

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 THE HON. KENT J. DAWSON, JUDGE PRESIDING

4
5 UNITED STATES OF AMERICA,)

)

6 Plaintiff,)

Case No. CR-S-04-119-KJD(LRL)

)

7 vs.)

)

8 IRWIN SCHIFF, CYNTHIA NEUN,)

and LAWRENCE COHEN,)

9)

Defendants.)

10)

11
12
13
14
15 REPORTER'S TRANSCRIPT OF JURY TRIAL (DAY 10)

16 Tuesday, September 27, 2005

17
18
19
20 APPEARANCES: (See Page 2)

21
22
23
24 Court Reporter: Felicia Rene Zabin, RPR, CCR 478
Federal Certified Realtime Reporter
25 (702) 676-1087

1 APPEARANCES:
2 For the Plaintiff:
3 JEFFREY A. NEIMAN
4 DAVID IGNALL
5 Trial Attorneys
6 U.S. Department of Justice
7 Southern Criminal Enforcement Section
8 Tax Division
9 P.O. Box 972
10 Washington, DC 20044
11 (202) 514-5351
12 For the Defendant, Cynthia Neun:
13 MICHAEL V. CRISTALLI, ESQ.
14 Michael V. Cristalli, Ltd.
15 3960 Howard Hughes Parkway, Suite 850
16 Las Vegas, Nevada 89109
17 (702) 386-2180
18 For the Defendant, Irwin A. Schiff:
19 IRWIN A. SCHIFF, PRO PER
20 444 East Sahara Avenue
21 Las Vegas, Nevada 89104
22 (702) 385-6920
23
24 TODD M. LEVENTHAL, ESQ.
25 Flangas & Leventhal
600 South Third Street
Las Vegas, NV 89101
(702) 384-1990
For the Defendant, Lawrence Cohen:
CHAD A. BOWERS, ESQ.
Albert D. Massi, Ltd.
3202 West Charleston Boulevard
Las Vegas, Nevada 89102
(702) 878-8778
Also Present:
Adam Steiner, Special Agent, IRS
Sam Holland, Special Agent, IRS
Gary Modafferi, J.D.

I N D E X

WITNESS:	Direct	Cross	Redirect	Recross	Further Redirect
----------	--------	-------	----------	---------	---------------------

Government's:

P. Parrinelli	--	2535C	2564I	2565S	--
		2549S			
Sara Brana	2569N	2594B	--	--	--
		2595S			
Lynn Rose	2627N	2629S	--	--	--
Norman Struss	2634N	2641S	--	--	--
Brian Allin	2650I	2711C	2772I	2774S	--
		2712S			
		2770B			
Nancy Driscoll	2778N	--	--	--	--

EXHIBITS

EXHIBIT NO.:	MARKED FOR IDENTIFICATION	RECEIVED IN EVIDENCE
--------------	------------------------------	-------------------------

Government's:

163	--	2788
164	--	2791
166	--	2793
168	--	2800
169	--	2797
173	--	2802
174	--	2805
176	--	2654
177	--	2658
178	--	2659
179	--	2663
181	--	2664
182	--	2666
183	--	2667
184	--	2671
187	--	2691
188	--	2694
189	--	2705
190	--	2675
247, 248, 249, 250, and 258	--	2777
251, 252A, 252B, 253, 254, 258-59, 260, 261, 262, 263, 264, 265, 266, 267, 286, and 287	--	2777

EXHIBITS (Continued)

EXHIBIT NO.:	MARKED FOR IDENTIFICATION	RECEIVED IN EVIDENCE
--------------	------------------------------	-------------------------

Government's:

293	--	2637
293A	--	2640
300, 300A, 301, 302, and 303	--	2568

Defendant Schiff's:

2111	2751	--
------	------	----

1 LAS VEGAS, NEVADA; TUESDAY, SEPTEMBER 27, 2005; 9:07 A.M.

2 --oOo--

3 P R O C E E D I N G S

4 THE CLERK: All rise.

5 THE COURT: Please be seated.

6 Matter of business to take care of?

7 MR. IGNALL: Two things, your Honor --

8 THE COURT: Okay.

9 MR. IGNALL: -- one briefer than the other.

10 The Government filed a couple weeks ago a motion for a
11 determination from the Court of what materials would constitute
12 Jencks Act disclosure for Agent Holland when he testifies. He
13 may go on the stand today depending upon how many witnesses we
14 get through. I just wanted to bring that back to the Court's
15 attention.

16 Given the limited scope of Agent Holland's testimony
17 and the stipulation that we entered into yesterday that the
18 documents obtained during the search were indeed -- or the
19 exhibits we identified were indeed obtained during the search,
20 I'm not sure how much, if any, of that special agent's report is
21 indeed Jencks. But we still wouldn't object to the Court [sic]
22 to turning over -- or ordering us to turn over the redacted
23 portions that we provided to the Court a couple weeks ago.

24 THE COURT: Okay. I'll take a look at that.

25 MR. IGNALL: All right.

1 And then the second issue is I had drafted up a
2 proposed jury charge concerning the income tax laws. We've
3 talked a little bit about it. I -- I think the position of the
4 defense lawyers is that they object to the Court giving any
5 instruction at this time. I don't think that -- and I don't
6 want to speak out of turn -- that Mr. Cristalli and Mr. Bowers
7 object to the language about the, uh, statutes that make an
8 individual liable for income taxes; I know that Mr. Schiff does
9 object to that. And we were talking a little bit how we might
10 modify the second paragraph.

11 May I approach the clerk, your Honor?

12 THE COURT: You may.

13 MR. SCHIFF: Can you give me...

14 MR. IGNALL: Yes.

15 The second paragraph talking about, you know, the Court
16 instructing the jury later on the elements of the offense. And
17 I think that defense counsel wanted some mention there of good
18 faith or perhaps if the Government has to prove the lack of good
19 faith. But we haven't reached an agreement on that second
20 paragraph language yet.

21 THE COURT: Are we dealing with -- with the same issue
22 the Government is speaking of with all this hubbub?

23 MR. CRISTALLI: Yes.

24 MR. BOWERS: Yes.

25 THE COURT: Okay. Go ahead.

1 MR. CRISTALLI: Well, um, your Honor, on a number of
2 levels, I object to an instruction at this particular time.
3 First of all, it's gonna be incredibly cumbersome because
4 there's gonna be a large addition added to this particular
5 proposal that the Government has given to the Court. I
6 certainly don't disagree with the content of the language within
7 the instruction, but I disagree with giving it at this
8 particular time. As I indicated, I would prefer it at the
9 conclusion of the evidence.

10 We would have to add, uh, an instruction as it relates
11 to good faith. The problem is we would have to give a modified,
12 shortened version of the instruction to -- because to give the
13 entire instruction would just be, um, logistically, um,
14 impossible during the course of this trial, I believe.

15 So I guess -- I mean, if the Court is incline -- I
16 don't want anything in at this particular time. If the Court is
17 inclined, uh, to have something come in, then I do need to work
18 on the good-faith aspect of the instruction.

19 MR. BOWERS: One second.

20 (Discussion among Mr. Bowers and
21 Mr. Cristalli and Mr. Modafferi.)

22 MR. CRISTALLI: You know, looking at the instruction,
23 it appears that we must include the entire instruction as it
24 relates to the good-faith instruction.

25 Um, certainly it's the Court's, uh, prerogative. At

1 this time, though, we would object to giving any instructions
2 based on, um, the inconsistency with, uh, Rule 30 of the, uh,
3 Federal Rule of Criminal Procedure and also because of the
4 logistical problem that we may have.

5 THE COURT: Okay.

6 Do you have anything to add, Mr. Bowers?

7 MR. BOWERS: I join in Mr. Cristalli's position, that I
8 object in this whole process. But, if -- if I'm forced to deal
9 with the process, my -- my suggestion may be -- the Government's
10 proposed about an eight, ten -- I mean, I don't know what --
11 seven, eight, nine lines of this code makes you liable and these
12 working together make you -- it's fairly detailed.

13 If -- if this Court's position is it's gonna be an
14 instruction that's gonna be given -- given out with any
15 frequency, uh, I would propose a version of that that simply
16 says the IRS code such-and-such -- list the ones that the
17 Government wants -- were to make you liable. And, in response
18 to that, uh, I would come up with an abbreviated version of the
19 good-faith instruction.

20 As this is proposed now, um, like I say, it's -- it's
21 fairly lengthy what the Government wants in and they are fairly
22 adamant about that. Our good-faith response to that is also
23 gonna be fairly lengthy. Uh, and you're gonna end up obviously
24 doing what you want. But, uh, even with just the Government's
25 instruction it's quite unwieldy for you to give with any degree

1 of frequency.

2 And I don't know how often this is gonna happen and I
3 don't want to waive any of my rights because I object to the
4 whole thing. But, if it's gonna happen, I think it should
5 happen in a much more abbreviated level.

6 You can say what the Government wants you to say about
7 these Code sections in two sentences. You can say they all work
8 together to make your liable and, likewise, you know, my whole
9 good-faith instruction, as much as I might want that read, could
10 probably be shortened up as well.

11 So that's my thoughts on the subject.

12 THE COURT: Okay.

13 MR. SCHIFF: Can I speak to the Government's proposed
14 motion?

15 THE COURT: You may.

16 MR. SCHIFF: Okay. They just handed it to me.

17 Federal income tax is imposed in Section Internal
18 Revenue Code 1. The imposition of the tax has nothing to do
19 with making you liable. All of the taxes in the Code -- the
20 tobacco tax, alcohol -- they all say they're imposed, but then
21 they go on to say who is liable for the tax. So the imposition
22 of the tax -- as a matter of fact, I'm filing a motion this
23 morning to show you further proof that Section 1 has nothing to
24 do with the imposition of the income tax. And I'll file that
25 motion right now.

1 But, in any case, he says gross income is defined in
2 Section 63. That is not true because the definition of gross
3 income/taxable income is all dependent on the word "income." I
4 have two cases: United States v. Conner, um, 303 F.Supp. 1187,
5 and United States v. Ballard, um, uh, 530- -- 535 F.2d 404 at
6 page 404.

7 United States v. Conner says, "No attempt has ... been
8 made by Congress to define with specificity the term 'income' as
9 it is used in the sixteenth amendment."

10 And, in United States v. Ballard, the Court said, "The
11 general term 'income' is not defined in the Internal Revenue
12 Code."

13 Section 61 says, "gross income means all income." They
14 attempt to define gross income by using the word "income," which
15 is itself not defined. And in the case of U.S. -- Eisner said
16 that Congress cannot by any term define "income" because in
17 doing so it would amend the Constitution and, therefore, it was
18 up to Congress to define the word "income." And when
19 Congress --

20 THE COURT: What's the citation for Eisner?

21 MR. SCHIFF: Yeah, Eisner v. Macomber, your Honor.

22 THE COURT: The citation.

23 MR. SCHIFF: Well, I'll give you the case. It's in The
24 Federal Mafia. And it's an extensive case. I have the case
25 here.

1 THE COURT: Just give me the citation.

2 MR. SCHIFF: Just a minute. I'll give you the
3 citation. This is why Congress cannot define the word "income."

4 MR. BOWERS: Irwin, it's 252 U.S. 189.

5 MR. SCHIFF: Well, I'll give it to you.

6 MR. BOWERS: I just gave it to him, Irwin.

7 MR. SCHIFF: All right. Let me get to --

8 THE COURT: It's done. Move on with your argument. I
9 have --

10 MR. SCHIFF: And I even --

11 THE COURT: -- the cite.

12 MR. SCHIFF: -- I even quote the section.

13 THE COURT: I have the cite already.

14 MR. SCHIFF: Okay, okay --

15 THE COURT: Move on.

16 MR. SCHIFF: -- okay.

17 In addition, in addition, in adopting the 54 Code --
18 the House and Senate Committee in, um, House Report No. 1337,
19 um, and Senate Report -- oh, I have the Senate Report -- stated
20 that the -- that the -- that income is used -- in Section 61 is
21 used in its constitutional sense. Now, it's used in its
22 constitutional sense; it's not used in its ordinary sense.

23 And in the case of Merchants' Loan & Trust Company, uh,
24 uh, 255 U.S. 509, the Supreme Court said, There would seem to be
25 no room to doubt that the word 'income' must be given the same

1 meaning in Income Tax Acts of Congress that was given to it in
2 the Corporation Excise Tax Act. And what that meaning is has
3 now become definitely settled by decisions of this Court.

4 In addition, if you go to the United States Supreme
5 Court Digest right on the first page in -- in discussing the
6 legal meaning of income they cite three cases: Tye Realty v.
7 Anderson, 36 Sup. Ct. 201 -- I can give you this page if you
8 like -- um, Brushaber v. Union Pacific Railroad, and they cite
9 Stanton v. Baltic Mining.

10 And, in all of these citings, they say, the whole
11 purpose of the Sixteenth Amendment authorizing an income tax was
12 to exclude the source from which the taxed income was derived as
13 the criterion by which to determine the applicability of the
14 constitutional requirement as to apportionment of direct taxes.
15 They all refer to -- the fact is that the exclusion of a
16 consideration of the source from which a taxed income is
17 derived.

18 In addition --

19 THE COURT: That doesn't have anything to do with
20 anything.

21 MR. SCHIFF: Well, in addition --

22 THE COURT: Your cases are --

23 MR. SCHIFF: In addition --

24 THE COURT: -- the case of Merchants' --

25 MR. SCHIFF: -- in addition to everything --

1 THE COURT: -- Merchants' -- don't overtalk me.

2 MR. SCHIFF: Pardon me?

3 THE COURT: Don't overspeak me.

4 MR. SCHIFF: Oh, I'm sorry.

5 THE COURT: -- Merchants' Loan & Trust Company was
6 decided in 1921. It has nothing to do with this case. The --
7 there are subsequent cases that, uh, say so. And you --

8 MR. SCHIFF: What --

9 THE COURT: -- you are arguing, sir, from a position
10 that has been rejected by every court in the United States for
11 the last 91 years.

12 MR. SCHIFF: Not -- the Supreme Court hasn't changed.
13 Let me just --

14 THE COURT: Well --

15 MR. SCHIFF: -- read you one other thing.

16 THE COURT: -- it is so --

17 MR. SCHIFF: Let me just read you another case.

18 THE COURT: -- clear the Supreme Court doesn't need to
19 address it. Your position has been rejected. It was
20 rejected --

21 MR. SCHIFF: Not by --

22 THE COURT: -- it was rejected by this Court. You are
23 not speaking of the law of the case.

24 MR. SCHIFF: All right. Let me just cite one other
25 case.

1 THE COURT: No, you're not going to -- you're not going
2 to take up any more time with this garbage that has already been
3 rejected by --

4 MR. SCHIFF: No court has rejected --

5 THE COURT: -- all of the courts of this country.

6 MR. SCHIFF: No court -- can you cite my a case where
7 they say, uh, that -- this is a --

8 THE COURT: I can. Yes, I can. But I'm not --

9 MR. SCHIFF: What --

10 THE COURT: -- going to do it.

11 MR. SCHIFF: -- what case? I just wanna put one other
12 court case --

13 THE COURT: I don't --

14 MR. SCHIFF: -- on the record.

15 THE COURT: -- need to argue with you --

16 MR. SCHIFF: All right.

17 THE COURT: -- because this is legal garbage.

18 MR. SCHIFF: All right.

19 I also have a motion asking your recusal. This is not
20 legal garbage. You're calling Supreme Court decisions legal
21 garbage, cases that have been never --

22 THE COURT: No. It's --

23 MR. SCHIFF: -- overturned.

24 THE COURT: -- your interpretation of cases.

25 MR. SCHIFF: No, no.

1 Okay. In addition --

2 THE COURT: Your misinterpretation.

3 MR. SCHIFF: -- in addition, in addition, the
4 Government -- if the Government wants to put these cases in, why
5 doesn't the Government attorney take the stand and -- and -- so
6 I can cross-examine him under oath as to whether, um, Section 61
7 defines income and whether, um, um -- let him take the stand so
8 I'll cross-examine him under oath. He wants you say because
9 they can't cross-examine you.

10 The Government -- the payment of income tax is
11 voluntary. The Supreme Court has ruled --

12 THE COURT: Mr. Schiff --

13 MR. SCHIFF: All right. Here's -- here's a motion --

14 THE COURT: -- the law has --

15 MR. SCHIFF: -- I'm filing today asking for your
16 recusal.

17 THE COURT: Your version of the law has been rejected
18 over and over again.

19 (Document handed to the Court.)

20 MR. SCHIFF: I submit to you they've never been
21 rejected; they've never been overturned.

22 THE COURT: Mr. Schiff --

23 MR. SCHIFF: All right.

24 THE COURT: -- I've ruled.

25 MR. SCHIFF: All right. You can rule then. Here's --

1 here's my motion.

2 And also in this motion --

3 THE CLERK: Should I file the motion?

4 THE COURT: No. He can file it himself. It's not
5 gonna be filed in open court.

6 THE CLERK: Mr. Schiff --

7 MR. SCHIFF: Yes.

8 THE CLERK: -- you can take this to the Clerk's office
9 on the next break and file that downstairs.

10 MR. SCHIFF: Okay.

11 THE COURT: All right. Are we ready to bring the jury
12 in?

13 MR. BOWERS: Just maybe real briefly --

14 THE COURT: Yes --

15 MR. BOWERS: -- your Honor.

16 THE COURT: -- Mr. Bowers.

17 MR. BOWERS: Do you have an inclination -- is this
18 something we need to solve in writing if we can't agree
19 ourselves? Does the Court have some direction on how its
20 thinking of heading? Because maybe that will...

21 THE COURT: Well, here's the problem, as -- as you are
22 well aware: Because Mr. Schiff has been representing himself,
23 he has attempted to insert this material on his version of the
24 law at every point. You know, I'm gonna see how it goes. If I
25 think a curative instruction is necessary, then I'm going to

1 give it. I want you to keep working on something that you can
2 feel comfortable with. But it just depends on whether he keeps
3 pushing these cases that have already been rejected.

4 MR. BOWERS: But we still have the other remedy
5 discussed as well.

6 THE COURT: You have the good-faith issue.

7 MR. BOWERS: Right. But the remedy in court has been
8 brought up as...

9 THE COURT: Pardon?

10 MR. BOWERS: The -- the Court's informing Mr. Schiff
11 what its intention is yesterday --

12 THE COURT: Yes.

13 MR. BOWERS: -- at sidebar will be helpful as well.

14 THE COURT: That's correct. I think it has changed his
15 behavior a little bit, but --

16 MR. BOWERS: Yes, I agree.

17 THE COURT: -- not much.

18 MR. BOWERS: So maybe we don't need this. But we'll
19 keep working on it.

20 THE COURT: Thank you.

21 MR. BOWERS: Thank you, your Honor.

22 THE COURT: Ms. Clerk, will you bring in the jury.

23 THE CLERK: Yes, sir.

24 Would you get your witness back up on the stand,
25 please?

1 Your Honor, the jury complained yesterday that they
2 could not hear the witness. So we need them to remind him to
3 speak up.

4 THE COURT: The -- okay.

5 (Pause in the proceedings.)

6 (Philip Parrinelli takes the witness stand.)

7 THE CLERK: Ready? Come on in.

8 (Jury enters the courtroom at 9:23 a.m.)

9 THE COURT: Please be seated.

10 Will counsel stipulate to the presence of the jury?

11 MR. IGNALL: Yes, your Honor.

12 MR. BOWERS: Of course, your Honor.

13 THE COURT: Thank you.

14 MR. CRISTALLI: Yes, your Honor.

15 May I, your Honor?

16 THE COURT: You may.

17
18 PHILIP PARRINELLI,
19 called as a witness on behalf of the Government, having been
20 previously duly sworn, was examined and testified further as
21 follows:

22
23 CROSS-EXAMINATION

24 BY MR. CRISTALLI:

25 Q. Good morning, Mr., uh, Parrinelli. How are you?

1 A. Good morning.

2 Q. My name is Michael Cristalli. I represent Cynthia Neun.

3 Um, just to try to pick up where we left off yesterday

4 a little bit, I think, um, you testified that you first heard

5 Irwin Schiff on the radio.

6 Is that what you don't testify to or was it --

7 A. Yeah, it was a TV show.

8 Q. TV -- television show.

9 A. Yeah, on...

10 Q. Do you know around what time period that was?

11 A. Oh, no, I don't. I don't remember, no. No.

12 Q. Okay.

13 A. I can't -- I don't know.

14 Q. Okay. So you heard him on -- okay. Just -- yeah. Could

15 you just keep your, um, voice up so that the jury can hear what

16 you're saying? We all need to --

17 A. Okay.

18 Q. -- kinda speak into the microphone. Okay?

19 A. Sure.

20 Q. Thank you. I appreciate that.

21 A. Is better now? Is better?

22 JURORS: (Nods head.)

23 THE WITNESS: Yeah. Thank you.

24 BY MR. CRISTALLI:

25 Q. Okay. Um, so you heard him on the television show; correct?

1 A. Yes, I did. Yeah.

2 Q. And then you went and, um -- went to, uh -- found out when a
3 seminar was and went to a seminar?

4 A. Yes, yes. And I might have looked on the Internet for the
5 dates. I don't remember, you know, but something like that.

6 Q. You -- you may have went to the Internet first to see when
7 the seminar was? Is that what your testifying?

8 A. Well, I just went on the Internet and then I saw there's
9 some seminars.

10 Q. You went on -- on Freedom Books's Web site? Is that what
11 you're saying or somewhere else?

12 A. I think so, yes.

13 Q. Okay.

14 A. I think so, yes.

15 Q. And you found out when a seminar was going to be --

16 A. Yes --

17 Q. -- held?

18 A. -- yes. There was some seminars --

19 Q. And then you went --

20 A. -- there.

21 Q. -- to the seminar; correct?

22 A. Yes, that's correct.

23 Q. And you, um -- and you listened to Mr. Schiff --

24 A. Yes.

25 Q. -- true?

1 A. Yes.

2 Q. Okay. Was there anyone else speaking at the seminar when
3 you went or was it just Mr. Schiff?

4 A. I think -- I think it was just Mr. Schiff, yes.

5 Q. Okay. And, basically, Mr. Schiff was telling you that there
6 was no legal responsibility to pay income tax; correct?

7 A. Yeah. Mr. Schiff was telling me the truth. The truth, you
8 know. All the legal truth about income tax, everything.

9 Q. Okay.

10 A. Yeah.

11 Q. So during the course of the seminar -- you say he was
12 telling the truth -- during the course of the seminar, was he,
13 um, supporting his position with documentation --

14 A. All the time.

15 Q. -- and --

16 A. All the time. All the time. All -- all he was just doing
17 just showing us the law, you know. It -- it -- it was kind of
18 lying or making things up not because -- everything was saying I
19 did double-check afterwards --

20 Q. Okay. So --

21 A. -- because --

22 Q. -- so when you -- you went to the seminar. You listened to
23 him. He supported his position through, um, some -- some legal
24 means, uh, cases?

25 A. Well, cases, uh, and the Code, the IRS Code, the different

1 paragraphs that would apply; you know, Supreme Court cases.
2 Every -- everything's available -- is available there. He
3 would -- would use that, you know, to explain the law to us.

4 Q. And -- and at the -- at the time that you went to the
5 seminar, did you receive any of the, uh, materials that were
6 offered to you by, uh -- by Irwin Schiff?

7 A. I might have bought maybe -- maybe one or two books because
8 they -- they also were offering books for sale, uh, you know,
9 like the Constitution was on sale. I think I bought that, you
10 know. Um, some of the -- one or two other -- I don't really
11 remember.

12 Q. So some of the --

13 A. I know I have some books, yes.

14 Q. Okay. So you bought the Constitution of the United States?

15 A. Yes, I did.

16 Q. United States Constitution.

17 A. Yes.

18 Q. You bought, um -- The Federal Mafia, do you remember
19 purchasing --

20 A. That I --

21 Q. -- at that time?

22 A. -- might have bought maybe later. I don't remember. I
23 don't know if it was the same -- you know, the same day.

24 Q. In any event, you --

25 A. Buy, yeah, I did buy --

1 Q. -- you bought some doc- --

2 A. -- that, yes.

3 Q. Okay. And so you left the seminar and then you went and did

4 some of your own legal research --

5 A. Yes, --

6 Q. -- correct?

7 A. -- I did, yes.

8 Q. Did your own legal research consist of going to the library?

9 A. Yes. I -- I used to go because I want there many times, you

10 know, to the San Bernardino. There's a legal library over there

11 that was a county -- county library where the lawyers go, you

12 know, to do their research.

13 Q. So you just didn't rely on what was told to you by Mr. Irwin

14 Schiff. You tried to go and do your due diligence and find out

15 whether or --

16 A. Yeah.

17 Q. -- not what he was saying to you was in your opinion true or

18 not?

19 A. That's correct, yeah. Mr. -- Mr. Schiff is very

20 intelligent; he's very knowledgeable, you know. But, with all

21 due respect, I find that I have to double-check myself. And I

22 did so, yes.

23 Q. And, based on the material that you received from Mr. Irwin

24 Schiff and based on your own independent research, um, you

25 believed the, um -- the position that there was no legal

1 liability to pay income tax was correct?

2 A. Was correct, yes. That's correct.

3 Q. All right. And it's true to today, Mr. Parrinelli, that you

4 still -- you still believe in that position --

5 A. I do.

6 Q. -- correct?

7 A. I do, yes.

8 Q. Um, now, there came a time when you prepared your 1040

9 returns --

10 A. Yes.

11 Q. -- true?

12 Um, and at that particular time, um, you were employed

13 in some capacity; right?

14 A. Yes, when I -- when I prepared them, that was, uh, like year

15 2000, like 2001.

16 Q. Okay.

17 A. Yeah, I was -- I was teaching then.

18 Q. You were teaching. You were --

19 A. I was teaching.

20 Q. -- can I ask you what --

21 A. Computer science.

22 Q. Computer science --

23 A. Computer science.

24 Q. -- at the university?

25 A. Yes, yes.

1 Q. Okay. And was that in, uh, the local university or in
2 California?

3 A. Oh. I taught -- yeah. I taught at different universities.

4 Q. I'm sorry?

5 A. I taught in different ones. Um, one is National University,
6 San Diego; uh, I taught, um, at AIU, like American
7 Intercontinental University, San Monica; and I taught ITT for
8 many years also --

9 Q. Okay. Now, there --

10 A. -- three or four years.

11 Q. -- came a time when you went to Freedom Books. True?

12 A. I'm sorry?

13 Q. Did there come a time when you went to Freedom Books?

14 A. Yes, yes.

15 Q. And, when you went to Freedom Books, you basically -- um,
16 you had already digested the material, um, that Mr. Schiff
17 had --

18 A. That's correct.

19 Q. -- spoken about --

20 A. That's correct.

21 Q. -- and what you read; correct? You've already -- you
22 already had a pretty good understanding about the, uh -- the
23 position of Mr. Schiff's teachings; correct?

24 A. Yes --

25 Q. Okay.

1 A. -- yes, I...

2 Q. Um, so you went into Freedom Books to verify what you did in
3 terms of your 1040's, filling out your 1040's, was correct?

4 A. Yeah, when -- before -- yes. I -- I filled them out and
5 then before I send them in. Yes, that's correct.

6 Q. Okay. So, before you sent your 1040's in with the
7 zeros --uh, the zero --

8 A. Zero return.

9 Q. -- zero return --

10 A. Yes.

11 Q. -- you would go to Freedom Books; correct?

12 A. Yes --

13 Q. And you --

14 A. -- I did.

15 Q. -- testified, I believe, yesterday that the person that you
16 interacted with with regard to that was Cynthia Neun.

17 A. That's --

18 Q. True?

19 A. -- correct. Yes.

20 Q. Okay. Now, in terms of verifying the zero returns and
21 whether or not you're accurate or not, I mean, there's nothin'
22 really to be accurate about because they just have all zeroes on
23 'em; right?

24 A. Yes, that's true.

25 Q. And would it be safe to say, then, Mr. Parrinelli, that

1 really the reason why you wanted Ms. Cynthia Neun's involvement,
2 you wanted her to sign off on it, is because you needed, um, a
3 witness to the -- to the documentation, somebody that could
4 verify, um, what you did and maybe, uh, attend future hearings
5 with you?

6 A. Yeah. Like the very first time, you know, I was, you know,
7 filling in those -- those returns, I -- I want to make sure that
8 everything was okay, you know. That was -- that was my feeling;
9 that was my reason, you know, for -- for going over there, to
10 have them check, you know, before I send them in.

11 Q. And, when you went to Freedom Books and discussed these
12 issues with Ms. Cynthia Neun, was she cooperative with you?

13 A. Oh, very much so.

14 Q. Okay.

15 A. Very much so.

16 Q. Um, and did you engage in a dialogue with her with regard to
17 the -- the fundamentals of the -- of the teachings?

18 A. No, no --

19 Q. So you --

20 A. -- no.

21 Q. -- didn't have that type of discussion with her --

22 A. No, not --

23 Q. -- about the --

24 A. -- really.

25 Q. -- the law?

1 A. No, no.

2 Q. Just how to do it and whether or not you were doing it --

3 A. Well, they were --

4 Q. -- correctly?

5 A. -- already prepared. Just to glance it over, you know.

6 Q. So, in terms of the ideology, you basically already had

7 that. You --

8 A. Yes.

9 Q. -- got it from your own --

10 A. Yes.

11 Q. -- independent research and you got it from what you heard

12 in the seminars and what you read in the material; correct?

13 A. That's correct --

14 Q. Okay.

15 A. -- yes.

16 Q. Um, and --

17 A. Oh --

18 Q. -- you said that --

19 A. -- yeah. I remember like -- like I was telling her I was

20 very appreciative of what they had done because by telling me

21 the truth they set me free, so to say. Because I -- I -- you

22 know, I always felt the intimidation, the pressure you get from

23 the IRS. Everybody get from the IRS. And, when I found out the

24 truth, that kind of liberated me. And I was very appreciative,

25 you know, with Mr. -- Mr. Irwin and Mr. -- uh, Ms., uh, Cindy

1 for having done that to me.

2 Q. And you still feel that way today?

3 A. Definitely, definitely, yes.

4 Q. But -- but, in terms of your definition of the truth, um, it
5 comes at a cost; isn't that true?

6 A. No, no, no, not at all.

7 Q. Well, as a result of it, hasn't the IRS, um, tried to
8 recover whatever moneys that --

9 A. Yeah.

10 Q. -- they believed were due and owing to them?

11 A. Yes. But that is no cost to me. Frankly, if I have to go
12 to prison to defend the U.S. Constitution, so be it.

13 Q. Um, would you -- would you agree that, um, Ms. Cynthia Neun
14 held the same position as you hold with regard to that -- with
15 regard to that belief?

16 A. I don't -- I don't --

17 MR. IGNALL: Objection. Asks for speculation.

18 THE WITNESS: -- I don't know what he's saying.

19 THE COURT: Sustained.

20 MR. CRISTALLI: I agree.

21 BY MR. CRISTALLI:

22 Q. Um, in terms of the teachings of Mr. Irwin Schiff, would you
23 say that you think it's a patriotic position?

24 A. Very much so. Very much so.

25 If I -- if I may say so, Mr. Schiff is 78 years old.

1 He could be sitting lying on a beach drinking a beer, I don't
2 know, or some margaritas. Instead, at his age he's dedicating
3 all his life for us, for us Amer- -- Americans to make sure that
4 we're not abused; that the Constitution is not ignored; and that
5 all the laws are respected. That is what Mr. Schiff is doing.
6 If that is not a patriot, I don't know what it is.

7 Q. Um, when you went into Freedom Books, I think you testified
8 yesterday that, uh, Ms. Cynthia Neun would not accept any money
9 from you --

10 A. I --

11 Q. -- for --

12 A. -- offer money, but she'd say no.

13 Q. So you offered money, but --

14 A. Yeah.

15 Q. -- she refused to --

16 A. She say no.

17 Q. -- take the money?

18 A. Yeah, she just couldn't take the money.

19 Q. Um, are you currently employed, Mr. Parrinelli?

20 A. Well, I -- uh, no, no. I'm -- I'm -- I'm moving to Mexico.

21 Q. You're moving to Mexico?

22 A. Yes.

23 Q. Um, is that because of the situation you're currently in
24 with the IRS or...

25 A. Not -- not very much so. Just I'm almost retiring, you

1 know. I thought it would be a good idea to retire over there.
2 But not -- not really. But that's -- like the main reason I
3 just wanna move over there.

4 Q. Just to retire --

5 A. Retire --

6 Q. -- and enjoy the twilight --

7 A. -- retire over there.

8 Q. -- years of your life?

9 A. Yes, yes.

10 Q. Okay.

11 MR. CRISTALLI: Court's indulgence.

12 (Pause in the proceedings.)

