO.

17 MR. MC MULLEN: IF I COULD JUST HAVE A MOMENT.

18 THE COURT: YES.

19

20 (PAUSE.)

21

22 BY MR. MC MULLEN:

23 Q REFERRING BACK AGAIN TO EXHIBIT Y, YOUR  
24 DECLARATION, COULD YOU READ THE SECOND SENTENCE OF  
25 PARAGRAPH FOUR?

26

27 (WITNESS COMPLIES.)

28

1 A YES.

2 Q WHAT DID YOU MEAN BY THAT?

3 A WELL --

4 MR. CRAIN: THAT'S IRRELEVANT, WHAT HIS  
5 UNDERSTANDING IS.

6 THE COURT: OVERRULED. HE'S TESTIFIED THAT HE WAS  
7 INVOLVED IN THE NEGOTIATIONS.

8 MR. CRAIN: I THINK HE SAID BRIEFLY. I DON'T THINK  
9 HE IS QUALIFIED TO --

10 THE COURT: YOU CAN CROSS-EXAMINE ON IT.

11 MR. CRAIN: ALL RIGHT.

12 THE COURT: YOU MAY ANSWER.

13 THE WITNESS: THAT THERE WAS SOME PROPRIETARY  
14 TECHNOLOGY AS TO THE ATTRITION MILL. THE B.B.C. POSSESSED  
15 THAT, BASED ON AGREEMENTS WITH BROWNING, AND THE -- THAT  
16 THERE WOULD BE LICENSING OR A JOINT VENTURE AND FUNDS  
17 CONTRIBUTED BY KILPATRICK. THAT WAS MY UNDERSTANDING.

18 MR. CRAIN: YOUR HONOR, I MISSED THE LAST PART OF  
19 THAT, THE WITNESS' VOICE DROPPED.

20 THE REPORTER: COULD YOU PLEASE REPEAT YOUR LAST  
21 ANSWER.

22 THE WITNESS: THAT THERE WAS -- THE B.B.C. HAD SOME  
23 PROPRIETARY TECHNOLOGY THROUGH IT'S AGREEMENT WITH GENE  
24 BROWNING, THAT IT WOULD BE CONTRIBUTING TO SOME TYPE OF  
25 LICENSING OR JOINT VENTURE WITH KILPATRICK, AND HE WOULD  
26 BE PROVIDING SOME FUNDING TO DEVELOP THAT.

27 THE COURT: KILPATRICK WOULD BE PROVIDING THE  
28 FUNDING?

1 THE WITNESS: CORRECT.

2 MR. MC CULLEN: COULD I HAVE A MOMENT, YOUR HONOR?

3

4 (PAUSE.)

5

6 MR. MC MULLEN: NOTHING FURTHER.

7 THE COURT: CROSS-EXAMINATION.

8 MR. CRAIN: THANK YOU.

9

10 CROSS-EXAMINATION +

11

12 BY MR. CRAIN:

13 Q MR. EISENBERG IN 1984 YOU WERE AN ATTORNEY;  
14 IS THAT RIGHT?

15 A YES, SIR.

16 Q ARE YOU AN ATTORNEY NOW?

17 A YES, SIR.

18 Q DO YOU HAVE A STATE BAR MATTER PENDING  
19 AGAINST YOU?

20 A NO, SIR.

21 Q AND YOU ARE CHARGED PRESENTLY IN A CRIMINAL  
22 CASE, ARE YOU?

23 A YES, SIR.

24 Q WHAT ARE YOU CHARGED WITH?

25 MR. MC MULLEN: OBJECTION. RELEVANCY.

26 THE COURT: OVERRULED.

27 BY MR. CRAIN:

28 Q WHAT WERE YOU CHARGED WITH?

1 THE WITNESS: YOUR HONOR, CAN I TAKE THE FIFTH  
2 AMENDMENT AS TO ANYTHING THAT RELATES --

3 THE COURT: YOU CAN TELL US WHAT THE CHARGE IS.  
4 THAT IS ALL THAT IS BEING ASKED.

5 THE WITNESS: THERE ARE CERTAIN ESCROW LAW  
6 VIOLATIONS. ONE COUNT OF FILING A DOCUMENT WITH THE  
7 COUNTY RECORDER'S OFFICE -- ATTEMPTING TO FILE A DOCUMENT  
8 WITH THE COUNTY RECORDER'S OFFICE WITH AN IMPROPER NOTARY.  
9 I BELIEVE THERE'S THREE COUNTS OF GRAND THEFT OR ATTEMPTED  
10 GRAND THEFT. ONE COUNT OF ATTEMPTED MONEY LAUNDERING.  
11 BY MR. CRAIN:

12 Q ATTEMPTED MONEY LAUNDERING?

13 A I BELIEVE SO.

14 THE COURT: HOW MANY COUNTS ALTOGETHER?

15 THE WITNESS: 54, BUT IT KEEPS FLUCTUATING BECAUSE  
16 SOME OF IT HAS BEEN THROWN OUT AND BROUGHT BACK A COUPLE  
17 OF TIMES.

18 BY MR. CRAIN:

19 Q WHO ARE THE ALLEGED VICTIMS IN THESE VARIOUS  
20 CRIMES CHARGED AGAINST YOU?

21 MR. MC CULLEN: OBJECTION. RELEVANCY.

22 THE COURT: SUSTAINED.

23 BY MR. CRAIN:

24 Q HOW MANY YEARS IN PRISON ARE YOU FACING IF  
25 YOU WERE CONVICTED ON ALL THESE COUNTS?

26 MR. MC MULLEN: OBJECTION. RELEVANCY.

27 MR. CRAIN: HE'S GOT A DEAL GOING WITH THE D.A. --  
28 SORRY, YOUR HONOR.

1 THE COURT: DO YOU HAVE ANY IDEA WHAT THE MAXIMUM  
2 IS?

3 THE WITNESS: I HAVE NO, ABSOLUTELY NO IDEA.

4 MR. MC MULLEN: THERE IS NO DEAL WITH THE DISTRICT  
5 ATTORNEY'S OFFICE AS FAR AS I'M CONCERNED. I'M NOT SURE  
6 WHAT COUNSEL IS REFERRING.

7 THE COURT: THE OBJECTION IS ASSUMES FACTS NOT IN  
8 EVIDENCE?

9 MR. MC MULLEN: THANK YOU.

10 BY MR. CRAIN:

11 Q ALL OF THESE FELONY CHARGES?

12 A I BELIEVE AS CHARGED, YES.

13 Q YOU ARE AWARE IF CONVICTED YOU COULD BE SENT  
14 TO PRISON?

15 A I'M TOLD THAT'S A POSSIBILITY.

16 Q YOU ARE ALSO TOLD THAT YOU COULD SERVE SOME  
17 TIME IN LOS ANGELES COUNTY JAIL?

18 A THAT HAS NOT BEEN TOLD.

19 Q DO YOU WANT TO GO TO JAIL?

20 MR. MC CULLEN: OBJECTION, YOUR HONOR.

21 THE COURT: I WILL ALLOW IT.

22 BY MR. CRAIN:

23 Q DO YOU WANT TO GO TO PRISON?

24 A I'D PREFER NOT TO.

25 Q YOU WANT TO KEEP OUT OF PRISON?

26 A YES.

27 Q YOU'D WELCOME ANY HELP THE DISTRICT  
28 ATTORNEY'S OFFICE COULD GIVE YOU IN KEEPING YOU OUT OF

1 PRISON, YES?

2 A I WOULD WELCOME THE HELP. I HAVE ASKED FOR  
3 NO HELP.

4 Q PARDON ME?

5 A I HAVE ASKED FOR NO HELP.

6 Q IF MR. MC MULLEN WRITES A LETTER TO THE D.A.  
7 ON YOUR CASE AND THE JUDGE, DO YOU THINK THAT MIGHT HELP  
8 YOU?

9 A I DON'T KNOW.

10 Q WHO BROUGHT UP THE SUBJECT OF HIS WRITING A  
11 LETTER ON YOUR BEHALF?

12 A I ASKED HIM TO WRITE A LETTER ON MY BEHALF,  
13 IF HE COULD WRITE A LETTER.

14 Q YOU ASKED MR. MC MULLEN, "IF I TESTIFY FOR  
15 YOU AGAINST JOE HUNT, WILL YOU WRITE A LETTER ON MY BEHALF  
16 IN CONNECTION WITH MY CRIMINAL CASE"; IS THAT RIGHT?

17 A NO, I SAID, "AT THE END OF MY TESTIMONY WITH  
18 MR. HUNT WOULD YOU WRITE A" --

19 THE COURT: YOU SAID "MR. HUNT." YOU MEAN  
20 MR. MC MULLEN?

21 THE WITNESS: MR. MC MULLEN.

22 "WOULD YOU WRITE A LETTER SAYING THAT I  
23 TESTIFIED?" NOTHING MORE, AND ASKING FOR NOTHING MORE  
24 THAN THAT.

25 BY MR. CRAIN:

26 Q YOU WANT THIS LETTER TO DO YOU SOME GOOD ON  
27 YOUR CASE, DON'T YOU?

28 A YES, IF POSSIBLE.

1 Q TO KEEP YOU OUT OF JAIL AND PRISON; RIGHT?

2 A IF THAT'S POSSIBLE.

3 Q DO YOU ALSO EXPECT IF YOU GET CONVICTED IN  
4 THAT CASE TO HAVE A PROBLEM WITH THE STATE BAR?

5 A THAT'S A POSSIBILITY.

6 MR. MC MULLEN: OBJECTION. RELEVANCY.

7 THE COURT: OVERRULED.

8 I'LL ALLOW THE ANSWER TO STAND.

9 BY MR. CRAIN:

10 Q YOU ARE GOING TO TAKE THIS LETTER AND ATTEMPT  
11 TO USE IT IN ANY STATE BAR PROCEEDINGS THAT MAY COMMENCE  
12 AGAINST YOU, TOO, AREN'T YOU?

13 MR. MC MULLEN: OBJECTION. CALLS FOR SPECULATION.

14 THE COURT: OVERRULED.

15 YOU CAN ANSWER.

16 THE WITNESS: I DON'T EVEN HAVE THIS LETTER. I  
17 DON'T KNOW WHAT IT IS GOING TO SAY. I DON'T KNOW IF I  
18 WILL USE IT FOR ANYTHING.

19 BY MR. CRAIN:

20 Q LET'S SAY IT SAYS THAT, "MR. EISENBERG HELPED  
21 US, HE COOPERATED WITH US AND GAVE TESTIFY AGAINST JOE  
22 HUNT," AND YOU HAVE A PROBLEM WITH THE STATE BAR, ARE YOU  
23 GOING TO TAKE THAT LETTER AND USE IT IN YOUR BEHALF?

24 MR. MC CULLEN: OBJECTION. CALLS FOR SPECULATION.

25 THE COURT: SUSTAINED.

26 BY MR. CRAIN:

27 Q HAVE YOU EVER EXECUTED A FALSE APPLICATION  
28 FOR A DRIVER'S LICENSE?

1 MR. MC MULLEN: OBJECTION. RELEVANCY.

2 THE COURT: WHERE ARE YOU GOING?

3 MR. CRAIN: HE HAS. IT'S UNDER HARRIS AND WHEELER.  
4 IT'S EVIDENCE -- AND THEY ALLOWED IT AGAINST MR. WERNER.  
5 YOU DID, YOUR HONOR, BASED ON HIS INSISTENCE.

6 THE COURT: JUST ASKING WHERE WERE YOU GOING. I'M  
7 JUST ASKING WHAT DO YOU HAVE.

8 MR. CRAIN: HE IS GOING TO ADMIT IT, I ASSUME.

9 THE COURT: FALSE APPLICATION TO THE DMV; IS THAT  
10 WHAT YOU ARE SAYING?

11 MR. CRAIN: UNDER OATH, YES.

12 THE COURT: OVERRULED.

13 BY MR. CRAIN:

14 Q DID YOU DO THAT?

15 A I'M GOING TO HAVE TO ASSERT THE FIFTH  
16 AMENDMENT. I BELIEVE THAT'S ONE CHARGE.

17 THE COURT: ALL RIGHT.

18 MR. CRAIN: MAY I MARK THIS AS EXHIBIT 301. IS  
19 THAT THE NEXT ONE?

20 THE COURT: 302.

21 MR. CRAIN: 302. PULL IT OFF THE BACK HERE.

22

23 (MARKED FOR ID = PETITIONER'S 302,  
24 DOCUMENT.)

25

26 BY MR. CRAIN:

27 Q SHOWING YOU EXHIBIT 302, WHICH DEPICT BLOWUPS  
28 OF TWO DRIVER'S LICENSES UNDER THE NAME OF JAY MICHAEL



1 ISEN AND JEROME J. EISENBERG. DID YOU HAVE ANYTHING TO DO  
2 WITH THE PREPARATION OF THOSE TWO DRIVER'S LICENSES?

3 MR. MC CULLEN: OBJECTION. NO FOUNDATION.

4 THE COURT: OVERRULED.

5 THE WITNESS: I WOULD LIKE TO ASSERT THE FIFTH  
6 AMENDMENT.

7 THE COURT: ALL RIGHT.

8 BY MR. CRAIN:

9 Q AREN'T THOSE PHONY DRIVER'S LICENSES THAT YOU  
10 PLAYED A HAND IN IN ORDER TO DEFRAUD PEOPLE?

11 A I WOULD LIKE TO ASSERT THE FIFTH AMENDMENT.

12 MR. CRAIN: I MOVE TO STRIKE ALL THE TESTIMONY HE  
13 GAVE ON DIRECT AND CROSS-EXAMINATION BECAUSE WE CAN'T  
14 CROSS-EXAMINE THIS INDIVIDUAL.

15 THE COURT: I'LL DENY THAT REQUEST.

16 BY MR. CRAIN:

17 Q NOW, DID YOU ATTEMPT -- DID YOU EXECUTE FALSE  
18 DECLARATIONS RELATED TO RENT CONTROL PROPERTY IN ORDER TO  
19 CHANGE THE STATUS OF CERTAIN UNITS AT APARTMENTS YOU  
20 CONTROLLED IN ORDER TO CHANGE THEM FROM BEING RENT  
21 CONTROLLED TO NONRENT CONTROLLED? DID YOU DO THAT?

22 MR. MC MULLEN: OBJECTION. RELEVANCY.

23 THE COURT: OVERRULED. THERE'S SOME RELEVANCE.

24 THE WITNESS: I DON'T BELIEVE SO, NO.

25 BY MR. CRAIN:

26 Q YOU DON'T BELIEVE SO?

27 A NO.

28 Q DOES THE NAME A LITA PIKE RING A BELL?

1 MR. MC CULLEN: OBJECTION. RELEVANCY.

2 THE COURT: OVERRULED.

3 THE WITNESS: YES, THAT WAS A CIVIL LITIGATION  
4 SUIT.

5 BY MR. CRAIN:

6 Q IN THAT CIVIL LITIGATION SUIT IT WAS ALLEGED  
7 THAT YOU DID WHAT I JUST ASKED YOU ABOUT?

8 A I DON'T RECALL THE LAWSUIT. I THINK THE  
9 LAWSUIT WAS OVER A WRONGFUL EVICTION.

10 Q YOU LOST THAT LAWSUIT, DIDN'T YOU?

11 MR. MC MULLEN: OBJECTION. RELEVANCY.

12 THE COURT: SUSTAINED.

13 BY MR. CRAIN:

14 Q NOW, WHEN YOU EXECUTED THIS DECLARATION,  
15 WHICH I JUST TOOK FROM YOU, WHICH IS --

16 THE COURT: Y.

17 MR. CRAIN: EXHIBIT Y.

18 BY MR. CRAIN:

19 Q IN JUNE OF LAST YEAR?

20 A YES.

21 Q AND PRIOR TO EXECUTING THAT DECLARATION, HAD  
22 YOU BEEN INTERVIEWED BY INVESTIGATORS FROM THE LOS ANGELES  
23 DISTRICT ATTORNEY'S OFFICE?

24 A YES, SIR.

25 Q AND SPECIFICALLY HAD YOU BEEN INTERVIEWED BY

26 A -- AN INVESTIGATOR CHARTIER?

27 A YES, SIR.

28 Q AND THAT WAS AROUND MAY 9, 1995 -- MAY 2,

1 1995?

2 A IT WAS BEFORE THE DECLARATION. I'M NOT SURE  
3 OF THE SPECIFIC DATE.

4 Q WERE YOU INTERVIEWED AT 10850 WILSHIRE  
5 BOULEVARD, SUITE 800, IN WESTWOOD, CALIFORNIA?

6 A YES, I WAS.

7 Q NOW, IN THAT CONVERSATION YOU WERE ASKED  
8 CERTAIN QUESTIONS ABOUT THE WORK THAT YOU DID RELATIVE TO  
9 ANY NEGOTIATIONS THAT MR. HUNT'S BUSINESS HAD WITH  
10 MR. KILPATRICK; IS THAT RIGHT?

11 A I DON'T RECALL THE SPECIFICS OF THE  
12 CONVERSATION.

13 Q DID YOU TELL DISTRICT ATTORNEY INVESTIGATOR  
14 CHARTIER ABOUT MR. ADELMAN'S BEING HIRED 1ST OF JUNE,  
15 1984, TO WORK AS A LAWYER AT THE B.B.C.?

16 MR. MC CULLEN: OBJECTION. RELEVANCY.

17 MR. CRAIN: FOUNDATIONAL.

18 THE COURT: OVERRULED.

19 MR. CRAIN: THANK YOU.

20 BY MR. CRAIN:

21 Q DID YOU TELL HIM THAT?

22 A I DON'T KNOW IF I SAID THAT SPECIFIC DATE,  
23 BUT I DID TELL THEM THAT MR. ADELMAN WAS HIRED BY THE  
24 B.B.C. AS AN ATTORNEY, YES.

25 Q AND DID YOU TELL THEM THAT MR. ADELMAN DID  
26 NOT WORK UNDER YOU, BUT INDEPENDENT OF YOU?

27 A I BELIEVE SO. I DON'T REALLY RECALL, BUT  
28 THAT WOULD BE THE CASE.

1 Q IN THIS SAME MAY 2ND CONVERSATION, DID YOU  
2 SAY THAT AFTER YOU HAD DRAFTED AN OUTLINE FOR THE LIMITED  
3 PARTNERSHIP AGREEMENT FOR THE KILPATRICK DEAL YOU CEASED  
4 TO BE INVOLVED WITH REGARD TO ANYTHING RELATED TO  
5 KILPATRICK?

6 A YES, I STARTED, AND ADELMAN TOOK OVER.

7 Q DID YOU SAY THAT ADELMAN WAS GIVEN THE  
8 KILPATRICK DEAL AS HIS PROJECT?

9 A YES.

10 Q DID YOU STATE TO INVESTIGATOR CHARTIER,  
11 "ADELMAN HANDLED ALL NEGOTIATIONS AND CONTRACT WRITING AND  
12 ALL LEGAL MATTERS RELATING TO THE KILPATRICK DEAL"?

