

FILE COPY

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.

COURT OF APPEAL - SECOND DIST.
FILED

MAY 9 1996

JOSEPH HUNT

Z. HERNANDEZ

Clerk

NO. A 090435

Deputy Clerk

REPORTERS' DAILY TRANSCRIPT

VOLUME 9

WEDNESDAY, MAY 8, 1996

PAGE 1302 THROUGH 1510, INCL.

APPEARANCES:

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JOSEPH HUNT:

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SANTA MONICA, CALIFORNIA 90403
AND

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THE PEOPLE OF THE
STATE OF CALIFORNIA:

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DISTRICT ATTORNEY
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AND
IMOGENE KATAYANA, DEPUTY
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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 IV

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8	Reporter's Transcript of Proceedings, 05/08/96, Vol. 9, Evidentiary Hearing, Testimony of J. Jensen, Joe Hunt	Rcv'd 05-09-96

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(NONE)

1 LOS ANGELES, CALIFORNIA; TUESDAY, MAY 8, 1995

2 9:20 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 JOSEPH HUNT, THE RECORD
19 WILL REFLECT THAT ALL COUNSEL AND PETITIONER ARE PRESENT.

20 YOU MAY CALL MR. HUNT.

21 MR. KLEIN: YOUR HONOR, I THINK I MENTIONED THE
22 OTHER DAY THAT WE WERE FLYING IN THE JENSENS, AND THEY
23 CAME IN YESTERDAY EVENING AND THEY WOULD LIKE TO LEAVE ON
24 THE EARLIEST POSSIBLE PLANE BACK. IT WOULD ALSO BE THE
25 LEAST EXPENSIVE WAY. THEIR TESTIMONY SHOULD BE 10 OR
26 15 -- ACTUALLY, I AM JUST GOING TO CALL MR. JENSEN. IT IS
27 ABOUT 10 OR 15 MINUTES.

28 THE COURT: ALL RIGHT.

1 MR. KLEIN: THANK YOU

2 MR. MC MULLEN: YOUR HONOR, WE WOULD REQUEST AN
3 OFFER OF PROOF AS TO THE RELEVANCY OF THIS TESTIMONY.
4 BASED UPON THEIR WRITTEN OFFER OF PROOF THAT THEY
5 PREVIOUSLY FILED WITH THE COURT IT IS OUR POSITION THAT
6 PROPOSED TESTIMONY IS NOT RELEVANT TO THESE PROCEEDINGS.

7 MR. KLEIN: THEY WILL TESTIFY THAT THEY WERE GIVEN
8 GUIDANCE BY MR. BARENS IN PARTICULAR TO FIND MATERIALS
9 RELATING TO PROGRESSIVE, TO FIND OLIVER WENDELL HOLMES AND
10 TO FIND NEIL ADELMAN RELATIVE TO MICROGENESIS. IT IS ALL
11 REFLECTED IN THEIR REPORT, WHICH MR. MC MULLEN HAS A COPY
12 OF. THAT'S THE GIST OF THEIR TESTIMONY.

13 THE COURT: DOESN'T THAT SUPPORT RESPONDENT'S
14 POSITION?

15 MR. KLEIN: MR. BARENS DENIED THAT HE KNEW ABOUT
16 ANY OF THESE PEOPLE OR THAT HE DID ANYTHING ABOUT IT.

17 THE COURT: THAT'S NOT ENTIRELY TRUE.

18 I WILL ALLOW YOU TO CALL THE WITNESS QUICKLY,
19 BUT NOT AS TO OPINION TESTIMONY.

20

21 JOHN C. JENSEN, +
22 CALLED AS A WITNESS BY THE PETITIONER, WAS SWORN AND
23 TESTIFIED AS FOLLOWS:

24

25 THE CLERK: PLEASE RAISE YOUR RIGHT HAND AND BE
26 SWORN.

27 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU
28 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL

1 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
2 SO HELP YOU GOD?

3 THE WITNESS: I DO.

4 THE CLERK: PLEASE TAKE THE STAND.

5 PLEASE STATE YOUR NAME AND SPELL IT FOR THE
6 RECORD.

7 THE WITNESS: JOHN C. JENSEN, J-E-N-S-E-N.

8 THE COURT: YOU MAY INQUIRE.

9

10 DIRECT EXAMINATION +

11

12 BY MR. KLEIN:

13 Q SIR, WHAT IS YOUR OCCUPATION?

14 A I AM A RETIRED PRIVATE INVESTIGATOR.

15 Q WHEN YOU RETIRED YOU WERE A PRIVATE
16 INVESTIGATOR?

17 A THAT'S CORRECT.

18 Q DID YOU WORK IN THE STATE OF CALIFORNIA?

19 A YES, I DID.

20 Q PRIOR TO BEING A PRIVATE INVESTIGATOR WHAT
21 DID YOU DO THAT GAVE YOU THE EXPERIENCE TO BE A PRIVATE
22 INVESTIGATOR?

23 A I WAS A POLICE OFFICER.

24 Q WHERE WERE YOU A POLICE OFFICER?

25 A I STARTED OUT MY CAREER IN THE MILITARY WITH
26 C.I.D. AND AS POLICE RESERVE IN THE CITY OF OCEANSIDE. I
27 GRADUATED FROM THE POLICE ACADEMY IN THE CITY OF POMONA
28 AND SUBSEQUENTLY LEFT THERE AND WENT TO THE UNIVERSITY OF

1 CALIFORNIA POLICE DEPARTMENT WHERE I RETIRED AS A
2 LIEUTENANT.

3 Q WHEN DID YOU BECOME A PRIVATE INVESTIGATOR?

4 A APPROXIMATELY 1972.

5 Q IN BETWEEN 1972 AND 1986 APPROXIMATELY HOW
6 MANY HOMICIDE CASES DID YOU WORK ON?

7 MR. MC MULLEN: OBJECTION. RELEVANCY.

8 THE COURT: OVERRULED.

9 THE COURT: YOU MAY INQUIRE -- I MEAN, YOU MAY
10 ANSWER.

11 THE WITNESS: THAT WOULD BE HARD TO ESTIMATE
12 BECAUSE OF THE TIME FRAME. WHEN WE RETIRED WE HAD SOME,
13 HANDLED SOMEWHERE IN EXCESS OF 80 CAPITAL MURDER CASES.
14 BY MR. KLEIN:

15 Q AT SOME POINT IN 1985 OR 1986 WERE YOU HIRED
16 TO WORK ON THE JOE HUNT CASE?

17 A YES, I WAS.

18 Q WHO WAS THE LEAD ATTORNEY ON THAT CASE?

19 A ARTHUR BARENS.

20 Q WHO WORKED WITH MR. BARENS?

21 A THERE WAS A SECOND ATTORNEY, RICHARD CHIER,
22 AND A THIRD ATTORNEY, WHO I BELIEVE WAS ONLY ASSISTING
23 WITH MOTIONS AND PAPERWORK, A GIGI GORDON.

24 Q NOW, IN TERMS OF STARTING TO WORK ON THE
25 CASE, WHAT KIND OF MATERIALS DID YOU GATHER?

26 A WE WERE GIVEN WHAT INITIALLY WAS REPRESENTED
27 AS THE ENTIRE CRIMINAL FILE FROM THE POLICE DEPARTMENT IN
28 BEVERLY HILLS, AND WE REVIEWED ALL OF THOSE DOCUMENTS AND

1 DETERMINED WHAT WE FELT FROM THOSE DOCUMENTS WAS
2 APPROPRIATE INVESTIGATIVE STEPS TO BE CONCLUDED.

3 Q HOW BIG WAS THAT FILE THAT YOU WERE GIVEN?

4 A IT WAS SOMETHING LESS THAN A FILE BOX SIMILAR
5 TO WHAT'S ON COUNSEL TABLE.

6 Q SHOWING YOU EXHIBIT 216.

7 THE COURT: 216?

8 MR. KLEIN: YES, YOUR HONOR.

9 BY MR. KLEIN:

10 Q IS THIS ONE OF THE DOCUMENTS THAT YOU LOOKED
11 AT EARLY, IF YOU REMEMBER?

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

13 THE COURT: YES.

14 THE WITNESS: THIS LOOKS VAGUELY FAMILIAR WHEN --

15 BY MR. KLEIN:

16 Q DO YOU SEE THE NAME OLIVER WENDELL HOLMES
17 THERE?

18 THE COURT: DO YOU WANT TO REFERENCE HIM TO A
19 PARTICULAR PLACE INSIDE THE REPORT?

20 MR. KLEIN: SURE.

21

22 (PAUSE.)

23

24 THE WITNESS: YES. THERE IS A REFERENCE TO A
25 HOLMES AS WITNESS 2, BUT ONLY THE LAST NAME.

26 BY MR. KLEIN:

27 Q NOW, IN TERMS OF WORKING ON THE CASE, DID YOU
28 PREPARE AN INVESTIGATION PROGRESS REPORT FOR THE

1 ATTORNEYS?

2 A YES, WE DID.

3 Q AND WHAT DID THAT DOCUMENT CONTAIN?

4 A IT WAS A SYNOPSIS OF WHAT WAS DONE BY OUR
5 OFFICE.

6 Q AND WHO WORKED WITH YOU DURING YOUR WORK ON
7 THIS CASE?

8 A MY WIFE.

9 Q WHAT IS HER NAME?

10 A OPAL, ALSO KNOWN AS MARTI, M-A-R-T-I, JENSEN.

11 Q AT THAT TIME SHE WAS ALSO A LICENSED
12 INVESTIGATOR?

13 A THAT'S CORRECT.

14 Q WHO DIRECTED YOUR WORK DURING THE COURSE OF
15 YOUR TIME ON THE CASE?

16 A WELL, ARTHUR BARENS TO A DEGREE.

17 Q DID YOU HAVE MEETINGS WITH ARTHUR BARENS?

18 A YES.

19 Q AND HOW LONG WOULD THESE MEETINGS LAST?

20 MR. MC MULLEN: OBJECTION. RELEVANCY.

21 THE COURT: SUSTAINED.

22 BY MR. KLEIN:

23 Q DURING THE COURSE OF THESE MEETINGS DID
24 MR. BARENS GIVE YOU DIRECTION?

25 MR. MC MULLEN: OBJECTION. RELEVANCY.

26 THE COURT: LET'S FOCUS ON THE POINT THAT YOU WANT
27 TO BRING OUT WITH REFERENCE TO ADELMAN AND HOLMES.

28 MR. KLEIN: OKAY.

1 BY MR. KLEIN:

2 Q HAVE YOU HAD A CHANCE TO --

3 MR. KLEIN: YOUR HONOR, MAY I -- MAY THE PROGRESS
4 INVESTIGATION REPORT BE MARKED?

5 I DID THIS LAST NIGHT. I APOLOGIZE, YOUR
6 HONOR. IT IS EXHIBIT 235 ON OUR LIST, YOUR HONOR.

7 THE COURT: DO YOU WANT TO MARK THAT AS 235?

8 MR. KLEIN: MAY IT BE SO MARKED?

9 THE COURT: YES.

10

11 (MARKED FOR ID = PETITIONER'S 235,
12 DOCUMENT.)

13

14 MR. KLEIN: MAY I APPROACH?

15 THE COURT: YES.

16 BY MR. KLEIN:

17 Q SHOWING YOU THIS DOCUMENT, AND I HAVE MARKED
18 CERTAIN AREAS. DOES THIS REFRESH YOUR MEMORY AS TO WHAT
19 EFFORTS YOU DID TO TRY TO FIND OLIVER WENDELL HOLMES?

20 A YES.

21 Q WHAT DID YOU TRY TO DO TO FIND OLIVER WENDELL
22 HOLMES?

23 A WE CONTACTED THE STATE BAR ASSOCIATION AND
24 DETERMINED THAT HE HAD BEEN DISBARRED. AT THAT TIME
25 RECEIVED A LAST KNOWN ADDRESS TO THE BAR ASSOCIATION. WE
26 CHECKED THAT ADDRESS OUT WITH NEGATIVE RESULTS. WE DID A
27 D.M.V. SEARCH, THE CALIFORNIA DEPARTMENT OF MOTOR
28 VEHICLES, THAT WAS OF NEGATIVE RESULTS.

1 WE WENT TO AN ADDRESS IN SANTA MONICA. AT
2 THIS TIME I DON'T REMEMBER HOW WE CAME UP TO AN ADDRESS.
3 WE DID GO TO AN ADDRESS IN SANTA MONICA. THERE WAS NO
4 RESPONSE. AND WE WERE UNABLE TO DETERMINE IF IN FACT THAT
5 WAS A GOOD ADDRESS. AND I DON'T RECALL THAT WE FOLLOWED
6 UP ON THAT ANY FURTHER AT THAT POINT IN TIME UNTIL WE GOT
7 OFF THE CASE.

8 Q IF YOU DID, IT WOULD HAVE BEEN REFLECTED IN
9 YOUR CHRONOLOGICAL REPORTS?

10 A THAT'S CORRECT.

11 Q NOW, AT SOME POINT DID YOU RECEIVE SOME
12 INFORMATION REGARDING A PERSON BY THE NAME OF NEIL
13 ADELMAN, SHOWING YOU PAGE 25 OF YOUR REPORT?

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

15 THE COURT: YES.

16

17 (PAUSE.)

18

19 THE WITNESS: YES. THERE IS A NOTATION IN THE
20 CHRONOLOGICAL ABOUT THAT PERSON AND THAT INDIVIDUAL'S
21 NAME.

22 BY MR. KLEIN:

23 Q AND YOU RECEIVED THAT INFORMATION FROM?

24 A IT WAS DURING A DEFENSE CONFERENCE WITH THE
25 DEFENSE ATTORNEYS ON DECEMBER THE 9TH, 1986.

26 Q THAT WOULD BE MR. BARENS AND MR. CHIER?

27 A I AM SURE THAT MR. BARENS WAS THERE. I CAN
28 ONLY GUESS THAT MR. CHIER WAS THERE. HE WAS NORMALLY

1 THERE FOR THOSE MEETINGS, BUT I CAN'T BE SPECIFIC.

2 Q HOW LONG WOULD THESE MEETINGS NORMALLY LAST?

3 MR. MC MULLEN: OBJECTION. RELEVANCY.

4 THE COURT: SUSTAINED.

5 BY MR. KLEIN:

6 Q HOW MUCH OF THE TIME DURING THE MEETING, SUCH
7 A MEETING WOULD MR. BARENS PAY ATTENTION TO DISCUSSING THE
8 JOE HUNT CASE?

9 MR. MC MULLEN: OBJECTION. RELEVANCY. CALLS FOR
10 SPECULATION.

11 THE COURT: SUSTAINED.

12 MR. KLEIN: MAY I MAKE AN OFFER OF PROOF?

13 THE COURT: IF IT IS OPINION EVIDENCE.

14 MR. KLEIN: IT IS NOT OPINION THAT HE WOULD HAVE A
15 MEETING FOR THREE HOURS AND TWO AND A QUARTER OF THE HOURS
16 MR. BARENS WOULD BE ON THE PHONE DOING OTHER BUSINESS.

17 THE COURT: IT IS WILD SPECULATION.

18 MR. KLEIN: THAT'S WHAT HE OBSERVED.

19 THE COURT: I WILL SUSTAIN THE OBJECTION.

20 MOVE ON TO RELEVANT AREAS OF INQUIRY.

21 BY MR. KLEIN:

22 Q DID YOU MAKE SOME EFFORTS TO FIND MR.
23 ADELMAN, REFERRING YOU TO PAGE 26?

24 A YES. WE WENT TO AN ADDRESS IN THE CENTURY
25 CITY AREA, AND WE WERE ADVISED THAT HE NO LONGER WORKED AT
26 THAT COMPANY. A SECRETARY INDICATED TO US THAT SHE WOULD
27 CONTACT HIM AND REQUEST THAT HE CONTACT OUR OFFICE, THAT
28 WAS THE ONLY MENTION OF HIM THAT I NOTED IN THIS PROGRESS

1 REPORT.

2 Q AND DURING THIS ATTORNEY CONFERENCE ON
3 DECEMBER 9, 1986, DID THE SUBJECT OF PROGRESSIVE SAVINGS &
4 LOAN COME UP?

5 THE COURT: I AM SORRY, WHAT WAS THE QUESTION
6 AGAIN?

7 BY MR. KLEIN:

8 Q DURING THIS DECEMBER 9TH CONFERENCE WITH THE
9 ATTORNEYS, AT LEAST MR. BARENS, DID THE SUBJECT OF
10 PROGRESSIVE SAVINGS & LOAN COME UP?

11 A YES.

12 Q HOW DID IT COME UP?

13 A THAT WE SHOULD COMPLETE A SUBPOENA DUCES
14 TECUM FOR RECORDS OF THAT ORGANIZATION.

15 Q OKAY.

16 WHEN DID YOU LEAVE THE CASE, MR. JENSEN?

17 MR. MC MULLEN: OBJECTION. RELEVANCY.

18 THE COURT: I WILL ALLOW THAT QUESTION.

19 BY MR. KLEIN:

20 A THE LAST NOTATION WE HAVE IN OUR PROGRESS
21 REPORT WAS JANUARY 7, 1987. I CAN'T PIN IT DOWN ANY
22 CLOSER THAN THAT, BUT THAT WOULD HAVE BEEN IN THAT
23 APPARENT TIME FRAME.

24 Q DURING THE MEETINGS THAT YOU HAD WITH
25 MR. BARENS AT HIS OFFICE DID YOU EVER SEE HIS FILES ON THE
26 CASE?

27 A NO, SIR.

28 Q DID YOU ASK MR. BARENS AND MR. CHIER TO

1 OBTAIN COPIES OF THEIR FILES?

2 MR. MC MULLEN: OBJECTION. RELEVANCE.

3 THE COURT: SUSTAINED.

4 BY MR. KLEIN:

5 Q DID YOU EVER SEE FILES IN MR. CHIER'S OFFICE?

6 MR. MC MULLEN: RELEVANCY. OBJECTION.

7 THE COURT: I WILL ALLOW THAT QUESTION.

8 THE WITNESS: NO, SIR.

9 BY MR. KLEIN:

10 Q WHY DID YOU LEAVE THE CASE, MR. JENSEN?

11 MR. MC MULLEN: OBJECTION. RELEVANCY.

12 THE COURT: SUSTAINED.

13 MR. KLEIN: THE OFFER OF PROOF WOULD BE, YOUR
14 HONOR, THAT WE ARE GETTING -- MR. AND MRS. JENSEN WERE
15 GETTING NO LEADERSHIP FROM MR. BARENS. THEY COULDN'T GET
16 COPIES OF THE FILES, SO THEY COULDN'T DO THEIR WORK AND
17 CONSEQUENTLY THEY LEFT THE CASE.

18 THE COURT: IT IS IRRELEVANT.

19 MR. KLEIN: THAT'S ALL I HAVE.

20 THE COURT: CROSS-EXAMINATION?

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

22 MR. KLEIN: MAY I HAVE JUST ONE SECOND, YOUR HONOR?

23 THE COURT: YES.

24

25 (PAUSE.)

26

27 (A CONFERENCE WAS HELD BETWEEN COUNSEL

28 AND THE PETITIONER, NOT REPORTED.)

1 BY MR. KLEIN:

2 Q REFERRING YOU TO PAGE 25 OF EXHIBIT 235, WHAT
3 WERE YOU TOLD ABOUT WHY YOU SHOULD TRY AND FIND
4 MR. ADELMAN?

5 MR. MC MULLEN: OBJECTION. RELEVANCY. HEARSAY.

6 THE COURT: LAY A FOUNDATION.

7 BY MR. KLEIN:

8 Q DID ONE OF THE ATTORNEYS IN THE MEETING
9 PROVIDE YOU WITH INFORMATION ABOUT WHY YOU SHOULD FIND
10 NEIL ADELMAN?

11 A YES.

12 Q AND WHAT DID THE ATTORNEY PROVIDE YOU?

13 THE COURT: LAY A FOUNDATION. THERE HAS BEEN THREE
14 ATTORNEYS IDENTIFIED.

15 MR. KLEIN: I BELIEVE HE TESTIFIED --

16 BY MR. KLEIN:

17 Q IS IT YOUR MEMORY THAT THE ONLY ATTORNEY THAT
18 WAS THERE WAS ARTHUR BARENS?

19 A I CAN'T BE SURE WHO WAS THERE. I KNOW THE
20 MEETING WAS AT -- LET ME BACK UP. I FEEL CERTAIN THAT THE
21 MEETING WAS AT ARTHUR BARENS' OFFICE, AS MOST OF THE
22 MEETINGS WERE. WHETHER ANY OTHER ATTORNEY WAS THERE OR
23 NOT, I CANNOT BE SURE. I CAN ONLY STATE THAT MOST OF THE
24 MEETINGS WERE ATTENDED BY MR. BARENS AND MR. CHIER, AND
25 SOMETIMES MS. GORDON WAS THERE ALSO.

26 Q OKAY.

27 AND WHO WAS THE ATTORNEY THAT WAS PROVIDING
28 THE LEADERSHIP IN THESE MEETINGS?

1 MR. MC MULLEN: OBJECTION. RELEVANCY.

2 THE COURT: SUSTAINED.

3 BY MR. KLEIN:

4 Q WHO WAS THE ATTORNEY WHO WAS PROVIDING YOU
5 WITH THE INFORMATION ABOUT WHAT YOU SHOULD DO?

6 MR. MC MULLEN: OBJECTION. RELEVANCY.

7 THE COURT: OVERRULED.

8 THE WITNESS: MR. BARENS.

9 BY MR. KLEIN:

10 Q YOU ARE SURE MR. BARENS WAS AT THAT MEETING?

11 A IT IS MY RECOLLECTION, YES.

12 Q OKAY.

13 AND YOU TALKED ABOUT THE SUBJECT OF
14 MICROGENESIS?

15 A HE DID.

16 Q OKAY.

17 WHAT INFORMATION DID HE PROVIDE YOU AS TO WHY
18 YOU SHOULD LOOK FOR MR. ADELMAN?

19 MR. MC MULLEN: OBJECTION. RELEVANCE.

20 THE COURT: OVERRULED.

21 THE WITNESS: HE HAD INDICATED THAT WE COULD FIND
22 MR. ADELMAN THROUGH LARRY FLINT OF "HUSTLER" MAGAZINE.
23 THERE WAS NEGOTIATIONS IN JUNE AND JULY AND EXPECTED TO
24 CLOSE A DEAL, AND IT WOULD BE IMPORTANT TO SHOW THAT
25 MICROGENESIS WAS REALLY A GOING CONCERN WITH SUBSTANTIAL
26 PROSPECTS AT THE TIME, AND HE COULD BE A POTENTIALLY A
27 SUBSTANTIAL WITNESS.

28 HE COULD ALSO TESTIFY TO THE STATE OF MIND OF

1 THE DEFENDANT, THAT HE WAS CONVINCED AT THE TIME THAT
2 ATTRITION MILLS WERE VALUABLE AND COULD FIND A HOME FOR
3 THEM. AND THAT JOE WOULD HAVE HAD 22 PERCENT OF THE
4 MICROGENESIS COMPANY.

5 MR. KLEIN: COULD I HAVE JUST ONE MOMENT WITH MY
6 CLIENT?

7 THE COURT: YES.

8
9 (A CONFERENCE WAS HELD BETWEEN COUNSEL
10 AND THE PETITIONER, NOT REPORTED.)
11

12 MR. KLEIN: AGAIN, IN CASE THE RECORD ISN'T CLEAR,
13 I WOULD LIKE TO ELICIT FROM MR. JENSEN HOW MR. BARENS
14 CONDUCTED HIMSELF DURING THESE MEETINGS THROUGH THIS
15 WITNESS, WHO I BELIEVE COULD QUALIFY AS AN EXPERT WHO HAS
16 PERCIPIENT KNOWLEDGE AS A PARTICIPANT. IT SPECIFICALLY
17 CONTRADICTS MR. BARENS' TESTIMONY THAT HE RAN A TIGHT
18 SHIP, THAT HE HAD FILES, THAT HE WAS ORGANIZED, AND THAT
19 HE WAS A COMPETENT AND EFFECTIVE REPRESENTATIVE OF
20 MR. HUNT.

21 I BELIEVE FOR ALL THOSE REASONS THE COURT
22 SHOULD ALLOW THE BRIEF OFFER OF PROOF THAT I HAVE MADE, SO
23 THAT THE COURT CAN -- WILL HAVE THAT IN THE RECORD.

24 THE COURT: I WILL SUSTAIN THE OBJECTION.

25 MR. KLEIN: THAT'S ALL I HAVE.

26 THE COURT: CROSS-EXAMINATION?

27 MR. MC MULLEN: YES, YOUR HONOR.

28 COUNSEL, MAY WE SEE YOUR POTENTIAL EXHIBITS

1 231 TO 235, PLEASE?

2 MR. KLEIN: 235 IS THE EXHIBIT THAT I MARKED.

3 MR. MC MULLEN: RIGHT. 231 TO 234.

4 MR. KLEIN: I DON'T HAVE 231. IT WAS IN THE BOX OF
5 MATERIAL THAT WE GAVE YOU, THEN YOU HAVE IT, BUT I DON'T
6 HAVE IT WITH ME.

7 MR. MC MULLEN: IS THAT IDENTIFIED AS NO. 8126?

8 THE DEFENDANT: YES.

9 THE COURT: LET'S MOVE ON. TAKE CARE OF EXHIBIT
10 PROBLEMS OUTSIDE OF COURT TIME.

11 MR. MC MULLEN: YES, YOUR HONOR.

12 WE WOULD LIKE TO MARK AS EXHIBIT 231, WHICH
13 IS ON YOUR LIST, YOUR HONOR, A LETTER DATED JANUARY 15,
14 1987, WITH ATTACHMENTS.

15 THE COURT: THIS IS A LETTER FROM JENSEN TO CHIER?

16 MR. MC MULLEN: YES.

17 THE COURT: IT WILL BE MARKED AS 231.

18

19 (MARKED FOR ID = PETITIONER'S 231,
20 DOCUMENT.)

21

22 MR. MC MULLEN: THANK YOU.

23

24 CROSS-EXAMINATION @

25

26 BY MR. MC MULLEN:

27 Q SIR, DO YOU RECOGNIZE THIS LETTER?

28 A I RECOGNIZE THE LETTER, YES, SIR.

1 Q AND THE LETTER IS A LETTER TO MR. CHIER FROM
2 YOU OR FROM YOUR WIFE?

3 A YES. MY WIFE SIGNED IT.

4 Q ISN'T IT A FACT, SIR, THAT ALL OF YOUR
5 BILLINGS WOULD GO TO MR. CHIER?

6 A I BELIEVE THAT WAS CORRECT. I THINK THAT
7 THAT WAS AN AGREEMENT EARLY ON THAT HE WAS GOING TO HANDLE
8 THAT PORTION OF THE WORK.

9 Q WHEN YOU SAY "THAT PORTION," WHAT DO YOU MEAN
10 "THAT PORTION"?

11 A THAT WE WOULD SEND THE BILLING THROUGH HIM.

12 Q NOW, THAT LETTER THAT YOU HAVE IN FRONT OF
13 YOU, EXHIBIT 231, THAT'S AN INVESTIGATOR UPDATE; IS THAT
14 CORRECT?

15 A YES, SIR.

16 Q THAT IS WRITTEN TO MR. CHIER?

17 A YES, SIR.

18 Q ISN'T IT A FACT THAT YOU WOULD SEND YOUR
19 WRITTEN INVESTIGATION UPDATES TO MR. CHIER?

20 A THERE WOULD BE A COPY, AS INDICATED ON THE
21 BOTTOM OF THIS LETTER, SENT ALSO TO MR. BARENS.

22 Q AS A CUSTOMARY PRACTICE YOUR CUSTOM WAS TO
23 SEND YOUR INVESTIGATION UPDATES TO MR. CHIER; IS THAT
24 CORRECT?

25 MR. KLEIN: I AM GOING TO OBJECT. IF THE COURT
26 WANTS TO GET INTO HOW --

27 THE COURT: STATE THE GROUNDS OF THE OBJECTION.

28 MR. KLEIN: IT IS IRRELEVANT TO THE PROCEEDINGS,

1 AND IT IS GOING TO OPEN --

2 THE COURT: THE GROUNDS ARE RELEVANCE?

3 MR. KLEIN: YES, SIR.

4 THE COURT: DO YOU HAVE ANYTHING FURTHER THAT YOU
5 NEED IN THIS AREA?

6 MR. MC MULLEN: NOT REALLY. WHATEVER THE LAST
7 QUESTION WAS I CAN'T REMEMBER IT NOW.

8 THE COURT: WELL, THE QUESTION WAS: DID YOU
9 PRIMARILY SEND THESE REPORTS TO MR. CHIER? THE ANSWER IS:
10 YES.

11 THE WITNESS: WE WOULD SEND A REPORT TO MR. CHIER
12 AND A COPY ALSO TO MR. BARENS.

13 BY MR. MC MULLEN:

14 Q WHEN YOU WERE -- YOU ARE LOOKING RIGHT THERE
15 BESIDES THE LETTER --

16 MR. MC MULLEN: MAY I APPROACH?

17 THE COURT: YES.

18 BY MR. MC MULLEN:

19 Q I NOTICED WHEN YOU WERE TESTIFYING WITH
20 RESPECT TO EXHIBIT 235 YOU WERE ACTUALLY READING FROM THIS
21 DOCUMENT; IS THAT CORRECT?

22 A YES, SIR.

23 Q YOU HAVE NO INDEPENDENT RECOLLECTION REALLY
24 ABOUT WHAT OCCURRED WITH RESPECT TO THAT REPORT?

25 A NO, SIR.

26 Q WHAT WAS THE DATE OF THE MEETING WHERE YOU
27 TALKED ABOUT MICROGENESIS?

28 A I WOULD HAVE TO REFER TO THIS. I BELIEVE IT

1 WAS, I THINK I SAID --

2 THE COURT: WHEN YOU SAY "REFER TO THIS," YOU MEAN
3 235?

4 THE WITNESS: YES. 235, AND THAT NOTATION IS DATED
5 DECEMBER 9, 1986.

6 BY MR. MC MULLEN:

7 Q YOU MADE AN ATTEMPT TO LOCATE OLIVER WENDELL
8 HOLMES?

9 A THAT'S CORRECT?

10 Q YOU WERE UNSUCCESSFUL?

11 A THAT'S CORRECT?

12 Q YOU MADE AN ATTEMPT TO LOCATE NEIL ADELMAN?

13 A I THINK IT WAS ONE ATTEMPT BUT, YES, WE DID
14 ATTEMPT TO LOCATE THE INDIVIDUALS.

15 Q WERE YOU SUCCESSFUL IN CONTACTING
16 MR. ADELMAN?

17 A IN REVIEWING THIS, NO, WE WERE NOT.

18 Q WITH RESPECT TO THE MEETING OF JANUARY 9TH OF
19 1986, AS YOU TESTIFIED TODAY, YOU DON'T REALLY KNOW IF
20 ARTHUR BARENS WAS AT THAT MEETING BY YOUR INDEPENDENT
21 RECOLLECTION?

22 A NOT AN INDEPENDENT RECOLLECTION, NO.

23 Q WHAT ARE YOU BASING YOUR TESTIMONY ON THAT HE
24 WAS PRESENT AT THAT MEETING?

25 A WITH VERY FEW EXCEPTIONS ALL OF THE DEFENSE
26 TEAM MEETINGS WERE AT HIS OFFICE. THERE WERE ONLY MAYBE
27 ONE OR TWO TIMES THAT WE MET WITHOUT MR. BARENS BEING
28 PRESENT.

1 MR. MC MULLEN: YOUR HONOR -- EXCUSE ME.

2 BY MR. MC MULLEN:

3 Q SIR, IF YOU WOULD -- REFERRING YOU TO YOUR
4 EXHIBIT 235 IN FRONT OF YOU THERE, YOUR INVESTIGATION
5 PROGRESS REPORT ON PAGE ONE, DO YOU SEE A NOTATION FOR
6 APRIL 28, 1986?

7 A YES.

8 Q THAT'S YOUR FIRST ENTRY; IS THAT CORRECT?

9 A CORRECT?

10 Q WHO DID YOU HAVE A CONFERENCE WITH ON THAT
11 DATE?

12 A THAT WAS THE DATE WE WERE INTRODUCED TO
13 MR. CHIER, AND I BELIEVE -- IT WAS MY RECOLLECTION WE WERE
14 INTRODUCED BY ATTORNEY GIGI GORDON.

15 Q AND GOING DOWN TO YOUR JUNE 5TH ENTRY, WHICH
16 IS MANY ENTRIES DOWN ON PAGE ONE OF 235 --

17 THE COURT: WHAT YEAR WAS THAT?

18 MR. MC MULLEN: JUNE 5TH, '86.

19 THE WITNESS: JUNE 5 OF '86, YES.

20 BY MR. MC MULLEN:

21 Q YOU HAD A MEETING THERE. WHO WAS AT THAT
22 MEETING?

23 A THE ENTIRE DEFENSE TEAM WAS THERE, AS I
24 RECALL.

25 Q AT THE BOTTOM OF THE PAGE AT THE ENTRY JUNE
26 16, 1986, WHO WAS AT THAT MEETING?

27 A THE DEFENSE TEAM, AND I MADE A NOTATION THAT
28 THE DEFENDANT WAS ALSO THERE.

1 Q WOULD YOU TURN, PLEASE, TO PAGE EIGHT OF THIS
2 EXHIBIT 235. ENTRY DATED RIGHT AT THE TOP OF THE PAGE
3 JULY 9, 1986, YOU MENTION THERE THERE IS A NOTATION THAT A
4 STATEMENT OF COST WAS PREPARED AND SENT. WHO WAS THAT
5 SENT TO?

6 A ATTORNEY RICHARD CHIER.

7 Q THE NEXT ENTRY AUGUST 8, 1986, THERE WAS A
8 TELEPHONE MESSAGE LEFT TO WHO?

9 A TO MR. RICHARD CHIER AND TO THE DEFENDANT
10 MR. JOE HUNT.

11 Q ON AUGUST 9, '86, THERE IS AN ENTRY. AND WHO
12 WAS CALLED WITH RESPECT TO THAT ENTRY?

13 A ATTORNEY RICHARD CHIER, ARTHUR BARENS AND JOE
14 HUNT.

15 Q AND AUGUST 12, 1986, THERE IS AN ENTRY THAT A
16 LETTER WAS SENT, WHO WAS THE LETTER SENT TO?

17 A IT WAS -- IT INDICATES THAT IT WAS SENT TO
18 RICHARD CHIER'S OFFICE.

19 Q THE NEXT ENTRY AUGUST 28, '86, IT INDICATES
20 THAT YOU HAD A CONFERENCE. WHO WAS THAT CONFERENCE WITH,
21 AND WHERE WAS IT?

22 A AT RICHARD CHIER'S OFFICE.

23 Q THAT WAS WITH MR. CHIER; CORRECT?

24 A THAT'S CORRECT.

25 Q ITEM NO. 1 UNDER THAT ENTRY THERE IS A
26 REFERENCE TO MR. CHIER CALLING SOMEBODY. WHO IS HE
27 CALLING?

28 A HE CALLED ARTHUR BARENS' OFFICE.

1 Q WITH RESPECT TO WHAT?

2 A TO SOME POLICE REPORTS THAT WE BELIEVED WERE
3 MISSING.

4 Q TURNING TO PAGE 17 OF THAT REPORT, PLEASE,
5 EXHIBIT 235.

6 A YES, SIR.

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

8 THE COURT: YES.

9

10 (PAUSE.)

11

12 BY MR. MC MULLEN:

13 Q PART OF THAT ENTRY, WHICH IS ON THE NEXT PAGE
14 18, YOU MADE A TELEPHONE CALL WITH RESPECT TO OCTOBER 29,
15 1986. WHO WAS THAT CALL MADE TO?

16 A WE ARE TALKING PAGE 17, SIR.

17 Q IT IS ON PAGE 18. IT IS PART OF THE ENTRY OF
18 OCTOBER 19, 1986, THAT GOES ONTO PAGE 18 ALMOST MIDWAY
19 DOWN THE PAGE.

20 A WE ARE SPEAKING, WE CALLED MR. CHIER'S OFFICE
21 AND LEFT A MESSAGE FOR A CALL BACK FROM HIM.

22 Q YES. THAT'S WHO YOU CALLED, MR. CHIER?

23 A THAT IS WHAT IT SAYS WE DID.

24 THE COURT: WHERE ARE WE GOING?

25 MR. MC MULLEN: WE ARE JUST TRYING TO ESTABLISH
26 THAT PURSUANT TO WHAT ARTHUR BARENS TESTIFIED TO WAS THAT
27 RICHARD CHIER WAS REALLY IN CHARGE OF THE INVESTIGATING
28 ASPECTS OF THE CASE, AND THERE ARE MANY CONTACTS HERE WITH

1 MR. CHIER AS OPPOSED TO BARENS.

2 THE COURT: DIDN'T I JUST PRECLUDE THAT WHEN THE
3 PETITIONER WAS TRYING TO IT GET OUT? THIS IS REALLY
4 IRRELEVANT. LET'S WRAP IT UP.

5 MR. KLEIN: CAN WE MOVE TO STRIKE IT?

6 THE COURT: IT IS TOO LATE. I HAVE BEEN WAITING
7 FOR AN OBJECTION FOR A LONG TIME. THERE HAS BEEN NO
8 OBJECTION.

9 MR. KLEIN: I INTEND TO GO INTO THE REVERSE.

10 MR. MC MULLEN: NOTHING FURTHER.

11 THE COURT: IT WAS IRRELEVANT THEN, IT CONTINUES TO
12 BE IRRELEVANT.

13 MR. CRAIN: IF IT ISN'T STRICKEN THEN IT IS
14 ADMITTED, AND --

15 THE COURT: COUNSEL SHOULD HAVE OBJECTED. IF YOU
16 WOULD HAVE OBJECTED, I WOULD HAVE SUSTAINED THE OBJECTION.
17 IT WOULD NOT HAVE COME IN.

18 MR. CRAIN: THAT'S RIGHT. WE DIDN'T WANT TO OBJECT
19 TO THE QUESTION, THE ANSWER IS NOW IN EVIDENCE, SO WE HAVE
20 A RIGHT TO CROSS-EXAMINE HIM.

21 THE COURT: I DISAGREE WITH YOU ON THAT.

22 ANY REDIRECT?

23 MR. CRAIN: I DON'T THINK THE EVIDENCE CODE DOES,
24 BUT BE THAT AS IT A MAY.

25 THE COURT: COUNSEL, I DON'T WANT TO HEAR ANY MORE
26 ARGUMENT ON THAT.

27 ANY REDIRECT?

28

1 (A CONFERENCE WAS HELD BETWEEN COUNSEL
2 AND THE PETITIONER, NOT REPORTED.)
3

4 THE COURT: MR. KLEIN, ANY REDIRECT?
5

6 REDIRECT EXAMINATION +
7

8 BY MR. KLEIN:

9 Q WAS ONE OF THE THINGS YOU WERE GOING TO ALSO
10 DO WAS SUBPOENA THE OSTROVE EXECUTOR FILE OF MR. LEVIN?

11 MR. MC MULLEN: OBJECTION. RELEVANCE.

12 THE COURT: IT IS OUTSIDE THE SCOPE OF DIRECT.
13 WHERE ARE YOU GOING?

14 MR. KLEIN: IN THE OSTROVE FILE, ACCORDING TO THE
15 RECORD THAT THE COURT HAS READ, ACCORDING TO THE ARGUMENT
16 OF COUNSEL THAT COUNSEL HAS MADE, IT CONTAINS THE
17 PROGRESSIVE FILE IN WHICH MR. LEVIN WAS A DEFENDANT, IN
18 WHICH MR. BARENS BROUGHT OUT THAT MR. HUNT WAS A
19 DEFENDANT. IT IS HIGHLY RELEVANT.

20 THE COURT: PUT THE QUESTION.

21 BY MR. KLEIN:

22 Q IS ONE OF THE THINGS THAT YOU ALSO TRIED TO
23 DO WAS SUBPOENA THE EXECUTOR'S FILE THAT WAS MAINTAINED BY
24 MR. OSTROVE THAT CONTAINED THE PROGRESSIVE FILE?

25 A THAT'S CORRECT.

26 Q AND YOU NEVER WERE ABLE TO FOLLOW THROUGH AND
27 GET THE DOCUMENTS RELATING TO THE SUBPOENA DUCES TECUM FOR
28 OSTROVE OR THE PROGRESSIVE FILE?

1 MR. MC MULLEN: OBJECTION. RELEVANCY.

2 THE COURT: I WILL ALLOW IT.

3 YOU MAY ANSWER.

4 THE WITNESS: I NEVER SAW THOSE RECORDS. THAT'S
5 CORRECT.

6 BY MR. KLEIN:

7 Q AND AS TO WHY YOU WEREN'T ABLE TO FIND
8 MR. ADELMAN, WHAT WAS THE REASON FOR THAT?

9 MR. MC MULLEN: OBJECTION. RELEVANCY.

10 THE COURT: REFRAME THE QUESTION. I MEAN, HE HAS
11 TESTIFIED HE MADE AN ATTEMPT, LEFT A MESSAGE. I AM NOT
12 SURE WHY THERE WOULD BE ANYTHING.

13 BY MR. KLEIN:

14 Q WAS THERE FURTHER THINGS THAT YOU COULD HAVE
15 DONE TO FIND MR. ADELMAN?

16 A I AM SURE THERE WOULD HAVE BEEN.

17 MR. MC MULLEN: OBJECTION. RELEVANCE.

18 THE COURT: YOU MAY ANSWER.

19 THE WITNESS: I AM SURE THERE WOULD HAVE BEEN.

20 BY MR. KLEIN:

21 Q WAS THERE FURTHER THINGS THAT YOU COULD HAVE
22 DONE TO FIND MR. HOLMES?

23 A YES, THERE WOULD HAVE BEEN.

24 Q THERE WOULD HAVE BEEN FURTHER CONTACTS WITH
25 THE ATTORNEYS TO MAKE SURE THAT THE S.D.T. ON PROGRESSIVE
26 AND OSTROVE WERE FOLLOWED THROUGH; CORRECT?

27 MR. MC MULLEN: OBJECTION. RELEVANCY. CALLS FOR
28 SPECULATION.

1 THE COURT: OVERRULED.

2 BY MR. KLEIN:

3 Q THAT'S SOMETHING YOU WOULD HAVE DONE AS AN
4 INVESTIGATOR, MAKE SURE THESE DOCUMENTS WERE OBTAINED;
5 CORRECT?

6 A YES, SIR.

7 Q BECAUSE YOU WANTED TO REVIEW THEM FOR THE
8 ATTORNEYS?

9 A YES, SIR.

10 Q OKAY.

11 WHY WEREN'T YOU ABLE TO DO THIS?

12 MR. MC MULLEN: OBJECTION. RELEVANCY.

13 THE COURT: OVERRULED.

14 THE WITNESS: WE NEVER WERE PRESENTED WITH THE
15 COPIES OF THOSE DOCUMENTS.

16 BY MR. KLEIN:

17 Q WHY WEREN'T YOU ABLE TO FOLLOW-UP ON ADELMAN
18 AND ON HOLMES?

19 MR. MC MULLEN: OBJECTION. RELEVANCY.

20 THE COURT: OVERRULED.

21 THE WITNESS: AT THAT POINT IN TIME WE HAD NO
22 FURTHER INFORMATION TO GO WITH. WE HAD HOPED THAT FURTHER
23 RESEARCH OF DOCUMENTATION FROM S.D.T. OR OTHER THINGS THAT
24 WE HAD REQUESTED THAT THE ATTORNEYS GET OR OBTAIN IN ONE
25 FORM OR ANOTHER WOULD HAVE LED TO POSSIBLE IDENTIFYING
26 INFORMATION TO BETTER RESEARCH THESE INDIVIDUALS.

27 BY MR. KLEIN:

28 Q AND THESE WERE SOME OF THE REASONS THAT YOU

1 ULTIMATELY LEFT THE CASE?

2 MR. MC MULLEN: OBJECTION. RELEVANCY.

3 THE COURT: SUSTAINED.

4 MR. KLEIN: THAT'S ALL I HAVE.

5 THE COURT: ANYTHING FURTHER?

6 MR. KLEIN: IT IS THE SAME OFFER OF PROOF.

7 THE COURT: COUNSEL, I HAVE RULED.

8 MR. KLEIN: AND, YOUR HONOR, I MIGHT ADD THAT
9 FURTHER OFFER OF PROOF WOULD BE THE DECLARATION THAT THE
10 JENSENS SIGNED, WHICH IS ATTACHED TO THE NEW PLEADING.

11 MR. MC MULLEN: JUST ONE QUESTION.

12

13

RECROSS-EXAMINATION @

14

15 BY MR. MC MULLEN:

16 Q DID MR. CHIER AND MR. BARENS SHARE THE SAME
17 OFFICE SPACE, OR DID THEY HAVE SEPARATE OFFICES?

18 A THEY HAD SEPARATE OFFICES.

19 MR. MC MULLEN: THANK YOU.

20 NOTHING FURTHER.

21 THE COURT: MAY THE WITNESS BE EXCUSED?

22 MR. KLEIN: NO OBJECTION.

23 THE COURT: ANY OBJECTION?

24 MR. MC MULLEN: NO OBJECTION.

25 THE COURT: THANK YOU, SIR. YOU ARE EXCUSED.

26 CALL MR. HUNT.

27 MR. CRAIN: WE ARE GOING TO NEED A MOMENT BECAUSE
28 HE IS GOING TO HAVE BOXES UP THERE TO REFER TO DOCUMENTS.

1 THE COURT: LET'S HAVE HIM TAKE THE STAND. IF HE
2 NEEDS SOMETHING --

3 MR. CRAIN: I BELIEVE WE -- IT WOULD BE MUCH MORE
4 EXPEDITIOUS THIS WAY. THIS IS THE WAY WE HAVE WORKED THIS
5 OUT. WE HAVE EVERYTHING FILED IN THE MANNER THAT HE CAN
6 FIND IT AND OBTAIN IT WHILE HE IS ON THE WITNESS STAND.
7 IT WILL BE MUCH MORE QUICK.

8 THE COURT: ARE THESE EXHIBITS?

9 MR. CRAIN: PARDON ME?

10 YES, THEY ARE AND WILL BE.

11 THE COURT: COUNSEL SHOULD HAVE THE EXHIBITS
12 BECAUSE COUNSEL IS GOING TO HAVE TO MARK THEM AND GIVE
13 THEM TO THE CLERK.

14 MR. CRAIN: I KNOW THAT, YOUR HONOR, BUT THIS IS
15 THE PROCEDURE WE WORKED OUT, AND PART OF IT WAS WORKED OUT
16 YESTERDAY AFTERNOON THAT THE COURT GAVE US BECAUSE OF THE
17 TWO AND A HALF WEEK DELAY IN THE DISCOVERY. IF IT IS ALL
18 RIGHT WITH THE BAILIFF, I WOULD JUST LIKE TO GET MR. HUNT
19 UP THERE. I WILL HELP HIM CARRY THE BOXES. AS I AM
20 REFERRING TO SOMETHING --

21 THE COURT: ALL RIGHT.

22 MR. CRAIN: THANK YOU.

23 THE COURT: MR. HUNT, WHY DON'T YOU STAND RIGHT
24 THERE AND RAISE YOUR RIGHT HAND.

25

26

JOSEPH HUNT, +

27 THE PETITIONER HEREIN, CALLED AS A WITNESS IN HIS OWN
28 BEHALF, WAS 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: PLEASE BE SEATED.