13 BY MR. CRISTALLI:

14 Q. Sir, um, do you believe that as a result of your ideas you
15 are, um, committing a crime?

16 A. No, not at all. I would never, I would never commit a
17 crime. And if, uh, Mr. Schiff had been wrong, then I would not
18 follow, you know -- if I had not been able to double-check what
19 he taught me, what he was teaching me, well, I would never -- he
20 would never commit a crime, no. Never.

21 Q. Did you ever, um -- as a result of your interactions with
22 Ms. Neun, did you see anything -- did you observe anything that
23 would suggest that she was breaking the law?

24 A. No, never. Never.

25 MR. CRISTALLI: I have no further questions, your

1 Honor. Thank you.

2 Thank you, Mr. Parrinelli.

3 THE WITNESS: Thank you.

4

5 CROSS-EXAMINATION

6 BY MR. SCHIFF:

7 Q. Mr. Parrinelli, thank you for those very kind words.

8 Uh, Mr. Parrinelli, you said that you came to a
9 seminar.

10 A. Yes, sir.

11 Q. Was that a two-day seminar? Do you recall?

12 A. I think so, yes.

13 Q. Okay. Do you recall me passing out a number of documents at
14 that seminar?

15 A. I'm sorry?

16 Q. Do you recall me passing out documents at the seminar --

17 A. Yes --

18 Q. -- which I followed?

19 A. -- yes, yes, yes.

20 Q. Um, if -- if I showed you this set of documents, which is
21 already an exhibit, would you recall?

22 THE COURT: He has already said he does recall.

23 MR. SCHIFF: He does recall.

24 THE WITNESS: Yes, I do.

25 MR. SCHIFF: Yeah.

1 THE WITNESS: Yeah, I recall. Yes --

2 BY MR. SCHIFF:

3 Q. So --

4 A. -- I seen those, yes.

5 THE COURT: What's your next question?

6 MR. SCHIFF: Okay. Could I -- could I give him the
7 documents?

8 THE COURT: No, you don't need to because he said he
9 recalls receiving documents.

10 MR. SCHIFF: Well --

11 THE COURT: Go to the next question.

12 BY MR. SCHIFF:

13 Q. Now, the next question is: Do you recall me spending a
14 great time explaining the differences between income in its
15 ordinary sense and income as used for income tax purposes?

16 A. Yes, I recall that, yes.

17 Q. Okay. Do you -- do you recall me quoting, citing, a number
18 of Supreme Court decisions that said because -- that income is a
19 corporate profit?

20 A. Yes, sir.

21 Q. Do you recall me doing that?

22 A. Yes, sir.

23 Q. Okay. In other words, you recall me going over the case of
24 Burnett v. Harmel, 287 U.S. 103, uh, in which --

25 MR. IGNALL: Objection. The question can be --

1 MR. SCHIFF: Well --

2 MR. IGNALL: -- does he remember --

3 MR. SCHIFF: -- that's why --

4 MR. IGNALL: -- Mr. Schiff's mentioning the name of
5 that case.

6 THE COURT: You're -- you're making a speech again.

7 MR. SCHIFF: Well, can I give him --

8 THE COURT: Ask him a question.

9 MR. SCHIFF: Well, he doesn't remember verbatim what
10 the --

11 THE COURT: Well, then he doesn't remember. I
12 assume -- you're assuming he doesn't remember. You started to
13 ask him a question; you turned it into a speech.

14 (Discussion between Mr. Cristalli and
15 Mr. Schiff.)

16 BY MR. SCHIFF:

17 Q. All right. How long ago was that seminar?

18 A. Like I said, I don't --

19 Q. Well --

20 A. -- that was probably, I don't know, '97, '98, '99. Yeah.

21 Q. In any case, did you also recall me go over at the beginning
22 of the seminar a number of government documents --

23 A. Yes, sir.

24 Q. -- that said income tax was based on voluntary compliance?

25 A. Yes, sir.

1 Q. And we went over a number of government documents. You
2 recall -- you recall that?

3 A. Yes, sir.

4 Q. Do you recall me asking those people in attendance who
5 didn't believe that the income was voluntary? Who didn't it.

6 A. Yes, --

7 Q. Do you remember --

8 A. -- I remember that.

9 Q. -- me asking that specific question? I asked for a show of
10 hands --

11 A. Yes. Yeah, I remember that.

12 Q. -- for people that didn't believe the payment of income tax
13 was voluntary.

14 Do you happen to recall how many hands went up?

15 A. No, that I don't recall. No.

16 Q. You don't. Okay.

17 A. That I don't recall.

18 Q. Okay. In any case, at that seminar we went over -- you --
19 you mentioned -- you men- -- you mentioned a missing paragraph.

20 A. Yes, there was something about a --

21 Q. Missing. Do you --

22 A. -- missing paragraph.

23 Q. -- do you happen --

24 A. Yes --

25 Q. -- to recall specifically --

1 A. -- I recall that, yes.

2 Q. -- what that was about?

3 A. Yes, about -- I think it was about a paragraph that would
4 apply only, I believe, to federal employees. But, taking that
5 paragraph out, then it appear like apply to everybody.

6 Q. So that had to do with the IRS's notice --

7 THE COURT: No, you're not going to testify. Ask a
8 question.

9 BY MR. SCHIFF:

10 Q. Well, did that have to do with the IRS Notice of Levy?

11 A. Yes, sir. Yes, sir.

12 Q. And what you're saying, that we went over the statute --

13 A. Yes, sir.

14 Q. -- that stated the Notice of Levy only applied to the
15 accrued wages and salaries of government employees?

16 A. That's correct.

17 Q. And, when they sent out the Notice of Levy to third parties,
18 they removed that paragraph --

19 A. That's correct.

20 Q. -- so that people who received it wouldn't know it.

21 A. That's correct.

22 Q. Okay, okay. That's in the book also.

23 A. Yes.

24 THE COURT: Again you're testifying.

25 MR. SCHIFF: Well -- well, that's in The Federal Mafia

1 also.

2 THE WITNESS: Yes, yes, because I don't remember
3 reading every page in The Federal Mafia. But...

4 BY MR. SCHIFF:

5 Q. Um, so, uh, did you have a feeling generally from the breaks
6 we took and talking with other people at the seminar that these
7 people generally believed the material that I was presenting to
8 them?

9 MR. IGNALL: Objection. Speculation --

10 THE WITNESS: Yes.

11 MR. IGNALL: -- as to what other people believed.

12 THE COURT: Sustained.

13 MR. SCHIFF: I said "generally." All right.

14 THE COURT: Sustained.

15 BY MR. SCHIFF:

16 Q. Did we take numerous breaks throughout the day --

17 A. Yes, we took breaks.

18 Q. -- and lunch breaks?

19 A. Yes, we did.

20 Q. Did you hear anybody say that they disbelieved the
21 information they were getting?

22 A. No, no, I did not -- did not...

23 Q. Uh, do you recall me having an extensive question-and-answer
24 period at the end of the seminar?

25 A. Yes, sir.

1 Q. Did you stay for the question-and-answer period?

2 A. Yes, I think I was there too.

3 Q. And people did ask me questions?

4 A. Yes, sir, yes.

5 Q. How could they report zero income even though they had

6 wages --

7 A. Yes.

8 Q. -- even though they had dividends?

9 A. Yes, they were asking those --

10 Q. And did I --

11 A. -- questions too.

12 Q. -- give them satisfactory answers?

13 A. Yes, you did, yeah.

14 Q. You didn't hear anybody challenge anything I said?

15 A. No, not -- I don't know if was --

16 Q. Okay. So after --

17 A. -- I remember there might be --

18 Q. -- after --

19 A. -- one that say.

20 Q. And, as you testified, everything I said I supported with

21 either --

22 A. Yes.

23 Q. -- a code and I urged people to buy the Internal Revenue

24 Code?

25 A. I'm sorry?

1 Q. And I urged --

2 A. Yes.

3 Q. -- people to buy the --

4 A. Yes, sir.

5 Q. -- Internal Revenue Code --

6 A. Yes.

7 Q. -- and to check out all of the court decisions that I

8 cited --

9 A. That's correct. That's correct.

10 Q. -- on your own --

11 A. That's correct.

12 Q. -- and not to file a zero return unless they were convinced

13 that --

14 A. Exactly.

15 Q. -- the information was correct.

16 A. Exactly.

17 Q. And that's what you did?

18 A. That's what I did. That's right, yeah.

19 Q. You went to a law library --

20 A. Yes.

21 Q. -- and satisfied yourself that the information --

22 A. That's correct.

23 Q. -- was correct?

24 A. Yes, yeah.

25 Q. In other words, not that I said you had no income or not

1 that I said there was no liability you took --

2 A. I convinced myself --

3 Q. -- the Internal Revenue Code --

4 A. -- yeah.

5 Q. -- and did you search in the Internal Revenue Code to see if

6 there was --

7 A. Yes, I did.

8 Q. -- a liability for income tax?

9 A. I did, yeah.

10 Q. And what did you find?

11 A. There was none. There was --

12 Q. Did you check --

13 A. -- none.

14 Q. -- and see if there was a liability for tobacco taxes?

15 A. Yes --

16 Q. And --

17 A. -- yes.

18 Q. -- what did you find?

19 A. -- yes, there was a...

20 Q. Did you check and see if there was a liability for, um,

21 waging taxes, the federal wagering tax?

22 A. Yes, sir.

23 Q. And there was?

24 A. There was one, yes, yeah.

25 Q. Did you, uh, check to see if there was any provision in the

1 law, the income tax law, that required you to pay income taxes?

2 A. No, no, no.

3 Q. But did you search the Code to see --

4 A. Yeah --

5 Q. -- if you could find --

6 A. -- I -- I search the Code at like the Section 1, the Section
7 61 where it appears that, you know, we had to pay income taxes.

8 Okay? But, when you do more research, you find that that Code,
9 those section, do not apply to --

10 Q. So --

11 A. -- to American citizens.

12 Q. -- so, when you stated in the first paragraph of your tax
13 return -- you stated that "I, ..., am submitting this as part of
14 my 1992 income tax return, even though I know that there is no
15 section of the Internal Revenue Code [that]

16 "... Establishes an income tax 'liability' as, for
17 example, Code Sections 4401, 5005, and 5703 do with respect to
18 wagering [and] alcohol, and tobacco taxes."

19 And you further said that there is no section that
20 provides for the payment of income taxes, as for example, Code
21 Sections 43- --

22 THE COURT: Now you're testifying again.

23 MR. SCHIFF: Well, I'm reading from his -- well, can
24 I -- can I -- so can I give it to him to read?

25 THE COURT: No.

1 MR. SCHIFF: I mean, that was a Government --

2 THE COURT: You ask him questions.

3 BY MR. SCHIFF:

4 Q. Okay. So, when you said those things, it was because you

5 researched the Code --

6 A. That's correct.

7 Q. -- not because I told you this?

8 A. That's correct, yes, yes.

9 Q. Not because -- when you -- when you testified in front of

10 the Grand Jury --

11 A. I'm sorry?

12 Q. -- did anybody ask you why you put zeroes on your return

13 when --

14 MR. IGNALL: Objection to relevance.

15 MR. SCHIFF: All right.

16 MR. IGNALL: It's Grand Jury testimony.

17 MR. SCHIFF: Okay.

18 MR. IGNALL: Unless it's --

19 BY MR. SCHIFF:

20 Q. All right. So --

21 MR. IGNALL: -- inconsistent --

22 BY MR. SCHIFF:

23 Q. So --

24 THE COURT: Yeah. It's not --

25 MR. SCHIFF: All right.

1 THE COURT: -- relevant unless --

2 MR. IGNALL: -- inconsistent --

3 THE COURT: -- inconsistent.

4 MR. IGNALL: -- with something he said.

5 BY MR. SCHIFF:

6 Q. So when you --

7 THE COURT: Sustained.

8 BY MR. SCHIFF:

9 Q. So --

10 MR. IGNALL: Your Honor, we also further object to this

11 line --

12 THE COURT: Mr. --

13 MR. IGNALL: -- of inquiry. I'm not sure --

14 THE COURT: -- Mr. Schiff --

15 MR. SCHIFF: Okay. So I'm -- I'm --

16 THE COURT: You wait for the rulings. Quit

17 overtalking --

18 MR. SCHIFF: Okay.

19 THE COURT: -- the Court.

20 MR. SCHIFF: I don't -- I didn't hear you.

21 THE COURT: You saw me. You saw me talking and you

22 overtalked. You have eyes; you can see my lips moving. That

23 means I'm talking. Stop it.

24 The objection is sustained.

25 MR. IGNALL: And, your Honor, and we have a further

1 objection to this line of inquiry. I'm not sure how this is
2 relevant to what these defendants have done in terms of this
3 Indictment. It seems to be more, you know, a statement that's
4 actually misstating the law --

5 THE COURT: It is --

6 MR. IGNALL: -- regarding income taxes.

7 THE COURT: -- it is sustained on that basis as well.

8 MR. SCHIFF: Your Honor, I haven't stated the --

9 THE COURT: It is sustained.

10 MR. SCHIFF: All right.

11 BY MR. SCHIFF:

12 Q. Now, Mr. Parrinelli, is it safe to say that when you came
13 down to Freedom Books with your zero return already prepared --

14 A. Yes.

15 Q. -- you were convinced it was correct?

16 A. That's correct, yes.

17 Q. And, when you asked Cindy to sign it, it was because you
18 thought you might need her.

19 A. Yes.

20 Q. That's what you testified.

21 But wasn't the real reason that she's prettier than I
22 am and that's why you didn't ask me to sign it? Isn't that the
23 real reason?

24 A. Probably, yeah.

25 Q. Okay. But the point is this: She didn't persuade you --

1 A. No.

2 Q. -- that --

3 A. No, she did not.

4 Q. When you said you asked her to check it, you wanted her to
5 be sure that you had put all the zeroes in the right places?

6 A. Yeah. Well, yes, and that I had the -- the -- the right
7 attachments and things like that, yeah.

8 Q. Okay. But she didn't have to persuade you that you had zero
9 income --

10 A. No, not at all.

11 Q. -- or that your tax liability --

12 A. Not at all, no.

13 Q. So you believe today that all your returns that you filed
14 were true and correct?

15 A. They are correct, yes.

16 Q. Now, did -- did I or anybody at Freedom Books ever give you
17 any reason to believe that we didn't believe or I didn't believe
18 that all the information that we gave you we sincerely believed
19 to be true and correct? Did we give you any indication for you
20 to think that we didn't believe this information was true and
21 correct?

22 A. It was true or not true?

23 Q. True. True. We --

24 A. Can you rephrase the question?

25 Q. Okay.

1 A. There was so many negatives there.

2 Q. Did I ever give you any reason to believe that I did not
3 hold my beliefs about income taxes sincerely and honestly? Did
4 I give you any reason to believe that I didn't believe what I
5 was saying?

6 A. No, no, you never.

7 Q. No.

8 A. No, no.

9 Q. And nobody at Freedom Books?

10 A. No. You always -- you always believed what you were
11 preaching, what you were saying, yes.

12 Q. And, when you came into Freedom Books, nobody there gave you
13 any reason to believe that we thought what we were doing was
14 interfering with the Government's collection of taxes?

15 A. Yeah, never do that, no.

16 Q. Legal collection of taxes.

17 A. Never did that.

18 Q. No.

19 And you still believe that today?

20 A. That's true, yes.

21 MR. SCHIFF: No further questions.

22 THE COURT: Mr. Bowers?

23 MR. BOWERS: No, your Honor. Thank you.

24 THE COURT: Government?

25

REDIRECT EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MR. IGNALL:

Q. Mr. Parrinelli --

A. Yes.

Q. -- if Mr. Schiff had said something to you that indicated that he didn't sincerely believe what he was telling you, would that have made any difference to your decision whether to purchase any products from Freedom Books?

A. You mean sincerely? Can you --

Q. Did Mr. Schiff --

A. -- can you rephrase the question? I don't...

Q. I'm sorry.

Mr. Schiff just asked you if he ever gave you any indication that he didn't believe what he was telling you.

A. Oh. He never did.

Q. Do you remember that --

A. He never did that, that he didn't --

Q. If he -- if he did give you some indication that he didn't believe what he was saying, would --

A. He never did that.

Q. No. But, if he had, would that have made any difference to your decision whether to purchase products in Freedom Books?

A. Well, like I said, I double-checked everything.

THE COURT: Answer the question, yes or no.

THE WITNESS: Can you ask it again?

1 BY MR. IGNALL:

2 Q. I'm sorry.

3 If Mr. Schiff had indicated some doubt about his
4 position, that some courts or others had disagreed with him,
5 would that have made any difference to your decision whether to
6 purchase products from Freedom Books?

7 A. No, no, no. No, not -- that part would make no difference
8 at all because I had done my own research.

9 Q. All right. Thank you.

10 MR. IGNALL: No further questions.

11 THE COURT: Any recross?

12 MR. CRISTALLI: No, your Honor.

13 MR. BOWERS: I have nothing, your Honor.

14

15 RE-CROSS-EXAMINATION

16 BY MR. SCHIFF:

17 Q. Mr. Parrinelli, if you suspected that I didn't believe in
18 what I was saying, if you suspected that I was being
19 hypocritical in what I was saying, that certainly would have
20 raised a doubt in your mind before you checked?

21 A. Of course. Of course.

22 Q. But, because I didn't give you any reason to believe, you
23 still checked it.

24 A. Yes, I -- yeah, of course, I check, yes. That's true. You
25 know, I believed everything you said. But --

1 Q. But even --

2 A. -- I still want to --

3 Q. -- even if I went to jail now and you already checked it you

4 would know I would go to jail illegally; is that right? That

5 still --

6 MR. IGNALL: Objection, your Honor.

7 BY MR. SCHIFF:

8 Q. -- wouldn't change --

9 THE COURT: Sustained.

10 BY MR. SCHIFF:

11 Q. -- that still wouldn't change your beliefs?

12 THE COURT: Sustained. The objection is sustained.

13 Next question.

14 BY MR. SCHIFF:

15 Q. In other words, regardless --

16 THE COURT: Next question.

17 MR. SCHIFF: Okay. I'm going --

18 THE COURT: That is --

19 MR. SCHIFF: -- to the next --

20 THE COURT: -- sustained.

21 MR. SCHIFF: -- question.

22 BY MR. SCHIFF:

23 Q. Regardless of what --

24 THE COURT: Don't go back into it. Don't go back into

25 it.

1 MR. SCHIFF: I'm not going back.

2 BY MR. SCHIFF:

3 Q. In other words, what you believed is fixed based on your own
4 research. And that's independent of me?

5 A. That's correct. That's correct.

6 Q. Okay. Thank you.

7 MR. SCHIFF: Nothing further.

8 THE COURT: Anything further?

9 MR. IGNALL: No further questions, your Honor.

10 THE COURT: The witness is excused.

11 THE WITNESS: Thank you, your Honor.

12 THE COURT: Government's next witness.

13 MR. NEIMAN: Your Honor, the United States would call
14 Sara Brana to the stand.

15 (Sara Brana takes the witness stand.)

16 MR. NEIMAN: As a preliminary matter with this witness,
17 I -- the Government has reached a stipulation, I believe, with
18 the parties as to the authenticity of some documents with which
19 Ms. Brana is gonna discuss.

20 THE COURT: Okay.

21 MR. NEIMAN: They are Government's Exhibits 300, 300A,
22 301, 302, and I believe that is it.

23 MR. SCHIFF: Well, my only objection -- I have a
24 standard objection that I believe the Government got those
25 documents illegally. And I would have no problem admitting that

1 I belong to that organization. But I want my objection to stand
2 that I believe they got the documents illegally.

3 THE COURT: Thank you.

4 Mr. Cristalli?

5 MR. CRISTALLI: Your Honor, I'm sorry. No.

6 THE COURT: Any objection to 300, 300A, 301, and 302?

7 MR. CRISTALLI: No, your Honor.

8 MR. NEIMAN: And, your Honor --

9 THE COURT: Bowers?

10 MR. NEIMAN: -- 303 as well. I apologize.

11 THE COURT: 303.

12 MR. BOWERS: Court's indulgence for just a moment, your
13 Honor.

14 (Discussion between Mr. Bowers and
15 Mr. Neiman.)

16 MR. BOWERS: Okay. No objection, your Honor.

17 MR. SCHIFF: Could I have the name of the witness?

18 THE COURT: The same will be received.

19 MR. NEIMAN: Thank you.

20 (Government's Exhibit Nos. 300, 300A, 301,
21 302, and 303, received into evidence.)

22 THE CLERK: Will the witness please stand; raise your
23 right hand?

24 You do solemnly swear that the testimony you shall give
25 in the cause now pending before this court shall be the truth,

1 the whole truth, and nothing but the truth, so help you God?

2 THE WITNESS: Yes, I do.

3 THE CLERK: Please be seated.

4 Please state for the record your full name and spell
5 your last name.

6 THE WITNESS: Sara Beth Brana, B-r-a-n-a.

7

8 SARA BRANA,

9 called as a witness on behalf of the Government, having been
10 first duly sworn, was examined and testified as follows:

11

12 DIRECT EXAMINATION

13 BY MR. NEIMAN:

14 Q. Good morning, Ms. Brana.

15 A. Good morning.

16 Q. Ms. Brana, how are you employed?

17 A. I'm a special agent with the Internal Revenue Service in the
18 Criminal Investigation Division.

19 Q. And for how long have you been a special agent with the IRS?

20 A. Approximately 20 years.

21 Q. And what are your responsibilities as a special agent with
22 the IRS?

23 A. To conduct investigations of Title 26 and Title 18 cases;
24 um, various financial cases.

25 MR. SCHIFF: Could she speak louder? I didn't hear the

1 answer.

2 THE WITNESS: I'm sorry.

3 To investigate violations of Title 26 and Title 18 and,
4 uh, any financial investigations.

5 BY MR. NEIMAN:

6 Q. And to which field office are you currently assigned to?

7 A. The San Diego Field Office.

8 Q. As part of your responsibilities as a special agent with the
9 IRS, do you ever have the opportunity to work undercover?

10 A. Yes, I do -- I did.

11 Q. And can you explain any training you received, if any, with
12 regards to how to act in the undercover capacity?

13 A. Yes. The IRS gives us a two-week training in undercover
14 activities which includes, uh, classroom training and practical
15 exercises.

16 Q. And sometimes in acting in an undercover capacity do you
17 need to assume another identity?

18 A. Yes, I do.

19 Q. Were you involved in an undercover investigation into the
20 activities of the Christian Patriot Association?

21 A. Yes, I was.

22 Q. In what capacity did you work as an undercover in that case?

23 A. I was an undercover agent and I, um, joined the
24 association -- the Christian Patriot Association --

25 Q. Where --

1 A. -- as a client.

2 Q. -- where is the Christian Patriot Association located?

3 A. It was located outside of Portland, Oregon.

4 Q. And did you -- as becoming a client of Christian Patriot
5 Association, what type of services did -- did Christian Patriots
6 [sic], or CPA, provide?

7 A. They provided -- provided basically banking services. Um, I
8 opened an account with them. I made deposits. Um, I could make
9 withdrawals in cash; money orders; um, cashier's checks; I could
10 have them pay my bills for me, um, uh, uh, using various
11 methods, such as cashier's checks or their own company checks.
12 Um, it was basically a bank outside of the normal banking
13 system.

14 Q. And if you could explain a little more about what you mean
15 "outside the normal banking system"?

16 A. Well, it was not a -- a registered bank. Um, their -- the
17 normal paperwork that had a bank would do, uh, wasn't done, such
18 as providing 1099's, um, any other type of, um, information that
19 banks normally provide to the government, such as a Currency
20 Transaction Report which is required if you, um, do a
21 transaction in currency that's more than \$10,000.

22 Q. And do banks within the traditional banking system if there
23 is a transaction above \$10,000 -- I think you just alluded to
24 it -- is there a filing requirement to the government?

25 A. Yes, there is a filing requirement that they file what's

1 called a CTR. It's a Currency Transaction Report.

2 Q. And, with regards to, uh, a Form 1099, can you explain what
3 duty a bank would have with regards to -- a traditional bank
4 would have with regards to a 1099 at the end of a year for a
5 bankholder [sic]?

6 A. Yeah. For any interest earned, they provide their
7 accountholders with a 1099 that tells the income earned, you
8 know, usually in the form of interest so that people can report
9 it on their income tax returns.

10 Q. And did CPA provide -- or Christian Patriot Associates [sic]
11 provide 1099's for its followers?

12 A. No.

13 Q. Did they provide Currency Transaction Reports of
14 transactions generated above \$10,000?

15 A. No.

16 Q. And, as a special agent with the IRS for 20 years, can you
17 explain how, if any, the use of such bank would hinder an
18 investigation you were conducting?

19 A. Well, it would make our investigation much more difficult
20 because we would not have the traditional leads that we get from
21 the -- the information that the banks provide to the government.
22 Um, and, in addition, um, it would make it more difficult to
23 subpoena records because the -- the, um, people who were running
24 the Christian Patriot Association maintained that they did not
25 keep records of their accountholders.

1 Q. Did they in fact keep some records?

2 A. Yes, they did.

3 Q. Now, did you meet with individuals of the Christian Patriot
4 Association?

5 A. Yes, I did.

6 Q. Approximately -- and this is in your undercover capacity, I
7 assume?

8 A. As an undercover agent, I did.

9 Q. Approximately how many times did you meet with members of
10 CPA?

11 A. Once or twice a month over a nine-month period.

12 Q. And which years are we talking about when you met with them?

13 A. During 1995 and 1996.

14 Q. Did these meetings take place in person? over the telephone?
15 How did they take place?

16 A. Both. Sometimes I went there and met with them in person
17 and other times it was over -- over the phone.

18 Q. And, in your undercover capacity, did you become a client or
19 a customer of CPA?

20 A. Yes, I did.

21 Q. Can you please explain generally what you did personally as
22 a customer of the Christian Patriot Association?

23 A. Yes. I opened an account. I made deposits into my account.
24 I withdrew cash. Um, I -- I withdrew cash in amounts more than
25 \$10,000 and less than \$10,000. I also had them pay some bills

1 for me. Um, I conducted transactions in person and through the
2 mail.

3 MR. NEIMAN: Your Honor, if I may approach the witness
4 with some exhibits?

5 THE COURT: You may.

6 MR. NEIMAN: And, for the record, I'm approaching with
7 Government's Exhibits 300, 300A, 301, 302, and 303.

8 MR. SCHIFF: What is she getting?

9 BY MR. NEIMAN:

10 Q. Every time you would make a deposit with -- with the, uh,
11 Christian Patriot Association would you have to fill out a form?

12 A. Yes.

13 Q. Can you please describe the form that you would have to fill
14 out?

15 A. Well, we referred to them as blue form -- blue sheets. They
16 were -- because they were blue in color. And the form had, um,
17 a place on the top to put your account number and the date and
18 then there was a section to list out your deposits and then
19 there was a section at the bottom to list out any withdrawals or
20 payments that you were going to have them make.

21 Q. All right.

22 A. Payouts is what they called it.

23 Q. If I could direct your attention to Government Exhibit 300,
24 which I believe is in front of you, is this a sample of the
25 deposit form that you were just referring to?

1 A. Yes. This is a photocopy --

2 Q. All right.

3 A. -- of one.

4 MR. NEIMAN: If we may please publish Government
5 Exhibit 300 --

6 THE COURT: You may.

7 MR. NEIMAN: -- to the jury?

8 (Document displayed in open court.)

9 BY MR. NEIMAN:

10 Q. Ms. Brana -- Special Agent Brana, first off, is this your
11 handwriting on Government Exhibit 300?

12 A. No.

13 Q. Is this your account for, uh -- for Government Exhibit 300?

14 A. No, it's not.

15 Q. You see the account number up at the top?

16 A. Yes.

17 Q. Uh, can you explain how the account numbers worked at, I
18 guess, uh --

19 A. They were --

20 Q. -- Christian Patriot --

21 A. -- just account numbers that they assigned.

22 Q. Did any of these digits have any significance than other
23 digits?

24 A. I don't think so.

25 Q. Okay. Looking at the account number on this one, you see

1 what the account number is?

2 A. Yes.

3 Q. What is it?

4 A. 2R0 437398.

5 Q. Do you know whose account that is? From the face of the
6 document, do you --

7 A. From the face of the document, I don't.

8 Q. If I could direct your attention to Government Exhibit 301,
9 page No. 17 for scan purposes.

10 (Document displayed in open court.)

11 BY MR. NEIMAN:

12 Q. Do you see that account number listed about -- let's see. I
13 believe it's page 17. What's...

14 I'm sorry. If I could -- on this page, if we can look
15 at account No. 3HF, which is about two-thirds of the way down
16 the screen, do you see the name Sara Bjerke?

17 A. Yes.

18 Q. What's the significance of that name?

19 A. That's my undercover name.

20 Q. Okay. And if we can go to...

21 MR. NEIMAN: If I may have a moment of the Court's
22 indulgence, please.

23 THE COURT: You may.

24 (Document displayed in open court.)

25

1 BY MR. NEIMAN:

2 Q. If we could go to page 9 of Government Exhibit 301 --

3 MR. SCHIFF: All right. Your Honor, I object on
4 relevance.

5 MR. NEIMAN: I'm about to make the relevant -- make
6 this relevant right now, your Honor.

7 THE COURT: Your objection is noted.

8 MR. SCHIFF: Yeah. Because these documents aren't
9 about me.

10 BY MR. NEIMAN:

11 Q. If we can go to page 9 of Government's Exhibit 301, see
12 account No. 2R0 8912 [sic]?

13 A. Yes.

14 Q. Who is that account assigned to?

15 A. Irwin Schiff.

16 Q. All right. And, going back to Government Exhibit 300, is
17 that the same account number listed there?

18 A. The first three digits are the same, the 2R0.

19 Q. Okay. And the last four digits are not the same?

20 A. Right.

21 Q. All right.

22 MR. NEIMAN: The Government, uh -- relevance can be
23 established as to the significance of the first three digits
24 through another witness, your Honor.

25 THE COURT: Okay. The -- the page number for her

1 account was what again? What's the Bates number?

2 MR. NEIMAN: Uh...

3 THE COURT: For her undercover account.

4 MR. NEIMAN: Page 17, your Honor.

5 THE COURT: What's the Bates number? Do you have a
6 Bates number on it?

7 THE WITNESS: I have it.

8 MR. NEIMAN: I believe it's -68.

9 THE COURT: -68. And -- I see it. Okay. Thank you.

10 MR. NEIMAN: If I may have a moment, please.

11 THE COURT: Yes.

12 (Discussion between Mr. Ignall and

13 Mr. Neiman.)

14 (Document displayed in open court.)

15 BY MR. NEIMAN:

16 Q. All right. If we can go back to the Government Exhibit 300,
17 Natural Coin Exchange, did you fill out documents similar to
18 this when making deposits and payouts out of Christian Patriot
19 Association?

20 A. Yes, I did.

21 Q. Can you explain, I guess looking -- using Government
22 Exhibit 300 as an example, what type of information you would
23 put when making a deposit into the account?

24 A. Okay. At the very top, I would put my account number and
25 the date. And then the next section down, uh, is the area to

1 put the deposits. So I would put the -- the deposits that I
2 would be making for that date. So whether they're in -- the
3 deposits were in the form of checks, cash, money orders,
4 Traveler's Checks, and then a total for the deposits.

5 And then at the bottom section is the section for
6 payouts. And -- well, for example, here the -- the transactions
7 are to -- it appears to pay bills. And so it would be the list
8 of the -- the people that you wanted your -- your bills paid to,
9 okay, and then the amount to the right and then a code.

10 Q. And what's -- what's the significance of the code?

11 A. Yeah. Just above the section that -- that you have
12 highlighted, um, they have a section where you put down a code
13 of what you wanted done that date. So, um, number one is an NCE
14 Check. That --

15 Q. And what does "NCE" stand for?

16 A. That's Natural Coin Exchange, and that was the name of CPA's
17 business. Um, they basically had, like, a bookstore selling
18 business and, um, so that was their business name was Natural
19 Coin Exchange. So, if you wanted them to write one of their
20 company checks to pay your bills, they would do that for you.

21 Q. What does code number two mean?

22 A. Cash. And it says, "Mailed to the nearest one" which means
23 that they are not going to send coins through the mail. So, uh,
24 if you were going to withdraw cash and have it mailed to you,
25 you would have to put full dollar numbers down.

1 Number three would be Postal Money Orders; number four,
2 Cashier's Checks; number five, Account Transfers, if you're
3 going to transfer it to another account; and, number six, wire
4 transfers.

5 And then, just to the right of those, they list the
6 charges, um, I believe.

7 Q. When you say "charges," what type of charges do you mean?

8 A. They charged you for your transactions.

9 Q. And every time you filled out a form as a customer of CPA
10 yourself would you receive any sort of receipt or -- uh, from
11 Christian Patriot Association?

12 A. Yes. Each time that I made a transaction I received a
13 printout that looked similar to what would normally be a monthly
14 bank statement, only it was done every time -- every time I made
15 a transaction.