13 A I DON'T RECALL THOSE SPECIFIC WORDS, BUT  
14 AFTER THE INITIAL PHASE THAT WOULD HAVE BEEN CORRECT, YES.

15 Q IF I WERE TO SHOW YOU THE INVESTIGATOR'S  
16 REPORT, MIGHT THAT REFRESH YOUR RECOLLECTION?

17 A IT MIGHT.

18 Q WHY DON'T YOU TAKE A LOOK, MR. EISENBERG, AT  
19 THE UNDERLYING PARAGRAPH TWO AND PARAGRAPH THREE, PERHAPS  
20 PARAGRAPH FOUR, AND I'LL ASK YOU A FEW MORE QUESTIONS.

21

22 (WITNESS REVIEWING DOCUMENT.)

23

24 THE WITNESS: OKAY, I READ IT.

25 THE COURT: DO YOU HAVE A QUESTION, MR. CRAIN?

26 BY MR. CRAIN:

27 Q HAVE YOU HAD A CHANCE TO READ IT NOW?

28 A YES, SIR.

1 Q DOES THAT REFRESH YOUR RECOLLECTION ABOUT THE  
2 CONVERSATION THAT YOU HAD WITH CHARTIER ABOUT KILPATRICK  
3 AND THE B.B.C. NEGOTIATIONS WITH HIM?

4 A YES.

5 Q SO YOU TOLD CHARTIER THAT AFTER YOU DRAFTED  
6 THE OUTLINE FOR THE LIMITED PARTNERSHIP IN THE KILPATRICK  
7 DEAL, YOU CEASED TO BE INVOLVED WITH ANYTHING RELATED TO  
8 KILPATRICK; RIGHT?

9 A CORRECT.

10 Q YOU TOLD CHARTIER THAT ADELMAN WAS GIVEN THE  
11 KILPATRICK DEAL AS HIS PROJECT, RIGHT?

12 A YES.

13 Q YOU STATED THAT ADELMAN HAD HANDLED ALL  
14 NEGOTIATIONS, ALL LEGAL WRITING AND ALL CONTRACTS RELATED  
15 TO THE KILPATRICK DEAL?

16 A YES.

17 Q YOU DID YOU TELL HIM THAT KILPATRICK VISITED  
18 THE L.A. B.B.C. OFFICE ONCE OR TWICE, AND THAT YOU KNEW  
19 VERY LITTLE ABOUT THE NEGOTIATIONS?

20 A I BELIEVE SO, YES.

21 Q AND DID YOU TELL HIM THAT YOUR LAST MEMORY OF  
22 THE KILPATRICK DEAL WAS ADELMAN SAYING THAT THEY WERE  
23 STILL WORKING OUT THE DETAILS OF THE AGREEMENT?

24 A I BELIEVE SO, YES.

25 Q AND DID YOU TELL CHARTIER THAT YOU DID NOT  
26 MEET KILPATRICK OR ATTEND ANY MEETINGS WITH KILPATRICK?

27 A I BELIEVE I HAVE ONLY MET KILPATRICK ONCE. I  
28 DON'T BELIEVE I SAID THAT. MAYBE THERE WAS A

1 MISUNDERSTANDING.

2 Q YOU TOLD HIM YOU DIDN'T ATTEND ANY OF THE  
3 MEETINGS WITH KILPATRICK?

4 A NO, I DID NOT ATTEND THE MEETINGS WITH  
5 KILPATRICK, BUT I DID MEET HIM.

6 Q DID YOU TELL CHARTIER THAT YOU LEARNED THAT  
7 KILPATRICK HAD RAISED LOTS OF MONEY AND HAD ACCESS TO  
8 MONEY?

9 A THROUGH BEN DOSTI.

10 Q YOU HEARD THAT FROM MR. DOSTI?

11 A YES.

12 Q AND DID YOU TELL CHARTIER THAT IN YOUR VIEW  
13 KILPATRICK WAS A MAVERICK AND A WHEELER DEALER?

14 A THAT WAS -- YES, I DID TELL HIM THAT.

15 MR. CRAIN: EXCUSE ME, YOUR HONOR.

16

17 (A CONFERENCE WAS HELD BETWEEN COUNSEL  
18 AND THE PETITIONER, NOT REPORTED.)

19

20 BY MR. CRAIN:

21 Q ONE OF THE REASONS THAT YOU WERE NOT ABLE TO  
22 BE INVOLVED IN THE NEGOTIATIONS WITH KILPATRICK IN THE  
23 SUMMER OF '84 WAS BECAUSE YOU AND MR. TAGLANETTI WERE  
24 INVOLVED IN OPERATING A HOT CAR RING; ISN'T THAT RIGHT?

25 MR. MC MULLEN: OBJECTION. RELEVANCY.

26 THE COURT: OVERRULED AT THIS TIME SUBJECT TO  
27 MOTION TO STRIKE.

28

1 BY MR. CRAIN:

2 Q IS THAT TRUE?

3 A NOT TRUE.

4 Q WEREN'T YOU QUESTIONED ABOUT THAT AT  
5 MR. HUNT'S TRIAL IN SAN MATEO?

6 A YES, I WAS.

7 MR. MC MULLEN: OBJECTION. RELEVANCY.

8 THE COURT: OVERRULED.

9 BY MR. CRAIN:

10 Q WASN'T THERE A TRANSCRIPT PLAYED TO THE JURY  
11 WHILE YOU WERE ON THE WITNESS STAND ABOUT A CONVERSATION  
12 THAT YOU AND MR. TAGLANETTI HAD RELATING TO THE SUBJECT OF  
13 CARS?

14 A YES.

15 MR. MC MULLEN: OBJECTION. RELEVANCY.

16 THE COURT: WHERE ARE YOU GOING?

17 MR. CRAIN: I JUST HAVE A FEW MORE QUESTIONS.

18 THE COURT: WHERE ARE YOU GOING, THOUGH?

19 MR. CRAIN: IT HAS TO DO WITH HIS BIAS AGAINST  
20 MR. HUNT, AND HIS CHARACTER FOR HIS HONESTY.

21 I'LL MAKE AN OFFER OF PROOF. FIRST, THE  
22 WITNESS DENIED THAT IT WAS HIS VOICE ON THE TAPE. IT WAS  
23 LATER TO THE SHOWN TO THE JURY THAT IT WAS HIS VOICE.

24 I WOULD LIKE TO OFFER -- MARK AS AN EXHIBIT A  
25 NUMBER 303, A TRANSCRIPT OF THIS CONVERSATION IN WHICH THE  
26 WITNESS APPEARS TO BE DISCUSSING WITH TAGLLANETTI THEIR  
27 OPERATION OF SOME SORT OF STOLEN CAR OPERATION.

28 THE COURT: IT'S COLLATERAL. I'LL SUSTAIN THE

1 OBJECTION.

2 MR. CRAIN: COULD I NEVERTHELESS MARK IT AS 303?

3 THE COURT: YOU CAN MARK IT AS 303.

4

5 (MARKED FOR ID = PETITIONER'S 303,  
6 DOCUMENT.)

7

8 MR. CRAIN: NOTHING FURTHER.

9 THE COURT: YOU MENTIONED THAT MR. KILPATRICK WAS  
10 TO PROVIDE FUNDING FOR THIS DEVELOPMENT.

11 THE WITNESS: CORRECT. IT WAS A TYPE OF A  
12 LICENSING.

13 THE COURT: HOW MUCH WAS HE TO PROVIDE?

14 THE WITNESS: HONESTLY, I DON'T RECOLLECT ANY  
15 SPECIFIC NUMBERS.

16 THE COURT: WERE THERE ANY SPECIFIC NUMBERS  
17 DISCUSSED?

18 THE WITNESS: I DON'T BELIEVE IN THE INITIAL  
19 DOCUMENT THAT I DRAFTED. THERE WAS PERCENTAGES.

20 THE COURT: WAS THERE ANY MONEY THAT WAS  
21 FORTHCOMING, TO YOUR KNOWLEDGE?

22 THE WITNESS: NO.

23 THE COURT: ANY REDIRECT?

24 MR. CRAIN: I DIDN'T HEAR THE ANSWER, YOUR HONOR.

25 THE COURT: "NO."

26 MR. CRAIN: WELL --

27 MR. MC MULLEN: MAY I HAVE A MOMENT?

28 MR. CRAIN: DON'T KNOW WHAT VALUE IT HAS. HE



1 DOESN'T KNOW ANYTHING. MOTION TO STRIKE. THERE IS NO  
2 FOUNDATION, IT'S IRRELEVANT. IT'S BASED ON HEARSAY.

3 THE COURT: OVERRULED.

4 MR. MC MULLEN: NOTHING FURTHER, YOUR HONOR.

5 THE COURT: MAY THE WITNESS BE EXCUSED?

6 MR. MC CULLEN: YES.

7 THE COURT: ANY OBJECTION?

8 MR. CRAIN: I HAVE A FURTHER QUESTION, THEN.

9 THE COURT: GO AHEAD.

10 MR. CRAIN: I WOULD LIKE TO SHOW THE WITNESS  
11 EXHIBIT 4.

12

13 FURTHER CROSS-EXAMINATION +

14

15 BY MR. CRAIN:

16 Q I WOULD LIKE YOU TO LOOK AT THE FIRST  
17 PARAGRAPH HERE. SEE THAT -- JUST LOOK AT IT.

18

19 (WITNESS REVIEWING EXHIBIT.)

20

21 THE COURT: WHEN YOU SAY THE FIRST PARAGRAPH --

22 MR. CRAIN: ON PAGE TWO, I THINK IT IS.

23 THE COURT: YOU MEAN PARAGRAPH C?

24 MR. CRAIN: YES.

25 THE COURT: ALL RIGHT.

26 THE WITNESS: YES.

27 BY MR. CRAIN:

28 Q NOW, YOU RECALL HEARING FROM MR. HUNT AND/OR

1 MR. ADELMAN IN JUNE OR JULY OF '84 THAT MR. KILPATRICK HAD  
2 AGREED IN PRINCIPAL TO MAKING A SIX MILLION NONREFUNDABLE  
3 PAYMENT FOR THE RIGHT TO BUY THREE CLUSTERS OF MILLS,  
4 DON'T YOU?

5 A NO, I DON'T REALLY HAVE A RECOLLECTION OF  
6 THAT.

7 Q YOU DON'T RECALL THAT?

8 A NO.

9 Q DOES THIS DOCUMENT LET YOU RECALL ANYTHING IN  
10 THAT REGARD?

11 A NO.

12 MR. CRAIN: NOTHING FURTHER.

13 THE COURT: ANYTHING FURTHER?

14 MR. MC MULLEN: NOTHING FURTHER.

15 THE COURT: MAY THE WITNESS BE EXCUSED?

16 MR. CRAIN: YES, YOUR HONOR.

17 MR. MC MULLEN: YES.

18 THE COURT: THANK YOU, SIR. YOU ARE EXCUSED.

19 CALL YOUR NEXT WITNESS.

20 MR. MC CULLEN: DONALD STEIER.

21 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

22 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU  
23 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL  
24 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,  
25 SO HELP YOU GOD?

26 THE WITNESS: YES.

27 THE CLERK: PLEASE BE SEATED.

28 STATE YOUR NAME FOR THE RECORD AND SPELL YOUR

1 FIRST AND LAST NAME, PLEASE.

2

3

DONALD STEIER, +

4 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED

5 AS FOLLOWS:

6

7

THE WITNESS: MY NAME IS DON STEIER. IT'S,

8

S-T-E-I-E-R.

9

THE COURT: I'M SORRY, ONE MORE TIME.

10

THE WITNESS: S-T-E-I-E-R.

11

THE COURT: YOU MAY INQUIRE.

12

MR. MC MULLEN: YES, YOUR HONOR.

13

14

DIRECT EXAMINATION @

15

16

BY MR. MC MULLEN:

17

Q SIR, WHAT IS YOUR CURRENT OCCUPATION?

18

A I'M AN ATTORNEY.

19

Q AND ARE YOU LICENSED TO PRACTICE LAW HERE IN

20

THE STATE OF CALIFORNIA?

21

A I AM.

22

Q WERE YOU SO LICENSED IN 1983?

23

A I WAS.

24

Q AND IN 1983 AND 1984 DID YOU REPRESENT A

25

MR. RON LEVIN WITH RESPECT TO A COMPLAINT BY PROGRESSIVE

26

SAVINGS & LOAN THAT WAS BEING INVESTIGATED BY THE F.B.I.?

27

A YES.

28

MR. MC MULLEN: MAY I APPROACH THE WITNESS?

1 THE COURT: YES.

2 BY MR. MC MULLEN:

3 Q SHOWING YOU WHAT'S BEEN MARKED AS  
4 PETITIONER'S EXHIBIT 1. DO YOU RECOGNIZE THE PERSON THAT  
5 IS DEPICTED IN THAT PHOTOGRAPH?

6 A I DO.

7 Q WHO IS THAT PERSON?

8 A THAT'S MR. LEVIN.

9 MR. MC MULLEN: WITH THE COURT'S PERMISSION, WE  
10 WOULD REQUEST THAT RESPONDENT'S EXHIBIT GG, DOUBLE G, BE  
11 MARKED FOR IDENTIFICATION.

12 THE COURT: GG?

13 MR. MC MULLEN: YES.

14 THE COURT: YES, IT WILL BE MARKED.

15

16 (MARKED FOR ID = RESPONDENT'S GG,  
17 DOCUMENT.)

18

19 MR. MC MULLEN: MAY I APPROACH THE WITNESS?

20 THE COURT: YES.

21 BY MR. MC MULLEN:

22 Q SHOWING YOU WHAT'S BEEN MARKED AS DOUBLE G  
23 FOR IDENTIFICATION. DO YOU RECOGNIZE YOUR DECLARATION?

24 A I DO.

25 Q AND IS EVERYTHING IN THAT DECLARATION TRUE  
26 AND CORRECT?

27 A IT IS.

28 MR. KLEIN: WELL, I OBJECT TO PART OF IT, YOUR

1 HONOR, AS BEING HIS LEGAL OPINION, AND IT MAY BE  
2 COMMUNICATED TO THE WITNESS. AND IF SO, THERE'S A  
3 PRIVILEGE PROBLEM THAT HASN'T BEEN RESOLVED, AND THAT  
4 PORTION OF THE ANSWER I OBJECT TO TILL THE PRIVILEGE  
5 PORTION IS RESOLVED.

6 THE COURT: WHOSE PRIVILEGE?

7 MR. MC MULLEN: RON LEVIN'S.

8 THE COURT: YOU'RE ASSERTING HIS PRIVILEGE?

9 MR. KLEIN: I THINK THE LAW REQUIRES THAT THE  
10 EXECUTOR BE THE PERSON THAT ASSERTS THE PRIVILEGE.

11 THE COURT: OVERRULED.

12 MR. KLEIN: THERE IS AN EXECUTOR, YOUR HONOR, I  
13 THINK --

14 THE COURT: THE OBJECTION IS OVERRULED.

15 THE WITNESS: COULD I BE HEARD ON THAT JUST A  
16 MOMENT?

17 THE COURT: YES.

18 THE WITNESS: I NEED THE COURT'S CLARIFICATION OF  
19 THIS, ALSO, PROBABLY. WHAT I INCLUDED IN MY DECLARATION  
20 WAS COMMUNICATED TO THE F.B.I.. MY FEELING WAS THAT IF IT  
21 WAS COMMUNICATED TO THE F.B.I., IT WAS NOT PRIVILEGED, AND  
22 THAT'S WHY I INCLUDED IT IN THE DECLARATION.

23 THE COURT: SOUNDS FAIR TO ME.

24 MR. MC MULLEN: MAY I PROCEED?

25 THE COURT: YES.

26 BY MR. MC MULLEN:

27 Q WITH RESPECT TO YOUR REPRESENTATION OF  
28 PLAINTIFF LEVIN, DID YOU MEET WITH SPECIAL AGENT NANCY

1 UNDERWOOD OF THE F.B.I.?

2 A I DON'T RECALL THE NAME. I RECALL SHE WAS A  
3 VERY ATTRACTIVE F.B.I. AGENT, AND IF THAT'S NANCY  
4 UNDERWOOD I RECALL MEETING WITH HER IN MY OFFICE.

5 Q YOU MET WITH A SPECIAL AGENT FROM THE F.B.I.  
6 IN YOUR OFFICE WITH RESPECT TO THE PROGRESSIVE SAVINGS &  
7 LOAN INVESTIGATION AND YOUR REPRESENTATION OF MR. LEVIN?

8 A I DID.

9 Q AND DID YOU BECOME FAMILIAR WITH THE F.B.I.  
10 INVESTIGATION? THAT IS, WHAT PROOF THEY HAD AGAINST YOUR  
11 CLIENT IN TALKING WITH THE SPECIAL AGENT?

12 MR. KLEIN: THAT CALLS FOR HEARSAY, YOUR HONOR.

13 THE COURT: OVERRULED.

14 MR. KLEIN: WHAT THE F.B.I. AGENT COMMUNICATED TO  
15 HIM.

16 THE COURT: OVERRULED.

17 I ASSUME YOU ARE GOING TO THE POINT OF THIS  
18 WITNESS EXPLAINING AS TO MR. LEVIN THAT THEY DIDN'T HAVE  
19 MUCH OF A CASE?

20 MR. MC MULLEN: CORRECT.

21 THE COURT: LET'S JUST JUMP TO IT.

22 BY MR. MC MULLEN:

23 Q IN YOUR OPINION, AS MR. LEVIN'S LAWYER, WITH  
24 RESPECT TO THE F.B.I. INVESTIGATION, DID YOU THINK THAT  
25 THE F.B.I. HAD A CASE AGAINST YOUR CLIENT?

26 A MY OPINION AS I SIT HERE -- AT THE TIME? I'M  
27 NOT CLEAR.

28 Q AT THE TIME.

1           A           THE -- THE CHARGE HAS TWO ELEMENTS, THE  
2 SECTION -- THE CHARGING SECTION. ONE WAS A TAKING  
3 ELEMENT. ONE WAS AN INTENT ELEMENT. THEY HAD, IN MY  
4 OPINION, A VERY DIFFICULT TIME WITH THE INTENT ELEMENT.

5           Q           WHEN YOU SAY "THEY," THE F.B.I.?

6           A           THE F.B.I. AND U.S. ATTORNEY. THAT'S MY  
7 OPINION OF THEIR CASE BASED ON THE REVIEW OF THE FILE THAT  
8 I HAD AVAILABLE, WHICH WAS BANKING INFORMATION, PRIMARILY  
9 BANKING RECORDS.

10          Q           AND DID YOU EXPRESS THAT TO MR. LEVIN, YOUR  
11 OPINION, AS TO THE F.B.I.'S CASE?

12          A           I DID EXPRESS THAT TO THE F.B.I. AGENT. ANY  
13 CONVERSATION THAT I WOULD HAVE HAD WITH MR. LEVIN WOULD  
14 PROBABLY BE PRIVILEGED, AND I WOULD ASSERT THE PRIVILEGE  
15 WITH REGARD TO THE CONVERSATION TO MR. LEVIN. I DID  
16 EXPRESS THAT OPINION TO THE F.B.I.