7 PLEASE STATE YOUR NAME AND SPELL IT FOR THE
8 RECORD.

9 THE WITNESS: JOSEPH HUNT, H-U-N-T.

10 THE COURT: YOU MAY INQUIRE.

11 MR. CRAIN: THANK YOU
12

13 DIRECT EXAMINATION +
14

15 BY MR. CRAIN:

16 Q MR. HUNT, YOU ARE PETITIONER IN THIS CASE; IS
17 THAT CORRECT?

18 A YES, I AM.

19 Q AND WOULD YOU PULL THE MICROPHONE SLIGHTLY
20 TOWARDS YOU, AND I THINK WE WILL BE ABLE TO HEAR YOU
21 BETTER BACK HERE. THANK YOU

22 AND AT SOME POINT IN CONNECTION WITH YOUR
23 BEING CHARGED IN THE LEVIN CASE DID YOU RETAIN MR. BARENS
24 AS YOUR ATTORNEY?

25 A YES.

26 Q AND CAN YOU TELL US WHEN THAT WAS OR
27 APPROXIMATELY WHEN THAT WAS?

28 A IT WAS EITHER IN LATE 1984 OR EARLY 1985.

1 Q WHEN MR. BARENS FIRST BECAME YOUR ATTORNEY IN
2 CONNECTION WITH THE LEVIN CASE WERE YOU IN CUSTODY AT THAT
3 TIME?

4 A YES.

5 Q AND AT SOME POINT WERE YOU RELEASED ON BAIL?

6 A YES.

7 Q AND CAN YOU TELL US WHEN THAT WAS OR
8 APPROXIMATELY WHEN THAT WAS?

9 A NOVEMBER, 1985.

10 Q DID ARTHUR BARENS REMAINED YOUR ATTORNEY
11 THROUGHOUT THE LEVIN TRIAL; IS THAT CORRECT?

12 A YES.

13 Q NOW, GOING BACK TO THE -- WELL, WHILE WE ARE
14 ON THE SUBJECT OF BAIL, YOU REMAINED OUT ON BAIL UNTIL
15 APPROXIMATELY WHEN?

16 A APRIL 22, 1987.

17 Q THAT'S WHEN THE VERDICT WAS RETURNED AT THE
18 GUILT PHASE OF THE TRIAL; IS THAT RIGHT?

19 A YES.

20 Q AT THAT POINT YOU WERE REMANDED; CORRECT?

21 A YES.

22 Q ALL RIGHT.

23 NOW, AT THE BEGINNING OF MR. BARENS'
24 REPRESENTATION OF YOU DID HE HAVE ANYONE WHO WAS ASSISTING
25 HIM ON THE CASE --

26 A YES.

27 Q -- TO YOUR KNOWLEDGE?

28 A YES.

1 Q WHO WAS THAT?

2 MR. MC MULLEN: OBJECTION. RELEVANCY.

3 THE COURT: OVERRULED.

4 BY MR. CRAIN:

5 Q WHO WAS THAT, SIR?

6 A LEWIS TITUS.

7 Q DID MR. TITUS ASSIST MR. BARENS AT THE
8 PRELIMINARY HEARING?

9 A YES, HE DID. MR. TITUS TOOK A NUMBER OF
10 WITNESSES ON CROSS-EXAMINATION, MADE LEGAL ARGUMENTS.

11 Q NOW, DID MR. TITUS LEAVE THE CASE AT SOME
12 POINT AFTER THE PRELIMINARY HEARING?

13 A YES.

14 Q AND ABOUT HOW LONG AFTERWARDS WAS THAT?

15 A I DON'T RECALL WITH ANY PRECISION. IT WAS --
16 IN MONTHS, MEASURED IN MONTHS LESS THAN SIX.

17 Q NOW, DID MR. CHIER HAVE ANYTHING TO DO WITH
18 THE CASE DURING THE PRELIMINARY HEARING?

19 A NO.

20 Q DID HE COME ON THE SCENE LATER?

21 A YES.

22 Q AND DO YOU REMEMBER APPROXIMATELY WHEN
23 MR. CHIER BECAME AFFILIATED WITH YOUR DEFENSE IN THE LEVIN
24 CASE?

25 A I WOULD SAY WITHIN THE PERIOD OF MAY TO JULY
26 OF 1985.

27 Q AGAIN, YOU WERE RELEASED ON BAIL WHEN?

28 A NOVEMBER 7, 1985.

1 Q ALL RIGHT.

2 SO MR. CHIER -- DID HE IN ONE WAY OR ANOTHER
3 REMAIN CONNECTED THE DEFENSE OF THE CASE THROUGHOUT THE
4 TRIAL?

5 A AND ALL THE WAY TO SENTENCING, YES.

6 Q OKAY.

7 NOW, THIS IS A MATTER OF BACKGROUND.
8 GENERALLY SPEAKING WHILE YOU WERE IN CUSTODY AND BEFORE
9 YOUR RELEASE ON BAIL DID YOU HAVE MEETINGS WITH MR. BARENS
10 AT A JAIL FACILITY?

11 A YES.

12 Q AND AFTER YOU WERE RELEASED FROM CUSTODY ON
13 BAIL DID YOU CONTINUE TO HAVE MEETINGS WITH MR. BARENS?

14 A YES.

15 Q AND WHERE WOULD THOSE MEETINGS BE HELD?

16 A IN HIS OFFICE, OFTENTIMES IN HIS CAR, IN THE
17 HALLWAY OUTSIDE THE COURTROOM. THOSE WERE THE PRINCIPAL
18 PLACES.

19 Q AND WAS IT YOUR UNDERSTANDING THAT MR. BARENS
20 WAS THE LEAD COUNSEL IN THE CASE?

21 A THAT WAS MY UNDERSTANDING AT THE BEGINNING OF
22 MY ASSOCIATION WITH MR. BARENS, AND AT THE POINT IN TIME
23 THAT MR. CHIER CAME ON THE CASE. HOWEVER, IF YOU ARE
24 TALKING ABOUT LEAD AT THE TIME THAT JURY SELECTION WAS
25 OCCURRING, IT WOULD HAVE BEEN MORE PRECISE AND GONE TO
26 VARIOUS CATEGORIES. THERE WERE CERTAIN THINGS THAT BARENS
27 SEEMED TO BE --

28 MR. MC MULLEN: OBJECTION. NARRATIVE.

1 THE WITNESS: DECISION MAKING --

2 THE COURT: EXCUSE ME. I UNDERSTAND.

3 PUT A QUESTION.

4 THE ANSWER WILL STAND.

5 BY MR. CRAIN:

6 Q NOW, DURING YOUR MEETINGS WITH MR. BARENS
7 OVER THE COURSE OF TIME BEFORE THE TRIAL DID YOU DISCUSS
8 THE CASE AND YOUR DEFENSE WITH HIM?

9 A YES.

10 Q AND DID THOSE DISCUSSIONS CONTINUE THROUGHOUT
11 THE TRIAL?

12 A YES.

13 Q AND DID YOU PREPARE MEMORANDA FOR MR. BARENS
14 BOTH BEFORE AND DURING THE TRIAL CONCERNING THE CASE AND
15 POSSIBLE ISSUES IN THE CASE?

16 A YES. I SWITCHED TO THAT APPROACH AFTER, AS
17 OUR RELATIONSHIP MATURED. AND AS I LEARNED MORE ABOUT
18 MR. BARENS I STARTED TO PUT MORE DOWN IN WRITING FOR HIM.

19 Q WHEN YOU PUT THINGS DOWN IN WRITING, WERE
20 THESE THINGS THAT WERE THEN GIVEN TO MR. BARENS FOR HIS
21 CONSIDERATION?

22 A YES.

23 Q THEY RELATED TO THE CASE AND THE POTENTIAL
24 ISSUE IN THE CASE?

25 A YES.

26 Q AND DID THEY, JUST GENERALLY SPEAKING HERE,
27 SINCE WE ARE SORT OF IN THE BACKGROUND AREA, DID THEY
28 RELATE TO THE -- DID SOME OF THEM RELATE TO THE FIVE

1 ISSUES THAT THE COURT, JUDGE CZULEGER HERE, IS RECEIVING
2 EVIDENCE ON CONCERNING THE ASSERTION THAT MR. BARENS
3 RENDERED INCOMPETENT REPRESENTATION?

4 A YES.

5 Q AND YOU HAVE READ THE O.S.C. ISSUED BY THE
6 COURT OF APPEAL IN THIS CASE, HAVE YOU?

7 A YES.

8 Q AND YOU ARE FAMILIAR WITH THE CHARGES THAT
9 HAVE BEEN LODGED AGAINST MR. BARENS CONCERNING HIS
10 INCOMPETENCY AS SET FORTH IN THE O.S.C.; IS THAT RIGHT?

11 MR. MC MULLEN: OBJECTION. MISSTATES THE EVIDENCE,
12 CHARGES.

13 THE COURT: I WILL ALLOW THE QUESTION.

14 YOU MAY ANSWER.

15 THE WITNESS: YES.

16 BY MR. CRAIN:

17 Q ALL RIGHT.

18 NOW, YOUR CONVICTION IN THE CASE TOOK PLACE
19 IN 1987; IS THAT RIGHT?

20 A YES.

21 Q AND HAVE YOU IN THE INTERVENING YEARS BEEN
22 ABLE TO MAINTAIN A COMPLETE SET OF ALL OF THE DOCUMENTS
23 AND MEMORANDA AND OTHER WRITTEN MATERIALS THAT YOU
24 FURNISHED MR. BARENS BOTH BEFORE AND DURING THE TRIAL
25 RELATIVE TO YOUR DEFENSE?

26 A NO. FOR A COUPLE OF REASONS. MOST OF THE
27 STUFF WAS --

28 THE COURT: HOLD IT.

1 THE ANSWER IS NO.

2 PUT A QUESTION.

3 MR. CRAIN: THANK YOU.

4 BY MR. CRAIN:

5 Q WHY IS THAT?

6 A MOST OF THESE MATERIALS WERE AT -- AT THE
7 ROBERTS' HOME ON BELLAGIO ROAD, WHERE I WAS STAYING WHILE
8 I WAS OUT ON BAIL, AND A NUMBER OF PAPERS ALSO HAD BEEN
9 TAKEN IN A JANUARY 8, 1987, SEARCH BY THE CALIFORNIA
10 DEPARTMENT OF JUSTICE OF THEIR HOME.

11 SO IN CONNECTION -- SO THOSE WERE TWO REASONS
12 WHY THE PAPERS WERE NO LONGER IN MY POSSESSION ONCE I WAS
13 REMANDED TO CUSTODY.

14 Q DO YOU HAVE SOME OF THE DOCUMENTS THAT YOU
15 FURNISHED TO MR. BARENS, COPIES OF THOSE DOCUMENTS IN YOUR
16 PROSESSION?

17 A YES. THEY HAVE COME BACK TO ME IN SOME WAYS
18 THROUGH DISCOVERY IN RELATIONSHIP TO THE JANUARY 8, 1987,
19 SEARCH, AND AS A RESULT OF THE EFFORTS OF DAN DOBRIN, MY
20 APPELLATE ATTORNEY.

21 Q SO MR. DOBRIN BECAME YOUR ATTORNEY WHEN,
22 APPROXIMATELY?

23 MR. MC MULLEN: OBJECTION. RELEVANCY.

24 THE COURT: I WILL ALLOW IT.

25 THE WITNESS: EARLY 1988.

26 BY MR. CRAIN:

27 Q AND HE WAS ABLE TO OBTAIN SOME BUT NOT ALL OF
28 THE DOCUMENTS THAT HAVE BEEN SENT BY YOU TO MR. BARENS

1 RELATIVE TO YOUR DEFENSE; IS THAT; CORRECT?

2 MR. MC MULLEN: OBJECTION. RELEVANCY.

3 MR. CRAIN: THIS IS FOUNDATIONAL, YOUR HONOR.

4 THE COURT: BUT WHERE ARE WE GOING?

5 MR. CRAIN: I AM TRYING TO ESTABLISH, THE COURT IS
6 GOING TO BE SEEING SOME OF THESE DOCUMENTS THAT IMPEACH
7 MR. BARENS.

8 THE COURT: WHY DON'T WE JUMP TO THE CHASE SCENE.
9 IF THERE IS A PROBLEM AS TO FOUNDATION I WILL HEAR AN
10 OBJECTION, AND WE WILL DEAL WITH IT THEN.

11 MR. CRAIN: OKAY.

12 BY MR. CRAIN:

13 Q NOW, LET ME CALL YOUR ATTENTION TO ONE OF THE
14 ISSUES THAT'S BEFORE THE COURT, THAT IS THE
15 CANTOR-FITZGERALD ISSUE AND THE FACT THAT MR. KARNY LIED
16 DURING A DEPOSITION. GENERALLY SPEAKING, ARE YOU FAMILIAR
17 WITH THIS ISSUE?

18 A YES.

19 Q AND DURING THE COURSE OF MR. BARENS'
20 REPRESENTATION OF YOU BEFORE THE TRIAL OR DURING THE TRIAL
21 OR BOTH, DID YOU BRIEF MR. BARENS OR HAVE ANY DISCUSSIONS
22 WITH MR. BARENS RELATIVE TO THIS ISSUE?

23 A I BRIEFED MR. BARENS ABOUT IT IN 1985. I
24 SENT HIM A LETTER FROM COUNTY JAIL TO DISCUSS THE
25 CANTOR-FITZGERALD SITUATION, AND I TALKED ABOUT IT WITH
26 HIM ON SEVERAL OCCASIONS THEREAFTER.

27 Q AND IN ANY OF THESE DISCUSSIONS DID YOU --
28 WAIT A MINUTE, LET ME BACK UP.

1 YOU ARE SAYING YOU SENT CORRESPONDENCE TO
2 MR. BARENS, IN ADDITION YOU HAD FACE-TO-FACE VERBAL
3 CONVERSATIONS ABOUT THIS SUBJECT; IS THAT RIGHT?

4 A YES. I GAVE HIM THE GENERAL OVERVIEW ON THE
5 CANTOR-FITZGERALD LITIGATION, AND REPORT I GAVE HIM IN
6 1985, WHICH WE STILL HAVE A COPY OF.

7 Q BEFORE WE GET TO THAT, INFORM -- DURING THESE
8 DISCUSSIONS DID YOU INFORM MR. BARENS ABOUT MR. KARNY'S
9 DEPOSITION?

10 A YES.

11 Q DID YOU INFORM MR. BARENS THAT YOU BELIEVED
12 THAT THE DEPOSITION WOULD SHOW THAT MR. KARNY HAD PERJURED
13 HIMSELF DURING THAT DEPOSITION?

14 A YES.

15 Q BY "MR. KARNY," FOR THE RECORD, IT IS
16 UNDERSTOOD I AM REFERRING TO DEAN KARNY?

17 A THAT'S MY UNDERSTANDING.

18 Q NOW, YOU REFERRED TO A DOCUMENT IN 1985 THAT
19 YOU SENT TO MR. BARENS. IS THAT DOCUMENT IN THE COURTROOM
20 OR A COPY OF IT?

21 A YES.

22 Q AND COULD YOU --

23 MR. CRAIN: CAN I FROM TIME TO TIME APPROACH THE
24 WITNESS WITHOUT ASKING AT THE TIME?

25 THE WITNESS: I THINK YOU HAVE A NUMBER TO THESE
26 THINGS.

27 MR. CRAIN: I BELIEVE THAT WOULD BE EXHIBIT 244,
28 WHICH MR. KLEIN --

1 THE COURT: 244 HAS PREVIOUSLY BEEN MARKED.

2 THE WITNESS: WHAT FILE NUMBER DO YOU HAVE?

3 MR. CRAIN: 8164.

4 THE WITNESS: OKAY.

5 MR. CRAIN: MAY I APPROACH THE WITNESS?

6 THE COURT: YES.

7 MR. CRAIN: THANK YOU.

8 BY MR. CRAIN:

9 Q MR. HUNT, DO YOU HAVE --

10 MR. CRAIN: PERHAPS, I DON'T KNOW WHETHER
11 MR. MC MULLEN WANTS TO LOOK AT WHAT MR. HUNT IS REFERRING
12 TO. HE HAS A COPY OF 244. SOME OF THESE HAVE BEEN MARKED
13 AS EXHIBITS ALREADY.

14 THE COURT: I THINK IT IS MOST IMPORTANT TO MAKE
15 SURE THAT THE WITNESS HAS WHAT WE KNOW TO BE 244. IF YOU
16 RECALL EARLIER WE HAD SOME DISCUSSIONS OF VARIOUS DRAFTS
17 AND DOCUMENTS, THERE WAS A QUESTION WHICH DRAFT WAS BEFORE
18 A WITNESS AT ANY GIVEN TIME.

19 MR. CRAIN: YOU KNOW, I THINK I WILL JUST SHOW HIM
20 244.

21 THE COURT: I THINK THAT WOULD BE BETTER, THAT WAY
22 WE KNOW THAT THE RECORD WILL BE CLEAR THAT HE HAS WHAT WE
23 HAVE.

24 BY MR. CRAIN:

25 Q WE ARE NOW LOOKING AT WHAT'S BEEN MARKED
26 PETITIONER'S EXHIBIT 244?

27 A YES.

28 Q AND WHAT IS THAT DOCUMENT?

1 A THIS IS A CHRONOLOGY I PREPARED FOR
2 MR. BARENS' USE. IT IS FOR THE MOST PART A CHRONOLOGY OF
3 MY RELATIONSHIP TO LEVIN, THEN IT GOES INTO A DESCRIPTION
4 OF BACKGROUND THINGS THAT I KNEW ABOUT MR. LEVIN AS A
5 RESULT OF MY ASSOCIATION WITH HIM AND STATEMENTS TO ME.
6 AND THEN THERE IS SOME DISCUSSION ABOUT -- THE END ABOUT
7 CIRCUMSTANCES THAT RELATED TO THE B.B.C. FINANCIAL
8 CONDITION.

9 Q AND DOES THAT RELATE TO CANTOR-FITZGERALD IN
10 SOME WAY?

11 A YES. THERE IS A SECTION ON
12 CANTOR-FITZGERALD.

13 Q SO WHAT YOU ARE SAYING IS THAT THIS DOCUMENT,
14 EXHIBIT 244, WHICH IS A NUMBER OF PAGES, THAT WAS
15 SOMETHING YOU FURNISHED MR. BARENS IN 1985 IN ORDER TO
16 GIVE HIM A GENERAL OVERVIEW OF THE BACKGROUND OF THE CASE
17 FROM YOUR PERSPECTIVE; IS THAT RIGHT?

18 A YES. JUST TO BE CLEAR. THIS DOCUMENT IS
19 TYPEWRITTEN. I WROTE THIS OUT IN LONGHAND AT THE COUNTY
20 JAIL, SENT IT TO HIM ON LEGAL PAPER. IT WAS TYPED UP AND
21 RETURNED BY A SECRETARY, CHRISTINA, AND WE DID THIS A
22 COUPLE OF TIMES.

23 Q CHRISTINA BEING MR. BARENS' SECRETARY?

24 A SOMEONE THAT WAS WORKING IN HIS OFFICE. HE
25 HAS POOL OF GIRLS.

26 THE COURT: YOU SAID "RETURNED." A COPY OF IT WAS
27 RETURNED TO YOU?

28 THE WITNESS: CORRECT?

1 THE COURT: ALL RIGHT.

2 BY MR. CRAIN:

3 Q DID THE TYPEWRITTEN COPY APPEAR TO BE WHAT
4 YOU HAD SENT TO MR. BARENS.

5 THE WITNESS: JUST TO MAKE SOMETHING REAL CLEAR.
6 AS FAR AS IT GETTING RETURNED TO ME, I THINK I SPOKE A
7 LITTLE BIT HASTILY.

8 MR. MC MULLEN: OBJECTION. NO QUESTION.

9 THE COURT: YOU WANT TO EXPLAIN THE ANSWER?

10 MR. CRAIN: THANK YOU, YOUR HONOR.

11 THE WITNESS: THE FIRST DEFINITIVE RECOLLECTION OF
12 SEEING THIS DOCUMENT IN A TYPEWRITTEN FORM IS AFTER I GOT
13 OUT, SO I WASN'T BEING QUITE ACCURATE THERE.

14 BY MR. CRAIN:

15 Q DOES THAT APPEAR TO BE A TYPEWRITTEN VERSION
16 OR A TYPEWRITTEN ACCOUNT -- I AM NOT SPEAKING THE RIGHT
17 WORD.

18 DOES THAT APPEAR TO BE A TYPEWRITTEN COPY OF
19 WHAT YOU SENT IN HANDWRITING TO MR. BARENS?

20 A YES. AND I SAW THIS DOCUMENT IN ARTHUR
21 BARENS' OFFICE WHEN I GOT OUT.

22 Q DOES IT APPEAR TO BE DIFFERENT IN ANY WAY
23 FROM, THE TYPEWRITTEN FROM THE HANDWRITTEN DOCUMENT THAT
24 YOU SENT TO MR. BARENS GIVING HIM THIS BACKGROUND AND
25 CHRONOLOGY OF THE CASE?

26 A NO, IT WASN'T. THE HANDWRITTEN, A COPY OF
27 THE HANDWRITTEN VERSION WAS ALSO IN THE SAME BOX THAT I
28 SAW THIS IN WHEN I GOT OUT OF JAIL ON BAIL.

1 Q I GUESS WHAT I AM GETTING AT, THEY APPEAR TO
2 BE THE SAME THING?

3 A I WROTE --

4 Q YOU WROTE THE TYPEWRITTEN FORM AND THE
5 HANDWRITTEN FORM?

6 A THE TYPEWRITTEN ONE THAT I SENT HIM AND THIS
7 DOCUMENT ARE IDENTICAL.

8 Q IN THERE WE WERE TALKING ABOUT
9 CANTOR-FITZGERALD, ONE OF THE ISSUES THAT JUDGE CZULEGER
10 IS CONSIDERING AT THIS HEARING HERE, AND IS THERE
11 REFERENCE IN EXHIBIT 244 TO CANTOR-FITZGERALD?

12 A YES, AT PAGE 18 AND 19.

13 MR. CRAIN: AND I DON'T KNOW WHETHER THE COURT HAS
14 HAD AN OPPORTUNITY TO VIEW ANY OF THESE --

15 THE COURT: NO. NO ONE HAS GIVEN ME COPIES OF
16 THESE EXHIBITS. I WILL LOOK AT IT AS SOON AS THE WITNESS
17 IS FINISHED.

18 MR. CRAIN: ALL RIGHT.

19 BY MR. CRAIN:

20 Q SO PAGES 18 AND 19.

21 THE COURT: ACTUALLY, MR. HUNT, DO YOU HAVE AN
22 EXTRA COPY OF IT IN YOUR BOX?

23 THE WITNESS: YES.

24 THE COURT: LET ME SEE IT SO I CAN BE FOLLOWING
25 ALONG.

26 PAGE 8?

27 MR. CRAIN: 18 AND 19.

28

1 BY MR. CRAIN:

2 Q NOW, YOU TOLD US A FEW MOMENTS AGO THAT YOU
3 ALSO HAD VERBAL CONVERSATIONS WITH MR. BARENS CONCERNING
4 CANTOR-FITZGERALD; CORRECT?

5 A YES.

6 Q AND THAT CONCERNED ALSO THE SPECIFIC FACT
7 THAT DEAN KARNY HAD TESTIFIED IN A DEPOSITION REGARDING
8 THE CANTOR-FITZGERALD LAWSUIT; CORRECT?

9 A CORRECT?

10 Q AND YOU TOLD -- WHAT DID YOU TELL MR. BARENS
11 RELATIVE TO THIS DEPOSITION AND WHAT YOU BELIEVED HE
12 SHOULD DO, MR. HUNT?

13 A I TOLD HIM HE SHOULD GET THE DEPOSITION;
14 I TOLD HIM THAT THE DEPOSITION COULD BE USED
15 TO DEMONSTRATE THAT DEAN KARNY, WHO WAS A CHIEF WITNESS
16 AGAINST ME, HAD PERJURED HIMSELF IN THE COURSE OF THAT
17 DEPOSITION, THAT LITIGATION;

18 I TOLD HIM THAT THAT WOULD BE EXTREMELY
19 SIGNIFICANT FOR A NUMBER OF REASONS, WHICH I DESCRIBED TO
20 HIM AT THE TIME.

21 Q WHAT WERE THOSE REASONS?

22 A THE CONVERSATION I AM DRAWING UPON RIGHT NOW
23 IS ONE THAT OCCURRED DURING TRIAL.

24 Q LET ME STOP YOU RIGHT THERE.

25 DO YOU REMEMBER WHAT PART OF THE TRIAL?

26 A IT WAS WHILE DEAN KARNY WAS ON THE STAND.

27 Q DURING THE GUILT PHASE?

28 A YES. I WAS URGING HIM AGAIN TO GET THE

1 DEPOSITION. I FELT THAT IT SHOULD BE ESTABLISHED THAT
2 MR. KARNY WAS A PERSON THAT HAS A CHARACTER SUCH THAT HE
3 WAS WILLING TO COMMIT PERJURY WHATEVER HIS EXPLANATION
4 MIGHT BE. THE MOTIVATING FACTOR, THE FACT THAT HE
5 PERSONALLY CROSSED THAT LINE TO ME -- I THOUGHT IT WAS
6 SIGNIFICANT AS IT WAS.

7 I TOLD MR. BARENS THAT THE ONLY PERSON THAT
8 WAS BEING ESTABLISHED AS A PERSON THAT WOULD LIE WANTONLY
9 WAS ME, AND I FELT THAT IT WAS IMPORTANT TO DEMONSTRATE
10 THAT THE B.B.C. PEOPLE, MOST ESPECIALLY KARNY, SINCE HE
11 WAS THE CHIEF WITNESS, WAS OF A CHARACTER AND CALIBER SUCH
12 THAT HE WOULD LIE WHEN HE PERCEIVED IT TO BE IN HIS
13 INTEREST.

14 Q LET ME JUST PAUSE RIGHT THERE AND SHOW YOU
15 ANOTHER DOCUMENT.

16 MR. CRAIN: WHICH HAS BEEN MARKED AS PETITIONER'S
17 253, YOUR HONOR.

18 THE COURT: THIS COMPUTER LIST?

19 MR. CRAIN: YES. AND IT IS 8201.

20 MR. KLEIN: MAYBE MR. HUNT HAS A COPY HE COULD
21 FURNISH TO THE JUDGE.

22 THE COURT: GIVE ME ONE SECOND. LET ME FINISH
23 LOOKING AT 244.

24

25 (THE COURT REVIEWING DOCUMENT.)

26

27 THE COURT: ALL RIGHT.

28

LET ME RETURN MR. HUNT'S COPY OF 244 TO HIM.

1 THE WITNESS: THANK YOU.

2 THE COURT: GO AHEAD PUT A QUESTION.

3 MR. CRAIN: YES, YOUR HONOR.

4 BY MR. CRAIN:

5 Q MR. HUNT, DOES EXHIBIT 253, WHICH YOU NOW
6 HAVE BEFORE YOU -- FIRST OF ALL, WHAT IS THAT?

7 A THIS IS A PRINTOUT DATED JANUARY 4, 1987,
8 FROM A COMPUTER THAT I WAS USING WHILE I WAS OUT ON BAIL.
9 THE COMPUTER WAS OVER AT THE ROBERTS' HOME. WHAT I WOULD
10 DO IS PREPARE MEMORANDA ON THE COMPUTER SO IT WOULD BE
11 EASILY LEGIBLE FOR MR. BARENS.

12 THAT PARTICULAR MEMORANDUM IS A TO-DO LIST
13 WHICH WOULD FREQUENTLY GET PRINTED OUT AS THE FIRST FEW
14 PAGES OF THE MASTER CONTROL FILE, WHICH IS A TITLE I GAVE
15 TO A DOCUMENT I PREPARED FOR MR. BARENS' USE.

16 ABOUT FOUR, FIVE LINES DOWN FROM THE TOP OF
17 THE FIRST PAGE OF THAT EXHIBIT IT SAYS (READING):

18 "WE NEED TO GET THE CANTOR DEPO."

19 IT IS RIGHT UNDERNEATH THE HEADING "DEAN
20 KARNY."

21 Q THIS EXHIBIT 253, YOU GAVE THIS TO ARTHUR
22 BARENS?

23

24 (A LOUD SOUND WAS HEARD IN

25 THE COURTROOM.)

26

27 MR. CRAIN: MAY THE RECORD REFLECT THERE WAS A LOUD
28 NOISE IN THE COURTROOM?

1 THE COURT: WE KNOW IT WASN'T AN EARTHQUAKE BECAUSE
2 IT CAME FROM ABOVE RATHER THAN BELOW SO --

3 THE WITNESS: I TOOK THAT AS CORROBORATION, YOUR
4 HONOR.

5 MR. CRAIN: PERHAPS I CAN RESUME MY QUESTIONING.

6 THE COURT: SINCE THE BAILIFF HAS NOT GOTTEN UP AND
7 RAN OUT --

8 THE BAILIFF: THERE IS A FIGHT ON THE 11TH FLOOR.

9 THE COURT: WE DON'T DO FIGHTS ON THIS FLOOR.

10 SORRY, MR. CRAIN.

11 MR. CRAIN: WE ARE MUCH MORE REFINED HERE.

12 ALL RIGHT.

13 BY MR. CRAIN:

14 Q I THINK THE QUESTION WAS, MR. HUNT, REFERRING
15 TO EXHIBIT 253, IS THIS A DOCUMENT THAT YOU GAVE TO
16 MR. BARENS?

17 A YES, I DID.

18 Q AND DID YOU ASK HIM TO READ IT, REVIEW IT,
19 CONSIDER IT?

20 A I DON'T HAVE A SPECIFIC RECOLLECTION OF
21 ASKING HIM TO READ IT, BUT THE GENERAL WORKING RAPPOR
22 THAT WE HAD, AT LEAST MY EXPECTATION, WAS THAT SINCE I
23 HADN'T BEEN ABLE TO SPEND ENOUGH TIME TO DEAL WITH THESE
24 THINGS COMPREHENSIBLY, SINCE MR. BARENS DIDN'T WANT TO
25 DEAL WITH A LOT OF DETAIL AT ANY GIVEN MEETING, IF I WROTE
26 IT DOWN, THAT MAYBE THAT WOULD WORK, AND HE WOULD WORK ON
27 IT AT HIS LEISURE OR WHEN TIME DEVELOPED IN HIS SCHEDULE.

28 Q WHAT DO YOU MEAN MR. BARENS DIDN'T WANT TO DO

1 THOSE THINGS AND, THEREFORE, YOU FELT COMPELLED TO DRAW UP
2 THIS LIST OF THINGS TO DO?

3 A I FELT FROM MY LONG EXPERIENCE WITH
4 MR. BARENS THAT HE WAS A PERSON THAT WAS VERY ADVERSE TO
5 GETTING INTO THE DETAIL OF THE CASE, AND THAT HE WOULD, HE
6 WAS VERY AVERSE TO LOOKING AT MASSES OF DOCUMENTS. HE
7 WANTED IT ORGANIZED AND DESCRIBED FOR HIM, HE WANTED
8 REFERENCE MATERIAL THAT WOULD CROSS INDEX THOSE THINGS,
9 AND THEN FREQUENTLY HE WOULDN'T EVEN WANT TO LOOK AT THAT
10 IF IT LOOKED OVERLY COMPLICATED.

11 MR. MC MULLEN: AT THIS POINT WE WOULD OBJECT AS
12 IRRELEVANT, AND CALLS FOR CONCLUSION ON THIS WITNESS'
13 PART.

14 THE COURT: THE ANSWER IS FINISHED. I WILL ALLOW
15 IT TO STAND.

16 MR. CRAIN: THANK YOU.

17 BY MR. CRAIN:

18 Q GOING BACK TO EXHIBIT 253 YOU POINTED OUT TO
19 THE COURT THAT THAT HAS A REFERENCE TO THE CANTOR DEPO.
20 ARE YOU REFERRING TO THE DEAN KARNY DEPOSITION THAT HE
21 GAVE IN RELATION TO THE CANTOR-FITZGERALD LAWSUIT?

22 A YES. SPECIFICALLY IT SAYS, QUOTE (READING):
23 "WE NEED A COPY OF HIS DEPOSITION AT CANTOR."
24 AND IT IS RIGHT UNDERNEATH "DEAN L. KARNY" IN THE OUTLINE.

25 Q NOW, WERE THERE ANY OTHER, REFERRING TO 80 --
26 8055, WERE THERE ANY OTHER EXHIBITS OF DOCUMENTS THAT
27 RELATE TO ANY CONVERSATIONS THAT YOU HAD WITH MR. BARENS
28 CONCERNING THE DEAN KARNY DEPOSITION?

1 THE COURT: YOU USED A REFERENCE TO 8055.

2 MR. CRAIN: THAT'S HIS NUMBER.

3 THE COURT: IS THAT INTERNAL? I DON'T WANT TO
4 CONFUSE --

5 MR. CRAIN: I DON'T KNOW ANY OTHER WAY OF DOING IT.
6 HE HAS HIS OWN FILE NUMBERS. THAT'S WHAT THOSE NUMBERS
7 ARE. I WOULD LIKE IT MARKED NEXT IN ORDER.

8 THE COURT: IT IS NOT ON THE EXHIBIT LIST ALREADY?

9 MR. CRAIN: IT IS EXHIBIT 1-B TO THE PETITION FOR
10 WRIT OF HABEAS CORPUS FILED BY MR. DOBRIN.

11 THE COURT: IT WILL BE MARKED AS PETITIONER'S NEXT
12 IN ORDER, WHICH IS 277.

13 MR. CRAIN: THANK YOU.

14

15 (MARKED FOR ID = PETITIONER'S 277,
16 DOCUMENT.)

17

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

20

21 MR. KLEIN: IT MAY BE ON THE EXHIBIT LIST.

22 THE COURT: WHAT IS IT THAT YOU ARE LOOKING AT?

23 MR. KLEIN: JULY 3RD -- WHAT'S THE YEAR ON IT,
24 MR. HUNT?

25 THE WITNESS: THERE IS A VARIETY OF DIFFERENT
26 DATES. THE MATERIAL WAS APPENDED TO MY DECLARATION AS
27 PART OF THE ORIGINAL WRITE OF HABEAS CORPUS, INDEX 1-B TO
28 THAT WRIT.

1 BY MR. CRAIN:

2 Q WHAT IS THAT DOCUMENT THAT HAS NOW BEEN
3 MARKED AS --

4 THE COURT: THE NEXT IN ORDER IS 277.

5 JUST FOR IDENTIFICATION PURPOSES WHAT IS IT?

6 BY MR. CRAIN:

7 Q WHAT -- MR. HUNT, WHAT YOU ARE NOW REVIEWING,
8 277, WHAT IS THAT?

9 A IT IS A SERIES OF MEMORANDUM THAT I REFERRED
10 TO IN MY DECLARATION, WHICH IS PART OF 1-B. THESE ARE
11 MEMORANDUMS THAT I GAVE MR. BARENS OR NOTES THAT I TOOK AT
12 MEETINGS WITH MR. BARENS.

13 Q AND WHEN WERE THOSE NOTES TAKEN,
14 APPROXIMATELY, RELATIVE TO THE TRIAL ITSELF?

15 A THEY RANGED FROM JULY OF 1985 ALL THE WAY TO
16 FEBRUARY OF 1987 -- IN APRIL OF 1987, RATHER.

17 Q AND THE GUILT PHASE CONCLUDED APRIL 22, 1987;
18 IS THAT RIGHT?

19 A YES.

20 Q AND THE JURY COMMENCED ITS DELIBERATIONS AT
21 THAT PHASE APRIL 16, 1987; IS THAT RIGHT?

22 A YES.

23 Q AND YOU SAID THERE WERE CONTAINED WITHIN
24 EXHIBIT 277 MEMORANDA OR CORRESPONDENCE TO MR. BARENS; IS
25 THAT RIGHT?

26 A YES.

27 Q NOW, LOOKING AT EXHIBIT 277 AS A WHOLE, DOES
28 IT CONTAIN ANY REFERENCE TO KARNY'S DEPOSITION RELATIVE TO

1 THE CANTOR-FITZGERALD LAWSUIT?

2 A YES, IT CONTAINS A COPY OF WHAT HAS BEEN
3 MARKED AS EXHIBIT NO. 253.

4 Q DO WE HAVE THE PAGE REFERENCE? THESE PAGES
5 ARE REFERENCED.

6 MR. KLEIN: IT IS ALL 1-B TO THE PETITION.

7 THE WITNESS: PAGE 11.

8 MR. MC MULLEN: THANK YOU.

9 BY MR. CRAIN:

10 Q SO THERE ARE REFERENCES TO THAT; IS THAT
11 RIGHT?

12 A YES.

13 Q THESE WERE OTHER COMMUNICATIONS TO MR. BARENS
14 ABOUT YOUR DESIRE TO GET THE KARNY DEPOSITION AND USE IT
15 IN YOUR DEFENSE; IS THAT RIGHT?

16 A YES. THIS IS, THERE IS ONE COMMUNICATION
17 THERE WHICH IS A COPY OF THE FIRST PAGE OF EXHIBIT 253.

18 Q DID MR. BARENS EVER TELL YOU DURING THESE
19 DISCUSSIONS YOU HAD WITH HIM DURING WHICH YOU ASKED HIM TO
20 OBTAIN AND USE IN YOUR DEFENSE TO SHOW THAT KARNY WAS A
21 PERJURER, DID HE EVER DISCUSS WITH YOU WHAT HIS ATTITUDE
22 WAS TOWARDS THIS PARTICULAR TYPE OF EVIDENCE?

23 A YES, HE DID.

24 Q WHAT DID HE EXPRESS TO YOU?

25 A HE KEPT SAYING HE WAS GOING TO GET THE
26 DEPOSITION, HE WAS GOING TO EVALUATE THE MATTER. I THINK
27 HE HAD A FLEETING OPPORTUNITY TO LOOK AT THE DEPOSITION IN
28 SOME CONNECTION. IT SEEMS, IF MY MEMORY SERVES ME

1 CORRECTLY, THAT HE DIDN'T USE IT, AND WHEN HE SAID THAT HE
2 WAS CONCERNED THAT THIS WOULD REFLECT BADLY ON ME, WHICH
3 HE DID SAY TO ME, I SAID, "WELL, HOW CAN YOU, YOU KNOW,
4 NOT LOOK AT THE DEPOSITION, MR. BARENS, BEFORE YOU
5 DECIDE"? AND I WAS FRUSTRATED, I CALLED HIM MR. BARENS,
6 OTHERWISE I WOULD CALL HIM ARTHUR.

7 AND I SAID, "IN MY OPINION THERE WAS NO
8 DOWNSIDE TO THIS SINCE I HAD BEEN CHARACTERIZED AS THE
9 WORST TYPE OF LIAR, THAT I WOULD LIE AT THE DROP OF A HAT
10 UNDER ANY CIRCUMSTANCES. AND -- BUT THAT THIS WOULD BE
11 MEANINGFUL BECAUSE IT WOULD SHOW THAT THE OTHER PEOPLE IN
12 THE B.B.C. WOULD SUPPRESS INFORMATION OR FABRICATE
13 INFORMATION AT THE DROP OF A HAT, AND SPECIFICALLY," I
14 SAID THAT IF MR. BARENS LOOKED CAREFULLY AT THE DEPOSITION
15 HE WOULD SEE THAT MR. KARNY --

16 MR. MC MULLEN: OBJECTION. NARRATIVE.

17 THE COURT: I WILL LET HIM FINISH HIS ANSWER.

18 MR. CRAIN: THANK YOU, YOUR HONOR. IT WILL BE
19 PROBABLY QUICKER THIS WAY.

20 THE WITNESS: THAT MR. KARNY OBVIOUSLY HAD DONE A
21 LOT OF FREESTYLE LYING WHERE HE WAS INVENTING A LIE AND
22 ADDED TO IT.

23 MR. MC MULLEN: OBJECTION.

24 BY MR. CRAIN:

25 Q WHAT ELSE WAS DISCUSSED BETWEEN YOU AND YOUR
26 ATTORNEY, MR. BARENS, ON THIS SUBJECT?

27 A WELL, I TOLD HIM IF HE LOOKED AT IT HE WOULD
28 SEE THAT MR. BARENS -- MR. KARNY, WHILE HE WAS IN THE

1 DEPOSITION, WAS OBVIOUSLY FABRICATING VARIOUS STORIES JUST
2 OFF THE TOP OF HIS HEAD. NOBODY HAD COACHED HIM ON THESE
3 THINGS. THESE WERE IMPROMPTU THINGS IN RELATIONSHIP TO
4 THE GIVE AND TAKE OF THE "Q'S" AND "A'S", AND THE FACT
5 THAT MR. KARNY WOULD BEHAVE IN THAT FASHION, THAT HE HAD
6 THE CAPACITY TO DO SO SO GLIBLY, SINCE SOME OF THE
7 EXPLANATIONS WERE QUITE GLIB IN THERE, I THOUGHT WOULD BE
8 MEANINGFUL IN THE JURY'S ASSESSMENT OF CHARACTER.

9 Q MR. KARNY WAS A SIGNIFICANT WITNESS IN THE
10 OVERALL STRUCTURE OF THE PROSECUTION AGAINST YOU?

11 MR. MC MULLEN: OBJECTION. CALLS FOR CONCLUSION.

12 THE COURT: SUSTAINED.

13 MR. CRAIN: I KNOW THE COURT HAS READ A TRANSCRIPT.
14 I SUPPOSE IT IS PRETTY OBVIOUS.

15 THE COURT: I THINK PRETTY OBVIOUS THAT HE WAS AN
16 IMPORTANT WITNESS.

17 BY MR. CRAIN:

18 Q OKAY.

19 YOU HEARD MR. BARENS SAY HE NEVER RECALLS
20 EVER SEEING THE DEPOSITION, HE TESTIFIED IN HERE A DAY OR
21 TWO AGO?

22 A SEE, HE GOT THE DEPOSITION AND ACTUALLY
23 INDICATED IT ON THE RECORD. THE JUDGE ASKED HIM, HE ASKED
24 THE JUDGE FOR A COPY, SOMEHOW THE JUDGE HAD IT. IT IS IN
25 EARLY JANUARY. IT IS IN THE BEGINNING OF 1987. IT IS IN
26 THE RECORD. BARENS TOOK IT HOME AND RETURNED IT THE NEXT
27 DAY. BUT WHILE HE WAS RETURNING I TRIED TO START UP A
28 CONVERSATION WITH MR. BARENS ABOUT THE DETAILS IN IT.

1 MR. MC MULLEN: OBJECTION. NARRATIVE.

2 THE COURT: SUSTAINED.

3 BY MR. CRAIN:

4 Q WHAT WAS SAID DURING THAT CONVERSATION
5 RELATIVE TO THE DEPOSITION?

6 A IT BECAME OBVIOUS --

7 MR. MC MULLEN: OBJECTION. VAGUE AS TO TIME.

8 THE COURT: OVERRULED.

9 MR. CRAIN: THE DAY THAT THEY CAME BACK TO COURT.

10 THE COURT: OVERRULED.

11 MR. CRAIN: THANK YOU.

12 THE WITNESS: IT BECAME OBVIOUS THAT HE HAD NO
13 UNDERSTANDING OF THE FACTS OF THAT DEPOSITION'S GIVE AND
14 TAKE THAT KARNY MADE, THAT HE HADN'T READ IT, BECAUSE I
15 REFERRED TO A SPECIFIC, SPECIFIC THINGS WITH MR. BARENS
16 AND HE DIDN'T KNOW WHAT I WAS TALKING ABOUT. SO THEN HE
17 LATER GAVE IT BACK TO THE COURT, SO I HAD KIND OF A HEATED
18 DISCUSSION.

19 THE COURT: ALL RIGHT.

20 YOU HAVE ANSWERED THE QUESTION.

21 PUT A QUESTION.

22 MR. CRAIN: I GUESS THE COURT HAS READ AND CAN SEE
23 THAT IT WASN'T USED IN TRIAL.

24 BY MR. CRAIN:

25 Q LET ME ASK YOU SOME QUESTIONS IN ANOTHER
26 AREA, MR. HUNT, THAT INVOLVES ANOTHER ISSUE IN THE ORDER
27 TO SHOW CAUSE RELATIVE TO THE NEGOTIATIONS WITH
28 MR. KILPATRICK, THE TESTIMONY BY NEIL ADELMAN AND

1 POTENTIAL VALUE OF THE PURCHASE OF THE CYCLOTRON ATTRITION
2 MILLS.

3 THE COURT: YOU ARE TALKING ABOUT O.S.C. 2-C?

4 MR. CRAIN: YES, YOUR HONOR.

5 BY MR. CRAIN:

6 Q WITH REGARDS TO THIS, MR. HUNT, DID YOU
7 DISCUSS WITH MR. BARENS BOTH BEFORE AND DURING THE GUILT
8 PHASE OF YOUR TRIAL CONCERNING MICROGENESIS?

9 A YES.

10 Q AND JUST GENERALLY SPEAKING, WHAT -- FOR THE
11 RECORD HERE, WHAT WAS MICROGENESIS?

12 A MICROGENESIS WAS A CORPORATION FORMED IN
13 CALIFORNIA BY THE GROUP THAT WE CALLED THE B.B.C. TO
14 MARKET AND MANUFACTURER ATTRITION MILLING DEVICES BASED ON
15 DESIGN OF A FELLOW THAT REPRESENTED HIMSELF AS DR. GENE
16 BROWNING.

17 Q WAS THE NAME B.B.C., THE TERM BILLIONAIRE
18 BOYS CLUB, IS THAT SOMETHING THAT YOU AND THE OTHER
19 MEMBERS OF THE B.B.C. COINED, OR WAS THAT TERM ORIGINALLY
20 SOMEONE ELSE'S?

21 MR. MC MULLEN: OBJECTION. RELEVANCY.

22 THE COURT: I THINK THAT WOULD BE COVERED AT THE
23 TRIAL, THE WHOLE HISTORY OF B.B.C. AND THAT. THAT WAS THE
24 BOMBAY BICYCLE CLUB IN A BAR IN CHICAGO.

25 MR. CRAIN: IT IS A MEDIA CREATION, FOR WHAT IT IS
26 WORTH. IT IS KIND OF AN INTERESTING POINT.

27 BY MR. CRAIN:

28 Q ALL RIGHT.

1 SOMETHING ELSE THAT I READ? I KNOW THERE WAS DISCUSSION,
2 AND I THOUGHT IT WAS DURING THE TRIAL, ABOUT WHAT THIS
3 MILL WAS SUPPOSED TO DO TO EXTRACT CERTAIN MATERIALS BY
4 REDUCING IT TO VERY SMALL --

5 MR. CRAIN: THERE WAS SOME, YES.

6 THE COURT: ALL RIGHT.

7 MR. CRAIN: I DON'T PLAN TO SPEND A GREAT DEAL OF
8 TIME ON ANY OF THESE BACKGROUND THINGS. I THOUGHT IT
9 WOULD PUT IT MORE IN CONTEXT.

10 THE COURT: I DO KNOW THIS, AND I ASSUME IT WAS
11 FROM READING THE TRANSCRIPT AS OPPOSED TO SOMETHING ELSE
12 THAT I READ.

13 BY MR. CRAIN:

14 Q IT OPERATED IN A WAY TO PULVERIZE IT IN SOME
15 OTHER MANNER?

16 A WHAT WOULD HAPPEN WAS THAT --

17 Q JUST IN A SHORT FORM.

18 A IN A SHORT FORM.

19 Q I DON'T WANT TO GET INTO TECHNICALITIES OF
20 THE ATTRITION MILLS AT THIS POINT UNLESS THE COURT WOULD
21 LIKE TO.

22 THE COURT: NO. I THINK THIS IS THE MACHINE THAT
23 WAS OUT IN THE DESERT THAT WAS BEING TESTED, IT WAS CARTED
24 OUT ON THE BACK OF A TRUCK AND EVENTUALLY LEFT OUT THERE,
25 AS I RECALL?

26 THE WITNESS: YES.

27 MR. CRAIN: THERE IS A LOT MORE TO IT.

28 THE COURT: I AM SAYING, I KNOW THAT. I AM TALKING

1 ABOUT THE SAME THING. I DID READ THIS TRANSCRIPT.

2 MR. CRAIN: THAT'S A CHAPTER IN THE LIFE OF ONE
3 ATTRITION MILL.

4 MR. MC MULLEN: FOR THE COURT'S INFORMATION, THERE
5 WAS SOME MATERIAL IN THE PETITION AND THE RETURN WITH
6 RESPECT TO THIS.