16 Q. If I could direct your attention to Government Exhibit 300A.

17 A. (Complies.)

18 (Document displayed in open court.)

19 BY MR. NEIMAN:

20 Q. Do you recognize Government Exhibit 300A? Is it similar to
21 the statements you would receive --

22 A. Yes.

23 Q. -- as a customer?

24 A. Yes.

25 Q. And, if we could look at, uh, the account number, are the

1 first three digits of this account number the same as referenced
2 as the account belonging to Mr. Schiff?

3 A. Yes. In fact, this appears to be the print-up of the
4 particular -- the particular transaction we just looked at.

5 Q. Okay.

6 A. Yes.

7 Q. Uh, if you can -- maybe we can --

8 A. Maybe.

9 Q. -- put them side by side, 300A and 300.

10 A. Oh. Actually, it's not. But it's got the same number.
11 It's got the same number as that transaction.

12 Q. "The same number" meaning the same account number?

13 A. The same account number.

14 Q. Okay. If we can --

15 A. It's -- it's a different date, though. I'm sorry.

16 Q. That's okay.

17 If we could look at, uh, page 5 of Government
18 Exhibit 300A.

19 MR. NEIMAN: If we can do it on one screen. I'm sorry,
20 Special Agent Steiner. If we could blow up the top portion,
21 Bates stamp ending -620. That's good.

22 (Document displayed in open court.)

23 BY MR. NEIMAN:

24 Q. And this is a Transfer / Payout / Conversion Receipt for
25 the account No. 2R0?

1 A. Yes, it is.

2 Q. And looking at this, uh, receipt based upon your experiences
3 in dealing with Christian Patriot Association, can you explain
4 or walk us through what this receipt says?

5 A. Yes. Um, at the very top it gives the -- the current -- the
6 balance before the transaction. Um, the next part down refers
7 to deposits received. On that particular date, um, there were
8 checks received in the amount of \$5,896.16. Um --

9 Q. What -- can you explain a little how -- how you would send
10 checks to be deposited with, uh, the Christian Patriot
11 Association?

12 A. Well, you would fill out a blue sheet and enclose your
13 checks, um, and then those would be deposited into your account.

14 Q. And were these checks made out to you or made from you?
15 How -- how would --

16 A. Um --

17 Q. -- how would this work?

18 A. Well, you could do it several different ways. The method
19 that, um, was recommended to me by the people at Christian
20 Patriot Association was to have the checks actually made out to
21 Natural Coin Exchange, um, have my clients -- I -- I posed as a
22 financial consultant. And so they said, well, have -- have them
23 make out checks -- have my clients make checks out directly to
24 this CPA, or Natural Coin Exchange, um, rather than having the
25 checks made out to me.

1 MR. NEIMAN: Your Honor, if I may approach the witness?

2 THE COURT: You may.

3 MR. CRISTALLI: Your Honor, I'm gonna just --

4 MR. BOWERS: Your Honor, may I request a sidebar?

5 MR. CRISTALLI: I was just gonna lodge an objection on
6 relevance. I assume it doesn't have anything to do with my
7 client, this line of questioning.

8 MR. NEIMAN: Your Honor, this count -- this evidence is
9 part of affirmative acts of evasion taken by Mr. Schiff to avoid
10 his tax liability.

11 THE COURT: So it's relevant to Schiff only?

12 MR. NEIMAN: To Mr. Schiff only.

13 MR. BOWERS: But -- and I'm -- I don't need a sidebar.
14 I didn't want to do this in public because it doesn't have
15 anything to do with my client.

16 But does this have anything to do with the years
17 charged relating to Mr. Schiff's evasion?

18 MR. NEIMAN: This is one of the affirmative acts
19 charged in the Indictment, your Honor.

20 MR. BOWERS: I mean, my understanding is this testimony
21 is about an undercover investigation with the IRS in '95 and '96
22 and that those years -- and I don't want to speak out of turn;
23 maybe I'm wrong -- but those years weren't charged in the
24 Indictment; that Mr. Schiff's indictment years are back in the
25 early '80s.

1 MR. SCHIFF: Also, your Honor --

2 MR. BOWERS: '79 to '85.

3 MR. NEIMAN: Your Honor, Count 17 of the Indictment
4 charges Mr. Schiff with evading the payment of about one and a
5 half million dollars in taxes related to years 1979 through
6 1985. The IRS has tried to collect that tax liability for the
7 last 15 years and this is one of the affirmative acts taken by
8 Schiff and alleged in paragraph 40 of the Indictment in
9 Count 17.

10 MR. BOWERS: Okay.

11 THE COURT: Mr. --

12 MR. BOWERS: Well --

13 MR. SCHIFF: Your Honor, I object to --

14 THE COURT: -- Mr. Bowers.

15 MR. BOWERS: -- I appreciate it. I apologize. It
16 doesn't have anything to do with my client.

17 THE COURT: Thank you.

18 MR. BOWERS: I just was wondering --

19 THE COURT: Thank you for your apology.

20 MR. SCHIFF: Your Honor, I object to the prosecutor
21 using a -- a term that has never been proven. He said my tax
22 liability. Now, nobody's ever taken the stand and said I had a
23 tax liability. So he's assuming, uh, a fact not in evidence.

24 How could he use the word "liability"? Would -- would
25 one of the Government's attorneys like to get on the stand and

1 show me where I have a tax liability? And, until they prove
2 that there's such a thing as an income tax liability, I would
3 ask the prosecutor to stop using the term. It's confusing the
4 jury.

5 THE COURT: Well, the -- one of the first witnesses
6 testified as to -- as to that.

7 MR. SCHIFF: Pardon me? I didn't hear you.

8 THE COURT: One of the first witnesses for the
9 Government testified as to that. Your objection is overruled.
10 Go ahead.

11 MR. NEIMAN: Getting -- I don't even remember where we
12 were -- but, I guess, let's get back to Government Exhibit 300A.
13 I was about to approach, your Honor, I believe and go through --

14 THE COURT: You were.

15 MR. NEIMAN: -- and go through Government's 302.

16 Might I approach still?

17 THE COURT: You may.

18 BY MR. NEIMAN:

19 Q. If I could direct your attention to Government

20 Exhibit 302 --

21 A. Yes.

22 Q. -- uh, if -- if you could just take a look at the exhibit
23 and just let -- let me know what's inside the binder generally.

24 Are -- are there checks?

25 A. There are checks.

1 Q. And who are the checks made payable to?

2 A. (Reviewing document.)

3 They're -- they're made payable to various people, I

4 think. Some are made out to Freedom Books.

5 Q. And who else?

6 A. To Irwin Schiff and some more to Freedom Books.

7 Q. Is that what the entire binder are checks made out to either

8 Freedom Books or Irwin Schiff or --

9 A. Yes.

10 Q. -- if -- I realize -- you can take your time to go through

11 it, if you need to.

12 A. That's -- that's what it appears to be.

13 Q. And do you know whether or not those checks were deposited

14 in Christian Patriot Association or not?

15 A. It appears that they were because most of them have -- the

16 ones that I'm looking at here have the, um -- on the back

17 there's a stamp, on the back of the checks, that say "Pay to the

18 Order of NCE/CPA for deposit only." That would be Natural Coin

19 Exchange and Christian Patriot Association.

20 Q. And you're looking at the back of the checks that were

21 processed by the bank?

22 A. Right.

23 Q. Does it say which bank that those checks were processed at?

24 If you could read the stamp.

25 A. Looks like U S Bank --

1 Q. Okay. All right. Getting back to Government Exhibit 300A
2 and -- and what we have on the screen, "DEPOSITS RECEIVED," if
3 we could highlight that portion.

4 If you can explain based upon your experiences as a
5 client of CPA what, uh -- what this means?

6 A. That's -- that's the total amount of the deposits that were
7 made on that date.

8 Q. The total amount of the checks that were deposited or sent
9 to Christian Patriot Association?

10 A. Yes. In this -- in this instance, it's checks. You could
11 also, um, deposit cash or -- or other negotiable instruments.

12 Q. All right. Did, uh -- did this account or does this
13 transaction receipt reflect whether or not anything was paid out
14 on this, uh -- at the date of this transaction?

15 A. Yes. Um, down near the bottom it says, "FEDERAL RESERVE
16 NOTES PAID OUT," cash of \$1507 and then there was a transaction
17 charge of 58.98 -- 96 cents.

18 Q. Do you know whether or not the Christian Patriot Association
19 actually sent cash through the mails or is that what's
20 reflected --

21 A. That's --

22 Q. -- here?

23 A. This would be reflected -- it doesn't tell on this
24 particular, um, uh, sheet, it doesn't tell if it was mailed or
25 you could also go into the office and pick up cash if you wanted

1 to; you didn't have to do it through the mail.

2 Q. And these offices were located in Oregon?

3 A. In Oregon, yes.

4 Q. All right. If we could look down at "TOTAL PAID OUT."

5 A. Yes. The total paid out that day was \$1,565.96.

6 Q. And that's the sum of the cash and the transaction charges?

7 A. Yes.

8 Q. And what is the new balance for account 2R0?

9 A. The new balance is \$5,247.90. That would be --

10 Q. Does Mr. --

11 A. -- at the very bottom, yeah.

12 Q. Does Mr. Schiff's name appear anywhere on this document?

13 A. No, it does not.

14 Q. Okay. And if we can, I guess, go to the next page of

15 Government Exhibit 300A.

16 A. (Complies.)

17 (Document displayed in open court.)

18 BY MR. NEIMAN:

19 Q. Or let's go, uh -- is this similar to the transaction

20 receipt we just went through?

21 A. Yes.

22 Q. Okay. Approximately how many transaction receipts are there

23 in Government Exhibit 300A?

24 A. I think 19. 19.

25 Q. Around 19? 20?

1 A. Or 18. 18 or -- yeah.

2 Q. And you received these every time you made a tran- -- did
3 you receive these every time you made a transaction with CPA?

4 A. Yes.

5 Q. If I could direct your attention --

6 THE COURT: I have a question.

7 When you say "you received these," you mean these that
8 are on 300A or you received a printout when you made a
9 transaction yourself?

10 THE WITNESS: I received a printout of my transaction.

11 THE COURT: You didn't receive these?

12 THE WITNESS: Not these particular ones.

13 THE COURT: All right.

14 THE WITNESS: This was not my account.

15 THE COURT: Thank you. Just a clarification.

16 (Document displayed in open court.)

17 BY MR. NEIMAN:

18 Q. Looking at Government Exhibit 303 --

19 A. (Complies.)

20 Q. -- do you recognize what's inside Government Exhibit 303?

21 A. Yes. These are checks --

22 Q. Who --

23 A. -- from --

24 Q. -- who are the checks from?

25 A. They are from CPA Services, Christian Patriot Association.

1 Q. Okay. And who -- who's this check made payable to?

2 A. Uh, the first one is made payable to Centerbank Mortgage.

3 Q. Okay. And, looking back at Government Exhibit 300, uh, who

4 is the first payout on, uh, the Natural Coin Exchange

5 transaction receipt for May 13th, 1996?

6 A. "Centerbank Mortgage."

7 Q. Okay. Uh, what is the amount of this check?

8 A. This check is \$1356.

9 Q. And if we could blow up the memo portion of the check.

10 What -- what does that say, if you can read it?

11 A. It says, "Mortgage payments for June and July 1995. Irwin

12 Schiff," um...

13 Q. And does it give an address or --

14 A. It gives an address on Knoll -- Shepherd Knoll Drive.

15 MR. SCHIFF: I -- I still don't understand, your Honor,

16 relevance. Why is my making a mortgage payment illegal?

17 THE COURT: Well, your objection on relevance --

18 MR. SCHIFF: Relevance, yes.

19 THE COURT: -- is overruled. It is relevant.

20 MR. SCHIFF: It is relevant.

21 THE COURT: It is relevant to the charges in the

22 Indictment.

23 BY MR. NEIMAN:

24 Q. If we could go to the next -- or how many checks are there,

25 approximately, made out to Center Bank Mortgage from Christian

1 Patriot Association?

2 A. How many to Center Bank Mortgage?

3 Q. Yeah.

4 A. Are these all Center... Let me see.

5 Q. No.

6 A. There are at least five or six. There are some that are

7 made out to other...

8 Q. Well, other entities?

9 A. Other entities as well.

10 Q. Okay. And are all those checks in Government Exhibit 303

11 from the Christian Patriot Services?

12 A. Yes.

13 Q. All right. If -- I'm gonna direct your attention, I guess,

14 to the overhead which are checks taken out of Government -- is

15 this check contained within Government Exhibit 303?

16 A. Yeah, yes.

17 Q. If I could figure out how to zoom out.

18 All right. And this is a check made out to who?

19 A. To the Bank of South Windsor -- or S Windsor.

20 Q. Okay. And who does it say it's for in the memo section?

21 A. Irwin Schiff.

22 Q. Here's another check made out to Centerbank.

23 A. Yes.

24 Q. And who does it say it's for in the memo section?

25 A. Irwin Schiff and then a loan number.

1 Q. If I could change gears to something completely different,
2 Special Agent Brana, were you the case agent involved in the
3 investigation of James Dentice?

4 A. Yes, I was.

5 Q. Who was James Dentice?

6 A. Um, he was a chiropractor, uh, living in the San Diego area
7 and he was indicted on tax charges.

8 Q. What, uh -- for what type of returns were he indicted for?
9 Amended returns I should say.

10 A. Uh, for, um, returns that zeroed --

11 MR. SCHIFF: Objection --

12 THE WITNESS: -- out his income.

13 MR. SCHIFF: -- your Honor. The jury heard from Mr. --
14 Dr. Dentice's testimony. We're just rehashing it.

15 THE COURT: What -- what is the relevance?

16 MR. NEIMAN: Your Honor, I believe yesterday in
17 cross-examination Mr. Schiff tried to bring out some points as
18 to what was said at Dr. Dentice's sentencing --

19 THE COURT: Okay.

20 MR. NEIMAN: -- which --

21 THE COURT: Yeah --

22 MR. NEIMAN: -- Special Agent Brana was at.

23 MR. SCHIFF: Well, is he gonna bring up the sentencing
24 so I can reintroduce documents which were produced at that
25 sentencing?

1 THE COURT: Not if -- if those are the ones that you as
2 a interloper attempted to hand to the jury or to force counsel
3 for Mr. Dentice to give to the jury, no.

4 MR. SCHIFF: I -- I...

5 THE COURT: The objection's overruled.

6 BY MR. NEIMAN:

7 Q. And did Mr. Schiff testify at the trial of Dr. Dentice or
8 Mr. Dentice?

9 A. Yes, he did.

10 Q. Uh, what was, if you recall, the substance of Mr. Schiff's
11 testimony at this trial?

12 A. It was that he advised Dr. Dentice on how to file those
13 returns.

14 Q. And were you at Mr. Dentice's sentencing?

15 A. Yes.

16 Q. Did the judge pronounce Mr. Dentice innocent of the charges
17 for which he was charged at his sentencing?

18 A. No.

19 MR. NEIMAN: I have nothing further, your Honor.

20 MR. CRISTALLI: Your Honor, I think your Honor did give
21 a curative instruction with regard to this particular issue
22 as -- when -- when Dr. Dentice was on the stand. If we could
23 get a similar instruction with regard to this particular witness
24 because the content is --

25 THE COURT: You mean as to the -- as to the other

1 parties in this case; is that --

2 MR. CRISTALLI: That's correct, the fact that that
3 conviction has nothing to do with these proceedings.

4 THE COURT: The convict- -- well --

5 MR. NEIMAN: And the Government would object to such an
6 instruction.

7 THE COURT: Well...

8 (Discussion between Mr. Bowers and
9 Mr. Schiff.)

10 THE COURT: Just a moment. Why don't -- why don't
11 you -- Mr. Cristalli --

12 MR. CRISTALLI: Yes, your Honor.

13 THE COURT: -- why don't you write out what you
14 propose --

15 MR. CRISTALLI: Yes, sir, I will.

16 THE COURT: -- show it to the Government. I'll give it
17 as soon as possible.

18 We're going to --

19 MR. BOWERS: Judge, one question.

20 THE COURT: Okay.

21 MR. BOWERS: Just one.

22

23 CROSS-EXAMINATION

24 BY MR. BOWERS:

25 Q. Agent Brana, I'm Chad Bowers. I represent Larry Cohen. How

1 are you?

2 A. Good.

3 Q. Just so we're clear, Larry Cohen has nothing to do with
4 anything you've just talked about; correct? The Christian
5 Patriot Association, conviction of Dr. Dentice, Dr. Dentice's
6 sentencing -- Larry Cohen has nothing to do with any of that as
7 far as you're aware; is that right?

8 A. I've never heard that name before.

9 Q. Okay.

10 A. So I -- I don't know --

11 Q. Yeah. So your --

12 A. -- who that is.

13 Q. -- testimony here today isn't offered with respect to him?

14 A. Right.

15 Q. Thank you, Agent.

16

17 CROSS-EXAMINATION

18 BY MR. SCHIFF:

19 Q. One further question.

20 If you were at the sentencing, didn't the judge in
21 sentencing Dr. Dentice state that he believed he was entitled to
22 the refund? He -- didn't -- didn't the judge state that based
23 upon Mr. Schiff's influence that Dr. Dentice believed he was
24 entitled to the refund? Didn't she say that?

25 A. I don't recall that. I don't...

1 Q. Well, if I --

2 A. Do you --

3 Q. -- showed you --

4 A. -- do you have a transcript?

5 Q. -- if I showed you the trial transcript, would that refresh

6 your recollection?

7 A. Sure.

8 Q. I want -- I didn't -- oh, yeah, I have it. I'll dig it up

9 before the witness leaves.

10 And, if she said he believed he was entitled to the

11 refund, wouldn't that have meant he wasn't willful; he wasn't --

12 he didn't file it fraudulently?

13 A. You know what? I'd need to see the transcript to see what

14 was said. I --

15 Q. Well, I have the --

16 A. -- I don't know.

17 Q. -- transcript. But I'm not prepared -- I didn't -- I wasn't

18 prepared for the Government to bring that up.

19 But if she did state it -- and she did --

20 THE COURT: Well, wait a minute.

21 MR. SCHIFF: All right.

22 THE COURT: You're not going to --

23 MR. SCHIFF: I'm sorry.

24 THE COURT: -- testify.

25 MR. SCHIFF: All right.

1 THE COURT: You've asked the question. She said she
2 didn't remember it.

3 MR. SCHIFF: Okay.

4 Are we taking a break now?

5 THE COURT: Depends on how much time you need for your
6 examination.

7 MR. SCHIFF: Well, I may take --

8 THE COURT: We may finish.

9 MR. SCHIFF: -- as much time as the Government took.

10 THE COURT: Okay. We will take a recess. Be in recess
11 15 minutes. Standard admonition applies.

12 (Jury leaves the courtroom at 10:28 a.m.)

13 MR. IGNALL: Your Honor --

14 THE COURT: Yes.

15 MR. IGNALL: -- one thing. I think this morning's
16 interrogation makes clear that we really do need some sort of a
17 preliminary instruction on what the law is because I think
18 Mr. Schiff has confused the law. We've had some difficulty
19 working out the good-faith language. But perhaps we can try and
20 come to some sort of agreement during the break.

21 MR. CRISTALLI: Your Honor --

22 THE COURT: See what you can do on it.

23 MR. CRISTALLI: I thought your Honor did --

24 MR. BOWERS: A wonderful job.

25 MR. CRISTALLI: -- in controlling Mr. Schiff. I mean,

1 I mean, I -- you know, I mean, I -- I think if the Court
2 continues to remind Mr. Schiff of the parameters with regard to
3 his questioning and we will continue to do that as well, I think
4 we can alleviate a, um -- an instruction at this time. Because
5 I think it's not a curative instruction, it's an instruction. I
6 just don't think it's proper during the course of evidence to
7 have such an instruction because it's an instruction on the law.
8 There's no two ways about it. They are going to receive that
9 instruction once the case gets to them. Um...

10 THE COURT: Well, but you're --

11 MR. CRISTALLI: I mean, that could be controlled
12 through objections.

13 THE COURT: I think --

14 MR. CRISTALLI: I mean, it really can and it has been.

15 THE COURT: It really hasn't because the -- the last
16 witness, uh, testified that he had researched the law and this
17 is what it was and it was as Schiff said. And --

18 MR. CRISTALLI: But the Government --

19 THE COURT: -- of course it's not the law.

20 And Mr. Parrinelli, uh, you know, made statements that
21 have been rejected, uh, by the courts of this country for the
22 last 91 years.

23 MR. CRISTALLI: Your Honor, that's a Government
24 witness; it's not my witness.

25 THE COURT: I know. But it came out -- it came out

1 through Mr. Schiff trying to get the law in through the back
2 door.

3 MR. CRISTALLI: And it was objected to by the
4 Government with an assertion that that's not the law.

5 THE COURT: Well, it -- it is. It's very difficult
6 to -- to control Mr. Schiff and he continues to -- to try to get
7 things in through the back door and he has been getting such
8 statements in through the back door. So I -- I don't agree with
9 you that -- that, uh, I've been able to control him.

10 Compared to -- compared to past -- past days, yes, it's
11 better. But we're still not -- still not there and the
12 prejudice is occurring with these speeches that he continues to
13 make.

14 MR. CRISTALLI: Your Honor, in light --

15 MR. SCHIFF: And, your Honor, can I --

16 MR. CRISTALLI: Irwin, please. Can I finish?

17 MR. SCHIFF: -- can I just --

18 MR. CRISTALLI: I need to finish.

19 MR. SCHIFF: -- say something?

20 MR. CRISTALLI: In light of that -- in light of that --
21 of the Court's position with regard to that, um, you know, I'm
22 saying -- I'm not saying playing the same game as Mr. Schiff and
23 that's causing me a significant problem in terms of the defense.
24 It's now, once again, causing an antagonistic situation between
25 my defense and Mr. Schiff's defense. I must renew my notion for

1 severance on that -- on those days.

2 THE COURT: Well, you're -- you're actually using the
3 things that he is doing and bringing out to -- to buttress your
4 good-faith position. So I don't think you have been harmed.

5 MR. SCHIFF: Your Honor, can I just say I --

6 THE COURT: Motion --

7 MR. SCHIFF: -- he testified as to his belief. I
8 didn't say a word through his whole testimony. He said he
9 couldn't find a law that made him liable. I didn't say
10 anything. That was the Government's witness.

11 THE COURT: Mr. Schiff, you have -- apparently don't
12 realize what you're doing. But you have attempted to -- to make
13 legal arguments throughout your entire examination of every --
14 every Government witness, throwing cases out with citations and
15 cases that have been rejected, false statements of the law.

16 MR. SCHIFF: Well, your Honor --

17 THE COURT: You've done it -- you've done it and -- and
18 I so find. And your arguments have been rejected. They are not
19 meritorious. The cases are all over the board that reject your
20 views. So --

21 MR. SCHIFF: Your Honor, I'm gonna take the stand. So
22 the Government can confront me.

23 THE COURT: Well, we don't know if you will or not.
24 But, until then, what you're doing is improper.

25

1 (Recess from 10:33 a.m. to 10:53 a.m.)

2 THE COURT: Ready to bring the jury in?

3 MR. IGNALL: I believe so, your Honor. I believe

4 Mr. Cristalli said he no longer wants a curative instruction

5 about the conviction.

6 MR. CRISTALLI: That's fine, your Honor.

7 MR. IGNALL: And I don't know when the Court wants to

8 discuss -- maybe at the lunch break --

9 THE COURT: Probably the lunch break for the --

10 MR. IGNALL: -- the legal instruction. All right.

11 THE COURT: -- instruction on the law.

12 MR. IGNALL: Nothing from the Government beyond that,

13 your Honor.

14 THE COURT: Okay.

15 All right. Are you ready for me to consider that,

16 Mr. Cristalli, or do you want to wait?

17 MR. CRISTALLI: I'm sorry, your Honor. The

18 instruction?

19 THE COURT: The one on the conviction of --

20 MR. CRISTALLI: No, your Honor, I don't --

21 THE COURT: -- Dentice.

22 MR. CRISTALLI: -- need a curative instruction with

23 regard to that.

24 THE COURT: Dentice?

25 MR. CRISTALLI: No, I do not.

1 THE COURT: Oh, you don't. Okay.

2 MR. CRISTALLI: Thank you.

3 THE COURT: Okay. Let's bring them in.

4 (Jury enters the courtroom at 10:56 a.m.)

5 THE COURT: Please be seated.

6 Will counsel stipulate to the presence of the jury?

7 MR. CRISTALLI: Yes, your Honor.

8 MR. NEIMAN: Yes, your Honor.

9 THE COURT: Thank you.

10 Go ahead, Mr. Schiff.

11 BY MR. SCHIFF:

12 Q. I just want to cover this to clarify.

13 Ms. Brana, you said you were at the sentencing of

14 Dr. Dentice; is that correct?

15 A. Yes.

16 Q. And you were clarifying -- how long was that sentencing? Do

17 you recall how long it was?

18 A. I don't recall.

19 Q. But you saw me there; is that...

20 A. I don't -- I don't remember. I remember seeing you --

21 Q. Okay.

22 A. -- at the trial.

23 Q. Did -- did -- did you recall the judge saying to Dr. Ten- --

24 Ten- -- Dentice that she believed that he, uh, was entitled to

25 the refund, that he filed an amended return and at sentencing

1 she said he believed -- she believed that he believed he was
2 entitled to the refund? Do you recall --

3 THE COURT: You've got a compound question there,
4 Mr. Schiff. First, you asked if the judge believed that
5 Mr. Dentice --

6 MR. SCHIFF: Believe, yes.

7 THE COURT: -- was entitled to a refund and then you
8 added the subsequent question --

9 MR. SCHIFF: I'm sorry.

10 THE COURT: -- that she believed that he believed.

11 MR. SCHIFF: Yes.

12 THE COURT: So which one is it?

13 BY MR. SCHIFF:

14 Q. Did you hear the judge say that --

15 A. I don't recall.

16 Q. Well, would it refresh your recollection -- would it refresh
17 your recollection if I showed you a page from the transcript?

18 A. Sure.

19 Q. Okay.

20 MR. SCHIFF: I think this has been...

21 THE COURT: Are you requesting to approach?

22 MR. SCHIFF: ...been admitted already.

23 THE COURT: Are you requesting --

24 MR. SCHIFF: May I --

25 THE COURT: -- to approach?

1 MR. SCHIFF: -- approach the witness?

2 THE COURT: You may.

3 BY MR. SCHIFF:

4 Q. Can you read this highlighted?

5 MR. NEIMAN: Your Honor, this -- just so it's clear
6 from -- this has not been admitted. I think Mr. Schiff alluded
7 otherwise just now.

8 THE COURT: It has not been admitted into evidence. It
9 is --

10 BY MR. SCHIFF:

11 Q. Does that --

12 THE COURT: -- marked for identification only.

13 BY MR. SCHIFF:

14 Q. Does that refresh your recollection?

15 A. Uh, let me take a minute to read it, if you don't mind.

16 Q. Well, that's all right.

17 A. (Reviewing document.)

18 I see this. But she's just summarizing what the case
19 was about.

20 Q. Well, can you read --

21 A. She --

22 Q. -- what she said?

23 A. -- she doesn't say that she believes --

24 Q. Well, can you just --

25 A. -- that.

1 MR. NEIMAN: I'm just gonna object to the reading of
2 the document and -- and the discussion. One, I'm afraid that
3 this portions been taken out of context.

4 THE COURT: Sure.

5 MR. NEIMAN: We don't have --

6 THE COURT: Yeah.

7 MR. SCHIFF: Well, she can read the whole --

8 THE COURT: Right. She -- that's not the whole
9 sentencing transcript, one page.

10 MR. SCHIFF: Well --

11 THE WITNESS: Well, she's --

12 MR. SCHIFF: Your Honor --

13 THE WITNESS: -- talking about the --

14 MR. SCHIFF: -- I didn't think I had to bring --

15 THE COURT: Let her answer the question.

16 MR. SCHIFF: Can I...

17 THE WITNESS: You want me --

18 MR. SCHIFF: I didn't think I had to bring in the whole
19 transcript just to get that one sentence.

20 THE COURT: Well, you're --

21 BY MR. SCHIFF:

22 Q. What did she say?

23 THE COURT: -- not going to take things out of context.

24 You can let the witness answer. But, uh --

25

1 BY MR. SCHIFF:

2 Q. Can you answer -- could she read --

3 THE COURT: Stop interrupting her. No, she can't read
4 it.

5 BY MR. SCHIFF:

6 Q. Well, can you summarize what she said?

7 A. Yes. She was summarizing what the case was about and she's
8 talking about the offense levels, uh -- the offense level that
9 she's going to use for the sentencing and that the, um -- what
10 the counts of the conviction were about and the -- what the
11 evidence, uh, was that was presented, that the evidence pointed
12 to the fact that -- the Dentices believed they were entitled to
13 the refund and that he -- and that the evidence showed -- let's
14 see -- and from the testimony of Mr. Schiff -- I'm not supposed
15 to read it. But she's -- she's summarizing what happened during
16 the case, not giving her own opinion.

17 Q. Doesn't she state there that she believed that the Dentices
18 were entitled to a refund?

19 A. No. She's stating that that -- that he said that -- that
20 according to you that he believed that he did not have to pay
21 taxes.

22 Q. But she said --

23 A. It says, from the testimony of Mr. Schiff, Dr. Dentice
24 believed that he did not -- she -- she was summarizing your
25 testimony in that sentence.

1 Q. But isn't she stating what he believed?

2 A. She's stating that you --

3 MR. NEIMAN: I'm gonna --

4 THE WITNESS: -- said that.

5 MR. NEIMAN: Objection.

6 THE COURT: It's -- it's asked and answered. You don't

7 like the answer. But --

8 MR. SCHIFF: No.

9 THE COURT: -- move on.

10 MR. SCHIFF: It's all right. Well, I...

11 BY MR. SCHIFF:

12 Q. Well, is that --

13 MR. SCHIFF: Well, was that -- is that -- that was

14 marked as --

15 THE COURT: Mr. --

16 MR. SCHIFF: Is that going --

17 THE COURT: -- Mr. Schiff, move on.

18 MR. SCHIFF: -- in as an exhibit? Okay. Okay.

19 BY MR. SCHIFF:

20 Q. So let's go back to --

21 MR. SCHIFF: What do I do with this? Do I give it back

22 to you?

23 THE COURT: Hand it back to the clerk if it's marked.

24 THE CLERK: Yes, sir, that's fine. I must have marked

25 the wrong page.

1 THE COURT: Ms. Clerk.

2 BY MR. SCHIFF:

3 Q. Okay. Now -- now, what sort of -- now, let me see. Now, if

4 I can recall you said that as a special agent you investigate

5 potential violations of Title 28 [sic] and Title 26; is that

6 correct?

7 A. Title 26 and Title 18.

8 Q. Oh, Title --

9 A. Generally Title 18 --

10 Q. Oh, I'm sorry. Title 26 and Title 18.

11 A. Yes. Title 18 would cover money laundering.

12 Q. Can you explain what that term means? What is Title 26 and

13 what's Title 18?

14 A. Right. Title 26, um, includes the -- the income tax

15 charges. Title 18, um, contains various charges, one of which

16 is money laundering that I've been involved in, um, several

17 investigations of money laundering.

18 Q. So you investigate violations of money laundering --

19 A. Yes.

20 Q. -- and you also inviolate [sic] violations of the Internal

21 Revenue laws; is that correct?

22 A. Yes.

23 Q. Therefore, I assume when you investigate violations of Title

24 18 you know what laws in Title 18 that are potentially being

25 violated --

1 A. Yes.

2 Q. -- when you conduct that investigation --

3 A. Yes.

4 Q. -- is that right?

5 A. Yes.

6 Q. And I assume that you know what laws in Title 26 are being
7 violated when you conduct your investigation; is that correct?

8 A. Our -- our investigations center on Title 26, Sections 7201,
9 7203, 7206(1) generally.

10 Q. Oh. I mean --

11 A. Those are the ones that I have personally investigated.

12 Q. Can I -- can I -- are you referring to Sections of Title 26?

13 A. Yes.

14 Q. So you investigate --

15 A. 72- -- Section --

16 Q. -- you investigate --

17 A. -- seventy-two 0 --

18 THE COURT: Let her answer. Let her answer.

19 MR. SCHIFF: Well, I wanna --

20 THE COURT: Mr. Schiff --

21 MR. SCHIFF: -- write it down.

22 THE COURT: -- it is very difficult for the reporter to
23 take down testimony when you insist on overtaking whoever else
24 is speaking.

25 MR. SCHIFF: I wanna take --

1 THE COURT: I want you to wait for the witness to
2 finish so that the court reporter does not have to try to take
3 down your statements and hers at the same time. It is very
4 inconsiderate. Let her answer.