17           MR. MC MULLEN: YOUR HONOR, WE WOULD REQUEST THAT  
18 THE COURT -- THE COURT DIRECT THE WITNESS TO ANSWER THE  
19 QUESTION WITH RESPECT TO WHAT HE COMMUNICATED TO  
20 MR. LEVIN.

21           MR. CRAIN: I DON'T THINK -- I DON'T THINK THE  
22 COURT CAN ORDER A WITNESS TO BREACH THE ATTORNEY/CLIENT  
23 PRIVILEGE.

24           THE COURT: IF THE COURT MAKES A FINDING THAT IT'S  
25 PRIVILEGED AT THIS POINT --

26           MR. KLEIN: THE HOLDER IS -- IS THE EXECUTOR, YOUR  
27 HONOR, UNDER THE CODE.

28           THE COURT: YOU HAVE NO STANDING TO RAISE IT. I

1 HAVE TO DECIDE.

2 THE WITNESS: ACTUALLY, THE PERSON THAT HAS THE  
3 STANDING IS THE EXECUTOR, AND I WILL ASSERT THE EXECUTOR'S  
4 STANDING AND ASSERT THE PRIVILEGE. THAT'S WHAT I CAN DO.

5 THE COURT: HE IS CORRECT IN THAT.

6 BY MR. MC MULLEN:

7 Q DID MR. LEVIN EXPRESS A FEAR TO YOU OF GOING  
8 TO JAIL WITH RESPECT TO THE PROGRESSIVE SAVINGS & LOAN  
9 CASE?

10 MR. KLEIN: OBJECTION. HEARSAY.

11 THE COURT: OVERRULED.

12 MR. CRAIN: ALSO PRIVILEGE.

13 THE COURT: YOU CAN'T RAISE THE PRIVILEGE.

14 THE WITNESS: I CAN RAISE THE PRIVILEGE, AND I WILL  
15 RAISE THE PRIVILEGE.

16 THE COURT: ALL RIGHT.

17 BY MR. MC MULLEN:

18 Q DURING 1983 AND 1984 DID YOU TALK TO MR. JOE  
19 HUNT WITH RESPECT TO THE F.B.I. PROGRESSIVE SAVINGS & LOAN  
20 INVESTIGATION?

21 MR. KLEIN: OBJECTION. THAT WOULD BE PRIVILEGED,  
22 AND WE CAN ASSERT THE PRIVILEGE ON BEHALF OF MR. HUNT.

23 MR. CRAIN: MR. HUNT CAN.

24 MR. KLEIN: MR. HUNT CAN.

25 THE COURT: WAS THERE ATTORNEY/CLIENT PRIVILEGE  
26 BETWEEN THEM?

27 MR. KLEIN: YES, YOUR HONOR, THAT WAS THE PURPOSE  
28 OF --



1 THE COURT: BURDEN IS ON THE DEFENDANT.

2 WHAT IS YOUR OFFER OF PROOF?

3 MR. KLEIN: THAT MR. HUNT WENT TO SEEK LEGAL  
4 ASSISTANCE FROM MR. STEIER.

5 THE COURT: AS I RECALL, MR. HUNT TESTIFIED ABOUT  
6 THIS. HE SAID THAT HE HAD --

7 MR. KLEIN: HE SAID HE DIDN'T REMEMBER --

8 MR. CRAIN: HE DID REMEMBER AFTER HIS MEMORY WAS  
9 REFRESHED, AND I BELIEVE HE WENT TO MR. STEIER, CONSULTED  
10 WITH HIM AS A POTENTIAL CLIENT, IN AN ATTORNEY/CLIENT  
11 SETTING AND THEN -- HE PROCEEDED TO GO ELSEWHERE.

12 THE COURT: SO HE WAIVED THE PRIVILEGE AS TO THAT.

13 MR. CRAIN: NO.

14 MR. KLEIN: HE DIDN'T --

15 THE COURT: THE QUESTION WAS: DID YOU -- HAVE YOU  
16 SPOKEN TO MR. HUNT ABOUT THIS? MR. HUNT HAS ALREADY  
17 TESTIFIED THAT HE DID. THE PRIVILEGE HAS BEEN WAIVED.

18 THE WITNESS IS DIRECTED TO ANSWER THE  
19 QUESTION.

20 MR. CRAIN: WITH ALL DUE RESPECT --

21 THE COURT: COUNSEL, I HAVE RULED.

22 ANSWER THE QUESTION.

23 THE WITNESS: OKAY.

24 AS I SIT HERE, I REALLY DON'T HAVE ANY  
25 RECOLLECTION, BUT LET ME CLARIFY THAT. I SPOKE WITH  
26 MR. SIMPSON ABOUT A YEAR AGO, AND APPARENTLY I HAD  
27 INDICATED THAT MR. HUNT AND I HAD SPOKEN AT THE TIME. MY  
28 FEELING IS PRIOR TO MY CONVERSATION WITH MR. SIMPSON I

1 MUST HAVE REVIEWED A FILE, IF I SAID THAT. I DON'T RECALL  
2 WHAT I SAID, AND I DON'T RECALL THE MEETING, BUT IF I SAID  
3 THAT, I'M GOING TO PRESUME MR. SIMPSON REFLECTED HIS NOTES  
4 ACCURATELY. IT WOULD HAVE BEEN AS THE RESULT OF REVIEWING  
5 A FILE. THE BEST ANSWER I CAN GIVE YOU IS, AS I SIT HERE  
6 TODAY, I DON'T REALLY HAVE ANY RECOLLECTION OF ANYTHING  
7 INVOLVING MR. HUNT, BUT IF I DID SAY THAT PREVIOUSLY, I  
8 WOULDN'T HAVE MADE IT UP SO --

9 MR. CRAIN: MOTION TO STRIKE AS NONRESPONSIVE.

10 THE COURT: OVERRULED.

11 MR. CRAIN: CAN I JUST SAY ONE THING? MR. HUNT I  
12 DON'T BELIEVE EVER TESTIFIED AS TO THE CONTENTS OF  
13 ANYTHING.

14 THE COURT: THAT WAS NOT THE QUESTION.

15 MR. CRAIN: THAT'S WHERE HE IS GOING, THOUGH.

16 THE COURT: THEN LET HIM GET THERE, AND THEN YOU  
17 CAN OBJECT, AND PERHAPS I'LL SUSTAIN THE OBJECTION.

18 MR. CRAIN: WELL, IT DOESN'T SEEM FAIR --

19 THE COURT: IF YOU WILL JUST LET HIM ASK THE  
20 QUESTION AND THEN OBJECT AND LET ME RULE, WE'LL GET THERE  
21 QUICKER.

22 GO.

23 BY MR. MC CULLEN:

24 Q DID YOU EVER REFER TO -- REFER MR. HUNT TO  
25 ANOTHER LAWYER WITH RESPECT TO THE PROGRESSIVE F.B.I.  
26 INVESTIGATION?

27 A MY RECOLLECTION IS THAT I REFERRED HIM TO  
28 DON MARKS.

1 Q WHY DID YOU REFER MR. HUNT TO MR. MARKS?

2 MR. CRAIN: OBJECTION. IRRELEVANT.

3 THE COURT: SUSTAINED.

4 MR. MC MULLEN: NOTHING FURTHER.

5 THE COURT: ANY CROSS-EXAMINATION?

6

7 (A CONFERENCE WAS HELD BETWEEN COUNSEL

8 AND THE PETITIONER, NOT REPORTED.)

9

10 MR. CRAIN: MR. KLEIN, I THINK IS GOING TO EXAMINE  
11 THE WITNESS.

12

13 CROSS-EXAMINATION +

14

15 BY MR. KLEIN:

16 Q MR. STEIER, AT THE TIME THAT YOU WERE  
17 REPRESENTING MR. LEVIN CONCERNING THE F.B.I. INVESTIGATION  
18 INTO PROGRESSIVE SAVINGS & LOAN WERE YOU AWARE THAT  
19 MR. LEVIN HAD PREVIOUSLY BEEN CONVICTED OF A FEDERAL CRIME  
20 AND HAD BEEN TO FEDERAL PRISON?

21 A YES.

22 Q AND AT THE TIME THAT YOU WERE REPRESENTING  
23 MR. LEVIN IN CONNECTION WITH THE F.B.I. INVESTIGATION INTO  
24 PROGRESSIVE SAVINGS & LOAN, WERE YOU REPRESENTING  
25 MR. LEVIN ON SOME OTHER MATTER?

26 A YES.

27 Q WHAT WAS THAT?

28 A THERE MAY HAVE BEEN A NUMBER OF MATTERS. THE

1 ONE THAT I RECALL MOST VIVIDLY WOULD BE THE GRAND THEFT  
2 MATTER INVESTIGATED OUT OF THE BEVERLY HILLS POLICE  
3 DEPARTMENT BY PAUL EDHOLM.

4 THE COURT: THAT INVOLVE SOME MOVIE CAMERAS?

5 THE WITNESS: THAT'S RIGHT.

6 BY MR. KLEIN:

7 Q AT SOME POINT DID YOU CEASE TO BE  
8 MR. LEVIN'S ATTORNEY CONCERNING THAT MATTER?

9 A YES.

10 Q AND IN TERMS OF THE GRAND THEFT MATTER, DO  
11 YOU HAVE A MEMORY OF WHAT THE VALUE WAS OF THE GRAND THEFT  
12 INVOLVED IN THAT CASE?

13 MR. MC MULLEN: OBJECTION. RELEVANCY.

14 THE COURT: SUSTAINED.

15 BY MR. KLEIN:

16 Q WHY DID YOU CEASE TO REPRESENT MR. LEVIN ON  
17 THE BEVERLY HILLS GRAND THEFT CASE?

18 MR. MC MULLEN: OBJECTION. RELEVANCE.

19 THE COURT: SUSTAINED.

20 BY MR. KLEIN:

21 Q WITH RESPECT TO THE F.B.I. INVESTIGATION OF  
22 MR. LEVIN INTO PROGRESSIVE SAVINGS & LOAN, WERE YOU AWARE  
23 THAT MR. LEVIN WAS A -- A DEFENDANT IN A CIVIL SUIT  
24 BROUGHT AGAINST HIM BY PROGRESSIVE SAVINGS & LOAN?

25 MR. MC MULLEN: OBJECTION. RELEVANCY.

26 THE COURT: OVERRULED.

27 THE WITNESS: MR. LEVIN HAD AN ATTORNEY NAMED JEFF  
28 MELCZER, BUT I DON'T RECALL WHETHER THE CIVIL SUIT HAD --

1 WHAT THE STATUS OF THE CIVIL SUIT WAS, WHETHER IT WAS  
2 FILED OR THEY WERE BARKING OR WHATEVER.

3 BY MR. KLEIN:

4 Q YOU WERE AWARE THAT THE VALUE OF THE THEFT IN  
5 THE PROGRESSIVE SAVINGS & LOAN MATTER AMOUNTED TO ABOUT  
6 \$153,000?

7 A AT THE TIME I PROBABLY KNEW EXACTLY. AS I  
8 SIT HERE TODAY, THAT SOUNDS FAMILIAR, BUT I DON'T RECALL  
9 IT, BUT IT SOUNDS FAMILIAR.

10 Q OKAY.

11 DID YOU COMMUNICATE TO THE F.B.I. THAT IF  
12 THEY WANTED TO ARREST MR. LEVIN THAT YOU WOULD BE WILLING  
13 TO SURRENDER HIM?

14 A THAT'S A STANDARD PROCEDURE I WOULD FOLLOW  
15 WITH THE F.B.I.. I MET WITH THE AGENT. I COMMUNICATED  
16 THE PROBLEMS THAT I SAW WITH THEIR CASE. AFTER OUR  
17 MEETING I WAS NOT CONVINCED THAT I WAS WRONG, AND YET  
18 SOMETIMES PROSECUTOR'S DON'T LISTEN TO ME, AND IN THE  
19 EVENT OF THAT HAPPENING, ALTHOUGH IT'S A RARITY, I SEND A  
20 LETTER.

21 Q YOU ARE BEING FACETIOUS NOW?

22 A I'M BEING A LITTLE FACETIOUS. THEY DO  
23 SOMETIMES EXERCISE INDEPENDENT JUDGMENT.

24 MR. KLEIN: WILL THE COURT TAKE JUDICIAL NOTICE OF  
25 THAT AS A FORMER PROSECUTOR?

26 THE COURT: THAT THEY SOMETIMES USE THEIR OWN  
27 JUDGMENT?

28 THE WITNESS: YES.

1 THE COURT: MAY THE WITNESS BE EXCUSED?

2 MR. KLEIN: JUST ONE SECOND.

3

4 (A CONFERENCE WAS HELD BETWEEN COUNSEL  
5 AND THE PETITIONER, NOT REPORTED.)

6

7 RECROSS-EXAMINATION +

8

9 BY MR. KLEIN:

10 Q FOLLOWING UP ON WHAT THE COURT JUST ASKED  
11 YOU, IT WAS ALSO YOUR PRACTICE TO COMMUNICATE TO YOUR  
12 CLIENT THE WORST CASE SCENARIO?

13 A YES.

14 Q AND YOU WERE AWARE THAT, YOU KNOW, MR. LEVIN  
15 WAS THOUGHT OF AS A CON MAN; RIGHT?

16 MR. MC CULLEN: OBJECTION. RELEVANCY.

17 THE COURT: SUSTAINED.

18 BY MR. KLEIN:

19 Q WHEN YOU WERE PROVIDING ADVICE TO MR. LEVIN,  
20 YOU WERE ALSO AWARE THAT ON THE INTENT ISSUE THAT IT WAS  
21 POSSIBLE THAT THE GOVERNMENT WOULD BE ABLE TO BRING IN HIS  
22 PRIOR ACT TO PROVE INTENT; CORRECT?

23 MR. MC MULLEN: OBJECTION. RELEVANCY. CALLS FOR  
24 SPECULATION.

25 THE COURT: SUSTAINED.

26 BY MR. KLEIN:

27 Q ONE --

28 MR. CRAIN: COULD WE BE HEARD ON THAT?

1 THE COURT: NO. WE'RE NOT GOING TO RETRY THE  
2 PROGRESSIVE SAVINGS & LOAN CASE.

3 MR. CRAIN: I AGREE WITH THAT, YOUR HONOR, IT'S  
4 JUST IF THE WITNESS WAS AWARE OF MR. LEVIN'S PAST HISTORY  
5 HE WOULD CERTAINLY AS A COMPETENT ATTORNEY HAVE IN MIND  
6 THE FACT THAT AT A TRIAL THE PROSECUTION, IN ORDER TO  
7 PROVE ANY QUESTIONABLE INTENT ISSUE, WOULD CERTAINLY TRY  
8 TO GET IN HIS PRIOR ACTS --

9 THE COURT: COUNSEL, WE ALL KNOW THAT.

10 MR. CRAIN: BUT IT'S NOT A MATTER OF RECORD UNLESS  
11 THE WITNESS ACKNOWLEDGES IT.

12 THE COURT: NO. SUSTAINED.

13 ANYTHING FURTHER?

14 MR. KLEIN: YEAH. LAST QUESTION.

15 BY MR. KLEIN:

16 Q YOU WERE AWARE IN EARLY JUNE THAT ANOTHER  
17 PERSON PROVIDED SIGNIFICANT EVIDENCE TO THE GOVERNMENT  
18 AGAINST MR. LEVIN IN THE PROGRESSIVE SAVINGS & LOAN  
19 MATTER, NEIL ANTIN- --

20 MR. MC MULLEN: OBJECTION. RELEVANCY. OBJECTION,  
21 VAGUE AS TO TIME.

22 MR. KLEIN: WELL, IT'S JUNE, 1984 --

23 THE COURT: SUSTAINED.

24 BY MR. KLEIN:

25 Q IF AFTER YOU HAD YOUR CONVERSATION WITH THE  
26 F.B.I. AGENT SIGNIFICANT NEW EVIDENCE DEVELOPED ON THE  
27 QUESTION OF INTENT, WOULD THAT HAVE CHANGED YOUR ADVICE TO  
28 MR. LEVIN?

1 MR. MC MULLEN: OBJECTION. CALLS FOR SPECULATION.  
2 RELEVANCY.

3 THE COURT: SUSTAINED AS SPECULATION.

4 MR. KLEIN: THAT'S ALL I HAVE.

5 THE COURT: ANYTHING FURTHER, MR. MC MULLEN?

6 MR. MC MULLEN: NOTHING FURTHER.

7 THE COURT: MAY THE WITNESS BE EXCUSED?

8 MR. MC MULLEN: YES.

9 THE COURT: ANY OBJECTION?

10  
11 (PAUSE.)

12  
13 THE COURT: ANY OBJECTION?

14 MR. CRAIN: GO AHEAD.

15 THE COURT: DO YOU HAVE ONE?

16  
17 (RESPONDENT'S COUNSEL CONFER.)

18  
19 FURTHER RECROSS-EXAMINATION +

20  
21 BY MR. KLEIN:

22 Q ALL RIGHT.

23 MR. LEVIN HAD THIS PRIOR FEDERAL CONVICTION.  
24 IT WOULD HAVE BEEN YOUR HABIT TO ADVISE MR. LEVIN THAT IF  
25 HE DID GET CONVICTED OF SUCH A MATTER AS THE PROGRESSIVE  
26 SAVINGS & LOAN MATTER THAT HE FACED FEDERAL PRISON;  
27 CORRECT?

28 MR. MC CULLEN: OBJECTION. CALLS FOR SPECULATION.



1 MR. KLEIN: THIS INDICATION --

2 MR. CRAIN: YOU BROUGHT IT UP.

3 THE COURT: COUNSEL, IF I NEED HELP, I'LL LET YOU  
4 KNOW.

5 THE PROBLEM WITH THE QUESTION -- WELL, THE  
6 WITNESS CAN RAISE THE PRIVILEGE, IF HE WANTS TO.

7 THE WITNESS: THE TRUTH OF THE MATTER IS THAT HE  
8 FACED PRISON, PERIOD.

9 MR. KLEIN: OKAY.

10 THE COURT: ALL RIGHT.

11 THANK YOU, SIR. YOU ARE EXCUSED.

12 WHO IS YOUR NEXT WITNESS?

13 MR. MC MULLEN: MR. BILL PIERCE. WE WOULD LIKE TO  
14 HAVE A --

15 MR. CRAIN: I JUST GOT HANDED SOME DISCOVERY. I  
16 DIDN'T EVEN LOOK AT IT, RELATED TO MR. PIERCE.

17 THE COURT: WE'LL TAKE OUR AFTERNOON RECESS AT THIS  
18 TIME. FIFTEEN MINUTES.

19  
20 (RECESS.)

21  
22 THE COURT: IN THE MATTER OF JOSEPH HUNT, RECORD  
23 WILL REFLECT ALL COUNSEL ARE PRESENT, PETITIONER IS  
24 PRESENT.

25 COUNSEL, CALL YOUR NEXT WITNESS.

26 MR. MC MULLEN: WILLIAM PIERCE. HE IS OUTSIDE.

27 MR. KLEIN: THEY HAVE AN EXHIBIT THEY'D LIKE TO  
28 USE. I WOULD LIKE TO BE HEARD BEFORE THE WITNESS COMES

1 IN.

2 CAN I SHOW YOU A COPY? IT WAS JUST HANDED TO  
3 US.

4 MR. MC MULLEN: I CAN APPROACH. WE HAVE A COPY FOR  
5 YOU.

6 THE COURT: ALL RIGHT.

7

8 (PAUSE.)