7 THE COURT: MY RECOLLECTION IS FROM READING THE
8 TRANSCRIPT, AND IT HAS TO HAVE BEEN THE TRIAL TRANSCRIPT.
9 I AM AWARE OF THIS STUFF.

10 THE WITNESS: IN ANSWER TO YOUR QUESTION --

11 THE COURT: MR. BROWNING -- MR. BROWNING WAS THE
12 INVENTOR OR SOMETHING.

13 THE WITNESS: HE WAS.

14 THE COURT: HE TESTIFIED AT THE TRIAL.

15 THE WITNESS: YES, HE DID.

16 THE COURT: THAT'S HOW I KNOW IT.

17 BY MR. CRAIN:

18 Q I WAS GOING TO GET TO THAT IN A MOMENT.

19 THE ATTRITION MILLS OPERATED UNDER WHAT
20 PRINCIPLE, GENERALLY SPEAKING?

21 A PARTICLES OF ONE QUARTER INCH OR SMALLER THAT
22 WERE LESS THAN TEN PERCENT BY WEIGHT WATER COULD BE FED
23 INTO THE ATTRITION MILLS CYLINDER, IT WAS A LARGE CYLINDER
24 ABOUT SIX FEET TALL. THEY WOULD BE INSIDE THE CYLINDER
25 ENTRAINED IN SOME AIR STREAMS, AND BECAUSE OF THE DESIGN
26 OF THE CYLINDER AND SOME IMPELLERS THAT WERE IN THE
27 CYLINDER THESE PARTICLE STREAMS WOULD BE CAUSED TO
28 COLLIDE.

1 WHEN THOSE PARTICLE STREAMS COLLIDED, IT
2 SHEARED THE PARTICLES AND BREAKS THINGS DOWN INTO SMALLER
3 PIECES. THE ADVANTAGE WAS THAT SINCE THE GRINDING WAS
4 OCCURRING IN MIDAIR THERE WAS NO ABRASION TO THE MACHINE,
5 AND THIS HAS SOME SIGNIFICANT ECONOMIC REPERCUSSIONS, PLUS
6 YOU COULD GET EXTREMELY SMALL PARTICLE SIZES VERY CHEAPLY
7 WITHOUT USING A GREAT DEAL OF ENERGY.

8 Q YOU MENTIONED GENE BROWNING. YOU TOLD THE
9 JUDGE HE WAS THE INVENTOR OF THE ATTRITION MILLS?

10 A YES.

11 Q AND DID MICROGENESIS IN SOME WAY ENTER INTO
12 SOME SORT OF AGREEMENT WITH MR. BROWNING?

13 A YES, HE DID.

14 Q AND JUST IN GENERAL TERMS WHAT WAS THE NATURE
15 OF THAT?

16 A HE TRANSFERRED THE RIGHTS OF THE TECHNOLOGY
17 TO MICROGENESIS. WE WERE TO PAY HIM A CERTAIN AMOUNT OF
18 MONEY AND START IT A \$2500 AND IT LATER BECAME \$3500. HE
19 RECEIVED 33 PERCENT OF THE STOCK OF THE COMPANY,
20 MICROGENESIS, IN EXCHANGE FOR TRANSFERRING HIS RIGHTS TO
21 THAT TECHNOLOGY.

22 Q WHAT YEAR, MR. HUNT, DID THIS TAKE PLACE?

23 A WE INITIALLY MET DR. BROWNING IN LATE 1982 OR
24 EARLY 1983. WE SIGNED A DEAL IN JANUARY OF 1983. WE
25 WOULD ORGANIZE THE COMPANY AND PROVIDE THAT COMPANY WITH
26 AT LEAST \$250,000. IF HE WOULD AGREE TO STAND STILL FOR A
27 YEAR, NOT MAKE ANY OTHER ARRANGEMENTS WITH ANY OTHER
28 PARTIES, WE WOULD PAY HIM \$2500 A MONTH DURING THE

1 STAND-STILL PERIOD. AT THE END OF THAT PERIOD WE FORMED A
2 CORPORATION CALLED CYCLOTRONICS. THE SUCCESSOR IN
3 INTEREST TO CYCLOTRONICS WAS MICROGENESIS.

4 Q IN OTHER WORDS, CYCLOTRONICS WAS MERELY
5 ANOTHER NAME FOR ATTRITION MILLS?

6 A YES.

7 Q AND DID BROWNING ALSO HAVE A NAME THAT HE
8 USED, SOME INITIALS OR SOMETHING LIKE THAT?

9 MR. MC MULLEN: OBJECTION. RELEVANCE.

10 THE COURT: SUSTAINED.

11 MR. CRAIN: I JUST WANT TO GET --

12 THE COURT: I DON'T WANT TO GET INTO MORE DETAIL
13 THAN NECESSARY.

14 MR. CRAIN: I JUST WANTED TO CLARIFY, SO IT WAS
15 CLEAR WHAT WE ARE TALKING ABOUT.

16 BY MR. CRAIN:

17 Q NOW, DID THE ATTRITION MILL HAVE ANY USE WITH
18 REGARD TO MATTERS THAT RELATED TO ENERGY?

19 A YES, IT DID.

20 Q WHAT WAS THAT?

21 A MOST SPECIFICALLY IN RELATIONSHIP TO COAL
22 THERE WAS AN EFFECT THAT WAS DESCRIBED BY DR. BROWNING TO
23 US, AND BY CHEUNG, HENRY CHEUNG TOO, DR. CHEUNG, WHERE YOU
24 ENTRAINED PARTICLES OF COAL IN AIR CAUSING TWO STREAMS OF
25 SUCH PARTICLES TO COLLIDE. WHEN THE COAL COLLIDED IN AIR,
26 THERE WOULD BE A SHEARING EFFECT AND ON THE INTERFACE
27 BETWEEN THE PARTICLES AS THEY SPLIT FOR A VERY BRIEF
28 PERIOD OF TIME THERE WOULD BE AN ELEVATED TEMPERATURE.

1 IF YOU, AT THE SAME TIME YOU PUT THESE COAL
2 STREAMS IN THE ATTRITION MILLS CYLINDER, YOU ALSO PUT IN
3 AN ADDITIVE, WHICH WE CALLED TRIMEX, THAT SPARK OF HEAT
4 WOULD ALLOW THE ADDITIVE AND THE COAL TO CHEMICALLY SPIN
5 IN SUCH A WAY TO REDUCE THE SULFUR CONTENT OF THE COAL AND
6 YOU COULD SEPARATE OUT BY A DENSITY DISTRIBUTION METHOD
7 THAT MR. -- THAT DR. BROWNING HAD, YOU COULD SEPARATE OUT
8 THE PARTICLES WITH THE SULFUR FROM A SMALL PARTICLE OF
9 COAL.

10 AND SINCE YOU HAD VERY SMALL FINE PARTICLES
11 OF COAL YOU COULD HAVE A VERY EFFICIENT BURN OF THAT COAL,
12 AND YOU COULD ACTUALLY GET NOT ONLY A BETTER ENERGY OUTPUT
13 FROM THE COAL GROUND THROUGH THE BROWNING ATTRITION MILLS,
14 BUT A LOWER SULFUR CONTENT AND THE EXHAUSTION FROM A BURN.

15 Q NOW, SOME OF US MAY, INCLUDING MYSELF, MAY
16 HAVE NOT HAD THE BEST RECOLLECTION OF THE HISTORY OF THE
17 SUBJECT OF ENERGY OVER THE LAST 15 OR 20 YEARS. DURING
18 THAT PERIOD OF TIME, JUST GENERALLY SPEAKING, VERY BRIEFLY
19 WAS THERE SOME NATIONAL POLICY OR SOME SORT OF CONCERN
20 OR -- RELATING TO EXISTING FORMS OF ENERGY AND THE SEARCH
21 FOR NEW FORMS OF ENERGY?

22 MR. MC MULLEN: OBJECTION. RELEVANCE.

23 THE COURT: SUSTAINED.

24 MR. CRAIN: WELL --

25 THE COURT: I UNDERSTAND IN THE EARLY '80'S WE WERE
26 LOOKING FOR CHEAPER ENERGY AND GETTING AWAY FROM OIL.

27 MR. CRAIN: I GUESS THAT'S A MATTER THAT THE COURT
28 CAN TAKE JUDICIAL NOTICE OF. SOUNDS LIKE YOU JUST DID.

1 THE COURT: ALL RIGHT.

2 MR. CRAIN: I AM JUST TRYING TO GET IT IN THE
3 RECORD ONE WAY OR OTHER BECAUSE IT DOES GO --

4 THE COURT: WE ARE GETTING IN MUCH TOO MUCH DETAIL
5 HERE.

6 MR. CRAIN: ALL RIGHT.

7 BY MR. CRAIN:

8 Q ANYWAY -- NOW, DID YOU AND YOUR COMPANY,
9 MICROGENESIS, HAVE DISCUSSIONS AND NEGOTIATIONS WITH A MAN
10 NAMED WILLIAM KILPATRICK?

11 A YES.

12 Q BEFORE WE GET INTO THE ESSENCE OF THOSE, CAN
13 YOU DESCRIBE THE NEGOTIATIONS THAT MICROGENESIS HAD WITH
14 MR. KILPATRICK AND/OR HIS REPRESENTATIVES WITH MR. ARTHUR
15 BARENS?

16 A YES.

17 Q AND DID YOU GIVE MR. BARENS AS COMPLETE A
18 PICTURE OF THE OVERALL SUBJECT OF THE MICROGENESIS
19 NEGOTIATION WITH KILPATRICK AS YOU COULD?

20 A YES, I DID.

21 Q AND DID THOSE DISCUSSIONS TAKE PLACE BOTH
22 BEFORE AND DURING THE GUILT PHASE OF THE TRIAL IN 1987?

23 A YES.

24 Q AND DID YOU EXPRESS TO MR. BARENS WHAT YOU
25 BELIEVED TO BE THE SIGNIFICANCE OF CERTAIN -- ANY EVIDENCE
26 THAT MIGHT RELATE TO THIS SUBJECT?

27 A REPEATEDLY.

28 Q INCIDENTALLY, DURING THE COURSE OF YOUR TRIAL

1 DID THE DEFENSE PRESENT A WITNESS BY THE NAME OF BROOKE
2 ROBERTS?

3 A YES.

4 Q AND ON DIRECT EXAMINATION WAS ANY -- DID
5 MR. BARENS ELICIT ANY TESTIMONY FROM HER RELATIVE TO THIS
6 SUBJECT?

7 MR. MC MULLEN: OBJECTION. RELEVANCY.

8 THE COURT: THE RECORD WILL SPEAK FOR ITSELF. I
9 REMEMBER MS. ROBERTS DID TESTIFY. THE RECORD FROM THE
10 TRIAL WILL SPEAK FOR ITSELF.

11 MR. CRAIN: MAY I HAVE A WORD WITH MR. HUNT, YOUR
12 HONOR?

13 THE COURT: YES.

14

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

17

18 MR. CRAIN: THANK YOU

19 THE COURT: THERE WAS EXAMINATION BY MR. BARENS OF
20 MS. ROBERTS, SHE WAS THE FIRST DEFENSE WITNESS.

21 BY MR. CRAIN:

22 Q SO DID HE POSE ANY QUESTIONS TO HER RELATIVE
23 TO THE SUBJECT AS WELL?

24 MR. MC MULLEN: SAME OBJECTION. RELEVANCE.

25 THE COURT: SUSTAINED.

26 MR. CRAIN: I WOULD REFER THE COURT TO HER DIRECT
27 EXAMINATION AT PAGE 11578.

28 THE COURT: YOU CAN CITE IT IN YOUR CLOSING.

1 MR. CRAIN: HER CROSS-EXAMINATION AT 11741.

2 THE COURT: ALL RIGHT.

3 MR. CRAIN: EXCUSE ME, YOUR HONOR. I AM SORRY.

4

5 (A CONFERENCE WAS HELD BETWEEN COUNSEL

6 AND THE PETITIONER, NOT REPORTED.)

7

8 MR. CRAIN: I AM LOOKING FOR BARENS' DECLARATION.

9 IT WAS EXHIBIT G TO THE RETURN.

10 THE COURT: I ASSUME IT IS --

11 MR. KLEIN: I CAN GET IT, YOUR HONOR.

12

13 (PAUSE.)

14

15 MR. CRAIN: I HAVE A NUMBER OF BOXES HERE.

16 THE COURT: I HAVE MY COPY.

17 BY MR. CRAIN:

18 Q NOW, MR. HUNT, HAVE YOU READ MR. BARENS'

19 DECLARATION, SPECIFICALLY EXHIBIT G, WHICH WAS PURPORTEDLY

20 SIGNED JUNE 19, 1995?

21 A YES, I HAVE.

22 MR. MC MULLEN: OBJECTION. RELEVANCE.

23 THE COURT: OVERRULED.

24 MR. CRAIN, WHILE YOU ARE UP THERE, WHY DON'T

25 WE GET THESE EXHIBITS OFF THE WITNESS STAND, SO WE DON'T

26 GET THEM MIXED WITH EVERYBODY ELSE'S.

27 MR. CRAIN: YES, YOUR HONOR.

28 THE COURT: ALL RIGHT.

1 PUT A QUESTION.

2 BY MR. CRAIN:

3 Q AND DIRECTING THE COURT AND COUNSEL'S
4 ATTENTION TO EXHIBIT G PAGE TWO, PARAGRAPH FOUR, AT THE
5 TOP OF THE PAGE AND SHOWING YOU THIS DECLARATION. DO YOU
6 SEE IN THERE WHERE MR. BARENS STATES THAT HE WAS NOT AWARE
7 OF THE SPECIFICS OF A PROPOSED AGREEMENT BEING NEGOTIATED
8 BETWEEN THE B.B.C. AND WILLIAM KILPATRICK OR THE
9 KILPATRICK COMPANY UNITED FINANCIAL OPERATIONS, INC., FOR
10 THE PURCHASE OF \$200 MILLION DOLLARS WORTH OF CYCLOTRON
11 ATTRITION MILLS?

12 MR. MC MULLEN: OBJECTION. IRRELEVANT.

13 THE COURT: SUSTAINED.

14 THE DOCUMENT SPEAKS FOR ITSELF.

15 MR. CRAIN: IT IS FOUNDATION.

16 THE COURT: IT SPEAKS FOR ITSELF, THOUGH.

17 PUT A QUESTION.

18 BY MR. CRAIN:

19 Q IS THAT A TRUE STATEMENT?

20 A ABSOLUTELY NOT.

21 MR. MC MULLEN: OBJECTION. OBJECTION. CALLS FOR
22 SPECULATION.

23 MR. CRAIN: I AM GOING TO GET --

24 THE COURT: HOLD ON. HOLD ON. HOLD ON.

25 YOU HAVE GONE THROUGH EXTENSIVE DISCUSSION
26 WITH MR. BARENS THAT HE WENT THROUGH SOME OF THE DETAILS
27 WITH MR. BARENS AND WHETHER IT IS IMPEACHMENT OF
28 MR. BARENS OR NOT IS FOR ME TO DETERMINE, WHETHER IT IS

1 TRUE OR NOT IS FOR ME TO DETERMINE. YOU CAN SIMPLY ASK
2 HIM: DID YOU HAVE THIS CONVERSATION?

3 MR. CRAIN: I AM GOING TO GET MORE SPECIFIC. I
4 THINK THE COURT WILL PROBABLY APPRECIATE THAT.
5 BY MR. CRAIN:

6 Q MR. HUNT, DID YOU SUPPLY ANY DOCUMENTS,
7 MEMORANDA OR CORRESPONDENCE TO MR. BARENS RELATING TO THIS
8 SUBJECT THAT WE ARE NOW TALKING ABOUT, THE NEGOTIATIONS
9 BETWEEN THE B.B.C. AND KILPATRICK REGARDING THE ATTRITION
10 MILLS?

11 A THESE DOCUMENTS WERE PRESENT --

12 THE COURT: HOLD ON.

13 YOU CAN ANSWER THAT QUESTION "YES" OR "NO."
14 DID YOU?

15 THE WITNESS: YES, I DID.

16 THE COURT: PUT A QUESTION.

17 BY MR. CRAIN:

18 Q AND IN 1985 DID YOU SUPPLY MR. BARENS WITH
19 ANY DOCUMENTS RELATING TO THIS SUBJECT?

20 A RELATING TO THIS SUBJECT, YES, NOT THE ACTUAL
21 DOCUMENTS FROM THE B.B.C. I GAVE HIM --

22 MR. MC MULLEN: OBJECTION. IT CALLS FOR A "YES" OR
23 "NO" ANSWER.

24 THE COURT: SUSTAINED. HE HAS ANSWERED THE
25 QUESTION.

26 PUT A QUESTION.

27 BY MR. CRAIN:

28 Q YOU HEARD MR. BARENS -- ARE WE GOING TO TAKE

1 A BREAK THIS MORNING?

2 THE COURT: IN A FEW MINUTES, YES.

3 MR. CRAIN: I WAS GOING TO TURN TO A SUBJECT AREA
4 RELATED TO THIS. YOU WANT ME TO GO AHEAD?

5 THE COURT: LET'S GO AHEAD AND TAKE THE MORNING
6 RECESS NOW.

7
8 (RECESS.)

9
10 THE COURT: IN THE MATTER OF JOSEPH HUNT, RECORD
11 WILL REFLECT ALL COUNSEL AND PETITIONER ARE PRESENT.
12 PETITIONER IS ON THE STAND.

13 YOU MAY CONTINUE YOUR DIRECT EXAMINATION,
14 MR. CRAIN.

15 MR. CRAIN: THANK YOU, YOUR HONOR.

16
17 JOSEPH HUNT, @
18 THE PETITIONER HEREIN, CALLED AS A WITNESS IN HIS OWN
19 BEHALF, HAVING BEEN PREVIOUSLY SWORN, RESUMED THE STAND
20 AND TESTIFIED FURTHER AS FOLLOWS:

21
22 DIRECT EXAMINATION +

23
24 BY MR. CRAIN:

25 Q MR. HUNT, WAS THERE A -- A PART OF THE
26 DEFENSE THEORY OF THE CASE THAT INVOLVED A NEGOTIATION
27 WITH WILLIAM KILPATRICK?

28 A YES.

2 1 Q WHAT WAS THAT?

2 A THE NEGOTIATIONS WITH KILPATRICK, THIS WAS
3 DISCUSSED WITH MR. BARENS --

4 Q PULL THE MICROPHONE OVER.

5 MR. MC MULLEN: AT THIS POINT WE WOULD OBJECT AS
6 IRRELEVANT. TO THE EXTENT THAT ANY DEFENSE WAS PRESENTED
7 IN THE CASE IT'S IN THE RECORD AND YOUR HONOR HAS REVIEWED
8 THAT.

9 THE COURT: REFRAME THE QUESTION TO RELATE TO
10 CONVERSATIONS HE HAD WITH MR. BARENS CONCERNING THE
11 KILPATRICK ASPECT.

12 BY MR. CRAIN:

13 Q DID FINANCIAL MOTIVE HAVE ANYTHING TO DO
14 WITH -- DID YOU DISCUSS FINANCIAL MOTIVE AS A PART OF THE
15 PROSECUTION'S CASE IN ANY OF YOUR DISCUSSIONS WITH
16 MR. BARENS?

17 MR. MC MULLEN: SAME OBJECTION.

18 THE COURT: OVERRULED.

19 THE WITNESS: YES, I DID.

20 BY MR. CRAIN:

21 Q AND WHAT WAS SAID?

22 A THIS WAS DISCUSSED AS ONE OF THE TWO
23 PRINCIPAL REASONS WHY WE HAD TO GET INTO THE KILPATRICK
24 NEGOTIATION, THE KILPATRICK DOCUMENTS FOR AS MUCH
25 CORROBORATIVE EVIDENCE AS POSSIBLE FOR THAT SECTION OF THE
26 B.B.C. BUSINESS HISTORY.

27 I POINTED OUT THAT BY MEANS OF THE KILPATRICK
28 DEAL THE B.B.C. WAS GOING TO BE COMING INTO A SUBSTANTIAL

2
1 AMOUNT OF MONEY STARTING IN WHAT I EXPECTED TO HAVE BEEN
2 AUGUST OF 1984. WE WERE GOING TO BEGIN TO RECEIVE AROUND
3 \$300,000 A MONTH FOR THE NEXT 18 MONTHS UNDER THE TERMS
4 OF -- FIRST, AN INFORMAL AGREEMENT, BUT ONE THAT WAS BEING
5 REDUCED TO WRITING BETWEEN KILPATRICK AND I.

6 WHEN I SAY "INFORMAL," WE HAD AN AGREEMENT
7 THAT WAS DATED NOVEMBER OF 1983. WE THEN WERE WORKING
8 TOWARDS MORE FORMAL, MORE SPECIFIC, MORE DEFINITE
9 AGREEMENTS THROUGHOUT THE MARCH ONWARD PERIOD OF 1984.

10 MR. MC MULLEN: OBJECTION. NARRATIVE.

11 THE COURT: YOU MAY FINISH YOUR ANSWER.

12 THE WITNESS: MR. BARENS AND -- I WAS INFORMING
13 MR. BARENS OF MANY DIFFERENT POINTS AND REMINDING HIM
14 ABOUT THE NATURE OF THESE NEGOTIATIONS, THE STRUCTURE OF
15 THE PROGRESS OF THE DEAL.

16 ONCE, AS I RECALL, DURING A MEETING WHEN THE
17 JENSENS WERE PRESENT I BROUGHT UP THE FACT THAT WE NEEDED
18 TO GET NEIL ADELMAN TO CORROBORATE THE SIX MILLION
19 PAYMENT, WHICH IS A \$333,333 PAYMENT TIMES 18 MONTHS FOR
20 SIX MILLION AND BY DEMONSTRATING THAT THIS MONEY WAS
21 EXPECTED AND THAT THE B.B.C. WAS DOING MANY THINGS ON
22 RELIANCE WITH THAT EXPECTATION.

23 AND CONSISTENT WITH OUR BELIEF THAT THE MONEY
24 WOULD COME WE COULD ESTABLISH TO THE JURY THAT I WOULD NOT
25 HAVE A MOTIVE TO KILL MR. LEVIN, THAT I WASN'T IN SUCH
26 DIRE NEED OF CASH, SO DESPERATE THAT MYSELF OR ANY NORMAL
27 REASONABLE HUMAN BEING WOULD EVER CONSIDER SOMETHING AS
28 OUTRAGEOUS AND PERILOUS AS THAT.

2
1 THE COURT: WERE THESE CONVERSATIONS PRIOR TO TRIAL
2 OR DURING TRIAL?

3 THE WITNESS: THEY STARTED IN 1985 AND AT VARIOUS
4 MEETINGS WITH MR. BARENS IN 1986 AND DURING TRIAL IN 1987
5 AS THE EVIDENCE WOULD COME UP. I WAS CONSTANTLY PROMPTING
6 HIM WITH NOT ONLY WITNESSES THAT WERE TAKING THE STAND --

7 THE COURT: THERE WERE A NUMBER OF WITNESSES THAT
8 TESTIFIED AT TRIAL THAT THEY HAD INVESTED X-NUMBER OF
9 DOLLARS AND THE MONEY HAD BEEN LOST. DID YOU HAVE
10 CONVERSATIONS WITH MR. BARENS AT TRIAL AS THAT EVIDENCE
11 UNFOLDED?

12 THE WITNESS: YES, I DID. THAT RELATED TO
13 FINANCIAL FUTURES TRADING CORPORATION. NEITHER B.B.C. OR
14 OUTSIDE INVESTORS HAD INVESTED IN MICROGENESIS.
15 BY MR. CRAIN:

16 Q THOSE WERE TWO SEPARATE PARTS OF THE B.B.C.?

17 A YES.

18 Q ONE INVOLVED --

19 A FINANCIAL FUTURES TRADING CORPORATION, AN
20 UMBRELLA CORPORATION --

21 Q MICROGENESIS RELATED TO THE DEVELOPMENT AND
22 SALE OF THE ATTRITION MILLS?

23 A YES.

24 Q NOW, YOU TOLD US ABOUT THESE DISCUSSIONS WITH
25 MR. BARENS. WERE THERE FURTHER ASPECTS TO THESE
26 DISCUSSIONS IN WHICH MR. BARENS EXPRESSED HIS VIEWPOINT
27 WITH REGARD TO THE KILPATRICK EVIDENCE?

28 MR. MC MULLEN: OBJECTION. VAGUE AS TO TIME.

2
1 THE COURT: NOT SURE I UNDERSTAND YOU.

2 GO AHEAD.

3 BY MR. CRAIN:

4 Q LET'S DO IT THIS WAY:

5 ARE THERE ANY DOCUMENTS THAT YOU HAVE IN YOUR
6 POSSESSION THAT RELATE TO THESE DISCUSSIONS THAT YOU HAD
7 WITH MR. BARENS DURING THE COURSE OF HIS REPRESENTATION OF
8 YOU AND THE KILPATRICK NEGOTIATIONS?

9 A THERE ARE A NUMBER OF DOCUMENTS WHICH I HAVE
10 WHICH REFLECT INFORMATION THAT I PROVIDED TO MR. BARENS
11 DURING THE COURSE OF OUR RELATIONSHIP ABOUT THE KILPATRICK
12 DEAL AND MICROGENESIS PROSPECTS AND THE ATTRITION MILLS IN
13 GENERAL.

14 Q DO YOU HAVE SOME OF THESE HERE TODAY?

15 A YES, I DO.

16 Q I THINK THE NEXT ONE, REFERRING TO -- 81545.

17 THE COURT: THIS IS NOT ON THE EXHIBIT LIST?

18 MR. KLEIN: I DON'T THINK IT IS.

19 MR. CRAIN: I BELIEVE NOT.

20 CAN WE HAVE IT MARKED AS 278?

21 THE COURT: IT MAY BE SO MARKED.

22 I JUST NOTICE OUR EXHIBIT LIST THERE ARE SOME
23 THINGS THAT REFERENCE THE CYCLOTRONICS AND MICROGENESIS
24 PAPERS AND A VARIETY OF -- IN THE LATE, HIGH 50S AND LOW
25 60S.

26 MR. CRAIN: SOME OF THEM WE WILL REFER TO, YOUR
27 HONOR, THEY HAVE BEEN MARKED. YOU'RE RIGHT.

28 THE COURT: DO WE HAVE THIS DOCUMENT?

3
1 THE WITNESS: YES.

2 BY MR. CRAIN:

3 Q WHAT IS THAT DOCUMENT, MR. HUNT?

4 THE WITNESS: FOR THE COURT.

5 THE COURT: IT WILL BE MARKED AS 288.

6 MR. MC MULLEN: 278 OR 288?

7 THE COURT: I'M SORRY, 278. MY MISTAKE.

8

9 (MARKED FOR ID = PETITIONER'S 278,
10 DOCUMENT.)

11

12 THE COURT: IT'S ENTITLED, "ATTORNEY-CLIENT
13 COMMUNICATION AGENDA."

14

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

17

18 BY MR. CRAIN:

19 Q WHAT IS THAT DOCUMENT, MR. HUNT?

20 MR. MC MULLEN: CAN I JUST LOOK OVER YOUR SHOULDER,
21 COUNSEL?

22 BY MR. CRAIN:

23 Q DO YOU HAVE A COPY THERE, MR. HUNT?

24 A YES.

25 MR. CRAIN: I'M GOING TO SHOW MR. MC MULLEN MY
26 COPY.

27 BY MR. CRAIN:

28 Q NOW, WHAT IS THIS DOCUMENT, MR. HUNT?

3
1 MICRO, WHICH IS SHORTHAND FOR MICROGENESIS ABOUT OFFICE
2 RECORDS TO IMPEACH THEIR TESTIMONY IN RELATION TO MICRO
3 AND B.B.C.

4 JUST A NOTE TO MYSELF THAT IN MY NEXT MEETING
5 WITH MR. BARENS, AND IT IS TO REMIND MR. BARENS THAT IN
6 THE NEXT MEETING WE SHOULD DISCUSS THE FACT THAT THERE
7 WERE DOCUMENTS THAT AS A WHOLE WOULD TEND TO IMPEACH
8 WITNESSES THAT WOULD BE TESTIFYING CONCERNING MATTERS
9 PERTAINING TO MICROGENESIS AND MOTIVE TESTIMONY.

10 THE COURT: ON 15 YOUR SENTENCE ENDS WITH "ON
11 ACTIVITY IN F.F.T.C.N.A." THOSE ARE INITIALS. WHAT IS
12 THAT?

13 THE WITNESS: FINANCIAL FUTURES TRADING
14 CORPORATION, NORTH AMERICA.
15 BY MR. CRAIN:

16 Q IN OTHER WORDS, A SEPARATE COMPANY FROM
17 MICROGENESIS?

18 A CORRECT.

19 Q BUT PART OF THE B.B.C.?

20 A YES.

21 Q NOW, WAS IT YOUR CUSTOM TO PREPARE A DOCUMENT
22 SUCH AS THIS AND REVIEW IT OR ATTEMPT TO REVIEW IT WITH
23 MR. BARENS?

24 A IT WAS MY INTENT TO WORK IN THAT FASHION WITH
25 HIM, AND THIS REFLECTS MY EFFORTS TO HAVE A MEETING THAT
26 WAY. I DO NOT RECALL HAVING A MEETING IN WHICH I COULD
27 SEQUENTIALLY GO THROUGH A LONG SERIES OF THESE 57 ITEMS
28 WITH MR. BARENS SUCCESSFULLY.

3
1 Q ARE THERE OTHER DOCUMENTS THAT YOU HAVE THAT
2 RELATE TO YOUR EFFORTS TO HAVE MR. BARENS PROPERLY PREPARE
3 THIS EVIDENCE THAT MONEY WAS GOING TO BE COMING INTO THE
4 BUSINESS TO REFUTE THE PROSECUTION'S FINANCIAL MOTIVE
5 THEORY?

6 A YES, THERE ARE.

7 Q DO YOU HAVE ANY BEFORE YOU?

8 A YES, I DO. TWO OF THOSE DOCUMENTS ARE THE
9 FIRST TWO EXHIBITS THAT YOU SHOWED ME TODAY.

10 MR. CRAIN: MAY I APPROACH?

11 244 AND 253, YOUR HONOR.

12 THE COURT: YES.

13 BY MR. CRAIN:

14 Q SHOWING YOU 244, MR. HUNT. DOES THAT --
15 REFLECT ANY OF THAT?

16 A YES, IT DOES. EXHIBIT 244, THE LAST THREE
17 PAGES, PAGE 21 TO 23, ARE A HISTORY OF MICROGENESIS.

18 THE WITNESS: I'LL GIVE THE COURT A COPY.

19 THE COURT: LAST THREE PAGES YOU SAID?

20 THE WITNESS: YES, YOUR HONOR.

21 THE COURT: I SEE IT.

22 BY MR. CRAIN:

23 Q AS YOU TESTIFIED EARLIER, THIS WAS A DOCUMENT
24 SUPPLIED TO ARTHUR BARENS, IS THAT RIGHT?

25 A YES, I DID. AND THAT HIS SECRETARY TYPED IT
26 FOR HIM. IT GIVES A LONG RECITATION OF THE HISTORY OF MY
27 INTRODUCTION WITH -- GENE BROWNING, BUT BY PAGE THREE I'M
28 TALKING ABOUT SOME INFORMATION CONCERNING UNITED FINANCIAL

4
1 OPERATIONS, WHICH WAS A COMPANY THAT MR. KILPATRICK
2 OPERATED, AND SATURN ENERGY OF CANADA, WHICH WAS A COMPANY
3 THAT HIS -- UMBRELLA COMPANY, U-F-O-I, UNITED FINANCIAL
4 OPERATIONS, WAS GOING TO MERGE WITH.

5 AND IT'S TALKING ABOUT SOME SPECIFIC TERMS OF
6 A 1983 DEAL WHICH I SIGNED ON BEHALF OF MICROGENESIS WITH
7 THOSE TWO ENTITIES IN WHICH MICROGENESIS WOULD RECEIVE A
8 MILLION SHARES AT A PEG PRICE OF \$1.10 CANADIAN AS A
9 ROYALTY AND ON THE CONTRACT FOR \$200 MILLION.

10 I FURTHER DESCRIBE THERE IS A MAN NAMED HENRY
11 CHEUNG OF LIVERMORE WHO DID AN APPRAISAL OF THE ATTRITION
12 MILLS TECHNOLOGY, AND GAVE IT A VALUE OF \$115 MILLION.

13 THE LAST SENTENCE SAYS (READING), "AN
14 AGREEMENT EXISTED TO FIRM UP CONTRACTS WITH BILL KELP,"
15 LIKE THE PLANT THAT GROWS IN THE SEA, SPACE, "A" SPACE
16 "TRICK."

17 AND ONCE AGAIN, THIS IS THE TYPIST HAVING
18 DIFFICULTY WITH MY HANDWRITING.

19 AND IT WAS SUPPOSED TO BE BILL KILPATRICK,
20 ONE NAME, AND THIS BREAKS OFF SUDDENLY AT THE END OF PAGE
21 23, AND THERE IS A REASON FOR THAT.

22 Q YOU MENTIONED DR. CHEUNG.

23 A YES.

24 Q AND WHO WAS HE AGAIN?

25 MR. MC MULLEN: OBJECTION. RELEVANCE.

26 THE COURT: SUSTAINED.

27 BY MR. CRAIN:

28 Q YOU MENTIONED DR. CHEUNG IN YOUR MEMORANDA

4 1 TO -- MEMORANDUM TO MR. BARENS, THE LAST EXHIBIT THAT YOU
2 JUST LOOKED AT.

3 A RIGHT.

4 Q AND REFERRED TO A REPORT PREPARED BY
5 DR. CHEUNG. IS THAT REPORT IN THE COURTROOM HERE?

6 A YES, IT IS.

7 Q COULD YOU SHOW THAT TO US AND --

8 MR. CRAIN: I'D LIKE THAT MARKED --

9 MR. KLEIN: 279.

10 MR. CRAIN: I THINK THAT IS ON THE LIST, YOUR
11 HONOR. I THINK IT IS NUMBER -- I BELIEVE IT'S NO. 25.

12 MR. KLEIN: YES, IT IS. IT'S EXHIBIT TO BE MARKED
13 AS PETITIONER'S 25.

14 THE COURT: PETITIONER'S 25.

15
16 (MARKED FOR ID = PETITIONER'S 25,
17 DOCUMENT.)

18
19 BY MR. CRAIN:

20 Q DO YOU HAVE THAT REPORT BEFORE YOU HERE?

21 A YES, I DO.

22 MR. CRAIN: YOUR HONOR, I'M NOW LOOKING AT 25.
23 IT'S A 12-PAGE REPORT. IT'S TITLED "INTERNATIONAL
24 RESEARCH ASSOCIATES" --

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

26 MR. CRAIN: IT APPEARS TO BE SIGNED BY HENRY
27 CHEUNG, C-H-E-U-N-G, PH.D., PRESIDENT. IT'S DATED
28 NOVEMBER 16TH, 1983.

4
1 BY MR. CRAIN:

2 Q AND SHOWING YOU THAT DOCUMENT, MR. HUNT,
3 WHAT -- WHAT IS THAT?

4 MR. MC MULLEN: OBJECTION. RELEVANCY.

5 THE COURT: LAY A FOUNDATION THAT IT WAS -- WHETHER
6 OR NOT IT WAS SHOWN TO MR. BARENS.

7 MR. CRAIN: YES, YOUR HONOR.

8 BY MR. CRAIN:

9 Q HAVE YOU EVER SHOWN THAT DOCUMENT TO ARTHUR
10 BARENS?

11 MR. MC MULLEN: OBJECTION. RELEVANCY.

12 THE COURT: OVERRULED.

13 BY MR. CRAIN:

14 Q LET ME ASK YOU THIS, DID YOU EVER DISCUSS
15 THAT DOCUMENT WITH MR. BARENS?

16 A THE ONLY RECOLLECTION I HAVE, I DISCUSSED
17 THIS DOCUMENT WITH HIM. I REFERRED TO IT IN MEMORANDA AS
18 THAT I GAVE HIM --

19 MR. MC MULLEN: OBJECTION. CALLS FOR A "YES" OR
20 "NO" ANSWER. HE IS RESPONDING IN A NARRATIVE FASHION.

21 THE COURT: I'LL LET HIM FINISH THE ANSWER.

22 THE WITNESS: I REFERRED TO IT, AND I ASKED HIM TO
23 GET A COPY OF THIS DOCUMENT, AND I TOLD HIM WHERE HE COULD
24 GET A COPY OF THIS DOCUMENT.

25 BY MR. CRAIN:

26 Q WAS THAT FROM DR. CHEUNG AT THE ADDRESS THERE
27 ON DR. CHEUNG'S REPORT?

28 A FROM OTHER SOURCES.

4
1 Q TO YOUR KNOWLEDGE, DID MR. BARENS EVER
2 OBTAIN THAT DOCUMENT?

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

4 MR. CRAIN: I'M JUST ASKING -- I'LL LET THE COURT
5 RULE.

6 THE COURT: REFRAME IT WHETHER HE EVER TOLD HIM.

7 MR. CRAIN: WHETHER BARENS EVER TOLD HIM?

8 THE COURT: YES.

9 BY MR. CRAIN:

10 Q DID BARENS EVER TELL YOU WHETHER OR NOT HE
11 FOLLOWED UP ON YOUR REQUEST OR REQUESTS TO GET THIS
12 DOCUMENT?

13 A HE WOULD FREQUENTLY APOLOGIZE THAT HE
14 HADN'T --

15 MR. MC MULLEN: OBJECTION.

16 THE COURT: HOLD ON.

17 ANSWER THE QUESTION.

18 DID HE EVER TELL YOU THAT HE GOT THE CHEUNG
19 REPORT?

20 THE WITNESS: NO, HE DIDN'T.

21 THE COURT: ALL RIGHT.

22 BY MR. CRAIN:

23 Q DID HE DISCUSS YOUR REQUEST TO GET THE CHEUNG
24 REPORT WITH YOU?

25 A YES.

26 Q WHAT DID HE SAY?

27 A HE WOULD OFTEN APOLOGIZE THAT HE HADN'T
28 FOLLOWED THROUGH AND GOTTEN IT AND PROMISED THAT HE WOULD

5
1 BEFORE THE END OF TRIAL, THAT HE WOULD GET MR. CHEUNG AS A
2 WITNESS.

3 Q WAS DR. CHEUNG CALLED AS A WITNESS DURING THE
4 TRIAL?

5 A NO.

6 MR. MC MULLEN: OBJECTION. IRRELEVANT. YOUR HONOR
7 HAS THE TRANSCRIPTS.

8 THE COURT: I'LL ALLOW THE ANSWER TO STAND THAT
9 DR. CHEUNG DID NOT TESTIFY.

10 BY MR. CRAIN:

11 Q DID MR. BARENS ATTEMPT TO GET IN SOME
12 INADMISSIBLE HEARSAY TESTIMONY OF DR. CHEUNG DURING THE
13 TRIAL?

14 A YES.

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

16 MR. KLEIN: THE RECORD SPEAKS FOR ITSELF --

17 MR. CRAIN: WELL, WE'RE ALL TALKING OVER ONE
18 ANOTHER --

19 THE COURT: THE RECORD DOES SPEAK FOR ITSELF, AND
20 YOU CAN CITE -- IF THERE IS LANGUAGE YOU CAN CITE IT AT
21 THE APPROPRIATE TIME.

22 MR. CRAIN: WELL, YES, I'LL BE ASKING THE COURT TO
23 LOOK IN PARTICULAR AT THE -- THE TESTIMONY -- STRIKE
24 THAT -- THE RECORD, DRAW THE COURT'S ATTENTION TO THE PAGE
25 WHERE MR. BARENS ATTEMPTED TO DO THAT, AND JUDGE
26 RITTENBACK SUSTAINED AN OBJECTION POINTING OUT THAT IT WAS
27 CLEARLY INADMISSIBLE HEARSAY EVIDENCE. AND THE COURT
28 CALLED UPON HIM TO CALL DR. CHEUNG IF HE WANTED TO GET

5 1 THIS STATEMENT OF DR. CHEUNG'S BEFORE THE JURY.

2 I'LL DRAW THE COURT'S ATTENTION TO THAT PAGE
3 A LITTLE LATER.

4 THE COURT: ALL RIGHT.

5 BY MR. CRAIN:

6 Q WHAT WAS THE SIGNIFICANCE OF DR. CHEUNG'S
7 REPORT THERE TO THE ATTRITION MILLS AND THEIR VALUE?

8 MR. MC MULLEN: OBJECTION. IRRELEVANT AND --

9 THE COURT: SUSTAINED.

10 BY MR. CRAIN:

11 Q DID YOU RELATE TO MR. BARENS WHY OBTAINING
12 DR. CHEUNG'S REPORT WOULD BE IMPORTANT TO THIS ASPECT OF
13 THE DEFENSE OF THE CASE?

14 MR. MC MULLEN: OBJECTION. IRRELEVANT.

15 THE COURT: OVERRULED.

16 THE WITNESS: YES, I DID.

17 BY MR. CRAIN:

18 Q AND WHAT DID YOU SAY?

19 A I TOLD HIM THAT THE DR. CHEUNG APPRAISAL OF
20 THE VALUE OF THE ATTRITION MILLS TECHNOLOGY WAS AN
21 INTEGRAL PART OF THE NEGOTIATIONS WITH KILPATRICK AND PART
22 AND PARCEL WHY MR. KILPATRICK WAS WILLING TO PAY SUCH
23 LARGE SUMS OF MONEY FOR THE TECHNOLOGY.

24 I TOLD HIM THAT THE APPRAISAL, THIS APPRAISAL
25 HERE, BECAME PART OF THE MERGER DOCUMENTATION BETWEEN
26 SATURN ENERGY OF CANADA AND UNITED FINANCIAL OPERATIONS,
27 INC., OF DENVER, WHICH WAS ONCE AGAIN MR. KILPATRICK'S
28 UMBRELLA CORPORATION.

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AND AS PART OF THE CONSIDERATION THAT U.F.O.I., KILPATRICK'S COMPANY WAS GIVING TO SATURN IN EXCHANGE FOR 89 PERCENT OF THE STOCK OF SATURN, WHICH WAS A PUBLICLY TRADED COMPANY ON THE VANCOUVER STOCK EXCHANGE.

AND THAT THIS DOCUMENT WAS ALSO ONE OF THE REASONS WHY I FELT THAT MR. KILPATRICK WOULD ULTIMATELY CONCLUDE HIS NEGOTIATIONS WITH THE B.B.C. AND GIVE THE MONEY THAT WAS BEING DISCUSSED IN THOSE NEGOTIATIONS AND IN THE CONTRACTS RELATED TO THOSE NEGOTIATIONS.

Q DID YOU INFORM MR. BARENS DURING THESE DISCUSSIONS AS TO WHAT IT WAS THAT DR. CHEUNG HAD CONCLUDED IN TERMS OF THE VALUE OF THE TECHNOLOGY?

MR. MC MULLEN: OBJECTION. RELEVANCY. HEARSAY.

THE COURT: OVERRULED.

THE WITNESS: YES. I TOLD HIM THAT DR. CHEUNG HAD MADE AN APPRAISAL OF OVER 100 MILLION, \$114 MILLION. I THINK I TOLD HIM 115 MILLION, BUT THE DOCUMENT RELATES 114. THE TECHNOLOGY APPLIES TO THE SINGLE FIELD OF COAL MICRONIZATION AND EXTRACTION OF SULFUR FROM COAL IN THE PROCESS OF GRINDING THE COAL DOWN. IT WAS 114 MILLION NOT FOR EVERY APPLICATION OF THE ATTRITION MILLS, BUT TO THE SPECIFIC APPLICATION OF THE MILL TO THIS ISSUE OF COAL MICRONIZATION.

Q WHEN YOU SAY "THE DOCUMENTS, YOU ARE REFERRING TO THE EXHIBIT BEFORE YOU, EXHIBIT 25?

A YES.

Q NOW, EARLIER YOU LOOKED AT EXHIBIT 253 IN CONJUNCTION WITH YOUR TESTIMONY ON ANOTHER SUBJECT. IS

5
1 THAT A DOCUMENT THAT ALSO RELATES TO THE PRESENT MATTER
2 BEFORE THE COURT, THE KILPATRICK, ADELSON ATTRITION MILLS
3 SUBJECT?

4 A YES, IT DOES.

5 Q COULD YOU TELL US IN WHAT WAY?

6 MR. MC MULLEN: OBJECTION. THE DOCUMENTS SPEAKS
7 FOR ITSELF. BEST EVIDENCE.

8 THE COURT: REFRAME THE QUESTION.

9 BY MR. CRAIN:

10 Q HOW DID YOU USE THE DOCUMENT -- STRIKE THAT.
11 DID YOU USE THAT DOCUMENT TO BRING TO
12 MR. BARENS' ATTENTION, ONCE AGAIN, THE SUBJECT OF THE
13 ATTRITION MILLS, KILPATRICK AND THE VALUE OF THE CONTRACT
14 THAT WAS UNDERWAY?

15 A YES, I DID.

16 Q AND IN WHAT WAY?

17 A WELL, ON THE VERY FIRST PAGE OF THE DOCUMENT
18 IN THE TO-DO LIST THAT I WAS SETTING UP FOR MR. BARENS,
19 THINGS THAT I FELT THAT HE NEEDED TO FOLLOW UP ON --

20 MR. MC MULLEN: I INTERPOSE AN OBJECTION AT THIS
21 TIME AS TO BEST EVIDENCE.

22 THE COURT: JUST RELATE TO WHAT YOU TOLD MR. BARENS
23 AS OPPOSED TO RUNNING THROUGH THE LIST.

24 MR. CRAIN: THANK YOU, YOUR HONOR.

25 THE COURT: I ASSUME YOU ARE OFFERING THIS, THAT A
26 COMPETENT COUNSEL HAVING THE INFORMATION PROVIDED TO HIM
27 BY HIS CLIENT WOULD HAVE ACTED DIFFERENTLY DURING THE
28 TRIAL?

6

6
1 MR. CRAIN: YES, YOUR HONOR.

2 THE COURT: IT'S ON THAT BASIS THAT I AM ALLOWING
3 IT.

4 THE WITNESS: I PUT MR. ADELMAN ON THE LIST, AND
5 THE LAST KNOWN PHONE NUMBER THAT I HAD FOR MR. ADELMAN.
6 AND A NOTE TO MR. BARENS. HIS MEMORY WAS NOT THAT GOOD.
7 "TO TESTIFY TO THE BUSINESS AFFAIRS OF THE B.B.C.." THIS
8 IS DATED JANUARY 4TH, 1987.

9 BY MR. CRAIN:

10 Q NOW, ARE THERE -- I THINK AS YOU TOLD US,
11 CORRECT ME IF I'M WRONG, IN ADDITION TO THE DOCUMENT, DID
12 YOU HAVE CONVERSATIONS WITH MR. BARENS RELATING TO THE
13 SAME SUBJECT?

14 A YES, I DID.

15 MR. MC MULLEN: OBJECTION. VAGUE AS TO TIME.

16 THE COURT: REPHRASE.

17 MR. CRAIN: I'LL PIN IT DOWN. I'M SORRY.

18 THE COURT: GO AHEAD.

19 BY MR. CRAIN:

20 Q BEFORE YOUR TRIAL BEGAN DID YOU HAVE
21 DISCUSSIONS, VERBAL DISCUSSIONS WITH MR. BARENS ABOUT THE
22 SUBJECT?

23 A YES, I DID.

24 Q AND YOU TOLD US -- WERE THERE FURTHER ASPECTS
25 TO THESE DISCUSSIONS, WITHOUT GOING INTO MINUTE DETAIL, OR
26 HAD YOU ALREADY COVERED THAT?