5 THE WITNESS: Okay. I'll clarify. Um, Title 26,
6 Section 7201, is the income tax evasion. Title 26, Section
7 7203, is a failure to file income tax returns. Title 26,
8 Section 7206(1) --

9 BY MR. SCHIFF:

10 Q. 70-...

11 A. 7206(1).

12 -- that violation, um, involves filing false income tax
13 returns.

14 Q. And, uh, since I -- since I've been charged in Count 17 with
15 failure to defeat and pay income taxes, I'm assuming you also
16 investigate, uh, for such charges?

17 A. I could. I have not personally, uh, worked any cases of
18 that particular --

19 Q. Well, wouldn't my --

20 A. -- section.

21 Q. -- being a member of the Christian Patriot be involved in
22 connection, I think, with that specific charge?

23 A. It may have been. I'm not sure what they were charged with.

24 MR. NEIMAN: I'm gonna object just -- Special
25 Agent Brana has the knowledge as to how the Christian Patriot

1 Association works. She's unfamiliar with what Mr. Schiff is
2 charged with and --

3 MR. SCHIFF: Okay.

4 BY MR. SCHIFF:

5 Q. Now --

6 THE COURT: Sustained.

7 BY MR. SCHIFF:

8 Q. Okay. Well, I am being charged with -- okay. Now, you said
9 I -- you investigate my having an account in the Christian
10 Patriot Association; is that right?

11 A. Yes. As an undercover agent, I opened an account.

12 Q. How would my having an account with the Christian Patriot
13 constitute a violation of any law as contained in the Internal
14 Revenue Code?

15 A. Um, what they were doing was trying to keep assisting
16 individuals in keeping their financial affairs away from the
17 knowledge of the government.

18 Q. Okay. You're saying that by having -- by keeping my
19 affairs -- concealing my, allegedly -- away from the government;
20 is that right?

21 A. Yes.

22 Q. Well, how -- how would the government -- what would the
23 government do if it knew I had an account there? How would that
24 interfere with the government even if it knew I had an account
25 there?

1 A. Then they could have collect -- they could have garnished --
2 if it was with a regular bank, they could have garnished the
3 account to collect the taxes.

4 Q. You mean, the -- what you're saying is they could have
5 seized -- if it were in a normal account, they could have seized
6 my money from a normal bank.

7 A. That's correct.

8 Q. But, because I allegedly concealed it with the Christian
9 Patriot, they wouldn't have known about it so they couldn't
10 seize it?

11 A. That's correct.

12 Q. So the alleged crime I committed was putting my assets,
13 presumably, where the government couldn't find out about it.
14 Presumably.

15 A. Well --

16 Q. So they couldn't seize it if they didn't know about it.

17 A. So they couldn't seize it --

18 Q. Okay.

19 A. -- or for -- yes.

20 Q. Okay. Now, you're aware that the government has seized
21 assets of mine numerous times.

22 A. I --

23 Q. Were you aware of that?

24 A. -- I was not, but...

25 Q. Okay. So you acknowledge that the IRS seizes properties

1 from banks --

2 A. Yes.

3 Q. -- from employers --

4 A. Yes.

5 Q. -- and they use a no- -- were you employed at the IRS in --

6 in another area before you were a special agent? Were you ever

7 a revenue agent?

8 A. No, I was not.

9 Q. So you never have been directly -- all right.

10 Now -- but you're aware that the IRS does seize

11 property --

12 A. I'm aware of that --

13 Q. -- from banks?

14 A. -- that, yes.

15 Q. Now, when the IRS seizes property from banks, do they seize

16 the property legally or illegally to your knowledge?

17 A. They do it legally.

18 Q. They do it legally. All right.

19 Have you ever seen a law that allows the IRS to seize

20 property --

21 MR. NEIMAN: I'm --

22 BY MR. SCHIFF:

23 Q. -- from anybody?

24 MR. NEIMAN: -- I'm gonna object to relevance and --

25 MR. SCHIFF: The relevance, your Honor --

1 MR. NEIMAN: -- and Mr. Schiff mischaracterizing the
2 law.

3 THE COURT: That is not relevant. The Court will
4 instruct --

5 MR. SCHIFF: Well --

6 THE COURT: -- the jury on the law.

7 MR. SCHIFF: -- well, let me explain its relevance.

8 THE COURT: This witness will not; the Court will --

9 MR. SCHIFF: Can I explain its relevance?

10 THE COURT: -- instruct the jury.

11 MR. SCHIFF: Can I explain its relevance?

12 THE COURT: No. It is not --

13 MR. SCHIFF: Well --

14 THE COURT: -- relevant.

15 MR. SCHIFF: -- well, the implication here --

16 THE COURT: You're not going to argue with me or I will
17 find you --

18 MR. SCHIFF: Can I -- can I have a sidebar conference
19 on this?

20 THE COURT: No.

21 BY MR. SCHIFF:

22 Q. In other words --

23 THE COURT: Move on. Next question.

24 BY MR. SCHIFF:

25 Q. How can I...

1 When the IRS seizes property from banks, do they have
2 court orders of any kind to your knowledge?

3 A. I believe sometimes they do.

4 Q. But will use a Notice of Levy.

5 MR. NEIMAN: I'm gonna object to this line of
6 questioning with this witness. She's not a collection officer.
7 She doesn't --

8 THE COURT: She is not. Sustained.

9 MR. SCHIFF: But, your Honor, she said she studied the
10 law. She studied -- all right.

11 BY MR. SCHIFF:

12 Q. You said you investigate violations of Sections 7201, 7203
13 and 7206; is that correct?

14 A. Yes.

15 Q. Is income taxes mentioned in Section 7201?

16 A. Yes, I --

17 Q. Pardon me?

18 A. I believe it is. It's -- it's evasion. It's income tax
19 evasion.

20 MR. SCHIFF: May I approach the witness?

21 THE COURT: You may.

22 (Internal Revenue Code placed before the
23 witness.)

24 BY MR. SCHIFF:

25 Q. Can you read from Section 7201 and see where it mentions

1 income tax?

2 A. "Attempt to evade or defeat tax."

3 THE COURT: Next question.

4 BY MR. SCHIFF:

5 Q. Well, does it say -- is income tax mentioned in Section

6 7201?

7 A. Well, that's the -- the title of the section is "Attempt to

8 evade or defeat tax."

9 Q. But it doesn't say "income tax."

10 THE COURT: So what?

11 MR. SCHIFF: But -- but it doesn't mention income tax.

12 THE COURT: It's not legally significant that it

13 doesn't.

14 BY MR. SCHIFF:

15 Q. Does -- is income tax referred to in Section 7203?

16 MR. NEIMAN: Your Honor, I'm gonna object the code says

17 "any tax." Mr. Schiff's implicating that because it doesn't say

18 specifically "income tax" is --

19 THE COURT: Well, that the --

20 MR. SCHIFF: Well, I am saying --

21 THE COURT: -- that the --

22 MR. SCHIFF: -- it's significant because in Title 18

23 they do specifically mention taxes which are violations or

24 crimes. It does --

25 THE COURT: That is not legally significant.

1 Sustained.

2 MR. SCHIFF: She said in testimony, your Honor --

3 THE COURT: Mr. Schiff, it is not legally significant.

4 MR. SCHIFF: It's not legally significant.

5 THE COURT: It is not.

6 MR. SCHIFF: Okay.

7 THE COURT: You may want to make it --

8 BY MR. SCHIFF:

9 Q. Okay. Now --

10 THE COURT: -- but, as a matter of law, it is not
11 significant.

12 BY MR. SCHIFF:

13 Q. Okay. Now, didn't you say that when you investigated the
14 Christian Patriot that they weren't keeping adequate books and
15 records?

16 A. Okay. Um, let me clarify one thing. I -- I did not
17 investigate Christian Patriot Association. There was another
18 agent assigned as the investigator. I -- my role there was as
19 an undercover agent. Okay?

20 Um, and then your question was the paperwork?

21 Q. Yeah, the paperwork. They weren't keeping -- they weren't
22 making adequate reports and they didn't keep -- I wrote down you
23 said they didn't keep books and records.

24 A. They purported to not keep books and records.

25 Q. Pardon me? You said -- is there -- you said something about

1 they're keeping books and records; they didn't keep accurate
2 books and records. Didn't you say something to that effect?

3 A. I said that they -- they told their clients that they did
4 not keep account records as a normal bank would.

5 Q. And --

6 A. That's what they told me.

7 Q. And did your investigation show that they didn't keep books
8 and records?

9 A. Uh, I believe in the search warrant they did find books and
10 records.

11 Q. Isn't it a fact that there is no statute in the Internal
12 Revenue Code that requires anybody to keep books and records?
13 Isn't that a fact?

14 MR. NEIMAN: I'm gonna object again. Invading upon the
15 province of the Court.

16 BY MR. SCHIFF:

17 Q. Well --

18 THE COURT: Sustained.

19 BY MR. SCHIFF:

20 Q. -- is that a fact?

21 THE COURT: Sustained. Do you understand the ruling?
22 Sustained.

23 MR. SCHIFF: Can I have a sidebar on this?

24 THE COURT: No.

25 MR. SCHIFF: Your Honor, I'm being charged with a crime

1 here --

2 THE COURT: You're --

3 MR. SCHIFF: -- and I'm trying to prove I committed no
4 crime.

5 THE COURT: You are not --

6 MR. SCHIFF: And you're interfering --

7 THE COURT: -- going to -- if you keep it up, I will
8 instruct the jury on the law if you keep it up.

9 BY MR. SCHIFF:

10 Q. Now -- now, if I believed that I had no income tax liability
11 and if the IR -- and if I believed the IRS seized property not
12 pursuant to law, would it have been -- would it have been
13 unreasonable for me to put my funds in a place where the IRS
14 couldn't get their hands on it --

15 MR. NEIMAN: Objection.

16 BY MR. SCHIFF:

17 Q. -- illegally?

18 MR. NEIMAN: Speculation.

19 THE COURT: Sustained.

20 BY MR. SCHIFF:

21 Q. Uh, one of the documents that you pointed out that the
22 Christian Patriot Association kept balances -- kept balances in
23 gold and silver; is that correct? They kept your money that
24 they were not using in gold and silver?

25 A. I believe the ones -- they have gold and silver listed on

1 their sheets. I believe the balances that I referred to were in
2 dollars.

3 Q. So if -- so, when people have their money in a regular bank,
4 it's not backed by gold and silver, is it?

5 A. I don't think so.

6 Q. So, if people wanted to have their dollar balances backed by
7 something real, real money, that might be a reason why they
8 might want to use the Christian Patriot because they backed
9 their deposits by putting your money in gold and silver coin; is
10 that right?

11 A. No. They never told me that they backed their deposits in
12 gold and silver.

13 Q. Well, you could elect to do that though.

14 A. It looked like you could -- like you could deposit gold with
15 them and have them hold it for you.

16 Q. Wasn't the substance of your testimony somehow that by my
17 having money in the Christian Patriot Association that somehow
18 was a violation of law?

19 A. I -- I have not read the Indictment in this case, but I
20 believe that's an overt act that they've charged.

21 Q. Pardon me?

22 A. I believe they -- they charged that as an overt act, not
23 as --

24 Q. But as --

25 A. -- not as a particular count.

1 Q. But, as of right now, you can't point to a law in the
2 Internal Revenue Code that makes my having money --

3 THE COURT: All right. I've already instructed on you
4 on this. I'm not going to do it --

5 MR. SCHIFF: I thought --

6 THE COURT: -- again.

7 MR. SCHIFF: -- that was a different question.

8 THE COURT: The next time you do it there are going to
9 be consequences.

10 BY MR. SCHIFF:

11 Q. Incidentally, when you investigate potential violations,
12 do -- do you just investigate any kind of violation you feel
13 like investigating?

14 A. No, sir.

15 Q. In other words, you have a job description; is that correct?

16 A. Yes.

17 Q. Does your job description authorize you to investigate
18 violations of law of Americans --

19 THE COURT: Mr. Schiff --

20 BY MR. SCHIFF:

21 Q. -- living in the --

22 THE COURT: -- she's already testified that she didn't
23 investigate CPA.

24 MR. SCHIFF: Pardon me?

25 THE COURT: She has already defined she did not

1 investigate CPA; she was an undercover --

2 BY MR. SCHIFF:

3 Q. Well --

4 THE COURT: -- agent.

5 BY MR. SCHIFF:

6 Q. -- when you investigate people --

7 THE COURT: Well, that -- but why is it relevant?

8 What's the relevance of the question? She wasn't the

9 investigator in this case.

10 BY MR. SCHIFF:

11 Q. Well, my question is: Does your job description -- well,

12 in -- in the past have you investigated people -- U.S. citizens

13 living in the United States?

14 A. Yes.

15 Q. Does your job description authorize you to investigate

16 criminal violations of people living in the United States?

17 MR. NEIMAN: Your Honor, I would object to the

18 relevance.

19 THE COURT: Sustained again.

20 MR. SCHIFF: Well, can I tell you why it is relevant?

21 THE COURT: It is not relevant. She didn't

22 investigate -- she wasn't the investigator on this case; she was

23 an undercover agent.

24 MR. SCHIFF: Well, I asked her and she said as part of

25 her duties she investigates --

1 THE COURT: Not in the case. She has in other cases
2 maybe. But it is not relevant to this case. Move on.

3 BY MR. SCHIFF:

4 Q. Now, we -- is there any section of the Internal Revenue Code
5 that you've ever seen that authorizes you to investigate
6 criminal violations of the Internal Revenue Code?

7 THE COURT: Again --

8 BY MR. SCHIFF:

9 Q. Have you ever seen any such statute?

10 THE COURT: Again, the Court will instruct on the law.

11 MR. SCHIFF: Well, I asked if she's ever seen a
12 statute.

13 THE COURT: I've repeatedly --

14 MR. SCHIFF: She --

15 THE COURT: -- advised you.

16 MR. SCHIFF: That's gonna be sustained also.

17 BY MR. SCHIFF:

18 Q. Do you have any delegated authority from the Secretary to do
19 any investigation at all?

20 THE COURT: Mr. Schiff, we are going to a sidebar.

21 MR. SCHIFF: Pardon me?

22 THE COURT: We are going to a sidebar.

23 (Sidebar conference was held as follows:)

24 THE COURT: Right over here.

25 I have repeatedly told you to quit trying to put the

1 law in front of the jury. These codefendants do not want me to
2 instruct the jury on the law. You're pushing me into a position
3 where I'm going to do it. You've -- I've warned you enough.
4 Notwithstanding my rulings, you continue to ask questions in an
5 attempt to elicit law from the witness even after I say it's
6 irrelevant. You are in contempt of court. One day in jail
7 deferred until the conclusion of --

8 MR. SCHIFF: Can --

9 THE COURT: -- this trial. The next time it will
10 double and it will continue to double until you -- until you
11 respect the rulings --

12 MR. SCHIFF: Okay.

13 THE COURT: -- of the Court.

14 MR. SCHIFF: Okay. Let me -- can I say something in my
15 defense?

16 THE COURT: You may.

17 MR. SCHIFF: I am being charged --

18 THE COURT: Not so loud.

19 MR. SCHIFF: All right.

20 I am being charged --

21 THE COURT: Not so loud.

22 MR. SCHIFF: Okay.

23 I am being charged with -- especially this, of having
24 money in the Christian Patriot Association and presumably that
25 was a violation of law. And I am defending myself on the

1 grounds that when I put my money there I wasn't violating any
2 law. And when the IRS -- here is her job description. She's
3 not authorized --

4 THE COURT: You're not going to argue the law with the
5 witness --

6 MR. SCHIFF: The point is --

7 THE COURT: -- or with me.

8 MR. SCHIFF: I'm not -- I'm not arguing the law. I
9 didn't say any of the law. I just asked her if she was
10 authorized to do what she said she was do- -- it's my belief
11 she's not authorized.

12 THE COURT: To act as an undercover investigator?

13 MR. SCHIFF: No. She --

14 THE COURT: That was your question.

15 MR. SCHIFF: My -- my -- my belief is that under
16 Section 6211 -- she carries a weapon. The only -- she carries a
17 weapon under Section 7608. The only authority she has is to
18 investigate the enforcement of subtitle (e), liquor, tobacco,
19 and firearms.

20 THE COURT: I've already rejected that argument. I saw
21 that in your moving papers. That has been ruled on long ago.

22 MR. SCHIFF: Here's the statute.

23 THE COURT: Yeah. You're just -- you're just
24 cherry-picking.

25 MR. SCHIFF: Is this what the statute says, your Honor?

1 THE COURT: You're just cherry picking. You're just
2 taking phrases and putting them together to make your legal
3 garbage. I've already ruled against you on this very point.
4 Now move on.

5 (Sidebar conference concluded and the
6 following is held in open court:)

7 MR. SCHIFF: No further questions.

8 THE COURT: Has everyone had their -- their go on cross
9 now?

10 MR. CRISTALLI: Your Honor, I have no
11 cross-examination --

12 THE COURT: Okay.

13 MR. CRISTALLI: -- for this witness.

14 THE COURT: Mr. Bowers?

15 MR. BOWERS: I have no other questions. Thank you,
16 Judge.

17 MR. NEIMAN: No redirect --

18 THE COURT: No redirect?

19 MR. NEIMAN: -- your Honor.

20 THE COURT: All right. Thank you. The witness is
21 excused.

22 MR. NEIMAN: Your Honor, the United States would call
23 Lynn Rose to the stand.

24 (Pause in the proceedings.)

25

1 (Lynn Rose takes the witness stand.)

2 THE CLERK: Please raise your right hand.

3 You do solemnly swear that the testimony you shall give
4 in the cause now pending before this court shall be the truth,
5 the whole truth, and nothing but the truth, so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Please be seated.

8 Please state for the record your full name and spell
9 your last name.

10 THE WITNESS: Lynn Rose, R-o-s-e.

11

12 LYNN ROSE,

13 called as a witness on behalf of the Government, having been
14 first duly sworn, was examined and testified as follows:

15

16 DIRECT EXAMINATION

17 BY MR. NEIMAN:

18 Q. Good morning, Ms. Rose. How you are you employed?

19 A. I'm a special agent with the Internal Revenue Service,
20 Criminal Investigation Division, in Portland, Oregon.

21 Q. How long have you been a special agent with the IRS?

22 A. Over 22 years.

23 Q. Were you the lead case agent on the Christian Patriot
24 Association?

25 A. Yes.

1 Q. Are you familiar with, uh -- with how the Christian Patriot
2 Association works?

3 A. Yes.

4 Q. If I could direct your attention to Government Exhibit 300,
5 which has been admitted into evidence, and 301 also. I'm sorry.

6 THE CLERK: All right. That's okay.

7 (Document displayed in open court.)

8 BY MR. NEIMAN:

9 Q. Looking at Government Exhibit 300, the account number up in
10 the top left-hand corner, did your investigation reveal what, if
11 any, numbers in the accounts number are significant?

12 A. The account number were the first three digits. In this
13 particular, case 2R0.

14 Q. 2R0?

15 A. Yes.

16 Q. Did the other digits have any significance whatsoever?

17 A. No, they don't.

18 Q. Can you explain how you know only the first three digits are
19 what are significant to an account number?

20 A. I found several documents in a search warrant, for example,
21 checks where notations were made in the upper right-hand corner
22 and --

23 MR. SCHIFF: Foundation, your Honor.

24 THE COURT: Foundation, the exhibit is in front of her.
25 She's reading from it.

1 THE WITNESS: Go ahead?

2 Okay. I found documents where notations were made
3 relative to account numbers and only the first three digits
4 would be used; the numbers after the first three digits were not
5 used.

6 (Document displayed in open court.)

7 BY MR. NEIMAN:

8 Q. Looking at Government Exhibit, uh, 301, who was account 2R0
9 assigned for -- assigned to?

10 A. 2R0 is assigned to Irwin Schiff.

11 MR. NEIMAN: I have nothing further, your Honor.

12 MR. CRISTALLI: No questions, your Honor.

13 MR. BOWERS: I don't have --

14 THE COURT: Bowers?

15 MR. BOWERS: -- anything.

16 THE COURT: Mr. Schiff?

17

18 CROSS-EXAMINATION

19 BY MR. SCHIFF:

20 Q. That was -- in other words, you confirmed the fact that I
21 had an account at the Christian Patriot Association; is that
22 right?

23 A. From the records, yes --

24 Q. Yes.

25 A. -- you had an account.

1 Q. Now, if -- were you aware that I've had hundreds of
2 thousands of dollars taken from me by the IRS? 200, 300
3 thousand.

4 A. I'm not --

5 Q. Were you --

6 A. -- aware --

7 Q. -- of that?

8 A. -- of the dollar amount, sir. I know you've had problems
9 with the IRS.

10 Q. Yeah. So you were aware that I've had substantial
11 amounts -- that Simon -- you're not aware of that?

12 A. Again, I do not know the dollar amount.

13 Q. But you were aware that I've had money seized by the IRS?

14 A. I'm not even aware of that. I know you've been --

15 Q. Okay.

16 A. -- worked by IRS.

17 Q. Well, let's assume for the moment that I believed that I
18 didn't owe any income tax and let's assume for a moment that I
19 believed the IRS had no authority to seize my property. Let's
20 assume I believed it. Maybe it's not true, but let's assume I
21 believed it.

22 If I believe that the IRS had no authority to seize my
23 property and that I owe any tax, wouldn't it have made sense for
24 me to put my money someplace where the IRS might not be able to
25 grab it?

1 MR. NEIMAN: Objection. Speculation, argumentative,
2 and relevance.

3 THE COURT: Sustained.

4 MR. SCHIFF: Well --

5 THE COURT: Sustained.

6 BY MR. SCHIFF:

7 Q. Well, all right. Let's assume you believed that there were
8 thieves in the neighborhood. Let's assume you believed it.

9 MR. NEIMAN: Objection. Speculation and relevance.

10 THE COURT: Sustained.

11 MR. SCHIFF: This is a reasonable inference.

12 THE COURT: She testified as to very, very few matters.
13 She testified that only the first three digits of the account
14 number are relevant and that you had an account No. 2R0. If you
15 wish to cross-examine her on that, fine.

16 MR. SCHIFF: Yes. Your Honor, but I didn't -- I didn't
17 raise this issue with the prior witness and the testifying
18 about --

19 THE COURT: Well, you can't raise it with this one.

20 MR. SCHIFF: I'm not --

21 THE COURT: Because --

22 MR. SCHIFF: -- gonna raise issues of law. I'm just
23 trying to raise something log- -- the government is trying to
24 say that because I had --

25 THE COURT: You can cross-examine her on her

1 testimony --

2 BY MR. SCHIFF:

3 Q. Well, your testimony was --

4 THE COURT: -- not other things.

5 BY MR. SCHIFF:

6 Q. -- that I had an account there and the implication is, is
7 because I had an account there I believed I was violating the
8 law.

9 THE COURT: There is no implication at all. She just
10 has identified that you had an account there.

11 MR. SCHIFF: I'm missing something here, your Honor.

12 THE COURT: I think you are, yes.

13 MR. SCHIFF: I'm missing something. My assumption
14 is -- this is a criminal trial. So I'm assuming that the
15 testimony is about crimes I might have committed and one of the
16 crimes --

17 THE COURT: She has tied up -- the results of her
18 investigation are that 2R0 is your account. You can
19 cross-examine her on that and anything else --

20 MR. SCHIFF: Well, I can't cross-examine --

21 THE COURT: -- she said on direct.

22 MR. SCHIFF: -- her on that because ruled you already
23 ruled I can't ask any questions.

24 THE COURT: No, I didn't rule you couldn't ask any
25 questions. You have to ask questions --

1 MR. SCHIFF: Well --

2 THE COURT: -- on what she was examined on on direct.

3 MR. SCHIFF: Well, I'll admit that I had an account
4 with the Christian Patriot's [sic] Association. I'll admit
5 that. But I didn't believe then nor do I believe now that --

6 THE COURT: Well, you're not going to make a speech
7 either.

8 MR. SCHIFF: All right. I have no further --

9 THE COURT: You're not going --

10 MR. SCHIFF: -- questions.

11 THE COURT: -- to testify.

12 MR. NEIMAN: Nothing on behalf of the Government.

13 THE COURT: The witness is excused.

14 THE WITNESS: Thank you.

15 THE COURT: Thank you.

16 MR. NEIMAN: Your Honor, the United States would call
17 Norm Struss to the stand.

18 (Pause in the proceedings.)

19 (Norman Struss takes the witness stand.)

20 THE CLERK: Please go on up there to the top of the
21 stair. Remain standing. Raise your right hand you.
22 Do solemnly swear that the testimony you shall give in
23 the cause now pending before this court shall be the truth, the
24 whole truth, and nothing but the truth, so help you God?

25 THE WITNESS: Yes.

1 THE CLERK: Please be seated.

2 Please state for the record your full name and spell
3 your last name.

4 THE WITNESS: Norman Struss, S-t-r-u-s-s.

5

6 NORMAN STRUSS,
7 called as a witness on behalf of the Government, having been
8 first duly sworn, was examined and testified as follows:

9

10 DIRECT EXAMINATION

11 BY MR. NEIMAN:

12 Q. Good morning, Mr. Struss.

13 A. Good morning.

14 Q. Mr. Struss, where do you live?

15 A. In Callery, Pennsylvania.

16 Q. What was the name of the city?

17 A. Callery, Pennsylvania.

18 Q. And is Callery in eastern or western Pennsylvania?

19 A. Western Pennsylvania.

20 Q. And how are you employed in Callery, Pennsylvania?

21 A. I'm a finance manager for Paul Mara (phonetic) Nissan.

22 Q. And, prior to working for Paul Mara Nissan, did you work for
23 a dealership named Linda Jones Chrysler?

24 A. Yes, I did.

25 Q. Where was Linda Jones Chrysler located?

1 A. Beaver Falls, Pennsylvania.

2 Q. What was your position with Linda Jones Chrysler?

3 A. Finance manager.

4 Q. Have you ever met Irwin Schiff?

5 A. Yes.

6 Q. Do you see Mr. Schiff in the courtroom here today?

7 A. Yes.

8 Q. Can you please identify him by what he's wearing?

9 A. Wearing a --

10 Q. -- or where he's --

11 A. -- blue suit, red tie, glasses.

12 MR. NEIMAN: Your Honor, if...

13 THE COURT: Red tie. That distinguishes.

14 Identification.

15 MR. SCHIFF: I -- your Honor, can I say something?

16 THE COURT: You've been identified. That's all.

17 MR. SCHIFF: Yeah. But he didn't tell me he was -- I

18 have -- I have documents that are relevant to his testimony.

19 But, since he didn't tell me he was gonna testify, I didn't

20 bring the documents. I mean...

21 (Discussion between Mr. Leventhal and

22 Mr. Schiff.)

23 MR. NEIMAN: Your Honor, Mr. Struss's name was read at

24 the beginning of the trial --

25 THE COURT: It was.

1 MR. NEIMAN: -- as a potential witness.

2 BY MR. NEIMAN:

3 Q. How do you know Mr. Schiff or --

4 A. I'm sorry?

5 Q. -- or how did you meet Mr. Schiff? What were the
6 circumstances?

7 A. He came in to look for -- look at a vehicle at the
8 dealership and I handled the paperwork. And so I briefly met
9 him.

10 Q. Did Mr. Schiff purchase a vehicle at your car -- at your
11 dealership?

12 A. He picked out a vehicle. It was purchased through, uh, the
13 computer company, um, Central Computer.

14 Q. All right. We'll get to that in a second.

15 Did Mr. Schiff come into the store with anybody?

16 A. I don't believe so.

17 Q. And you said that he -- a car was purchased. But was the
18 car put in his name?

19 A. No, it was not.

20 MR. NEIMAN: Your Honor, if I may approach the witness?

21 THE COURT: You may.

22 MR. NEIMAN: I'm approaching, for the record, with
23 Government Exhibits 293 and 293A.

24 BY MR. NEIMAN:

25 Q. Do you recognize Government Exhibit 293?

1 A. Yes.

2 Q. What is Government Exhibit 293?

3 A. Uh, this is a buyer's order.

4 Q. Is that for the vehicle that Mr. Schiff picked out?

5 A. Yes, it is.

6 MR. NEIMAN: Your Honor, at this time the Government
7 would move into evidence Exhibit 293.

8 THE COURT: Any objection?

9 MR. CRISTALLI: No.

10 MR. BOWERS: No.

11 MR. SCHIFF: What is it?

12 THE COURT: 293.

13 MR. SCHIFF: What is it?

14 (Discussion between Mr. Cristalli and
15 Mr. Schiff.)

16 THE COURT: Hearing no objection, the document is
17 received.

18 (Government's Exhibit No. 293, received into
19 evidence.)

20 MR. NEIMAN: Thank you.

21 If we could please publish Government Exhibit 293.
22 (Document displayed in open court.)

23 BY MR. NEIMAN:

24 Q. What is the date of this purchase order? Do you see it up
25 at the top?

1 A. Yes. The date's December 18th, '95.

2 Q. And, according to this document, what is the, uh, name of
3 the purchaser?

4 A. Central Computer Company, Incorporated.

5 Q. What was your understanding, if any, of Mr. Schiff's
6 involvement with the company name "Central Computer Company"?

7 MR. SCHIFF: Objection. Speculation.

8 THE COURT: The question --

9 MR. SCHIFF: Misnomer.

10 THE COURT: -- asks his understanding, if any. He can
11 state his understanding. Overruled.

12 THE WITNESS: My understanding was that he worked for
13 this company doing some sort of paperwork for them or
14 accounting.

15 MR. SCHIFF: I mean, it's speculation.

16 THE COURT: You can ask him on cross how he obtained
17 that understanding.

18 BY MR. NEIMAN:

19 Q. Mr. Struss, uh, what was the vehicle that was purchased?

20 A. A '95 Dodge Intrepid.

21 Q. What was the purchase price of the vehicle?

22 A. Uh, sixteen two -- or fifteen two. I'm sorry. I misread
23 it. Fifteen two.

24 Q. And was there any financing on this vehicle?

25 A. Uh, no.

1 Q. How was the car paid -- paid for?

2 A. It would have been paid for, I assume, with a check but
3 through Computer Central [sic].

4 Q. A check or was it cash? Do you know?

5 A. I do not know for sure.

6 Q. Okay.

7 MR. SCHIFF: Well, you -- well, then, you don't know --
8 objection. Everything is speculation. He -- he does not know
9 how that --

10 THE COURT: He said that.

11 MR. SCHIFF: -- how that car was paid for?

12 THE COURT: He said that. How is that speculation? He
13 doesn't know. That's the answer, he doesn't know.

14 BY MR. NEIMAN:

15 Q. Do you know whether or not there was a lien or a mortgage on
16 this vehicle?

17 A. There was no lien.

18 Q. And how do you know that?

19 A. It says it on the buyer's order, "Encumbrance, none."

20 Q. If I could direct your attention -- or you see a vehicle
21 identification number on this -- on this purchase order?

22 A. Yes.

23 Q. If I could direct your attention to Government Exhibit 293A.

24 MR. NEIMAN: Your Honor, at this time the Government
25 would move into evidence as a certified public record from the

1 title company -- title business in Pennsylvania -- or title --
2 State of Pennsylvania title that -- uh, as a certified record
3 293A. I realize I'm not speaking --

4 THE COURT: Any objection to 293A?

5 MR. CRISTALLI: No, your Honor.

6 MR. SCHIFF: 290- -- what is -- 293. That's the --

7 THE COURT: "A."

8 MR. SCHIFF: -- purchase order; right?

9 THE COURT: "A," 293A.

10 MR. SCHIFF: I don't know what this means. All right.
11 No objection.

12 THE COURT: 293A is received.

13 (Government's Exhibit No. 293A, received into
14 evidence.)

15 MR. NEIMAN: If we can please bring in Government
16 Exhibit 2- -- publish 293A.

17 (Document displayed in open court.)

18 BY MR. NEIMAN:

19 Q. Looking at, uh, the Vehicle Inquiry Detail, what's the date
20 you can see it on the top right-hand corner of 293A, second
21 page?

22 A. February 17th, '05 [sic].

23 Q. As of February of 2005 [sic], uh, if we -- are the VIN
24 numbers, the vehicle identification numbers, the same between
25 the purchase agreement and what is found here on the Vehicle

1 Inquiry Detail?

2 A. Yes, they are.

3 Q. As of February of 2005 [sic], whose name is this Dodge
4 Intrepid currently, uh, in?

5 A. Central Computer Company, Incorporated.

6 Q. Did you see Mr. Schiff leave with this vehicle back in 1995
7 from the car dealership?

8 A. I did not physically see him leave, no.

9 Q. Did you ever see anyone else come into the dealership with
10 Mr. Schiff with -- with regard to this vehicle purchase
11 agreement?