9

10 THE COURT: ALL RIGHT.

11 MR. KLEIN: YOUR HONOR, I ASSUME THAT THE PEOPLE  
12 ARE OFFERING THIS TO ATTEMPT TO REBUT THE TESTIMONY OF  
13 IVAN WERNER. MAYBE THEY CAN MAKE AN OFFER OF PROOF.

14 THE COURT: FIRST OF ALL, FOR THE RECORD DO YOU  
15 WANT TO MARK THIS AS UU?

16 MR. MC MULLEN: YES, YOUR HONOR SINCE WE ARE  
17 TALKING ABOUT IT NOW THAT WOULD BE OUR REQUEST.

18

19 (MARKED FOR ID = RESPONDENT'S UU, A  
20 DOCUMENT.)

21

22 THE COURT: ALL RIGHT.

23 WHERE ARE YOU GOING?

24 MR. MC MULLEN: YOU MAY RECALL THAT SEVERAL DAYS  
25 AGO I DISCLOSED TO COUNSEL THAT MR. PIERCE, THE NEXT  
26 PROPOSED WITNESS, IN LOOKING THROUGH FILES FOR WHAT IVAN  
27 WERNER HAD DESCRIBED HAD OCCURRED AT THE MORTUARY HE  
28 TALKED TO AN EMPLOYEE WHO HAS WORKED THERE FOR YEARS AND

1 REFRESHED HIS RECOLLECTION ABOUT A MAN WHO HAD DIED WHO  
2 HAD -- IN A JACUZZI AND MR. PIERCE THEN REMEMBERED, WAS  
3 TOLD THE PERSON'S NAME OR -- WAS EITHER TOLD THE PERSON'S  
4 NAME OR REMEMBERED THE PERSON'S NAME AND PULLED HIS FILE  
5 AND HIS FILE ON MR. SAXON.

6 SO HE WILL TESTIFY WHAT HIS KNOWLEDGE WAS  
7 ABOUT THAT PERSON WHO DIED AND TO THE EXTENT THAT THE  
8 MORTUARY WAS INVOLVED. IT'S A RECORD THAT GOES BACK TO  
9 1983.

10 MR. KLEIN: SOUNDS LIKE IT'S DOUBLE AND TRIPLE  
11 HEARSAY.

12 THE REAL PROBLEM WITH THE DOCUMENT, YOUR  
13 HONOR, IS THAT ON THE SECOND TO LAST PAGE WHERE IT SAYS  
14 "CAUSE OF DEATH" -- DOES THE COURT HAVE THAT IN FRONT OF  
15 IT? AFTER "NAME OF DECEASED."

16 THE COURT: SECOND TO LAST PAGE IS A -- A PHONE  
17 MESSAGE.

18 MR. KLEIN: OKAY.

19 THEN IT WOULD BE -- I DON'T KNOW WHAT ORDER  
20 THE COURT HAS IT. CAN I APPROACH AND I'LL SHOW YOU?

21 THE COURT: YEAH.

22 MR. KLEIN: THIS PAGE RIGHT HERE.

23 THE COURT: IT'S GOT THE NAME "ALLEN SAXON" AT THE  
24 TOP. I HAVE THAT AS THE SECOND PAGE THE WAY THIS IS;  
25 RIGHT?

26 MR. KLEIN: I DON'T KNOW. IF IT THEN SAYS, "CAUSE  
27 OF DEATH" AND THEN IT'S BLANK.

28 THE COURT: I DON'T SEE ANYTHING "UNDER CAUSE OF

1 DEATH," THAT'S CORRECT.

2 MR. KLEIN: I -- MAYBE THE PEOPLE WILL MAKE AN  
3 OFFER OF PROOF HOW THIS DOCUMENT IS ADMISSIBLE AND WHAT  
4 THEY INTEND TO PROVE AND THEN I'LL RESPOND TO IT.

5 MR. MC MULLEN: BUSINESS RECORD, YOUR HONOR. THE  
6 WITNESS HAS A RECOLLECTION OF THE EVENTS SURROUNDING  
7 MR. SAXON'S BUSINESS WITH THE MORTUARY.

8 ACTUALLY, HIS WIFE'S BUSINESS WITH THE  
9 MORTUARY.

10 MR. KLEIN: FIRST OF ALL, YOUR HONOR, IF THERE WERE  
11 ANYTHING UNDER THE WORDS "CAUSE OF DEATH" THAT WOULD BE  
12 HEARSAY. THE ONLY PERSONS THAT WOULD BE QUALIFIED TO  
13 RENDER A BUSINESS RECORD OF CAUSE OF DEATH WOULD BE THE  
14 CORONER'S OFFICE OR SOME MEDICAL PERSON. OTHERWISE  
15 THEY'RE WRITING DOWN WHAT SOMEBODY ELSE TOLD THEM --

16 THE COURT: THEY DON'T HAVE ANYTHING HERE.

17 MR. KLEIN: I KNOW. SO NOW THEY'RE GOING TO OFFER  
18 HEARSAY UPON HEARSAY TO TALK ABOUT HOW THIS MAN SUPPOSEDLY  
19 DIED TO OFFER IT AS IMPEACHMENT EVIDENCE.

20 SECONDLY, AS TO THIS DOCUMENT, IT SHOWS HOW  
21 UNRELIABLE IT IS IN TERMS OF HOW IT'S PREPARED AT THE TIME  
22 THAT IT WAS PREPARED. THEY DON'T EVEN WRITE DOWN ANY OF  
23 THE INFORMATION THAT WE ARE TALKING ABOUT THAT WOULD BE  
24 RELEVANT TO THIS PROCEEDING.

25 THE COURT: WELL, THE DOCUMENT MAY OR MAY NOT BE  
26 ADMISSIBLE.

27 AS I UNDERSTOOD THE PROFFER, THIS WAS  
28 SOMETHING THAT REFRESHED THE RECOLLECTION OF THE WITNESS,

1 MR. PIERCE. IT'S NOT BEING OFFERED, AS I UNDERSTOOD, TO  
2 PROVE THE ACTUAL CAUSE OF DEATH. IT IS BEING OFFERED TO  
3 VERIFY THERE WAS AN INCIDENT AS DESCRIBED BY MR. WERNER  
4 THAT I ASSUME WAS AT A TIME DIFFERENT FROM WHEN MR. WERNER  
5 TESTIFIED TO IT.

6 MR. MC MULLEN: YES, YOUR HONOR.

7 MR. KLEIN: IF IT'S BEING OFFERED TO DISPROVE WHAT  
8 MR. WERNER SAID THAN IT IS BEING OFFERED FOR THE TRUTH  
9 THAT THIS PERSON DIED BY SUCH AND SUCH MEANS AND IN ORDER  
10 TO DO THAT --

11 THE COURT: DID MR. WERNER KNOW HOW THIS PERSON  
12 ACTUALLY DIED? ISN'T IT THAT HE RELIED ON WHAT HE WAS  
13 TOLD BY OTHERS AS HIS BELIEF SURROUNDING A PARTICULAR  
14 CEREMONY THAT TOOK PLACE AT PIERCE BROTHERS MORTUARY.

15 MR. KLEIN: MR. WERNER WAS QUESTIONED ABOUT HIS  
16 MEMORY OF THE EVENT. THAT GOES TO HIS CREDIBILITY. THE  
17 FACTS THAT HE REMEMBERS ABOUT THE EVENT.

18 THEY ARE NOW TRYING TO DISPROVE SOMETHING  
19 THAT MR. WERNER SAID BY DOUBLE OR TRIPLE HEARSAY AND THEY  
20 CAN'T DO THAT. IT'S NOT -- IF IT WERE BEING OFFERED FOR  
21 MR. PIERCE'S STATE OF MIND, THAT'S IRRELEVANT IN THIS  
22 PROCEEDING.

23 THE ONLY THING THAT IS RELEVANT IS, YOU KNOW,  
24 DID THIS PERSON DIE BY THOSE MEANS, AND THEY CAN'T PROVE  
25 IT BY A BLANK PIECE OF PAPER OR DOUBLE OR TRIPLE HEARSAY.

26 THE COURT: IT'S NOT -- IT IS NOT A HEARSAY ISSUE.  
27 AS I UNDERSTAND IT THERE IS AN INCIDENT, A FUNERAL THAT  
28 TOOK PLACE IN WESTWOOD AT THE WESTWOOD MORTUARY.

1 MR. WERNER TESTIFIED AS TO HIS RECOLLECTION OF THAT  
2 FUNERAL AND WHAT HE RECALLED OF IT APPLYING A CERTAIN  
3 DATE, A CERTAIN RANGE, A TIME THAT IT TOOK PLACE IN.

4 MR. KLEIN: YES, YOUR HONOR.

5 THE COURT: AS I UNDERSTAND IT WE ARE GOING TO BE  
6 OFFERED THROUGH MR. PIERCE SOME TESTIMONY THAT SAYS HE  
7 ALSO RECALLS A SIMILAR FUNERAL THAT OCCURRED AT A  
8 DIFFERENT TIME. THAT IS THE PURPOSE OF IT.

9 MR. KLEIN: BUT THEN IT IS BEING OFFERED FOR THE  
10 TRUTH OF HOW THE PERSON DIED.

11 THE COURT: IT DOESN'T MATTER HOW HE DIED. IT  
12 MATTERS WAS THERE A FUNERAL AND WHEN DID IT TAKE PLACE.

13 MR. KLEIN: WELL, YOUR HONOR, THAT WOULD MEAN THAT  
14 EVERY FUNERAL THAT WAS CONDUCTED BY PIERCE BROTHERS  
15 MORTUARY IN WESTWOOD WOULD BE RELEVANT TO THIS PROCEEDING  
16 AND IT'S NOT. THE ONLY ONE THAT IS RELEVANT IS THE ONE  
17 THAT MR. WERNER TESTIFIED TO AND IF THEY'RE GOING TO REBUT  
18 THE ACCURACY OF WHAT MR. WERNER SAID THEY HAVE TO DO IT  
19 WITH COMPETENT EVIDENCE.

20 NOW THE COURT IS TALKING ABOUT DOUBLE AND  
21 TRIPLE HEARSAY IN AN UNRELIABLE BUSINESS RECORD.

22 THE COURT: LET'S ASSUME THAT THERE WAS SOMEONE  
23 ELSE WHO WAS AT THE WESTWOOD MORTUARY AT THE TIME  
24 MR. WERNER WAS THERE. IN FACT, HE TESTIFIED HE WAS THE  
25 PERSON OUT FRONT AS I RECALL. OTHER PEOPLE WERE INVOLVED  
26 SOME PLACE ELSE. THEY CERTAINLY COULD CALL SOMEONE TO  
27 SAY, "YES, I WAS THERE. I REMEMBER THAT FUNERAL, AND IT  
28 DIDN'T OCCUR WHEN MR. WERNER SAID. IT OCCURRED AT A

1 DIFFERENT TIME."

2 MR. KLEIN: I AGREE WITH THAT, YOUR HONOR.

3 THE COURT: THE ONLY STEP DIFFERENT BETWEEN THAT  
4 AND THIS, UNLESS MR. PIERCE WAS THE PERSON WHO WAS WORKING  
5 THE FRONT OF THE FUNERAL, THE BACK OF THE FUNERAL,  
6 WHATEVER THE TESTIMONY WAS, IS THAT MR. PIERCE IS THE  
7 PERSON WHO IS THE PROPRIETOR OR OWNER OR MANAGER AND THAT  
8 HE HAS RECOLLECTION OF THIS FUNERAL IN SOME FASHION THAT  
9 IT IS CORROBORATED -- HIS RECOLLECTION IS CORROBORATED BY  
10 SOME DOCUMENT AND THAT HE'S GOING TO TESTIFY THAT NO, IT  
11 HAPPENED AT A DIFFERENT TIME.

12 MR. KLEIN: YOUR HONOR IS ASSUMING THAT IT'S THE  
13 SAME FUNERAL.

14 THE COURT: I'M NOT ASSUMING ANYTHING. YOU MAY BE  
15 RIGHT. IT MAY BE A DIFFERENT FUNERAL.

16 MR. KLEIN: THAN IT'S IRRELEVANT IF IT'S A  
17 DIFFERENT FUNERAL.

18 THE COURT: YOU'RE RIGHT BUT I HAVE GOT TO HEAR THE  
19 TESTIMONY TO DECIDE IF IT'S A DIFFERENT FUNERAL.

20 MR. CRAIN: COULD I ADD THE SECOND PART TO THIS AND  
21 THAT IS THAT I BELIEVE THAT MR. MC MULLEN ALLUDED TO  
22 PROPOSED TESTIMONY OF MR. PIERCE THAT HE SEARCHED OTHER  
23 RECORDS. NOW, IF HE IS GOING TO BE TALKING ABOUT WHAT  
24 OTHER RECORDS WHICH AREN'T BEFORE THE COURT SHOW THE COURT  
25 HAS NO OPPORTUNITY TO EXAMINE THEM. THEY'RE HEARSAY AS TO  
26 WHAT THEY SAY AND THEY VIOLATE THE BEST EVIDENCE RULE IF  
27 THEY'RE NOT BROUGHT IN.

28 IF THAT IS WHAT HE INTENDS TO DO, TO HAVE

1 MR. PIERCE SAY, "I SEARCHED OTHER RECORDS AND I FOUND THIS  
2 ONE," AND I BELIEVE THAT IF HE -- IF HE IS ALLOWED TO  
3 TESTIFY AS TO SOME MEMORY OF HIS AS TO A PARTICULAR THING  
4 IN '83 IT DOESN'T -- THE DOCUMENT CAN'T CORROBORATE WHAT  
5 HE SAYS UNLESS THE DOCUMENT, WHICH IS AN EXHIBIT, IS THEN  
6 OFFERED FOR A HEARSAY PURPOSE.

7 THE COURT: ALL RIGHT.

8 I'LL OVERRULE --

9 MR. CRAIN: IT'S A DIFFERENT THING TO SAY I  
10 REFRESHED MY RECOLLECTION BY LOOKING AT ANYTHING. BUT  
11 IT'S A DIFFERENT THING TO LET THIS GET IN TO EVIDENCE IN  
12 VIOLATION OF THE HEARSAY RULE.

13 THE SECOND PART THAT I BRING UP, YOUR HONOR,  
14 I DON'T THINK THAT MR. PIERCE IS ALLOWED TO TESTIFY --  
15 THAT HE CAN BE PERMITTED TO TESTIFY ABOUT OTHER DOCUMENTS  
16 THAT HE MIGHT HAVE LOOKED AT THAT ARE NOT BEFORE THE  
17 COURT. THEY'RE HEARSAY AND IN VIOLATION OF THE BEST  
18 EVIDENCE RULE.

19 THE COURT: UNDER THAT ARGUMENT NO CUSTODIAN OF  
20 RECORDS COULD TESTIFY IN ANY HEARING.

21 I ASSUME YOU ARE GOING TO LAY A FOUNDATION  
22 THAT HE'S A CUSTODIAN OF RECORDS?

23 MR. MC MULLEN: YES, YOUR HONOR.

24 THE COURT: ALL RIGHT.

25 BRING THE WITNESS IN.

26 MR. MC MULLEN: THANK YOU, YOUR HONOR.

27

28 (PAUSE.)



1  
2 MR. MC MULLEN: PEOPLE CALL MR. WILLIAM PIERCE TO  
3 THE WITNESS STAND.

4 IF YOU COULD STEP FORWARD, SIR.

5 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

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

10 THE WITNESS: YES.

11 THE CLERK: PLEASE BE SEATED.

12 STATE YOUR NAME FOR THE RECORD AND SPELL YOUR  
13 FIRST AND LAST NAME, PLEASE.

14  
15 WILLIAM R. PIERCE, +  
16 CALLED AS A WITNESS BY THE RESPONDENTS, WAS SWORN AND  
17 TESTIFIED AS FOLLOWS:

18  
19 MR. CRAIN: EXCUSE ME, YOUR HONOR, I NOTE THAT THE  
20 WITNESS --

21 THE COURT: LET'S FINISH SWEARING THE WITNESS  
22 FIRST.

23 THE CLERK: PLEASE STATE AND SPELL YOUR FULL NAME.

24 THE WITNESS: WILLIAM R. PIERCE, P-I-E-R-C-E.

25 THE COURT: MR. CRAIN.

26 MR. CRAIN: THE WITNESS APPEARS TO HAVE A BUNDLE OF  
27 DOCUMENTS WITH HIM. I DON'T BELIEVE WE HAVE BEEN SHOWN  
28 THOSE. I WOULD LIKE TO LOOK AT THEM IF HE USED THEM TO

1 REFRESH HIS RECOLLECTION IN ANY WAY.

2 THE COURT: HAVE YOU USED THEM TO REFRESH YOUR  
3 RECOLLECTION?

4 THE WITNESS: YES, I HAVE.

5 THE COURT: YOU MAY APPROACH AND LOOK.

6 GIVE THEM A MOMENT TO LOOK AT THESE  
7 DOCUMENTS.

8 MR. MC MULLEN: SURE.

9  
10 (PAUSE.)

11  
12 MR. CRAIN: YOUR HONOR, THESE APPEAR -- I THINK WE  
13 SHOULD TAKE A RECESS. WE NOW HAVE A SERIES OF FILES HERE  
14 WITH THE NAMES OF THREE, FOUR, FIVE, SIX, SEVEN OR EIGHT  
15 DIFFERENT -- MULTI PAGE DOCUMENTS. THEY CONTAIN LETTERS  
16 AND THINGS WITHIN. I HAVE NEVER SEEN THESE BEFORE.

17 MR. MC MULLEN: IF I MIGHT EXPLAIN, YOUR HONOR?

18 THE COURT: YES.

19 MR. MC MULLEN: ONE OF THE FILES THERE IS THE SAXON  
20 FILE THAT WE HAVE TALKED ABOUT --

21 THE COURT: UU.

22 MR. MC MULLEN: YES, UU FOR IDENTIFICATION THAT WE  
23 HAVE TALKED ABOUT.

24 THE OTHER FILES ARE JUST REPRESENTATIVE FILES  
25 OF SOME OF THE FILES THAT THIS WITNESS LOOKED THROUGH IN  
26 HIS SEARCH OF RECORDS FOR 1985. THOSE FILES ARE NOT USED  
27 TO REFRESH HIS RECOLLECTION BUT ARE JUST A REPRESENTATIVE  
28 SAMPLING OF FILES.

1 MR. CRAIN: HE SAID THEY -- THE WITNESS SAID THEY  
2 WERE USED.

3 THE COURT: LET ME HEAR THE DIRECT EXAMINATION AND  
4 LET ME HEAR THE CROSS EXAMINATION. AT THIS POINT THERE  
5 DOESN'T SEEM TO BE A NEED FOR A CONTINUANCE.

6 MR. CRAIN: NO, YOUR HONOR, THE PROBLEM IS THAT  
7 WITHIN THE FILES THERE ARE PAPERS WITH NOTATIONS THERE ARE  
8 NOTES. THERE ARE REPORTS.