27 MR. MC MULLEN: OBJECTION. VAGUE.

28 MR. CRAIN: PRIOR TO THE TRIAL -- I'M JUST TRYING

6
1 TO GET THE PICTURE THAT BARENS HAD.

2 THE COURT: OVERRULED.

3 MR. CRAIN: APPRECIATE THAT. THANK YOU.

4 THE WITNESS: YES, THERE WERE FURTHER ASPECTS OF
5 THESE DISCUSSIONS.

6 BY MR. CRAIN:

7 Q WHAT WERE THOSE? WHAT DID YOU SAY TO BARENS
8 ABOUT THIS SUBJECT IN THAT REGARD?

9 A I SAID IT WAS CRUCIAL THAT WE BRING THIS
10 EVIDENCE BEFORE THE JURY ABOUT THE VIABILITY OF THE
11 KILPATRICK DEAL. AND THE TIMING WAS ALSO CRUCIAL IN THAT
12 IT NOT ONLY BORE ON THE PEOPLE'S MOTIVE OF THEORY, BUT IT
13 ALSO BORE ON CORROBORATION OF ROBERTS' TESTIMONY, AND WHAT
14 MY TESTIMONY WAS. AT THAT TIME I EXPECTED TO BE GIVING
15 TESTIMONY THAT AS TO THE REASON FOR THE 6/24 MEETING WHY I
16 WOULD STAND UP IN FRONT OF A GROUP OF PEOPLE AND SAY, "I
17 KILLED RON LEVIN," FALSELY. YOU KNOW, I DISCUSSED IT WITH
18 MR. BARENS, AND WE DISCUSSED THE FACT THAT --

19 MR. MC MULLEN: OBJECTION. NARRATIVE.

20 THE COURT: SUSTAINED.

21 BY MR. CRAIN:

22 Q IN THAT REGARD ABOUT THE 6/24 MEETING, THAT'S
23 1984, JUNE 24, 1984, YOU ARE TALKING ABOUT?

24 A YES.

25 Q A MEETING AT WHICH CERTAIN MEMBERS OF THE
26 B.B.C. GOT TOGETHER AT THE RESIDENCE ON MANNING?

27 A YES.

28 MR. MC MULLEN: OBJECTION. RELEVANCY.

6
1 THE COURT: OVERRULED.

2 BY MR. CRAIN:

3 Q WHAT DID YOU TELL MR. BARENS IN THIS REGARD
4 IN SO FAR AS THE KILPATRICK NEGOTIATIONS WOULD HAVE
5 SIGNIFICANCE?

6 MR. MC MULLEN: OBJECTION. RELEVANCY.

7 THE COURT: OVERRULED.

8 THE WITNESS: I TOLD HIM THAT THE WHOLE REASON FOR
9 THE 6/24 MEETING WAS TO -- AT LEAST THE PRINCIPAL REASON
10 WAS AS A DELAYING TACTIC TO TRY AND BACK OFF THE RIVAL
11 FACTION IN THE B.B.C. USING COVER OF MR. LEVIN'S
12 DISAPPEARANCE. TRY TO SET US UP AS PEOPLE THAT THEY
13 SHOULD BE AFRAID OF.

14 THEY HAD -- ATTEMPTED TO BLACKMAIL ME IN
15 RELATIONSHIP TO MY WRONG DOING WITH MY INVESTORS AND THIS
16 WAS AN ATTEMPT TO RESPOND IN KIND.

17 MY POINT OF VIEW WAS THESE GUYS WERE KIND OF
18 LIKE LOW-GRADE HOODS. TO MAKE THEM FEEL THAT WE WERE
19 DANGEROUS, SO THAT THEY WOULD NOT DO ANYTHING WITH RESPECT
20 TO THE S.E.C. AND SO THAT WE WOULD HAVE ENOUGH TIME TO
21 COMPLETE THE KILPATRICK NEGOTIATIONS.

22 AND WE DISCUSSED HOW BROOKE ROBERTS HAD SOME
23 PERSONAL KNOWLEDGE RELATING TO THAT REASON FOR THE JUNE
24 24TH MEETING, AND SHE WOULD SO TESTIFY.

25 MR. MC MULLEN: OBJECTION. NARRATIVE.

26 THE COURT: SUSTAINED.

27 BY MR. CRAIN:

28 Q DID YOU TELL HIM ANYTHING FURTHER PRIOR TO

6

1 HIS REPLYING TO YOU?

2 MR. MC MULLEN: OBJECTION. VAGUE AS TO TIME.

3 THE COURT: YES. FOCUS US DOWN.

4 THIS IS THE 6/24 MEETING?

5 THE WITNESS: WE'RE TALKING ABOUT THE 6/24 MEETING
6 DURING THE LAST ANSWER.

7 THE COURT: WHEN ARE YOU TELLING MR. BARENS THIS?

8 THE WITNESS: I HAD A SERIES OF CONVERSATIONS WITH
9 THESE THINGS, SO IT'S -- AS FAR AS A DATE GOES, I COULDN'T
10 HELP THE COURT, BUT IT WAS BEFORE TRIAL BEGAN, AND THEN
11 THERE WAS CONVERSATIONS AFTER TRIAL BEGAN IN WHICH THE
12 JENSENS WERE PRESENT, WHICH I HAVE A CLEAR RECOLLECTION
13 OF.

14 THE COURT: PUT A QUESTION.

15 MR. CRAIN: ALL RIGHT.

16 BY MR. CRAIN:

17 Q I BELIEVE, CORRECT ME IF I'M WRONG, IN THESE
18 DISCUSSIONS WITH MR. BARENS WHAT YOU TOLD US IS, CORRECT
19 ME IF I'M WRONG, THAT THE KILPATRICK NEGOTIATIONS RELATED
20 TO THE PROSECUTION'S THEORY THAT YOU NEEDED MONEY AND
21 THAT'S WHY LEVIN WAS ALLEGEDLY KILLED; IS THAT PART OF IT?

22 MR. MC MULLEN: OBJECTION. LEADING AND ASKED AND
23 ANSWERED.

24 MR. CRAIN: I'M TRYING TO SUMMARIZE THIS BECAUSE
25 COUNSEL KEEPS INTERRUPTING.

26 THE COURT: DON'T LEAD.

27 MR. CRAIN: I'M NOT TRYING TO LEAD, I GUARANTEE
28 YOU.

6 1 THE COURT: PUT A QUESTION.

2 MR. CRAIN: ALL RIGHT.

3 BY MR. CRAIN:

4 Q WHAT DID MR. BARENS SAY DURING THESE
5 DISCUSSIONS WITH REGARD TO THE USE OF THE NEGOTIATIONS
6 WITH KILPATRICK RELATIVE TO COUNTERING THE PROSECUTIONS'
7 THEORY ABOUT THE JUNE 24, 1984, MEETING?

8 A HE SAID THAT HE UNDERSTOOD WHAT I WAS -- THE
9 THEORY THAT I HAD EXPRESSED, THAT HE LIKED THE IDEA, THAT
10 THAT'S WHAT HE WANTED TO DO. HE ORDERED THE JENSENS IN MY
11 PRESENCE TO FIND THEM, AND HE RECOUNTED TO THE JENSENS THE
12 REASONS FOR FINDING MR. ADELMAN, SOME OF WHICH I HAVE SEEN
13 IN THIS DOCUMENT THAT WAS SHOWN MR. JENSEN EARLIER THIS
14 MORNING.

15 Q DID YOU HAVE SIMILAR CONVERSATIONS DURING THE
16 COURSE OF THE GUILT PHASE OF YOUR TRIAL WITH MR. BARENS
17 ABOUT USING THIS SAME EVIDENCE PERTAINING TO THE
18 KILPATRICK NEGOTIATIONS?

19 A YES, I DID.

20 MR. MC MULLEN: OBJECTION. VAGUE AS TO "SIMILAR
21 CONVERSATIONS."

22 THE COURT: YES. REFRAME IT.

23 BY MR. CRAIN:

24 Q DID YOU DISCUSS THE NEED TO OBTAIN AND USE
25 EVIDENCE OF THE NEGOTIATIONS WITH KILPATRICK DURING THE
26 COURSE OF THE TRIAL RELATIVE TO ITS USE TO COUNTER THE
27 PROSECUTION'S THEORY THAT THERE WAS A FINANCIAL MOTIVE
28 INVOLVED?

7
1 A YES.

2 Q AND WHAT WAS MR. BARENS' RESPONSE TO THAT?

3 MR. MC MULLEN: OBJECTION. VAGUE AS TO TIME.

4 THE COURT: OVERRULED.

5 MR. MC MULLEN: HEARSAY.

6 THE COURT: OVERRULED.

7 THE WITNESS: I WOULD PROMPT HIM. HE WOULD SAY,

8 "WELL, WHAT DO YOU WANT ME TO DO WITH THIS WITNESS?"

9 I'D WRITE SOME QUESTIONS OUT FOR HIM SO HE
10 COULD ASK THE WITNESS, AND HE WOULD SAY THAT HE'S WORKING
11 ON GETTING THESE THINGS AND THAT HE WAS GOING TO LOCATE
12 DR. CHEUNG, GOING TO LOCATE ADELMAN. HE WAS GOING TO PUT
13 THIS EVIDENCE ON.

14 Q AND DID YOU ALSO DURING THE COURSE OF THE
15 TRIAL DISCUSS THIS OTHER ASPECT OF THE USE OF THE
16 KILPATRICK NEGOTIATIONS WITH MICROGENESIS TO COUNTER THE
17 PROSECUTION'S THEORY OF THE SIGNIFICANCE OF THE JUNE 24,
18 1984, MEETING?

19 MR. MC MULLEN: OBJECTION. VAGUE AS TO TIME.

20 BY MR. CRAIN:

21 Q WELL, DURING THE TRIAL --

22 MR. CRAIN: I MEAN, WHILE THE GUILT PHASE WAS GOING
23 ON IS WHAT I MEAN, YOUR HONOR, RATHER THAN ASK HIM ON A
24 DAY-BY-DAY BASIS. I THOUGHT IT WOULD BE QUICKER.

25 THE COURT: ALL RIGHT.

26 THE WITNESS: YES, WE DID.

27 BY MR. CRAIN:

28 Q WHAT WAS HIS REPLY IN THAT REGARD?

7
1 MR. MC MULLEN: OBJECTION. RELEVANCY. HEARSAY.

2 THE COURT: OVERRULED. IT DOES NOT DIRECTLY RELATE
3 TO 1 ON THE O.S.C., BUT IT DOES RELATE TO POTENTIALLY THE
4 REASONS THAT MR. BARENS WOULD CHOOSE OR NOT CHOOSE CERTAIN
5 ASPECTS OF THE EVIDENCE, AND ON THAT BASIS I WILL ALLOW
6 IT.

7 THE WITNESS: HE SAID HE WOULD DO HIS BEST TO TRY
8 TO BRING OUT THIS EVIDENCE AND TO GET INTO THE KILPATRICK
9 NEGOTIATIONS, AND I OFTEN SAW -- AS A RESULT OF THESE
10 CONVERSATIONS, HE ASKED A LOT OF QUESTIONS OF WITNESSES
11 INCLUDING BROOKE ROBERTS AND A LOT OF THE B.B.C. GUYS.
12 BY MR. CRAIN:

13 Q AND WHAT WAS -- WHAT WAS BROOKE ROBERTS
14 SIGNIFICANCE RELATIVE TO THE -- THIS ISSUE?

15 MR. MC MULLEN: OBJECTION. RELEVANCY.

16 MR. CRAIN: I'M TRYING TO --

17 THE COURT: OVERRULED.

18 MR. CRAIN: THANK YOU.

19 THE WITNESS: BROOKE TESTIFIED THAT SHE HEARD ME
20 SAY THAT THE REASON WE NEEDED TO MAKE THE STATEMENT, WHICH
21 WE -- WHICH I ULTIMATELY DID AT THIS JUNE 24TH MEETING,
22 WAS TO INTIMIDATE THESE GUYS AND BUY SOME TIME SO WE COULD
23 COMPLETE THE KILPATRICK NEGOTIATIONS. THAT THESE GUYS
24 WERE TRYING TO -- THE B.B.C. PEOPLE THAT WERE ARRAYED
25 AGAINST ME WERE TRYING TO SEIZE MICROGENESIS' ASSETS AND
26 TAKE CONTROL OF THE COMPANY.

27 BY MR. CRAIN:

28 Q SHE SO TESTIFIED?

7
1 A SHE SO TESTIFIED.

2 Q DID YOU HAVE ANY DISCUSSION WITH MR. BARENS
3 WITH REGARD TO WHETHER ADDITIONAL EVIDENCE OF THE
4 KILPATRICK NEGOTIATIONS WOULD BE BENEFICIAL RELATIVE TO
5 HER TESTIMONY?

6 MR. MC MULLEN: OBJECTION. VAUGE AS TO TIME.

7 THE COURT: OVERRULED.

8 THE WITNESS: YES, I DID. DO YOU WANT --

9 BY MR. CRAIN:

10 Q WHAT DID YOU TELL HIM?

11 A BY THE TIME BROOKE ROBERTS GOT OFF THE STAND
12 I WAS SAYING TO HIM THAT WE HAVE NEVER PROVEN THAT THESE
13 NEGOTIATIONS EXISTED OR GIVEN ANY SUBSTANTIAL EVIDENCE TO
14 SHOW WHAT THE TIMING OF MONEY FLOWS WOULD BE FROM THEM OR
15 MY EXPECTATIONS VIS-A-VIS THOSE NEGOTIATIONS, AND THAT THE
16 WHOLE MATTER HAD BEEN LEFT IN AN UNPERSUASIVE POSTURE.

17 THE PROSECUTOR HAD MADE INROADS IN
18 CROSS-EXAMINATION, THAT A LOT OF THE B.B.C. GUYS HAD BEEN
19 RELUCTANT TO PROVIDE, OR FOR WHATEVER REASON HAD NOT
20 PROVIDED GREAT DETAIL ON THE SUBJECT, AND THAT THE WHOLE
21 THING WAS JUST BEING LOST IN THE TRANSLATION IN THE
22 EVIDENCE.

23 Q WHAT DID MR. BARENS REPLY TO THAT?

24 A WE HAD A FAIRLY BAD RELATIONSHIP BY THE TIME
25 IT GOT TO THE DEFENSE THING, AND I DON'T RECALL --

26 THE COURT: YOU SAY "THE DEFENSE THING," THE
27 DEFENSE PORTION OF THE GUILT PHASE?

28 THE WITNESS: EXACTLY. I DON'T RECALL HIM GIVING

7
1 ME ANY SPECIFIC ANSWER. BY THE TIME THAT BROOKE ROBERTS
2 WAS GETTING OFF THE STAND IT WAS ALMOST GETTING TO THE
3 POINT WHERE I FELT LIKE I WAS LECTURING HIM. I WAS
4 CONSTANTLY -- I WAS UPSET BY THAT POINT IN THE CASE.
5 BY MR. CRAIN:

6 Q WAS THE PROSECUTION ELICITING THE FACT THAT
7 BROOKE ROBERTS WAS YOUR GIRLFRIEND AND ATTEMPTING TO MAKE
8 SOME CLAIM THAT SHE WAS IN SOME WAY PREJUDICED IN YOUR
9 BEHALF?

10 MR. MC MULLEN: OBJECTION. RELEVANCY. THE
11 EVIDENCE IS IN THE RECORD.

12 THE COURT: I REMEMBER THE TESTIMONY. ACTUALLY,
13 THE TESTIMONY WAS SHE WAS A FORMER GIRLFRIEND. THEY NO
14 LONGER WERE BOYFRIEND, GIRLFRIEND, BUT HE WAS LIVING WITH
15 MISS ROBERTS FATHER.

16 MR. CRAIN: AT THAT TIME MR. WAPNER MADE SPORT OF
17 HER TESTIMONY AS TO THE SIGNIFICANCE THAT SHE PRESENTED AS
18 TO THE JUNE 24TH MEETING.

19 THE COURT: UNDERSTAND.

20 MR. CRAIN: AND POINTED OUT THAT IT WAS
21 UNCORROBORATED BY ANY EVIDENCE TO SUGGEST THAT MR. HUNT'S
22 VERSION OF WHY THE MEETING WAS HELD WAS TRUE.

23 THE COURT: I UNDERSTAND.

24 BY MR. CRAIN:

25 Q NOW, WAS SOMEONE WORKING ON YOUR BEHALF
26 RELATIVE TO THE KILPATRICK MATTER BY THE NAME OF NEIL
27 ADELMAN DURING 1984?

28 A YES.

8

1 Q AND WAS MR. ADELMAN THE SAME PERSON WHO
2 TESTIFIED EARLIER HERE IN THIS HEARING?

3 A YES.

4 Q WHAT WAS HIS ROLE THERE RELATIVE TO THE
5 KILPATRICK NEGOTIATIONS?

6 A WELL, AFTER NEIL BECAME AN EMPLOYEE OF THE
7 B.B.C., HE WAS NEVER A B.B.C. MEMBER, HE WAS AN EMPLOYEE,
8 HE BEGAN TO SIT IN ON THE NEGOTIATIONS BETWEEN MYSELF AND
9 MR. KILPATRICK. THERE WERE OTHER MEMBERS OF THE B.B.C.
10 PRESENT DURING THOSE NEGOTIATIONS AND
11 MR. DECLAN O'DONNELL WAS PRESENT ALSO ON AT LEAST ONE
12 OCCASION.

13 Q WHO WAS HE?

14 A COUNSEL FOR MR. KILPATRICK.

15 Q AND GO ON, WHAT ELSE -- WHAT PARTICIPATION
16 DID MR. ADELMAN HAVE IN THESE NEGOTIATIONS WITH
17 MR. KILPATRICK?

18 A HE WOULD TAKE NOTES AS WE WERE NEGOTIATING
19 ABOUT CHANGES THAT WE HAD ALL AGREED UPON --

20 THE COURT: WHEN YOU SAY "HE," YOU MEAN
21 MR. ADELMAN.

22 THE WITNESS: YES, YOUR HONOR.

23 THE COURT: GO AHEAD.

24 THE WITNESS: MR. ADELMAN WAS TAKING NOTES ABOUT
25 THE OUTCOME OF OUR NEGOTIATIONS AS WE MOVED FROM POINT TO
26 POINT IN THE VARIOUS DRAFTS OF THE CONTRACT -- I THINK
27 THERE WERE SEVEN DRAFTS OF THIS AGREEMENT BY THE TIME WE
28 GOT INTO JULY. ACTUALLY, THERE WERE TWO AGREEMENTS, A

8

1 LICENSE DEAL AND AN OPTION DEAL. MR. ADELMAN WAS WORKING
2 WITH MR. KARNY AND MR. JOHN ALLEN --

3 MR. MC MULLEN: OBJECTION. NARRATIVE.

4 THE COURT: SUSTAINED.

5 BY MR. CRAIN:

6 Q WHAT DID MR. ADELMAN HAVE TO DO WITH THESE
7 TWO INDIVIDUALS YOU JUST MENTIONED RELATIVE TO THIS
8 NEGOTIATION?

9 A THE THREE OF THEM WERE THE ONES THAT WERE
10 TURNING OUT THE DRAFTS. THEY WOULD LISTEN TO --

11 THE COURT: WHEN YOU SAY THE "THREE OF THEM,"
12 KILPATRICK, ADELMAN --

13 THE WITNESS: JOHN ALLEN, MR. KARNY AND
14 MR. ADELMAN.

15 THE COURT: GO AHEAD.

16 BY MR. CRAIN:

17 Q MR. ADELMAN WAS AN ATTORNEY?

18 A CORRECT.

19 Q AND THE OTHER TWO?

20 A WERE IN LAW SCHOOL.

21 Q ALL RIGHT.

22 DID I INTERRUPT WHAT YOU WERE TELLING US?

23 A THEY WERE --

24 MR. MC MULLEN: OBJECTION. NO QUESTION PENDING.

25 THE COURT: DESCRIBING THE RELATIONSHIP BETWEEN THE
26 THREE OF THEM.

27 MR. CRAIN: THANK YOU.

28 THE WITNESS: MR. KILPATRICK AND I WERE THE ONES

8

1 NEGOTIATING THE DEAL. THEY WERE NOT PART OF THE
2 NEGOTIATION DISCUSSIONS, BUT THEY WERE TAKING NOTES ABOUT
3 THE TERMS THAT WE HAMMERED OUT, AND THEN THEY WOULD
4 FORMALIZE THOSE IN A NEW DRAFT.

5 MR. ADELMAN LATER IN THE NEGOTIATIONS BEGAN
6 TO SEND LETTERS TO MR. KILPATRICK CONCERNING CIRCUMSTANCES
7 ASSOCIATED WITH NEGOTIATIONS AND THE DRAFTS.

8 BY MR. CRAIN:

9 Q AND EARLIER YOU DESCRIBED IN SUMMARY FORM
10 WHAT THE DEAL WAS THAT WAS BEING WORKED ON BETWEEN
11 MICROGENESIS AND MR. KILPATRICK'S CORPORATION?

12 A IN A LIMITED WAY, YES.

13 Q NOW, SHOWING YOU SOME EXHIBITS THAT HAVE BEEN
14 PREVIOUSLY MARKED.

15 MR. CRAIN: I NOW HAVE 4, 5 6 AND 7, YOUR HONOR.

16 THE COURT: HOLD ON.

17 MR. CRAIN: THEY WERE EXAMINED BY MR. ADELMAN
18 DURING HIS TESTIMONY.

19 THE COURT: YES.

20 BY MR. CRAIN:

21 Q HAVE YOU SEEN THESE DOCUMENTS BEFORE,
22 MR. HUNT.

23 THE COURT: PLEASE CHECK WITH THE CLERK, MAKE SURE
24 THAT YOU HAVE 4 --

25 MR. KLEIN: THOSE ARE THE ONES I TOOK FROM THE
26 CLERK.

27 MR. CRAIN: THESE ARE THE EXHIBITS IN THE CLERK'S
28 POSSESSION.

8
1 THE COURT: I HAD A REASON FOR ASKING BECAUSE THERE
2 WAS NO DATE ON THE COPY I GOT FROM PETITIONER'S COUNSEL AS
3 IT HAVING BEEN MARKED, SO I WANT TO MAKE SURE THE CLERK'S
4 RECORDS REFLECT THAT IT WAS MARKED.

5 THE CLERK: YES.

6 THE COURT: IT WAS MARKED.

7 MR. CRAIN: THANK YOU.

8 THE WITNESS: OKAY.

9 WITH RESPECT TO --

10 THE COURT: I'M SORRY, WHAT WAS THE QUESTION?

11 MR. CRAIN: I JUST ASKED HIM IF HE HAD SEEN THE
12 DOCUMENTS.

13 THE COURT: ALL RIGHT.

14 HAVE YOU SEEN THE DOCUMENTS?

15 THE WITNESS: I HAVE SEEN ALL OF THEM.

16 THE COURT: PUT A QUESTION.

17 THE WITNESS: ONE OF THEM IS A DECLARATION OF NEIL
18 ADELMAN, THOUGH.

19 BY MR. CRAIN:

20 Q LET ME SHOW YOU, IF I MAY, EXHIBIT 4. DOES
21 THAT RELATE IN SOME WAY TO THE NEGOTIATIONS BETWEEN
22 MICROGENESIS AND MR. KILPATRICK'S COLORADO CORPORATION?

23 A YES.

24 Q AND IN WHAT WAY? WHAT IS IT, AND WHAT DOES
25 IT SIGNIFY?

26 MR. MC MULLEN: OBJECTION. BEST EVIDENCE.

27 THE COURT: LET ME JUST MAKE SURE WE'RE ALL WORKING
28 FROM THE SAME -- IS THIS THE ONE THAT WE HAD A QUESTION

9
1 ABOUT WHICH -- I HAVE A COPY THAT I HAD MARKED 4, AND IT
2 APPEARS TO BE DIFFERENT THAN THE ONE --

3 MR. MC MULLEN: MAY I COME UP AS WELL BECAUSE I'M
4 UNCERTAIN NOW.

5 MR. CRAIN: I THINK -- I INITIALLY THINK THAT
6 REFERRED TO 7, THE LICENSE AGREEMENTS.

7 THE WITNESS: YOUR HONOR'S IS THE SAME. IT JUST
8 HAS -- THE ONLY DIFFERENCE IS THE SMALL POST-IT IN THE
9 UPPER LEFT-HAND CORNER.

10 THE COURT: I WANT TO MAKE SURE WE'RE ALL TALKING
11 ABOUT THE SAME EXHIBIT.

12 BY MR. CRAIN:

13 Q WHAT IS THAT DOCUMENT, MR. HUNT, THAT YOU ARE
14 NOW HOLDING, EXHIBIT 4?

15 A THIS IS AN AGREEMENT THAT WAS DEVELOPED AS A
16 RESULT OF NEGOTIATIONS BETWEEN MR. KILPATRICK AND MYSELF
17 WHEREIN MICROGENESIS, NORTH AMERICAN, WOULD GRANT AN
18 OPTION TO HIM TO ALLOW HIM TO PURCHASE AN INTEREST IN
19 MICROGENESIS ATTRITION MILLS, AND HE WOULD IN RETURN PAY
20 US SIX MILLION IN EQUAL NONREFUNDABLE MONTHLY DEPOSITS,
21 INSTALLMENTS, EXCUSE ME, OF \$333,333 OVER 18 MONTHS AND
22 THESE PAYMENTS WERE TO BEGIN UPON THE EFFECTIVE DATE OF
23 THE LICENSE AGREEMENTS THAT WERE BEING WORKED ON
24 CONTEMPORANEOUSLY WITH MR. KILPATRICK.

25 Q OKAY.

26 THAT WAS A DOCUMENT THAT MR. ADELMAN
27 PARTICIPATED IN PUTTING TOGETHER?

28 A YES.

9
1 Q AND SHOWING YOU WHAT HAS BEEN MARKED AS
2 PETITIONER'S 5, DO YOU RECOGNIZE THAT DOCUMENT?

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

4 THE COURT: YES.
5

6 (WITNESS REVIEWING EXHIBIT.)
7

8 BY MR. CRAIN:

9 Q WHAT IS THAT?

10 A THE FIRST THREE PAGES ARE A DECLARATION OF
11 NEIL ADELMAN, BUT ATTACHED TO IT IS A DOCUMENT THAT WAS
12 GENERATED --

13 MR. MC MULLEN: OBJECTION. BEST EVIDENCE --

14 MR. CRAIN: NO, HE'S EXPLAINING --

15 THE COURT: OVERRULED.

16 MR. CRAIN: THANK YOU.

17 THE WITNESS: THE DOCUMENT WAS GENERATED BACK
18 DURING THE TIME THAT MR. ADELMAN -- MR. KILPATRICK I WERE
19 NEGOTIATING AND IT HAS THE LANGUAGE OF WHAT THE EFFECTIVE
20 DATE OF BOTH AGREEMENTS, BOTH THE LICENSE AND THIS
21 AGREEMENT WOULD BE.

22 THE COURT: I THINK THE KEY IS GOING TO BE WERE
23 THESE DOCUMENTS SHOWN TO MR. BARENS, OR WERE THEY
24 DISCUSSED WITH MR. BARENS?

25 THE WITNESS: I THINK WE HAD DISCUSSION ABOUT THESE
26 DOCUMENTS PREVIOUSLY AS TO DEPENDING ON THEM.

27 MR. CRAIN: IF I COULD HAVE ONE OR TWO MORE
28 QUESTIONS.

9
1 BY MR. CRAIN:

2 Q WHAT IS NUMBER 6?

3 A NUMBER 6 --

4 MR. MC MULLEN: OBJECTION, YOUR HONOR. THIS IS
5 CUMULATIVE.

6 THE COURT: I'LL ALLOW THE QUESTION.

7 THE WITNESS: THIS WAS GENERATED AT THE B.B.C.
8 OFFICE. IT WAS TYPED BY LAURIE LEWIS. I CAN SEE HER
9 INITIALS HERE BENEATH THE SIGNATURE BLANK FOR NEIL
10 ADELMAN. I REMEMBER THIS PARTICULAR DOCUMENT GOING OUT.

11 IT WAS A COVER LETTER INFORMING
12 MR. KILPATRICK THAT ENCLOSED WITH THE COVER LETTER WERE
13 COPIES OF THE RECENTLY REDRAFTED LICENSE AGREEMENTS WHICH
14 IS THE SAME -- I DON'T KNOW IF THIS WAS A PARTICULAR DRAFT
15 THAT WE SEE IN DEFENSE --

16 MR. MC MULLEN: OBJECTION. NARRATIVE.

17 THE WITNESS: DEFENSE EXHIBIT 5.

18 THE COURT: PETITIONER'S 5.

19 THE WITNESS: PETITIONER'S 5, EXCUSE ME.

20 BUT IT WAS ONE OF THE GENERATIONS, THIS
21 GENERATIONS OR A LATER GENERATION OF THE LICENSE AGREEMENT
22 DOCUMENT.

23 THE COURT: OBJECTION IS OVERRULED.

24 BY MR. CRAIN:

25 Q FINALLY, NO. 7. YOU SAID YOU RECOGNIZED
26 THAT. WHAT IS THAT?

27 A THIS IS ANOTHER GENERATION OF THE LICENSE
28 AGREEMENT, OR IT MAY ACTUALLY BE THE SAME -- LET'S SEE

9
1 HERE.

2
3 (WITNESS REVIEWING EXHIBIT.)

4
5 MR. MC MULLEN: MAY I APPROACH SO I CAN VERIFY?

6 THE COURT: YES.

7 THE WITNESS: IT MAY ACTUALLY BE THE SAME
8 GENERATION AGREEMENT, BUT THERE ARE DIFFERENT HANDWRITTEN
9 MARKS ON THE FACE OF THE AGREEMENT THAN ON DEFENSE
10 EXHIBIT -- EXCUSE ME, PETITIONER'S EXHIBIT 5.

11 BY MR. CRAIN:

12 Q ALL RIGHT.

13 THAT, AGAIN, PERTAINS TO THE KILPATRICK
14 NEGOTIATIONS?

15 A RIGHT.

16 Q NOW, THERE --

17 THE COURT: PUT A QUESTION.

18 MR. CRAIN: I MAY HAVE CUT OFF HIS ANSWER.

19 THE COURT: I DON'T THINK SO.

20 MR. CRAIN: OKAY.

21 BY MR. CRAIN:

22 Q DID YOU DISCUSS THESE DOCUMENTS WITH YOUR
23 ATTORNEY, ARTHUR BARENS?

24 A YES, I DID.

25 Q WHAT DID YOU TELL HIM ABOUT THESE DOCUMENTS?

26 A I TOLD HIM HE COULD GET THESE DOCUMENTS
27 THROUGH SUBPOENA DUCES TECUM ON THE BEVERLY HILLS POLICE
28 DEPARTMENT, THAT THEY HAD BEEN COLLECTED IN THE SEARCH OF

9
1 THE B.B.C.'S OFFICES, AND THAT HE COULD GO GET THEM FROM
2 THE CALIFORNIA DEPARTMENT OF JUSTICE WHO TOOK MY COPIES
3 DURING THE JANUARY 8, 1987, SEARCH OF THE HOME.

4 THE COURT: THAT WAS THE SEARCH OF THE ROBERTS'
5 HOME?

6 THE WITNESS: YEAH.

7 AND THAT IN ADDITION, I GAVE HIM CHRONOLOGIES
8 THAT REFERRED TO THESE DOCUMENTS. I THINK THEY EVEN
9 REFERRED TO THIS JULY 25, 1984, LETTER. I DISCUSSED IN
10 DETAIL THE TERMS OF THESE AGREEMENTS WITH HIM.

11 BY MR. CRAIN:

12 Q DID YOU DISCUSS WITH HIM WHAT THEIR
13 SIGNIFICANCE WAS RELATIVE TO THE FINANCIAL POSITION OF THE
14 B.B.C.?

15 A YES, I DID.

16 Q WHAT DID YOU SAY?

17 A I SAID THAT THESE DOCUMENTS, ESPECIALLY IF HE
18 SHOWED ALL THE LETTER DRAFTS, WOULD SHOW DEFINITELY THE
19 STATE OF MIND THAT I HAD WITH RESPECT TO FUTURE PAYMENTS
20 FROM MR. KILPATRICK, SATURN ENERGY, UNITED FINANCIAL
21 OPERATIONS, INCORPORATED AND THAT I BELIEVED I WAS GOING
22 TO BE RECEIVING SUBSTANTIAL SUMS OF MONEY FROM
23 MR. KILPATRICK PURSUANT TO THESE DEALS.

24 IT'S -- I TOLD HIM THAT THESE CONTRACTS,
25 WHICH ARE PETITIONER'S EXHIBIT 4, 17 AND 5, WERE PROPOSED
26 NOVATIONS --

27 THE COURT: YOU SAID 17?

28 MR. KLEIN: HE MEANT 7, I THINK.

10

1 THE WITNESS: YES, 7.

2 THE COURT: YES.

3 BY MR. CRAIN:

4 Q WERE PROPOSED NOVATIONS?

5 A OF AN EXISTING AGREEMENT WHICH CALLED ALSO
6 FOR SUBSTANTIAL SUMS OF MONEY TO BE PAID BY
7 MR. KILPATRICK AND RELATED AGENCIES TO MICROGENESIS.

8 Q AND WHAT DID MR. BARENS REPLY TO YOUR
9 REQUESTING THAT HE OBTAIN THESE DOCUMENTS?

10 MR. MC MULLEN: AT THIS MOMENT I'M GOING TO OBJECT.
11 VAGUE AS TO TIME.

12 THE COURT: FOCUS US, AGAIN. ARE WE TALKING
13 PRE-TRIAL, DURING TRIAL --

14 BY MR. CRAIN:

15 Q BEFORE TRIAL DID YOU ASK MR. BARENS TO GET
16 THESE DOCUMENTS?

17 A BEFORE TRIAL I DID, AND I OFFERED TO ALLOW
18 HIM TO SEE THEM.

19 Q DID HE TAKE UP YOUR OFFER?

20 A TOLD ME TO KEEP ALL THE EXHIBITS AT MY HOUSE
21 AND TO BRING THEM IN AS THEY WERE NEEDED.

22 Q AS THE TRIAL WAS GETTING UNDERWAY OR EARLY IN
23 THE TRIAL THERE WAS A SEARCH OF MR. ROBERTS' HOUSE; IS
24 THAT RIGHT?

25 A YES.

26 Q AND THESE SAME DOCUMENTS WERE SEIZED; IS THAT
27 RIGHT?

28 A YES.

10 1 Q AND FROM THEN ON DID YOU MAKE THESE REQUESTS
2 DURING THE COURSE OF THE GUILT PHASE OF YOUR TRIAL FOR
3 MR. BARENS TO OBTAIN THESE DOCUMENTS?

4 A YES, I DID.

5 Q WHAT WAS HIS REPLY TO THAT?

6 A HE RECEIVED BACK A RETURN ON THE SEARCH
7 WARRANT WHICH CONTAINED COPIES OF --

8 MR. MC MULLEN: OBJECTION. NONRESPONSIVE.

9 THE COURT: OVERRULED.

10 FINISH THE ANSWER.

11 THE WITNESS: AND HE HAD POSSESSION OF THAT RETURN,
12 AND I KEPT TELLING HIM TO TAKE SOME TIME OUT AND TO GET
13 THOSE DOCUMENTS OUT OF THERE, AND ULTIMATELY HE SAID HE
14 HAD MISPLACED THESE DOCUMENTS, MEANING THEY WERE NOT
15 AVAILABLE.

16 THE COURT: THE DOCUMENTS OR THE RETURN OR THE
17 DOCUMENTS 4 THROUGH 7?

18 THE WITNESS: THE RETURN WHICH INCLUDED SOME OF
19 THESE DOCUMENTS.

20 BY MR. CRAIN:

21 Q AS THE PENALTY -- STRIKE THAT.

22 AS THE GUILT PHASE OF YOUR TRIAL WENT ON, DID
23 MR. BARENS MAKE ANY FURTHER COMMENTS REGARDING YOUR
24 REQUESTS TO OBTAIN THESE DOCUMENTS?

25 A THERE WERE DISCUSSIONS BETWEEN MR. BARENS AND
26 I ABOUT THESE DOCUMENTS.

27 Q WHAT WERE THE NATURE OF THOSE DISCUSSIONS?

28 A WELL, AS THE GUILT PHASE PROGRESSED HE

10

1 STOPPED SAYING THAT HE WAS GOING TO DO THIS AND STARTED
2 JUST SHRUGGING HIS SHOULDERS WAS THE ONLY WAY THAT I CAN
3 EXPLAIN IT. TELLING ME THAT HE HAD TOO MANY OTHER THINGS
4 ON HIS MIND, "NOT NOW, BRING IT UP LATER." WE WENT FROM
5 HAVING SUBSTANTIVE DISCUSSIONS TO ME BEING GIVEN THE BRUSH
6 OFF ON THIS PARTICULAR POINT.

7 MR. KLEIN: COULD WE JUST HAVE A MINUTE, YOUR
8 HONOR?

9 THE COURT: ALL RIGHT.

10

11 (PETITIONER'S COUNSEL CONFER.)

12

13 THE COURT: JUST A HOUSEKEEPING MATTER. HOW MUCH
14 LONGER DO YOU THINK WE HAVE ON DIRECT?

15 MR. CRAIN: QUITE A WHILE BECAUSE --

16 THE COURT: DEFINE "QUITE A WHILE."

17 MR. CRAIN: SEVERAL HOURS.

18 THE COURT: SEVERAL HOURS?

19 MR. CRAIN: TWO HOURS, I WOULD SAY. PERHAPS
20 LONGER.

21 THE COURT: GO AHEAD. I JUST NEED TO MAKE PLANS
22 REGARDING SOMEBODY ELSE.

23 MR. CRAIN: YES, YOUR HONOR.

24 BY MR. CRAIN:

25 Q DID MR. BARENS, TO YOUR KNOWLEDGE, EVER
26 OBTAIN THESE DOCUMENTS AFTER THE -- AFTER THIS SEIZURE?

27 A HE SAID HE HAD MISPLACED OR LOST THE
28 MATERIALS, THAT HE WOULD HAVE TO LOOK INTO IT TO FIND

10 1 THESE DOCUMENTS. THAT WAS THE LAST COMMUNICATION I HAD
2 FROM HIM ABOUT THEIR LOCALE.

3 Q DO YOU HAVE ANY -- DID YOU HAVE ANY
4 COMMUNICATION WITH MR. ADELMAN REGARDING HIS BEING A
5 WITNESS ON YOUR BEHALF AT THE GUILT PHASE?

6 MR. MC MULLEN: OBJECTION. RELEVANCE.

7 THE COURT: OVERRULED.

8 MR. CRAIN: THANK YOU, YOUR HONOR.

9 THE WITNESS: YES, I DID.

10 BY MR. CRAIN:

11 Q AND WHAT HAPPENED THERE?

12 A I CALLED HIM TO VERIFY THAT I HAD LOCATED HIS
13 PHONE NUMBER --

14 THE COURT: YOU CALLED WHO?

15 THE WITNESS: MR. ADELMAN, AND --

16 BY MR. CRAIN:

11 17 Q AND WHERE DID YOU CALL HIM? HERE IN LOS

18 ANGELES OR SOMEWHERE ELSE?

19 A IT WAS LOCAL. HE WAS LOCAL. I DON'T RECALL
20 WHERE.

21 Q WAS HE STILL A PRACTICING ATTORNEY?

22 A I DON'T HAVE A RECOLLECTION ABOUT WHAT HE WAS
23 DOING AT THE TIME. I JUST REMEMBER SPEAKING TO HIM, AND I
24 CALLED HIM FROM ARTHUR BARENS' OFFICE.

25 Q AND WHY DID YOU CALL MR. ADELMAN?

26 A I WANTED TO GET HIS AGREEMENT TO SPEAK TO
27 MR. BARENS.

28 Q AND DID YOU GET THAT?

11

1 A HE SAID, "YOU KNOW MY PHONE NUMBER."

2 Q AND DID YOU HAVE ANY CONVERSATION WITH
3 MR. BARENS RELATIVE TO YOUR HAVING CONTACTED MR. ADELMAN?

4 MR. MC MULLEN: OBJECTION. VAGUE AS TO TIME.

5 THE COURT: OVERRULED.

6 THE WITNESS: I TOLD HIM I HAD FOUND THE MUCH
7 SOUGHT AFTER MR. ADELMAN, AND HE WAS HERE, THE PHONE
8 NUMBER, AND HE SHOULD CALL THE FELLOW.

9 Q WHAT DID HE SAY?

10 A I DON'T RECALL HIM SAYING ANYTHING, BUT I
11 GAVE HIM THE PIECE OF PAPER WITH THE PHONE NUMBER ON IT.

12 Q DID HE EVER TELL YOU THAT HE HAD FOLLOWED UP
13 ON THIS REQUEST OF YOURS AND THAT HE HAD CONTACTED
14 MR. ADELMAN?

15 A NEVER SAID THAT.

16 Q WAS MR. BARENS SOMEONE WHO WAS, GENERALLY
17 SPEAKING, FULLY RESPONSIVE TO YOUR INQUIRIES ABOUT THE
18 WORK HE WAS DOING ON THE CASE?

19 MR. MC MULLEN: OBJECTION. IRRELEVANT AND CALLS
20 FOR AN OPINION.

21 THE COURT: SUSTAINED.

22 BY MR. CRAIN:

23 Q DID YOU CALL ANYONE ELSE RELATIVE TO THE
24 KILPATRICK NEGOTIATIONS ON OUR OWN OTHER THAN MR. ADELMAN?

25 A NO, I DID NOT.

26 Q WHY DID YOU CALL -- WHY NOT?

27 MR. MC MULLEN: OBJECTION. RELEVANCY.

28 THE COURT: SUSTAINED.

11

1 BY MR. CRAIN:

2 Q WHY DID YOU CALL MR. ADELMAN?

3 A I HAD HAD A BUSINESS RELATIONSHIP WITH
4 MR. ADELMAN. UNLIKE A LOT OF OTHER WITNESSES, I FELT
5 CONFIDENT THAT HE WOULD NOT READ ANYTHING INTO ME CALLING
6 HIM. I WAS -- THERE WAS CONCERNS OF OTHER WITNESSES THAT
7 THERE MIGHT BE OVERTONES THAT WOULD BE DAMAGING TO MY
8 POSITION, OUT ON BAIL AND OTHER THINGS.

9 Q NOW --

10 MR. CRAIN: YOUR HONOR, PARDON ME JUST A MOMENT.

11 THE COURT: GO AHEAD.

12

13 (PAUSE.)

14

15 BY MR. CRAIN:

16 Q NOW, DID YOU HEAR MR. BARENS TESTIFY AS TO --
17 IN HERE AS TO WHY HE DID NOT USE THE KILPATRICK
18 NEGOTIATIONS EVIDENCE?

19 A YES.

20 Q AND DID YOU HEAR A PORTION OF HIS TESTIMONY
21 IN THAT REGARD THAT HAD SOME REFERENCE TO RON LEVIN?

22 A YES.

23 Q AND DID YOU EVER HAVE -- PRIOR TO TRIAL,
24 DISCUSSIONS WITH MR. BARENS REGARDING THAT SUBJECT?

25 MR. MC MULLEN: OBJECTION. RELEVANCY.

26 THE COURT: I'M JUST NOT SURE WHAT YOU ARE
27 REFERRING TO.

28 MR. CRAIN: WELL, I BELIEVE BARENS, YOUR HONOR,

11

1 TESTIFIED THAT ONE OF THE REASONS, THE KEY REASON, THAT HE
2 DIDN'T CHOOSE TO USE THE EVIDENCE THAT, OF THE
3 MICROGENESIS WAS --

4 THE COURT: THIS IS A HUNT, LEVIN, ROBERTS THING --

5 MR. CRAIN: -- WAS BECAUSE IT HAD SOME TIE INTO
6 MR. LEVIN AND -- HE WAS TESTIFYING THAT --

7 THE COURT: I THINK HE SAID IT WAS A HUNT, LEVIN,
8 ROBERTS THING.

9 MR. CRAIN: THAT LEVIN -- LEVIN WOULD NOT HAVE BEEN
10 THE KIND OF PERSON WHO WOULD WANT TO INVEST IN
11 MICROGENESIS, AND SINCE THE PEOPLE INJECTED THIS, AND
12 SINCE MR. BARENS TESTIFIED THAT WAS RELATIVE TO O.S.C.
13 2-C, I WANT TO GET MR. HUNT'S VERSION OF WHAT HAPPENED.

14 THE COURT: WHAT IS THE QUESTION?

15 BY MR. CRAIN:

16 Q DID YOU DISCUSS WITH MR. BARENS PRIOR TO
17 TRIAL ANYTHING REGARDING MR. LEVIN AND ANYTHING -- WHETHER
18 OR NOT MR. LEVIN WOULD HAVE BEEN SOMEONE WHO WOULD HAVE
19 BEEN A LEGITIMATE INVESTOR IN MICROGENESIS?

20 THE COURT: OVERRULED.

21 YOU MAY ANSWER.

22 THE WITNESS: WE DISCUSSED THE PEOPLE'S THEORY IN
23 THAT REGARD.

24 BY MR. CRAIN:

25 Q WHAT DISCUSSION DID YOU HAVE ABOUT THE
26 PEOPLE'S THEORY IN THAT REGARD?

27 A THAT THEY HAD MISSED THE POINT ENTIRELY, THAT
28 THE DEFENSE POSITION WAS NOT THAT RON LEVIN TOOK A SERIOUS

11 1 INTEREST IN MICROGENESIS. LOOKING BACK AT HIS ACTIONS, IT
2 WAS CLEAR THAT RON LEVIN WROTE A BAD CHECK AGAINST THAT
3 CONTRACT ON PURPOSE, THAT HE HAD NEVER ENTERTAINED
4 INVESTING SERIOUSLY IN MICROGENESIS, AND WE WERE NOT --
5 THE PEOPLE'S THEORY WAS MISGUIDED OR MISDIRECTED. IT DID
6 NOT HAVE ANYTHING TO DO WITH ANY CONTENTION IN THE DEFENSE
7 CASE WHATSOEVER.

8 Q AND AGAIN, THE PEOPLE'S THEORY WAS WHAT?

9 MR. MC MULLEN: OBJECTION --

10 BY MR. CRAIN:

11 Q AS YOU DISCUSSED IT WITH MR. BARENS.

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

13 THE COURT: OVERRULED.

14 YOU CAN RELATE YOUR DISCUSSIONS WITH
15 MR. BARENS CONCERNING THE PROSECUTION'S EVIDENCE, AND HOW
16 YOU WOULD COUNTER THAT.

17 THAT IS THE THRUST OF YOUR QUESTION, MR.
18 CRAIN.

19 MR. CRAIN: I'M SORRY, YOUR HONOR?

20 THE COURT: IS THAT THE THRUST OF YOUR QUESTION?
21 THE ANSWER IS "YES".

22 MR. CRAIN: YES.

23 THE COURT: YOU MAY ANSWER.

24 THE WITNESS: WE DISCUSSED HOW THE PEOPLE -- THE
25 PEOPLE'S THEORY THAT -- THE QUESTION OF WHETHER RON LEVIN
26 WOULD HAVE SERIOUSLY WRITEN A CHECK FOR A MILLION AND A
27 HALF DOLLARS WHICH HE INTENDED TO CLEAR FOR AN INTEREST IN
28 THE ATTRITION MILLS, THAT THAT WAS A WASTE OF ENERGY ON

12

1 THEIR PART BECAUSE IT WASN'T THE DEFENSE CONTENTION THAT
2 HE DID THAT.

3 AND THE EVIDENCE SHOWED IN FACT THAT HE GAVE
4 WHAT HE NORMALLY DID IN BUSINESS TRANSACTIONS, A BAD
5 CHECK. THAT, THEREFORE, WE WERE NOT CONTENDING AND WE DID
6 NOT HAVE TO DEFEND THE PROPOSITION THAT RON LEVIN WOULD
7 EVER DEVELOP A STATE OF MIND WHERE HE WOULD ACTUALLY PART
8 WITH A MILLION AND A HALF DOLLARS AND BECOME A SERIOUS
9 INVESTOR, WHICH WAS CERTAINLY NOT HIS HABIT PATTERN OR HIS
10 BUSINESS PRACTICE, IN THE ATTRITION MILLS.