12 A. No, I didn't.

13 Q. And, as of February '95, what state was this car registered
14 to?

15 A. Pennsylvania.

16 MR. NEIMAN: I -- I have nothing further, your Honor.

17 THE COURT: Any questions of the witness?

18 MR. SCHIFF: Well, your Honor, the salesman who sold me
19 this car -- all right.

20

21 CROSS-EXAMINATION

22 BY MR. SCHIFF:

23 Q. Are you aware that the salesman who sold me the car is now
24 living in Las Vegas?

25 THE COURT: Is what?

1 BY MR. SCHIFF:

2 Q. Are you aware that the salesman who sold me -- you didn't
3 sell me this car, did you?

4 A. No, sir.

5 Q. You -- you -- you recall the name -- could you tell from
6 this document the name of the salesman who told me the car?

7 A. Yeah. It was Jim Reese.

8 Q. Who?

9 A. At the top of the buyer's order, its says "James Reese."
10 Jim Reese was the salesman.

11 Q. Where -- where is that name shown?

12 A. Top left of the, uh, buyer's order below the address of the
13 dealership.

14 Q. Oh, James Reese.

15 A. Yes.

16 Q. Terrific.

17 This car was purchased -- I -- I had somebody with me
18 you said --

19 THE COURT: You're not going to testify.

20 BY MR. SCHIFF:

21 Q. You said that I came alone. You don't recall that there was
22 two of us there?

23 A. I don't recall that.

24 Q. Well, why would I seek out somebody in Beaver Falls all by
25 myself? I didn't know your firm, did I?

1 MR. NEIMAN: Objection. Speculation.

2 THE COURT: Sustained.

3 MR. SCHIFF: Okay.

4 THE COURT: You don't have to answer.

5 BY MR. SCHIFF:

6 Q. Isn't it a fact that this vehicle was purchased by a check
7 written by Central Computer Company and Central Computer Company
8 bought that vehicle by check and paid for it by check?

9 A. I assume it was a check. I don't know that for a fact. But
10 yes.

11 Q. So they bought it?

12 A. They bought it.

13 Q. I didn't buy it. I leased it -- well, did you know that
14 after Central Computer --

15 THE COURT: You're not gonna to testify.

16 BY MR. SCHIFF:

17 Q. Were you aware that after Central Computer bought that
18 vehicle that I leased it from them?

19 A. No.

20 Q. Were you aware of that?

21 A. No, I'm not.

22 Q. Were you aware that I, over five or six years, paid Central
23 Computer for that vehicle?

24 A. No, I'm not.

25 Q. Were you aware that the government in -- provided me with

1 the checks and the money orders with which I paid Central
2 Computer for that vehicle?

3 A. No, I'm not.

4 Q. Were you aware that just prior to me purchasing that vehicle
5 the IRS seized an automobile that I had purchased for \$4,000 and
6 seized it so I had no transportation whatsoever? Were you aware
7 of that?

8 A. No.

9 Q. Were you aware that the IRS had no legal basis for seizing
10 my vehicle?

11 MR. NEIMAN: Objection.

12 THE COURT: Sustained.

13 BY MR. SCHIFF:

14 Q. Were you aware aware of that?

15 THE COURT: Sustained.

16 MR. SCHIFF: Okay.

17 BY MR. SCHIFF:

18 Q. Were you aware that I had no -- that I had no money to buy
19 another vehicle? You weren't aware of that?

20 A. No.

21 Q. Were you aware that if I purchased another vehicle in my
22 name the IRS would simply seize that too? Were you aware of
23 that?

24 A. No.

25 Q. Would you -- would you be aware that nobody would loan me

1 money to buy a vehicle if I simply would take it in my name and
2 bring it back to Las Vegas where the IRS can grab it again?

3 A. No.

4 Q. So you're not aware that Mr. Tim Deaton (phonetic) was nice
5 enough to buy me a vehicle on the grounds that I have to lease
6 it from him so the IRS couldn't seize it from me. Were you
7 aware of that?

8 A. No.

9 Q. Now, if I believed that I didn't owe any income taxes --

10 MR. NEIMAN: Objection. Speculation on --

11 MR. SCHIFF: Well, he's speculat- -- his whole
12 testimony was based on speculation.

13 THE COURT: No, it wasn't. It was --

14 MR. SCHIFF: Pardon me?

15 THE COURT: It was not. It was based on the Document.

16 MR. SCHIFF: Well --

17 THE COURT: Your cross-examination is based on --

18 MR. SCHIFF: All right.

19 THE COURT: -- nothing --

20 MR. SCHIFF: Well, the document shows --

21 THE COURT: -- that is in evidence.

22 MR. SCHIFF: Your Honor, the document showed that this
23 vehicle was purchased by Central Computer. Now, I sent somebody
24 to my office, your Honor --

25 THE COURT: No.

1 MR. SCHIFF: -- to get the money orders and the
2 payments showing that I paid back Central Computer for that
3 vehicle. The -- the implication --

4 BY MR. SCHIFF:

5 Q. Wasn't the implication of your testimony --

6 MR. NEIMAN: Your Honor, if Mr. Schiff -- the
7 Government would stipulate with him that he -- he leased back or
8 made payments for the payment of the car. And that's not an
9 issue here.

10 THE COURT: This witness has no knowledge of any of
11 what you've asked him.

12 MR. SCHIFF: But, your Honor, the government had
13 knowledge that I --

14 THE COURT: They've just stipulated. You can't get the
15 Government's knowledge out of this witness.

16 MR. SCHIFF: But wasn't the whole purpose --

17 THE COURT: What are you trying to do?

18 MR. SCHIFF: -- wasn't the whole purpose of the
19 witness's testimony was that presumably I paid cash for this
20 with money I'd stashed away?

21 THE COURT: No. I didn't hear that.

22 MR. SCHIFF: Well, can I ask you what the purpose of
23 his testimony was then?

24 THE COURT: No. I don't answer questions.

25 MR. SCHIFF: Well, I should have asked him before what

1 the purpose of his testimony was.

2 THE COURT: He doesn't know. He just testified --

3 BY MR. SCHIFF:

4 Q. Let me ask you --

5 THE COURT: -- to the documents.

6 BY MR. SCHIFF:

7 Q. -- something. Is -- is -- is -- do you know whether or not
8 it's illegal for somebody to buy a car and then lease it to me?
9 Is that illegal?

10 THE COURT: You're not going to ask him legal questions
11 either. He has not been proffered or tendered as a legal
12 expert.

13 MR. SCHIFF: Well...

14 BY MR. SCHIFF:

15 Q. So, as far as you know, based upon this documentation,
16 Central Computer bought a car --

17 A. Yes.

18 Q. -- from you?

19 And you were not the salesman?

20 A. No.

21 Q. I'm gonna -- I'm gonna find the sale- -- and then do you
22 have any knowledge that I leased that car from Central --

23 THE COURT: He's already --

24 BY MR. SCHIFF:

25 Q. -- Computer Company?

1 THE COURT: -- he's already answered the question --

2 BY MR. SCHIFF:

3 Q. So you have no knowledge --

4 A. No.

5 Q. -- of that?

6 THE COURT: -- over and over again.

7 MR. SCHIFF: No further questions.

8 THE COURT: Anything further from --

9 MR. NEIMAN: No redirect, your Honor.

10 MR. SCHIFF: I just wanna recall him when -- when my

11 file comes from my office.

12 THE COURT: We'll see if he's still here.

13 MR. SCHIFF: Can I reintroduce the -- the checks and --

14 THE COURT: He has no knowledge of those checks. He's

15 already testified to that. I'm not going to keep him here --

16 MR. SCHIFF: No, no.

17 THE COURT: -- just for the sake of you putting

18 questions about checks that he has no knowledge of.

19 MR. SCHIFF: No, no. We don't need him. But I will be

20 able to introduce the money that I used to pay back over a

21 five-year period?

22 THE COURT: The Government has already stipulated to --

23 MR. SCHIFF: Oh, the Government --

24 THE COURT: -- that those --

25 MR. SCHIFF: -- stipulated that I paid it back?

1 THE COURT: Of course. They just did.

2 MR. SCHIFF: I didn't hear it.

3 THE COURT: So the witness is excused. Thank you.

4 THE CLERK: Here, sir. I'll take those.

5 THE COURT: Government's next witness.

6 MR. IGNALL: Government calls Brian Allin.

7 (Pause in the proceedings.)

8 (Brian Allin takes the witness stand.)

9 THE CLERK: Go ahead and go up to the top of the
10 stairs, sir. Please raise your right hand.

11 You do solemnly swear that the testimony you shall give
12 in the cause now pending before this court shall be the truth,
13 the whole truth, and nothing but the truth, so help you God?

14 THE WITNESS: I do.

15 THE PLAINTIFF: Please be seated.

16 Please state for the record your full name and spell
17 your last name.

18 THE WITNESS: Brian Thomas Allin, A-l-l-i-n.

19

20 BRIAN ALLIN,
21 called as a witness on behalf of the Government, having been
22 first duly sworn, was examined and testified as follows:
23
24
25

1 DIRECT EXAMINATION

2 BY MR. IGNALL:

3 Q. Good morning, Mr. Allin.

4 A. Good morning.

5 Q. What do you do for a living, Mr. Allin? What do you for a
6 living? I'm sorry.

7 A. I'm an instructor now for, uh, the San Diego Golf Academy.

8 Q. What did you do before you were an instructor for the
9 San Diego Golf Academy?

10 A. I was -- I played on the Senior Tour.

11 Q. Did you play professional golf?

12 A. Yes, I did.

13 Q. All right. And you were paid to play golf on the tour, I
14 assume? You made money playing golf on --

15 A. We weren't paid. We -- you had -- you collected what you,
16 uh, won.

17 Q. But -- I'm sorry -- you won money while --

18 A. Yes, yes, sir.

19 Q. -- you were playing on the Senior Tour? You played well is
20 what I meant.

21 A. Debatable. Debatable.

22 Q. Have you ever heard of Irwin Schiff, Mr. Allin?

23 A. Yes, sir, I have.

24 Q. When did you first hear of Mr. Schiff?

25 A. The -- the date would be probably 1998.

1 Q. What -- what -- were you playing on the Senior Tour back in
2 1998?

3 A. Yes, I was.

4 Q. Okay. And where were you living in 1998?

5 A. In Boulder City --

6 Q. Here in --

7 A. -- Nevada.

8 Q. -- Nevada?

9 A. Yes.

10 Q. And how did you first hear about Mr. Schiff?

11 A. My wife and I owned a Mail Box Etc and we had a client that
12 came in that had dealings with Mr. Schiff and was tellin', uh --
13 really my wife met him first -- tellin' her that he and his wife
14 hadn't paid taxes in years and --

15 Q. And --

16 A. -- and then, uh, he gave us -- or he loaned us a book, The
17 Federal Mafia --

18 Q. Okay.

19 A. -- and, um, I got reading that. And then I went down to,
20 uh, Mr. Schiff's store and purchased more books.

21 Q. All right. Where was the store that you went to? Is it
22 here in Las Vegas?

23 A. Yes, the one here in Las Vegas. I -- I can't recollect --
24 recollect the street. Over by Fremont -- I mean...

25 Q. And do you remember the name of the store?

1 A. Gosh, I believe it was -- was Freedom Book store. I'm not
2 sure.

3 Q. All right.

4 A. I'm not...

5 Q. And, when you went into Freedom Books the first time, did
6 you talk to anyone there?

7 A. I really don't recollect. I -- I -- I purchased -- they
8 had, uh -- a series of, uh, books if you -- a package deal
9 you -- you paid \$475 or some -- some figure in like that and you
10 purchased a series of books on -- well, one was The Federal
11 Mafia and one was the IRS big deal and -- and --

12 Q. And did you purchase that package --

13 A. The whole package --

14 Q. -- of books?

15 A. -- yes, sir.

16 Q. And how much did you pay for that package of books?

17 A. It was roughly \$475, \$495. Somewhere in the high 400's.

18 Q. Prior to the time that you went to Freedom Books, had you
19 been filing tax returns with the IRS?

20 A. Yes, sir.

21 Q. Had you been preparing them yourself?

22 A. No, sir. I had a -- I had a accountant in Southern
23 California. I had a partnership and it was -- for '95, '96, and
24 '97, and, uh, our taxes were pretty involved. So we had an --
25 an accountant do it because there was 10 people in the

1 partnership.

2 Q. All right. And, for those years that your accountant
3 prepared your tax returns, did you report the income that you
4 earned during those years?

5 A. Yes, sir.

6 Q. All right. Did you earn any money during 1998?

7 A. Yes, I did.

8 Q. Okay. From -- from winnings in golf?

9 A. Yes.

10 Q. Okay. After you purchased the materials from Freedom Books,
11 did you do anything different on your next tax return?

12 A. Yes. I filed, uh, zero income -- zero on my income tax.

13 Q. All right.

14 MR. IGNALL: May I approach the witness, your Honor?

15 THE COURT: You may.

16 BY MR. IGNALL:

17 Q. Mr. Allin, if I could turn your attention to Exhibit 176.

18 A. I'm sorry?

19 Q. If I could turn your attention to Exhibit 176, it should be
20 one of the folders in front of you. In an ideal world, it would
21 even be the top folder. There's -- there's a blue page you
22 probably don't recognize.

23 But, if you look after that, do you recognize this
24 document, Mr. Allin?

25 A. Yes, sir.

1 Q. What is this document?

2 A. It's, uh -- it's a 1040 document with, uh, zero income tax
3 on the bottom right.

4 Q. And is this your tax return, Mr. Allin?

5 A. Yes, it is.

6 Q. Did you sign this tax return?

7 A. Yes, I did.

8 Q. All right. And when did you sign this tax return?

9 A. Uh, the date on here is, uh, April 5th of '99.

10 Q. All right. And did you file this tax return with the
11 Internal Revenue Service?

12 A. Yes, sir, I did.

13 MR. IGNALL: At this point, the Government moves into
14 evidence Exhibit 176.

15 THE COURT: Any objection?

16 MR. BOWERS: No.

17 MR. CRISTALLI: None.

18 MR. SCHIFF: No objection.

19 THE COURT: 176 is received.

20 (Government's Exhibit No. 176, received into
21 evidence.)

22 MR. IGNALL: May we publish Exhibit 176, your Honor?

23 THE COURT: Yes.

24 MR. IGNALL: Thank you.

25

1 (Document displayed in open court.)

2 BY MR. IGNALL:

3 Q. All right. Mr. Allin, if I could turn your attention to the
4 left-hand column of the tax return under the Income section,
5 what number did you write down for total income on line 22?

6 A. On -- on line... I'm sorry what line, sir?

7 Q. On line 22.

8 A. On line 22. Uh, zero.

9 Q. Did you have any assistance in preparing this tax return?

10 A. I'm sorry, sir?

11 Q. Did you have any assistance from anyone in preparing this
12 tax return?

13 A. Uh, I -- I did this myself. I -- I got it out of the -- I
14 believe it was The Federal Mafia book that -- that showed us how
15 to do it and...

16 Q. Did you ever speak to anyone at Freedom Books about this tax
17 return before you filed it?

18 A. I can't -- I -- I can't recall. I'm sorry.

19 Q. Uh, do you recall if you were earning money on the Senior
20 Tour in '98?

21 A. I just did a amended return and it was close to 600,000.

22 Q. Those were your winnings or earnings?

23 A. Winnings and earnings because I had some contracts and so
24 forth too, yes.

25 Q. When you say "contracts," what were those?

1 A. Endorsements for products. Um, if we played, uh, a certain
2 golf bag or say certain club, we were -- we would -- we would
3 get paid or if you used a certain driver on -- somebody's driver
4 that week they'd pay you --

5 Q. Okay.

6 A. -- and so forth; carry a different bag. Endorsement type.

7 Q. If I could turn your attention to what's the third page of
8 the tax return, it's like a two-page typed out letter,
9 statement, attachment.

10 Do you see that, Mr. Allin?

11 A. Yes, sir.

12 Q. Do you recognize that two-page --

13 A. Yes, I --

14 Q. -- statement?

15 A. Yes, I do.

16 Q. Did you attach that to the tax return?

17 A. Yes, I did.

18 Q. Did you file that with the Internal Revenue Service?

19 A. Yes, I did.

20 Q. Did you write the language that we see here in this two-page
21 statement?

22 A. Uh, not the language. I -- I -- the form was given to us
23 in, I believe, The Federal Mafia, but I'm not -- I could be
24 mistaken, the book that showed us how to file zero income tax.

25 And, uh, I just entered my name and my wife's name, the time and

1 the year. And, uh, I didn't draft the document, no, sir.

2 Q. Okay. Did you write any of the language in this document
3 yourself?

4 A. No, sir.

5 Q. All right.

6 A. Wouldn't -- wouldn't be capable.

7 Q. All right. After you filed that 1998 tax return, did you
8 ever get any correspondence from the Internal Revenue Service
9 about it?

10 A. I believe the first thing I got was, uh, a notice -- kind of
11 a penalty notice for filing a frivolous document.

12 Q. Right.

13 A. And I believe that was \$500.

14 Q. All right. If I could turn your attention to Exhibit 177,
15 could you tell me if you recognize Exhibit 177?

16 A. (Reviewing document.)

17 Yes. It looks like many of the documents that I got
18 from the Internal Revenue Service.

19 MR. IGNALL: Government moves into evidence
20 Exhibit 177.

21 MR. CRISTALLI: No objection.

22 MR. BOWERS: No objection, your Honor.

23 MR. SCHIFF: Well, your Honor, does he recall receiving
24 this letter?

25

1 BY MR. IGNALL:

2 Q. Do you recall receiving a letter from the IRS that -- that

3 you see in Exhibit 177?

4 A. Receiving this document here?

5 Q. Yes.

6 A. Yes.

7 MR. SCHIFF: No objection.

8 THE COURT: 177 is received.

9 (Government's Exhibit No. 177, received into

10 evidence.)

11 BY MR. IGNALL:

12 Q. And is Exhibit 177 one of the frivolous letters that you

13 mentioned a moment ago?

14 A. One of many, yes, sir.

15 Q. You got more than one letter like this from the IRS?

16 A. Yes.

17 Q. Okay. If I could turn your attention to Exhibit 178, do you

18 recognize Exhibit 178?

19 A. (Reviewing document.)

20 Yes, sir, I do.

21 Q. What is Exhibit 178?

22 A. What is it?

23 Q. Yes. Can you describe what this is without reading it?

24 A. Notice of Deficiency.

25 Q. From -- it's from -- who is this letter -- it's a letter?

1 A. I'm sorry.

2 Q. This document's --

3 A. I'm hard of hearing.

4 Q. -- a letter --

5 A. I'm...

6 Q. -- am I correct?

7 Yeah, I apologize. I'll try and speak into the

8 microphone. That's probably easier than shouting.

9 This is a letter from the Internal Revenue Service; is

10 that correct?

11 A. Yes, sir.

12 Q. And it's addressed to you?

13 A. Uh, yes, sir.

14 Q. And do you recall getting a copy of this letter?

15 A. Yes, sir.

16 MR. IGNALL: At this point, the Government moves into

17 evidence Exhibit 178.

18 MR. CRISTALLI: No objection.

19 MR. BOWERS: No objection.

20 MR. SCHIFF: No -- no objection.

21 THE COURT: 178 is received.

22 (Government's Exhibit No. 178, received into

23 evidence.)

24 MR. IGNALL: May we publish Exhibit 178?

25 THE COURT: You may.

1 (Document displayed in open court.)

2 BY MR. IGNALL:

3 Q. If you look, Mr. Allin, on Exhibit 178, what's the date
4 that -- of that letter?

5 A. Uh, letter date, February 18th of 2000.

6 Q. All right. And do you know what tax year this letter refers
7 to?

8 A. Uh, 1998.

9 Q. All right. And does it -- the letter state a deficiency?
10 Does it say how much you owe for 1998?

11 A. Yes.

12 Q. And how much does the letter say you owe?

13 A. Uh, \$223,645.

14 Q. All right. When you got this letter did you bring this
15 letter to anyone at Freedom Books?

16 A. Yes, I did. I -- I -- I'm not sure exactly what documents I
17 did bring in to 'em. But it -- it was...

18 Q. Let me ask it differently. When you got letters from the
19 IRS, did you bring those into Freedom Books?

20 A. Yes. The first time I recollect, uh, goin' back to Freedom
21 Books is when I -- it was either this letter or another document
22 from the IRS sayin' that I owed, uh, this kind of money to the
23 IRS.

24 Q. When you say "this kinda money," what -- what do you mean
25 by --

1 A. Well --

2 Q. -- that?

3 A. -- this 223,000 or so.

4 Q. That was --

5 A. Right.

6 Q. -- that was a big enough number that you remember getting

7 that letter?

8 A. I remember gettin' it and I remember showin' it to them.

9 And -- and they got their attention also.

10 Q. All right. When you say "them," who in particular?

11 A. Uh, first one to see it was -- I walked in and I saw Cindy.

12 And Cindy, um, saw -- saw the letter and -- and saw the number

13 and walked me in and introduced me to Mr. Schiff.

14 Q. All right. Do you recognize Cindy here in the courtroom?

15 A. Yes, I do.

16 Q. Can you identify her by what she's wearing?

17 A. Um, black outfit, I believe.

18 MR. IGNALL: Will the record reflect identification of

19 Defendant Neun?

20 THE COURT: Yes.

21 MR. IGNALL: Thank you.

22 BY MR. IGNALL:

23 Q. All right. So Ms. Neun then saw the number on this letter

24 and brought you into Mr. Schiff? I'm sorry. Is that what you

25 said?

1 A. I'm not sure if it's this exact letter or --

2 Q. Or a letter that showed a deficiency?

3 A. Right. I did have another letter that I was lookin' for, in
4 fact, when I was -- that took all my, uh, 1099's 'cuz that's the
5 way I got paid through 1099's and the IRS collected all those
6 1099's and then, uh, gave me a tax -- a tax -- a taxable income
7 due from those 1099's.

8 Q. Okay. All right. When you went to go talk to Mr. Schiff,
9 what did you talk about?

10 A. I can't remember specifically.

11 Q. Generally what were you talking about?

12 A. What was the next step.

13 Q. All right. Did Mr. Schiff suggest a next step?

14 A. I honestly can't recall.

15 Q. Maybe I can refresh your recollection. If you could turn to
16 Exhibit 179.

17 A. (Complies.)

18 Q. Do you recognize Exhibit 179, Mr. Allin?

19 A. Uh, yes, sir, I do.

20 Q. What is Exhibit 179?

21 A. (Reviewing document.)

22 It's a letter to the deficiency notice dated February
23 18th, 2000, and, uh, it's, uh...

24 Q. Is it a letter that you sent to someone at the IRS --

25 A. Yes, I did.

1 Q. -- Mr. Allin?

2 Did you draft the language in this letter yourself?

3 A. No, I did not.

4 Q. Where did you get the language that you included in this

5 letter?

6 A. From one of the -- the books that, uh, I got from

7 Mr. Schiff.

8 Q. That you purchased from --

9 A. Yeah.

10 Q. -- Freedom Books?

11 And you sent this letter to the IRS?

12 A. Yes, I did.

13 MR. IGNALL: Government moves into evidence

14 Exhibit 179.

15 MR. CRISTALLI: No objection.

16 MR. SCHIFF: No.

17 MR. BOWERS: No objection, your Honor.

18 MR. SCHIFF: No objection.

19 THE COURT: 179 is received.

20 (Government's Exhibit No. 179, received into

21 evidence.)

22 BY MR. IGNALL:

23 Q. Mr. Allin, did you ever file any other tax returns showing

24 zero as your income?

25 A. Yes, I did.

1 Q. All right. If I can turn your attention to Exhibit 181, do
2 you recognize this document?

3 A. (Reviewing document.)

4 Yes, do.

5 Q. What is Exhibit 181?

6 A. It's -- it's a 1040 for the year, uh, 1999 claiming zero
7 income tax.

8 Q. All right. And is this your tax return?

9 A. Yes, sir.

10 Q. Did you sign this and file it with the IRS?

11 A. Yes, sir, I did.

12 MR. IGNALL: Government moves into evidence
13 Exhibit 181.

14 MR. CRISTALLI: No objection.

15 MR. BOWERS: No objection.

16 MR. SCHIFF: No objection.

17 THE COURT: 181 is received.

18 (Government's Exhibit No. 181, received into
19 evidence.)

20 MR. IGNALL: May we publish Exhibit 181?

21 THE COURT: You may.

22 (Document displayed in open court.)

23 BY MR. IGNALL:

24 Q. And, again, what did you report, Mr. Allin, as your total
25 income on your 1999 tax return?

1 A. Zero.

2 Q. Did you earn any money during 1999?

3 A. Yes, sir, I did.

4 Q. How -- from what source?

5 A. Uh, I played the, uh -- on the Senior Tour and endorsements.

6 Q. After you filed this tax return, did you get any

7 correspondence from the Internal Revenue Service about this --

8 A. Yes.

9 Q. -- tax return?

10 A. Yes, I did.

11 Q. If I can turn your attention to Exhibit 182, do you

12 recognize Exhibit 182?

13 A. (Reviewing document.)

14 Yes, sir, I do.

15 Q. Is this one of the letters you got in response --

16 A. Yes, sir.

17 Q. -- to that zero return for 1999?

18 A. Yes, sir, it is.

19 MR. IGNALL: Government moves into evidence

20 Exhibit 182.

21 THE COURT: Any objection?

22 MR. BOWERS: No objection here.

23 MR. CRISTALLI: No objection.

24 THE COURT: 182?

25 MR. SCHIFF: No objection.

1 THE COURT: 182 is received.

2 (Government's Exhibit No. 182, received into
3 evidence.)

4 MR. IGNALL: May I publish this to the jury?

5 THE COURT: You may.

6 (Document displayed in open court.)

7 BY MR. IGNALL:

8 Q. And what tax period is this letter for, Mr. Allin? It's on
9 the right-hand side near the top just to the right of your
10 address.

11 A. Oh, I'm sorry. Uh, tax period, 1999.

12 Q. Can you just read the first line of the body of the letter?

13 A. "We have determined that the information you sent is
14 frivolous and your position has no basis in law."

15 Q. All right. If I could turn your attention to Exhibit 183,
16 do you recognize this document, Mr. Allin?

17 A. (Reviewing document.)

18 Yes, sir, I do.

19 Q. What is Exhibit 183?

20 A. It's a Notice of Deficiency for the year 1999.

21 Q. Did you receive this letter from the IRS?

22 A. Yes, sir.

23 MR. IGNALL: Government moves into evidence
24 Exhibit 183.

25 MR. CRISTALLI: No objection.

1 MR. BOWERS: No objection, your Honor.

2 MR. SCHIFF: No objection.

3 THE COURT: 183 is received.

4 (Government's Exhibit No. 183, received into
5 evidence.)

6 BY MR. IGNALL:

7 Q. And if I could turn your attention to Exhibit 184 -- I'm
8 sorry. Could we go back to 183?

9 MR. SCHIFF: May we publish that do the jury?

10 THE COURT: You may.

11 (Document displayed in open court.)

12 BY MR. IGNALL:

13 Q. What is the amount of the deficiency that the IRS says you
14 have for 1999?

15 MR. SCHIFF: Your Honor, I -- I -- again, I didn't
16 realize that that was an incomplete document. I had an
17 objection before. They are introducing deficiency notices
18 without introducing the entire notice. There are supposed to be
19 supporting documents on that deficiency notice. And I would
20 like to see the supporting documents because the supporting
21 documents proves that the deficiency notice is fraudulent. And
22 I want to see the supporting documents. Otherwise they can't
23 prove it's a fraudulent document.

24 THE COURT: Well, if you don't have evidence of that,
25 then you'll have to get it.

1 MR. SCHIFF: Pardon me? I didn't hear?

2 THE COURT: You'll have to get it.

3 MR. SCHIFF: Well --

4 THE COURT: It's -- the --

5 MR. SCHIFF: -- isn't that an incomplete document?

6 THE COURT: The exhibit is received.

7 MR. SCHIFF: Well, does the record show that that's an
8 incomplete document?

9 THE COURT: It shows, uh -- the exhibit shows there
10 were enclosures, copy to this letter, waiver, and envelope. So
11 it implies that there are some --

12 MR. SCHIFF: Your Honor --

13 THE COURT: -- other things.

14 MR. SCHIFF: -- there are only two pages in that
15 document. But the deficiency notice shows how the deficiency
16 was determined.

17 THE COURT: Well --

18 MR. SCHIFF: And I think --

19 THE COURT: -- you can --

20 MR. SCHIFF: -- it's relevant.

21 THE COURT: -- you can bring it in when you
22 cross-examine the witness --

23 MR. SCHIFF: I don't --

24 THE COURT: -- if you have evidence of it.

25 MR. SCHIFF: -- I don't have them, your Honor.

1 THE COURT: Then I'm --

2 MR. SCHIFF: The Government has it.

3 THE COURT: -- overruling your belated objection. You

4 already agreed to its admission.

5 BY MR. IGNALL:

6 Q. Mr. Allin, if I could turn your attention to Exhibit 184, do

7 you recognize this document?

8 A. (Reviewing document.)

9 Yes, sir, I do.

10 Q. What is Exhibit 184?

11 A. A 1040A for the year -- tax return for the year 2000.

12 Q. Is this your tax return?

13 A. Yes, sir, it is.

14 Q. And did you write down any income on this 2000 tax return?

15 A. No, sir, I did not.

16 Q. Did you sign this tax return?

17 A. Yes, sir, I did.

18 Q. And did you file this with the Internal Revenue Service?

19 A. I'm sorry?

20 Q. Did you file this with the Internal Revenue Service?

21 A. Yes, sir, I did.

22 MR. IGNALL: Government moves into evidence

23 Exhibit 184.

24 MR. CRISTALLI: No objection.

25 THE WITNESS: 180...

1 MR. BOWERS: Your Honor, I'm gonna -- I'm gonna -- I
2 don't have an objection. But I'm not sure if this is -- I'm not
3 sure what this is. It's just --

4 THE COURT: It's a tax return for '99 [sic] that he
5 said he sent in.

6 MR. BOWERS: Or for 2000. I know, Judge. But --

7 THE COURT: Or for 2000. I'm sorry.

8 MR. BOWERS: I'm not sure why this is offered. It
9 appears to be just blank.

10 THE COURT: There's zeroes down at the very bottom on
11 line 44. It's not blank. It has his name on it; it's signed by
12 him.

13 MR. BOWERS: Yeah. But that --

14 MR. IGNALL: It would --

15 MR. BOWERS: Well, I mean, that's fine. I don't object
16 to the document. I --

17 THE COURT: All right.

18 MR. BOWERS: -- I don't feel it's consistent with
19 everything else. But that's fine.

20 THE COURT: All right. Hearing no objection, 184 is
21 received.

22 MR. SCHIFF: Well, presumably -- is this being offered
23 as a return I might have recommended him to file? Is that it?

24 THE COURT: Well, I don't know yet. He said he filed
25 it; we'll hear.

1 MR. SCHIFF: I don't recognize this as any kind of
2 return I suggested that anybody file.

3 THE COURT: Well, hear what the Government's next
4 question is. 184 is received.

5 MR. SCHIFF: All right. Okay.

6 (Government's Exhibit No. 184, received into
7 evidence.)

8 BY MR. IGNALL:

9 Q. All right. Did you write down any numbers at all for income
10 in the year 2000 tax return?

11 A. No, sir, I did not.

12 Q. Did you get any correspondence from the IRS after filing
13 this 2000 tax return?

14 A. Yes, sir, I did.

15 Q. All right. Did the Government ever send you a notice saying
16 that you had a tax deficiency for the year 2000?

17 A. I'm sure they did. I mean, they -- they followed up on
18 everything I did.

19 Q. If I could turn your attention to Exhibit 185, do you
20 recognize Exhibit 185?

21 A. Yes, sir, I do.

22 Q. And what is Exhibit 185?

23 A. It's a Notice of Deficiency for the year, uh, ending
24 December 31st, 2000.

25 Q. Okay.

1 MR. IGNALL: Government moves into --

2 BY MR. IGNALL:

3 Q. Did you ever bring this -- what's the date of this letter,

4 Mr. Allin?

5 A. The date, uh, May 28, 2002.

6 Q. Do you recall if you brought this letter into anyone at

7 Freedom Books?

8 A. Uh, no, sir, I did not, this letter.

9 Q. You did not bring that letter?

10 A. No, sir.

11 Q. All right. When was the last contact you had with anyone at

12 Freedom Books?

13 A. It would have been in, uh, 2001. I don't -- I don't

14 remember. It would have probably been the latter part of the

15 year. I -- I moved out of Boulder City, uh, December 15th,

16 2001.

17 Q. Okay. Mr. Allin, with respect to the tax returns we looked

18 at that are exhibits, I believe for the years -- we looked at

19 nine -- you told us for 1999. For the year 2000 -- the tax

20 return, I believe, is exhibit -- I'm sorry. 1999 -- the exhibit

21 would be 181 -- you filled out zeroes. Why did you fill out

22 zeroes on your 1999 tax return?