9 THE COURT: COUNSEL, I UNDERSTAND. BOTH SIDES HAVE  
10 HAD A PROBLEM FOLLOWING MY DIRECTIONS WHEN IT COMES TO  
11 WITNESSES AND EXHIBITS.

12 MR. CRAIN: THAT'S RIGHT.

13 THE COURT: YOU HAD A PROBLEM EARLIER. THEY HAVE A  
14 PROBLEM NOW --

15 MR. CRAIN: THE PROBLEM I HAVE IS I HAVEN'T BEEN  
16 GIVEN A CHANCE TO LOOK AT THESE DOCUMENTS. I'M NOT GOING  
17 TO BE ABLE TO ONE, CROSS EXAMINE, THAT'S FOR SURE, OR TWO,  
18 PROPERLY MAKE OBJECTIONS ON DIRECT.

19 MR. MC MULLEN: YOUR HONOR, I WASN'T ANTICIPATING  
20 GOING IN TO THESE DOCUMENTS AT ALL WITH THE EXCEPTION OF  
21 UU, WHICH WE HAVE ALREADY TALKED ABOUT.

22 THE COURT: OKAY.

23 YOU MAY PROCEED.

24 MR. CRAIN: I DON'T THINK THIS IS FAIR TO MR. HUNT  
25 OR ME AND I OBJECT AT THIS POINT.

26 THE COURT: I UNDERSTAND.

27 MR. MC MULLEN: MAY I PROCEED?

28 THE COURT: YES.

## 1 DIRECT EXAMINATION

2  
3 BY MR. MC MULLEN:

4 Q SIR, WHAT IS YOUR OCCUPATION?

5 A I'M THE GENERAL MANAGER, FUNERAL DIRECTOR AND  
6 EMBALMER FOR THE PIERCE BROTHERS WESTWOOD VILLAGE MORTUARY  
7 AND CEMETERY.

8 Q AND HOW LONG HAVE YOU BEEN SO EMPLOYED?

9 A 33 YEARS.

10 Q AND WHERE IS IT THAT YOU WORK, WHAT IS THE  
11 LOCATION OF THIS WESTWOOD VILLAGE MORTUARY AND MEMORIAL  
12 PARK?

13 A IT'S 1218 GLENDON AVENUE LOS ANGELES.

14 Q AND IS IT CURRENTLY REFERRED TO --

15 THE COURT: IT'S ON GLENDON AVENUE?

16 THE WITNESS: GLENDON AND WILSHIRE.

17 THE COURT: AREN'T YOU RIGHT BEHIND THE AVCO  
18 THEATRES?

19 THE WITNESS: YES, SIR.

20 THE COURT: YES, THAT IS GLENDON. I'M SORRY.

21 MR. MC MULLEN:

22 Q YOU REFERRED TO IT AS THE PIERCE BROTHERS  
23 MORTUARY. NOW IS THAT THE NAME OF IT?24 A IT'S KNOWN AS PIERCE BROTHERS WESTWOOD  
25 VILLAGE MORTUARY.26 Q WERE YOU AT ONE TIME ONE OF THE OWNERS OF  
27 THAT BUSINESS?

28 A YES, I WAS.

1 Q WHEN DID THAT OWNERSHIP CHANGE TAKE -- WHEN  
2 DID THE OWNERSHIP CHANGE?

3 A JULY OF 1986.

4 Q SO THEN IN JULY OF 1986 SOMEONE ELSE BECAME  
5 THE OWNER OF THAT MORTUARY?

6 A THAT IS CORRECT.

7 Q WHO WAS THAT?

8 A THE PIERCE BROTHERS MORTUARY'S.

9 Q AND -- BUT YOU STILL WORK IN THE CAPACITY  
10 THAT YOU HAVE DESCRIBED WITH THAT MORTUARY EVEN THOUGH YOU  
11 ARE NO LONGER AN OWNER; IS THAT CORRECT?

12 A THAT'S CORRECT.

13 Q DO YOU KNOW IVAN WERNER?

14 A YES, I DO.

15 Q AND DID MR. WERNER WORK FOR YOU?

16 A YES.

17 Q APPROXIMATELY HOW LONG DID MR. WERNER WORK  
18 FOR YOU?

19 A AT THE WESTWOOD LOCATION?

20 Q YES.

21 A SIX -- FOUR YEARS.

22 Q WAS HE -- DID HE WORK FOR YOU IN 1985 AT THE  
23 WESTWOOD MORTUARY?

24 A YES.

25 Q AND DID HE WORK THERE IN 1983 AT WEST --

26 A YES.

27 THE COURT: WHAT YEARS DID HE WORK THERE,  
28 APPROXIMATELY?

1 THE WITNESS: WELL, HE WORKED AT THE WESTWOOD  
2 LOCATION FROM ABOUT 1981 TO '86 OR '87.

3 BY MR. MC MULLEN:

4 Q SIR, ARE RECORDS KEPT WITH RESPECT TO THE  
5 BUSINESS THAT'S CONDUCTED AT THE WESTWOOD VILLAGE MORTUARY  
6 AND MEMORIAL PARK?

7 A YES.

8 Q WHAT KIND OF RECORDS ARE KEPT?

9 A THEY'RE KEPT ON EVERY CASE THAT WE HANDLE  
10 REGARDING FUNERAL ARRANGEMENTS FOR BURIAL.

11 Q WITH RESPECT TO THE FILES THAT ARE KEPT AND  
12 THE WRITINGS THAT ARE MADE IN THE FILE ARE THEY MADE IN  
13 THE REGULAR COURSE OF BUSINESS THERE?

14 A YES.

15 Q AND ARE THE WRITINGS IN THE FILES MADE NEAR  
16 THE TIME THAT THE BUSINESS IS CONDUCTED?

17 A YES.

18 Q WHAT KIND OF ENTRIES ARE NOTED IN THE FILES?

19 A IF IT'S A SERVICE THAT WE ARRANGE FOR THE  
20 MORTUARY ARRANGEMENTS AND INTERMENT ARRANGEMENTS WE SHOW  
21 ON THE FILES THE INFORMATION THAT'S REQUIRED FOR THE DEATH  
22 CERTIFICATE, POSSIBLY A NEWSPAPER NOTICE, FLOWERS OR  
23 CERTIFIED COPIES THAT ARE OBTAINED FOR THE FAMILY'S,  
24 SERVICE INFORMATION IF SERVICES ARE IN THE PARK OR OUT OF  
25 THE PARK.

26 ON SOME OF THE FILES IT WOULD EVEN HAVE ON  
27 THE BACK OF IT AUTHORIZATIONS FOR CREMATION OR INTERMENT.

28 Q WAS CAUSE OF DEATH NOTED IN THE FILES?

1           A       NOT ON THE FILES.

2           Q       AND WHEN IS IT NOTED IN THE FILES?

3           A       IT WOULD HAVE BEEN NOTED IF THE LADY WHO  
4 HANDLED THE CERTIFICATES MADE A NOTATION OF THE CAUSE OF  
5 DEATH, BUT SHE DIDN'T DO IT ALL THE TIME.

6           Q       IS THE FACT THAT A CORONER CONDUCTED A  
7 MEDICAL EXAMINATION OF A DECEASED NOTED IN YOUR FILES?

8           A       IT WOULD SHOW THAT THE CORONER WOULD BE  
9 SIGNING THE DETECTIVE CERTIFICATE.

10          Q       IN YOUR EXPERIENCE AS FUNERAL DIRECTOR DOES  
11 THE CORONER BECOME INVOLVED WHEN THE CAUSE OF DEATH IS A  
12 SUICIDE?

13          A       YES.

14          Q       ARE YOU THE CUSTODIAN OF RECORDS FOR THE  
15 WESTWOOD MORTUARY AND MEMORIAL PARK?

16          A       YES.

17          Q       DO THE RECORDS THAT ARE MAINTAINED AT THE  
18 WESTWOOD VILLAGE AND MEMORIAL PARK CONTAIN FILES FROM  
19 1985?

20          A       YES.

21          Q       DID YOU CONDUCT A SEARCH OF YOUR FILES, THAT  
22 IS THE FILES THAT ARE MAINTAINED AT WESTWOOD VILLAGE  
23 MORTUARY AND MEMORIAL PARK FOR 1985?

24          A       YES.

25          Q       AND PLEASE DESCRIBE HOW YOU CONDUCTED THE  
26 SEARCH?

27          A       I WAS ASKED ORIGINALLY TO GO THROUGH THE  
28 FILES, AND THIS IS ABOUT SIX MONTHS AGO, FROM THE MONTHS

1 OF LIKE MARCH TO MAY, WHICH I DID BUT I WENT FROM FEBRUARY  
2 TO JUNE JUST TO GIVE A CLEARANCE ON EITHER SIDE.

3 THE COURT: OF WHAT YEAR?

4 THE WITNESS: 1985. AND THEN RECENTLY I HAD A CALL  
5 SAYING THAT --

6 MR. CRAIN: OBJECT. HE'S ANSWERED THE QUESTION.  
7 IT'S NONRESPONSIVE. THE CALL IS HEARSAY.

8 THE COURT: PUT ANOTHER QUESTION.

9 BY MR. MC MULLEN:

10 Q DID YOU SEARCH ADDITIONAL FILES WITH RESPECT  
11 TO 1985?

12 A YES.

13 Q AND WHAT SPAN OF TIME DID YOU SEARCH?

14 A FROM JANUARY 1ST TO DECEMBER 31ST.

15 Q OF 1985?

16 A YES.

17 Q AND WHEN YOU WERE CONDUCTING YOUR SEARCH WHAT  
18 IS IT THAT YOU WERE LOOKING FOR?

19 A A FILE FOR A MAN WHO WAS IN HIS -- BETWEEN 40  
20 AND 55 WHO DIED OF UNNATURAL CAUSES. IT WAS A CORONER  
21 CASE. LOOKING FOR SOMEBODY WHO HAD A SERVICE IN OUR  
22 CHAPEL AND IF THERE WAS A NOTATION OF A PERSON DYING FROM  
23 ASPHYXIATION IN A JACUZZI.

24 Q DID YOU FIND ANY FILE IN YOUR SEARCH OF THE  
25 FILES FOR 1985 THAT INVOLVED A MALE DECEASED WHO COMMITTED  
26 SUICIDE BY BEING ASPHYXIATED IN A SAUNA?

27 A NO.

28 Q YOU WORKED AT THIS MORTUARY DURING THE '80'S?



1 A YES.

2 Q DO YOU REMEMBER ANY FUNERAL OR INTERMENT THAT  
3 INVOLVED A MAN WHO COMMITTED SUICIDE BY ASPHYXIATION --

4 MR. CRAIN: EXCUSE ME, HE CAN ONLY TESTIFY AS TO  
5 HIS PERSONAL KNOWLEDGE SO IT CALLS FOR A CONCLUSION.

6 THE COURT: OVERRULED.

7 BY MR. MC MULLEN:

8 Q DO YOU REMEMBER --

9 MR. CRAIN: HEARSAY.

10 THE COURT: OVERRULED.

11 BY MR. MC MULLEN:

12 Q DO YOU REMEMBER ANY FUNERAL OR INTERMENT THAT  
13 INVOLVED A MAN WHO COMMITTED SUICIDE BY BEING ASPHYXIATED  
14 IN A SAUNA?

15 A YES.

16 Q HOW DID YOU -- HOW DID YOU REMEMBER THAT?

17 A LAST WEEK I WAS AT THE WOODLAWN CEMETERY AND  
18 I MENTIONED THIS TO ONE OF THE PAST EMPLOYEES OF THE  
19 WESTWOOD MORTUARY AND HIS NAME WAS MIKE STEEN. I TOLD HIM  
20 ABOUT THIS CASE AND HE SAYS, "OH, THAT SOUNDS LIKE --"

21 MR. CRAIN: OBJECT TO WHAT HE SAID. IT'S HEARSAY.  
22 MOTION TO STRIKE.

23 THE COURT: IS THIS WHAT CAUSED YOU TO RECALL?

24 THE WITNESS: YES.

25 THE COURT: OVERRULED.

26 MR. CRAIN: IS THIS WITNESS LIMITED TO WHY HE DID  
27 SOMETHING?

28 THE COURT: IT SOUNDS LIKE IT'S BASED ON REFRESHING

1 HIS RECOLLECTION.

2 WHAT IS IT THAT REFRESHED YOUR RECOLLECTION?

3 THE WITNESS: HE SAID, "THAT'S SAXTON."

4 I KIND OF REMEMBERED THE NAME AND I WENT BACK  
5 TO THE MORTUARY AND LOOKED UNDER THE INDEX FOR A "SAXTON"  
6 AND I FOUND AN ALLEN SAXTON AND A CASE NUMBER AND WENT TO  
7 HIS FILE AND I PULLED UP HIS FILE AND WHEN I DID I COULD  
8 REMEMBER THE CASE VERY WELL.

9 BY MR. MC MULLEN:

10 Q AFTER YOU PULLED THAT FILE WHAT DID YOU  
11 REMEMBER ABOUT THAT PARTICULAR CASE?

12 A I REMEMBERED THE WIFE COMING OUT TO THE  
13 MORTUARY TO SELECT THE CEMETERY PROPERTY FOR HIS CREMATED  
14 REMAINS.

15 Q WHAT DO YOU REMEMBER ABOUT THE DECEASED?

16 A THEY HAD AN ARTICLE IN THE L.A. TIMES ABOUT  
17 THIS MAN'S DEATH. HE LIVED IN THE MARINA AND HE DIED --

18 MR. KLEIN: YOUR HONOR, WHAT THE L.A. TIMES SAID IS  
19 HEARSAY, TOO.

20 MR. CRAIN: MOTION TO STRIKE.

21 THE COURT: IS THIS MATERIAL THAT YOU RECALL OR ARE  
22 YOU JUST RECALLING WHAT WAS SAID IN A NEWSPAPER?

23 IN OTHER WORDS, IS IT SOMETHING THAT YOU KNEW  
24 AT ONE TIME AND NOW REMEMBER, OR ARE YOU SIMPLY REPORTING  
25 WHAT YOU READ IN A NEWSPAPER?

26 THE WITNESS: AS SOON AS I PULLED THE FILE I  
27 REMEMBER THE GUY. I READ THE ARTICLE BECAUSE WE PULLED  
28 THE ARTICLE OUT OF THE PAPER AND PUT IN THE SCRAPBOOK.

1 MR. CRAIN: IT IS HEARSAY. MOTION TO STRIKE.  
2 THEY'RE QUOTING THE ARTICLE TO SHOW --

3 THE COURT: OVERRULED.

4 BY MR. MC MULLEN:

5 Q IF YOU COULD CONTINUE, WHAT DO YOU REMEMBER  
6 ABOUT THE MAN, MR. SAXON?

7 A THAT HE DIED IN A JACUZZI IN THE MARINA AND  
8 HE WAS INVOLVED IN SOME TYPE OF BUSINESSES THAT WERE NOT  
9 THE NORMAL BUSINESSES.

10 BY MR. MC MULLEN:

11 Q AND WHEN DID THIS OCCUR, THE BUSINESS WITH  
12 RESPECT TO MR. SAXTON AND THE MORTUARY?

13 A IT WOULD BE -- HE PASSED AWAY SEPTEMBER OF  
14 1983.

15 MR. MC MULLEN: FOR THE RECORD, YOUR HONOR, IF WE  
16 HAVEN'T DONE THIS, MAY WE MARK AS REAL PARTY'S IN INTEREST  
17 EXHIBIT UU?

18 THE COURT: IT HAS BEEN MARKED.

19 MR. MC MULLEN: THANK YOU.

20 MAY I APPROACH THE WITNESS YES.

21 THE COURT: YES.

22 BY MR. MC MULLEN:

23 Q SHOWING YOU WHAT'S BEEN MARKED AS DOUBLE U OR  
24 IDENTIFICATION.

25 IS THAT A PHOTOCOPY OF THE FILE THAT YOU HAVE  
26 BEEN TESTIFYING ABOUT?

27 A YES.

28 Q AT THE TIME THAT THIS OCCURRED IN 1983 WAS

1 THERE TALK AMONG THE EMPLOYEES AT THE MORTUARY ABOUT THIS  
2 PARTICULAR MAN, MR. SAXON.

3 MR. CRAIN: OBJECTION, YOUR HONOR, FOR TWO REASONS.

4 ONE, IT'S HEARSAY.

5 TWO, THERE IS NO FOUNDATION OF PERSONAL  
6 KNOWLEDGE.

7 THREE, IT'S IRRELEVANT.

8 THE COURT: OVERRULED. MR. WERNER TESTIFIED ABOUT  
9 HOW HE HAD HEARD ABOUT THIS INCIDENT.

10 MR. CRAIN: IF HE DIDN'T OBJECT -- IF HE DOESN'T  
11 WANT TO OBJECT THAT'S FINE WITH ME. WE'RE OBJECTING --

12 THE COURT: IT'S NOT OBJECTIONABLE. OVERRULED.

13 BY MR. MC MULLEN:

14 Q AT THE TIME THAT THERE WAS THIS BUSINESS WITH  
15 REGARD TO MR. SAXON'S REMAINS WAS THERE TALK AMONG THE  
16 EMPLOYEES AT THE MORTUARY ABOUT MR. SAXON.

17 A YES.

18 Q AND WHAT KIND OF -- WHAT WERE THE  
19 CONVERSATIONS ABOUT?

20 A ABOUT HIS DEATH AND THAT WE WERE GOING TO BE  
21 HANDLING THE INTERMENT OF THE CREMATED REMAINS IN THE  
22 PARK.

23 Q WAS THIS CAUSE OF DEATH OF MR. SAXON UNUSUAL  
24 WITH RESPECT TO THE TYPES OF CAUSES OF DEATH THAT WOULD  
25 COME INTO THE MORTUARY AT THAT TIME?

26 A YES.

27 Q DURING 1985 APPROXIMATELY HOW MANY FUNERAL  
28 SERVICES WERE CONDUCTED AT THE MORTUARY WHEN MR. WERNER

1 WORKED THERE?

2 A FUNERAL SERVICES OR FAMILIES THAT WE HAVE  
3 SERVED?

4 Q WELL, ACTUAL SERVICES IN YOUR -- WHERE PEOPLE  
5 WOULD COME AND THERE WOULD BE SOME KIND OF A SERVICE WITH  
6 RESPECT TO THE PERSON WHO HAD DIED.

7 THE COURT: YOU MEAN USE THE CHAPEL?

8 MR. MC MULLEN: YES.

9 THE WITNESS: USE OF THE CHAPEL. PROBABLY -- 1985,  
10 PROBABLY EIGHT TIMES A WEEK. SO 400 TIMES A YEAR, LET'S  
11 SAY.

12 BY MR. MC MULLEN:

13 Q ON AN AVERAGE, WHAT KIND OF ATTENDANCE WOULD  
14 THERE BE AT THESE SERVICES IN THE CHAPEL?

15 A ON AN AVERAGE 75 TO 100 PEOPLE.

16 Q DURING 1985 IN YOUR EXPERIENCE WORKING THERE  
17 AT THE MORTUARY DID YOU EVER COME INTO CONTACT WITH ANY  
18 DISTINGUISHED LOOKING MEN WHO ATTENDED FUNERAL SERVICES AT  
19 THAT MORTUARY?