11 THE QUESTION BEHIND THE KILPATRICK EVIDENCE
12 WAS HOW DID IT RELATE TO JOE HUNT'S STATE OF MIND ON
13 MOTIVE AND TO WHAT EXTENT COULD WE PRODUCE EVIDENCE THAT
14 WOULD CORROBORATE MY PURPOSE IN HOLDING THE 6/24 MEETING.
15 BY MR. CRAIN:

16 Q AND WERE THERE DOCUMENTS THAT RELATED TO
17 THESE DISCUSSIONS THAT YOU HAD WITH MR. BARENS THAT YOU
18 HAVE TODAY?

19 A WE HAVE BEEN TALKING ABOUT THEM.

20 THERE ARE OTHER DOCUMENTS. THE FIRST
21 CONTRACT BETWEEN MR. KILPATRICK AND MICROGENESIS WAS --
22 THERE WERE TWO CONTRACTS. ONE DATED -- I GUESS IT WAS
23 NOVEMBER 18, 1983. THEY WERE BOTH DATED THAT, AND THEY
24 ARE EACH TWO OR THREE PAGES.

25 Q HOW ABOUT THE LEVIN ASPECT AND WHETHER OR NOT
26 LEVIN WAS SOMEONE WHO WOULD LEGITIMATELY INVEST IN
27 MICROGENESIS AS OPPOSED TO THIS BEING ANOTHER ONE OF
28 LEVIN'S SCAMS? ARE THERE DOCUMENTS THAT RELATE TO THAT

12

1 THAT YOU FURNISHED TO MR. BARENS THAT YOU PRESENTLY HAVE?

2 A WELL, I POINTED OUT THAT THERE WOULD BE
3 EVIDENCE THAT WAS AVAILABLE TO HIM THAT COULD TEND TO
4 ESTABLISH THAT MR. LEVIN, ALTHOUGH HE MAY NOT HAVE EVER
5 SERIOUSLY WANTED TO INVEST IN THE ATTRITION MILLS, DID
6 EXPRESS INTEREST ABOUT THE ATTRITION MILLS AND THAT HE DID
7 RECEIVE DOCUMENTS RELATED TO IT, AND THAT HE HAD SOME -- I
8 TOLD MR. BARENS THAT MR. LEVIN DID IN FACT HAVE SOME
9 DEALINGS WITH ME ABOUT CYCLOTRONICS, THE PREDECESSOR TO
10 MICROGENESIS.

11 Q WERE THOSE DISCUSSIONS THAT YOU HAD WITH
12 MR. BARENS --

13 A AS WELL AS MICROGENESIS.

14 GO AHEAD.

15 Q CYCLOTRONICS AND MICROGENESIS ARE THE SAME
16 ENTITIES, THEY HAD A DIFFERENT NAME, ONE NAME PRECEDED THE
17 NEXT; CORRECT?

18 A CORRECT.

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

20 THE COURT: LET THE ANSWER STAND.

21 MR. CRAIN: OKAY.

22 BY MR. CRAIN:

23 Q NOW, WITH REGARD TO THE LAST SUBJECT, DID YOU
24 HAVE DISCUSSIONS BEFORE THE TRIAL WITH MR. BARENS ABOUT
25 SUPPORTING DOCUMENTS RELATIVE TO WHAT YOU JUST TOLD US
26 ABOUT LEVIN'S HAVING SOME -- ANY CONNECTION WHATSOEVER TO
27 MICROGENESIS?

28 A YES, I DID.

12

1 Q AND AGAIN, WHAT DID YOU TELL MR. BARENS IN
2 THAT REGARD?

3 A I TOLD HIM THAT ONE OF THE PEOPLE'S EXHIBITS,
4 WHICH MIGHT HAVE BEEN -- I GUESS PEOPLE'S 92. IT WAS THE
5 FILE OF MICROGENESIS MATERIAL THAT WAS FOUND AT RON
6 LEVIN'S. I SAID THAT THOSE DOCUMENTS WERE GIVEN BY ME TO
7 RON LEVIN, THAT SOMETIMES DEAN KARNY WAS PRESENT, AND THAT
8 I BELIEVE THAT DEAN WOULD PROBABLY TESTIFY TRUTHFULLY
9 ABOUT BEING PRESENT WHEN AGREEMENTS WERE GIVEN TO
10 MR. LEVIN AND OTHER BUSINESS DOCUMENTATION CONCERNING
11 MICROGENESIS.

12 Q WHAT DID MR. BARENS SAY IN RESPONSE -- DID
13 YOU ASK HIM TO GET THESE DOCUMENTS AND LOOK AT THEM?

14 A WE DISCUSSED THE DOCUMENTS. I DON'T RECALL
15 WHETHER I ASKED HIM TO GET THEM AT THAT POINT IN TIME.

16 Q DO YOU RECALL ANYTHING HE SAID WITH REGARD TO
17 HIS USE OF THESE DOCUMENTS?

18 A HE WANTED TO KNOW WHAT OTHER EVIDENCE THAT --
19 THAT THEORETICALLY COULD EXIST TO SHOW THAT THERE WAS A
20 BUSINESS CONNECTION BETWEEN MYSELF AND LEVIN CONCERNING
21 MICROGENESIS, AND THAT WE -- THAT I DIDN'T JUST SHOW UP,
22 YOU KNOW, ON JUNE 6, 1984, WITH A FILE IN HAND AND COERCE
23 RON LEVIN INTO SIGNING THIS CHECK AND THEN PUT A FILE IN
24 HIS FILE ROOM.

25 IF THERE WAS ANY EVIDENCE TO SHOW THAT HE HAD
26 COME BY DOCUMENTS RELATING TO MICROGENESIS AT AN EARLIER
27 POINT IN TIME AND IN A CONSENSUAL WAY.

28 Q DID YOU POINT OUT TO HIM WHERE SUCH EVIDENCE

12 1 EXISTED?

2 A YES, I DID.

3 Q WHAT DID YOU DO IN THAT REGARD?

4 A I TOLD HIM THAT I THOUGHT HE MIGHT BE ABLE TO
5 GET SOME EVIDENCE LIKE THAT BY A SUBPOENA DUCES TECUM ON
6 PROGRESSIVE SAVINGS & LOAN.

7 Q AND WHAT WOULD THAT ACCOMPLISH?

8 MR. MC MULLEN: OBJECTION. NOT RELEVANT.

9 BY MR. CRAIN:

10 Q OKAY --

11 MR. CRAIN: I'M SORRY, THE COURT DIDN'T RULE.

12 THE COURT: I DON'T LIKE THE OBJECTION.

13 WHY DON'T YOU REFRAME THE QUESTION, THOUGH,
14 BECAUSE IT DOESN'T QUITE RING RIGHT.

15 BY MR. CRAIN:

16 Q DID YOU TELL MR. BARENS IN ANY MORE DETAIL
17 ABOUT WHAT OBTAINING THESE DOCUMENTS, HOW THEY WOULD TEND
18 TO ESTABLISH THIS ASPECT OF THE DEFENSE CASE?

19 MR. MC MULLEN: OBJECTION. VAGUE AS TO WHAT
20 DOCUMENTS.

21 THE COURT: YEAH. I'M A LITTLE CONFUSED.

22 HOW MUCH MORE DO YOU HAVE ON THIS PARTICULAR
23 TOPIC?

24 MR. CRAIN: RELATIVE TO MICROGENESIS, PROBABLY 15
25 MINUTES.

26 THE COURT: WOULD THIS BE A GOOD TIME TO TAKE OUR
27 NOONTIME RECESS?

28 MR. CRAIN: YES, YOUR HONOR.

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THE COURT: ALL RIGHT.

EVERYONE BACK AT 1:30.

(AT 12:00 P.M. A RECESS WAS TAKEN
UNTIL 1:30 P.M. OF THE SAME DAY.)

1 LOS ANGELES, CALIFORNIA; WEDNESDAY, MAY 8, 1996

2 1:30 P.M.

3 DEPARTMENT NO. 101

HON. J. STEPHEN CZULEGER, JUDGE

4
5 (APPEARANCES AS HERETOFORE NOTED.)

6
7 THE BAILIFF: REMAIN SEATED, COME TO ORDER, THIS
8 COURT IS AGAIN IN SESSION.

9 THE COURT: IN THE MATTER OF JOSEPH HUNT, THE
10 RECORD WILL REFLECT ALL COUNSEL ARE PRESENT, PETITIONER IS
11 PRESENT AND ON THE STAND.

12 MR. CRAIN, YOU MAY CONTINUE YOUR DIRECT
13 EXAMINATION.

14 MR. CRAIN: THANK YOU, YOUR HONOR.

15
16 JOSEPH HUNT, +

17 THE PETITIONER HEREIN, CALLED AS A WITNESS IN HIS OWN
18 BEHALF, HAVING BEEN PREVIOUSLY SWORN, RESUMED THE STAND
19 AND TESTIFIED FURTHER AS FOLLOWS:

20
21 DIRECT EXAMINATION RESUMED+

22
23 BY MR. CRAIN:

24 Q MR. HUNT, ARE THERE ANY OTHER DOCUMENTS THAT
25 RELATE TO YOUR DISCUSSIONS WITH MR. BARENS AS TO THE
26 KILPATRICK EVIDENCE?

27 A YES, THERE ARE.

28 Q AND WHAT WOULD THAT BE? I THINK THESE ARE --

1 MR. CRAIN: ONE, I THINK, IS ON THE EXHIBIT LIST
2 THAT IS COMING UP, YOUR HONOR. THAT WOULD BE NUMBER -- I
3 THINK IT HAS ALREADY BEEN MARKED.

4 THE WITNESS: 277, I THINK.

5 THE COURT: THAT WAS A MEMO THAT WAS EXHIBIT 1-B TO
6 THE PETITION, MEMO TO MR. BARENS.

7 MR. CRAIN: YES, YOUR HONOR.

8 THE WITNESS: RIGHT.

9 THE COURT: DO WE HAVE THAT SOMEWHERE?

10 MR. KLEIN: I DIDN'T PULL THAT ONE. I AM SORRY.

11 MR. CRAIN: I BELIEVE I HAVE BEEN GIVEN THE ONE
12 THAT WAS MARKED 277.

13 THE WITNESS: CORRECT.

14 DO YOU WANT ME TO LOOK AT THAT ONE?

15 BY MR. CRAIN:

16 Q YES.

17 A HERE IS A COPY.

18 THE COURT: OKAY.

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

20 THE COURT: YES.

21

22 (PAUSE.)

23

24 THE WITNESS: YES. I FORGOT THE QUESTION PENDING.

25 BY MR. CRAIN:

26 Q THE QUESTION WAS: LOOKING AT THAT EXHIBIT,
27 PETITIONER'S 277, DOES THAT -- IS THAT IN SOME WAY A
28 DOCUMENT THAT RELATES TO THE KILPATRICK NEGOTIATIONS

1 ISSUE?

2 A YES. IN SEVERAL RESPECTS.

3 Q WHAT ARE THOSE?

4 THE WITNESS: IF YOU LOOK AT A-3, YOUR HONOR.

5 THE COURT: PAGE A-3.

6 THE WITNESS: ITEM NO. 3, IT SAYS, "SUBPOENA NEIL
7 ADELMAN AND R. MICHAEL WEATHERBY." THERE IS ANOTHER
8 NOTICE TO THEM AS EARLY AS AUGUST OF 1985 THAT I THOUGHT
9 ADELMAN SHOULD BE SUBPOENAED.

10 ON A-6 WE HAVE TALKED ABOUT THIS PAGE IN
11 CONTEXT OF ITEMS 5 AND 15, BUT THERE IS ANOTHER POINT ON
12 HERE WHICH IT SAYS --

13 THE COURT: HOLD ON.

14 THERE IS NO QUESTION PENDING.

15 PUT A QUESTION.

16 BY MR. CRAIN:

17 Q WHO IS R. MICHAEL WEATHERBY?

18 MR. MC MULLEN: OBJECTION. RELEVANCE.

19 THE COURT: OVERRULED.

20 THE WITNESS: R. MICHAEL WEATHERBY IS A PERSON WHO
21 LEVIN IN MY PRESENCE CLAIMED TO USE AS AN ALTER EGO, AS A
22 LAWYER THAT HE CO-OPTED THE GUY'S IDENTITY AND ALLOWED HIM
23 TO REPRESENT HIMSELF AS A LAWYER AT VARIOUS CIVIL
24 PROCEEDINGS AND WITH OTHER PEOPLE.

25 BY MR. CRAIN:

26 Q CONTINUING ON WITH THAT DOCUMENT, ARE THERE
27 OTHER ASPECTS THAT RELATE TO THE KILPATRICK NEGOTIATIONS?

28 A YES. ITEM 7 ON A-6 SAYS, "WORD PROCESSOR."

1 THIS ENTRY IS EXPLAINED IN SOME OTHER COMMUNICATIONS THAT
2 WE WILL PROBABLY GET TO, BUT IT WAS A REFERENCE TO MYSELF
3 TO BRING OUT WITH MR. BARENS THE FACT THAT WE NEEDED TO
4 GET ACCESS TO MR. LEVIN'S WORD PROCESSOR BECAUSE I
5 BELIEVED THAT FILES WOULD BE STORED ON THE WORD PROCESSOR
6 THAT WOULD SHOW THAT AT LEAST ON ONE LEVEL SUPERFICIALLY
7 LEVIN WAS CARRYING ON WITH ME AS IF HE HAD A SERIOUS
8 INTEREST IN THE ATTRITION MILLS TECHNOLOGY.

9 Q I WILL COME BACK TO THAT SUBJECT IN A BIT,
10 BUT ARE THERE ANY OTHER REFERENCES IN 277 TO THE GENERAL
11 SUBJECT OF THE KILPATRICK NEGOTIATIONS AND THEIR USE IN
12 YOUR DEFENSE AT YOUR TRIAL?

13 A ON A-7 THERE IS ANOTHER MENTION OF NEIL
14 ADELMAN UNDER THE HEADING, "EVIDENCE, DEFENSE MATERIAL
15 FOR," AND IT ALSO MENTIONS ONCE AGAIN "WORD PROCESSOR"
16 WHICH WAS A REFERENCE TO LEVIN'S WORD PROCESSOR, HOW I WAS
17 URGING MR. BARENS TO GAIN ACCESS TO THAT.

18 Q ANY OTHERS IN THAT DOCUMENT?

19 A I WILL JUST CHECK REAL QUICK.

20 AND A-14, A-15 ARE HANDWRITTEN DISCUSSIONS
21 ABOUT THE U.F.O.I. AND SATURN NEGOTIATIONS AND WHAT SOME
22 OF THE TERMS AND CONDITIONS WERE. IN FACT, I THINK THAT
23 THIS IS -- AT THE BOTTOM IT SAYS, "NEIL ADELMAN," IT SAYS
24 THEN PARENTHESIS "(WITNESS DASH SEE,)" IT WAS TELLING HIM
25 TO SEE NEIL ADELMAN. "DESCRIPTION OF POTENTIAL
26 WITNESSES," HE WAS COUNSEL FOR MICROGENESIS. IN CONTEXT
27 YOU SEE THAT I AM SAYING, "COUNSEL FOR MICROGENESIS," IN
28 TERMS OF THE NEGOTIATIONS WITH KILPATRICK, WHICH ARE

1 DESCRIBED ON A-14 AND A-15.

2 SOME OF THE FIGURES AND FACTS RELATING TO THE
3 KILPATRICK CONTRACT ARE DESCRIBED THERE. THIS IS -- THIS
4 PARTICULAR HANDWRITTEN PAGES WERE LATER TYPED UP AND WE
5 DEALT WITH THEM IN SOME OTHER FORMAT, BUT YOU CAN SEE MY
6 HANDWRITTEN PRECURSOR TO THE TYPED DOCUMENT THERE. LET ME
7 CHECK, JUST CHECK AND SEE IF THERE IS ANYTHING ELSE IN
8 THIS PARTICULAR --

9 THE COURT: THIS HANDWRITTEN DOCUMENT WAS GIVEN TO
10 MR. BARENS AT SOME POINT?

11 THE WITNESS: IT WAS SENT IN THE MAIL FROM THE
12 COUNTY JAIL.

13 THE COURT: AND THIS WOULD BE PRIOR TO TRIAL
14 BEGINNING?

15 THE WITNESS: IT WAS 1985.

16 BY MR. CRAIN:

17 Q YOU MENTIONED U.F.O.I. AND SATURN. WAS
18 MR. KILPATRICK'S CORPORATION -- WAS U.F.O.I. THE INITIALS
19 FOR THAT; IS THAT RIGHT?

20 A YES.

21 Q SATURN IS THE COMPANY THAT'S REFERRED TO IN
22 THE DOCUMENTS THAT YOU PREVIOUSLY LOOKED AT, THE LICENSING
23 AGREEMENT, THE OPTION AGREEMENT, WHICH ARE IN THAT SERIES
24 OF PETITIONER'S 4 THROUGH 7?

25 A YES.

26 Q OKAY.

27 ARE THERE ANY OTHER REFERENCES YOU NOTICED IN
28 YOUR PERUSAL HERE OF EXHIBIT 277 RELATING TO THE

1 KILPATRICK NEGOTIATIONS?

2 A NOT IN THAT DOCUMENT.

3 Q ARE THERE ANY OTHER DOCUMENTS THAT RELATE TO
4 THIS SUBJECT THAT YOU HAVE?

5 A YES.

6 MR. CRAIN: MAY I APPROACH THE WITNESS?

7 THE COURT: YES.

8 MR. CRAIN: I THINK THIS NEEDS TO BE -- WHAT ARE WE
9 UP TO, 279?

10 THE COURT: NEXT IN ORDER WILL BE 279.

11

12 (MARKED FOR ID = PETITIONER'S 279,
13 DOCUMENT.)

14

15 MR. CRAIN: I AM PLACING THAT ON THE BACK OF THE
16 DOCUMENT.

17 THE COURT: I WILL RETURN THIS TO MR. HUNT, THE
18 LAST EXHIBIT.

19 MR. CRAIN: MR. MC MULLEN IS NOW LOOKING IT OVER.

20 THE COURT: HOW WOULD YOU DESCRIBE IT FOR THE
21 EXHIBIT LIST?

22 MR. CRAIN: I THINK MR. MC MULLEN IS STILL LOOKING
23 AT IT. IT IS A HANDWRITTEN DOCUMENT OF, I BELIEVE, THREE
24 PAGES, PERHAPS FOUR.

25 THE COURT: IS THIS ANOTHER MEMO TO MR. BARENS?

26 MR. CRAIN: YES, YOUR HONOR.

27 THE COURT: FROM MR. HUNT?

28 MR. CRAIN: YES, YOUR HONOR.

1 THE COURT: ALL RIGHT.

2

3 (PAUSE.)

4

5 MR. CRAIN: MAY I RETURN IT TO MR. HUNT?

6 MR. MC MULLEN, ARE YOU THROUGH WITH IT?

7 MR. MC MULLEN: NO. I THINK IMOGENE WAS --

8 MR. CRAIN: SHE SAYS HE IS THROUGH.

9

10 (PAUSE.)

11

12 BY MR. CRAIN:

13 Q MR. HUNT, THAT DOCUMENT NOW THAT HAS JUST
14 BEEN MARKED FOR IDENTIFICATION, WHAT IS THAT?

15 THE WITNESS: IT A THREE-PAGE HANDWRITTEN DOCUMENT
16 IN MY HANDWRITING, YOUR HONOR.

17 BY MR. CRAIN:

18 Q IS THAT A COMMUNICATION FROM YOU TO ARTHUR
19 BARENS?

20 A THESE ARE LISTS THAT WERE PREPARED IN THE
21 CONTEXT OF GETTING MY THOUGHTS TOGETHER FOR COMMUNICATIONS
22 WITH MR. BARENS.

23 Q FIRST OF ALL, BEFORE WE GET TO THAT, DOES
24 THAT IN ANY WAY REFLECT THE KILPATRICK NEGOTIATIONS
25 SUBJECT?

26 A YES, IT DOES. ON PAGE TWO AT THE TOP ON THE
27 FIRST PARAGRAPH NUMBERED PARAGRAPH ONE IT SAYS,

28 (READING):

1 "WHY CAN'T WE GO THROUGH RON'S
2 PAPERWORK? POLICE DID. REFUSAL
3 HELPS US. THEY SAY FALSE BUSINESS
4 TRANSACTION, DASH, POSSIBLE WE FIND
5 NOTES, SLASH, ANA, A-N-A, WHICH
6 INDICATES LEGIT."

7 THIS WAS MY REMINDER TO MYSELF TO ONCE AGAIN
8 BE DISCUSSING OR DISCUSS WITH MR. BARENS ABOUT HOW SOME
9 EVIDENCE OF A LEGITIMACY OR CONSENSUALNESS REALLY OF THE
10 TRANSACTION I WAS HAVING WITH RON LEVIN, THAT WE REALLY
11 WERE IN A TWO-WAY CONVERSATION ABOUT THINGS RELATING TO
12 MICROGENESIS LONG BEFORE AUGUST 6TH -- EXCUSE ME -- JUNE
13 6, 1984.

14 WHEN IT SAYS, "LEGIT" I AM TALKING ABOUT NOT
15 LEGITIMATE IN TERMS OF THE FACT THAT LEVIN WOULD ACTUALLY
16 WANT TO PART WITH A MILLION AND A HALF DOLLARS FOR AN
17 INTEREST IN THE ATTRITION MILLS, BUT THE ASPECTS OF IT
18 THAT THERE WAS CONSENSUAL DEALINGS BETWEEN MR. LEVIN AND I
19 WHERE FOR WHATEVER PURPOSES, AS A MATTER OF ARGUMENT, BUT
20 FOR WHATEVER PURPOSES HE WAS ASKING FOR AND GETTING
21 DOCUMENTS AND WE WERE TALKING ABOUT FORMALIZING A DEAL AND
22 WE DID FORMALIZE A DEAL AND WE DISCUSSED IT AT VARIOUS
23 POINTS.

24 Q ALL RIGHT.

25 A OH, THERE IS ONE OTHER ASPECT IN RESPONSE TO
26 YOUR QUESTION.

27 SO I WAS TELLING HIM THAT THOSE, THE PEOPLE
28 ARE SAYING STILL FALSE BUSINESS TRANSACTIONS, IF HE WOULD

1 GO THROUGH RON LEVIN'S PAPERWORK IT IS POSSIBLE THAT HE
2 COULD FIND SOME OF RON LEVIN'S NOTES OR OTHER SCRAPS OF
3 PAPER, WHICH IS WHAT I MEANT BY THE, A-N-A, WHICH IS NOT A
4 VERY COMMONLY USED WORD, BUT THAT'S MY UNDERSTANDING OF
5 WHAT IT MEANS, WHICH WOULD INDICATE THAT THAT, THE THING I
6 WAS GOING TO TESTIFY TO ACTUALLY OCCURRED BETWEEN LEVIN
7 AND I, AND THAT THIS OPTION DEAL AROSE. THAT'S FOR THE
8 COURT, THE CONTEXT.

9 Q YOU HAVE EXPLAINED WHAT'S ON THERE FOR THE
10 COURT. THE NEXT QUESTION IS: DID YOU CONVEY THIS SUBJECT
11 MATTER TO MR. LEVIN -- TO MR. BARENS, EXCUSE ME? I WANT
12 TO ASK YOU SOMETHING ABOUT MR. LEVIN IN JUST A MOMENT.

13 A YES, I DO. I DON'T HAVE AN INDEPENDENT
14 RECOLLECTION OF HAVING THIS PIECE OF PAPER IN MY HANDS
15 WHEN I DID IT, BUT THIS IS SOMETHING THAT I RECALL HARPING
16 ON WITH MR. BARENS. WHILE I WAS IN CUSTODY I WAS REALLY,
17 TO SAY THE TRUTH, PANICKED THAT MR. BARENS THROUGH
18 INACTION WOULD ALLOW MR. LEVIN'S PERSONAL AFFECTS TO SLIP
19 OUT OF THE POLICE AND EVERYBODY ELSE'S HANDS, AND WE WOULD
20 NEVER BE ABLE TO CHECK THROUGH HIS PAPERWORK FOR THINGS
21 THAT MIGHT BE MEANINGFUL TO CORROBORATE WHAT HAPPENED.

22 Q WHEN YOU SAY YOU WERE IN CUSTODY, WAS THIS
23 BEFORE YOU BAILED OUT?

24 A YES.

25 Q AS OPPOSED TO BEING IN CUSTODY AFTER THE
26 CONCLUSION OF THE FIRST PHASE OF THE TRIAL?

27 A YES.

28 Q SO THIS WOULD HAVE BEEN WHAT, 1985, WHEN THAT

1 DOCUMENT THAT YOU HAVE BEFORE YOU WAS WRITTEN?

2 A YES.

3 Q 1984?

4 A I BELIEVE THIS PARTICULAR DOCUMENT WAS -- LET
5 ME JUST -- ACTUALLY, I CAN'T BE 100 PERCENT SURE WHAT THE
6 TIMING OF THIS DOCUMENT WAS. ALL I CAN SAY IS THAT THIS
7 DOES REFLECT THE TYPE OF THINGS THAT I COMMUNICATED TO
8 MR. BARENS ON THE SUBJECT THAT I JUST DESCRIBED.

9 Q IS IT YOUR BELIEF IT WAS BEFORE THE TRIAL
10 BEGAN?

11 A YES. THIS WAS DEFINITELY BEFORE THE TRIAL
12 BEGAN.

13 Q ALL RIGHT.

14 THERE WERE ABOUT THREE OTHER DOCUMENTS I
15 WANTED TO ASK YOU ABOUT, BUT PERHAPS -- I AM SORRY. WAS
16 THERE SOMETHING ELSE YOU WERE GOING TO SAY ABOUT THAT
17 DOCUMENT?

18 A THIS IS KIND OF AWKWARD, BUT I JUST NEED TO
19 POINT OUT SOMETHING TO HIM ON THIS DOCUMENT. IT RELATES
20 TO SOMETHING WE WERE LOOKING FOR EARLIER, BUT WE COULDN'T
21 FIND IT THEN. I FOUND THAT REFERENCE.

22 MR. CRAIN: MAY I APPROACH?

23 THE COURT: YES.

24 MR. CRAIN: SORRY.

25

26 (A CONFERENCE WAS HELD BETWEEN COUNSEL
27 AND THE PETITIONER, NOT REPORTED.)

28

1 MR. CRAIN: ALL RIGHT.

2 TO TOTALLY DIGRESS, YOUR HONOR, I HAVE ONE
3 QUESTION RELATING TO CANTOR-FITZGERALD THAT I WAS NOT ABLE
4 TO ESTABLISH THIS MORNING.

5 BY MR. CRAIN:

6 Q MR. HUNT, LOOKING AT 277, TURNING OVER TO
7 PAGE TWO, ITEM NO. 4. IS THERE A REFERENCE TO THE
8 CANTOR-FITZGERALD LITIGATION?

9 A YES. IT SAYS THAT, QUOTE, "TOM AND DEAN
10 PERJURED THEMSELVES IN CANTOR TESTIMONY," UNQUOTE. SO IT
11 WASN'T JUST THAT I TOLD HIM TO GET THE DEPO. I WAS
12 TELLING HIM WHY, THAT THERE WAS PERJURY ON DEAN'S PART. I
13 THINK THERE WAS SOME OTHER REFERENCE THAT SAID, "GET THE
14 CANTOR DEPO."

15 THE COURT: WHEN YOU SAY "DEAN," YOU ARE REFERRING
16 TO MR. KARNY?

17 THE WITNESS: YES.

18 THE COURT: WHO WAS THE OTHER NAME?

19 THE WITNESS: TOM MAY. TOM HAD BEEN SEPARATELY
20 DEPOSED BY THE CANTOR-FITZGERALD ATTORNEY AND PERJURED
21 HIMSELF AS WELL.

22 BY MR. CRAIN:

23 Q HE WAS A WITNESS AT YOUR TRIAL FOR THE
24 PROSECUTION?

25 A YES.

26 MR. CRAIN: AND PERHAPS THE COURT DOESN'T WANT TO
27 HEAR ABOUT THE FAILURE TO OBTAIN THAT TESTIMONY EITHER,
28 BUT MAYBE YOU DO.

1 THE WITNESS: IT IS NOT --

2 THE COURT: IT IS NOT THERE.

3 MR. CRAIN: ALL RIGHT.

4 BY MR. CRAIN:

5 Q ON THAT PARTICULAR SUBJECT, THAT IS ON THAT
6 MEMO, 279, DID YOU ALSO RELATE THAT TO MR. BARENS PRIOR TO
7 THE TRIAL?

8 A AT ONE POINT IN TIME OR ANOTHER, EITHER BY
9 WRITING OR ORALLY, I WOULD GET THROUGH EVERY ONE OF MY
10 POINTS. SOMETIMES I WOULDN'T BE ABLE TO DO IT IN THE FORM
11 OF A MEETING WITH HIM BECAUSE I WOULD HAVE A LONG LIST AND
12 HE WOULDN'T HAVE THE TIME EVER FOR LONG LISTS, BUT THAT'S
13 WHY I STARTED RESORTING MORE AND MORE TO WRITING, SO A LOT
14 OF MY LIST DIDN'T SURVIVE. SOMETIMES I WOULD ONLY HAVE
15 ONE COPY OF IT AND MR. BARENS WOULD GET IT, AND I DON'T
16 KNOW WHAT HAPPENED TO ANY OF THOSE LISTS.

17 Q I WANTED TO PERHAPS, IF WE COULD, BEFORE WE
18 RETURN TO THE DOCUMENTS BECAUSE YOU WERE DESCRIBING IN
19 YOUR ACCOUNT OF THE FIRST PART OF EXHIBIT 279 THAT I WAS
20 ASKING YOU ABOUT -- LET ME TURN TO THIS.

21 IN YOUR DISCUSSIONS EITHER BEFORE OR DURING
22 THE TRIAL -- LET ME ASK YOU BEFORE THE TRIAL, NARROW IT
23 DOWN.

24 BEFORE THE TRIAL BEGAN DID YOU DISCUSS WITH
25 MR. BARENS THE SUBJECT OF THE 1.5 MILLION DOLLAR CHECK
26 WITH RON LEVIN'S SIGNATURE ON IT?

27 A YES.

28 Q AND IN THOSE DISCUSSIONS DID YOU DISCUSS WHAT

1 THE PROSECUTION'S THEORY WITH REGARD TO THE OBTAINING OF
2 THAT CHECK WAS GOING TO BE?

3 A YES. IT WAS UNDER DURESS.

4 Q THAT, ONE, LEVIN HAD SIGNED THE CHECK UNDER
5 DURESS AND TURNED IT OVER TO YOU PRIOR TO HIS BEING
6 MURDERED; IS THAT ESSENTIALLY WHAT THE THEORY WAS?

7 A THAT WAS THE ALLEGATION.

8 Q WERE THERE -- IN YOUR DISCUSSIONS WITH
9 MR. BARENS DID YOU DISCUSS ANY REASONS WHY THE PROSECUTION
10 WOULD OFFER BY WAY OF EVIDENCE IN SUPPORT OF THAT THEORY
11 THAT RELATED TO EITHER MR. LEVIN HIMSELF OR TO
12 MICROGENESIS?

13 A AS WE DISCUSSED THIS MORNING, WE DISCUSSED
14 THAT IT WAS THE PEOPLE'S POSTURE THAT ONE OF THE REASONS
15 WHY EVERYBODY SHOULD KNOW THAT THIS WAS DONE UNDER DURESS
16 WAS THAT RON LEVIN WOULD NEVER WILLINGLY TENDER A MILLION
17 AND A HALF DOLLARS FOR A PIECE OF MICROGENESIS, THAT HE
18 WOULDN'T, IT WOULDN'T BE HIS BUSINESS, CUSTOM OR CHARACTER
19 TO DO SOMETHING LIKE THAT, HE WAS A SCAM ARTIST.

20 Q DID YOU HAVE ANY DISCUSSIONS WITH MR. BARENS
21 WITH REGARD TO -- WITH REGARD TO THE VIABILITY OF
22 MICROGENESIS TECHNOLOGY RELATING TO CYCLOTRON?

23 A I RELATED TO THAT DISCUSSION. YES, I DID.

24 Q WHAT WAS THAT?

25 A THAT --

26 Q RELATIVE TO THE 1.5 MILLION DOLLAR CHECK.

27 A THAT WE DIDN'T HAVE TO DISAGREE WITH THAT,
28 ESPECIALLY IN RETROSPECT OUR POSITION WAS THAT HE WAS A

1 SCAM ARTIST TOO. IN RETROSPECT IT IS CLEAR --

2 THE COURT: IT IS RETROSPECT. IT IS ONLY YOUR
3 DISCUSSIONS AT THE TIME.

4 MR. CRAIN: OKAY.

5 THE WITNESS: THAT OUR POSITION WAS THAT, AS WELL
6 THIS, HE WAS A SCAM ARTIST, THAT HE GAVE ME A MILLION
7 DOLLAR CHECK, KNOWING IT WOULD BOUNCE, AS A MANIPULATIVE
8 ACT, SERIES OF ACTS THAT ALLOWED HIM TO COVER TO SOME
9 EXTENT HIS DISAPPEARANCE.
10 BY MR. CRAIN:

11 Q NOW, YOU HEARD MR. BARENS' TESTIMONY IN HERE
12 THE OTHER DAY THAT HE WAS CONCERNED THAT, IF I UNDERSTOOD
13 HIS TESTIMONY, HE SEEMED TO BE EXPRESSING A CONCERN THAT
14 THE INTRODUCTION OF THE KILPATRICK NEGOTIATIONS AND
15 INJECTION OF THAT ASPECT OF MICROGENESIS BUSINESS
16 ACTIVITIES WOULD IN SOME WAY ASSIST THE PROSECUTION
17 RELATIVE TO THE REASON THAT THE 1.5 MILLION DOLLAR CHECK
18 WAS SIGNED. DO YOU REMEMBER THAT?

19 A YES. I REMEMBER HIM TALKING ABOUT SNAKE OIL.

20 Q THE TERM SNAKE OIL OR SOMETHING LIKE THAT?

21 A YES.

22 Q DID YOU HAVE ANY DISCUSSION WITH MR. BARENS
23 ABOUT THE VIABILITY OF MICROGENESIS TECHNOLOGY AND
24 KILPATRICK NEGOTIATIONS PRIOR TO TRIAL IN REGARD TO THAT
25 ASPECT OF THE PEOPLE'S CASE?

26 A YES.

27 Q AND WHAT WAS DISCUSSED?

28 A IT WAS DISCUSSED AMONG US THAT WE WANTED TO

1 SPEND AS MUCH TIME GETTING INTO THE DETAILS OF
2 MICROGENESIS BUSINESS TRANSACTIONS WITH KILPATRICK AND
3 WITH OTHERS TO DEMONSTRATE THAT THE B.B.C. WAS OPERATING
4 LEGITIMATELY IN THAT THEATER, AND MAY HAVE HAD CERTAIN
5 FRAUDULENT DEALINGS IN FINDING FUTURES TRADING
6 CORPORATIONS BUT AS FAR AS MICROGENESIS WENT WE KEPT A
7 CLEAN HOUSE. WE HADN'T TAKEN ANY OUTSIDE INVESTORS' MONEY
8 IN, AND THAT ALL THE MORE WE WENT INTO DETAIL ON IT THE
9 MORE WE BROUGHT THE CONTRACTS OUT AND CALLED ESPECIALLY
10 NON B.B.C. WITNESSES, NEUTRAL PARTIES, THE MORE WE WOULD
11 BE ABLE TO DEVELOP THAT I REALLY DID HAVE A STATE OF MIND
12 THAT I WAS GOING TO RECEIVE A LOT, A LARGE AMOUNT OF MONEY
13 AND THAT OUR POSTURE WAS, OUR BELIEF AND ALL OF OUR
14 ACTIONS WOULD VALIDATE THAT, THAT WE BELIEVED THE
15 ATTRITION MILLS REALLY WAS A BETTER MOUSE TRAP THAN THE
16 GRINDING BUSINESS.

17 Q IN THAT REGARD, DID YOU SUGGEST TO MR. BARENS
18 THE POTENTIAL WITNESSES TO ESTABLISH THE VIABILITY OF THE
19 ATTRITION MILLS AND THE EXPECTATION OF LARGE AMOUNTS OF
20 MONEY COMING PURSUANT TO THE KILPATRICK NEGOTIATIONS?

21 A YES.

22 Q AND WHAT WERE SOME OF THOSE WITNESSES, WHAT
23 EVIDENCE IN ADDITION TO THOSE WITNESSES?

24 A WE WERE -- CHEUNG AND ADELMAN, WE WERE
25 FOCUSING ON PEOPLE THAT WERE NOT B.B.C. MEMBERS THAT WE
26 WOULD EXPECT TO GET SOME UNTARNISHED TESTIMONY FROM.

27 Q DR. HENRY CHEUNG?

28 A DR. HENRY CHEUNG OF LIVERMORE LABS.

1 Q AND MR. ADELMAN?

2 A RIGHT.

3 AND THEN THE DOCUMENTS THEMSELVES WHICH, YOU
4 KNOW, IT WAS MY CONTENTION THAT WE SHOULD PUT INTO
5 EVIDENCE A VARIETY OF THE DIFFERENT ITERATIONS OF THESE
6 DEALS SO THAT THEY COULD, THE JURY COULD SEE WE WEREN'T
7 JUST CHURNING OUT 45-PAGE AGREEMENTS SERIATIM FOR THE HECK
8 OF IT, THAT WE WERE TRYING TO CLOSE THIS DEAL AND WE
9 REALLY THOUGHT WE WERE CLOSE AND THERE WAS SOME
10 FINE-TUNING GOING ON WITH RESPECT TO THE NOVATION TO THE
11 ORIGINAL NOVEMBER, 1983, KILPATRICK DEALS.

12 Q YOU MEAN THE DOCUMENTS THAT HAVE BEEN SHOWN
13 TO THE COURT HERE SUCH AS PETITIONER'S 4 THROUGH 7?

14 A THE ONES ALSO SHOWN MR. ADELMAN WHEN HE WAS
15 ON THE STAND.

16 Q DID YOU EVER REPRESENT TO ARTHUR BARENS THAT
17 THE ATTRITION MILLS TECHNOLOGY WAS NOT VIABLE OR THAT IT
18 WAS SOME SORT OF A SCAM OR ANYTHING LIKE THAT?

19 A NO. AND I THINK THE MEMOS REFLECT THE FACT
20 THAT I ALWAYS COMMUNICATED THAT THE ATTRITION MILLS IS A
21 LEGITIMATE, RESPECTABLE, STRAIGHT UP BUSINESS THAT HAD
22 GOOD PROSPECTS.

23 Q IN THIS DISCUSSION I THINK YOU WERE TELLING
24 US ABOUT, DID YOU DISCUSS ANYTHING FURTHER WITH MR. BARENS
25 PRIOR TO TRIAL AS TO HOW TO COUNTER WHAT YOU THOUGHT WOULD
26 BE THE PROSECUTION'S EXPLANATION IN SUPPORT OF THEIR
27 THEORY THAT LEVIN SIGNED A CHECK UNDER DURESS BECAUSE HE
28 WASN'T THE KIND OF PERSON WHO WOULD INVEST IN MICROGENESIS

1 TECHNOLOGY. WAS THERE ANYTHING FURTHER YOU AND BARENS
2 DISCUSSED ABOUT THAT?

3 A NOT THAT I RECALL OFFHAND.

4 Q NOW, GOING BACK TO JUST TWO TO THREE MORE
5 DOCUMENTS, WERE THERE OTHER DOCUMENTS THAT YOU HAD IN YOUR
6 POSSESSION THERE THAT RELATE TO THE KILPATRICK
7 NEGOTIATIONS AND YOUR COMMUNICATIONS TO YOUR FORMER
8 ATTORNEY, ARTHUR BARENS?

9 A YES.

10 Q AND WHAT WOULD THAT BE?

11 A I PREPARED AN EXTENSIVE CHRONOLOGY FOR ARTHUR
12 BARENS THAT WAS DEVELOPED FROM RESEARCH INTO THE B.B.C.
13 DOCUMENTS, BUSINESS DOCUMENTS AND THROUGH OTHER SOURCES
14 SUCH AS BEVERLY HILLS POLICE DEPARTMENT REPORTS AND IT WAS
15 JUST TRYING TO PUT IN SEQUENCE NOT ONLY THE BUSINESS
16 TRANSACTIONS OF THE B.B.C. BUT SOME OF LEVIN'S RECORDS AND
17 SOME OF THE POLICE REPORTS.

18 THE COURT: THAT IS THE CHRONOLOGY WE DISCUSSED
19 EARLIER, THE NUMBER I DON'T HAVE.

20 THE WITNESS: NO, IT IS NOT, YOUR HONOR.

21 MR. CRAIN: I THINK IT IS A DIFFERENT ONE. I WOULD
22 LIKE IT MARKED NEXT IN ORDER, NUMBER 280. I BELIEVE THIS
23 IS 8199.

24 BY MR. CRAIN:

25 Q IS THAT RIGHT, MR. HUNT?

26 A CORRECT. 8199 IS ACTUALLY A PRINTOUT OF A
27 PORTION OF THAT CHRONOLOGY WHICH WOULD GET TO THE MAIN
28 PRINTOUT LATER, BUT THIS PORTION OF THE CHRONOLOGY IS A

1 LIST OF EXHIBITS. AS I PREPARED THE CHRONOLOGY, I
2 ASSIGNED EXHIBIT NUMBERS TO SOME 60 ODD ITEMS IN THE
3 CHRONOLOGY. I THINK THERE WAS LIKE 400, MAYBE EVEN 600
4 ITEMS IN THE MAIN CHRONOLOGY BUT ONLY 60 OR SO OF THEM
5 RELATED TO HARD DOCUMENTS THAT I WANTED TO CALL
6 MR. BARENS' ATTENTION TO.

7 MR. MC MULLEN: WOULD YOU IDENTIFY WHICH PAGES,
8 COUNSEL, HE IS REFERRING TO?

9 MR. CRAIN: PERHAPS MR. HUNT COULD DO THAT SINCE IT
10 IS BEFORE HIM.

11 THE WITNESS: ALL RIGHT.

12 ON PAGE ONE OF THIS EXHIBIT -- I HAVE A COPY
13 FOR THE COURT.

14 THE COURT: THANK YOU.

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

16 THE COURT: YES.

17 I AM SORRY. YOU ARE MARKING THIS AS 280?

18 MR. CRAIN: 280.

19
20 (MARKED FOR ID = PETITIONER'S 280,
21 DOCUMENT.)

22
23 THE WITNESS: OKAY.

24 ON PAGE ONE OF THIS DOCUMENT THE LAST ENTRY
25 IS DATED NOVEMBER 16, 1983, IT SAYS,

26 (READING):

27
28 "INTERNATIONAL RESEARCH ASSOCIATES

1 HENRY CHEUNG PH.D, EVALUATES THE
2 BROWNING ATTRITION MACHINE AND
3 TRIMEX PROCESS AT \$114,000,000 IN
4 VALUE. EXHIBIT NO. 11,
5 MICROGENESIS."

6 Q DO YOU REMEMBER WHEN THIS WAS PREPARED
7 RELATIVE TO THE TRIAL?

8 A AND THERE ARE OTHER ENTRIES.
9 THE COURT: I AM SORRY.

10 I DIDN'T HEAR YOU.

11 THE WITNESS: THERE ARE OTHER ENTRIES.

12 BY MR. CRAIN:

13 Q I WAS GOING TO ASK YOU ABOUT THAT, BUT DO YOU
14 REMEMBER WHEN THIS DOCUMENT WAS PREPARED RELATIVE TO THE
15 TRIAL?

16 A IT IS DATED IN MY HANDWRITING 1-8-87, AND I
17 RECOLLECT THE CIRCUMSTANCES UNDER WHICH I DATED THIS
18 BECAUSE THEY WERE EXCEPTIONAL CIRCUMSTANCES.

19 Q THAT WAS AROUND THE BEGINNING OF THE TRIAL
20 OR SHORTLY BEFORE IT?

21 A THIS WAS IN JANUARY OF 1987, SO IT WAS ABOUT
22 THREE WEEKS BEFORE OPENING STATEMENTS.

23 Q OKAY.

24 ARE THERE OTHER REFERENCES IN THERE TO THIS
25 SUBJECT?

26 A YES, THERE ARE.

27 Q WHAT ARE THOSE?

28 A ON MAY 1, 1984, ON PAGE 5 THERE IS AN ENTRY,

1 THE LAST ENTRY SAYS,

2 (READING):

3 "INTERAL MEMO ON FLAWS OF
4 KILPATRICK/MICRO CONTRACTS, EXHIBIT
5 NO. 26."

6 THEN UP ABOVE THE MARCH 30, 1984, ENTRY SAYS,
7 (READING):

8 "KILPATRICK NEWS RELEASE ON
9 U.F.O.I.," WHICH IS UNITED FINANCIAL
10 OPERATIONS INCORPORATED, "DESCRIBING
11 THE RESOLUTION OF THE BANKRUPTCY
12 PROCEEDINGS AND THE RELEASE OF ITS
13 ASSETS, \$30 MILLION CASH AND \$280
14 MILLION IN RECEIVABLES, EXHIBIT NO.
15 46."

16 FOR EACH EXHIBIT REFERENCE THERE WERE TWO
17 STACKS OF DOCUMENTS WITH POST-ITS ON THEM WITH THESE
18 CORRESPONDING NUMBERS.

19 LET'S SEE.

20 THEN THERE ARE OTHER REFERENCES TO SOME
21 LETTERS TO MR. LEVIN ABOUT THE ATTRITION MILL IN MAY,
22 WHICH IS THE SIXTH PAGE OF THE PRINTOUT. IT SAYS, ON MAY
23 21, 1984,

24 (READING):

25 "JOE, BEN, JIM AND BILL KILPATRICK
26 IN THE FOUR SEASONS HOTEL IN
27 VANCOUVER."

28 I WENT UP THERE TO SEE HOW THE MERGER WAS

1 PROCEEDING BETWEEN THOSE TWO COMPANIES BECAUSE THE AFFECT
2 OF THE DATE OF THE LICENSING AND OPTION AGREEMENT WE WERE
3 NEGOTIATING WITH LEVIN HINGED ON WHEN THE MERGER WENT
4 DOWN.

5 Q SATURN WAS A CANADIAN COMPANY; RIGHT?

6 A YES. PUBLIC COMPANY.

7 THEN LET'S SEE HERE. JULY 25, 1984, THERE IS
8 AN ENTRY, THIS IS LIKE THE THIRD TO LAST PAGE SAYING,

9 (READING):

10 "ADELMAN SENDS LETTER ON

11 MICROGENESIS LETTERHEAD TO

12 KILPATRICK ABOUT REDRAFTED LICENSE

13 AGREEMENTS."

14 AND I THINK THERE IS THIS MATTER, IN THE
15 LETTER HE MENTIONS, THAT GIVES FLAVOR FOR SOME OF REASONS
16 TO KILPATRICK AND THIS DOCUMENT.

17 Q DOES EXHIBIT 252, THAT'S 8096, CONTAIN -- LET
18 ME BACK UP.

19 DID YOU CONVEY THIS MATTER IN THE LAST
20 EXHIBIT TO MR. BARENS EITHER BEFORE OR DURING THE TRIAL?

21 A I GAVE HIM THOSE ENTRIES IN THE FORM OF A
22 PRINTOUT IN THAT PARTICULAR DOCUMENT. I DON'T KNOW, BUT I
23 GAVE HIM A COPY B.B.C. CHRONOLOGY, I BELIEVE HE EVEN
24 ACKNOWLEDGED THAT ON THE RECORD ON JANUARY 6, 1987.