23 A. Per literature that I -- that I purchased from, uh, Freedom

24 Books.

25 Q. All right. Did you -- and how about for your 2000 tax

1 return, Exhibit 184?

2 A. Oh, 184. Uh, well, the -- for the same reason.

3 Q. All right. All right. Thank you.

4 Going to the letters that you received from IRS, in
5 particularly those Notices of Deficiency --

6 A. How many?

7 Q. -- the Notices of Deficiency letters that we've been looking
8 at --

9 A. Yes.

10 Q. -- do you recall bringing those letters in to Freedom Books?

11 A. Uh, yes, I do.

12 Q. Okay. At some point, did the IRS ever make any attempt to
13 collect on the taxes that you owed?

14 A. Uh, they, uh, put a tax lien on any property.

15 Q. If I could turn your attention to Exhibit 190, do you
16 recognize Exhibit 190?

17 A. (Reviewing document.)

18 Yes, sir.

19 Q. What is Exhibit 190?

20 A. Notice of Federal Tax Lien.

21 Q. Did you ever bring this Notice of Federal Tax Lien into
22 anyone at Freedom Books?

23 A. Yes, I'm sure I did.

24 Q. All right.

25 MR. IGNALL: Government moves into evidence

1 Exhibit 190.

2 MR. CRISTALLI: Well, I have an objection because I
3 don't think proper foundation has been established in terms
4 of -- I don't have an objection to the exhibit; I have an
5 objection and I move to strike the response because I think
6 it's --

7 BY MR. IGNALL:

8 Q. To whom did you bring the Federal Tax Lien? Who at Freedom
9 Books did you show the tax lien too?

10 MR. CRISTALLI: I think that's -- I think that
11 misstates the testimony. I think the testimony was he did not
12 recall whether or not he ever brought that into Freedom Books if
13 I'm not mistaken.

14 THE COURT: No. I don't -- the question: "Did you
15 ever bring this Notice of Federal Tax Lien to anyone at Freedom
16 Books?"

17 The answer, "Yes, I'm sure I did."

18 The next question is who.

19 MR. CRISTALLI: Okay.

20 BY MR. IGNALL:

21 Q. Do you remember who you brought the tax lien in to?

22 A. That would have been to Cindy -- Cindy or Mr. Schiff.

23 MR. IGNALL: Government moves into evidence
24 Exhibit 190.

25 MR. CRISTALLI: Well, I would, um, once again, object

1 on a foundational basis. I think he's speculating in terms of
2 who he actually brought that into.

3 THE COURT: Well, he said he brought it into Freedom
4 Books. It's --

5 MR. CRISTALLI: Right.

6 THE COURT: -- it's at least admissible for that
7 purpose.

8 MR. CRISTALLI: Yes.

9 THE COURT: And the jury can take into consideration he
10 doesn't remember now who exactly it was between Cindy or Irwin.

11 190 -- well, let's see any --

12 MR. BOWERS: No --

13 THE COURT: Bowers --

14 MR. BOWERS: -- objection.

15 THE COURT: Schiff?

16 MR. SCHIFF: No objection.

17 THE COURT: 190 is received.

18 (Government's Exhibit No. 190, received into
19 evidence.)

20 MR. IGNALL: May we publish 190 to the jury?

21 (Document displayed in open court.)

22 BY MR. NEIMAN:

23 Q. Does this tax lien give the year and the -- and the tax
24 period year, Mr. Allin?

25 A. Uh, tax period ending would be 12-31-1998.

1 Q. All right. Does it say what the unpaid balance of the
2 assessment is for that year?

3 A. \$299,156.70.

4 Q. Did you ever discuss the IRS's attempts to collect your tax
5 liability with Ms. Neun?

6 A. Yes.

7 Q. Did you ever discuss the IRS's attempts to collect your IRS
8 tax liability with Mr. Schiff?

9 A. Yes.

10 Q. All right.

11 THE COURT: Okay. We're going to take a break. We're
12 at 12:15.

13 We're going to be in recess until 1:30. The
14 instruction is a continuing one and, uh, we'll see you at 1:30.

15 (Jury leaves the courtroom at 12:14 p.m.)

16 (Lunch break, 12:19 p.m. to 1:38 p.m.)

17 THE COURT: Please be seated.

18 Matters to be addressed?

19 MR. IGNALL: Your Honor, the Government has two issues
20 to raise. And I don't know in which order, if either, the Court
21 wants to hear them. One is we're requesting the instruction
22 regarding what the law is.

23 I have spoken to Mr. Bowers and Mr. Cristalli and I
24 think we've agreed to disagree both on whether it's appropriate
25 to give the instruction at this time and what the language of

1 that instruction would be.

2 THE COURT: Okay.

3 MR. IGNALL: And then a second issue Mr. Neiman's gonna
4 address is introducing certain evidence by certification that
5 we'd mentioned earlier. And there may be an objection to some
6 of these documents. We want to resolve that outside the
7 presence of the jury.

8 THE COURT: Okay.

9 MR. NEIMAN: Your Honor, the first set of documents are
10 Exhibits 247 through 250. They are Defendant Schiff's Nevada
11 State Bank records. They're -- I don't believe they are in the
12 binders because they are voluminous.

13 MR. IGNALL: They are right here.

14 MR. NEIMAN: They are over here. I don't know if they
15 are --

16 THE COURT: Okay.

17 MR. NEIMAN: -- objecting to those or not.

18 THE COURT: Schiff's Nevada State Bank records. Go
19 ahead.

20 MR. NEIMAN: The next set of documents are Exhibit 251
21 through 254. These are credit card processing agreements and
22 transaction reports related to Freedom Books's business. The
23 relevance to both -- both sets of those documents is, uh, to
24 calculate Mr. Schiff's business income.

25 MR. SCHIFF: Objection.

1 MR. NEIMAN: The -- the next set of documents are 258
2 through 267. These are, uh, Defendant Neun's bills which are
3 being used to prove the expenditure method of proof.

4 Then there's Government Exhibits 286 and 287. Those
5 documents -- uh, one of 'em's a credit card application and the
6 other is a dating service application in which Mr. Schiff makes
7 income admissions.

8 Next is Government's Exhibit 312 which is a loan
9 application of Defendant Cohen in which he makes an income
10 admission.

11 And the Government did provide notice and does have
12 certifications pursuant to 902(11) for all of those documents.

13 MR. SCHIFF: Your Honor --

14 THE COURT: Yes.

15 MR. SCHIFF: -- I have an objection to the entry of the
16 deposits on the grounds that there has been no testimony that
17 deposits in a bank account fall within the meaning of income.
18 They are assuming into evidence something that's not been proven
19 yet.

20 THE COURT: They can be evidence of income, though.

21 MR. SCHIFF: Pardon me? I didn't hear.

22 THE COURT: Deposits can be evidence of income.

23 MR. SCHIFF: Well, are they gonna put on a witness
24 that's gonna testify to that?

25 THE COURT: I don't know whether they are or not.

1 MR. SCHIFF: Well, I mean -- I mean, I think I want to
2 put into -- on the record my objection.

3 THE COURT: You have. You put it on. Go ahead.

4 MR. SCHIFF: Is that all?

5 Okay. The other -- can I have...

6 THE COURT: I'm sorry?

7 MR. SCHIFF: I have a little item that I want to bring
8 to your attention.

9 THE COURT: Well, is this related to these exhibits?

10 MR. SCHIFF: No. I thought we were over --

11 THE COURT: No, no. Nowhere near.

12 MR. SCHIFF: Oh, okay. I'm sorry.

13 (Pause in the proceedings.)

14 THE COURT: Okay. Let's hear your response to the
15 Government's, uh, foundational, uh, claims for the, uh, exhibits
16 that they discussed earlier.

17 (Pause in the proceedings.)

18 MR. BOWERS: Your Honor, I'm sorry. Were you lookin'
19 to discuss these now?

20 THE COURT: I thought you wanted to input? You do not?

21 MR. BOWERS: I -- I'm sorry. What are we talk -- I --
22 I don't understand what we're talking about. Are we talking
23 about these exhibits still?

24 THE COURT: Yes.

25 MR. BOWERS: Okay. I -- I have no objection to any

1 exhibit other than 312 because it's my understanding Mr. Lowder
2 is not offering any testimony regarding my client any longer.

3 Is that correct?

4 MR. NEIMAN: That is correct.

5 MR. BOWERS: Okay. So I have no objection -- I have no
6 objection on that basis. Those -- those exhibits don't affect
7 me. Mr. Lowder's not offering any testimony. I have no -- no
8 objection to anything but 312.

9 THE COURT: Okay.

10 And 312 -- what's with the basis of your objection to
11 312?

12 MR. BOWERS: Well, and I may be able to resolve this
13 with the Government. My only comment on 312 is it's my
14 understand that this document, which was not generated of its
15 own accord and there's a number of other documents that go with
16 it. That may or may not be true. I may need to discuss with
17 the Government. I don't know if this needs to come in now or
18 not. And I -- I've seen those documents. I don't have them
19 with me in court today because I had no idea that this -- this
20 issue would be in play here. We might be able to resolve this.
21 I don't know if this needs to be...

22 MR. NEIMAN: Your Honor, we -- we just are -- the
23 reason we're doing this now is so we can ensure that we don't
24 need to bring in any custodians with our case winding down.
25 And, if Mr. Bowers would agree not to object to the 902(11)

1 certifications, if we want to battle over the relevance and the
2 admissibility on other grounds.

3 MR. BOWERS: Your Honor, the Government's allowed me to
4 review the remaining documents in conjunction with this. And --
5 and, in the morning, I'll get them --

6 MR. IGNALL: No. Whether to admit 312.

7 MR. NEIMAN: 312.

8 MR. BOWERS: 312. 312. That's all. Yeah.

9 Everything else is in. I'll get back to the Court in
10 morning on 312.

11 THE COURT: Okay. Thank you.

12 MR. SCHIFF: Again, your Honor, I cannot see the
13 relevance of -- of me paying a bill -- of me paying bills out of
14 my own checking account. I mean, are they gonna say that's for
15 the purchase of drugs? I'm -- I'm -- I'm laundering money?
16 These are legitimate expenses out of my checking account.

17 Now, why would the jury -- the jury is gonna believe
18 that me making normal payments out of a checking account is
19 somehow illegal. My concern is the jury is thinking that they
20 are seeing evidence of a crime without the Government saying how
21 these checks constitute evidence of a crime. If I forged my
22 name to these checks, if I was -- as I said, if I was laundering
23 money -- these -- these -- I'm writing checks out of my account.

24 How is this evidence of a crime? Will the Government
25 please tell me that?

1 THE COURT: I'll allow them if they wish. Is that the
2 extent of your --

3 MR. SCHIFF: But I'm saying they are not relevant to
4 any crime that I've committed.

5 THE COURT: I want you to state your objection to these
6 exhibits that they have numbered now rather than jumping up in
7 between others. I have gave you an opportunity earlier and you
8 made your statement and now you want to make another one.
9 Finish what is have to say about all of these exhibits and then
10 I'm going to rule.

11 MR. SCHIFF: All right. I just -- I don't want to
12 repeat myself.

13 THE COURT: Then don't.

14 MR. SCHIFF: I just said --

15 THE COURT: Please don't.

16 MR. SCHIFF: You know what my objection is.

17 THE COURT: All right.

18 MR. SCHIFF: It's not evidence of a crime like money
19 laundering, drug money.

20 THE COURT: Mr. Cristalli.

21 MR. CRISTALLI: Thank you, your Honor.

22 Um, as it relates to Ms. Neun, I think we're dealing
23 with specifically, uh, 258, 259, 260, 261 through 267, if I'm
24 not mistaken. I do not have an objection in terms of the
25 authenticity of those documents. My objection is based on

1 relevancy.

2 Um, the Government is goes to use these items to
3 establish un- -- unreported income attributed to Ms. Cynthia
4 Neun. Our position is that it wasn't income. It was, um, given
5 to her by Irwin. Um, they were in a relationship together. He
6 was living there for a period of time. He was paying.
7 And -- -- and what they are is, number one, is the rent, 258 is
8 the rent; 259 is the Nevada Power; 260 is Southwest Gas; 261 is
9 the Water District; uh, 262 is Sierra Springs; 263 -- up to
10 263? -- 263 is Cox Communication; 264 is Sprint Tel- --
11 Telephone; 265 is Republic Industries -- I believe that's a
12 garbage service if I'm not mistaken -- 266, Capital One credit
13 card; and 267 is what? Her -- oh, this is her insurance for her
14 car.

15 And it's our position that Irwin was paying for these
16 items and it wasn't in exchange for her services at Freedom
17 Books or, um, based on, uh, income that she was receiving from,
18 uh, Freedom Books.

19 (Discussion between Mr. Cristalli and

20 Mr. Modafferi.)

21 MR. CRISTALLI: Obviously, the admission of these could
22 force me to put -- or put me in a position where I'm gonna have
23 to put my client up there to testify about the relationship and
24 how the relationship was structured and, um, what benefit she
25 received as a result of the relationship. But -- and I know

1 that that's the Government's intent. So that's the basis for my
2 objection. I do not have an objection on authenticity.

3 The only other issue -- and I think the Government has
4 agreed with me on -- is on some of these exhibits there is a --
5 there's like a, um, summary that was generated by the
6 government.

7 MR. NEIMAN: The Government's not seeking to introduce
8 the A's to all these exhibits --

9 MR. CRISTALLI: Thank you. That's --

10 MR. NEIMAN: -- at this time.

11 MR. CRISTALLI: And that would be my request.

12 THE COURT: Okay.

13 MR. NEIMAN: That would be done through the summary
14 agent.

15 MR. CRISTALLI: Thank you.

16 THE COURT: All right. Well, the expenditures method
17 of proof is a long-established method for proving tax evasion.

18 Do you have any case law that shows that precedent is
19 overruled?

20 MR. CRISTALLI: I don't disagree with the Court's
21 assessment that expenditures could go to prove such. My
22 position is that they weren't expenditures based on income she
23 received from Freedom Books but rather existed in exchange, uh,
24 for the relationship that was between Mr. Irwin Schiff and
25 Cynthia Neun.

1 THE COURT: Well, there's been testimony both ways on
2 that. And so it is a matter of the weight to be accorded to the
3 evidence, not the admissibility. And, uh, you have had plenty
4 of statements to the jury already that would support your view
5 of it. Government has statements that would -- has adduced
6 statements that would reflect a contrary view. So it's -- it's
7 the weight and the jury decides the weight --

8 MR. SCHIFF: My further --

9 THE COURT: -- admissibility. It's clearly admissible.

10 MR. SCHIFF: Can I just make a comment based upon your
11 last statement, the fact that the Government has been doing
12 this? The constant repetition of a wrong doesn't create a
13 right. It's my position that income tax is based on
14 self-assessment. And, once I say what I owed, there is no
15 provision in the law for the government to make a different
16 determination.

17 Now, if the government has been doing this in the
18 past --

19 THE COURT: Your -- your statement of law is completely
20 frivolous.

21 MR. SCHIFF: All right. I have to put it in the
22 record. There's --

23 THE COURT: Yeah, it's frivolous.

24 MR. SCHIFF: -- one other issue I'd like to take up, if
25 I can. And this is just a very short...

1 I attempted to put into evidence a document. It was
2 2069. It was excerpts from the ADP IRS, uh, manual. Uh, I had
3 inserted Transaction Code 150 and Transaction Code 350 from
4 these documents. And I put them on a document that I sent out
5 with the Freedom -- it's a Freedom -- it was one of my Schiff
6 Reports. And you indicated that since it said Schiff Reports it
7 was not acceptable.

8 So I'd like to just replace, with your permission,
9 Defense Exhibit 2069 with the actual pages from the, uh, IRS
10 doc- -- manual with the entire --

11 THE COURT: When you -- when you get a witness who
12 can -- on the stand who can get it in, you're welcome to do so.
13 But you're not just going to walk up and make exhibits.

14 MR. SCHIFF: I just want to replace the exhibit with
15 the exhibit that's in there now.

16 THE COURT: No, you can't do that either. What's there
17 is there. And what --

18 MR. SCHIFF: Well, I didn't realize why you had an
19 objection. So I changed it to -- to conform with your
20 objection.

21 THE COURT: You don't get it in just walking up and
22 throwing evidence on the clerk's table. You do it through
23 witnesses. And your approach is improper.

24 MR. SCHIFF: I'm not trying to use it. I'm just trying
25 to replace it in case I have to use it.

1 THE COURT: I won't let you do it. You can -- you can
2 mark it and try to get it in through a witness. But your
3 procedure is incorrect.

4 MR. SCHIFF: The Government didn't have any objection,
5 but they told me to ask you.

6 THE COURT: I won't allow you to substitute exhibits
7 without a witness on the stand.

8 THE CLERK: Are we ready?

9 THE COURT: Ready.

10 MR. NEIMAN: Just -- when this witness is done, the
11 Government is gonna formally move for the admittance of all
12 those exhibits that we just went through, with the exception of
13 312. Just so --

14 THE COURT: I understand.

15 MR. NEIMAN: -- so the Court is aware.

16 THE COURT: Go ahead.

17 (Jury enters the courtroom at 1:55 p.m.)

18 THE COURT: Please be seated.

19 Will counsel stipulate to the presence of the jury?

20 MR. IGNALL: Yes, your Honor.

21 MR. BOWERS: Yes, your Honor.

22 MR. CRISTALLI: Yes, your Honor.

23 THE COURT: Thank you.

24 You may resume your examination of Mr. Allin.

25 MR. IGNALL: Thank you.

1 BY MR. IGNALL:

2 Q. Mr. Allin, before we, uh, went on the lunch break, you were

3 testifying you brought numerous letters into Freedom Books. Do

4 you re- -- letters --

5 A. Yes.

6 Q. -- that you had gotten from the IRS. And I think you said

7 you spoke to both Ms. Neun and Mr. Schiff?

8 A. I'm sorry?

9 Q. I believe you said you spoke both to Ms. Neun and

10 Mr. Schiff?

11 A. Yes.

12 Q. When you went into Freedom Books, did you ever have trouble

13 getting Mr. Schiff to talk to you?

14 A. Um, no, I didn't.

15 Q. Did anyone at Freedom Books -- I think before the break we

16 were talking about some attempts that the IRS was making to

17 collect taxes that you owed. Do you remember talking about

18 that?

19 A. Yes.

20 Q. During that process, did anyone at Freedom Books suggest

21 that you take any action at the IRS?

22 A. That I take any action?

23 Q. Yeah. Did anyone at Freedom Books suggest that you take

24 some action?

25 A. Well, if -- if -- if you're implyin' that maybe goin' before

1 the Tax Court.

2 Q. Yeah. Well, I think I may have asked a bad question there.

3 So I apologize for that.

4 Did you ever appear at any type of a hearing at the
5 IRS?

6 A. Yes. Twice, yes.

7 Q. What -- what type of a hearing was that?

8 A. You know, I -- I can't really remember the -- the paperwork
9 that asked for it. But it was -- it was -- I had two of 'em and
10 one was, uh --

11 MR. SCHIFF: What was his answer to that?

12 THE COURT: He had two -- two -- two of them is the
13 answer.

14 MR. SCHIFF: Your Honor, can I -- I have to do
15 something because people are telling me people saying things I
16 have no recollection.

17 Is there any way that I can -- I'm gonna have to get
18 transcripts on a daily basis. I'll pay extra for 'em. But
19 things are going on here and I can't hear.

20 THE COURT: Well, then go over and sit in your chair
21 and -- and listen to the testimony.

22 MR. SCHIFF: But is there any way that I can get
23 expedited transcripts so I know what's goin' on at this trial?

24 THE COURT: No.

25 MR. SCHIFF: People tell me things --

1 THE COURT: It's physically impossible.

2 MR. SCHIFF: Well, I don't know what's going on in this
3 case.

4 THE COURT: Well, go over there and listen. Watch his
5 lips.

6 Go ahead.

7 MR. IGNALL: Thank you.

8 BY MR. IGNALL:

9 Q. Yeah. I'm not sure if we let you finish the last answer.
10 But let me try again.

11 You said you went to two meetings at the IRS?

12 A. Yes, sir, two.

13 Q. Did you go to either of those meetings with anyone from
14 Freedom Books?

15 A. Yes. The first meeting Mr. Schiff and Cindy were both
16 there.

17 Q. Okay. Did you ever sign any documents to allow either
18 Mr. Schiff or Ms. Neun to represent you?

19 A. On the first one, I -- I can't remember. On the second one,
20 there was -- the IRS didn't --

21 Q. All right. Perhaps I could -- do you not remember exactly?

22 A. No, I don't.

23 Q. Perhaps I could refresh your recollection.

24 Is there a document I could show you? If you could
25 look at Exhibit 187.

1 A. 187?

2 Q. Tell me if you recognize Exhibit 187.

3 A. Yes.

4 Q. Do you recognize Exhibit 187?

5 A. Yes, I do.

6 Q. What is Exhibit 187?

7 A. Uh, Limited Power of Attorney.

8 Q. And who signed that power of attorney?

9 A. I -- my signature appears on -- on the paper.

10 Q. Okay. And to whom did you grant power of attorney?

11 A. Uh, to Mr. Irwin Schiff.

12 MR. IGNALL: At this point, the Government moves into
13 evidence Exhibit 187.

14 MR. CRISTALLI: No objection.

15 MR. BOWERS: I have no objection.

16 MR. SCHIFF: No objection.

17 THE COURT: 187 is received.

18 (Government's Exhibit No. 187, received into
19 evidence.)

20 MR. IGNALL: May we publish Exhibit 187, your Honor?

21 THE COURT: You may.

22 (Document displayed in open court.)

23 BY MR. IGNALL:

24 Q. Why did you fill out this power of attorney to Mr. Schiff?

25 A. Well, they were -- they were helping me with my IRS problem.

1 Q. But -- and they were going to the IRS for you or with you?

2 A. They did on two meetings, yes.

3 Q. Okay. Who -- who drafted the language in this Power of
4 Attorney?

5 A. Um, that I don't know.

6 Q. Did you write it yourself?

7 A. No, I did not.

8 Q. Who gave you the -- the form?

9 A. I don't -- I don't recall.

10 Q. Was it someone at Freedom Books? Somewhere else? Do you
11 recall?

12 A. I really can't recall, sir.

13 Q. Okay. If I turn can your attention to Exhibit 188, do you
14 recognize Exhibit 188, Mr. Allin?

15 A. (Reviewing document.)

16 Yes, I do.

17 Q. What is Exhibit 188?

18 A. Uh, Limited Power of Attorney to, uh, Cynthia Neun.

19 Q. And is this signed by you?

20 A. Yes, sir.

21 Q. On what date?

22 A. Uh, 27th of April, 2001.

23 MR. IGNALL: Government moves into evidence
24 Exhibit 188.

25 MR. CRISTALLI: No objection.

1 MR. BOWERS: No objection.

2 MR. SCHIFF: I have an objection. Is there something
3 illegal about somebody giving somebody a power of attorney?

4 THE COURT: No.

5 MR. SCHIFF: So what's the relevancy of this document?

6 THE COURT: Well, the relevance is that he gave a power
7 of attorney to you and to Ms. Neun to represent him --

8 MR. SCHIFF: Does this constitute --

9 THE COURT: -- before the IRS.

10 MR. SCHIFF: -- a crime?

11 THE COURT: It is relevant. The Court overrules your
12 objection to relevance.

13 MR. SCHIFF: Well, my -- my objection is that the
14 Government is introducing documents that are not suggestive of
15 any crime being committed giving the impression to the jury that
16 there's some crime being committed by conveying a power of
17 attorney.

18 THE COURT: The objection is overruled. The objection
19 has absolutely no merit at all.

20 MR. IGNALL: May we publish -- Exhibit 188, has that
21 been received into evidence, your Honor?

22 THE COURT: It has.

23 MR. IGNALL: All right. May we publish that to the
24 jury, your Honor?

25 THE COURT: You may.

1 MR. IGNALL: Thank you.

2 (Government's Exhibit No. 188, received into

3 evidence.)

4 (Document displayed in open court.)

5 MR. IGNALL: Now, if we could blow up the top part of

6 that.

7 BY MR. IGNALL:

8 Q. Could I ask you to read the first paragraph.

9 A. I'm sorry. Read...

10 Q. Could you read the first paragraph in Exhibit 188? It's

11 also on your screen. I don't know which is easier, but...

12 A. No, I can read it.

13 Q. Okay.

14 A. Where it says, "I, Brian T. Allin"?

15 Q. Yes.

16 A. "Of 806 Buchanan Boulevard, No. 115, Boulder City, Nevada,

17 89005, do hereby grant a limited and specific power of attorney

18 to Cynthia Neun, 544 East Sahara Avenue, Las Vegas, Nevada,

19 89104, as my" -- "as my attorney-in-fact (agent), giving said

20 agent the full power and authority to undertake and perform the

21 following acts on my behalf to the same extent as if I had done

22 so personally."

23 Q. And -- and what is -- if you look at the second paragraph,

24 what does that second paragraph say, just the beginning of it?

25 A. Do you want me to read it, sir?

1 Q. Yeah, if you just read it or --

2 A. "To represent me in all tax matters, to prepare, sign, ...
3 file federal, state, [and] local income, gift[s] and other tax
4 returns of all kinds, including, where appropriate, joint
5 returns, claims [of] refund[], requests for extensions of time
6 to file returns, or pay taxes."

7 Continue?

8 Q. If you can keep going a little bit farther.

9 A. ... "extensions and waivers of applicable periods of [uh]
10 limitation, protests ... petitions to administrative agencies of
11 [sic] courts, including the tax court, regarding any tax
12 matters."

13 Q. Okay. That -- that -- that's far enough. Thank you.

14 Now, let's go back to the hearings -- or the meetings
15 you had at the IRS. The first one you went to do you remember
16 when that was approximately?

17 A. No, sir, I don't. I --

18 Q. Do you know was it before or after you signed these Powers
19 of Attorney?

20 A. I believe the first was before this, but I'm not -- I'm not
21 positive.

22 Q. And you said you went with both Ms. Neun and Mr. Schiff?

23 A. Yes.

24 Q. Okay.

25 A. If I remember -- I remember Mr. Schiff bein' there

1 specifically. Uh, I'm not sure about Cindy. I'm not -- I
2 can't -- my -- my recollection.

3 Q. All right. What happened at that meeting that Mr. Schiff
4 attended with you at the IRS?

5 A. Basically, the questions that were asked of me Mr. Schiff
6 answered on my behalf.

7 MR. SCHIFF: Mr. Allin, could you speak a little
8 louder? I'm having trouble.

9 THE WITNESS: Yes.

10 Basically, uh, the, uh, questions that were asked to me
11 were answered by Mr. Schiff. I -- I got very few words in there
12 nor did I really -- was trying to speak.

13 BY MR. IGNALL:

14 Q. Uh, what was the result of that first hearing that
15 Mr. Schiff spoke at?

16 A. Uh, Mr. Schiff got his point across. Uh, the IRS wasn't
17 very receptive. And one of the IRS agents in there -- I can't
18 remember his name. It started with Mr. -- with "G" or Gerwits
19 (phonetic) or -- I -- he said to me walkin' out the door, um,
20 something to the fact that you're -- you're not doin' the right
21 thing and you're -- you're diggin' yourself a hole.

22 Q. Did --

23 A. He didn't -- he didn't say it --

24 Q. Okay.

25 A. -- maliciously or anything.

1 Q. All right.

2 A. I mean, it was just --

3 MR. CRISTALLI: Objection --

4 BY MR. IGNALL:

5 Q. What --

6 MR. CRISTALLI: Objection. Hearsay. Move to strike.

7 BY MR. IGNALL:

8 Q. Did Mr. Schiff hear this IRS --

9 MR. CRISTALLI: Objection.

10 BY MR. IGNALL:

11 Q. -- employee?

12 MR. CRISTALLI: I have an objection.

13 THE WITNESS: I'm sorry?

14 MR. CRISTALLI: Excuse me. I have an objection.

15 THE COURT: Okay. Go ahead.

16 BY MR. IGNALL:

17 Q. Did Mr. Schiff hear --

18 THE COURT: Wait a minute. No. We're ruling on the

19 objection.

20 What is the objection?

21 MR. CRISTALLI: Hearsay. It was just a hearsay

22 objection.

23 THE COURT: All right. And?

24 MR. IGNALL: The relevance would be only if Mr. Schiff

25 heard him say that. So I think I need to ask one more

1 foundational question.

2 THE COURT: You do.

3 MR. CRISTALLI: It's not being offered for the truth of
4 the matter asserted?

5 THE COURT: Not for the truth of the matter asserted.
6 Just to -- as evidence of notice.

7 MR. SCHIFF: There's another objection. He wouldn't
8 know what I overhead.

9 THE COURT: Well...

10 BY MR. IGNALL:

11 Q. Was Mr. Schiff present, within -- within earshot, when the
12 IRS employee told you that?

13 A. It was when we were walkin' out the door. I think I was,
14 uh -- I think Mr. Schiff was in front of me. Probably --
15 probably not.

16 MR. IGNALL: Okay. Then...

17 THE COURT: Objection --

18 THE WITNESS: It was --

19 THE COURT: Sustained.

20 THE WITNESS: -- it was directed --

21 BY MR. IGNALL:

22 Q. Okay. That's fine.

23 A. -- right to me.

24 MR. SCHIFF: I don't know what he was reputed to have
25 said anyway. I mean, was your objection sustained?

1 THE COURT: The objection was sustained.

2 MR. SCHIFF: Okay.

3 BY MR. IGNALL:

4 Q. Was that meeting adjourned prematurely, Mr. Allin?

5 A. It -- it was, uh -- we weren't accomplishin' anything and

6 there was -- there was a lot of conversation back and forth

7 without really accomplishin' anything. And I -- and I, to this

8 day, don't know why we were there. I mean, we...

9 Q. Did you pay Mr. Schiff to attend that meeting with you?

10 A. Uh, usually, uh, at those kinda things, yes, it was cash

11 money. It was --

12 Q. You paid in -- you paid cash? I'm sorry.

13 A. Cash, yes.

14 Q. Do you remember how much?

15 A. I think it was roughly \$200.

16 Q. Did anyone at the IRS tell Mr. Schiff whether he was, um,

17 appropriately allowed to speak at this meeting?

18 A. I can't recall.

19 Q. You said you went to a second hearing. Am I correct?

20 A. Yes.

21 Q. And who did you go -- who attended that second hearing with

22 you?

23 A. I -- I believe it was just Cindy and myself.

24 Q. Was there a reason that Mr. Schiff didn't go with you?

25 A. There was -- there was a letter -- when I got notified of

1 the -- of the meeting with the IRS on -- on -- on this
2 particular document and -- that I had a date and time to appear,
3 on -- on the request it requested that Mr. Schiff and -- and
4 Cindy not be present. I was allowed to have a -- a bona fide
5 attorney, uh, so to speak. But...

6 Q. But not Mr. Schiff or Ms. Neun?

7 A. Right. If that -- that's my recollection.

8 Q. All right.

9 A. I could -- I could be...

10 Q. Did you pay Ms. Neun to accompany you to that second
11 hearing?

12 A. I'm sure I did. I -- I -- I usually -- we had a court
13 reporter at that meeting. And -- and I paid the court reporter
14 and I -- I usually paid them some cash, yes.

15 Q. How about Ms. Neun in particular? Did you pay for her to
16 attend with you?

17 A. I'm sorry?

18 Q. Did you pay to have Ms. Neun attend this hearing with you?

19 A. I have no receipt. But I usually gave them -- it was
20 usually 200.

21 Q. And you paid -- in what form?

22 MR. CRISTALLI: Objection --

23 THE WITNESS: Always cash.

24 MR. CRISTALLI: -- foundation.

25 THE WITNESS: Always cash.

1 MR. CRISTALLI: Objection.

2 THE COURT: All right. What --

3 MR. CRISTALLI: He's speculating.

4 THE COURT: -- is the objection? Pardon?

5 MR. CRISTALLI: He's speculating.

6 THE COURT: Uh, he -- he said, "I have no receipt, but

7 I usually gave them \$200." It goes to weight, not to

8 admissibility.

9 BY MR. IGNALL:

10 Q. Did either of these --

11 THE COURT: Overruled.

12 BY MR. IGNALL:

13 Q. -- hearings at the IRS resolve your tax problems with the

14 IRS?

15 A. No, sir, not in any way, shape, or form.

16 Q. Did any of the letters that you purchased from Freedom Books

17 and you sent to the IRS resolve any of your tax problems with

18 the IRS?

19 A. No, sir.

20 Q. Did you take any other action to try to resolve your tax

21 problems?