20 MR. KLEIN: THAT'S TOO BROAD, YOUR HONOR.

21 THE COURT: SUSTAINED.

22 THE COURT: YOU INDICATED MR. SAXON DIED IN  
23 SEPTEMBER OF 1983. WHEN WERE THE SERVICES?

24 THE WITNESS: WE SHOWED HE HAD NO SERVICES.

25 BY MR. MC MULLEN:

26 Q AND WHAT WAS THE BUSINESS WITH RESPECT TO  
27 MR. SAXTON? THERE WERE NO SERVICES. DID YOU INTER HIS  
28 REMAINS OR WHAT --

1           A        I CAN REMEMBER HIS WIFE COMING OUT TO THE  
2 MORTUARY. I MET WITH HER. WE WALKED TO THE AREA IN THE  
3 CEMETERY WHERE SHE WANTED TO INTER THE CREMATED REMAINS  
4 AND I CAN REMEMBER TALKING TO HER, SHOWING HER THE EXACT  
5 LOCATION AND -- BUT I DON'T REMEMBER A SERVICE.

6           Q        WITH RESPECT TO FUNERAL SERVICES THAT WERE  
7 CONDUCTED IN 1985 IN THE CHAPEL, DO YOU REMEMBER ANY  
8 SERVICES RELATING DO A MALE WHO HAD COMMITTED SUICIDE BY  
9 ASPHYXIATION IN A SAUNA?

10          A        NO.

11          MR. MC MULLEN: MAY I JUST HAVE A MOMENT?

12          THE COURT: YES.

13

14                   (PAUSE.)

15

16          MR. MC MULLEN: NOTHING FURTHER.

17          THE COURT: CROSS EXAMINATION.

18

19                   CROSS EXAMINATION

20

21 BY MR. CRAIN:

22          Q        MR. PIERCE, WHEN DID YOU START WORKING THERE?

23          A        1963.

24          Q        AND YOU HAVE WORKED THERE CONTINUOUSLY SINCE  
25 THEN?

26          A        NO.

27          Q        OKAY.

28                   WHAT YEARS HAVE YOU BEEN AWAY?

1 A FROM THE WESTWOOD LOCATION?

2 Q YES.

3 A THE BUSINESS WAS SOLD IN '86. I LEFT IN '87  
4 AND WENT TO NORTH HOLLYWOOD TO PIERCE BROTHERS.

5 IN '88 I WENT TO PIERCE BROTHERS IN LOS  
6 ANGELES.

7 '8- -- '90 I WENT TO PIERCE BROTHERS CULVER  
8 CITY AND THEN WHEN THE BUSINESS SOLD IN '91 I RETIRED FOR  
9 10 MONTHS AND CAME BACK TO WORK IN '93.

10 Q SO WHO IS THE CURRENT OWNER OF THE FORMER  
11 WESTWOOD MEMORIAL PARK?

12 A IT IS THE SERVICE CORPORATION INTERNATIONAL  
13 BASED OUT OF HOUSTON, TEXAS.

14 Q YOU ARE NO LONGER AFFILIATED WITH THAT  
15 CORPORATION; CORRECT?

16 A CORRECT.

17 Q SO THE FIRST TIME YOU WENT TO LOOK FOR THESE  
18 RECORDS YOU WENT OVER TO THE -- WHAT WAS KNOWN AS THE  
19 WESTWOOD MEMORIAL PARK TO LOOK FOR THEM?

20 A MY OFFICE IS IN WESTWOOD MEMORIAL PARK.

21 THE COURT: HE RETURNED TO WESTWOOD MEMORIAL PARK  
22 IN '93.

23 THE WITNESS: I'M THE GENERAL MANAGER OF WESTWOOD  
24 MEMORIAL PARK AND PIERCE BROTHERS SANTA MONICA, BUT I  
25 RETURNED AS THE GENERAL MANAGER TWO YEARS AGO.

26 THE COURT: OKAY.

27 BY MR. CRAIN:

28 Q THE FIRST TIME YOU WENT TO LOOK FOR THESE

1 RECORDS WAS WHEN?

2 A OH, SIX MONTHS AGO. SOMEBODY CONTACTED ME TO  
3 SEE IF I COULD FIND A PERSON WHO DIED WHERE WE HAD A  
4 SERVICE IN OUR CHAPEL --

5 Q OKAY.

6 YOU HAVE ANSWERED THE QUESTION.

7 WHERE DID YOU GO TO LOOK FOR THE RECORDS?

8 A IN THE FILES.

9 Q AND THE FILES WERE WHERE?

10 A IN THE BACK OF THE OFFICE.

11 Q IN THE BACK OF THE OFFICE AT THE LOCATION ON  
12 GLENDON AVENUE IN WESTWOOD?

13 A YES.

14 Q AND IN WHAT MANNER WERE THEY BEING KEPT  
15 THERE?

16 A IN A METAL FILE DRAWER.

17 Q AND HOW MANY METAL FILE DRAWERS WERE THERE  
18 THAT YOU SEARCHED THROUGH?

19 A TWO.

20 Q DID YOU LOOK FOR ANY RECORDS FOR THE YEAR  
21 1986 BY THE WAY?

22 A NO.

23 Q SO YOU ONLY LOOKED FOR '86; RIGHT?

24 A YES.

25 Q DURING THE PERIOD OF TIME BETWEEN '86 AND  
26 YOUR SEARCH IN '96 THE PLACE HAS CHANGED HANDS HOW MANY  
27 TIMES?

28 A TWICE.



1 Q SO, IN OTHER WORDS, DURING THAT PERIOD OF  
2 TIME THERE HAVE BEEN THREE DIFFERENT OWNERS OF THE  
3 LOCATION THERE?

4 A YES.

5 Q NOW, DURING THE '80'S WHILE YOU WERE THERE,  
6 LET'S SAY, ON THE AVERAGE PER YEAR HOW MANY FUNERALS WOULD  
7 YOU ATTEND?

8 A COULD YOU STATE THAT AGAIN?

9 Q YEAH, YOU WERE THERE DURING PARTS OF THE  
10 '80'S; IS THAT RIGHT?

11 A YES.

12 Q AND ON THE AVERAGE HOW MANY FUNERALS A YEAR  
13 WOULD YOU ATTEND?

14 A THAT I HAVE ATTENDED?

15 Q ON THE AVERAGE DURING THAT PERIOD OF TIME HOW  
16 MANY FUNERALS WOULD YOU ATTEND DURING THE COURSE OF A  
17 YEAR?

18 A THAT I ATTEND? THAT I DIRECT OR -- I THINK  
19 YOU ARE TRYING TO SAY THAT I DIRECT OR WAS A PART OF A  
20 SERVICE.

21 Q DO YOU UNDERSTAND THE WORD "ATTEND"?

22 A YES.

23 Q THE QUESTION IS HOW MANY DID YOU ATTEND ON  
24 THE AVERAGE? WHERE YOU WENT TO IT AND WERE THERE?

25 A FOR THAT ONE YEAR?

26 Q AVERAGE YEAR DURING THE '80'S.

27 MR. MC MULLEN: OBJECTION. VAGUE.

28 THE COURT: DO YOU UNDERSTAND THE QUESTION?

1 THE WITNESS: IF HE SAID WHERE I DIRECT THE FUNERAL  
2 WHERE I WAS PRESENT AT THE FUNERAL I CAN ANSWER.

3 THE COURT: IS YOUR QUESTION HOW MANY WAS HE  
4 PRESENT AT?

5 MR. CRAIN: YES, YOUR HONOR.

6 THE COURT: HOW MANY FUNERALS WERE YOU PRESENT AT  
7 WHETHER OR NOT YOU DIRECTED OR WERE JUST THERE?

8 THE WITNESS: OKAY.

9 300.

10 BY MR. CRAIN:

11 Q 300 A YEAR?

12 A YES.

13 Q OKAY.

14 WERE YOU PRESENT AT EACH AND EVERYONE THAT  
15 OCCURRED DURING THAT TIME FRAME?

16 A NO.

17 Q AND WHAT PERCENTAGE OF THE FUNERALS HELD AT  
18 THAT PARTICULAR MEMORIAL PARK WOULD YOU SAY YOU WERE  
19 PRESENT AT?

20 A 200, 250.

21 Q SO SOMEWHERE IN THE NEIGHBORHOOD OF TWO  
22 THIRDS OF THEM YOU'D ATTEND AND ONE THIRD YOU WOULDN'T;  
23 RIGHT?

24 A RIGHT.

25 Q IS "ATTEND" A WORD OF ART, BY THE WAY, IN THE  
26 FUNERAL TRADE?

27 A "ATTEND" CAN MEAN -- YOU COULD ATTEND A  
28 SERVICE FOR A FRIEND.

1 Q ALL RIGHT.

2 SO YOU ARE TELLING US THAT OF THE FUNERALS  
3 HELD DURING AN AVERAGE YEAR IN THE '80S YOU'D BE PRESENT  
4 AT ABOUT TWO THIRDS OF THEM AND NOT PRESENT AT THE REST;  
5 CORRECT?

6 A CORRECT.

7 Q AND THAT WOULD APPLY TO LET'S SAY THE YEAR  
8 1985; IS THAT RIGHT?

9 A YES.

10 Q AND THE RECORDS OF -- PERTAINING TO A  
11 DECEASED THAT WERE KEPT DURING THAT PERIOD OF TIME, WOULD  
12 THERE BE ONE INDIVIDUAL AT THE WESTWOOD MEMORIAL PARK WHO  
13 WAS RESPONSIBLE FOR THEM? LET'S SAY, '83, '84 AND '85?

14 A YES.

15 Q UNLESS YOU TELL ME THERE'S SOME BIG CHANGE,  
16 LET ME KNOW AND WE'LL NARROW IT DOWN, BUT FOR THE YEARS  
17 '83, '84 AND '85 WERE THE RECORDS KEPT BY ANY ONE PERSON?

18 A YES.

19 Q OR BY DIFFERENT PEOPLE?

20 A NO.

21 Q AND WERE YOU THAT PERSON?

22 A YES.

23 Q SO FOR EACH AND EVERY RECORD YOU WOULD MAKE  
24 THE NOTATION; IS THAT RIGHT?

25 A YES.

26 Q SO, IN OTHER WORDS, SOMEONE ELSE WOULD WRITE  
27 ON PARTS OF THE RECORD PERTAINING TO THE BUSINESS RECORDS  
28 OF ANY PARTICULAR DECEASED INDIVIDUAL; IS THAT RIGHT?

1 A YES.

2 Q HOW MANY DIFFERENT PEOPLE WOULD PARTICIPATE  
3 IN FILLING OUT THE RECORDS ON THE AVERAGE OF ONE DECEASED  
4 PERSON?

5 A IT WOULD VARY.

6 Q WHAT WOULD IT VARY FROM, HIGH AND LOW?

7 A ONE TO THREE.

8 Q ALL RIGHT.

9 FROM TIME TO TIME IN YOUR WORK THERE WOULD  
10 YOU NOTE INACCURACIES IN ANY WAY IN THE RECORDS?

11 A YES.

12 Q AND WAS THIS A FREQUENT OCCURRENCE?

13 A NO.

14 Q ABOUT WHAT PERCENT OF THE TIME DID YOU NOTICE  
15 INACCURACY IN THE RECORD? MAYBE A FIFTH, SOMETHING LIKE  
16 THAT?

17 MR. MC MULLEN: OBJECTION. VAGUE AS TO TIME.

18 MR. CRAIN: THIS TIME PERIOD '83, '84, 85.

19 THE COURT: OVERRULED.

20 BY MR. CRAIN:

21 Q ABOUT A FIFTH OF THE TIME YOU'D NOTICE THAT  
22 SOMEONE HAD MADE A MISTAKE IN FILLING OUT THE FORMS?

23 A I WOULD SAY LESS THAN 5 PERCENT.

24 Q AND IF SOMEONE DIED OF UNNATURAL CAUSES,  
25 BASED ON YOUR LONG EXPERIENCE IN THE BUSINESS, WOULD THE  
26 LOS ANGELES COUNTY CORONER'S OFFICE BE INVOLVED IN THE  
27 CASE?

28 A YES.

1 Q AND WHY WOULD THAT BE?

2 A THE STATE OF CALIFORNIA REQUIRES A MEDICAL  
3 PHYSICAL -- A LICENSED MEDICAL PHYSICIAN TO SIGN THE DEATH  
4 CERTIFICATE AND IF HE CAN'T, THE CORONER HAS TO DO IT.

5 ANY KIND OF INJURIES THAT ARE RELATED TO THE  
6 CAUSE OF DEATH, IT HAS TO BE SIGNED BY THE CORONER.

7 Q SO IF SOMEONE IS THE VICTIM OF A HOMICIDE OR  
8 A SUICIDE THE CORONER -- HAS TO BE INVOLVED; CORRECT?

9 A YES.

10 Q CORONER HAS TO EXAMINE THE DECEASED?

11 A YES.

12 Q CORONER HAS TO FILL OUT VARIOUS PAPERS  
13 RELATING TO THE CORONERS EXAMINATION AND CONCLUSIONS ABOUT  
14 THE CAUSE OF DEATH?

15 A YES.

16 Q THAT IN SOME WAY BECOMES PART OF THE FILE OR  
17 DID BECOME PART OF THE FILE AT THE WESTWOOD MEMORIAL PARK  
18 DURING THAT TIME PERIOD; IS THAT CORRECT?

19 A NO.

20 Q OR SOME NOTATION WOULD BE MADE ON THE  
21 BUSINESS RECORDS THAT THE CAUSE OF DEATH HAD BEEN  
22 INVESTIGATED BY THE CORONER?

23 A YES.

24 Q SO, A DEATH BY ASPHYXIATION IN A JACUZZI,  
25 BASED ON YOUR EXPERIENCE, THAT WOULD BE CONSIDERED DEATH  
26 BY SOMETHING OTHER THAN NATURAL CAUSES; CORRECT?

27 A YES.

28 Q THAT WOULD BE SOMETHING THAT THE CORONERS

1 OFFICE WOULD BE REQUIRED BY LAW TO INVESTIGATE; CORRECT?

2 A YES.

3 Q BASED ON THE PROCEDURES THAT YOU HAVE TOLD  
4 THE COURT THAT YOU HAD AT THE WESTWOOD MORTUARY, A  
5 NOTATION WOULD BE MADE ON THE REPORT ABOUT THE CORONERS  
6 DETERMINATION AS TO THE CAUSE OF DEATH; CORRECT?

7 A YES.

8 Q NOW, SHOWING YOU WHAT HAS BEEN MARKED -- HE  
9 HAS THE --

10

11 (PAUSE.)

12

13 BY MR. CRAIN:

14 Q THE EXHIBIT -- I FORGOT THE --  
15 THE COURT: UU.

16 BY MR. CRAIN:

17 Q DOUBLE U.

18 DOES THIS -- STRIKE THAT.

19 DOES IT HAVE A PLACE WHERE THE CAUSE OF DEATH  
20 IS DESIGNATED BY THE PERSON FILLING OUT THESE RECORDS?

21 A YES.

22 Q COULD YOU CALL THE COURT'S ATTENTION TO THAT  
23 PARTICULAR PART?

24 A IT'S BLANK.

25 Q WELL, ON WHAT PAGE IS IT, SIR?

26 THE COURT: I CAN SEE IT. I HAVE GOT IT.

27 BY MR. CRAIN:

28 Q FOR THE RECORD, YOU ARE LOOKING AT WHERE?

1                   COULD YOU POINT TO IT.

2

3                   (WITNESS INDICATING.)

4

5 BY MR. CRAIN:

6           Q       UP HERE AT TOP OF THIS PARTICULAR PAGE IT  
7 SAYS ALLEN D. SAXON UP AT THE TOP OF THE PAGE ON DOUBLE U?

8           A       CORRECT.

9           Q       IT POINTS OUT THAT THE FUNERAL ARRANGEMENTS  
10 CALL FOR CREMATION?

11          A       CORRECT.

12          Q       THAT'S WHAT CREM MEANS?

13          A       YES.

14          Q       AND UP HERE ABOVE THE FIRST DOUBLE LINE THAT  
15 GOES ACROSS THE PAGE FROM LEFT TO RIGHT YOU NOTE THE WORDS  
16 "CAUSE OF DEATH;" CORRECT?

17          A       YES.

18          Q       AND AS YOU SAID, THAT'S BLANK; RIGHT?

19                   IT HAS NOTHING IN THERE THAT THIS MAN DIED OF  
20 SOME UNNATURAL CAUSE; IS THAT RIGHT?

21          A       YES.

22          Q       THERE IS NOTHING IN THERE THAT SAID THAT THE  
23 CORONER GOT INVOLVED IN INVESTIGATING THIS MAN'S DEATH,  
24 ISN'T THAT RIGHT?

25          A       YES.

26          Q       NOW, YOU HAVE SAID YOU HAD A CONVERSATION  
27 WITH SOME PEOPLE THERE AT THE OFFICE ABOUT THIS PARTICULAR  
28 DECEDENT; IS THAT RIGHT?

1 A YES.

2 Q AND WHERE DID THAT CONVERSATION TAKE PLACE?

3 A AT THE MORTUARY.

4 Q AT THE SAME PLACE?

5 A YES.

6 Q AND WHEN DID THAT CONVERSATION TAKE PLACE?

7 A IN SEPTEMBER OF 18 -- OR 1983.

8 Q AND THE STORY WAS THAT THE MAN WHO DIED DIED  
9 IN A JACUZZI BY SOME SORT OF ASPHYXIATION; IS THAT RIGHT?

10 A YES.

11 Q DO YOU SEE ANYTHING IN ANY OF THESE RECORDS  
12 THAT YOU HAVE GOT BEFORE YOU, EXHIBIT UU, THAT REFLECTS  
13 THAT MR. ALAN SAXON DIED IN THAT MANNER?

14 A NO.

15 Q DO YOU SEE ANYTHING IN THERE THAT INDICATES  
16 THAT HE DIED OF ANYTHING OTHER THAN NATURAL CAUSES?

17 A NO.

18 Q NOW, DID YOU HAVE SOME DISCUSSION -- WERE YOU  
19 TESTIFYING THAT MORE RECENTLY YOU HAD SOME DISCUSSION  
20 WHERE THE NAME OF THE DECEDENT CAME UP AGAIN?