25 Q THE MATTERS THAT YOU JUST RELATED THAT ARE IN
26 THE LAST EXHIBIT NO. 280, DID YOU DISCUSS THOSE WITH
27 MR. BARENS?

28 A I WAS REFERRING TO THE TRIAL RECORD.

1 THOSE PARTICULAR ENTRIES THAT I DISCUSSED
2 WERE THE ONES HAVING TO DO WITH ADELMAN AND THE REDRAFTED
3 CONTRACTS AND STUFF. I RECALL SPECIFICALLY DISCUSSING
4 THOSE THINGS WITH HIM. AS TO SOME OF THE OTHER DETAILED
5 ENTRIES, I DON'T HAVE A SPECIFIC RECOLLECTION.

6 THE COURT: SO YOU DIDN'T ACTUALLY GIVE HIM THAT
7 DOCUMENT, THOSE ARE NOTES TO YOURSELF AS TO MATTERS THAT
8 YOU WOULD HAVE BROUGHT UP?

9 THE WITNESS: I GAVE HIM A DIFFERENT PRINTOUT OF
10 THAT DOCUMENT. I MAY HAVE ACTUALLY GIVEN HIM A COPY OF
11 THAT PRINTOUT, BUT THIS WAS DRAWN OFF A COMPUTER FILE AND
12 THE PURPOSE OF THE COMPUTER FILE WAS TO DEVELOP A
13 CHRONOLOGY FOR MR. BARENS. THAT WAS SOMETHING I TESTIFIED
14 TO IN THE TRIAL ON JANUARY 6, 1987. MR. BARENS HAD ME ON
15 DIRECT AND HE ASKED ME SOME QUESTIONS ABOUT THE B.B.C.
16 CHRONOLOGY.

17 THE COURT: BUT THIS DOCUMENT ITSELF WAS NOT GIVEN
18 TO HIM, EXCERPTS OF IT WERE?

19 THE WITNESS: HE WAS GIVEN A PRINTOUT OF ALL THE
20 ENTRIES IN THE B.B.C. CHRONOLOGY. THE DATABASE WAS ON MY
21 COMPUTER, WHICH INCLUDED EVERY ONE OF THE ENTRIES ON THAT
22 LIST.

23 THE COURT: ALL RIGHT.

24 BY MR. CRAIN:

25 Q SHOWING YOU EXHIBIT 252 --

26 MR. CRAIN: YOUR HONOR, IF I MAY.

27 BY MR. CRAIN:

28 Q IS THIS ANOTHER DOCUMENT THAT RELATES TO --

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

2 THE COURT: YES.

3 BY MR. CRAIN:

4 Q -- THE NEGOTIATIONS WITH MR. KILPATRICK AND
5 HIS CORPORATION?

6 A YES.

7 Q AND IN WHAT WAY DOES THAT SHOW THAT?

8 A OKAY. SOME OF THE -- SOME OF THE THINGS IN
9 THIS DOCUMENT HAVE TO DO WITH THIS KILPATRICK MATTER.
10 THERE IS FOUR PAGES IN THE DOCUMENT, AND IT SAYS
11 (READING):

12 "FOR THE PURPOSES OF IDENTIFICATION."
13 ON THE TOP LINE OF ONE OF THEM IT SAYS,
14 (READING):

15 "ROMAN NUMERAL FOUR DASH NINE DASH
16 A, HEAD OF U.F.O.I. PRIME MOVERS IN
17 THE NEGOTIATIONS."

18 REFERRING, I BELIEVE, TO MR. KILPATRICK. AND
19 THE FOLLOWING THREE PAGES ALSO HAVE TO DO WITH THE MATTER
20 THAT, SOME OF THE MATTERS THAT I HAVE ALREADY DESCRIBED IN
21 MY TESTIMONY.

22 Q WAS THAT DOCUMENT OR ITS CONTENTS
23 COMMUNICATED TO MR. BARENS EITHER BEFORE OR -- WELL,
24 BEFORE THE TRIAL?

25 A YEAH. I BELIEVE THIS PARTICULAR DOCUMENT WAS
26 ONE OF THE ONES I DRAFTED IN 1985 OR AT LEAST MOST OF IT.
27 IT IS KIND OF A MIXED BAG. THERE IS A FEW PIECES OF PAPER
28 IN THIS STACK WHICH I HAVE NO IDEA THE DATING OF, BUT MOST

1 OF IT WAS THE 1985 WORK I WAS DOING.

2 Q HOW ABOUT THE PORTIONS THAT YOU JUST
3 DESCRIBED FOR THE COURT, WHAT DO YOU BELIEVE THAT WAS?

4 A THE KILPATRICK DISCUSSIONS AND THE
5 MICROGENESIS DISCUSSIONS ARE FROM 1985.

6 Q WERE THOSE COMMUNICATED TO MR. BARENS IN SOME
7 WAY?

8 A YES.

9 Q HOW WOULD THAT HAVE BEEN? HOW WAS THAT?

10 A I SENT IT OUT IN ENVELOPES FROM THE COUNTY
11 JAIL TO MR. BARENS' OFFICE. AND THEN LATER ON WHEN I GOT
12 OUT ON BAIL THESE WERE PART OF THE THINGS THAT WERE IN A
13 BOX THAT WAS IN THE CORNER OF HIS CONFERENCE ROOM.

14 Q AND YOU SAW THAT IN HIS OFFICE?

15 A YES.

16 Q ALL RIGHT.

17 A WHICH IS HOW I GOT A COPY AGAIN OF THIS
18 STUFF.

19 THE COURT: DO YOU HAVE MUCH MORE OF THIS,
20 MR. CRAIN?

21 MR. CRAIN: NO, I DON'T ACTUALLY, YOUR HONOR. I
22 JUST HAVE TWO MORE ITEMS, VERY BRIEF.

23 EXHIBIT 248. IS THAT ONE, NUMBER 8195?

24 THE COURT: I DON'T THINK WE HAVE MARKED 248.

25 MR. CRAIN: I WOULD LIKE TO HAVE IT MARKED FOR
26 IDENTIFICATION. I BELIEVE IT IS A COMPUTER PRINTOUT.

27 THE WITNESS: 8195?

28 THE COURT: YES.

1 THE WITNESS: IT IS NOT A COMPUTER PRINTOUT.

2 MR. CRAIN: I AM SORRY. I AM LOOKING AT THE WRONG
3 NUMBER.

4 BY MR. CRAIN:

5 Q HAVE YOU GOT IT THERE IN FRONT OF YOU?

6 A YES, I DO.

7 THE COURT: LET'S MAKE SURE WE ARE TALKING ABOUT
8 THE SAME THING.

9 MR. KLEIN: 281.

10 MR. CRAIN: I THINK WE HAD BETTER MARK IT 281.

11 THE COURT: IS THIS A NEW DOCUMENT NOT ON THE
12 EXHIBIT LIST?

13 MR. KLEIN: YES, YOUR HONOR.

14 MR. CRAIN: APPARENTLY SO.

15 THE COURT: IS THIS A HANDWRITTEN --

16 THE WITNESS: YES. FIVE PAGES.

17 MR. CRAIN: HANDWRITTEN DOCUMENT, FIVE PAGES.

18 THE COURT: THAT'S MR. BARENS' HANDWRITING -- I AM
19 SORRY -- MR. HUNT'S HANDWRITING?

20 THE WITNESS: YES.

21 MR. CRAIN: IT APPEARS TO BE.

22 WHAT ARE WE UP TO?

23 THE COURT: 281.

24

25 (MARKED FOR ID = PETITIONER'S 281,
26 DOCUMENT.)

27

28

1 BY MR. CRAIN:

2 Q WHAT IS THIS DOCUMENT, MR. HUNT?

3 A IT HAS BEEN DESCRIBED -- IT IS VARIOUS NOTES
4 IN MY HANDWRITING IN RELATIONSHIP TO THE KILPATRICK STUFF.
5 THERE IS A NOTE AT THE BOTTOM OF PAGE FOUR THAT SAYS,

6 (READING):

7 "WE NEED A COPY OF THE LIVERMORE
8 LABS STUDY SHOWING VALUE OF A
9 MILLING DEVICE," DASH "PROBABLY IN
10 LEVIN'S FILE. ALSO SATURN STUDY BY
11 RESEARCH ASSOCIATES."

12 THEN IT SAYS, "BILL, DOT, DOT, DOT, DOT."

13 THERE WAS A FELLOW NAMED BILL MC GEE THAT DID
14 A STUDY, APPRAISAL OF THE ATTRITION MILLS FOR SATURN, A
15 VANCOUVER PUBLIC COMPANY.

16 Q WAS THIS INFORMATION CONVEYED TO MR. BARENS?

17 A YES. AND -- BUT I AM DRAWING OFF -- AS FAR
18 AS THE BILL MC GEE MATTER, I KNOW IT WAS BECAUSE HE ASKED
19 A LEADING QUESTION OF SOME WITNESS ON CROSS ABOUT IT, I
20 DON'T HAVE AN INDEPENDENT RECOLLECTION WHO, BUT AS FAR AS
21 THE LIVERMORE LABS MATTER, DR. HENRY CHEUNG, I HAVE A
22 SPECIFIC RECOLLECTION OF DISCUSSING THE CHEUNG SITUATION.

23 Q DO YOU KNOW APPROXIMATELY WHEN THAT DOCUMENT
24 WAS PREPARED?

25 A NO, I DON'T.

26 Q WAS IT BEFORE TRIAL?

27 A THERE ARE CLUES IN THE DOCUMENT TOO THAT
28 SUGGESTS TO ME THIS WAS DONE AS I WAS GOING THROUGH THE

1 PRELIMINARY HEARING, TRANSCRIPT OF MY PRELIMINARY HEARING
2 IN THE LEVIN MATTER WHEN I WAS OUT ON BAIL.

3 Q SO IS IT YOUR BELIEF IT WAS THE COMMENCEMENT
4 OF THE TRIAL?

5 A YES. THAT'S WHEN I DID THAT WORK.

6 Q OKAY.

7 NOW, FINALLY, WAS THERE SOMETHING YOU
8 PREPARED THAT WAS CALLED THE MASTER CONTROL FILE?

9 A YES.

10 Q WAS THAT AN ITEM THAT WAS SEIZED PURSUANT TO
11 THE SEARCH OF MR. ROBERTS' RESIDENCE?

12 A I BELIEVE THAT SOME PAGES OF IT HAD GOTTEN
13 INTO THE PROSECUTION'S HANDS, BUT THE WHOLE THING, NO.

14 Q OKAY.

15 NOW, DO YOU HAVE --

16 MR. CRAIN: I THINK THIS NEEDS TO BE MARKED NEXT IN
17 ORDER.

18 IT IS THE FINAL ONE, YOUR HONOR.

19

20 (MARKED FOR ID = PETITIONER'S 282,
21 DOCUMENT.)

22

23 BY MR. CRAIN:

24 Q DO YOU HAVE 8135, MR. HUNT?

25 A OH, OKAY. 8135. OKAY.

26 8135 IS NOT THE MASTER CONTROL FILE. 8135 IS
27 A MORE EXTENSIVE PRINTOUT OF THE B.B.C. CHRONOLOGY.

28 MR. CRAIN: MAY I HAVE A MOMENT, I WANT TO CLARIFY

1 SOMETHING.

2

3

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

5

6

MR. CRAIN: ALL RIGHT.

7

BY MR. CRAIN:

8

Q I THINK WHAT I WANT TO DO -- DO YOU HAVE,

9

MR. HUNT, OUR FILE, IT WOULD BE 8195; IS THAT CORRECT --

10

SORRY -- 8135?

11

A RIGHT.

12

MR. CRAIN: COULD THAT BE MARKED AS --

13

MR. KLEIN: I THINK THAT'S ALREADY BEEN MARKED AS

14

271.

15

MS. DOZIER: NO.

16

MR. KLEIN: NO?

17

MR. CRAIN: MAY THIS BE MARKED 272?

18

THE COURT: WHAT ARE WE TALKING ABOUT?

19

MR. CRAIN: IT IS A DOCUMENT -- I AM GOING TO ASK

20

MR. HUNT JUST A VERY BRIEF SERIES OF QUESTIONS ABOUT IT, I

21

HOPE.

22

MR. MC MULLEN: MAY I APPROACH?

23

THE COURT: YES.

24

BY MR. CRAIN:

25

Q DO YOU HAVE THAT THERE, MR. HUNT?

26

A I HAVE A PRINTOUT, 75 PAGES, OF THE FULL

27

DATABASE OF THE B.B.C. CHRONOLOGY THAT I PREPARED FOR

28

ARTHUR BARENS.

1 THE COURT: YOU WANT TO MARK THAT AS 272?

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

3

4 (MARKED FOR ID = PETITIONER'S 272,
5 DOCUMENT.)

6

7 BY MR. CRAIN:

8 Q APPROXIMATELY WHEN DID YOU PREPARE THAT?

9 A I PREPARED THIS AFTER I WAS RELEASED ON BAIL
10 AND ADDED ENTRIES TO IT AS I WENT ALONG. IT WAS
11 SUBSTANTIALLY COMPLETE AT THE TIME OF THE JANUARY 8, 1987,
12 SEARCH.

13 Q AND ARE THERE REFERENCES IN THERE TO THE
14 KILPATRICK NEGOTIATIONS.

15 A YES, THERE ARE.

16 Q AND WHERE DID THEY APPEAR?

17 A WELL, THERE IS A REFERENCE, FOR EXAMPLE, ON
18 PAGE 54 THAT SAYS JUNE 11, 1984 (READING):

19 "LETTER TO PHIL STEIN FROM EVAN.
20 SENDING HIM A COPY GOLD SUN LIMITED
21 AND MORTON AGREEMENT."

22

23 WHICH ARE TWO AGREEMENTS APPROVING ATTRITION
24 MILLS.

25 Q ALL RIGHT.

26 A "TELL HIM THAT WE ARE EXPECTING A
27 KILPATRICK CONTRACT SOON."

28 THEN THERE IS ANOTHER ENTRY INDICATING A

1 SIMILAR LETTER WAS SENT TO KEN ELGIN AND ALSO TO MOSHE,
2 THESE ARE PEOPLE THAT ARE INVOLVED WITH MICROGENESIS.
3 THERE ARE OTHER ENTRIES ABOUT THE KILPATRICK MATTER
4 SPRINKLED THROUGHOUT THIS DOCUMENT.

5 Q WAS THAT DOCUMENT GIVEN TO MR. BARENS?

6 A YES, IT WAS. AND I BELIEVE HE ACKNOWLEDGED
7 THAT ON THE RECORD DURING MY TRIAL, OR RIGHT BEFORE
8 OPENING STATEMENT.

9 Q YOU BELIEVE THAT WAS DURING THE HEARING ON
10 THE SEIZURE?

11 A YES. AND I INCORRECTLY SAID THAT THE DATE
12 WAS JANUARY 6TH IN WHICH MR. BARENS ACKNOWLEDGED RECEIVING
13 THESE THINGS. IT WAS LATER IN JANUARY, IT WAS AT A TIME
14 WHEN I WAS ON THE STAND. IT WAS AROUND RT 6020, RT 6060
15 SOMEWHERE IN THAT SECTION.

16 Q I DON'T KNOW IF THE COURT HAS HAD AN
17 OPPORTUNITY TO READ VOLUME 41 OF THE PROCEEDING RELATING
18 PRIMARILY TO THAT SEIZURE, THAT'S THE ONE WHERE MR. HUNT
19 TESTIFIED AND, FOR EXAMPLE, AT PAGE 6033 --

20 MR. MC MULLEN: OBJECTION. IRRELEVANT.

21 MR. CRAIN: I AM JUST CALLING TO THE COURT'S
22 ATTENTION.

23 THE COURT: I HAVE READ IT. I BELIEVE THAT'S THE
24 ONLY TIME THAT MR. HUNT TESTIFIED.

25 MR. CRAIN: YES, YOUR HONOR. THE REASON I BROUGHT
26 IT UP, THERE WERE A COUPLE OF ACKNOWLEDGMENTS BY
27 MR. BARENS AT 6033 AND ONE OTHER PLACE HERE AROUND 62 --
28 WHERE HE SAYS HE DID RECEIVE THAT PARTICULAR DOCUMENT FROM

1 MR. HUNT.

2 THE WITNESS: I THINK THE REFERENCE ON THIS IS
3 6038, BUT IT IS THE MASTER.

4 THE COURT: IT IS IN THERE. THE COURT HAS SEEN IT.
5 OKAY.

6 BY MR. CRAIN:

7 Q AND EARLIER, THE FINAL THING I WANT TO ASK
8 YOU ABOUT ON THIS DOCUMENT, WITHOUT GOING INTO ITS
9 CONTENTS, YOU MENTIONED EARLIER THERE WAS AN ORIGINAL
10 CONTRACT IN NOVEMBER OF 1983?

11 A BETWEEN MR. KILPATRICK AND I.

12 Q OKAY.

13 WAS THAT DOCUMENT PRESENTED IN THE CASE IN
14 SOME WAY?

15 A YES. IT CAME IN SORT OF THROUGH THE BACK
16 DOOR. IT WAS ONE OF DOCUMENTS IN THE FILE RELATED TO
17 MICROGENESIS, WHICH WAS RECOVERED FROM RON LEVIN'S HOME.
18 I THINK IT IS PEOPLE'S 94.

19 Q THAT WAS A PROSECUTION'S EXHIBIT?

20 A IT WAS A PROSECUTION EXHIBIT. IT WAS BURIED
21 IN THE BACK OF THAT.

22 THE COURT: WHAT WAS THIS EXHIBIT AGAIN?

23 THE WITNESS: IT WAS, I BELIEVE IT WAS PEOPLE'S 94.
24 IT REPRESENTED THE CONTENTS OF A GREEN FOLDER FILE.

25 THE COURT: RIGHT. THAT WAS --

26 THE WITNESS: I SAID IT WAS AN AGREEMENT WITH
27 MR. KILPATRICK. IT IS DATED NOVEMBER 19, 1993. LEVIN WAS
28 KEEPING A FILE, SOME OF THE PAPERWORK THAT I WAS GIVEN.

1 THE COURT: A SIGNED AGREEMENT.

2 THE WITNESS: SIGNED AGREEMENT.

3 MR. KILPATRICK AND I -- I HAD A SIGNED
4 AGREEMENT WITH MR. KILPATRICK IN NOVEMBER 6, 1983.

5 THE COURT: FOR WHAT?

6 THE WITNESS: HE WAS GOING TO -- I WAS LICENSING TO
7 MR. KILPATRICK THE RIGHTS TO USE THE ATTRITION MILLS IN
8 COAL APPLICATIONS AND ALSO GIVING HIM EXCLUSIVE MARKETING
9 ARRANGEMENTS WHERE U.F.O.I. --

10 THE COURT: YOU WERE GIVING HIM THE RIGHTS TO USE
11 THE ATTRITION MILL IN RETURN FOR WHAT?

12 THE WITNESS: HE WOULD AGREE TO THE FOLLOWING
13 THINGS: HE WOULD GIVE US 250,000 A YEAR RESEARCH BUDGET;

14 THAT HE WOULD GIVE US A MILLION SHARES OF
15 SATURN STOCK, WHICH, YOU KNOW, BY JUNE OF 1984 I WAS
16 TRADING AROUND \$2 A SHARE IN THE VANCOUVER EXCHANGE;

17 HE WOULD ALSO GIVE US A CONTRACT;

18 HE AGREED THAT 44 UNITS OF ATTRITION MILLS
19 WOULD BE BOUGHT FROM US AT A PRICE OF FIVE MILLION
20 DOLLARS, AND THAT KILPATRICK'S ORGANIZATION AND
21 MICROGENESIS WOULD SPLIT THE DIFFERENCE BETWEEN COST AND
22 FIVE MILLION DOLLARS.

23 THE COURT: DID YOU EVER GET ANY OF THAT MONEY OR
24 ANY OF THAT STOCK?

25 THE WITNESS: NO, WE DIDN'T. I EXPECTED THE MERGER
26 TO BE COMPLETED, WHICH WAS THE TRIGGER EVENT FOR THE
27 PAYMENT ON THAT IN AROUND JULY OR AUGUST OF 1984. IT WAS
28 MY EXPECTATION THAT THAT WOULD BE THE CLOSING DATE FOR THE

1 MERGER, LET'S SAY, IN MAY OF 1984. THAT'S WHAT WE WERE
2 PROJECTING. SATURN ENERGY WAS GIVING US A LOT OF
3 PAPERWORK AND SUGGESTING THAT THAT WOULD BE THE CLOSING
4 DATE OF THAT MERGER, SO WE FELT THAT WAS --

5 THE COURT: YOU HAVE ANSWERED THE QUESTION.

6 BY MR. CRAIN:

7 Q FOR THE RECORD, THE MERGER WAS BETWEEN -- WAS
8 WITH SATURN, A CANADIAN CORPORATION AND U.F.O.I.,
9 MR. KILPATRICK'S CORPORATION?

10 A CORRECT.

11 Q RELATIVE NOW TO THE CONTRACT THAT WAS BEING
12 NEGOTIATED WITH MR. KILPATRICK, AND MR. ADELMAN TESTIFIED
13 ABOUT, WHEN DID YOU BELIEVE THAT THE MONEY WOULD START
14 COMING INTO THE B.B.C.?

15 A WELL, IT IS IMPORTANT FOR ME TO POINT OUT IN
16 MY ANSWER THAT I HAD AN EVOLVED STATE OF MIND WITH A LOT
17 OF THESE MATTERS SPECIFICALLY ON THIS ONE. THERE WERE A
18 LOT OF TWISTS AND TURNS TO THE RELATIONSHIP WITH BILL
19 KILPATRICK.

20 MR. MC MULLEN: OBJECTION. NONRESPONSIVE.

21 THE COURT: SUSTAINED.

22 BY MR. CRAIN:

23 Q PRIOR TO, LET'S SAY, THE BEGINNING OF JUNE,
24 DID YOU HAVE SOME BELIEF AS TO WHEN, APPROXIMATELY WHEN
25 THE MONEY WOULD COME INTO MICROGENESIS, THE B.B.C.
26 SUBSIDIARY?

27 A IN LIKE MAY.

28 MR. MC MULLEN: OBJECTION. LEADING.

1 THE COURT: HOLD ON. IT IS REALLY IRRELEVANT.

2 YOU CAN ASK HIM WHAT IS IT THAT HE TOLD
3 MR. BARENS, BUT HIS STATE OF MIND IS REALLY IRRELEVANT.

4 MR. CRAIN: OKAY. SURE.

5 LET ME WITHDRAW THE QUESTION.

6 THE COURT: IF ANYTHING.

7 BY MR. CRAIN:

8 Q DID YOU TELL MR. BARENS ANYTHING PRIOR TO THE
9 TRIAL RELATIVE TO YOUR BELIEF AS TO WHEN MONEY WOULD COME
10 INTO MR. KILPATRICK PURSUANT TO THE NEGOTIATIONS THAT
11 MR. ADELMAN TOLD US ABOUT?

12 A YES, I DID.

13 Q WHAT DID YOU TELL MR. BARENS?

14 A I TOLD HIM THAT IMMEDIATELY PRIOR TO JUNE 6TH
15 OF 1984 IT WAS MY EXPECTATION THAT WE WOULD BE BEGINNING
16 TO RECEIVE MONEY FROM KILPATRICK PURSUANT TO THESE
17 AGREEMENTS AND FROM SATURN ENERGY. AS FAR AS THE STOCK
18 GOES AND THE MONIES FROM SATURN ENERGY, IN LATE JULY OR
19 EARLY AUGUST OF 1984.

20 Q AND THE DOCUMENT THAT YOU NOW HAVE SHOWN THE
21 COURT, BECAUSE THERE AREN'T GOING TO BE ANYMORE THAT I AM
22 GOING TO ASK YOU ABOUT TODAY, WERE THERE OTHER DOCUMENTS
23 AT SOME POINT THAT RELATE TO THIS SAME SUBJECT THAT THOSE
24 DO THAT ARE NO LONGER IN EXISTENCE?

25 MR. MC MULLEN: OBJECTION. RELEVANCY.

26 THE COURT: I WILL ALLOW THE QUESTION.

27 IN OTHER WORDS, ARE THERE MORE OF THE SAME
28 KIND OF DOCUMENT SOMEWHERE?

1 THE WITNESS: YES. MOST ARE MORE ON THIS.

2 THE COURT: THAT'S THE ANSWER.

3 THE QUESTION -- PUT ANOTHER QUESTION.

4 BY MR. CRAIN:

5 Q AND WHAT HAPPENED TO THOSE, IF YOU KNOW?

6 A MORE ON THEN NOT. THE MEMOS I GAVE ARTHUR
7 BARENS WERE ORIGINALS, I DIDN'T HAVE A XEROX MACHINE AT
8 THE ROBERTS' HOME, SO THINGS THAT SURVIVED WERE BECAUSE I
9 WOULD HAVE THE COMPUTER TO GENERATE ANOTHER ONE. I HAD
10 DONE IT ON THE COMPUTER, BUT THINGS THAT WERE NOT
11 GENERATED ON COMPUTER, I WASN'T KEEPING COPIES OF IT, SO I
12 MIGHT KEEP A ROUGH DRAFT OR SOME OTHER SCRIBBLINGS THAT
13 WERE LATER TRANSLATED INTO A NOTE OR COPY FOR
14 MR. BARENS.

15 Q OKAY.

16 LET ME NOW TURN TO ANOTHER ISSUE HERE ON THE
17 ORDER TO SHOW CAUSE. I WANT TO JUMP AHEAD TO ISSUE 2-H
18 RELATING TO KAREN SUE MARMOR, WHO PREVIOUSLY TESTIFIED.

19 NOW, MR. HUNT, DID YOU, PRIOR TO TRIAL, HAVE
20 DISCUSSIONS WITH MR. LEVIN -- WITH MR. BARENS CONCERNING
21 WHAT YOU BELIEVE HE SHOULD DO TO INVESTIGATE MR. LEVIN'S
22 BACKGROUND?

23 A YES.

24 Q AND DID YOU DIRECT HIS ATTENTION TO ANY
25 PARTICULAR TYPES OF PERSONS THAT YOU THOUGHT MIGHT BE ABLE
26 TO DERIVE INFORMATION ABOUT MR. LEVIN?

27 A YES, I DID.

28 Q AND I DON'T WANT TO APPEAR TO BE LEADING.

1 WHAT KIND OF DISCUSSIONS DID YOU HAVE IN THIS REGARD?
2 WHAT DID YOU TELL MR. BARENS? WHAT KIND OF PEOPLE DID YOU
3 SUGGEST TO HIM HE SHOULD TALK TO?

4 MR. MC MULLEN: OBJECTION. VAGUE AS TO TIME.

5 THE COURT: I WILL ALLOW IT. I ASSUME YOU ARE
6 FOCUSING DOWN TO GET DOWN TO MS. MARMOR, THE NEIGHBOR.

7 WHY DON'T JUST JUMP TO THE CHASE SCENE AND
8 ASK ABOUT THAT.

9 MR. CRAIN: I FIGURED MR. MC MULLEN WOULD OBJECT AS
10 LEADING, IF I SAID THE WORDS.

11 THE COURT: I WOULDN'T LET HIM GET AWAY WITH IT.

12 MR. CRAIN: PARDON ME.

13 THE COURT: I WOULDN'T LET HIM GET AWAY WITH IT.

14 THE WITNESS: GREEN LIGHT.

15 THE COURT: WHY DON'T YOU JUMP TO THE CHASE SCENE.
16 BY MR. CRAIN:

17 Q DID YOU HAVE ANY DISCUSSIONS WITH MR. BARENS
18 CONCERNING WHETHER OR NOT HE SHOULD ATTEMPT TO CONTACT ANY
19 FRIENDS OR NEIGHBORS OF RON LEVIN'S?

20 A YES, I DID.

21 Q DID YOU HAVE SUCH DISCUSSIONS BEFORE YOUR
22 TRIAL EVER BEGAN?

23 A YES.

24 Q AND IN THAT REGARD, WHAT DID YOU TELL
25 MR. BARENS?

26 A I TOLD MR. BARENS THAT I FELT THERE WAS A
27 WEALTH OF INFORMATION AVAILABLE ABOUT MR. LEVIN AND HIS
28 ACTIVITIES RIGHT UP TO A POINT OF DISAPPEARANCE FROM

1 PEOPLE THAT WERE CLOSE TO HIM, BOTH PHYSICALLY AND PEOPLE
2 THAT HE INTERACTED WITH FREQUENTLY IN HIS LIFE.

3 Q AND DID YOU -- ARE THERE ANY DOCUMENTS THAT
4 YOU HAVE -- WELL, LET ME ASK YOU THIS FIRST. DID
5 MR. BARENS REPLY TO THIS?

6 A YES,

7 Q WHAT DID HE SAY?

8 A WELL --

9 MR. MC MULLEN: OBJECTION. RELEVANCE.

10 THE COURT: WE ARE REALLY FOCUSING ON MS. MARMOR
11 HERE. WHY DON'T YOU FOCUS ON MS. MARMOR OTHER THAN WITH
12 THE UNIVERSE OF PEOPLE OUT THERE THAT MAY EXIST.

13 BY MR. CRAIN:

14 Q DID YOU DISCUSS NEIGHBORS WITH MR. BARENS AS
15 SOMEONE --

16 A YOU MEAN THAT MR. BARENS SHOULD CONTACT?

17 Q YES.

18 A I DISCUSSED LEN MARMOR, KAREN MARMOR.

19 Q WHAT DID HE SAY ABOUT THAT?

20 A HE GAVE ME THE UNDERSTANDING THAT HE WAS
21 GOING TO DO SOMETHING ABOUT THOSE TWO PEOPLE AS FAR AS
22 GETTING THEM INTERVIEWED.

23 Q WAS THERE A DISCUSSION BETWEEN THE TWO OF YOU
24 THAT YOU HAD OBTAINED KNOWLEDGE THAT THEY WERE HIS NEXT
25 DOOR NEIGHBORS ON PECK IN BEVERLY HILLS?

26 A I HAD A CONVERSATION WITH HIM IN WHICH I
27 DESCRIBED MY UNDERSTANDING OF LEN MARMOR'S AND KAREN
28 MARMOR'S RELATIONSHIP TO RON LEVIN.

1 Q SO HE TOLD YOU HE LOOKED INTO IT; IS THAT
2 CORRECT?

3 A HE TOLD ME THAT HE WOULD BE INTERVIEWING THEM
4 AND EVERYTHING ELSE CONNECTED WITH RON LEVIN'S LIFE.
5 INITIALLY IT WAS -- HE PROMISED TO DO AN INVESTIGATION,
6 EXHAUSTIVE WORK ON MR. LEVIN.

7 Q WERE THERE ANY DOCUMENTS THAT YOU HAVE HERE
8 TODAY WITH YOU THAT REFLECT SUCH DISCUSSIONS?

9 A YES.

10 Q AND WHAT WOULD THEY BE?

11 A YOU ARE GOING TO HAVE TO GIVE ME THE FILE
12 NUMBER ON IT.

13 Q DO YOU HAVE 08193?

14 A YES.

15 MR. CRAIN: I WOULD LIKE THIS MARKED AS EXHIBIT 283
16 WITH THE COURT'S PERMISSION.

17 THE COURT: IT HAS NOT ALREADY BEEN MARKED?

18 MR. CRAIN: NO.

19 THE COURT: YOU HELD UP THE DOCUMENT, AND I SAW A
20 BLUE TAG IN THE BACK OF IT.

21 MR. CRAIN: THIS IS ANOTHER ONE THAT IS COMING UP
22 LATER.

23 THE WITNESS: YOU GOT MY ONLY COPY. THAT'S EXHIBIT
24 279.

25 MR. MC MULLEN: THIS HAS ALREADY BEEN MARKED.

26 MR. CRAIN: IT IS 279.

27 BY MR. CRAIN:

28 Q WHILE WE ARE DOING THAT, DURING THIS

1 DISCUSSION BEFORE THE TRIAL, DID YOU DISCUSS THE SUBJECT
2 OF WHETHER YOU WERE GUILTY OR INNOCENT OF THIS CHARGE WITH
3 MR. BARENS?

4 MR. MC MULLEN: OBJECTION. RELEVANCE.

5 THE COURT: OVERRULED.

6 THE WITNESS: YES.

7 BY MR. CRAIN:

8 Q AND --

9 A AT WHAT POINT IN TIME?

10 Q BEFORE THE TRIAL.

11 A YES.

12 Q AND WHAT DID YOU TELL MR. BARENS?

13 A THAT I WAS INNOCENT.

14 Q AND DID YOU EVER -- WHILE WE ARE LOOKING FOR
15 THE OTHER EXHIBIT, DID YOU EVER PREPARE ANY DOCUMENTS FOR
16 MR. BARENS IN RELATION TO THIS?

17 A THERE ARE SEVERAL PLACES IN SOME OF MY
18 EARLIER AND LATER CORRESPONDENCE WHICH REFLECT THE FACT
19 THAT I TOLD MR. BARENS.

20 Q HOW ABOUT 8153. DO YOU HAVE THAT?

21 MR. MC MULLEN: HAS THAT BEEN MARKED YET, COUNSEL.

22 MR. CRAIN: NO.

23 I WOULD LIKE THIS MARKED AS NEXT IN ORDER.

24 MR. CRAIN: IT IS A LETTER, YOUR HONOR. IT IS
25 THREE-PAGE.

26 THE COURT: 283.

27

28

(MARKED FOR ID = PETITIONER'S 283,

1 DOCUMENT.)

2

3 MR. MC MULLEN: MAY I APPROACH?

4 THE COURT: YES.

5

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

8

9 MR. CRAIN: YOUR HONOR, CAN I HAVE JUST A MOMENT
10 WITH MR. HUNT?

11 THE COURT: YES.

12

13 (PAUSE.)

14

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

17

18 MR. MC MULLEN: MAY I SEE A COPY OF THE DOCUMENT
19 WHILE THEY ARE TALKING?

20 MR. CRAIN: I THINK I HAVE STRAIGHTENED THIS OUT.
21 I APOLOGIZE. IT IS A SEA OF PAPERWORK HERE.

22 LET ME INSTEAD REFER TO EXHIBIT, I THINK IT IS 248. IT IS
23 NO. 8003. WE ARE ALMOST BACK ON TRACK.

24 THE COURT: THAT HAS NOT BEEN MARKED YET.

25 MR. KLEIN: IT HAS. IT IS THE APRIL 28, 1987,
26 MEMO.

27 THE COURT: THAT'S NOT WHAT YOUR EXHIBIT LIST SAYS.

28 MR. KLEIN: OKAY.

1 MR. CRAIN: DO YOU HAVE IT?

2 THE WITNESS: UH-HUH.

3 MR. MC MULLEN: MAY I APPROACH?

4 THE COURT: YES.

5 MR. CRAIN: I THINK THIS IS 248.

6 THE COURT: WHAT THE EXHIBIT LIST SAYS IS

7 (READING): "HUNT COMPUTER PRINTOUT DATED MARCH 29, 1987,"
8 IT HAS NOT BEEN MARKED FOR IDENTIFICATION YET.

9 MR. CRAIN: PERHAPS IT COULD BE NEXT IN ORDER.

10 THE CLERK: YOU ARE CORRECT.

11 THE COURT: NO. NOT NEXT IN ORDER. ARE YOU MAKING
12 IT A 248. I AM LOOKING AT YOUR EXHIBIT LIST.

13 THE WITNESS: GO AHEAD AND MARK IT AS 248.

14 THE COURT: IS THAT WHAT IT IS, "HUNT COMPUTER
15 PRINTOUT DATED MARCH 29, 1987?"

16 MR. CRAIN: IT SHOULD BE CHANGED TO 4-20-87 ON THIS
17 PARTICULAR DOCUMENT.

18 THE COURT: ALL RIGHT.

19 CHANGED TO 4-20-87. IT WILL BE 248.

20

21 (MARKED FOR ID = PETITIONER'S 248,
22 DOCUMENT.)

23

24 BY MR. CRAIN:

25 Q OKAY. ALL RIGHT.

26 NOW THAT WE HAVE THE DOCUMENT FINALLY MARKED,
27 MR. HUNT, WHAT IS THAT DOCUMENT?

28 A THIS IS THE MASTER CONTROL FILE.

1 Q THAT'S WHAT WE REFERRED TO EARLIER?

2 A THIS WAS THE DATABASE I DEVELOPED FOR
3 MR. BARENS' USE. IT INCORPORATES A LOT OF DIFFERENT
4 ELEMENTS. THE FIRST FEW PAGES ARE TO-DO LISTS, AND THEN
5 THERE ARE SUMMARIES AND ANALYSES AND RECOMMENDATIONS
6 CONCERNING CROSS-EXAMINATION OF WITNESSES AND ATTEMPTS TO
7 INTERRELATE THOSE QUESTIONS AND IDEAS WITH DEFENSE THEMES.

8 THIS WAS THE DOCUMENT THAT MR. BARENS
9 REFERRED TO ON THE RECORD DURING MY TESTIMONY. WE WERE
10 REFERRING TO OUR REPORTER'S TRANSCRIPT PAGE 6061, I
11 BELIEVE, WHERE HE ACKNOWLEDGED RECEIVING THIS AS WELL AS
12 OTHER PLACES ON THE RECORD.

13 Q DOES THIS DOCUMENT, WAS IT PREPARED OVER A
14 PERIOD OF TIME AND CONTINUALLY REVISED? HOW WAS IT PUT
15 TOGETHER?

16 MR. MC MULLEN: OBJECTION. RELEVANCY.

17 THE COURT: OVERRULED.

18 THE WITNESS: BASICALLY IN ITS FINAL FORM AT THE
19 TIME THAT MR. BARENS REFERS TO IT ON THE RECORD OR
20 ACTUALLY EVEN BEFORE THE JANUARY 8, 1987, SEARCH, THERE
21 WERE VARIOUS PRINTOUTS DONE OF IT, AND THIS ONE IS DATED
22 APRIL 20, 1987, BUT THE ONES THAT MR. BARENS WAS REFERRING
23 TO ON THE RECORD IS THIS DOCUMENT. AS FAR AS CONTENT IT
24 IS THE SAME.

25 THE COURT: I AM SORRY.

26 MR. KLEIN: WHAT IS THIS ONE DATED?

27 THE WITNESS: APRIL 20, 1987. I HAVE THE
28 COMPUTER'S PROGRAM SET UP SO THAT EVERY TIME I PRINTOUT IT

1 WOULD PUT A FRESH DATE. IT DIDN'T REFER TO THE
2 PREPARATION DATE, IT REFERRED TO THE PRINTING DATE.
3 BY MR. CRAIN:

4 Q FOR EXAMPLE, WHEN MR. BARENS SAID,
5 SPECIFICALLY REFERRED JANUARY 29TH TO THE MASTER
6 CONTROLLED LIST, HE WAS REFERRING TO THAT DOCUMENT?

7 A YES.

8 MR. MC MULLEN: CALLS FOR SPECULATION.

9 THE COURT: SUSTAINED.

10 MR. MC MULLEN: MOVE TO STRIKE.

11 THE COURT: THE LAST ANSWER WILL GO OUT.

12 BY MR. CRAIN:

13 Q LET ME ASK YOU ABOUT SOME OF THE PAGES IN
14 THAT DOCUMENT. DIRECTING YOUR ATTENTION TO PAGE 14.

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

16 THE COURT: YES.

17 MR. MC MULLEN: THANK YOU.

18 THE COURT: ARE YOU SWITCHING UP NOW? YOU WERE
19 BEFORE THIS TALKING ABOUT, "DID YOU EVER TELL MR. BARENS
20 THAT YOU WERE INNOCENT OR NOT."

21 MR. CRAIN: THIS RELATES TO THAT.

22 THE COURT: OKAY.

23 MR. CRAIN: I AM GOING TO TRY TO TIE IT UP HERE IN
24 A FEW MINUTES.

25 THE COURT: ALL RIGHT.

26 BY MR. CRAIN:

27 Q OKAY.

28 DO YOU HAVE PAGE 14 BEFORE YOU?

1 A YES.

2 Q NOW, AS YOU POINTED OUT, THIS DOCUMENT IN ITS
3 PRESENT FORM READS APRIL 20, 1987, IS PAGE 14. IS THERE
4 ANY DIFFERENCE THAN ANY EARLIER VERSION AS IT EXISTS THERE
5 NOW? DOES IT -- ANY DIFFERENCE FROM THE SAME SUBJECT
6 MATTER DISCUSSED IN ANY EARLIER VERSION OF THE MASTER
7 CONTROL LIST?

8 A IT MAY BE DIFFERENT IN MINOR PARTICULARS, BUT
9 THIS DOCUMENT TO MY RECOLLECTION IN GENERAL PROPOSITION
10 WAS SUBSTANTIALLY COMPLETE EARLY IN JANUARY OF 1987. THIS
11 WAS PREPARED BY ME WITH THE INTENTION THAT IT WOULD BE
12 FINISHED AND USABLE BY MR. BARENS DURING TRIAL, SO IT WAS
13 DONE BEFORE TRIAL BEGAN.

14 Q YOU TOLD US THAT YOU TOLD MR. BARENS YOU WERE
15 INNOCENT. DID YOU EVER TELL HIM ANYTHING TO THE CONTRARY?

16 A NO, I DIDN'T.

17 Q WITH REGARD TO THAT EXHIBIT THAT YOU HAVE
18 BEFORE YOU, PAGE 14, THE CONTENTS ON THAT PAGE WERE
19 CONVEYED TO MR. BARENS AS OF THE END OF JANUARY, 1987?

20 A HE WAS GIVEN A DIFFERENT COPY OF THIS
21 DOCUMENT WITH, OF COURSE, MY EARLIER PRINTOUT DATE. AND
22 WHEN HE WAS TALKING TO ME ON THE RECORD IN JANUARY WE WERE
23 TALKING ABOUT COMPUTER DOCUMENTS THAT HE HAD GIVEN ME, AND
24 THIS IS WHAT I WAS REFERRING TO IN MY TESTIMONY AS THE
25 MASTER CONTROL FILE.

26 Q IN YOUR CONVERSATION WAS MR. BARENS -- DID
27 YOU TELL MR. BARENS THAT YOU BELIEVED RON LEVIN WAS STILL
28 ALIVE?

1 A YES.

2 Q AND DOES THAT DOCUMENT REFLECT SUCH A
3 DISCUSSION WITH MR. BARENS?

4 A IT SHOWS ME COMMUNICATING THAT THAT IS MY
5 BELIEF.

6 Q THAT ON PAGE 14 OF THAT EXHIBIT?

7 A PAGE 14 PARAGRAPH, FINAL PARAGRAPH AS ENTRY
8 WHEREIN IT MAKES CLEAR THAT I BELIEVE THAT RON LEVIN AS OF
9 1987, THE FACT THAT HE IS ALIVE IS A, QUOTE, "DISTINCT
10 POSSIBILITY."

11 Q DID YOU TELL MR. BARENS DURING YOUR
12 COMMUNICATIONS WITH HIM BEFORE AND DURING THE TRIAL THAT
13 DEAN KARNY WAS AWARE THAT YOU DIDN'T KILL RON LEVIN?

14 A RIGHT.

15 MR. MC MULLEN: OBJECTION. CALLS FOR HEARSAY.
16 IRRELEVANT.

17 THE COURT: SUSTAINED.

18 MR. CRAIN: WELL, I THOUGHT THE COURT WAS
19 INTERESTED IN THE COMMUNICATION. THIS DIRECTLY IMPEACHES
20 MR. BARENS' CLAIM ON THE STAND THE OTHER DAY.

21 THE COURT: MR. BARENS SAID THAT MR. HUNT GAVE A
22 NUMBER OF DIFFERENT STORIES AT VARIOUS TIMES, BUT FOR HIM
23 TO RELATE HIS SUPPOSITION AS TO WHAT KARNY KNEW TO
24 MR. BARENS IS REALLY GETTING PRETTY FAR AFIELD.

25 MR. CRAIN: WELL, I THINK --

26 THE COURT: LET'S MOVE ON.

27 BY MR. CRAIN:

28 Q DOES PAGE 23 RELATE TO A CONVERSATION THAT

1 YOU HAD WITH MR. BARENS CONCERNING DEAN KARNY?

2 A YES.

3 Q ON PAGES 41 THROUGH 45 -- STRIKE THAT.

4 DID YOU TELL MR. BARENS THAT THE SEVEN-PAGE
5 LIST WAS A PROP THAT WAS MERELY USED TO INTIMIDATE LEVIN
6 ON SOME DATE PRIOR TO JUNE 6, 1984?

7 MR. MC MULLEN: OBJECTION. VAGUE AS TO TIME WITH
8 RESPECT TO --

9 MR. CRAIN: ALL THESE QUESTIONS, YOUR HONOR, I
10 THOUGHT --

11 THE COURT: WHY DON'T WE ASK IT MORE DIRECTLY.

12 DID YOU EVER TELL MR. BARENS X, Y OR Z? IF
13 IT COMES UNDER ATTACK YOU CAN USE THIS TO SUBSTANTIATE AT
14 A PARTICULAR POINT IN TIME MR. HUNT'S USED THE
15 STATEMENT --

16 MR. CRAIN: I APPRECIATE THAT, YOUR HONOR. I WAS
17 GOING TO DO THAT. WHAT I AM TRYING TO DO IS TO GET TO THE
18 KAREN MARMOR THINGS AT THIS POINT, THEN TAKE UP
19 MR. BARENS' TESTIMONY THAT HE BELATEDLY GAVE THE OTHER
20 DAY.

21 THE WITNESS: IF I MIGHT HAVE A MOMENT WITH
22 MR. CRAIN, YOUR HONOR.

23 THE COURT: WELL, WE ARE SPENDING A LOT OF TIME ON
24 CONFERENCES HERE. WE REALLY NEED TO GET MOVING.

25

26 (A CONFERENCE WAS HELD BETWEEN COUNSEL
27 AND THE PETITIONER, NOT REPORTED.)

28

1 BY MR. CRAIN:

2 Q LOOKING AT EXHIBIT -- STRIKE THAT.

3 DID YOU TALK TO MR. BARENS BEFORE THE OPENING
4 STATEMENT AT THE TRIAL CONCERNING THE ORIGIN AND PURPOSE
5 OF THE SEVEN-PAGE LIST?

6 A YES, I DID.

7 Q AND WHAT DID YOU TELL HIM?

8 A I TOLD HIM THAT IT WAS A PROP USED IN A PLAN
9 TO INTIMIDATE RON LEVIN, THAT'S REFLECTED IN THIS COMPUTER
10 PRINTOUT. I TOLD HIM THAT DEAN WAS CONSCIOUS OF THE FACT
11 THAT I DIDN'T KILL RON LEVIN, WHICH IS REFLECTED ON PAGE
12 23.

13 MR. MC MULLEN: I WOULD OBJECT TO THAT LAST ANSWER,
14 AND MOVE TO STRIKE IT AS NONRESPONSIVE.

15 THE COURT: YES. EVERYTHING AS TO MR. BARENS WILL
16 GO OUT.

17 LET'S RELY ON THE DIRECT TESTIMONY RATHER
18 THAN HIM GOING THROUGH AND LOOKING AT EXHIBITS AND SAYING,
19 "HERE IT IS." HE SHOULD HAVE RECOLLECTION, I WOULD
20 ASSUME, CONCERNING THIS. IF THERE IS FAILURE OF
21 RECOLLECTION YOU CAN USE IT TO ASSIST HIS RECOLLECTION
22 PERHAPS, BUT WE NEED TO HEAR IT FIRSTHAND RATHER THAN
23 GOING THROUGH THE EXHIBITS LINE BY LINE.