22 A. In this period of time?

23 Q. Yes. I believe --

24 A. Oh --

25 Q. -- you mentioned something about Tax Court before.

1 A. We requested to go to Tax Court, a Tax Court hearing.

2 Q. Did anyone assist you with requesting a Tax Court hearing?

3 A. Yes, Mr. Schiff.

4 Q. Did Mr. Schiff charge you for that?

5 A. Yes, he did.

6 Q. How much did Mr. Schiff charge you for that?

7 A. It was 700 to 750 dollars.

8 MR. SCHIFF: Hold it.

9 BY MR. IGNALL:

10 Q. In what format --

11 MR. SCHIFF: Can I -- was that a hearing or did that

12 include the petition and --

13 THE COURT: Well --

14 MR. SCHIFF: Well, I don't know what that included.

15 THE COURT: -- you can ask him on cross-examination.

16 Don't interrupt. There -- that's not a basis for interrupting.

17 MR. SCHIFF: What -- what -- what document are you

18 putting in?

19 THE COURT: He hasn't -- he's not putting a document

20 in. He's asked the witness a question, how much did he pay for

21 Tax Court.

22 MR. SCHIFF: Appearance -- appearance at Tax Court?

23 THE COURT: Would you like to ask the question again?

24 MR. IGNALL: Yeah.

25

1 BY MR. IGNALL:

2 Q. Did -- did you file a petition with the Tax Court,

3 Mr. Allin?

4 A. For a hearing, yes, sir.

5 Q. For a hearing.

6 If I could turn your attention to Exhibit 189. If you

7 can look at that; tell me if you recognize Exhibit 189.

8 A. (Reviewing document.)

9 MR. SCHIFF: Uh, is he -- has, um -- has Exhibit 189

10 been entered as a --

11 THE COURT: No.

12 MR. SCHIFF: Huh?

13 THE COURT: No.

14 MR. IGNALL: Not yet.

15 MR. SCHIFF: Hasn't been entered yet.

16 THE WITNESS: (Reviewing document.)

17 BY MR. IGNALL:

18 Q. Do you recognize Exhibit 189, Mr. Allin?

19 A. Yes, sir, I do.

20 Q. What is Exhibit 189?

21 A. A tax -- uh, uh, it's asking for, uh -- I believe this is a

22 request for a Tax Court hearing.

23 Q. All right. And this -- this is an unsigned copy; correct?

24 A. Yes.

25 Q. All right.

1 A. Yes.

2 Q. But this is a copy of the -- of the appeal you sent to Tax
3 Court?

4 A. Yes. I -- I did sign it and send it in.

5 MR. IGNALL: Government moves into evidence
6 Exhibit 189.

7 MR. CRISTALLI: I don't have --

8 MR. SCHIFF: I have an objection.

9 THE COURT: Okay.

10 MR. SCHIFF: Is the Government claiming that an appeal
11 to Tax Court is an indication of criminal behavior? Is it
12 criminal --

13 MR. IGNALL: Your Honor --

14 MR. SCHIFF: -- is it a crime to help somebody file a
15 petition in Tax Court?

16 MR. IGNALL: Your Honor, we don't want to prejudice
17 Mr. Schiff unduly by doing our closing argument right here.
18 But --

19 MR. SCHIFF: But --

20 MR. IGNALL: -- we get to the point where I think we
21 need some sort of instruction that individual bits of evidence
22 can be evidence to prove a crime and that --

23 MR. SCHIFF: Well, your Honor, I don't believe it.
24 I -- I believe that the jury thinks its seen documents that
25 indicate the commission of a crime.

1 THE COURT: Oh, the Government has not said that. Your
2 opinion of what the evidence is for and what the Government is
3 putting it in for may be two different things.

4 MR. SCHIFF: Is the Government -- is the Government
5 going to go over and cite what is there in that petition that's
6 incorrect or -- or a violation of law of some kind?

7 THE COURT: It doesn't have to.

8 MR. SCHIFF: Well --

9 THE COURT: It is showing a document to the witness and
10 asking him if he can identify it. And he's identified it as the
11 document that he signed and sent in.

12 MR. SCHIFF: It's -- it's...

13 THE COURT: Are you moving for the admission?

14 MR. IGNALL: We move for admission of Exhibit 189, your
15 Honor.

16 MR. CRISTALLI: No objection.

17 MR. BOWERS: I have no objection.

18 THE COURT: 189 is received.

19 (Government's Exhibit No. 189, received into
20 evidence.)

21 MR. IGNALL: All right. Thank you.

22 BY MR. IGNALL:

23 Q. Mr. Allin, did you draft up this document yourself?

24 A. No, sir.

25 Q. Did someone draft it for you?

- 1 A. Yes, sir.
- 2 Q. Who was that?
- 3 A. Mr. Schiff.
- 4 Q. Did Mr. Schiff charge you to draft this document?
- 5 A. Yes. This is -- this is where he -- he -- he worked quite a
6 while on this -- on this letter and then that's -- after he
7 finished it and that's when he said, I done a lot of work for ya
8 and here's what, uh, I think I should be paid. And that was in
9 the 700- to 750-dollar fee, as best to my recollection. I did
10 write a check for that.
- 11 Q. A check payable to whom? Do you remember?
- 12 A. No, sir.
- 13 Q. All right. Thank you.
- 14 And you said you filed this appeal with the Tax Court;
15 is that correct?
- 16 A. Yes, I did.
- 17 Q. Did you ever file any other documents with the Tax Court?
- 18 A. Not to my recollection, but...
- 19 Q. Maybe I could refresh your recollection.
20 If you could look at Exhibit 191.
- 21 A. (Complies.)
- 22 Q. Do you recognize Exhibit 191, Mr. Allin?
- 23 A. Yes, sir, I do.
- 24 Q. What is Exhibit 191?
- 25 A. Let me review it a second here. (Reviewing document.)

1 MR. BOWERS: Your Honor?

2 THE COURT: Yes, Mr. Bowers.

3 MR. BOWERS: We'd just oppose introduction of this
4 document. We've had some objections to documents like this in
5 the past.

6 THE COURT: To what?

7 MR. BOWERS: Well --

8 THE COURT: The order --

9 MR. BOWERS: Yeah, the --

10 THE COURT: -- or the appeal?

11 MR. BOWERS: -- order. Request a sidebar on that.

12 MR. CRISTALLI: I think we just need to be consistent
13 with the order.

14 (Discussion between Mr. Cristalli and
15 Mr. Ignall.)

16 BY MR. IGNALL:

17 Q. Do you recognize this document, Mr. Allin?

18 A. Pardon me?

19 Q. You said you recognized Exhibit --

20 A. Yes --

21 Q. -- 191?

22 A. -- I do.

23 Q. What is Exhibit --

24 MR. BOWERS: I'm sorry. I thought --

25 THE WITNESS: It's a letter from the Tax Court sayin'

1 that my --

2 MR. CRISTALLI: Your Honor, we've an objection --

3 THE WITNESS: -- asking --

4 MR. CRISTALLI: -- your Honor we've an objection to
5 this exhibit. Before we go any further, we'd like to resolve
6 that objection, if possible.

7 MR. IGNALL: I haven't moved it into evidence yet.

8 THE COURT: He hasn't.

9 MR. CRISTALLI: Yeah. But he is --

10 MR. IGNALL: Maybe --

11 MR. CRISTALLI: -- he is testifying as it relates to
12 the document. I have a concern with regard to that.

13 THE COURT: Well, he said it's an order from the Tax
14 Court. He hasn't -- he hasn't discussed any of the contents.

15 MR. CRISTALLI: Yeah. I think he was about to testify
16 to the contents. It's...

17 THE COURT: Well, your opinion about what he was about
18 to do and what the next question is may be two entirely
19 different things.

20 MR. CRISTALLI: Okay.

21 THE COURT: So your objection is premature.

22 MR. CRISTALLI: Okay.

23 MR. BOWERS: Okay.

24 BY MR. IGNALL:

25 Q. Did you ever discuss this order with anyone at Freedom

1 Books, Mr. Allin?

2 A. This specific document?

3 Q. Yes.

4 A. No, sir, I didn't.

5 Q. Did you ever discuss with anyone at Freedom Books the result
6 of your Tax Court petition?

7 MR. BOWERS: Leading.

8 THE WITNESS: No, I didn't, sir.

9 THE COURT: Overruled.

10 THE WITNESS: I mean, no, 'cuz this was received -- the
11 date on the document is August 13th, 2002, and -- and I was in
12 Myrtle Beach at the time and...

13 BY MR. IGNALL:

14 Q. Okay. That -- that's enough.

15 What was the result of your petition to the Tax Court?

16 A. I -- my case was called something to the effect it's
17 frivolous and I got fined \$25,000 and -- and no chance to appear
18 in court.

19 Q. And did you -- if you -- I think you said you don't remember
20 whether you filed any other documents, like a request for a
21 hearing?

22 A. We -- we've -- we filed so many, I mean, request for
23 hearings and that. Like I say, I sent letter after letter off
24 to...

25 Q. Who -- and who provided you those letters?

1 A. Most of 'em were -- came from the Freedom Books stuff. I
2 mean, there was letters that -- from the -- that we were, uh --
3 I would go to the -- the -- the Secretary Treasurer of the
4 United States and write him letters that he -- you know, that he
5 couldn't to anything to me --

6 Q. Did you --

7 A. -- and to the state people and I --

8 Q. Did you write those --

9 A. -- I did all the stuff as per the program.

10 Q. You -- you did send those letters?

11 A. Yes, I did.

12 Q. Okay. Do you still follow Mr. Schiff's teachings?

13 A. No, sir, I do not.

14 Q. Do you file traditional tax returns now?

15 A. Yes, I do.

16 Q. And do you still have outstanding penalties and interest
17 from the zero returns that you filed?

18 A. Substantially, yes, sir.

19 Q. How much? Do you know?

20 A. Well, it -- it varied. But it's probably -- different
21 documents varied. But it's probably 450,000.

22 Q. All right. Thank you.

23 MR. IGNALL: No further questions.

24 THE COURT: Cross-examination.

25

1 CROSS-EXAMINATION

2 BY MR. CRISTALLI:

3 Q. Good afternoon, Mr. Allin.

4 A. Good afternoon, sir.

5 Q. Just a couple questions, Mr. Allin.

6 Um, you testified that, um, subsequent to having a
7 discussion with your friend you, uh, received and/or purchased
8 some information from Freedom Books and, uh, specifically Irwin
9 Schiff's teachings; correct?

10 A. Just -- just -- if -- if you're referring to the friend,
11 this was a -- a -- it -- it was somebody that came into -- or
12 our -- our Mail Box Etc --

13 Q. Right.

14 A. -- and he told us about Freedom Books and gave me The
15 Federal Mafia and then...

16 Q. Well, whatever it was basically, I mean, basic -- the point
17 is, um, as a result of the information you obtained, you began
18 to proscribe to the, um, the teachings and ideologies of
19 Mr. Irwin Schiff; correct?

20 A. Correct.

21 Q. And at the time that you, uh, proscribed to those -- that
22 philosophy, you at no time, sir, did you, believe that you were
23 committing a crime; correct?

24 A. Correct.

25 Q. Okay. And, um, you also testified that you had numerous

1 interactions with Ms. Cynthia Neun; correct? You talked to
2 Cindy?

3 A. Yes.

4 Q. You talked to her on a number of occasions?

5 A. Yes.

6 Q. Did you talk to her in reference to your tax issues?

7 A. That's -- all reference was about the tax issues, yes.

8 Q. All right. And at no time did Cindy ever indicate to you,
9 she never said anything to you or she never did anything to --
10 in front of you that would have suggested that what she was
11 doing was illegal; correct?

12 A. Correct.

13 Q. Okay.

14 MR. CRISTALLI: No further questions, your Honor.

15 Thank you, sir.

16 MR. SCHIFF: Does he have any questions?

17 MR. BOWERS: After you.

18 MR. SCHIFF: Okay.

19 (Pause in the proceedings.)

20

21 CROSS-EXAMINATION

22 BY MR. SCHIFF:

23 Q. Okay. Let me see if I can... I'm looking for your tax
24 returns, Mr. Allin.

25 MR. IGNALL: Mr. Schiff, I believe they start at 176.

1 MR. SCHIFF: 176? Okay.

2 BY MR. SCHIFF:

3 Q. Okay. Now, Mr. Allin, I think you suggested, if I heard you

4 right, that you first came into the office and you purchased a

5 copy of The Federal Mafia; is that correct?

6 A. No. I -- I purchased the whole package deal.

7 Q. Before you did that, did you order The Federal Mafia?

8 A. The -- the -- a business -- a person that was a customer in

9 our store loaned me, uh, the book, The Federal Mafia. He loaned

10 it to me. He had purchased it and he loaned it --

11 Q. So the first thing you did is you bought The Federal

12 Mafia --

13 THE COURT: No, he --

14 BY MR. SCHIFF:

15 Q. -- this book; is that correct?

16 THE COURT: -- no, he borrowed it.

17 THE WITNESS: I borrowed it.

18 BY MR. SCHIFF:

19 Q. Oh, you borrowed it.

20 A. Borrowed it from one of our customers.

21 Q. So you borrowed this book from a friend, I take it. You

22 borrowed this book from a friend of yours?

23 A. I -- I believe, uh, that second edition -- one of the -- one

24 of the --

25 Q. Yeah, yeah --

1 A. -- editions of --

2 Q. -- well --

3 A. -- The Federal Mafia, yes, sir.

4 Q. -- you borrowed it. And you read it?

5 A. Yes.

6 Q. And it raised doubts in your mind whether or not you were
7 required to, um, pay income tax; is that right?

8 A. Yes, sir.

9 Q. So then what did you do?

10 A. I went down to your store and purchased the whole package
11 of --

12 Q. Okay. Now, did you speak to me at the time?

13 A. No, sir.

14 Q. So, when you talk about "the whole package," you're talkin'
15 about you purchased the Internal Revenue Code; is that correct?

16 A. Yes, sir.

17 Q. You purchased my book The Great Income Tax Hoax --

18 A. Yes, sir.

19 Q. -- which contains a couple of chapters, all right, "The
20 Great Income"...

21 Did you purchase the video seminar, "Secrets of Living
22 An Income Tax Free Life"? It's a --

23 A. I believe so.

24 Q. -- three-and-a-half-hour seminar --

25 A. I believe so --

1 Q. -- video --

2 A. -- yes, sir.

3 Q. -- with its own documents. Did you purchase that?

4 A. I purchased the whole pack -- you --

5 Q. So --

6 A. -- you had it on --

7 Q. So --

8 A. -- you had it on a flyer saying that you had all --

9 Q. -- so there was --

10 A. -- and it's --

11 Q. -- a lot of material.

12 THE COURT: Mr. Schiff, I have warned you about

13 overtalking witnesses while they are answering. You are

14 making --

15 MR. SCHIFF: All right. I didn't --

16 THE COURT: -- it very difficult.

17 MR. SCHIFF: -- hear the --

18 THE COURT: You can watch his lips. And, when he's

19 talking, you wait.

20 MR. SCHIFF: Okay.

21 THE COURT: You are making it very difficult for the

22 court reporter to take down both statements at once. It is very

23 taxing. And it is inconsiderate on your part --

24 MR. SCHIFF: I understand.

25 THE COURT: -- to do that to her.

1 MR. SCHIFF: I thought he stopped speaking.

2 THE COURT: Look.

3 MR. SCHIFF: All right. I'll wait.

4 BY MR. SCHIFF:

5 Q. So you got a lot of literature from us?

6 A. Yes, sir.

7 Q. About -- how much time did you spend, do you recall, going

8 through this material? A week? Two days?

9 A. Months.

10 Q. Months. Months?

11 A. Months.

12 Q. And, after going through that material and based on the

13 information in the government documents, you concluded when you

14 filed the tax return -- you stated in the tax return that you

15 filed a 1998 --

16 MR. SCHIFF: Is it all right if I read the first couple

17 of lines from his tax return?

18 BY MR. SCHIFF:

19 Q. Do -- do you recall if I gave you this attachment?

20 MR. IGNALL: Your Honor, I believe Exhibit 176 is

21 already in evidence.

22 THE COURT: It is. It's already in evidence. He has

23 it right in front of him. You don't --

24 MR. SCHIFF: Oh, I'm sorry.

25 THE COURT: -- need to approach.

1 MR. SCHIFF: Okay, okay. Got it.

2 (Discussion between Mr. Leventhal and
3 Mr. Schiff.)

4 MR. SCHIFF: Okay. Have them put it up.

5 (Document displayed in open court.)

6 BY MR. SCHIFF:

7 Q. Now, do you recall writing -- or do you recall including
8 this information with the tax return you signed? Just read the
9 first couple lines.

10 A. Are -- are you referring to -- to the letter?

11 Q. Yeah, the attachment. "I, Brian T Allin."

12 A. "I, Brian T Allin and Carol J Allin, am submitting this as
13 part of my 1998 income tax return, even though I know that no
14 section of the Internal Revenue Code" --

15 Q. Yes, continue.

16 A. "1) Establishes an income tax 'liability' as, for example,
17 Code Sections 4401, 55-" -- excuse me -- "5005, and 5703 do with
18 respect to wagering, alcohol, and tobacco taxes."

19 Q. Now, when you sent in your tax return and included this
20 attachment, you believed that -- you believed what you attached;
21 is that correct?

22 A. I'm sorry?

23 Q. You believed that?

24 A. I -- yes, I believe --

25 Q. You believed what you wrote --

1 THE COURT: Mr. --

2 BY MR. SCHIFF:

3 Q. -- on there?

4 THE COURT: -- Mr. Schiff, I'm warning you.

5 MR. SCHIFF: I -- I didn't hear.

6 THE COURT: You are not letting him answer. Now --

7 MR. SCHIFF: Oh --

8 THE COURT: -- you ask --

9 MR. SCHIFF: -- I'm sorry.

10 THE COURT: -- one question and then before he can

11 answer you ask another on top of it. Stop it.

12 THE WITNESS: Yes, sir, I believed this information was

13 true at the time.

14 BY MR. SCHIFF:

15 Q. Okay. Now, I didn't tell you to prepare a zero return, did

16 I?

17 A. Uh, one of the books that I purchased from Freedom Books,

18 uh, did say that, yes, sir. You specifically, no.

19 Q. Well, a copy of this was in my book.

20 A. Yes, sir.

21 Q. And I suggested that a person if they believed --

22 THE COURT: No testifying.

23 MR. SCHIFF: I'm sorry.

24 THE COURT: No testifying.

25

1 BY MR. SCHIFF:

2 Q. A copy of this was in my book?

3 A. Yes, sir.

4 Q. But let me ask you something, Mr. Allin. Let's assume you
5 believed every paragraph. There -- there are 12 paragraphs in
6 that document; is that right?

7 A. Yes, sir.

8 Q. Well, let's assume you believe all that material that you
9 might have derived from my research. Would it have been simpler
10 for you to adopt this document rather than write one out on your
11 own?

12 A. I don't understand the question, sir.

13 Q. Well, I'm saying, when you sent this in under penalty of
14 perjury, presumably you believed all the paragraphs included in
15 this document. You believed it at the time you sent in the
16 document.

17 A. I -- I did copy it, uh, from the book and I entered my name
18 and my wife's name. Uh, to say I believed it all, I -- I cannot
19 say --

20 Q. But --

21 A. -- I did.

22 Q. -- but when you --

23 A. I mean...

24 Q. -- sent it in, can I assume that you believed it?

25 THE COURT: He just said no.

1 BY MR. SCHIFF:

2 Q. Oh, you didn't --

3 THE COURT: The answer was --

4 BY MR. SCHIFF:

5 Q. -- believe it?

6 THE COURT: -- no. He said he can't say he believed
7 it.

8 THE WITNESS: As in -- in its entirety, no, sir.

9 BY MR. SCHIFF:

10 Q. Well, you said that when -- you came to my office from time
11 to time. And, when you came to my office, you spoke to me; is
12 that right?

13 A. I -- I'm sorry?

14 Q. When you came to my office you spoke to me personally, any
15 time you came to my office?

16 A. Yes, sir.

17 Q. Did you ever give me any indication -- oh, you came -- did
18 you come into my office after you filed this document or before
19 you filed it?

20 A. I honestly can't recollect, sir.

21 Q. In any case, at any time did you give me any indication that
22 there was something in this document you didn't believe?

23 A. No, sir.

24 Q. No. Was that your answer?

25 A. No, sir. That's correct.

1 Q. Is there any doubt in your mind that had you given me some
2 indication that there was something in this document you didn't
3 believe I would have taken the time to go over that particular
4 paragraph? Is there any doubt in your mind that I would have
5 taken the time to explain why I included that paragraph?

6 A. No, sir. You spent a lot of time answering my questions.

7 Q. Right.

8 And I assumed that you believed what was in this
9 document?

10 THE COURT: Mr. Schiff --

11 MR. SCHIFF: What?

12 THE COURT: -- you cannot testify.

13 MR. SCHIFF: Well, I'm just asking if he --

14 THE COURT: No. He doesn't know what's in your mind or
15 what you assumed.

16 BY MR. SCHIFF:

17 Q. Did you believe that I assumed you believed this document?

18 THE COURT: I --

19 MR. SCHIFF: Well --

20 THE COURT: -- already --

21 MR. SCHIFF: -- I'm asking --

22 THE COURT: -- told you --

23 MR. SCHIFF: -- the question.

24 THE COURT: -- you couldn't do that. Now stop it.

25

1 BY MR. SCHIFF:

2 Q. Okay. Now -- but based upon your own research -- oh, let me
3 ask you. What -- what particular paragraph in the document did
4 you have trouble believing?

5 A. Uh, I couldn't an- -- I mean, now I -- I don't know what's
6 in the document; then I -- I can't remember.

7 Q. Okay. Let me ask you a question. Um, the book, The Federal
8 Mafia is in evidence.

9 MR. SCHIFF: Can I ask him to have a copy of The
10 Federal Mafia?

11 THE COURT: Ms. Clerk, is The Federal Mafia in
12 evidence?

13 THE CLERK: It is not.

14 THE COURT: It's just marked?

15 THE CLERK: Let me see. Let me verify this. It is
16 only marked. It's only marked; it's not admitted.

17 THE COURT: Okay.

18 BY MR. SCHIFF:

19 Q. Mr. Allin, do you recall reading the first chapter of the
20 book which is entitled, "Surprise! The Income Tax is
21 Voluntary"? Do you recall reading that chapter?

22 A. Yes, sir.

23 THE COURT: All right. Let me warn you. If he
24 continues on -- if you continue on in this vein, I am going to
25 give the requested instruction.

1 MR. SCHIFF: I asked him if he recalled reading --

2 THE COURT: So you can consult with the other
3 attorneys. But I'm warning you: If you get into your version
4 of the law, I am going to give the instruction.

5 MR. SCHIFF: I...

6 BY MR. SCHIFF:

7 Q. Do you recall --

8 THE COURT: Did you hear?

9 BY MR. SCHIFF:

10 Q. -- reading the first chapter?

11 THE COURT: Did you hear what I said?

12 MR. SCHIFF: I -- I don't know what I'm doing wrong,
13 your Honor. If I -- I'm asking him if he recalled reading -- I
14 don't know why that's --

15 THE COURT: I'm just warning you if you go into it --

16 MR. SCHIFF: Could we --

17 THE COURT: -- it's gonna happen.

18 MR. SCHIFF: -- have a sidebar on this?

19 (Sidebar conference was held as follows:)

20 MR. SCHIFF: I asked him if he recalled reading the
21 first chapter.

22 THE COURT: I know where you're going and I'm tired of
23 it. You are not going to put in false statements of the law
24 anymore in this case. So, if you want to ask him questions and
25 go through those cases, I am going to give it.

1 MR. CRISTALLI: Your Honor, and I -- and I --

2 MR. BOWERS: I --

3 MR. CRISTALLI: -- you know, I'm -- my concern is I

4 don't want to have to object to --

5 MR. BOWERS: We're gonna have to --

6 MR. CRISTALLI: -- Mr. Schiff's questioning.

7 MR. BOWERS: Yeah.

8 MR. CRISTALLI: And I absolutely don't want to do that

9 'cuz it's then going to cause a problem with, um, the perception

10 in front of the jury. I mean, I'm going to have to continue to

11 move --

12 MR. SCHIFF: Well --

13 MR. CRISTALLI: -- for a severance because he just

14 doesn't --

15 MR. BOWERS: We'll renew that again.

16 MR. SCHIFF: What? What? What?

17 MR. CRISTALLI: He doesn't understand the Court's

18 ruling. And -- and I'm --

19 MR. SCHIFF: Is this --

20 THE COURT: He understands it. He just --

21 MR. SCHIFF: No, I don't understand.

22 Now, your Honor, this man, like everybody else when

23 they buy my book and they read it, there's a certain

24 responsibility --

25 THE COURT: Talk --

1 MR. SCHIFF: -- that they take out.

2 THE COURT: Quiet down.

3 MR. SCHIFF: Okay. I don't tell 'em to file a zero
4 return.

5 THE COURT: Quiet down.

6 MR. SCHIFF: Okay.

7 THE COURT: Do you hear?

8 MR. SCHIFF: Yes.

9 MR. BOWERS: You can hear all this --

10 MR. SCHIFF: Now --

11 MR. BOWERS: -- Irwin.

12 MR. SCHIFF: -- now, can't I ask him if he read the
13 first chapter of the book?

14 THE COURT: I know where you're goin' after that. You
15 can ask him if he read the first chapter. But, if you want to
16 get into the law --

17 MR. SCHIFF: No.

18 THE COURT: -- I'm going give --

19 MR. SCHIFF: It's a vol- --

20 THE COURT: -- the instruction.

21 MR. SCHIFF: No. Listen to me.

22 MR. BOWERS: I'm sorry.

23 MR. SCHIFF: There is a number of documents in saying
24 that income tax is voluntary. These are government documents.
25 I haven't said it.

1 Now -- now, will you just -- well, these are -- did
2 you -- did you see the first chapter of my book?

3 MR. BOWERS: Yeah, he said he's read it and --

4 THE COURT: Look --

5 MR. SCHIFF: Well, can I --

6 THE COURT: -- I've read all of your pleadings. Your
7 theory is legal garbage.

8 MR. SCHIFF: Okay. Let me ask you then: Can I ask him
9 if he read the book and made a certain determination based upon
10 the book?

11 THE COURT: He has already said he can't remember.

12 MR. BOWERS: Irwin --

13 MR. SCHIFF: But could I refresh his memory?

14 MR. BOWERS: Irwin, you understand the substance of his
15 instruction.

16 MR. SCHIFF: No, I don't. I don't.

17 MR. BOWERS: Your Honor, may I --

18 MR. SCHIFF: No, no --

19 MR. BOWERS: -- create a brief --

20 MR. SCHIFF: -- I don't --

21 MR. BOWERS: -- record?

22 MR. SCHIFF: -- understand the substance of his
23 instruction because --

24 MR. BOWERS: This --

25 MR. SCHIFF: -- they're tryin' to say that I -- that I

1 told him to file a return --

2 THE COURT: No.

3 MR. SCHIFF: -- zero return --

4 THE COURT: No, they are not.

5 MR. SCHIFF: -- and he --

6 MR. BOWERS: I don't know why you're talkin' to me.

7 MR. SCHIFF: I'm --

8 THE COURT: They are not trying to say that.

9 The evidence is from the Government's questioning of

10 him that he filled out the zero return himself.

11 MR. SCHIFF: But he -- but he -- but he filled it out,

12 I'm assuming, based upon his own research --

13 THE COURT: Based on reading your book.

14 MR. SCHIFF: But -- but -- all right. But -- but

15 there's a lot of research in my book. And if he didn't -- he

16 also testified that -- that if he didn't understand something --

17 THE COURT: Your research --

18 MR. SCHIFF: -- he could have asked me.

19 THE COURT: Your research is no good.

20 MR. SCHIFF: Well -- well -- well -- but --

21 THE COURT: It's no good.

22 MR. SCHIFF: -- but he relied on it. I -- well, then

23 you tell me --

24 THE COURT: He relied on your faulty --

25 MR. SCHIFF: You're tellin' me --

1 THE COURT: -- analysis of the law.

2 MR. SCHIFF: -- you're tellin' me that that I can't
3 defend myself --

4 THE COURT: No, I'm not.

5 MR. SCHIFF: -- in this trial.

6 THE COURT: No, I'm not.

7 MR. SCHIFF: Well, how could I --

8 THE COURT: I'm just telling you you can't bring in
9 false law without me --

10 MR. SCHIFF: I'm not --

11 THE COURT: -- telling the jury what the law is.

12 MR. SCHIFF: I didn't bring in the law. I simply asked
13 him -- there is no law --

14 THE COURT: You put that document up there and it has
15 false statements of the law in it.

16 MR. SCHIFF: But the GOVERNMENT put the document in.

17 THE COURT: No. It's not -- it's actually not in
18 evidence. It's --

19 MR. SCHIFF: His return is in evidence.

20 THE COURT: -- it's marked as an exhibit. It is not in
21 evidence.

22 MR. SCHIFF: Well, look, look, look, look, I am not --

23 MR. CRISTALLI: That is an issue that we need to
24 address because I think at one particular -- that's the
25 confusion I think both --

1 MR. BOWERS: The book is in.

2 MR. CRISTALLI: -- the defense and Government is having
3 a problem with. Both -- both sides believe that The, uh,
4 Federal Mafia did come into evidence. I think it was through
5 one of my -- one of my cross-examinations --

6 MR. BOWERS: Based on the reliance --

7 MR. CRISTALLI: -- if I'm not mistaken --

8 MR. BOWERS: -- your Honor --

9 THE COURT: Well, the clerk says it wasn't. So
10 that's -- that's --

11 MR. SCHIFF: It was brought into --

12 MR. IGNALL: I don't believe we --

13 MR. SCHIFF: -- evidence.

14 MR. IGNALL: -- objected to it. I do have some
15 recollection that it was admitted --

16 THE COURT: Yeah.

17 MR. IGNALL: -- but I don't know.

18 THE CLERK: I'll take a look.

19 MR. SCHIFF: What I'm trying to do is show --

20 MR. IGNALL: Maybe we can --

21 MR. SCHIFF: -- that --

22 MR. IGNALL: -- figure out when.

23 MR. SCHIFF: -- he filed a return based on his own
24 research, not based on -- I didn't tell people --

25 THE COURT: Nah. He said -- already said it was based

1 on --

2 MR. SCHIFF: But, look, I believe --

3 MR. BOWERS: I gotta say something.

4 MR. SCHIFF: -- the government's collecting income
5 taxes illegally. That's what I believe. And people are free to
6 accept my research or not.

7 MR. BOWERS: Okay. Your Honor --

8 MR. SCHIFF: Well, I don't understand how I can --

9 MR. BOWERS: I --

10 MR. SCHIFF: -- cross-examine these people.

11 MR. BOWERS: -- I got to put something on the record.

12 The judge is gonna leave. He's -- he's gonna need an
13 instruction he's gonna give you.

14 Can I have a moment here just --

15 MR. SCHIFF: Yeah --

16 MR. BOWERS: -- real quickly?

17 MR. SCHIFF: Go ahead.

18 MR. BOWERS: Thank you.

19 The fact that I'm going to be forced to object to
20 Mr. Schiff's objections based on the Court's admonishment that
21 he's gonna give this instruction is prejudicial to me. I move,
22 again, to sever if the Court's willing to consider that. If
23 not, I object to the Court giving the instruction. Um, there --

24 MR. SCHIFF: In the first chapter --

25 MR. BOWERS: -- there...

1 MR. SCHIFF: -- there's a lot of exhibits about
2 voluntary.

3 MR. CRISTALLI: You can't talk --

4 THE COURT: Government wish to be heard on this?

5 MR. SCHIFF: There is --

6 MR. IGNALL: Well, I do think an instruction is
7 appropriate here. But, at a minimum, I have some concern of the
8 Court saying that "I will instruct you on the law" without --
9 and then the jury's waiting for --

10 THE COURT: Yeah.

11 MR. IGNALL: -- instruction.

12 MR. BOWERS: Well, they'll get it.

13 MR. CRISTALLI: No, no, no.

14 MR. IGNALL: So maybe at a minimum --

15 MR. BOWERS: They are gonna get --

16 MR. IGNALL: -- explain to the jury that -- you know,
17 something to the effect of: By the end of the case, I will
18 instruct you --

19 MR. BOWERS: You will be instructed on the law.

20 MR. IGNALL: -- fully on what the laws are and it may
21 be sooner --

22 THE COURT: Yeah.

23 MR. IGNALL: -- but normally -- normally we do that at
24 the end instead of --

25 MR. SCHIFF: I'm trying to --

1 MR. CRISTALLI: So they are not --

2 MR. SCHIFF: -- determine what he relied on. That's
3 all. Whether he relied upon --

4 THE COURT: He's already testified to it.

5 MR. BOWERS: No, he hasn't.

6 MR. CRISTALLI: I don't --

7 MR. IGNALL: But we do think it's appropriate now.

8 MR. CRISTALLI: Your Honor, I don't have a problem
9 with --

10 MR. SCHIFF: I don't understand.

11 MR. CRISTALLI: -- I don't have a problem with the
12 Court saying that you will be -- you will be instructed at [sic]
13 the law at the conclusion of the case. My concern is "I may
14 instruct you sooner" is -- I don't -- I wouldn't be agreeable to
15 that. I have no objection, though, the Court instructing the
16 jury that they will be instructed on the law.