21 A YES.

22 Q WHEN DID THAT DISCUSSION TAKE PLACE?

23 A LAST WEEK.

24 Q WHERE WAS THAT?

25 A AT THE WOODLAWN CEMETERY IN SANTA MONICA.

26 Q YOU WERE TALKING TO SOMEONE BY THE NAME OF  
27 WHAT?

28 A MIKE STEEN.



1 Q MR. STEEN REFRESH YOUR MEMORY ABOUT  
2 SOMETHING?

3 A YES.

4 Q HE TOLD YOU ABOUT A PERSON NAMED SAXTON;  
5 RIGHT?

6 A YES.

7 Q THAT IS THE NAME YOU WERE GIVE -- GIVING THE  
8 COURT DURING YOUR DIRECT EXAMINATION, A DECEDENT NAMED  
9 SAXTON?

10 A YES.

11 Q YOU SPELL SAXTON S-A-X-T-O-N?

12 A NO.

13 Q HOW DO YOU SPELL SAXTON?

14 A IT IS SAXON, S-A-X-O-N.

15 Q WELL, THE NAME ON THE DOCUMENTS IS SAXON,  
16 ISN'T IT?

17 A YES.

18 Q WHEN YOU WERE BEING ASKED QUESTIONS BY  
19 MR. MC MULLEN YOU TOLD THE COURT THAT YOU AND THIS OTHER  
20 INDIVIDUAL TALKED ABOUT A MAN NAMED SAXTON, DIDN'T YOU?

21 A HE GAVE ME THE NAME OF SAXTON.

22 Q HE GAVE YOU THE NAME SAXTON?

23 A NO.

24 Q WHEN YOU WERE TESTIFYING ON DIRECT AND YOU  
25 USED THE NAME "SAXTON" OVER AND OVER AGAIN YOU WERE IN  
26 ERROR; IS THAT RIGHT?

27 A YES.

28 Q YOU NEVER WENT TO LOOK UP A NAME SAXTON;

1 RIGHT?

2 A NO.

3 Q THERE WERE ABOUT EIGHT FUNERALS A WEEK AT THE  
4 CHAPEL THERE IN WESTWOOD?

5 A YES.

6 Q AND DID YOU ATTEND MR. ALAN SAXON'S SERVICE?

7 A NO.

8 MR. CRAIN: YOUR HONOR, I WONDER IF I COULD TAKE A  
9 FEW MOMENTS TO SEE WHAT THE WITNESS ALSO REFRESHED HIS  
10 MEMORY ABOUT. HE BROUGHT A BIG PILE OF DOCUMENTS. I READ  
11 PRETTY FAST.

12 THE COURT: WHAT IS IT THAT YOU USED THOSE OTHER  
13 PAGES FOR?

14 THE WITNESS: THOSE ARE JUST OTHER PEOPLE WHO DIED  
15 OF UNNATURAL CAUSES FROM JANUARY OF '85 TO DECEMBER OF '85  
16 JUST TO SHOW THE COURT THAT I WENT THROUGH ALL THE FILES,  
17 907 FILES.

18 THE COURT: ARE THESE THE ONES THAT WERE UNNATURAL  
19 CAUSED DEATHS?

20 THE WITNESS: UNNATURAL CAUSE, A MAN ABOUT THAT  
21 AGE, BUT NONE OF THEM EVEN COME CLOSE TO WHAT WE WERE  
22 LOOKING FOR.

23 THE COURT: GO AHEAD AND TAKE A MOMENT AND PAGE  
24 THROUGH THEM IF YOU WANT TO.

25 MR. CRAIN: I APPRECIATE IT, YOUR HONOR. THANK  
26 YOU.

27 THE COURT: WHO IS YOUR NEXT WITNESS,  
28 MR. MC MULLEN?

1 MR. MC MULLEN: MR. LESLIE ZOELLER.

2 THE COURT: MR. CRAIN, TAKE THE TIME TO GO THROUGH  
3 THE DOCUMENTS, PLEASE.

4

5 (PAUSE.)

6

7 MR. KLEIN: CAN I MAKE A QUICK PHONE CALL WHILE  
8 HE'S DOING THAT?

9

10 (PAUSE.)

11

12 BY MR. CRAIN:

13 Q HOW LONG DID YOU SPEND SEARCHING THESE FILES  
14 YOU TOLD US ABOUT FOR THOSE MONTHS IN 1985?

15 THE COURT: QUESTION. YOU SAY "THESE FILES." YOU  
16 MEAN THE ENTIRE BODY OF FILES AS OPPOSED TO THESE FILES  
17 BEING THE THREE OR FOUR HERE IN COURT?

18 MR. CRAIN: RIGHT.

19 THE WITNESS: INCLUDING THE FIRST TIME, I LOOKED  
20 ORIGINALLY BETWEEN FEBRUARY TO JUNE. SECOND TIME I WENT  
21 THROUGH THEM FROM JANUARY TILL DECEMBER.

22 BY MR. CRAIN:

23 Q WELL, DID YOU GO BACK FROM JANUARY TO  
24 DECEMBER AND RELOOK AT THE FEBRUARY THROUGH JUNE PERIOD  
25 AGAIN?

26 A YES.

27 Q OKAY.

28 THE FIRST TIME YOU LOOKED THROUGH THEM HOW

1 LONG DID YOU SPEND LOOKING THROUGH THESE FILES, THE  
2 FEBRUARY TO JUNE?

3 A LITTLE OVER AN HOUR.

4 Q AND HOW MANY FILES IS THAT?

5 A APPROXIMATELY 400, MAYBE.

6 Q AND JANUARY TO DECEMBER, HOW LONG DID YOU  
7 SPEND LOOKING THROUGH THOSE FILES?

8 A LITTLE OVER TWO HOURS.

9 Q AND HOW MANY FILES DID YOU LOOK AT DURING  
10 THAT TWO-HOUR PERIOD -- DURING THAT TWO-HOUR PERIOD? HOW  
11 MANY FILES DID YOU LOOK AT?

12 A I WENT THROUGH EACH FILE. WHERE IT WAS THE  
13 WOMAN'S NAME I DID NOT LOOK AT IT. WHERE IT WAS A MAN'S  
14 NAME I LOOKED TO SEE FOR CAUSE OF DEATH. SO, ACTUALLY  
15 LOOKING AT THE FILE WHERE I PULL IT OUT TO LOOK FOR A  
16 CAUSE OF DEATH. OUT OF THE 907 I WOULD SAY 450.

17 Q 450 FROM FEBRUARY TO JUNE OR 450 FROM JANUARY  
18 TO DECEMBER?

19 A FROM JANUARY TO DECEMBER.

20 Q SO, DURING THAT YEAR THERE WERE VERY FEW  
21 DEATHS AFTER JUNE; IS THAT RIGHT?

22 A NO, I'M SAYING WHEN I -- WHEN I ACTUALLY  
23 PULLED THE FILE AND LOOKED AT IT. THIS IS THE QUESTION,  
24 NOT -- NOT GOING THROUGH THE FILES. IF I WAS GOING  
25 THROUGH THE FILES AND I SAW A LADY'S NAME I DID NOT PULL  
26 THE FILE.

27 Q WHAT DO YOU MEAN A LADY'S NAME.

28 A IF HER NAME WAS MARY ROBERTS I WOULD NOT PULL

1 THE FILE. I WOULD PASS IT.

2 Q WOULD IT IF IT WERE EVELYN?

3 A EVELYN ROBERTS I WOULD PASS.

4 Q YOU WOULD NOT CONSIDER -- EVELYN WOULD NOT BE  
5 A MAN'S NAME SUCH AS EVELYN WAUGH?

6 A YES.

7 Q YOU WOULD OR WOULD NOT?

8 A NO.

9 Q HOW ABOUT CAROL SUCH AS A FORMER JUDGE HERE  
10 ON THE SUPERIOR COURT?

11 A I'D LOOK AT IT.

12 Q YOU'D LOOK --

13 A I LOOKED AT SOME NAMES THAT WERE WOMEN'S  
14 NAMES.

15 Q SO -- SO -- SO, IN OTHER WORDS, YOU LOOKED  
16 THROUGH THESE THINGS VERY, VERY QUICKLY IN ORDER TO COVER  
17 450 FILES IN THAT PERIOD OF TIME?

18 A WHEN I'D COME TO A MAN'S FILE I'D JUST LOOK  
19 INSIDE. IF THERE WAS A DOCTOR WITH A CAUSE OF DEATH I'D  
20 GO ON TO THE NEXT ONE.

21 Q NOW, THE FILES THAT YOU BROUGHT TO COURT  
22 TODAY, WHICH I'M NOW HOLDING IN MY HAND, IN ALL OF THESE  
23 CASES THE INDIVIDUAL DIED OF UNNATURAL MEANS; IS THAT  
24 RIGHT?

25 A YES.

26 Q ALL RIGHT.

27 MR. CRAIN: MAY I APPROACH THE WITNESS AGAIN?

28 THE COURT: YES.

1 BY MR. CRAIN:

2 Q LET --

3 MR. CRAIN: SHOULD WE HAVE THESE MARKED OR COPIED  
4 OR SOMETHING? I'M GOING TO ASK HIM SOME QUESTIONS ABOUT  
5 THEM. SINCE THEY'RE HIS ORIGINALS.

6 THE COURT: WHAT IS IT THAT YOU WANT TO DO WITH  
7 THEM?

8 MR. CRAIN: WANT TO ASK HIM A QUESTION OR TWO ABOUT  
9 SEVERAL OF THEM TO PROVE A POINT.

10 THE COURT: WHAT?

11 MR. CRAIN: LET ME JUST ASK THE QUESTION.

12 MR. MC MULLEN: MAY I APPROACH?

13 THE COURT: YES.

14 BY MR. CRAIN:

15 Q LET ME SHOW YOU THE FILE OF AN INDIVIDUAL BY  
16 THE NAME OF STEVEN RICHARD. DO YOU SEE THIS FILE?

17 A YES.

18 Q WHY DON'T WE MOVE THIS OTHER EXHIBIT OUT OF  
19 THE WAY.

20 DO YOU SEE HERE WHERE IT SAYS "CAUSE OF  
21 DEATH"?

22 A YES.

23 Q BLANK; IS THAT RIGHT?

24 A RIGHT.

25 Q YOUR TESTIMONY IS THIS INDIVIDUAL DIED OF  
26 UNNATURAL MEANS?

27 A YES.

28 I SHOULD STRIKE THAT AND PUT IT THAT HE DIED

1 WHERE THE CORONER WOULD HAVE SIGNED THE DEATH CERTIFICATE  
2 BECAUSE THERE WASN'T A LICENSED PHYSICIAN WHO COULD SIGN  
3 IT.

4 Q WELL, A MINUTE AGO YOU TOLD THE COURT THAT  
5 THESE FILES, WHICH I NOW HAVE IN MY HANDS, ARE PEOPLE WHO  
6 DIED OF UNNATURAL MEANS. DO YOU REMEMBER THAT TESTIMONY A  
7 MOMENT AGO?

8 A I SAID THE CORONER IS INVOLVED WHEN THERE IS  
9 A DOCTOR NOT IN ATTENDANCE OR THERE IS UNNATURAL CAUSES.

10 Q THERE'S NOTHING ABOUT A DOCTOR OR CAUSE OF  
11 DEATH HERE; RIGHT?

12 A YES.

13 Q I SEE.

14

15 (PAUSE.)

16

17 Q SHOWING YOU -- THAT IS THE SAME ONE.

18 SO IN SOME PLACES WHERE THE CORONER WAS  
19 INVOLVED YOU PUT "CORONER DT" OR "DT CORONER"?

20 A CORONER DOWNTOWN.

21 Q IN THE CASE OF MR. ALLEN SAXON THAT DOESN'T  
22 APPEAR ANYWHERE, DOES IT?

23 A PIERCE BROTHERS MORTUARY DID NOT HANDLE HIS  
24 CREMATION OR SERVICES.

25 Q THE QUESTION IS, DOES THE WORD "DT CORONER"  
26 OR CORONER DT APPEAR ANYWHERE ON MR. SAXON'S BUSINESS  
27 RECORDS WHICH YOU TOLD US YOU RELIED ON AND BROUGHT TO  
28 COURT TODAY?

1           A           YES, WE DID NOT HANDLE THE ARRANGEMENTS. WE  
2 DID NOT HANDLE THE DEATH CERTIFICATE. WE ONLY ARRANGED  
3 FOR THE INTERMENT OF HIS CREMATED REMAINS IN THE PARK.

4           MR. CRAIN:   MOTION TO STRIKE AS NONRESPONSIVE.

5           THE COURT:   I'LL ALLOW IT.

6 BY MR. CRAIN:

7           Q           DOES IT APPEAR IN THE BUSINESS RECORDS THAT  
8 YOU BROUGHT THAT ALAN -- THE WORDS CORONER DT OR DT  
9 CORONER?

10          A           NO, THAT INFORMATION WOULD HAVE BEEN NOTED BY  
11 WHOEVER MADE THE ARRANGEMENTS --

12          MR. CRAIN:   I MOVE TO STRIKE ANYTHING ELSE HE SAID  
13 BECAUSE IT'S CLEARLY HEARSAY, IT'S A SUPPOSITION,  
14 CONCLUSION ON HIS PART AS TO WHAT SOME OTHER RECORD OR  
15 WHAT SOMEBODY ELSE MAY HAVE DONE. IT'S JUST ABSURD.

16          THE COURT:   I'LL ALLOW THE ANSWER TO STAND.

17          MR. CRAIN:   EXCUSE ME JUST A MINUTE.

18

19                       (A CONFERENCE WAS HELD BETWEEN COUNSEL  
20                       AND THE DEFENDANT, NOT REPORTED.)

21

22          THE COURT:   HOW MANY MORE WITNESSES DOES THE  
23 RESPONDENT HAVE?

24          MR. MC MULLEN:   EXCUSE ME?

25          THE COURT:   HOW MANY MORE WITNESSES DO YOU HAVE?

26          MR. MC MULLEN:   MR. ZOELLER, WE HAVE MICHAEL RAY,  
27 WE HAVE MARTIN LEVIN, BARRY CHARTIER AND TOM SIMPSON.  
28 FIVE WITNESSES.



1 WE EXPECT THEM ALL -- EXCEPT -- TO THE EXTENT  
2 THAT WE DON'T HAVE THEM TESTIFY TODAY, WE EXPECT THEM TO  
3 BE ALL IN TOMORROW IN THE MORNING DEPENDING HOPEFULLY ON  
4 HOW WE GO.

5 MR. CRAIN: NOTHING FURTHER.

6 THE COURT: WE HAVE USED THE TERM -- THE TERM HAS  
7 BEEN USED IN THE QUESTIONS AND ANSWERS AS TO MR. SAXON  
8 THAT HE DIED AS A RESULT OF A SUICIDE IN A JACUZZI AND  
9 ALSO THAT HE DIED IN A SUICIDE IN A SAUNA OF ASPHYXIATION.

10 WHAT IS YOUR RECOLLECTION, A DEATH IN A  
11 JACUZZI OR SAUNA FROM ASPHYXIA?

12 THE WITNESS: JACUZZI.

13 THE COURT: WATER, IN OTHER WORDS?

14 THE WITNESS: WATER.

15 THE COURT: ALL RIGHT.

16 REDIRECT.

17 MR. MC MULLEN: JUST A COUPLE OF QUESTIONS.

18 MR. CRAIN: I HAVE ONE WITH FURTHER QUESTION.

19 THE COURT: YOU CAN DO IT RIGHT AFTER

20 MR. MC MULLEN.

21 MR. CRAIN: SURE.

22

23 REDIRECT EXAMINATION

24

25 BY MR. MC CULLEN:

26 Q WHY IS IT IN MR. SAXON'S FILE THERE IS NO  
27 MENTION OF HIS CAUSE OF DEATH?

28 MR. CRAIN: CALLS FOR SPECULATION.

1 THE COURT: OVERRULED.

2 THE WITNESS: WE DID NOT HANDLE THE ARRANGEMENTS.  
3 WE JUST SOLD A CEMETERY PLOT.

4 BY MR. MC CULLEN:

5 Q SO WHAT -- AND THEN WHY ISN'T THERE ANY  
6 REFERENCE TO THE CORONER OR CORONER DT IN MR. SAXON'S  
7 FILE?

8 A WE WERE NOT INVOLVED WITH THE DEATH  
9 CERTIFICATE.

10 Q WHEN YOU SAY "ARRANGEMENTS", WHAT DO YOU MEAN  
11 "ARRANGEMENTS"?

12 A IF WE WERE CALLED TO HANDLE THE ARRANGEMENT  
13 FOR CREMATION OR SERVICE THEN WE HAVE TO OBTAIN THE LEGAL  
14 PERMITS FROM THE COUNTY. THAT HAS TO BE DONE WITH --  
15 DEATH CERTIFICATE SIGNED BY THE CORONER OR SOME OTHER  
16 DOCTOR SO THE HEALTH DEPARTMENT CAN ISSUE PERMITS SO WE  
17 CAN BURY OR CREMATE.

18 Q SO BECAUSE YOU DIDN'T HANDLE THOSE  
19 ARRANGEMENTS WITH MR. SAXON THAN YOU WOULDN'T HAVE NEEDED  
20 TO HAVE THAT INFORMATION WITH RESPECT TO THE CERTIFICATE  
21 OF DEATH; IS THAT CORRECT?

22 A RIGHT.

23 MR. MC MULLEN: ONE MOMENT.

24

25 (PAUSE.)

26

27 MR. MC MULLEN: NOTHING FURTHER.

28 THE COURT: MR. CRAIN, DID YOU HAVE ANOTHER

1 QUESTION.

2

3

RECROSS EXAMINATION

4

5 MR. CRAIN: YES, ONE OR TWO QUESTIONS HERE.

6 BY MR. CRAIN:

7 Q JUST TO CLARIFY THIS, YOU TOLD US THAT IN THE  
8 CASE OF ALLEN SAXON THERE IS A REASON THAT IN YOUR VIEW  
9 WHY THE REFERENCE TO THE CORONER DOES NOT APPEAR IN THOSE  
10 FILES THAT YOU BROUGHT TO COURT; RIGHT?

11 A YES.

12 Q AND ONCE AGAIN THE REASON IS WHAT?

13 A WE DID NOT HANDLE THE CREMATION ARRANGEMENTS.  
14 ANOTHER MORTUARY WENT TO THE CORONERS OFFICE AND GOT THE  
15 BODY AND GOT THE CERTIFICATE AND FILED THE CERTIFICATE AND  
16 DID THE CREMATION.

17 MRS. SAXON BROUGHT THE CREMATED REMAINS TO US  
18 FOR BURIAL PURPOSES ONLY.

19 Q SO, IN OTHER WORDS, MR. SAXON DIED; CORRECT?

20 A YES.

21 Q ANOTHER BUSINESS, SEPARATE FROM YOUR COMPANY  
22 AT THAT TIME, CREMATED THE BODY; CORRECT?

23 A YES.

24 Q AND THEN SOMEONE TRANSPORTED THE BODY TO THE  
25 WESTWOOD MORTUARY FOR THE FUNERAL SERVICE; CORRECT?

26 A THERE WAS NO FUNERAL SERVICES --

27 Q OKAY.

28 TRANSPORTED IT THERE FOR INTERMENT; CORRECT?

1 A YES.

2 Q SO, SIMILARLY, IF SOMEONE WERE TO DIE LET'S  
3 SAY DURING THAT PERIOD OF TIME, THAT PERSON MIGHT BE  
4 CREMATED BY ANOTHER BUSINESS; CORRECT?