24 MR. CRAIN: I KNOW THAT. WHAT I WAS ATTEMPTING TO
25 DO IS HAVE MR. HUNT JUST TESTIFY THAT HE TOLD
26 MR. BARENS ABOUT THE ORIGIN OF THE SEVEN-PAGE LIST PRIOR
27 TO THE OPENING STATEMENT CONTRARY TO ONE OF MR. BARENS --

28 THE COURT: I WILL NOT STRIKE THAT PORTION.

1 MR. CRAIN: YOU ARE NOT.

2 WHICH IS CONTRARY TO MR. -- ONE OF BARENS'
3 VERSION THAT HE GAVE TO US THE OTHER DAY. I AM ASKING HIM
4 TO LOOK AT THIS DOCUMENT BECAUSE THIS WAS PREPARED PRIOR
5 TO THE OPENING STATEMENT OR AT LEAST IT PREDECESSORS IN
6 THE SAME FORMAT AND CORROBORATES THE VERY FACT IT IS
7 WRITTEN DOCUMENTATION THAT IN FACT HE GAVE THIS
8 INFORMATION TO MR. BARENS.

9 THE COURT: MAYBE CORROBORATES, BUT THEY MAY EVEN
10 ATTACK IT. THEY MAY AGREE THAT HE DID TELL HIM. LET'S
11 HEAR MR. HUNT TELL US WHEN HE DID CERTAIN THINGS AND WHAT
12 HE DID, WHAT HE TOLD HIM RATHER THAN HAVE HIM GOING
13 THROUGH PAGE AFTER PAGE OF NOTES THAT WERE CREATED AT SOME
14 POINT. IN OTHER WORDS, LET'S TAKE THE AFFIRMATIVE AND
15 JUST GO FORWARD AND HAVE TOLD WHAT HE --
16 BY MR. CRAIN:

17 Q YOU TOLD US THAT YOU TOLD MR. BARENS BEFORE
18 THE OPENING STATEMENT ABOUT THE ORIGIN OF THE SEVEN-PAGE
19 LIST, IT WAS A PROP TO INTIMIDATE MR. LEVIN; CORRECT?

20 A YES.

21 Q DID YOU PREPARE MEMORANDA TO THAT EFFECT FOR
22 USE IN -- FOR MR. BARENS' USE IN PUTTING ON THE DEFENSE IN
23 THE CASE?

24 A YES, I DID.

25 MR. MC MULLEN: OBJECTION. IRRELEVANT.

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

27 BY MR. CRAIN:

28 Q THE DOCUMENT BEFORE YOU, THE LAST EXHIBIT

1 THAT WAS, THAT YOU HAVE, IS THAT SUCH MEMORANDA?

2 A YES. IT INCORPORATES THAT POSITION
3 REPEATEDLY THROUGHOUT THE DOCUMENT.

4 Q DID YOU EVER TELL MR. BARENS THAT THIS
5 SEVEN-PAGE LIST WAS SOME SORT OF A SCRIPT THAT WAS
6 PREPARED IN SOME WAY SUCH AS MR. BARENS DESCRIBED IN HERE
7 WHEN HE TOOK THE WITNESS STAND?

8 A NO.

9 Q DID YOU EVER HAVE A DISCUSSION WITH
10 MR. BARENS WHERE SOMEONE DESCRIBED THE SEVEN-PAGE LIST AS
11 BEING A SCRIPT?

12 A YES.

13 Q AND WHAT WAS THAT DISCUSSION?

14 A THERE WAS A DISCUSSION ABOUT, BOTH IN THE
15 CONTEXT OF THE PRELIMINARY HEARING AND LATER AS TO WHAT
16 PEOPLE MIGHT PERCEIVE THE LIST AS BEING IF THEY DID NOT
17 HAVE THE BENEFIT OF MY TESTIMONY. OR ANY OTHER DIRECT
18 EVIDENCE OR INSIGHT INTO THAT.

19 THE COURT: MR. HUNT, THE QUESTION WAS: WHAT DID
20 YOU TELL HUNT -- WHAT DID YOU TELL BARENS, NOT YOUR
21 CONJECTURE ON WHAT THE EVIDENCE SHOWED. TELL US WHAT YOU
22 TOLD MR. BARENS.

23 MR. CRAIN: I THINK THE QUESTION WAS, WITH THE
24 COURT'S INDULGENCE, WHAT THEY DISCUSSED RELATIVE TO THE
25 SUBJECT OF THE LIST BEING A SCRIPT.

26 THE COURT: BUT I DON'T WANT TO LISTEN TO HIS
27 MUSINGS ON THE EVIDENCE. I WANT HIM TO TELL US WHAT HE
28 TOLD MR. BARENS, NOT ON WHAT HE WAS THINKING ABOUT IN

1 TERMS OF EVALUATING THE EVIDENCE.

2 MR. KLEIN: WITH ALL DUE RESPECT TO THE COURT, IT
3 IS NOT NECESSARILY WHAT MR. HUNT TOLD MR. BARENS. IT
4 COULD BE THE OTHER WAY AROUND, SO I THINK WE JUST HAVE TO
5 HEAR WHAT IT IS.

6 THE COURT: I DON'T WANT TO HEAR THE MUSINGS OF
7 MR. HUNT AS TO HOW HE EVALUATES THE EVIDENCE. I WANT TO
8 HEAR WHAT WAS SAID; OKAY?

9 MR. CRAIN: OKAY.

10 BY MR. CRAIN:

11 Q DID YOU TELL MR. BARENS AT ANY TIME THAT
12 SEVEN-PAGE LIST WAS NOT A PROP USED TO INTIMIDATE
13 MR. LEVIN ON JUNE 5TH?

14 A NO, I DIDN'T. THE SUBJECT OF A SCRIPT
15 ANALYSIS --

16 MR. MC MULLEN: OBJECTION. NONRESPONSIVE.

17 THE COURT: SUSTAINED.

18 PUT A QUESTION.

19 BY MR. CRAIN:

20 Q WHERE DID THE SUBJECT OF A LIST BEING A
21 SCRIPT COME FROM?

22 A THERE WERE DISCUSSIONS ABOUT THE FACT THAT
23 THE LIST COULD BE INTERPRETED AS THAT.

24 Q AND WAS THERE SOMETHING --

25 THE COURT: DISCUSSIONS BETWEEN HIM?

26 THE WITNESS: BETWEEN MR. BARENS AND MYSELF.

27 THE COURT: ALL RIGHT.

28

1 BY MR. CRAIN:

2 Q WAS THIS SOMETHING YOU PROPOSED OR MR. BARENS
3 PROPOSED?

4 A ACTUALLY, IT WAS INITIALLY MR. BARENS' TAKE
5 THAT IT COULD BE POTENTIALLY ARGUED TO A JURY, IF I WAS
6 NOT, FOR EXAMPLE, TO TESTIFY, THAT THAT WAS WHAT IT WAS
7 BECAUSE AFTER ALL MR. BARENS DEALT IN MOVIE SCRIPTS OF
8 VARIOUS SORTS AND HAD THEM IN HIS PAPERWORK.

9 THE COURT: THAT MR. BARENS --

10 THE WITNESS: EXCUSE ME. MR. LEVIN.

11 BY MR. CRAIN:

12 Q YOU ARE SAYING IT WAS MR. BARENS' IDEA?

13 A INITIALLY IT WAS, SIR.

14 Q NOW, GOING BACK TO THE KAREN MARMOR ISSUE,
15 ARE THERE OTHER DOCUMENTS THAT YOU HAVE BEFORE YOU THAT
16 RELATE TO ANY CONVERSATIONS YOU HAD WITH MR. BARENS THAT
17 HE SHOULD INVESTIGATE HIS NEIGHBORS, MR. LEVIN'S
18 NEIGHBORS, THE MARMOR'S, MRS. MARMOR?

19 A YES.

20 Q AND DO YOU HAVE THOSE WITH YOU?

21 A YES, I DO.

22 Q AND WOULD YOU --

23 MR. CRAIN: I THINK THE NEXT ONE IS NOT MARKED. I
24 WOULD LIKE IT TO BE MARKED NEXT IN ORDER.

25 THE WITNESS: I THINK THE MAIN ONE, WHICH IS THAT
26 ONE THAT I THINK --

27 MR. KLEIN: IT IS EXHIBIT 244.

28 MR. CRAIN: HERE WE GO.

1 YOUR HONOR, I ATE AT THE SNACK BAR IN THE
2 13TH FLOOR. I AM SURE THIS HAS SOMETHING TO DO WITH THE
3 CESSATION OF BRAIN FUNCTION.

4 BY MR. CRAIN:

5 Q ANYWAY, SHOWING YOU NOW EXHIBIT 244, AND I
6 THINK THIS HAS ALREADY BEEN MARKED.

7 THE COURT: YES, IT HAS.

8 BY MR. CRAIN:

9 Q I WOULD LIKE TO CALL YOUR ATTENTION TO THIS
10 DOCUMENT AND ASK YOU IF IT HAS ANYTHING TO DO WITH THE
11 SUBJECT OF MRS. MARMOR?

12 A YES, IT DOES.

13 Q AND WHAT PAGE DOES THAT APPEAR ON?

14 A PAGE EIGHT.

15 Q AND IN WHAT WAY DOES THAT RELATE TO ANYTHING
16 THAT YOU TOLD MR. BARENS ABOUT MRS. MARMOR?

17 THE COURT: REFRESH MY RECOLLECTION. DID YOU
18 ACTUALLY GIVE A COPY OF THIS TO MR. BARENS?

19 THE WITNESS: YES, I DID. THIS WAS PART OF WHAT
20 WAS SENT TO HIM IN THE COUNTY JAIL --

21 THE COURT: GO AHEAD.

22 THE WITNESS: -- FOR TYPING. THIS IS TYPEWRITTEN.

23 THE COURT: THIS WAS HANDWRITTEN AND THEN TYPED
24 LATER.

25 THE WITNESS: UH-HUH.

26 THE COURT: IS THAT "YES"?

27 THE WITNESS: YES.

28 THE COURT: GO AHEAD.

1 THE WITNESS: THIS STAYS IN SUMMARY FORM,
2 INFORMATION THAT I DISCLOSED TO MR. BARENS CONCERNING LEN
3 MARMOR AND HIS WIFE, KAREN. I STATE HERE (READING),
4 "LENNY WAS A FREQUENT VISITOR --"

5 THE COURT: SPEAKS FOR ITSELF.

6 PUT A QUESTION.

7 BY MR. CRAIN:

8 Q IT CONTAINS A REFERENCE TO KAREN MARMOR, SHE
9 SHOULD BE LOCATED, INTERVIEWED?

10 MR. MC MULLEN: OBJECTION. RELEVANCY.

11 THE COURT: OVERRULED.

12 THE WITNESS: IT JUST SETS REASONS WHY --

13 THE COURT: HOLD ON. DON'T SAY WHAT IT SAYS. TELL
14 US WHAT YOU TOLD MR. BARENS. DON'T SAY THAT HE SHOULD
15 LOCATE HER AND INTERVIEW HER.

16 BY MR. CRAIN:

17 Q DID YOU DISCUSS WITH MR. BARENS THAT HE
18 SHOULD LOCATE MRS. MARMOR TO SEE WHAT INFORMATION SHE
19 COULD PROVIDE CONCERNING MR. LEVIN AND HIS BACKGROUND AND
20 HIS DISAPPEARANCE?

21 A YES.

22 Q AND WHAT -- WAS THAT BEFORE THE TRIAL?

23 A YES. IT WAS IN 1985. I STARTED IN 1985.

24 Q AND THIS REQUEST CONTINUED FOR SOME PERIOD OF
25 TIME?

26 A I HAVE A SENSE OF HAVING BROUGHT THE MATTER
27 UP MORE THAN ONCE WITH MR. BARENS WHILE I WAS OUT OF
28 CUSTODY BOTH IN RESPECT TO THIS WITNESS, BUT ALSO

1 GENERALLY IN THE PROPOSITION OF GETTING SOME INFORMATION
2 ON PEOPLE THAT KNEW RON LEVIN. SHE DID COME UP AGAIN
3 BEFORE THE TRIAL.

4 Q AND WHAT RESPONSE DID MR. BARENS GIVE TO YOU
5 ABOUT FOLLOWING UP ON THIS REQUEST?

6 A THAT HE WAS GOING TO SEE THAT ALL THESE
7 PEOPLE GOT INTERVIEWED.

8 MR. CRAIN: WHAT TIME DID THE COURT PLAN TO BREAK.
9 I WAS GOING TO TURN TO ANOTHER SUBJECT.

10 THE COURT: GO AHEAD.

11 IT IS STILL PRETTY EARLY.

12 BY MR. CRAIN:

13 Q OKAY.

14 THE COURT: WHAT SUBJECT ARE YOU TURNING TO?

15 MR. CRAIN: I WAS GOING TO TURN TO PROGRESSIVE.

16 THE COURT: ARE YOU FINISHED WITH THIS WHOLE AREA,
17 THEN?

18 MR. CRAIN: I THINK SO. UNLESS SOMETHING COMES TO
19 MIND DURING THE RECESS.

20 THE COURT: THEN I SHOULDN'T GIVE YOU A RECESS;
21 RIGHT?

22 TELL YOU WHAT. WE ARE GOING TO BREAK AT 4:00
23 TODAY, SO WE WILL TAKE OUR RECESS NOW. THEN YOU CAN
24 LAUNCH INTO NEW SUBJECT.

25 15 MINUTES.

26 MR. CRAIN: FOR THE COURT'S BENEFIT, I THINK THE
27 HOLMES MATTER WILL BE RELATIVELY BRIEF, THAT WILL COME
28 LAST.

1 THE COURT: OKAY.

2 DON'T EAT AT THE SNACK BAR.

3 MR. CRAIN: I WON'T.

4
5 (RECESS.)
6
7
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2
1 THE COURT: IN THE MATTER OF JOSEPH HUNT, THE
2 RECORD WILL REFLECT ALL COUNSEL ARE PRESENT. MR. HUNT IS
3 PRESENT AND ON THE STAND.

4 YOU MAY CONTINUE, MR. CRAIN.

5 I SHOULD SAY, I GUESS, THE BAILIFF BROUGHT TO
6 YOUR ATTENTION THERE WAS REQUEST FOR C.N.B.C. TO HAVE T.V.
7 CAMERAS. I KNOW WE TALKED ABOUT THIS EARLIER. THERE WAS
8 AN OBJECTION. IS THEIR STILL?

9 MR. KLEIN: YES, YOUR HONOR. YOUR HONOR, BY
10 MR. HUNT.

11 THE COURT: WHAT IS THE PEOPLE'S POSITION?

12 MR. MC MULLEN: WE WOULD CONCUR WITH COUNSEL ON THE
13 OBJECTION.

14 THE COURT: ALL RIGHT.

15 I'LL STAND BY THE EARLIER RULING, THEN.

16 MR. KLEIN: DID I HEAR WHAT I HEARD? THEY
17 CONCURRED WITH US.

18 THE COURT: THEY CONCURRED. MR. CHAPMAN IS STUCK,
19 BUT YOU OBJECTED, AND THEY CONCURRED IN THE OBJECTION TO
20 HAVING T.V. CAMERAS IN HERE.

21 MR. KLEIN: I JUST MEANT IN THE BROADER SENSE.

22 THE COURT: WE'LL HAVE IT BE IN LARGE CAPITAL
23 LETTERS ON THE MINUTE ORDER AND IT'S SOMETHING THAT CAN BE
24 READ BY BOTH SIDES IN THIS CASE.

25 MR. CRAIN: THERE IS NO OBJECTION TO JERRY
26 SPRINGER. DID YOU EVER SEE THAT SHOW?

27 THE COURT: NO, BUT I HAVE A SPECULATION AS TO WHAT
28 TYPE OF SHOW IT PROBABLY IS.

2
1 MR. CRAIN: YEAH.

2 THE COURT: YOU ARE NOT EQUATING C.N.B.C. WITH THAT
3 PARTICULAR SHOW, ARE YOU?

4 MR. CRAIN: NO, YOUR HONOR. IT'S AT THE OTHER END
5 OF THE SPECTRUM. IT'S HIGH AND LOW.

6

7

8 JOSEPH HUNT, +
9 THE PETITIONER HEREIN, CALLED AS A WITNESS IN HIS OWN
10 BEHALF, HAVING BEEN PREVIOUSLY SWORN, RESUMED THE STAND
11 AND TESTIFIED FURTHER AS FOLLOWS:

12

13 DIRECT EXAMINATION RESUMED +

14

15 BY MR. CRAIN:

16

17 Q ANYWAY, MR. HUNT --

18

19 MR. CRAIN: SHOULD I PROCEED, YOUR HONOR?

20

21 THE COURT: YES.

22

23 BY MR. CRAIN:

24

25 Q I JUST WANTED TO ASK YOU JUST TO WRAP UP THE
26 KAREN MARMOR PART OF THIS, IN YOUR DISCUSSIONS WITH
27 MR. BARENS, EITHER BEFORE OR DURING THE TRIAL, DID YOU
28 TELL HIM WHAT YOU BELIEVED THE SIGNIFICANCE OF LOCATING
KAREN MARMOR WAS?

29

30 A YES, I DID.

31

32 Q AND WHY DID YOU TELL HIM YOU THOUGHT SHE WAS
33 A SIGNIFICANT WITNESS TO LOCATE AND INTERVIEW?

34

35 A FOR TWO REASONS. ONE OF THEM HAD TO DO WITH
36 SOMETHING THAT MR. LEVIN TOLD ME ABOUT KAREN MARMOR. HE

2
1 SAID THAT SHE HATED HIM. HE SAID THAT SHE HATED HIM, AND
2 THAT SHE KNEW ALL ABOUT HIM, AND FOLLOWED -- IT WAS SOME
3 REFERENCE TO HIS SHADY DEALINGS OR HIS SCAMS OR SOMETHING.
4 IT WAS NOT IN THOSE WORDS EXACTLY, BUT THE REFERENCE MADE
5 ME BELIEVE WHAT I WROTE IN MY MEMO TO MR. BARENS.

6 Q WHICH YOU JUST HAD BEFORE YOU BEFORE THE
7 BREAK?

8 A RIGHT.

9 SECONDLY, I TOLD HIM THAT -- IT ONLY MADE
10 SENSE THAT, YOU KNOW, THIS WAS A MISSING PERSON'S CASE, TO
11 TALK TO PEOPLE, NEIGHBORS AND VERY CLOSE ASSOCIATES TO TRY
12 AND GET SOME -- SOME CLUES ABOUT WHERE LEVIN MIGHT HAVE
13 GONE AND TO GET ANY CIRCUMSTANTIAL EVIDENCE THAT MIGHT
14 REFLECT ON PREPARATIONS TO FLEE.

15 Q OKAY.

16 MR. CRAIN: NOW, I WANTED TO TURN TO ANOTHER ISSUE
17 IN THE O.S.C., YOUR HONOR. IT'S THE PROGRESSIVE SAVINGS
18 MATTER THAT LEVIN WAS UNDER INVESTIGATION BY THE F.B.I.
19 FOR HAVING DEFRAUDED PROGRESSIVE SAVINGS & LOAN.

20 THE COURT: WAIT A SECOND. IS THAT 2 --

21 MR. MC MULLEN: 2-E.

22 MR. CRAIN: -E, I BELIEVE.

23 BY MR. CRAIN:

24 Q MR. HUNT -- MR. HUNT, DID YOU HAVE ANY
25 DISCUSSIONS BEFORE THE TRIAL WITH YOUR FORMER ATTORNEY,
26 ARTHUR BARENS, CONCERNING THE SUBJECT OF PROGRESSIVE
27 SAVINGS & LOAN?

28 A YEAH.

2
1 Q AND IN THAT REGARD WHAT DID YOU TELL ARTHUR
2 BARENS?

3 A I GAVE HIM A COMPLETE HISTORY, WHICH I THINK
4 IS REFLECTED IN THESE MEMOS, THAT THE PROGRESSIVE LOAN --
5 THE PROGRESSIVE TRANSACTION AS I UNDERSTOOD IT WAS AN
6 ATTEMPT TO PORTRAY MYSELF AND RON LEVIN AS BEING INVOLVED
7 WITH PROGRESSIVE SAVINGS & LOAN, AND \$150,000 WHICH HAD
8 BEEN LOST BECAUSE OF IT, AND I HAD BEEN SUED BY
9 PROGRESSIVE SAVINGS & LOAN WITH -- ALONG WITH ALL THE
10 OTHER INDIVIDUALS I MENTIONED.

11 MR. CRAIN: BEFORE MR. HUNT, YOUR HONOR, IS EXHIBIT
12 244 ALREADY MARKED.

13 BY MR. CRAIN:

14 Q ARE YOU LOOKING AT THAT NOW, MR. HUNT?

15 A YES.

16 Q AND WAS -- DOES THAT IN SOME WAY REFLECT ANY
17 OF THESE CONVERSATIONS OR INFORMATION YOU GAVE TO
18 MR. BARENS CONCERNING PROGRESSIVE?

19 A YES.

20 Q AND IN WHAT WAY DOES IT REFLECT?

21 A A COUPLE OF ITEMS IN THE --

22 MR. MC MULLEN: COULD WE HAVE A PAGE REFERENCE,
23 AGAIN.

24 MR. CRAIN: I BEGIN AT PAGE 2, I THINK.

25 THE WITNESS: BEGINNING ON PAGE 2, ITEMS 14 AND 17
26 REFER TO TRANSACTIONS REFERRING TO RON LEVIN'S PROGRESSIVE
27 LOAN SCAM.

28

2
1 BY MR. CRAIN:

2 Q HOW ABOUT PAGE 16 AND 17?

3 A PAGE 16 AND 17 DESCRIBE IN CONSIDERABLE
4 DETAIL THE PERSONAL KNOWLEDGE I HAD CONCERNING THE EVENTS
5 THAT LED UP TO LEVIN BEING ABLE TO WITHDRAW \$157,000 FROM
6 PROGRESSIVE AGAINST CHECKS THAT WERE NO GOOD.

7 Q AND THIS IS INFORMATION YOU GAVE TO
8 MR. BARENS BEFORE THE TRIAL; IS THAT RIGHT?

9 A YES, IN 1985 THIS PARTICULAR DOCUMENT WENT
10 OUT TO HIM.

11 Q AND CALLING YOUR ATTENTION NOW TO WHAT HAS
12 BEEN MARKED AS EXHIBIT 245. DOES THIS ALSO -- YOU HAVE
13 ALREADY IDENTIFIED THAT.

14 DOES THAT ITSELF CONTAIN ANY INFORMATION THAT
15 WAS GIVEN TO MR. BARENS ON THE SUBJECT OF PROGRESSIVE
16 SAVINGS?

17 A IF YOU WILL GIVE ME A MOMENT.

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

19 MR. CRAIN: DIRECTING YOUR ATTENTION TO PAGE SIX.

20 THE WITNESS: OKAY.

21
22 (WITNESS REVIEWING EXHIBIT.)

23
24 THE WITNESS: WELL, WHAT I HAVE IS A PAGE MARKED
25 11. IT MENTIONS PROGRESSIVE.

26 BY MR. CRAIN:

27 Q OKAY.

28 A AS A -- A FACTOR THAT PUT LEVIN IN A

3

1 DIFFERENT CATEGORY THAN THE FAMOUS MRS. L. EWING SCOTT.

2 Q JUST FOR THE RECORD, WHO WAS SHE?

3 A SHE WAS A WOMAN THAT DISAPPEARED IN THE CASE
4 IN THE 1940'S, THE CELEBRATED NO BODY HOMICIDE CASE IN THE
5 ANNALS OF CALIFORNIA --

6 MR. MC MULLEN: OBJECTION. RELEVANCE.

7 THE COURT: LET HIM GO. I KNOW THE STORY.

8 THE WITNESS: IN WHICH -- ACCORDING IN PART TO THIS
9 MEMO, THE PROSECUTION BUILT UP A BODY OF EVIDENCE THAT
10 SUGGESTED THERE WAS AN INTERRUPTION IN HER LIFE PATTERN,
11 AND THAT SHE HAD DONE NOTHING TO FLEE OR THAT WOULD HAVE
12 FACILITATED FLEEING, WHICH WAS THE DEFENSE CONTENTION IN
13 THIS CASE. SO I WAS PUTTING PROGRESSIVE DOWN IN A LIST
14 WHICH DEMONSTRATED THAT LEVIN WAS POSITIONING HIMSELF TO
15 FLEE OR AT LEAST GIVING HIMSELF THE WHEREWITHAL WITH WHICH
16 HE COULD PULL OFF SOMETHING LIKE THAT, TO WIT, \$157,000.

17 Q DURING ANY OF THESE DISCUSSIONS THAT YOU HAD
18 WITH MR. BARENS ABOUT PROGRESSIVE DID THE SUBJECT OF --
19 DID YOU HAVE A DISCUSSION WITH HIM ABOUT THE SIGNIFICANCE,
20 THEN, THAT THIS EVIDENCE MIGHT HAVE AT TRIAL?

21 A YES, I DID.

22 Q WHAT DID YOU SAY IN THAT REGARD TO
23 MR. BARENS?

24 A I TOLD HIM THAT HE SHOULD SERVE A SUBPOENA
25 DUCES TECUM ON THE F.B.I. THAT IS IN ONE OF THE LISTS
26 THAT WE HAVE ALREADY MARKED. I SAID THAT'S -- S.D.T
27 F.B.I. QUESTION MARK.

28 THE REASON I TOLD HIM THAT WAS -- AND I

3
1 EXPRESSED THIS TO HIM, WAS I KNEW THAT THE F.B.I. WAS
2 INVESTIGATING RON LEVIN IN RELATIONSHIP TO THE PROGRESSIVE
3 SCAM BECAUSE RON LEVIN HAD TOLD ME THAT THEY WERE, AND
4 BECAUSE I HAD RECEIVED A SUBPOENA DUCES TECUM FROM FEDERAL
5 AUTHORITIES ASKING FOR RECORDS THAT THE B.B.C. MIGHT HAVE
6 IN RELATIONSHIP TO A CHECKING ACCOUNT THAT WAS INVOLVED IN
7 THE PAPER TRANSACTIONS THAT LED UP TO THE LOSS OF 150 SOME
8 THOUSAND DOLLARS, WITH PROGRESSIVE.

9 Q BEFORE WE GET BACK TO THE F.B.I. ASPECTS OF
10 IT IN A MOMENT OR TWO, DID YOU PREPARE ANY OTHER MEMORANDA
11 TO MR. BARENS SHOWING YOUR DESIRE THAT HE INVESTIGATE THE
12 PROGRESSIVE SCAM REFERRING TO RON LEVIN?

13 A YES.

14 Q I WAS GOING TO REFER TO SOME --

15 A OKAY.

16 Q 81, 91.

17 MR. CRAIN: THESE ARE NOT CURRENTLY MARKED, YOUR
18 HONOR. IF THE WITNESS, MR. HUNT, LOOKS AT IT, I THINK
19 IT'S THE NEXT ONE IN ORDER. MAY I LOOK OVER HIS SHOULDER.

20 MR. MC MULLEN: MAY I APPROACH?

21 THE COURT: YES.

22
23 (WITNESS REVIEWING DOCUMENTS.)

24
25 (A CONFERENCE WAS HELD BETWEEN COUNSEL
26 AND THE PETITIONER, NOT REPORTED.)

27
28 MR. CRAIN: YOUR HONOR, FOR THE RECORD, COULD THIS

3
1 BE MARKED NEXT IN ORDER. IT'S A HANDWRITTEN DOCUMENT. IT
2 APPEARS TO BE MR. HUNT'S HANDWRITING. IT IS DATED JULY
3 31ST. IT'S SIX PAGES, AND --

4 THE COURT: JULY 31ST OF WHAT YEAR?

5 BY MR. CRAIN:

6 Q CAN YOU TELL US WHEN, MR. HUNT, THIS WAS
7 PREPARED.

8 THE WITNESS: THIS WOULD BE 1985 PAPERWORK. JULY
9 31ST WAS --

10 THE COURT: HOLD ON. IT WILL BE MARKED AS 283.

11
12 (MARKED FOR ID = PETITIONER'S 283,
13 DOCUMENT.)

14
15 BY MR. CRAIN:

16 Q AND CALLING YOUR ATTENTION TO THE NEXT TO
17 LAST PAGE, DOWN NEAR THE BOTTOM UNDER "DESCRIPTION OF
18 LEVIN," AND THEN A SUB HEADING, "NO. 25," IT SAYS,
19 "PROGRESSIVE SAVINGS"?

20 A YES, IT SAYS PROGRESSIVE SAVINGS RIGHT ABOVE
21 THE ENTRY "HAIRDRESSER" AND BELOW --

22 Q WHAT DOES THAT DOCUMENT -- THAT YOU ARE
23 HOLDING, WHAT IS THAT DOCUMENT?

24 A THIS IS AN INDEX PAGE THAT I WROTE OUT TO ONE
25 OF THESE LISTS THAT WAS SENT OUT TO ARTHUR BARENS
26 SECRETARIAL POOL FOR TYPING WHILE I WAS AT THE COUNTY JAIL
27 IN 1985, AND ITEM 25 IS PROGRESSIVE SAVINGS. IT'S UNDER
28 "EVIDENCE, DESCRIPTION OF LEVIN, ECONOMICS."

3
1 Q IS THAT PART OF THE MATTER THAT YOU
2 COMMUNICATED TO MR. BARENS CONCERNING YOUR REQUEST THAT HE
3 OBTAIN THIS TYPE OF EVIDENCE TO USE IN HIS DEFENSE?

4 A IT'S ALSO MY BELIEF THAT THIS PAPER WAS TYPED
5 BY HIS SECRETARY AT SOME POINT.

6 Q IF YOU LOOK AT, QUICKLY HERE, 8172 AND 8174.
7 MR. MC MULLEN: MAY I APPROACH?

8 THE COURT: YES.

9 THE WITNESS: ALL RIGHT.

10 I HAVE 81- --

11 MR. CRAIN: YOUR HONOR, COULD IT BE MARKED NEXT IN
12 ORDER?

13 THE COURT: THE NEXT NUMBER WOULD BE 284.

14 WHAT IS IT?

15 MR. CRAIN: IT'S A ONE-PAGE DOCUMENT ENTITLED "JOE
16 HUNT'S WISHT LIST," W-I-S-H-T. IT'S SORT OF A PLAY ON
17 WORDS.

18 THE COURT: LET ME SEE IT --

19 THE WITNESS: THIS IS A PART OF ANOTHER EXHIBIT.

20 THE COURT: HOLD ON. I SEE WHAT YOU MEAN.

21
22 (MARKED FOR ID = PETITIONER'S 284,
23 DOCUMENT.)

24
25 BY MR. CRAIN:

26 Q DOES THAT REFER TO PROGRESSIVE?

27 A YES, IT DOES. THIS WAS A DRAFT OF A LIST.

28 Q DID YOU COMMUNICATE THE CONTENTS OF THAT LIST

4

1 TO MR. BARENS AT SOME POINT?

2 A I BELIEVE I DID. I BELIEVE THIS WAS A ROUGH
3 DRAFT OF A LIST WHICH INCORPORATED THESE ELEMENTS AND
4 PERHAPS SOME MORE THAT I LATER GAVE TO MR. BARENS.

5 Q HOW ABOUT 8174, DO YOU HAVE THAT?

6 A UM-HMM.

7 Q AND WHAT IS THIS?

8 A THIS IS A -- ON TOP OF IT IT SAYS, "ISSUES
9 FOR," AND THEN THERE'S A BUNCH OF DIFFERENT NOTATIONS.
10 IT'S BETTER DESCRIBED AS AN EIGHT-AND-A-HALF-14 XEROX OF A
11 YELLOW PIECE OF LEGAL PAPER.

12 Q DOES IT MAKE REFERENCE TO PROGRESSIVE?

13 A MAKES REFERENCE TO PROGRESSIVE.

14 THE COURT: ARE WE SEEKING TO IDENTIFY THIS?

15 MR. CRAIN: YES.

16 MAY IT BE MARKED NEXT?

17 THE COURT: IT WILL BE 285.

18 MR. CRAIN: BETTER MARK THAT. I HAVEN'T BEEN DOING
19 THIS ON THE BACK.

20 THE COURT: IT'S A COPY OF A ONE-PAGE NOTE IN
21 MR. HUNT'S HANDWRITING.

22 MR. CRAIN: YES.

23

24 (MARKED FOR ID = PETITIONER'S 285,
25 DOCUMENT.)

26

27 BY MR. CRAIN:

28 Q I NOTICE IN THE MIDDLE OF THE PAGE THAT IT

4
1 SAYS "PROGRESSIVE" ON IT. THAT REFERS TO PROGRESSIVE
2 SAVINGS & LOAN?

3 A YES, IT DOES.

4 Q AND IT ALSO SAYS (READING), "JOE GAVE
5 LITERATURE TO LEV ON PROJECT IN LATE APRIL OR MAY." WHAT
6 DOES THAT REFER TO?

7 A THIS IS -- CONFIRMS WHAT I WAS SAYING EARLIER
8 THAT I TOLD ARTHUR BARENS THAT I GAVE THE LITERATURE TO
9 RON LEVIN ABOUT THE PROJECT, WHICH IS THE ATTRITION MILL
10 PROJECT IN LATE APRIL OR MAY, NOT ON JUNE 6TH AS THE
11 PROSECUTION CONTENDS.

12 Q OKAY.

13 THIS DOCUMENT IS SOMETHING YOU PREPARED
14 APPROXIMATELY WHEN?

15 A WHILE I WAS OUT ON BAIL, THIS PARTICULAR
16 DOCUMENT.

17 Q PRIOR TO THE TRIAL?

18 A YES.

19 Q AND DID YOU CONVEY THE INFORMATION ON THERE
20 TO MR. BARENS?

21 A THIS IS IN A FORMAT OF NOTES AND REMINDERS TO
22 MYSELF TO BRING UP TO MR. BARENS AS FAR AS DEVELOPING
23 INFORMATION BY INVESTIGATION AND THEMATIC POINTS FOR USE
24 IN THE TRIAL.

25 MR. MC MULLEN: OBJECTION. NONRESPONSIVE.

26 THE COURT: NO, I'LL ALLOW THE ANSWER TO STAND.
27 BY MR. CRAIN:

28 Q WAS IT YOUR CUSTOM --

4
1 THE COURT: HOLD ON.

2 WE'RE RUNNING OUT OF EXHIBIT LISTS HERE.

3
4 (A CONFERENCE WAS HELD BETWEEN COUNSEL
5 AND THE PETITIONER, NOT REPORTED.)
6

7 MR. CRAIN: SHOULD I PROCEED, YOUR HONOR?

8 THE COURT: YES, GO AHEAD.

9 BY MR. CRAIN:

10 Q MR. HUNT, I WAS GOING TO ASK YOU, WAS IT YOUR
11 CUSTOM WHEN YOU PREPARED THESE LISTS OF THINGS YOU
12 BELIEVED NEEDED TO BE DONE IN YOUR CASE TO DISCUSS THEM
13 WITH MR. BARENS?

14 A YES, THAT WAS THE WHOLE POINT. I COULDN'T
15 GET EVIDENCE IN MYSELF. I HAD TO DO EVERYTHING THROUGH
16 MR. BARENS, SO I WAS VERY METHODICAL IN MY APPROACH TO
17 TRYING TO GET MR. BARENS ON POINT. I JUST TRIED TO DELUGE
18 HIM WITH PAPER.

19 Q SO IF SOMETHING APPEARS ON A LIST SUCH AS THE
20 LAST EXHIBIT, WOULD IT HAVE BEEN YOUR HABIT TO CONVEY THE
21 INFORMATION ON THE LIST TO ARTHUR BARENS?

22 A YES. AND THE REASON WHY THIS STUFF APPEARS
23 ON MULTIPLE LISTS IS BECAUSE I WASN'T SUCCEEDING IN
24 GETTING THINGS ACROSS TO HIM. ACTION WASN'T BEING TAKEN.
25 I WOULD TRY AGAIN. EVERY TIME I WOULD TRY AGAIN IT WOULD
26 GO DOWN ON A NEW PIECE OF PAPER.

27 Q WHERE IT SAYS (READING), "JOE GAVE LITERATURE
28 ON PROJECT IN LATE MAY," WHAT DOES THAT REFER TO?

4
1 A THAT IS MY -- THE FACTS OF THE CASE, THAT I
2 WAS -- THAT I WAS GIVING MR. LEVIN PAPERWORK CONCERNING
3 MICROGENESIS AFTER HE GOT BACK INTO CONTACT WITH ME AGAIN
4 IN LATE APRIL OR EARLY MAY ABOUT THE TIME OF THE LETTERS
5 THAT WERE FOUND IN RON LEVIN'S HOME IN A FILE, WHICH THE
6 PROSECUTION MADE SUCH GREAT PLAY OF WERE BEING GENERATED.
7 THIS DESCRIBES THIS INTERCHANGE OF DOCUMENTS BETWEEN LEVIN
8 AND I, WHICH I'M TELLING MR. BARENS BY THAT NOTE --

9 Q YOUR TELLING MR. BARENS THAT -- THAT THIS
10 INTERCHANGE BETWEEN YOU AND RON LEVIN WAS OCCURRING IN THE
11 SPRING OVER HIS AT LEAST OSTENSIBLE INTEREST IN
12 MICROGENESIS?

13 A RIGHT. EXACTLY, AND CONSENSUAL.

14 Q THAT LED TO HIS GIVING THE CHECK ON -- IN
15 EARLY JUNE?

5
16 A RIGHT. THE CHECK CAME AS A RESULT OF ALL THE
17 PRECEDING DISCUSSIONS AND EXCHANGES OF DOCUMENTS BETWEEN
18 HIM AND I.

19 Q ALL RIGHT.

20 NOW, GOING BACK SPECIFICALLY TO PROGRESSIVE,
21 DID YOU ASK MR. BARENS AT ANY TIME BEFORE THE TRIAL OR
22 DURING THE TRIAL TO SPEAK TO JEFFREY MELCZER?

23 A YES.

24 Q AND DO YOU KNOW APPROXIMATELY WHEN THAT WAS?

25 A NO, I DON'T HAVE A SPECIFIC RECOLLECTION OF
26 WHEN I TOLD ARTHUR TO GO AND TALK TO JEFFREY.

27 Q JEFFREY MELCZER WAS THE ATTORNEY WHO
28 TESTIFIED IN HERE A WEEK OR TWO AGO?

5
1 A YES. I WAS OUT ON BAIL AT THE TIME WE WERE
2 DISCUSSING JEFF.

3 Q BEFORE THE END OF THE TRIAL?

4 A RIGHT. I WAS INVOLVED IN A CIVIL DEPOSITION
5 WITH JEFFREY THAT CONSTANTLY REMINDED ME OF THE FACT THAT
6 HE TOO KNEW RON LEVIN.

7 Q YOU SAID THIS IS THE SAME JEFF MELCZER WHO
8 CAME IN HERE AND TESTIFIED?

9 A RIGHT.

10 Q DID YOU TELL HIM WHY YOU WANTED HIM TO GET IN
11 CONTACT WITH MR. MELCZER?

12 A YES.

13 Q WHAT WAS THAT?

14 A MR. MELCZER HAD TOLD ME A NUMBER OF THINGS
15 ABOUT HIS DEALINGS WITH RON LEVIN AND HIS KNOWLEDGE OF RON
16 LEVIN'S AFFAIRS AND HIS CONVERSATIONS WITH MARTIN LEVIN,
17 ALL OF WHICH I THOUGHT WAS PROBATIVE. AND I WANTED
18 MR. BARENS TO GET IT DIRECTLY FROM MR. MELCZER.
19 MR. MELCZER WAS REPRESENTING ME IN A CIVIL PROCEEDING
20 DURING 1985.

21 Q WHAT DID MR. BARENS SAY IN RESPONSE TO THIS?

22 A THAT -- YOU KNOW, I DON'T RECALL. I DON'T
23 RECALL WHAT HE SAID IN RESPONSE TO MR. MELCZER AS FAR AS
24 VERBATIM WORDS, BUT I DO KNOW THAT HE -- HE WAS GOING TO
25 FOLLOW-UP ON THAT ALONG WITH ALL THESE OTHER THINGS.

26 Q WAS THAT BASED ON SOMETHING HE SAID OR
27 SOMETHING HE DID?

28 A WELL, I KNOW THAT -- THAT THAT WAS HIS

5

1 GENERAL ANSWER TO EVERYTHING. I GUESS THAT'S WHAT IT COME
2 DOWN TO. I DON'T RECALL SPECIFICALLY WITH JEFFREY. I
3 REMEMBER TELLING HIM ON MORE THAN ONE OCCASION ABOUT
4 JEFFREY. I DON'T RECALL HIM STATING THAT HE WAS GOING TO
5 FOLLOW-UP ON IT SPECIFICALLY.

6 Q A LITTLE BIT AGO YOU MENTIONED SOMETHING
7 ABOUT THE F.B.I. AND ITS INVOLVEMENT IN -- IN THE
8 INVESTIGATION OF RON LEVIN FOR DEFRAUDING PROGRESSIVE
9 SAVINGS. DID YOU TELL MR. BARENS THAT -- THAT THAT IS
10 SOMETHING HE SHOULD LOOK INTO?

11 A YES. I TOLD HIM TO SUBPOENA THE RECORDS FROM
12 THE F.B.I.. I TOLD HIM TO GET THE PROGRESSIVE RECORDS AND
13 I SUGGESTED A NUMBER OF DIFFERENT WAYS OF DOING THAT.

14 Q DID YOU HAVE THESE DISCUSSIONS OR THIS
15 DISCUSSION WITH HIM PRIOR TO THE TRIAL?

16 A YES, I DID.

17 Q AND ARE YOU IN POSSESSION OF ANY DOCUMENTS
18 THAT REFLECT YOUR DISCUSSION ON THIS SUBJECT WITH
19 MR. BARENS?

20 A YES. I MEAN, I'M IN POSSESSION OF ONE OF THE
21 JENSENS' REPORTS, AND I WAS THE ONE THAT STARTED THOSE
22 BALLS ROLLING AS FAR AS GETTING THE CONSERVATOR'S FILE
23 AND -- WHICH I EXPLAINED WOULD CONTAIN INFORMATION ABOUT
24 THE PROGRESSIVE LITIGATION AND THAT HE SHOULD SUBPOENA
25 RECORDS FROM PROGRESSIVE.

26 IT WAS ON MY INSISTENCE THAT THAT -- THAT
27 SUBPOENA DUCES TECUMS WERE PREPARED AND SERVED ON THOSE
28 AGENCIES, ALTHOUGH WE NEVER DID OBTAIN THE DOCUMENTS AS A

5
1 RESULT OF EITHER OF THOSE EFFORTS.

2 Q DO YOU HAVE ANY DOCUMENT WITH YOU THAT
3 RELATES TO ANY CONVERSATIONS WITH BARENS ON THIS SUBJECT?

4 A AS FAR AS SUBPOENAING F.B.I. RECORDS?

5
6 (A CONFERENCE WAS HELD BETWEEN COUNSEL
7 AND THE PETITIONER, NOT REPORTED.)

8
9 MR. CRAIN: LET ME JUST DOUBLE CHECK. I THINK WE
10 HAVE THIS MARKED ALREADY.

11 MR. KLEIN: I BELIEVE IT'S 272 AND 278.

12
13 (PAUSE.)

14
15 THE WITNESS: ISN'T 8155 277 OR 278?

16 MR. KLEIN: IT'S 272 OR 278. IT'S BEEN MARKED
17 TWICE, YOUR HONOR, THIS DOCUMENT.

18 THE COURT: SAME DOCUMENT?

19 MR. KLEIN: YES. I'M GOING TO GIVE HIM 272.

20
21 (A CONFERENCE WAS HELD BETWEEN COUNSEL
22 AND THE PETITIONER, NOT REPORTED.)

23
24 MR. CRAIN: I APOLOGIZE TO THE COURT, YOUR HONOR.
25 THIS IS --

26 BY MR. CRAIN:

27 Q INCIDENTALLY, DID -- ARE YOU LOOKING THROUGH
28 THAT RIGHT NOW?

5
1 A YES, IT'S IN ANOTHER DOCUMENT. IT'S NOT
2 THIS.

3 Q OKAY.

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

5 THE COURT: YEAH.

6
7 (A CONFERENCE WAS HELD BETWEEN COUNSEL
8 AND THE PETITIONER, NOT REPORTED.)

9
10 BY MR. CRAIN:

11 Q WHILE WERE SEARCHING FOR THE OTHER ONE, DO
12 YOU HAVE A DOCUMENT THAT HASN'T BEEN MARKED AS AN EXHIBIT
13 THERE IN FRONT OF YOU --

14 THE COURT: ARE YOU LOOKING FOR THE CHRONOLOGY?

15 MR. CRAIN: THIS IS A DIFFERENT CHRONOLOGY, OR IT'S
16 A DIFFERENT DOCUMENT.

17 THE WITNESS: LET ME -- WHAT WAS THE CHRONOLOGY
18 MARKED AS, THE BIG ONE?

19 MR. KLEIN: THE BIG ONE, 8003 IS MARKED AS --

20 THE COURT: 280.

21 THE WITNESS: LET ME HAVE THE BIG CHRONOLOGY.

22 MR. KLEIN: 148.

23 THE COURT: ALSO, GOT ANOTHER ONE MARKED 280.

24 THE WITNESS: YEAH. THE BIG ONE, 280.

25 MR. KLEIN: ALL RIGHT.

26 280.

27
28 (PAUSE.)

6

1 MR. KLEIN: IT'S 248.

2 THE COURT: 248?

3 MR. CRAIN: I HOPE SO.

4 BY MR. CRAIN:

5 Q THIS IT?

6 A NO.

7 Q ALL RIGHT.

8 A JUST ASK ME WHAT IS IN THERE, AND I'LL
9 DESCRIBE IT.

10 Q IN THE REPORT TO MR. BARENS, WHICH WE'RE
11 GOING TO FIND, DID YOU INDICATE TO HIM THAT HE SHOULD LOOK
12 INTO THE F.B.I.'S INVOLVEMENT OR INTEREST IN MR. LEVIN
13 RELATIVE TO PROGRESSIVE SAVINGS?

14 A THE -- THE REPORTS FROM DETECTIVE ZOELLER,
15 WHICH REFER TO THE F.B.I.'S INTEREST IN THE PROGRESSIVE
16 SAVINGS MATTER ARE REFLECTED IN THE B.B.C. CHRONOLOGY,
17 THAT I REPORT UNDER THE APPROPRIATE DATE OF THE REPORT.
18 THE REPORTS. THERE WAS TWO REPORTS, I THINK, THAT
19 INVOLVED DETECTIVE UNDERWOOD AND THE F.B.I. ISSUE. SO
20 THEY'RE REFERRED TO IN THAT DOCUMENT.

21 Q DID YOU HAVE KNOWLEDGE THAT -- BY WAY OF ANY
22 SUBPOENA DUCES TECUM THAT THE F.B.I. HAD SOME INTEREST IN
23 THE PROGRESSIVE SAVINGS INVESTIGATION?

24 MR. MC MULLEN: OBJECTION. VAGUE AS TO TIME.

25 THE COURT: I THINK HE ALREADY ASKED HIM.

26 YOU GOT A SUBPOENA FROM THE FEDERAL
27 GOVERNMENT REGARDING THIS?

28 THE WITNESS: YES.

6
1 THE COURT: YOU PERSONALLY OR B.B.C. DID.

2 THE WITNESS: YES.

3 THE COURT: OKAY.

4 HE MENTIONED THAT A LITTLE EARLIER.

5 MR. CRAIN: YES.

6 BY MR. CRAIN:

7 Q DID YOU -- WAS THERE SUCH A SUBPOENA DUCES
8 TECUM?

9 A YES.

10 Q AND APPROXIMATELY WHEN DID YOU BECOME AWARE
11 OF IT?

12 A I THINK I GOT IT IN APRIL OF 1984, IF MY
13 MEMORY SERVES ME CORRECTLY. PROGRESSIVE WAS SEPTEMBER,
14 OCTOBER OF 1983.