5 A YES.

6 Q THE -- THE REMAINS ARE PUT IN SOME SORT OF AN  
7 URN OR SOMETHING LIKE THAT?

8 A YES.

9 Q AND THEN THE URN, THE REMAINS, COULD BE  
10 BROUGHT TO THE WESTWOOD MORTUARY NOT ONLY FOR BURIAL BUT  
11 FOR A SERVICE PRIOR TO THE BURIAL, CORRECT, IF SOMEONE  
12 CHOSE TO DO THAT?

13 A YES.

14 Q AND IN THE CASE OF SOMEONE --  
15 MR. CRAIN: SHOULD I WAIT, YOUR HONOR?  
16 THE COURT: NO, I'M LISTENING.

17 BY MR. CRAIN:

18 Q IN THE CASE OF SOMEONE WHO -- WHO DIED --  
19 LET'S SAY, HYPOTHETICALLY, SOMEONE DIES OF ASPHYXIATION IN  
20 A JACUZZI OR A SAUNA. THAT PERSON IS THEN CREMATED BY  
21 SOME OTHER COMPANY. THAT PERSON COULD THEN HAVE BEEN  
22 BROUGHT TO THE WESTWOOD MORTUARY IN 1985, THERE COULD HAVE  
23 BEEN A FUNERAL SERVICE AND THEN THE PERSON COULD BE  
24 INTERRED AT THE WESTWOOD MORTUARY?

25 IS THAT A PROCEDURE THAT COULD HAVE TAKEN  
26 PLACE?

27 A YES.

28 Q AND IN THAT CASE THE -- THE BUSINESS RECORDS

1 OF THE WESTWOOD MORTUARY WOULD BE SIMILAR OR ACTUALLY THE  
2 SAME TO ALLEN SAXON'S RECORDS IN THAT THEY WOULD IN NO WAY  
3 REFLECT THAT THE CORONER HAD BEEN INVOLVED AND THAT THERE  
4 HAD BEEN AN UNNATURAL DEATH; ISN'T THAT RIGHT?

5 A YES.

6 Q INCIDENTALLY, WERE YOU CONTACTED BY AN  
7 INVESTIGATOR FOR US, MR. MACKIE, WHO ASKED YOU TO LOOK  
8 THROUGH THOSE RECORDS AND YOU REFUSED?

9 A HE ASKED ME TO LOOK AND I CALLED BACK AND  
10 TOLD HIM I WOULD LOOK THROUGH THEM ALL.

11 MR. CRAIN: OH, YOU DID.

12 ALL RIGHT.

13 I HAVE NOTHING FURTHER.

14 THE COURT: YOU SAID THAT MR. SAXON -- I FORGET THE  
15 TERM, WAS INVOLVED IN -- SOME KIND OF STRANGE BUSINESS  
16 THAT HE WAS INVOLVED IN. WHAT IS THE NATURE -- WHAT IS  
17 YOUR RECOLLECTION OF THE NATURE OF THE WORK?

18 THE WITNESS: I DON'T REMEMBER THE NATURE OF THE  
19 WORK BUT I REMEMBER THE ARTICLE SAYING THAT HE WAS  
20 INVOLVED WITH UNUSUAL BUSINESSES.

21 THE COURT: DO YOU REMEMBER WHAT --

22 THE WITNESS: NO, I DON'T.

23 THE COURT: ANYTHING TO DO WITH GOLD?

24 THE WITNESS: I HAVE HEARD THAT STORY. I CAN'T SAY  
25 "YES" OR "NO".

26 MR. CRAIN: YOUR HONOR, I'M GOING TO HAVE TO MOVE  
27 TO STRIKE WHAT HE READ. THE ARTICLE ITSELF IS HEARSAY. I  
28 MOVE TO STRIKE ANYTHING RELATIVE TO THAT. THAT IS REALLY

1 MOVING INTO THE GOSSIP FROM THE AIR.

2 THE COURT: I'M ASKING IT WHERE HE GOT THE "UNUSUAL  
3 BUSINESSES."

4 MR. KLEIN: IF HE HEARD THE FROM THE D. A. THAT'S  
5 WHERE HE HEARD IT.

6 MR. MC MULLEN: OBJECT, YOUR HONOR.

7 THE COURT: LET'S LET THE WITNESS TELL US.

8 DO YOU HAVE ANY RECOLLECTION ABOUT SUPERIOR  
9 STAMP OR COIN, ANYTHING LIKE THAT?

10 THE WITNESS: NO.

11 THE COURT: ANY RECOLLECTION OF THE NATURE OF THE  
12 UNUSUAL BUSINESSES?

13 THE WITNESS: NO. IT'S IN THE ARTICLE, THOUGH.

14 THE COURT: RIGHT. BUT DO YOU HAVE ANY INDEPENDENT  
15 RECOLLECTION OF MR. SAXON'S BUSINESSES AT THIS TIME?

16 THE WITNESS: NO. I KNOW THAT THE ARTICLE WAS  
17 ABOUT A YOUNG MAN -- OR -- MIDDLE AGED MAN DYING AND HE  
18 WAS IN UNUSUAL BUSINESSES. IT COULD BE COINS. I DON'T  
19 KNOW. I'D HAVE TO GUESS ON THAT.

20 THE COURT: OKAY.

21 THE WITNESS: IF THE COURT WANTED TO PULL THE  
22 ARTICLE OUT OF THE TIMES IT'S THERE.

23 THE COURT: YOU DON'T HAVE THE ARTICLE IN THE FILE?

24 THE WITNESS: NO. KIND OF OUR SCRAPBOOK, WHEN WE  
25 SOLD TO THIS GROUP OUT OF HOUSTON THEY SENT THAT TO THE  
26 HOUSTON MUSEUM BECAUSE WE HAVE A LOT OF CELEBRITIES THERE  
27 IN WESTWOOD.

28 THE COURT: ANYTHING FURTHER?

1 MR. MC MULLEN: YEAH, JUST ONE QUESTION, MAYBE A  
2 COUPLE.

3  
4 FURTHER REDIRECT EXAMINATION

5  
6 BY MR. MC MULLEN:

7 Q SIR, DO YOU REMEMBER DURING THE 80'S, BETWEEN  
8 1983 AND 1986, ANY OTHER MIDDLE AGED MAN WHO WAS INTERRED  
9 THERE AT THE MORTUARY THAT HAD DIED FROM BEING --  
10 ASPHYXIATION IN A JACUZZI BESIDES MR. SAXON?

11 A NOT ASPHYXIATION BUT IN A JACUZZI.

12 Q DURING -- BETWEEN 1983 AND 1986 DURING THE  
13 TIME THAT YOU WERE THERE AT THE MORTUARY DO YOU HAVE A  
14 RECOLLECTION OF ANY MIDDLE AGED MAN BEING INTERRED THERE  
15 AT THE MORTUARY WHO DIED FROM ASPHYXIATION IN A SAUNA?

16 A NO.

17 MR. MC MULLEN: NOTHING FURTHER.

18  
19 FURTHER RECROSS EXAMINATION

20  
21 BY MR. CRAIN:

22 Q WHERE WAS SAXON -- WHERE WERE HIS REMAINS  
23 ACTUALLY PLACED?

24 A IN THE CEMETERY. IF YOU ARE FAMILIAR WITH  
25 THE WESTWOOD CEMETERY, IF YOU KNOW WHERE NATALIE WOOD IS  
26 BURIED --

27 Q I USUALLY GO TO MARILYN MONROE'S CRYPT  
28 MYSELF. IT'S HALF WAY BETWEEN MARILYN'S AND NATALIE'S?

1           A           IT'S ABOUT 12 FEET FROM NATALIE WOODS' GRAVE  
2 UNDER A CAMAPHOR TREE.

3           Q           SO SAXON IS IN THE GROUND SOMEPLACE; RIGHT?

4           A           YES.

5           Q           NOT IN A WALL?

6           A           NO.

7           Q           AND --

8  
9                       (A CONFERENCE WAS HELD BETWEEN COUNSEL  
10                      AND THE DEFENDANT, NOT REPORTED.)

11  
12           Q           DID THE D. A. GIVE YOU ANY INFORMATION BEFORE  
13 YOU COMMENCED YOUR SEARCH AS TO ANY OF THE BACKGROUND OF  
14 THE INDIVIDUAL THAT YOU WERE SUPPOSED TO BE SEARCHING FOR?

15           A           YES.

16           MR. CRAIN:   NOTHING FURTHER.

17           THE COURT:   MR. WERNER EVER TELL YOU ANYTHING ABOUT  
18 SPOTTING SOMEONE WHO HE HEARD WAS DEAD BUT HE HAD SEEN  
19 ALIVE.

20           THE WITNESS:  YES.

21           THE COURT:   WHEN WAS THAT?

22           THE WITNESS:  TWO WEEKS AGO, MAYBE.

23           THE COURT:   WHAT DID HE SAY?

24           THE WITNESS:  I GUESS A LITTLE OVER TWO -- I CALLED  
25 HIM UP BECAUSE THIS IS PUTTING A LOT ON ME, YOU KNOW,  
26 TO -- TO GO THROUGH ALL THE FILES AND I CALLED HIM UP AND  
27 SAID, "WHAT ARE YOU DOING," YOU KNOW.

28                       HE SAID WELL, HE THOUGHT HE SAW THIS PERSON



1 AND I SAID I DON'T SEE HOW YOU COULD DO THIS --

2 MR. CRAIN: I DON'T SEE THAT --

3 THE COURT: DON'T INTERRUPT. LET HIM FINISH HIS  
4 ANSWER.

5 MR. CRAIN: IT IS NOT RESPONSIVE --

6 THE COURT: LET HIM FINISH THE ANSWER. THIS IS MY  
7 QUESTION.

8 THE WITNESS: I TALKED TO IVAN AND I WAS UPSET  
9 BECAUSE OF WHAT HE WAS PUTTING ME THROUGH.

10 THE COURT: DID HE GIVE ANY ADDITIONAL INSIGHT IN  
11 TO LOCATING THIS FILE?

12 THE WITNESS: NO.

13 THE COURT: DID HE GIVE YOU ADDITIONAL INCITE TO  
14 REFRESH YOUR RECOLLECTION?

15 THE WITNESS: NO. I TOLD HIM HE COULD COME OVER  
16 AND LOOK THROUGH THE FILES IF HE WANTED TO. HE SAID HE  
17 SAW -- HE THOUGHT IF HE SAW SOMEBODY HE SHOULD TESTIFY  
18 BECAUSE IF SOMEBODY WAS FOUND GUILTY FOR SOMETHING THEY  
19 SHOULD HAVE BEEN -- YOU KNOW, HE SHOULD COME FORWARD AND  
20 TESTIFY.

21 THE COURT: ALL RIGHT.

22 MR. MC MULLEN, ANYTHING?

23 MR. MC MULLEN: NOTHING FURTHER, YOUR HONOR.

24 THE COURT: ANYTHING FURTHER?

25 MR. CRAIN: EXCUSE ME, YOUR HONOR.

26

27 (RESPONDENTS COUNSEL CONFER.)

28

1 MR. CRAIN: NOTHING FURTHER.

2 THE COURT: MAY THE WITNESS BE EXCUSED?

3 MR. MC MULLEN: YES, YOUR HONOR.

4 THE COURT: ANY OBJECTION?

5 MR. CRAIN: NO, YOUR HONOR.

6 MR. KLEIN: NO, YOUR HONOR.

7 THE COURT: THANK YOU, SIR. YOU ARE EXCUSED.

8 ALL RIGHT.

9 LET'S TAKE OUR EVENING RECESS.

10 MR. MC MULLEN: YOUR HONOR, YOU ASKED US WHO WOULD  
11 THE NEXT WITNESS BE. IN LIGHT OF THE FACT THAT -- THE  
12 NEXT WITNESSES WOULD BE OUR CIVILIAN WITNESSES. FIRST  
13 WOULD BE MICHAEL RAY OR MARTIN LEVIN.

14 THE COURT: YOU HAVE GOT RAY, LEVIN, ZOELLER --

15 MR. MC MULLEN: SIMPSON AND CHARTIER.

16 THE COURT: ALL RIGHT.

17 SO YOU HAVE GOT FIVE WITNESSES LEFT. YOU  
18 THINK YOU CAN DO THEM IN HALF A DAY?

19 MR. MC MULLEN: I'M HOPEFUL. THEY SEEM LIKE  
20 THEY'RE FAIRLY SHORT WITNESSES.

21 THE COURT: ALL RIGHT.

22 ANY REBUTTAL?

23 MR. CRAIN: THERE WILL BE REBUTTAL, YES.

24 THE COURT: WHO IS THAT GOING TO BE?

25 MR. CRAIN: SOME OF IT -- BASED ON OUR DISCUSSION  
26 TODAY IS TECHNICALLY NOT REBUTTAL. I'M GOING TO RECALL  
27 MR. HUNT RELATIVE TO A FEW THINGS THAT THE PROSECUTION HAS  
28 PRESENTED AND PROBABLY THE -- THE D. A. INVESTIGATOR. WE

1 CAN DO THEM WHILE THEY'RE ON THE STAND AS PART OF HIS  
2 CASE. THERE IS SOME THINGS WE HAVEN'T BEEN ABLE TO WORK  
3 OUT --

4 THE COURT: SURE.

5 MR. CRAIN: I'M REALLY KIND OF -- ON OVERLOAD HERE.

6 THE COURT: WHEN YOU SAY THE WITNESSES CONCERNING  
7 THINGS YOU HAVEN'T BEEN ABLE TO WORK OUT. ARE THESE THE  
8 CHAIN OF CUSTODY THINGS.

9 MR. CRAIN: I'M NOT REALLY CERTAIN. I DO THINK OF  
10 THIS IS TOO LONG. I'M HAVING A DIFFICULT TIME ANSWERING  
11 THE COURT.

12 THE COURT: WHY DON'T YOU GUYS WHEN WE BREAK NOW  
13 TALK AND GO THROUGH EACH OTHERS CASES TO SAVE THE TIME.

14 MR. CRAIN: ALTHOUGH I THINK WE'LL BE THROUGH WITH  
15 THE EVIDENCE -- I DON'T KNOW FOR SURE, BUT BY THURSDAY.

16 THE COURT: BY TOMORROW, SHOULDN'T WE?

17 MR. CRAIN: JUST IN CASE, I WANTED TO BRING TO THE  
18 COURT'S ATTENTION THAT I HAVE GOT TWO PROBLEMS THAT DAY IN  
19 BEVERLY HILLS AND I ASK THAT I BE ALLOWED TO GO THERE AND  
20 HANDLE THEM.

21 THE COURT: THAT'S DAYS AHEAD. SOUNDS LIKE WE  
22 SHOULD BE ABLE TO FINISH TOMORROW OR WEDNESDAY AT THE  
23 LATEST. SO, IT SOUNDS LIKE IT SHOULDN'T BE A PROBLEM.

24 MR. KLEIN: I MIGHT INDICATE TO THE COURT THAT WE  
25 SUBPOENAED THE --

26 THE COURT: GOT A CALL FROM BRODY WANTING TO KNOW  
27 WHAT TIME HE COULD BRING A MOTION TO SUPPRESS.

28 MR. CRAIN: I THINK THAT COULD BE DONE FIRST THING

1 IN THE MORNING.

2 THE COURT: IT WILL BE BUT WHAT IS THAT ALL ABOUT?

3 MR. KLEIN: WE HAVE BEEN INFORMED THAT THERE IS  
4 EVIDENCE IN A CIVIL FILE THAT WOULD CORROBORATE SOME OF  
5 MR. HUNT'S TESTIMONY RELATING TO SOME OF THE QUESTIONS  
6 THAT THE COURT INQUIRED OF MR. HUNT CONCERNING HIS  
7 CONVERSATION WITH MR. BARENS BEFORE THE MARSDEN HEARING  
8 AND ALSO --

9 THE COURT: WHAT CIVIL FILE?

10 MR. KLEIN: IT'S -- IT ALSO MAY HAVE EVIDENCE THAT  
11 MR. BARENS HAS ADMITTED THAT HE STEELS MONEY --

12 THE COURT: WHAT CIVIL FILE?

13 MR. KLEIN: THE NAME OF THE LAW SUIT IS FLIER,  
14 ROSS, AND BARENS VERSUS BARENS AND MY UNDERSTANDING IS  
15 THAT THERE ARE INTERROGATORIES AND ADMISSIONS WHERE  
16 MR. BARENS MAKES ADMISSIONS ABOUT THESE SUBJECTS AND  
17 I'M INFORMED THAT THERE IS A DEPOSITION THAT HE TOOK IN  
18 1987 THAT WAS VIDEOTAPED IN WHICH HE ADMITTED INFIDELITY,  
19 DISHONESTY AND I DON'T KNOW ABOUT OTHER ALLEGATIONS. I  
20 DON'T WANT YOU TO MAKE REFERENCE TO IT UNTIL I SEE IT.

21 MR. KLEIN: IT'S MY UNDERSTANDING THAT THIS SUIT  
22 WAS SETTLED SECRETLY, THAT THE PARTIES INVOLVED WERE UNDER  
23 AN ORDER NOT TO REVEAL WHAT WAS INVOLVED UNLESS A COURT  
24 ORDERED THE PARTIES TO SO REVEAL IT AND THE CUSTODIAN OF  
25 RECORD IS SUPPOSED TO BRING IN FROM THE FORMER LAW FIRM OF  
26 BARENS, FLIER, AND ROSS IS SUPPOSED TO BRING IN THOSE  
27 DOCUMENTS TOMORROW MORNING. SO I ASSUME THAT'S WHAT MR.  
28 BRODIE WANTS TO MAKE A MOTION TO QUASH RELATED TO.

1 THE COURT: RATHER UNTIMELY ISN'T THIS.

2 MR. KLEIN: YOUR HONOR, I RECEIVED AN ANONYMOUS  
3 CALL ABOUT THIS ON FRIDAY IN MY OFFICE. I ARRANGED TO  
4 SERVE THE SUBPOENA ON FRIDAY.

5 I GAVE THE PERSON RESPONDING UNTIL  
6 TOMORROW MORNING SO THAT I WOULDN'T MAKE THEM DO IT THIS  
7 MORNING JUST OUT OF COURTESY. SO, I ACCOUNTED AS  
8 ABSOLUTELY QUICKLY AS I COULD AND SINCE IT APPARENTLY WAS  
9 SETTLED IN THE MANNER THAT I HAVE DESCRIBED THERE WOULDN'T  
10 HAVE BEEN ANYWAY THAT WE COULD HAVE COVERED THIS SOONER  
11 THAN THE ANONYMOUS CALLER.

12 THE COURT: WE'LL DEAL WITH WITNESS AT 9 TOMORROW  
13 MORNING. I UNDERSTAND MR. BRODEY HAS FILED A MOTION.

14 MR. CRAIN: THIS MIGHT TAKE A LITTLE TIME. I WAS  
15 JUST TELLING THE COURT ABOUT THAT FOR THAT REASON.

16 THE COURT: ALL RIGHT.

17 COUNSEL AND PETITIONER ARE ORDERED TO RETURN  
18 AT 9 O'CLOCK TOMORROW MORNING.

19  
20 (AT 4:35 P.M. AN ADJOURNMENT WAS  
21 TAKEN UNTIL TUESDAY,  
22 MAY 14, 1996 AT 8:30 A.M.)  
23  
24  
25  
26  
27  
28