15 Q WAS THIS ONE OF THE REASONS THAT YOU TOLD
16 MR. BARENS THAT HE SHOULD SEE WHAT INTEREST THE F.B.I.
17 MIGHT HAVE IN MR. LEVIN?

18 A IN --

19 Q RELATIVE TO PROGRESSIVE?

20 A EXACTLY, BECAUSE WE GOT THE SUBPOENA IN
21 SEPTEMBER '84, AND IT TOUCHED OFF A FLURRY OF CONVERSATION
22 BETWEEN ME AND MR. LEVIN ABOUT THE FACT THAT THE F.B.I.
23 WAS INVESTIGATING AND OBVIOUSLY THEY WERE TRYING TO BUILD
24 A CASE.

25 Q AND YOU TOLD MR. LEVIN THAT YOU THOUGHT THERE
26 WAS SIGNIFICANT EVIDENCE -- I MEAN, MR. BARENS THIS ABOUT
27 MR. LEVIN BECAUSE YOU FELT IT WAS SIGNIFICANT EVIDENCE,
28 DID YOU, OR WHY THE F.B.I.'S INTEREST IN LEVIN WOULD BE

6
1 SIGNIFICANT AT THE TRIAL?

2 A YES, I DID. I TOLD HIM THAT THIS WOULD SHOW
3 THAT LEVIN WAS AWARE THAT HIS BAIL COULD BE REVOKED AND HE
4 COULD BE PUT IN CUSTODY FOR NEW CHARGES AND IT COULD GET
5 MUCH MORE COMPLICATED THAN IT ALREADY WAS.

6 Q DID YOU EVER HAVE ANY DISCUSSION WITH
7 MR. BARENS THAT HE SHOULD INVESTIGATE ANYTHING RELATING TO
8 THE CONSERVATOR OF MR. BARENS -- OF MR. LEVIN TO SEE IF
9 THERE WERE ANY DOCUMENTS THAT MIGHT BE RELEVANT TO THIS
10 ASPECT OF THE CASE?

11 A YES. I FELT THAT HE SHOULD -- AT A VERY
12 MINIMUM IN A CASE LIKE THIS GET THE CONSERVATOR'S FILE
13 BECAUSE I FELT THERE WOULD BE RECORDS -- LEVIN, I TOLD
14 BARENS, WAS A METICULOUS RECORD KEEPER. I KNOW THAT IN
15 THIS -- IN THESE RECORDS, IF WE COULD JUST DO SOME OF THE
16 LOGICAL STEPS, WE COULD PROBABLY SEE SOME OF LEVIN'S
17 RECORDS.

18 WHENEVER THE DEFENDANT SPEAKS THERE IS A BIG
19 PROBLEM OF CREDIBILITY, SO OTHER THAN MY TESTIMONY WE
20 COULD ESTABLISH THAT RON LEVIN WAS AWARE OF THE FACT THAT
21 THE F.B.I. WAS PROBING RON LEVIN.

22 Q DID YOU SUBSEQUENTLY OBTAIN DOCUMENTS OF THIS
23 F.B.I. INVESTIGATION OF MR. LEVIN AND SHOW TO IT THE JURY
24 IN SAN MATEO?

25 MR. MC MULLEN: OBJECTION. RELEVANCY.

26 THE COURT: SUSTAINED.

27 BY MR. CRAIN:

28 Q IN SUMMARY, WHAT WAS MR. BARENS' RESPONSE TO

6
1 YOUR REQUEST THAT HE FIND OUT INFORMATION CONCERNING RON
2 LEVIN BEING THE SUBJECT OF AN F.B.I. INVESTIGATION?

3 A I ALWAYS HAVE A PROBLEM WITH THIS QUESTION
4 BECAUSE AS I WAS GIVING THIS INFORMATION HE'D BE
5 LISTENING, HE'D BE LOOKING AT ME, ON SOME OCCASIONS HE'D
6 BE TAKING NOTES, AND I WOULD KEEP SENDING THE INFORMATION
7 HIS WAY. GENERALLY WE WOULD DISCUSS HOW THESE THINGS WERE
8 CONSISTENT WITH OUR THEORY. WE WERE BUILDING A LEVIN FLED
9 CASE.

10 MR. MC MULLEN: OBJECTION, YOUR HONOR --

11 THE COURT: I'LL LET THE ANSWER STAND.

12 BY MR. CRAIN:

13 Q LET ME ASK YOU ABOUT THE SUBJECT OF OLIVER
14 WENDELL HOMES.

15 MR. CRAIN: WHICH IS 2-F, YOUR HONOR, IN THE O.S.C.

16 BY MR. CRAIN:

17 Q PRIOR TO THE BEGINNING OF YOUR TRIAL,
18 MR. HUNT, DID YOU HAVE ANY DISCUSSIONS WITH ARTHUR BARENS
19 CONCERNING OLIVER WENDELL HOLMES, THE PERSON WHO TESTIFIED
20 IN HERE DURING THE LAST COUPLE OF WEEKS?

21 A YES.

22 Q AND WHAT DID YOU SAY TO MR. BARENS DURING
23 SUCH DISCUSSION?

24 A I URGED HIM TO FIND MR. HOLMES BASED UPON
25 THE -- I URGED HIM TO FIND MR. HOLMES.

26 Q AND DID YOU READ POLICE REPORTS THAT CAME IN
27 DURING DISCOVERY RELATIVE TO THE CASE?

28 A YES, I DID.

7
1 Q THAT PERTAIN TO MR. HOLMES?

2 A YES, I DID.

3 Q AND WERE THERE BEVERLY HILLS POLICE
4 DEPARTMENT REPORTS PREPARED BY DETECTIVE ZOELLER OR ONE OF
5 HIS COLLEAGUES THAT LISTED MR. HOLMES AS A -- AS PERSONAL
6 FRIEND OF RON LEVIN?

7 A YES. AND I BROUGHT THOSE REPORTS TO HIS
8 ATTENTION IN A VARIETY OF WAYS.

9 Q DO YOU HAVE ANY OF THOSE MATERIALS HERE
10 TODAY?

11 A YES, I DO.

12 Q WHILE YOU ARE LOOKING OVER THOSE --

13
14 (WITNESS REVIEWING DOCUMENTS.)

15
16 Q DO YOU HAVE ANY SUCH DOCUMENTS BEFORE YOU
17 THAT RELATE TO THIS TOPIC BEING DISCUSSED WITH MR. BARENS?

18 A THAT COMMUNICATED THIS INFORMATION TO
19 MR. BARENS, YES.

20 THE COURT: I'M SORRY, YOU SAID --

21 THE WITNESS: THAT COMMUNICATED THAT INFORMATION
22 RATHER THAN DISCUSSED.

23 MR. CRAIN: LET ME GO BACK.

24 I HAVE 216 THAT WAS MARKED FOR IDENTIFICATION
25 THE OTHER DAY, YOUR HONOR.

26 BY MR. CRAIN:

27 Q SHOWING YOU THIS DOCUMENT, MR. HUNT, IS THAT
28 SOMETHING YOU HAVE SEEN BEFORE?

7
1 A YES, IT IS.

2 Q IS THAT ONE OF THOSE BEVERLY HILLS POLICE
3 REPORTS THAT YOU WERE JUST REFERRING TO?

4 A YES, IT IS.

5 Q AND DOES THAT DESCRIBE OLIVER WENDELL HOLMES,
6 THE PERSON WE HAVE BEEN TALKING ABOUT?

7 A DESCRIBES AN INTERVIEW BY DETECTIVE ZOELLER
8 OF OLIVER WENDELL HOLMES IN WHICH HOLMES STATED FACTS THAT
9 HE ALSO RELATED TO THE COURT IN HIS TESTIMONY RECENTLY.

10 Q CONCERNING THE PLANNED DEPARTURE OF
11 MR. LEVIN?

12 A YES, CONCERNING THE FACT THAT MR. LEVIN
13 PLANNED TO DEPART ON JUNE 6TH PERHAPS IN THE EVENING
14 RATHER THAN THE NEXT MORNING, THINGS LIKE THAT.

15 Q NOW, YOU WERE TELLING US JUST BEFORE YOU
16 LOOKED AT THAT REPORT THAT YOU HAD DOCUMENTS REFLECTING
17 YOUR COMMUNICATIONS WITH MR. BARENS ABOUT OBTAINING OR
18 SEEKING OUT MR. HOLMES AS A POSSIBLE DEFENSE WITNESS.

19 A WELL, IN THE SENSE THAT THESE REPORTS TO THE
20 BEVERLY HILLS POLICE DEPARTMENT ARE SUMMARIZED AND
21 REFERRED TO IN MY B.B.C. CHRONOLOGY UNDER DATES SUCH AS
22 OCTOBER 4, '84, AND AUGUST 16, '84, AND AUGUST -- EXCUSE
23 ME, AUGUST 22, '84, WHICH IS THE DATE ON THAT SUPPLEMENTAL
24 POLICE REPORT YOU JUST SHOWED ME. AND --

25 Q WELL --

26 THE COURT: HOLD ON ONE SECOND, MR. CRAIN.

27

28

(PAUSE.)

7
1 THE COURT: I'M SORRY, GO AHEAD, MR. CRAIN.

2 THE WITNESS: EXHIBIT 235.

3 THE COURT: THE JENSENS CHRONOLOGY?

4 MR. KLEIN: YES, YOUR HONOR.

5 BY MR. CRAIN:

6 Q OKAY.

7 I NOW HAVE EXHIBIT 235, AND I'M SHOWING IT TO
8 YOU.

9 MR. HUNT, DURING MEETINGS THAT YOU ATTENDED
10 WITH INDIVIDUALS WHO AT SOME POINT DURING THE CASE WORKED
11 AS THE INVESTIGATORS WERE THERE DISCUSSIONS ABOUT
12 ATTEMPTING TO LOCATE AND INTERVIEW OLIVER WENDELL HOLMES?

13 A YES.

14 Q AND ARE THOSE MEETINGS REFLECTED IN THAT
15 DOCUMENT?

16 A THERE ARE A NUMBER OF MENTIONS OF OLIVER
17 WENDELL HOLMES AND THE NEED TO FIND HIM AND ASKING THE
18 JENSENS TO ATTEMPT TO FIND HIM.

19 Q DID MR. HOLMES' NAME CAME UP IN THE TRIAL?

20 A YES. IT WAS MENTIONED BY DETECTIVE ZOELLER
21 AND IT WAS ALSO MENTIONED IN THE EXHIBITS BY THE PEOPLE --

22 Q WAS ONE OF THEM IN LEVIN'S PHONE LOG?

23 THE WITNESS: OLIVER WENDELL HOLMES APPEARS SEVEN
24 OR EIGHT TIMES IN THAT TIME.

25 MR. CRAIN: HOW ABOUT IN EXHIBIT --

26 MR. MC MULLEN: OBJECTION --

27 THE COURT: SUSTAINED.

28 YOU WERE TALKING ABOUT EXHIBITS AT TRIAL?

7
1 MR. CRAIN: YES, YOUR HONOR.

2 THE COURT: I'LL SUSTAIN THE OBJECTION.

3 BY MR. CRAIN:

4 Q DID YOU CONVEY TO MR. BARENS WHY YOU THOUGHT
5 IT WAS -- WHY YOU THOUGHT IT WAS IMPORTANT TO FIND OLIVER
6 WENDELL HOLMES AND INTERVIEW HIM?

7 A YES, IT WAS BASED OFF OF THESE POLICE REPORTS
8 THAT I HAD READ. IT SEEMED LIKE A PRETTY LOGICAL WITNESS
9 TO ME. IT WAS TOTALLY CONSISTENT WITH OUR DEFENSE THEMES,
10 AND TOOK US FURTHER IN A FEW DIFFERENT DIRECTIONS THAN WE
11 WERE ABLE TO GET BY ANY OTHER MEANS.

12 THE COURT: DID YOU HAVE ANY KNOWLEDGE ABOUT HOLMES
13 SEPARATE AND APART FROM THESE POLICE REPORTS? IN OTHER
14 WORDS, PRIOR TO READING THE POLICE REPORTS, DID YOU KNOW
15 ANYTHING ABOUT MR. HOLMES?

16 THE WITNESS: I RECALL LEVIN TELLING ME THAT HE HAD
17 SOMEBODY ORGANIZING DISCOVERY OF MATERIALS CONCERNING HIS
18 FELONY CASE INVOLVING 12 COUNTS OF GRAND THEFT.

19 THE COURT: HAVE YOU EVER HEARD OF THE NAME HOLMES
20 PRIOR TO SEEING THE POLICE REPORTS?

21 THE WITNESS: NOT PRIOR TO SEEING IT IN THE POLICE
22 REPORTS AND TALKING TO MR. AND MRS. JENSEN ABOUT IT AND
23 MR. BARENS.

24 THE COURT: ALL RIGHT.

25 BY MR. CRAIN:

26 Q I WANTED TO ASK A COUPLE OF QUESTIONS ON TWO
27 AREAS WE TOUCHED ON EARLIER.

28 WITH REGARD TO MR. BARENS CLAIMING THAT THERE

7
1 WERE TWO VERSIONS OF THE SEVEN-PAGE LIST AND ONE OF THEM
2 HAPPENED TO BE A SCRIPT, NOW YOU TOLD US THAT THIS IS
3 SOMETHING THAT ORIGINATED WITH ARTHUR BARENS EARLIER, IS
4 THAT RIGHT?

5 A YES.

6 Q AND WERE THERE FURTHER DISCUSSIONS WITH
7 MR. BARENS CONCERNING HIS VIEW THAT THE SEVEN-PAGE LIST
8 COULD BE USED IN A WAY THAT WAS DIFFERENT THAN WHAT YOU
9 TOLD HIM, THAT IS AS A PROP TO SCARE LEVIN TO PAY MONEY
10 THAT WAS OWED, AND IN FACT YOU USED IT AS SORT OF A MOVIE
11 SCRIPT?

12 A YES, THEIR CERTAINLY WERE DISCUSSIONS OF THAT
13 NATURE.

14 Q AND WERE THOSE DISCUSSIONS THAT INVOLVED JUST
15 YOU AND MR. BARENS?

16 A THE ONE THAT I AM RECALLING SPECIFICALLY
17 INVOLVED JUST MR. BARENS AND MYSELF, YES.

18 Q AND APPROXIMATELY WHEN DID THAT DISCUSSION
19 TAKE PLACE?

20 A IT WAS WHEN I WAS OUT ON BAIL. I HAD COME
21 BACK TO HIS OFFICE. IN THE BACK -- I'M SPEAKING ABOUT
22 MR. BARENS' PERSONAL OFFICE WITHIN HIS LAW BUILDING ON
23 SANTA MONICA IN AND AROUND BEVERLY HILLS.

24 MR. BARENS TOLD ME THAT MY STORY, WHICH IS
25 WHAT I TESTIFIED TO IN SAN MATEO, AND WE HAVE BEEN CALLING
26 IT THE MAFIA STORY, JUST WASN'T GOING TO FLY BECAUSE IT
27 CONTRADICTED THE TESTIMONY OF ABOUT FIVE DIFFERENT B.B.C.
28 WITNESSES WHO WERE CERTAINLY NOT GOING TO ADMIT TO THEIR

8
1 INVOLVEMENT IN HELPING ME DRAW UP THIS TO-DO LIST.

2 Q IN WHAT WAY DID HE SAY IT CONTRADICTED WHAT
3 YOU WERE TELLING HIM ABOUT THE ORIGIN OF THE LIST?

4 A HE WAS NOT TELLING ME THAT WHAT I WAS SAYING
5 WAS CONTRADICTING HIM ABOUT THE ORIGIN OF THE LIST.

6 Q WHAT I MEAN IS ABOUT THESE OTHER PEOPLE. IN
7 WHAT WAY DID THAT AFFECT HIS PERCEPTION OF WHAT YOU HAD
8 TOLD HIM ABOUT THE LIST?

9 A ALL RIGHT.

10 THE CONVERSATION HE AND I WERE HAVING AT THE
11 TIME WAS THAT IF I TOOK THE STAND AND TESTIFIED THAT THIS
12 TO-DO LIST, AS I TOLD HIM I INTENDED TO, THAT THIS TO-DO
13 LIST WAS SOMETHING, AND I'M TALKING ABOUT THE MAIN LIST ON
14 TOP OF THE SEVEN, WAS WRITTEN UP IN A FREE-FOR-ALL
15 DISCUSSION AT THE B.B.C. OFFICES IN THE CONFERENCE ROOM
16 FOR THE MOST PART INVOLVING TOM MAY, DEAN KARNY, EVAN
17 DICKER, STEVE TAGLLANETTI AND MYSELF, MAYBE ONE OR TWO
18 OTHER PEOPLE, AND THEY WERE ALL GOING TO DENY THAT, AND I
19 WOULD -- YOU KNOW, HE SAID IT WAS PREDICTABLE WHO WOULD
20 LOSE THAT PARTICULAR CREDIBILITY TUG OF WAR.

21 HE ENCOURAGED ME TO COME UP WITH SOME OTHER
22 IDEA ABOUT THIS LIST, AND HE HAD A SUGGESTION OF HIS OWN.
23 AND THIS WAS THE SCRIPT. I BELIEVE HE HAD MENTIONED THE
24 SCRIPT IDEA EARLIER. I DON'T REMEMBER EXACTLY WHEN. IT
25 WAS NOT THE FIRST TIME I HEARD IT OF IT FROM HIM.

26 HE WAS PRETTY HOT ON THIS, AND HE SAID ONE
27 VIRTUE OF THIS PARTICULAR EXPLANATION WAS THAT NOBODY
28 OTHER THAN DEAN KARNY AND THE JENSENS WOULD BE AVAILABLE

8
1 TO IMPEACH ME ON IT, AND I HAD A FEW THINGS TO SAY IN
2 RESPONSE TO WHAT HE SAID.

3 Q WHAT DID YOU SAY IN RESPONSE?

4 A I SAID THAT -- AND WE GOT INTO A LOT OF
5 DETAIL ABOUT THE LIST. I SAID THAT THE ONLY EXPLANATION
6 FOR SUCH A COMPLICATED PIECE OF EVIDENCE IS THE TRUTH.
7 BECAUSE THERE ARE SO MANY DIFFERENT FACTS ASSOCIATED WITH
8 THAT SEVEN-PAGE LIST THAT THE ONLY WAY THAT IT FITS INTO
9 ALL THE SURROUNDING EVIDENCE IS IN THE WAY THAT IT DID
10 ORIGINATE AND THAT IT WAS INCONCEIVABLE TO ME THAT I COULD
11 SURVIVE CROSS-EXAMINATION WITH ANYTHING THAT HE WAS
12 PROPOSING.

13 YOU KNOW, I MUST SAY HONESTLY I WAS NOT
14 TAKING A MORAL VIEW LIKE, "HOW DARE YOU SUGGEST TO ME THAT
15 I PERJURE MYSELF." WE WERE TALKING PRAGMATICALLY AT THAT
16 TIME.

17 HOWEVER, I TOLD HIM THAT I HAD NO INTENTION
18 OF TESTIFYING TO ANYTHING OTHER THAN HAPPENED. I DO
19 RECALL TELLING HIM THAT THERE WERE ASPECTS OF THE LIST
20 THAT WOULD CORROBORATE MY STORY, THAT OTHER PEOPLE
21 PARTICIPATED IN DRAWING IT UP INCLUDING REFERENCES TO
22 STEVE, WHO IS STEVE TAGLLANETTI. THERE WAS ONLY ONE STEVE
23 IN THE B.B.C. AND JEFF WHICH APPEAR IN THE SEVEN PAGES,
24 AND THESE PEOPLE WOULD HAVE A DIFFICULT TIME EXPLAINING
25 WHY THEIR NAMES WOULD APPEAR IN SOMETHING IN WHICH THEY
26 SUPPOSEDLY HAD NO INVOLVEMENT. AND THERE WERE OTHER
27 REASONS WHY THE TRUTH WAS WHAT WE HAD TO GO WITH.

28 Q AND DID YOU TELL MR. LEVIN -- REGARDING THE

8
1 LIST THAT WAS FOUND AT MR. LEVIN'S, DID YOU TELL
2 MR. BARENS THAT -- HOW IT CAME TO BE LEFT THERE?

3 A YES, I DID.

4 Q DID YOU TELL HIM WHEN?

5 A YES, I DID.

6 Q WHEN DID YOU SAY IT WAS LEFT THERE?

7 A I TOLD HIM THAT THE LIST WAS LEFT ON JUNE 5,
8 1984.

9 Q DID YOU TELL HIM WHY IT WAS LEFT THERE?

10 A YES.

11 Q AND WHAT WAS THAT.

12 A THE CATCH PHRASE I USED IN MY PAPERWORK TO
13 HIM, WHICH INCLUDES THAT MASTER CONTROL FILE, WAS THAT
14 THIS DOCUMENT WAS A PROP IN A PLAN TO INTIMIDATE RON
15 LEVIN.

16 I COINED THAT PHRASE FROM MR. BARENS' USE
17 BECAUSE I FELT THAT IT WAS THE FEWEST POSSIBLE WORDS TO
18 SYNOPSISIZE A VERY DIFFICULT CONCEPT.

19 WHAT ACTUALLY HAPPENED IS BROADER THAN THAT
20 CATCH PHRASE, BUT BASICALLY IT WAS THE USE OF PAPER AND
21 WORDS TO TRY AND MANIPULATE LEVIN, ALTER HIS CONDUCT, AND
22 IT WAS AN ATTEMPTED TURNABOUT IN THE SAME WAY THAT HE HAD
23 USED FAKE STATEMENTS FROM CLAYTON BROKERIDGE HOUSE ON ME
24 TO MANIPULATE ME EARLIER.

25 Q IN A SENTENCE OR TWO IN WHAT WAY DID YOU TELL
26 BARENS THAT IT WAS USED TO INTIMIDATE LEVIN?

27 A I WENT THERE TO LEVIN'S OFFICE ON JUNE 5,
28 1984 AND TOLD HIM --

9
1 Q THIS IS WHAT YOU TOLD BARENS?

2 A YES, THAT -- I'M REPEATING TO LEVIN WHAT I
3 TOLD -- EXCUSE ME, BARENS WHAT I TOLD LEVIN IN REAL LIFE
4 JUNE 5TH IN HIS OFFICE.

5 I SAID THAT HE'S IN A WORLD OF TROUBLE. THAT
6 HE MAY BE RIGHT ABOUT THE B.B.C. AND THE GUYS IN IT
7 INCLUDING MYSELF, BUT HE DOESN'T UNDERSTAND THE B.B.C. HAD
8 VERY HEAVY BACKERS, THE MOB OUT OF CHICAGO, AND THAT THEY
9 HAD BEEN TOLD THAT MR. LEVIN -- KEPT ABREAST OF
10 MR. LEVIN'S SCAMS AS THEY DEVELOPED.

11 AND THIS LAST BUSINESS ABOUT HIM ENTANGLING
12 MICROGENESIS IN ONE OF HIS SCAMS, WHICH HE WAS READY TO DO
13 ON JUNE 4TH, WAS THE STRAW THAT BROKE THE CAMEL'S BACK,
14 AND THESE PEOPLE FLEW INTO A PANIC, AND THERE'S BEEN A
15 MEETING. AND IF HE DOES NOT MAKE ANY, SOME SORT OF
16 RESOLUTION SOON THAT THEY WOULD COME DOWN ON HIM LIKE A
17 TON OF BRICKS.

18 I EXPLAINED TO MR. BARENS THAT I ALSO TOLD
19 LEVIN THAT IN THE COURSE OF THIS CONVERSATION THAT THE
20 ONLY -- THAT I WAS -- I COULDN'T EXTRACATE MYSELF FROM MY
21 INVOLVEMENT WITH THESE HEAVY BACKERS FROM CHICAGO AND
22 MR. LEVIN KNEW THAT I'D BEEN IN CHICAGO, AND THE ONLY
23 PERSON WHO COULD SOLVE MY PROBLEM WAS HIM, RON LEVIN, AND
24 THEN I --

25 Q OKAY.

26 DID YOU EVER -- YOU HEARD MR. BARENS TESTIFY
27 THAT HE -- IN WHICH HE SAID THAT HE ANSWERED QUESTION 15
28 TRUTHFULLY WHEN HE ANSWERED HIS INTERROGATORIES WHEN HE

9

1 SAID THAT YOU NEVER TOLD HIM THAT YOU KILLED RON LEVIN.
2 YOU HEARD THAT TESTIMONY; CORRECT?

3 A YES.

4 Q AND YOU ALSO HEARD HIS TESTIMONY WHERE HE
5 CLAIMED THAT DURING SOME EARLY MEETING WITH YOU YOU
6 SOMEHOW HAD TOLD HIM SOMETHING ABOUT DIRECTING PITTMAN
7 AND -- IN THE DEATH OF LEVIN?

8 A YES, I HEARD HIM SAY THAT.

9 Q DID YOU EVER SAY ANYTHING LIKE THAT IN ANY
10 WAY, SHAPE OR FORM TO ARTHUR BARENS?

11 A NO.

12 Q HAVE YOU ALWAYS MAINTAINED TO MR. BARENS THAT
13 YOU -- THAT YOU DID NOT KILL EITHER DIRECTLY OR INDIRECTLY
14 RON LEVIN?

15 A YES. NEITHER I BY MY WORD TO ANOTHER
16 INDIVIDUAL OR PERSONALLY DID I KILL RON LEVIN.

17 Q DID YOU TELL HIM THAT AS FAR AS YOU WERE
18 CONCERNED -- DID YOU TELL HIM ANYTHING AT ALL ABOUT ANY
19 BELIEF YOU HAD AS TO WHETHER LEVIN WAS -- WHERE LEVIN WAS
20 OR WHAT HE HAD DONE?

21 MR. MC MULLEN: OBJECTION. RELEVANCE.

22 THE COURT: OVERRULED.

23 THE WITNESS: I TOLD HIM THAT I COULDN'T AS A
24 MATTER OF PERSONAL KNOWLEDGE SAY WHERE LEVIN WAS. HE
25 CERTAINLY HAD A LOT OF ENEMIES. SOMEBODY COULD HAVE
26 KNOCKED HIM OFF, BUT I SAID MY BELIEF AFTER HE DISAPPEARED
27 WAS THAT RON LEVIN HAD FLED PROSECUTION.

28 I SAW A NUMBER OF SIGNS OF THAT AND I WAS

9
1 PECULIARLY -- I WAS IN A -- I HAD A PECULIAR VANTAGE POINT
2 IN LEVIN'S LIFE AT THAT POINT. I WAS CLOSE IN A NUMBER OF
3 WAYS AT THAT TIME, AND I SAW A NUMBER OF THINGS CLOSE UP
4 WHICH SUGGESTED TO ME HE MIGHT SPLIT.

5 Q LET ME FINISH THIS UP WITH ONE OTHER TOPIC.
6 AFTER YOUR CONVICTION AND AFTER THE PENALTY
7 TRIAL AT SOME POINT THEREAFTER DANIEL DOBRIN WAS APPOINTED
8 BY THE COURT TO BECOME YOUR APPELLATE ATTORNEY; IS THAT
9 RIGHT?

10 A YES.

11 Q AND YOU READ MR. DOBRIN'S PLEADINGS AND
12 VARIOUS DOCUMENTS, BRIEFS AND SO FORTH?

13 A YES.

14 Q OKAY.

15 SO YOU -- DID YOU BECOME AWARE THAT --
16 COMPETENCE OF TRIAL COUNSEL WAS AN ISSUE THAT MR. DOBRIN
17 WAS RAISING?

18 A YEP.

19 Q AT SOME POINT AFTER THE TRIAL DID YOU EVER
20 HAVE ANY DISCUSSIONS WITH MR. BARENS CONCERNING HIS
21 PERFORMANCE AT THE TRIAL?

22 A YES.

23 MR. MC MULLEN: OBJECTION. RELEVANCE.

24 THE COURT: OVERRULED.

25 MR. CRAIN: THANK YOU.

26 THE COURT: IS THIS GOING TO BIAS OR MOTIVE?

27 MR. CRAIN: YES, YOUR HONOR.

28 MR. KLEIN: EXACTLY.

10

1 BY MR. CRAIN:

2 Q DO YOU REMEMBER -- WELL, HOW MANY SUCH
3 DISCUSSIONS WERE THERE?

4 A WELL, WE HAD ONE BIG BLOW-OUT TYPE
5 CONVERSATION.

6 Q LET ME ASK YOU ABOUT THIS JUST VERY BRIEFLY
7 HERE. ABOUT WHEN WAS THAT?

8 A IT WAS WHILE I WAS UP IN SAN MATEO. I HAD --
9 AN OFFICE, AS I THINK THE COURT HAS LEARNED IN CONNECTION
10 WITH SOME OTHER MATTERS, THAT HAD BEEN GIVEN TO ME. IT
11 WAS REALLY A CONVERTED PAINT CLOSET DIGNIFIED BY CALLING
12 IT AN OFFICE --

13 MR. MC MULLEN: OBJECTION. THIS IS NONRESPONSIVE.

14 BY MR. CRAIN:

15 Q LET ME ASK YOU THIS, IN VIEW OF THE LATE
16 HOUR, MR. HUNT --

17 A RIGHT.

18 Q -- ABOUT WHAT YEAR WAS THAT?

19 A IT WAS 1992. CLOSE TO THE END OF MY TRIAL.
20 ACTUALLY -- YEAH, IT WAS -- 1991 OR 1992.

21 Q AND WAS THERE A TELEPHONE CONVERSATION?

22 A YES.

23 Q AND IT WAS YOU AND MR. BARENS IN THIS
24 CONVERSATION?

25 A YES.

26 Q AND WERE THINGS SAID THAT APPEARED TO -- NOT
27 TO SIT WELL WITH MR. BARENS?

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

10
1 THE COURT: REFRAME IT.

2 WHY DON'T YOU JUST SAY WHAT DID HE SAY, AND
3 WHAT DID HE SAY?

4 MR. CRAIN: THANK YOU, YOUR HONOR.

5 BY MR. CRAIN:

6 Q WHAT DID YOU SAY TO MR. BARENS IN SUMMARY
7 FORM?

8 A "I HAD GOTTEN AHOLD OF AND SEEN YOUR
9 INTERVIEW WITH DANIEL DOBRIN WHERE YOU SAID I GAVE
10 MULTIPLE EXPLANATIONS OF THE SEVEN PAGES, AND I ALSO SEE
11 WHERE YOU GAVE DAN DOBRIN AN EXPLANATION FOR WHY I DIDN'T
12 TAKE THE STAND, WHICH WAS NOT ACCURATE IN A NUMBER OF
13 RESPECTS," AND I EXPRESSED THAT I WAS OUTRAGED THAT HE
14 WOULD DO THAT SINCE MY LIFE IS ON THE LINE AND THAT
15 THAT -- SO THAT WAS -- WHERE THE CONVERSATION STARTED.

16 Q AND WERE FURTHER THINGS SAID TO MR. BARENS
17 CONCERNING HIS PREPARATION OF YOUR DEFENSE?

18 A YEAH. I SAID, YOU KNOW, "LOOK, ART, I HAVE
19 BEEN PULLING PUNCHES ON YOU WITH THIS -- THIS APPEAL
20 ATTORNEY FOR A LONG TIME. YOU KNOW, AFTER AN AGREEMENT
21 WITH YOU AT END OF TRIAL, YOU KNOW, I SAID THAT -- AS FAR
22 AS I WAS CONCERNED THE PERSON THAT DID ME THE WORST IN
23 THAT TRIAL WAS THE JUDGE, AND THAT NOW --", YOU KNOW, I
24 WASN'T GOING TO GET INTO A LOT OF THINGS THAT I HAD
25 LEARNED ABOUT MR. BARENS.

26 I WAS NOT GOING TO TRY AND, YOU KNOW -- SEE
27 THAT HE WOULD GET DISBARRED OR BESMIRCH HIS REPUATAION OR
28 ANY OF THOSE SORT OF THINGS.

10 1 YOU KNOW, IT WAS A DEAL KIND OF THAT BARENS
2 AND I CUT TOWARDS THE END OF THE TRIAL ABOUT HOW WE WOULD
3 DEAL WITH EACH OTHER, AND -- I WAS -- YOU KNOW, HE HAD LET
4 ME TO HIS LIFE ON A FEW LEVELS AND I HAD SEEN SOME THINGS,
5 AND I TOLD HIM IN THIS CONVERSATION THAT I HAD
6 SPECIFICALLY NOT TOLD MY APPELLATE ATTORNEY ABOUT SOME OF
7 THE SHENANIGANS AS A RESULT OF OUR UNDERSTANDING, BUT
8 THAT, YOU KNOW, ALL BETS WERE OFF IN LIGHT OF THIS TYPE OF
9 STATEMENT AND --

10 Q DID YOU FEEL THAT THE STATEMENTS THAT HE MADE
11 THAT YOU JUST DESCRIBED IN HIS DECLARATION TO
12 MR. DOBRIN THEN WERE UNTRUE?

13 A YES, HE MADE A NUMBER OF STRAIGHT OUT LIES.

14 Q AND DID YOU TELL MR. BARENS DURING THIS
15 CONVERSATION WHAT THESE PERSONAL THINGS WERE -- DID YOU
16 PREFER TO THEM DIRECTLY?

17 A I WANTED HIM TO COMPLETELY UNDERSTAND, YOU
18 KNOW, WHAT I WAS REFERRING TO, AND I TICKED THEM OFF FOR
19 HIM. I LISTED THEM.

20 Q WERE THESE MATTERS THAT YOU BELIEVED RELATED
21 TO THE WAY HE PRESENTED AND PREPARED YOUR DEFENSE?

22 A THE WAY HE HANDLED THE PROFESSIONAL
23 RESPONSIBILITIES OF MY CASE, YES.

24 Q AND IN WHAT WAY DID IT AFFECT THAT?

25 A I TOLD HIM SPECIFICALLY ABOUT, YOU KNOW,
26 THE -- THE INSIDE STORY ABOUT THE SECRET DEAL HE CUT WITH
27 THE JUDGE, CERTAIN ASPECTS OF THAT THAT HAD BECAME CLEAR
28 TO ME OVER TIME.

10 1 THAT SECONDLY, THAT -- THAT -- THE TITUS
2 AFFAIR INVOLVING SUBORNING OF PERJURY AND SOME OF THE
3 ADMISSIONS THAT HE HAD MADE TO ME IN THAT REGARD. AND
4 OTHER INFORMATION THAT I -- YOU KNOW, THAT I WAS AWARE OF
5 IN RELATIONSHIP TO THAT EFFORT OF HIS THAT I HADN'T
6 DWELLED ON WITH MY APPELLATE ATTORNEY AND A NUMBER OF
7 OTHER THINGS.

8 Q SUCH AS WHAT?

9 A SUCH AS THE FACT --

10 MR. MC MULLEN: OBJECTION. RELEVANCY.

11 MR. CRAIN: IT GOES TO BIAS AND MOTIVE ON
12 MR. BARENS' PART, YOUR HONOR.

13 THE COURT: YOU ARE SAYING THAT YOU TOLD MR. BARENS
14 THESE THINGS?

15 THE WITNESS: RIGHT.

16 THE COURT: I'LL ALLOW IT.

17 BY MR. CRAIN:

18 Q WHAT ELSE DID YOU TELL MR. BARENS THAT YOU
19 WERE GOING --

20 A WELL, MR. BARENS CUT SHORT A NUMBER OF OUR
21 MEETINGS BECAUSE HE HAD AN ENGAGED HIMSELF WITH A
22 PROSTITUTE -- WITH PROSTITUTES, AS HE DESCRIBED IT TO ME,
23 AND ONE OF THEM WAS A GIRL NAMED VICKI. SHE DROVE A WHITE
24 CHRYSLER LA BARON.

25 Q DID YOU DISCUSS THIS IN THIS CONVERSATION
26 WITH MR. BARENS?

27 A YES. IT WAS THAT. AND ALSO THE FACT THAT HE
28 HAD A GIRLFRIEND. THESE WERE THE TYPES OF THINGS THAT

10

11

11 1 WERE CONSTANTLY INTERFERING WITH MY WORK WITH HIM. I WAS
2 SAYING TO HIM THAT I DIDN'T BRING UP THIS WITH MY
3 APPELLATE ATTORNEY, AND I NEVER REPEATED IT TO A SOUL.
4

5 (PAUSE.)
6

7 A BECAUSE -- IN ONE WAY IT HAD NOT HAD A HACK
8 OF LOT OF RELATIONSHIP BECAUSE THERE'S A LOT OF HOURS IN
9 THE DAY TO GET THINGS DONE, BUT IN ANOTHER SENSE THERE
10 WAS -- IT DID HAVE AN EFFECT BECAUSE OF THE TENOR OF MY --

11 THE COURT: LET'S JUMP TO THE CHASE SCENE. WE'RE
12 TALKING ABOUT WHAT YOU SAID AND WHAT HE SAID AND NOT YOUR
13 SPECULATION.

14 BY MR. CRAIN:

15 Q WERE THERE OTHER TOPICS YOU DISCUSSED WITH
16 MR. BARENS --

17 A I TALKED ABOUT HOW VULNERABLE HIS OWN
18 PERSONAL BACKGROUND WAS.

19 Q I'M NOT HERE TO PUT THE MAN'S LIFE BEFORE THE
20 WORLD. I DON'T KNOW HOW SIGNIFICANT -- WELL, WERE
21 THESE --

22 THE COURT: SUFFICE IT TO SAY THAT YOU MADE SOME
23 PERSONAL ACCUSATIONS AGAINST MR. BARENS AND TOLD HIM THAT
24 YOU WERE AWARE OF NOT -- THAT YOU WERE AWARE OF CERTAIN
25 PERSONAL FACTS THAT WOULD NOT BE BECOMING IF BROUGHT TO
26 LIGHT?

27 THE DEFENDANT: THAT WERE SCANDALOUS.

28 THE COURT: ALL RIGHT.

11

1 BY MR. CRAIN:

2 Q WHAT DID MR. BARENS SAY TO THIS?

3 A HE SAID THAT -- HE SAID, "WELL, ARE YOU
4 THREATENING ME"?

5 I SAID, "NO, I AM JUST SAYING, MR. BARENS,
6 WHY ARE YOU DISTORTING FACTS WHEN I HAVE IN A SENSE BY
7 OMISSION SPARED YOU SO MUCH GRIEF IN RELATIONSHIP TO
8 THESE -- TO THIS CASE AND TO THIS APPELLATE PROCEEDING."

9 AND -- YOU KNOW, EVENTUALLY THE CONVERSATION
10 GOT DOWN TO AN EVEN TONE.

11 WE DIDN'T PART, YOU KNOW, IN THAT PARTICULAR
12 CONVERSATION IN AN ACRIMONIOUS WAY. YOU KNOW, HE SEEMED
13 TO -- HE APOLOGIZED. HE SAID, YOU KNOW, A NUMBER OF
14 THINGS IN THAT RESPECT AND, YOU KNOW, I SAID, "WELL,
15 CORRECT THE RECORD, TALK TO MR. DOBRIN."

16 Q DID YOU EVER TALK TO HIM AGAIN ABOUT THESE
17 SUBJECTS?

18 A YES.

19 Q AND HOW DID THAT CONVERSATION END? DID IT
20 END ON AN EVEN TONE OR ACRIMONIOUS NOTE?

21 A IT ENDED UP ABRUPTLY IN A TENSE TONE. THAT
22 WAS AFTER I HAD ARRIVED BACK IN HERE ON BAIL IN 1994.

23 THE COURT: YOU LOST ME. YOU ARRIVED HERE ON BAIL
24 IN 1994?

25 THE WITNESS: EXCUSE ME. AS A RESULT OF THESE
26 HABEAS PROCEEDINGS.

27 BY MR. CRAIN:

28 Q YOU HAD A CONVERSATION WITH MR. BARENS FROM

11

1 THE COUNTY JAIL ABOUT THE SAME SUBJECTS IN GENERAL WITHOUT
2 GOING THROUGH THEM AGAIN?

3 A WE REFERRED TO THE CONVERSATION IN SAN MATEO.

4 Q IN VIEW OF THE HOUR, THIS CONVERSATION ENDED,
5 IS IT FAIR TO STATE, ACRIMONIOUSLY OR IS THAT NOT A FAIR
6 OR CORRECT DESCRIPTION OF IT?

7 A IT ENDED ON A TENSE NOTE WHERE HE WAS ASKING
8 ME IF I WAS THREATENING HIM OR TRYING TO INTIMIDATE HIM
9 WITH THAT STUFF, YOU KNOW, AND IN THE CONTEXT HE WAS -- IT
10 WAS CLEAR HE WAS REFERRING TO SAN MATEO.

11 I SAID, "NO, I WAS JUST TRYING TO FOCUS NOT
12 ON HIS PERSONAL LIVE AND EVERYTHING ELSE THAT WAS GOING ON
13 AROUND HIM, THINGS THAT I -- YOU KNOW, LIKE THE TITUS
14 AFFAIR AND ALL THESE OTHER THINGS WHICH TO ME" -- BECAUSE
15 I DIDN'T KNOW ABOUT THE IVAN WERNER LETTER AT THAT TIME.
16 WE WERE JUST -- SO I DIDN'T KNOW IT COULD BE A CONFLICT OF
17 INTEREST CLAIM. I JUST KNEW THAT HE REALLY HAD TRIED TO
18 SUBORN PERJURY WITH TITUS --

19 Q WELL --

20 A SO I SAID --

21 MR. MC MULLEN: OBJECTION. IRRELEVANT.

22 MOVE TO STRIKE THE SUBORNATION OF PERJURY.
23 IT'S NOT PART OF THIS HEARING.

24 THE COURT: SUSTAINED AS TO WHAT HE KNEW. THAT
25 WILL GO OUT UNLESS IT WAS PART OF THE ACTUAL CONVERSATION.
26 BY MR. CRAIN:

27 Q DID YOU DISCUSS THAT WITH HIM?

28 A I SAID THAT -- I WASN'T INTERESTED IN GETTING

11 1 THESE THINGS -- I WANTED TO HAVE A MEETING WITH HIM
2 BECAUSE I WANTED THE FACTS TO COME OUT ABOUT HOW HE LAID
3 DOWN IN HIS RESPONSIBILITIES --

4 MR. MC MULLEN: OBJECTION. NON RESPONSIVE.

5 THE WITNESS: THIS IS WHAT I AM TELLING YOU.

6 THE COURT: HOLD ON.

7 SUSTAINED.

8 JUST SAY WHAT YOU SAID TO HIM AND WHAT HE
9 SAID TO YOU.

10 BY MR. CRAIN:

11 Q OKAY.

12 SO YOU TOLD HIM THIS --

13 A WELL --

14 THE COURT: WHAT IS "THIS," THAT IS THE PROBLEM.

15 MR. CRAIN: OH, WHAT I JUST SAID.

16 BY MR. CRAIN:

17 Q DID YOU SAY ANYTHING ELSE TO HIM ON THIS
18 SUBJECT?

19 THE COURT: THERE IS NO "THIS" THERE. WHAT WE HAVE
20 IS WHAT MR. HUNT WAS THINKING ABOUT, BUT NOT WHAT
21 MR. HUNT SAID.

22 BY MR. CRAIN:

23 Q WHAT DID YOU TELL MR. BARENS?

24 A I TOLD HIM THAT HE SHOULD KNOW -- THIS IS ME
25 TALKING TO HIM TO THE BEST OF MY ABILITY TO SUMMARIZE THE
26 CONVERSATION, THAT HE SHOULD KNOW THAT I HAVE NEVER SPOKEN
27 ILL OF HIM IN PUBLIC, THAT I HAVE NEVER GONE OUT OF MY WAY
28 TO BESMIRCH HIS REPUTATION, THAT I DIDN'T TALK ABOUT

12
1 HIS -- ANY OF HIS SCANDALOUS ACTIVITIES ON THE CASE OR
2 ANYTHING THAT WOULD MERELY MARK UP HIS CHARACTER, BUT THAT
3 THERE WAS NO WAY AROUND THE FACT THAT THE TRUTH ABOUT HOW
4 HE HAD HANDLED MY INVESTIGATION WAS GOING TO HAVE TO COME
5 OUT. I DID SEE THAT AS BULKING UP TO AN APPELLATE ISSUE.

6 I WAS TELLING HIM, YOU KNOW, THAT I WAS GOING
7 TO BE COMPLETELY FRANK AND STRAIGHT FORWARD AND HONEST AND
8 I EXPECTED HIM TO BE SO, AND I WANTED HIM TO MEET WITH AN
9 ATTORNEY SO THEN WE COULD ALL SIT DOWN AND WORK OUT SOME
10 SORT OF COOPERATION. I WAS NOT TRYING TO THREATEN HIM
11 LIKE, YOU KNOW, IF HE DIDN'T DO THIS OR DID SOMETHING ELSE
12 OR WHATEVER THAT I WOULD BRING THESE OTHER THINGS OUT.

13 Q DID MR. BARENS APPEAR TO BE PLEASED WITH THIS
14 PROSPECT?

15 A NO. HE SEEMED NOT TO BELIEVE ME. AS TO --
16 AS TO WHAT I WOULD ULTIMATELY DO. THE -- I DON'T REMEMBER
17 HIS EXACT WORDS, BUT HE WAS CONVEYING TO ME THAT I WAS
18 JUST SETTING HIM UP AND SANDBAGGING HIM.

19 Q THAT'S HOW THE CONVERSATION ENDED; RIGHT?

20 A RIGHT. HE SAID SOMETHING LIKE, "I'M NOT
21 GOING TO DEAL WITH YOU. I'M NOT GOING TO TALK WITH YOU."

22 MR. CRAIN: YOUR HONOR, I HAVE ABOUT FIVE MINUTES,
23 A FEW LOOSE ENDS.

24 THE COURT: WANT TO BREAK NOW AND FINISH UP
25 TOMORROW MORNING?

26 MR. CRAIN: YEAH. I CAN FINISH UP IN JUST A FEW
27 MINUTES.

28 THE COURT: HOW LONG DO YOU THINK YOUR CROSS IS

12

1 GOING TO BE?

2 MR. MC MULLEN: IT IS DIFFICULT FOR ME TO ESTIMATE.
3 IT WILL BE VERY HELPFUL FOR ME TO SPEND SOMETIME TO
4 ORGANIZE IT, WHICH I'LL BE ABLE TO DO WHEN WE LEAVE. I
5 WOULD SAY AN HOUR, MAYBE MORE. IT'S VERY DIFFICULT --

6 THE COURT: MR. HUNT IS THE LAST PETITIONER'S
7 WITNESS; RIGHT?

8 MR. KLEIN: WELL -- WE WOULD WANT TO CALL CASEY
9 COHEN PURSUANT TO THE OFFER OF PROOF THAT WE PREVIOUSLY
10 MADE.

11 THE COURT: I REALLY DON'T SEE IT.

12 ANYBODY ELSE?

13 MR. KLEIN: NO, YOUR HONOR.

14 THE COURT: ALL RIGHT.

15 WHO IS YOUR FIRST WITNESS?

16 MR. MC MULLEN: IT WAS MR. KILPATRICK.

17 THE COURT: ALL RIGHT.

18 9 O'CLOCK TOMORROW MORNING.

19 COUNSEL --

20 MR. CRAIN: IT'S A FULL DAY TOMORROW ON THURSDAY?

21 THE COURT: YES. I SHOULD BE ABLE TO GO TO AT
22 LEAST 4:00, IF NOT 4:30 TOMORROW. IN FACT, 4:30 IS
23 PROBABLY LOOKING PRETTY GOOD, SO WE'RE LOOKING AT A FULL
24 DAY.

25 MR. CRAIN: THANK YOU.

26 THE COURT: ALL RIGHT.

27

28 (PAUSE.)

12 1 THE COURT: COUNSEL, BEFORE YOU LEAVE MAKE SURE THE
2 CLERK HAS EVERY EXHIBIT BACK.

3
4 (AT 4:00 P.M. AN ADJOURNMENT WAS
5 TAKEN UNTIL THURSDAY,
6 MAY 9, 1995, 1996 AT 9:00 A.M.)
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