17 MR. SCHIFF: There's no law in the first chapter of my
18 book.

19 (Sidebar conference concluded and the

20 following is held in open court:)

21 MR. SCHIFF: Could I just have...

22 THE COURT: Ladies and gentlemen of the jury, the Court
23 is going to instruct you on the law that is to be applied in
24 this case at the end of the case. I -- I may instruct you
25 sooner on it, if -- if necessary. It depends on -- on -- on

1 the -- what happens here on out.

2 (Discussion between Mr. Leventhal and
3 Mr. Schiff.)

4 BY MR. SCHIFF:

5 Q. First of all, Mr. Allin, when you read my book, there's a
6 disclaimer in my book; is that correct?

7 A. I --

8 Q. On page --

9 A. -- I don't know, sir.

10 Q. -- did you see the disclaimer?

11 THE COURT: The answer is -- Mr. -- Mr. --

12 BY MR. SCHIFF:

13 Q. On the left-hand side.

14 THE COURT: You don't need to look at that unless it's
15 to refresh your recollection.

16 First answer the question: Do you remember a
17 disclaimer?

18 THE WITNESS: No, I do not remember --

19 BY MR. SCHIFF:

20 Q. Okay. You --

21 A. -- the disclaimer.

22 Q. -- didn't see the disclaimer.

23 A. No, sir.

24 Q. In any case, when you read through my book, there is, uh,
25 plenty of information about the IRS seizing property from me and

1 my going to jail for my beliefs.

2 A. Yes.

3 Q. So you knew that?

4 A. Yes, sir.

5 Q. Incidentally --

6 THE COURT: Don't incidentally. Ask a --

7 BY MR. SCHIFF:

8 Q. Did you --

9 THE COURT: -- question.

10 BY MR. SCHIFF:

11 Q. The title of my book is called "The Federal Mafia, How The

12 Government Illegally Imposes and Unlawfully Collects Income

13 Taxes"; is that correct?

14 A. Yes, sir.

15 Q. So you know that my belief had something to do with my

16 belief that the government imposes and collects income taxes

17 illegally.

18 A. Yes, sir.

19 Q. Is that the substance of my book?

20 A. Yes, sir.

21 Q. Okay. Now, when you read this -- and, also, the title --

22 THE COURT: Mr. Schiff, would you please stay on

23 point --

24 MR. SCHIFF: I'm --

25 THE COURT: -- rather than stopping --

1 MR. SCHIFF: Well --

2 THE COURT: -- in the middle of a question and then --

3 MR. SCHIFF: All right.

4 THE COURT: -- starting another one?

5 MR. SCHIFF: All right, all right.

6 BY MR. SCHIFF:

7 Q. The Federal Mafia indicates that I'm equating the federal
8 government with the Mafia; is that correct?

9 A. I -- I don't know.

10 Q. You -- you didn't get the connection?

11 A. No, sir.

12 Q. In other words, there's danger here. The imp- -- the
13 implication here --

14 THE COURT: You're not testifying. Ask him --

15 MR. SCHIFF: All right.

16 THE COURT: -- a question.

17 BY MR. SCHIFF:

18 Q. Did -- did -- did the title of the book imply that the
19 government may not care about the law and there's a warning
20 here?

21 A. If you're asking me just about the title, I -- I can't --

22 Q. Well, all right.

23 A. -- I can speak for myself. I -- I would -- it's not a
24 warning, no.

25 Q. Okay. It's not a warning. Okay.

1 A. For myself.

2 Q. Okay. In any case, did you read Chapter 7 of the book?

3 A. I -- I've read most of the book, sir.

4 Q. But chap- -- can you see the title of Chapter 7? Does that
5 look familiar to you?

6 A. (Reviewing book.)
7 Yes, sir --

8 Q. Well --

9 A. -- it does look familiar.

10 Q. -- do you know what the title is of Chapter 7?

11 A. Pardon me?

12 Q. Did you read Chapter 7?

13 A. Probably, yes. I read most of the book, yes, sir.

14 Q. What is the -- what is the title of Chapter 7?

15 THE COURT: If you remember from memory.

16 THE WITNESS: Oh, no, sir. No, I -- I couldn't tell
17 ya --

18 MR. SCHIFF: Well, does he refresh his recollection if
19 he looks at the title?

20 THE COURT: Well, he can do that after he answers the
21 question does he remember.

22 BY MR. SCHIFF:

23 Q. Well, do you remember what the title is?

24 A. No.

25 THE COURT: He said no.

1 BY MR. SCHIFF:

2 Q. Would it refresh your recollection if you looked at the
3 title?

4 A. Yes.

5 Q. Okay. Could you please look the at title?

6 A. "CHAPTER 7 - How The Federal Mafia Illegally Seizes
7 Property."

8 Q. So. And -- and do you know how many pages that chapter is?

9 MR. IGNALL: Object to the relevance of this --

10 MR. SCHIFF: Well, I --

11 MR. IGNALL: -- line of inquiry.

12 MR. SCHIFF: -- well --

13 THE COURT: It is irrelevant. Sustained.

14 MR. SCHIFF: The relevance is here I devote a lot of
15 pages to explaining how my view --

16 THE COURT: We can see there are a lot of pages.

17 MR. SCHIFF: Okay.

18 THE COURT: It is not relevant.

19 BY MR. SCHIFF:

20 Q. In any case, did the book persuade you that the government
21 collects income taxes illegally?

22 A. Persuaded, uh, might be a little -- encouraged my thinking
23 that way, yes.

24 Q. I didn't hear your answer.

25 A. Um, I wasn't able to study all your material or gain

1 complete knowledge of -- of -- or have access to your essential
2 knowledge of everything. And so I -- I was 'sued towards your
3 direction. Yes, sir.

4 Q. Well, anyway, you'll grant that the Internal Revenue laws,
5 at best, are complicated. Most people don't understand them.
6 Is that right?

7 THE COURT: Speech. Strike.

8 MR. SCHIFF: Well, the Internal Revenue laws --

9 THE COURT: Speech --

10 MR. SCHIFF: -- are complicated.

11 THE COURT: Strike.

12 BY MR. SCHIFF:

13 Q. Did you ever -- before you bought my material, had you ever
14 looked into the Internal Revenue Code?

15 A. No, sir.

16 Q. So what my material did is encourage you to look into the
17 law itself?

18 A. Yes, sir.

19 Q. You had never done that before?

20 A. No, sir.

21 Q. Okay. Now, you were persuaded that what you were doing was
22 legal; is that correct?

23 A. I was hopin' it was legal.

24 Q. Yes. And, when you spoke to me, I gave you no reason to
25 believe that what I was telling you I didn't believe. Did I?

1 A. Can you repeat that for me, please?

2 Q. I said, based upon your research of this material, you came
3 to believe --

4 THE COURT: That wasn't your question.

5 BY MR. SCHIFF:

6 Q. -- that -- that the document you filed -- what you were
7 doing was legal.

8 THE COURT: That was not your question.

9 BY MR. SCHIFF:

10 Q. Okay. Based upon your research of the material I provided
11 and the Internal Revenue Code, you were persuaded that what you
12 were doing was legal?

13 A. I was hoping it was legal.

14 Q. Okay. And I gave you no indication to believe that I didn't
15 believe it was legal.

16 A. I'm sorry. I missed the last...

17 Q. Well, in the many conversations that you had with me --

18 A. Yes.

19 Q. -- when you came to my office, did I give you any indication
20 that would suggest that I didn't believe that this information
21 was truthful and legal?

22 A. No. I -- I -- I believed that you believed all this --

23 Q. Okay.

24 A. -- yes, sir.

25 Q. So you believed that I believed.

1 A. Yes.

2 Q. Okay. But the laws themselves, the income tax laws, you
3 found to be complicated even before you contacted me.

4 THE COURT: Okay. Now, we went over this already. And
5 this was part of an earlier statement you made.

6 BY MR. SCHIFF:

7 Q. Let me think.

8 Before you contacted me, did you generally go to an
9 accountant to have your income tax done?

10 A. Yes, I always had an accountant. Yes, sir.

11 Q. Okay. And he prepared your tax returns and you just
12 signed 'em?

13 A. Yes, sir.

14 Q. Okay. What did you generally pay an accountant to have your
15 tax returns prepared?

16 A. Anywhere from \$300 to \$10,000.

17 Q. To 10,000?

18 A. Anywhere from \$300 a year to \$10,000 a year.

19 Q. So you prepared [sic] accountants as much as 10,000 to
20 prepare your tax returns?

21 A. Yes.

22 THE COURT: He gave his answer. You don't need --

23 MR. SCHIFF: Okay.

24 THE COURT: -- to repeat it --

25 MR. SCHIFF: Okay.

1 THE COURT: -- over and over.

2 BY MR. SCHIFF:

3 Q. Now -- now, when you filed your tax return -- I would ask
4 you to read paragraph 7 --

5 MR. SCHIFF: Can I ask him to read paragraph 7?

6 THE COURT: To himself he can.

7 You're referring to Exhibit No. 176? Are you referring
8 to paragraph 7 --

9 MR. SCHIFF: 7, yes.

10 THE COURT: -- of the attachment to 176?

11 MR. SCHIFF: Yeah. Attached to his 1998 --

12 THE COURT: Go ahead and --

13 MR. SCHIFF: -- tax return.

14 THE COURT: Go ahead and read it to yourself.

15 THE WITNESS: (Reviewing document.)

16 THE COURT: Go ahead with your question.

17 BY MR. SCHIFF:

18 Q. So does that -- what did you essentially say in paragraph 7?

19 THE COURT: Well, are those your words or someone
20 else's?

21 THE WITNESS: They are Mr. Schiff's words.

22 THE COURT: All right.

23 BY MR. SCHIFF:

24 Q. Well, what did you -- what did you essentially say in
25 paragraph 7?

1 THE COURT: He said they are not his words; they are
2 yours.

3 MR. SCHIFF: Pardon me?

4 THE COURT: They are your words. He didn't say it.
5 You wrote it. He --

6 MR. SCHIFF: Yeah, I --

7 THE COURT: -- adopted it.

8 MR. SCHIFF: -- I admit I wrote 'em. But did he
9 accept --

10 BY MR. SCHIFF:

11 Q. When you signed this document, were you aware of what you
12 were saying in paragraph 7?

13 A. No, sir.

14 Q. Did I go over that with you?

15 A. No, sir. No, sir. I would -- I would have to study this
16 paragraph for 15 minutes to come up -- this is --

17 Q. Let me --

18 A. -- lawyer talkin' --

19 Q. -- ask you something --

20 A. -- it's way above me.

21 Q. Now, let me ask you something, Mr. Allin.

22 Is there such a thing as accepting responsibility for
23 one's own actions?

24 A. Yes, sir.

25 Q. Do you believe that one should be expected to assume

1 responsibility for what one does?

2 A. Yes, sir.

3 Q. Now, I didn't tell you to file this document, did I?

4 A. No, sir.

5 Q. But you filed it.

6 A. Yes, sir.

7 Q. And, therefore, shouldn't we assume that you assumed

8 responsibility for the accuracy of this document?

9 A. I assume all the responsibilities for everything I've done

10 in my life.

11 Q. You signed this document under penalty of perjury; is that

12 right?

13 A. Yes, sir.

14 Q. You wouldn't want to be charged with perjury for filing this

15 document?

16 A. If I'd broken the law, then I...

17 Q. So I assume that since you filed it under penalty of perjury

18 you would be careful not to make statements that you didn't

19 believe were truthful.

20 A. I believed in your material, sir.

21 Q. In any case -- so you don't recall -- all right.

22 Now, eventually -- I'm gonna go over the documents.

23 The Government put into -- the Government put into evidence

24 Exhibit 177. The government wrote you back and said the

25 information on your zero return is frivolous. Is that correct?

1 Can you look at the government's response?

2 A. (Complies.)

3 Q. Now, that's the government's response; is that right?

4 A. Yes, sir.

5 Q. They called your zero return frivolous.

6 A. Yes, sir.

7 Q. In their response, did they say why anything you said in
8 your zero return was incorrect?

9 A. (Reviewing document.)

10 The question, sir? I'm sorry.

11 Q. Did -- did they state why any one of the ten Code sections
12 you cited you cited incorrectly? Did they state...

13 A. They just -- the "INTERNAL REVENUE CODE SECTION 6702
14 (FRIVOLOUS INCOME TAX RETURN) PROVIDES:
15 "(A) CIVIL PENALTY" --

16 Q. Can I -- now, are you reading from Exhibit 177?

17 A. Yes, sir.

18 Q. That's their response telling -- telling you that your
19 return was frivolous?

20 A. Yes, sir.

21 Q. In that letter to you, did they tell you why any one of the
22 ten Code sections cited in your return were cited incorrectly?

23 A. The main thing I would get from this document is that, um,
24 "INTERNAL REVENUE CODE SECTION 6702 (FRIVOLOUS INCOME TAX
25 RETURN)" --

1 Q. Oh.

2 A. -- "PROVIDES" --

3 Q. That's the section that they are claiming imposes the
4 penalty.

5 But in their letter to you do they tell you why
6 anything you've put on your zero return was incorrect?

7 A. I don't know how to answer the question, sir. I mean,
8 the --

9 Q. Well, in their letter to you, did they say why any of the
10 court decisions you cited you cited incorrectly? Uh, in your
11 zero return, you indicated you relied on the Privacy Act Notice.
12 You said you relied upon decisions of the Ninth Circuit as to
13 why you, uh -- can you look at paragraph 4?

14 THE COURT: 4 of what?

15 MR. SCHIFF: Of -- of the attachment.

16 BY MR. SCHIFF:

17 Q. Can you look at paragraph 4?

18 THE COURT: Are you talking of Exhibit 177?

19 MR. SCHIFF: Yeah. I'm talking to his -- yeah, his
20 zero -- yes, 176.

21 BY MR. SCHIFF:

22 Q. In -- in filing this return, don't you cite some court
23 decisions which indicated that you believed that -- that the
24 Ninth Circuit had -- had held that a zero return is a return?
25 Aren't there -- can we focus on paragraph 4?

1 A. Sir, um, I did copy this letter from -- from your documents.

2 But --

3 Q. I understand that.

4 A. -- but -- but I can't --

5 Q. I understand that.

6 A. -- I'm not capable of translating --

7 Q. No, I understand.

8 A. -- all this information. You are; I'm not.

9 Q. But I'm saying in their response to this did they say why
10 you relied on those four cases incorrectly?

11 A. No, sir, not in -- not in Exhibit, uh --

12 Q. In the government's --

13 A. -- 177, no.

14 Q. -- response to you, in their frivolous letter, did they say
15 why you were incorrect in relying on those four court decisions?

16 A. No, sir, they did not.

17 Q. They did not.

18 In other words, in their response to you, they didn't
19 say why anything you relied on, you relied on incorrectly. They
20 simply called your zero return frivolous. Is that right?

21 A. Yes, sir.

22 Q. Okay. Do you know what the word "frivolous" means?

23 A. Basically.

24 Q. Pardon me?

25 A. Basically, yes, sir.

1 Q. What is your understanding of the word "frivolous"?

2 A. Um, well, maybe, not important, not -- not conclusive, not
3 according to any statute --

4 Q. How about if I --

5 THE COURT: Let him finish his answer.

6 Go ahead. Not according to...

7 THE WITNESS: Any statute or anything known to man or
8 whatever. Frivolous. It's -- it's --

9 BY MR. SCHIFF:

10 Q. If I suggest --

11 A. -- nonexistent.

12 Q. If I suggested it might mean "without any basis" -- "without
13 any basis," "off the wall," "silly" --

14 A. It could be.

15 Q. -- would that be your understanding of the word "frivolous"?

16 A. Partly, yes, sir.

17 Q. No basis for your claim.

18 A. Yes, sir.

19 Q. Okay. Now, overlooking whether your basis was legally
20 correct or not, based upon all of the court decisions, would you
21 say that filing a zero return was a frivolous document? But did
22 you believe it was frivolous? Do you believe that -- that the
23 claim that this document, which contained numerous court
24 decisions; court, uh, statutes; references to the Privacy Act,
25 would you believe that that was a frivolous document?

1 THE COURT: All right. That question will be stricken
2 as -- as a compound question. You have asked --

3 MR. SCHIFF: All right.

4 THE COURT: -- several questions, rambling through
5 them.

6 MR. SCHIFF: All right.

7 THE COURT: Ask one question --

8 MR. SCHIFF: Well, all right.

9 THE COURT: -- at a time.

10 BY MR. SCHIFF:

11 Q. Did you -- would you believe that this document that you
12 filed fit the description of frivolous?

13 A. At the time --

14 Q. Yeah.

15 A. -- I filed it? No, sir. No, I did not believe it was
16 frivolous at the time, no, sir.

17 Q. You did not believe it was frivolous.

18 A. At the time, no, sir.

19 Q. Okay. When they told you it was frivolous, however, you
20 could have on your own, if you wanted to, respond by saying --
21 you know, you could have responded on your own to try to explain
22 why it was not frivolous, couldn't you have?

23 A. Yes, sir.

24 Q. Okay. Instead, the -- the --

25 MR. SCHIFF: Can I -- did you put in here our response

1 to the frivolous letter? Did that go in?

2 MR. IGNALL: I don't believe so, Mr. Schiff.

3 MR. SCHIFF: Huh?

4 MR. IGNALL: I don't believe so.

5 MR. SCHIFF: You don't believe it's in?

6 MR. IGNALL: No.

7 BY MR. SCHIFF:

8 Q. Well, did you file a response to their frivolous -- I had
9 prepared a response. It's not here.

10 How did you respond to this frivolous notice? Do you
11 recall?

12 A. No, sir, I do not.

13 Q. You don't recall whether you filed our response?

14 A. No, sir, I do not. I --

15 Q. Okay.

16 A. -- I believe -- I believe on the first frivolous one I sent
17 'em a check for \$500. On the second --

18 Q. Oh. So -- so you paid the penalty?

19 A. Yes, sir.

20 Q. Okay.

21 A. On the first -- the first time after that --

22 Q. Okay.

23 A. -- I did not.

24 Q. Okay. Now, uh, eventually they sent you a deficiency
25 notice. That's on 178. It says there is a deficiency. It's on

1 178. Is that correct?

2 A. Yes, sir.

3 Q. Now, the government -- you realize -- oh, did you recall
4 when you got the deficiency notice there were additional pages?

5 It was -- it was just not a two-page document. Do you recall
6 that your deficiency notice had more pages than this?

7 A. No, sir, I do not recall.

8 Q. Do you recall that your deficiency notice showed you how the
9 deficiency was determined by showing your various sources of
10 income and deductions?

11 A. Yes, I do.

12 Q. Weren't they documents showing how --

13 MR. IGNALL: Your Honor --

14 BY MR. SCHIFF:

15 Q. -- they determine your deficiency?

16 MR. IGNALL: -- if I may interpret for a second here.
17 During the break, we did print out the copy of what I believe is
18 the supporting documentation for that. I'll provide it to
19 Mr. Schiff. I believe it was provided to him in discovery as
20 well. But...

21 MR. SCHIFF: Oh, thank you. Thank you.

22 Is this for the same year?

23 MR. IGNALL: I believe that's for '98.

24 MR. SCHIFF: Oh, 1998. Okay.

25 Can I ask him if he recalls receiving it?

1 THE COURT: First you need to have it marked.

2 THE CLERK: It's Exhibit 2111.

3 (Defendant Schiff's Exhibit No. 2111, marked
4 for identification.)

5 THE COURT: You may now approach.

6 MR. SCHIFF: Okay.

7 BY MR. SCHIFF:

8 Q. Do you recall...

9 (Document handed to the witness.)

10 THE WITNESS: (Reviewing document.)

11 BY MR. SCHIFF:

12 Q. Do you recall receiving it?

13 A. Yes, sir, I do. I don't -- I don't -- I don't remember it
14 bein' part of the package of the deficiency notice. I do
15 recognize this material. In fact, I was lookin' for it.

16 Q. Can I take it back with me? Because I don't know what it
17 says, what's in there. But you do recognize it.

18 Now -- okay. I just want you to verify for a moment --

19 THE COURT: Do you wish to approach again?

20 MR. SCHIFF: Yeah, may I approach again?

21 THE COURT: You may.

22 BY MR. SCHIFF:

23 Q. Would -- would -- would you verify that in those documents
24 it appears that the government was trying to determine the total
25 tax that you owed for 1998? Take a look at it. All of the

1 entries.

2 A. There's --

3 Q. Would you say that's the total tax that presumably you owed?

4 A. Everything that I -- all my income was --

5 Q. Right. All your income is shown there presumably.

6 A. Yes.

7 THE COURT: Mr. Schiff --

8 THE WITNESS: Yes.

9 THE COURT: -- do not interrupt his answers again.

10 MR. SCHIFF: Okay.

11 BY MR. SCHIFF:

12 Q. So that's your total tax that presumably you owed?

13 A. Without --

14 Q. Presumably.

15 A. -- without any write-offs or anything, yes. Without any

16 write-offs or -- for whatever, yes.

17 Q. So, since you had hadn't reported any income on your zero

18 return and you hadn't paid anything, what you owed, if you owed

19 anything, would be the total tax for 1998. It would be the

20 total tax.

21 A. Total taxable income?

22 Q. Total tax.

23 However, the government called your total tax a

24 deficiency when in fact that was the total tax.

25 THE COURT: Are you asking him a question or --

1 MR. SCHIFF: A question, yeah. That was --

2 BY MR. SCHIFF:

3 Q. In other words, I'm suggesting --

4 THE COURT: No, don't suggest.

5 MR. SCHIFF: All right.

6 THE COURT: Ask him a question.

7 BY MR. SCHIFF:

8 Q. I'm asking: Didn't the Government in the supporting
9 documents attempt to determine your total tax that you owe?

10 A. They determined off of this here --

11 Q. Yes.

12 A. -- what my income with no write-offs, what my taxable status
13 would be.

14 Q. Well, take a look at that because it shows your deficiency
15 here. I'm trying to see where...

16 It says the -- the deficiency is 223,645. Do you see
17 on that document that --

18 A. Yes, sir.

19 Q. -- that's what they calculated your total tax to be?

20 A. Yes, sir.

21 Q. Huh?

22 A. I see the --

23 Q. The figure --

24 A. -- the number --

25 Q. -- the figure I have here is your deficiency.

1 A. Yes.

2 Q. It's two hundred twenty-three thousand six hundred and
3 forty-five thousand [sic]. Does that correspond --

4 THE COURT: \$645.

5 MR. SCHIFF: 645.

6 THE COURT: You said "thousand."

7 MR. SCHIFF: \$223,645.

8 THE COURT: Dollars. You said --

9 BY MR. SCHIFF:

10 Q. That's the deficiency shown on the face?

11 A. On --

12 Q. Now, does that correspond to what is shown there as your
13 total tax liability?

14 A. Yes.

15 Q. Did I get the answer as yes?

16 A. If I read this document correctly. I'm not an accountant.

17 Q. But it's -- that is shown to be your total tax. They took
18 all your income and deduct-...

19 A. It has line 14, deficiency.

20 Q. What's the bottom-line figure with all your...

21 THE COURT: On which page?

22 MR. SCHIFF: Well, it -- it would be on there somewhere.

23 THE COURT: Which page?

24 MR. SCHIFF: Second or third page. I don't know. I'll
25 take a look and I'll see.

1 May I approach the witness?

2 THE COURT: You may.

3 MR. SCHIFF: (Reviewing document.)

4 BY MR. SCHIFF:

5 Q. Here. "Balance Due." Right here.

6 A. Right. No, I understand.

7 Q. Okay?

8 So this deficiency on your notice is in reality your

9 total tax that the government calculated, isn't it?

10 A. Line 16, Balance Due, is 223,645.

11 Q. And is that the total tax --

12 A. And then the --

13 Q. -- that they calculated?

14 A. -- the deficiency -- Notice of Deficiency had the same

15 number.

16 Q. Well, but that's your total tax. That's your total tax --

17 THE COURT: Okay. Mr. Schiff --

18 BY MR. SCHIFF:

19 Q. -- taking in all --

20 THE COURT: Mr. Schiff, what is the point of this?

21 You've asked this at least a half a dozen times now.

22 MR. SCHIFF: Okay. The point is that was his total

23 tax, not a deficiency.

24 THE COURT: Well --

25 MR. SCHIFF: A deficiency is somewhat less than your

1 total tax. It would mean you're deficient. You would have to
2 owe more than the deficiency for that to be a deficiency.

3 THE COURT: Well, is that --

4 BY MR. SCHIFF:

5 Q. In other words --

6 THE COURT: -- that a legal argument or is that --

7 BY MR. SCHIFF:

8 Q. -- in other words, in your --

9 THE COURT: -- something that --

10 BY MR. SCHIFF:

11 Q. -- are you aware that what they are calling a deficiency is
12 in reality your total tax?

13 MR. IGNALL: I object to the relevance of all this
14 inquiry. I'm not really sure --

15 MR. SCHIFF: The relevance --

16 MR. IGNALL: -- it's relevant to any fact at issue --

17 THE COURT: I'm not sure --

18 MR. IGNALL: -- in this case.

19 THE COURT: -- it has any relevance unless he's trying
20 to --

21 MR. SCHIFF: Well --

22 THE COURT: -- split hairs --

23 MR. SCHIFF: -- the relevance --

24 THE COURT: -- between deficiency --

25 MR. SCHIFF: -- your Honor --

1 THE COURT: -- and tax liability and what -- on this --
2 for this document they are the same number.

3 MR. SCHIFF: The relevance, your Honor, is that the Tax
4 Court -- he has to petition Tax Court. And the Tax Court has no
5 jurisdiction to determine a person's total tax, only a
6 deficiency. And I'm suggesting that that amount is not a
7 deficiency at all but his total tax which the IRS --

8 THE COURT: Well, then you're trying to make a legal
9 argument --

10 MR. SCHIFF: No.

11 THE COURT: -- through this --

12 MR. SCHIFF: All right.

13 THE COURT: -- witness who has already said --

14 MR. SCHIFF: Well --

15 THE COURT: -- he has no knowledge --

16 MR. SCHIFF: All right.

17 THE COURT: -- of law.

18 BY MR. SCHIFF:

19 Q. Now, we responded -- now, I think the Government put in as
20 an exhibit -- now, when you came to me with this deficiency --
21 is that right? You -- you testified that you brought your
22 deficiency notice to my attention.

23 A. Yes, sir.

24 Q. Now, you -- you really didn't know what a deficiency was
25 when you got that notice, did you?

1 A. No, sir.

2 Q. So there was no way you could have responded on your own to
3 whether or not that was legal or illegal. So you came to us.

4 A. Correct.

5 Q. The Government put into evidence a letter that we put
6 together for you; is that correct?

7 A. Yes, sir.

8 MR. IGNALL: Your Honor, I believe this letter is
9 already in evidence.

10 MR. SCHIFF: Can I approach the witness?

11 THE COURT: Do you have a question you wish to ask him?

12 MR. SCHIFF: Well, does he recall what was in the
13 letter.

14 THE COURT: Well, he has the letter in front of him.
15 If you'll --

16 MR. SCHIFF: All right.

17 THE COURT: -- just identify it, he can look at it.

18 BY MR. SCHIFF:

19 Q. The Government put in the letter; is that correct? The
20 Government used the letter as evidence. However, the Government
21 never said what was in the letter, did they?

22 A. I'm not sure what you're -- I -- I -- what exhibit, sir?

23 Q. Well, you have the letter, 179.

24 A. Well, I've got a bunch of 'em.

25 Q. Can you take the letter?

1 Now, you signed the letter presumably because you
2 agreed with what we put in the letter for you?

3 THE COURT: Was this exhibit received into evidence,
4 Ms. Clerk, 179? My record shows it's not.

5 THE CLERK: I show it was.

6 THE COURT: It was received?

7 THE CLERK: Yes.

8 THE COURT: Okay.

9 MR. BOWERS: Your Honor, I'm sorry. I -- I don't know
10 how much more of this there is. I'd request a very brief break
11 if there is much more of this.

12 THE COURT: Uh, we will -- we'll take our break. We're
13 at 3:15. I will --

14 MR. BOWERS: I -- I'm sorry, Judge. I don't mean to
15 interrupt.

16 THE COURT: It's no problem. I think -- I appreciate
17 being reminded of the time.

18 MR. BOWERS: Thank you.

19 THE COURT: It's time for our mid-afternoon break.

20 We'll be in recess approximately 15 minutes.

21 Raise those hands if you gotta...

22 (Jury leaves the courtroom at 3:14 p.m.)

23 THE COURT: Go ahead. Take a break.

24 (Recess from 3:15 p.m. to 3:33 p.m.)

25 THE CLERK: All rise.

1 THE COURT: Did we have a sidebar issue that we needed
2 to take care of before we bring the jury? No? Okay. Oh,
3 Mr. -- where is Mr. Bowers? There he is.

4 Did you have something that you wanted to -- or did you
5 take care of it during the break?

6 MR. BOWERS: Yeah, yeah. I'm fine.

7 THE COURT: Okay.

8 MR. BOWERS: No, no. I had to go to the restroom.
9 Thank you.

10 THE COURT: Oh, that was it. All right.

11 MR. BOWERS: That was all. I apologize.

12 THE COURT: That's not really a sidebar issue.

13 MR. BOWERS: No, no, not at all.

14 THE CLERK: Let's hope not.

15 MR. BOWERS: We had our quota, I think, for the day.
16 I'm gonna stay away from those, if possible.

17 (Mr. Allin resumes the witness stand.)

18 (Jury enters the courtroom at 3:34 p.m.)

19 THE COURT: Please be seated.

20 Will counsel stipulate to the presence of the jury?

21 MR. IGNALL: Yes, your Honor.

22 MR. CRISTALLI: Yes, your Honor.

23 MR. BOWERS: Yes.

24 THE COURT: Thank you.

25 MR. SCHIFF: Yes, your Honor.

1 THE COURT: Mr. Schiff --

2 MR. SCHIFF: Yes.

3 THE COURT: -- go ahead.

4 BY MR. SCHIFF:

5 Q. Now, Mr. Allin, the Government introduced Exhibit 179E as a

6 letter we prepared for you. Okay? And you signed it and sent

7 it in. I'm not gonna ask you to read the whole letter. I'm

8 just gonna ask you to read the first four or five lines. And

9 the reason I'm gonna ask you to do that, Mr. Allin, is that the

10 Government did not read any portion of this letter and simply

11 conveyed the impression that we're filing frivolous --

12 MR. IGNALL: Objection to --

13 BY MR. SCHIFF:

14 Q. -- letters.

15 MR. IGNALL: -- the reason. He can ask the question.

16 THE COURT: Sustained.

17 MR. SCHIFF: I'm asking -- I'm just -- I'm not gonna

18 ask him to read the whole letter, your Honor.

19 THE COURT: I know. But you just made another speech.

20 MR. SCHIFF: Well --

21 THE COURT: That's the problem.

22 MR. SCHIFF: -- the reason I'm asking him to read it is

23 that --

24 BY MR. SCHIFF:

25 Q. Can you read the first five lines of that letter?

1 THE COURT: To yourself.

2 THE WITNESS: "According to" --

3 THE COURT: Read this to yourself.

4 THE WITNESS: Oh, just to myself.

5 THE COURT: To yourself, yes.

6 THE WITNESS: (Reading document.)

7 THE COURT: Okay. What is your question?

8 Did you finish reading it, sir?

9 THE WITNESS: Yes.

10 BY MR. SCHIFF:

11 Q. Do you recall what those first five lines of that letter

12 said?

13 MR. SCHIFF: Could he read the first --

14 THE COURT: Do you recall --

15 MR. SCHIFF: -- five lines?

16 THE COURT: -- do you recall without looking at it what

17 the letter said?

18 THE WITNESS: No, not really. I mean, this is all

19 jargon to me. I mean, it's talking about the deficiency notice

20 and it -- I owe -- the deficiency notice said I owe --

21 BY MR. SCHIFF:

22 Q. But could --

23 A. "X" amount of dollars and -- and...

24 Q. But could you just -- but you signed that letter. Is that

25 letter signed by you?

1 A. Yes, sir, I did sign --

2 Q. So it's --

3 A. -- that letter.

4 Q. -- signed by you.

5 So at that time you sent that letter in and presumably
6 you read that letter and you agreed with the letter?

7 A. Well, uh --

8 Q. I'm just -- I'm just asking you to read the first five
9 lines.

10 THE COURT: Let him answer.

11 MR. SCHIFF: I'm sorry.

12 THE COURT: That's --

13 MR. SCHIFF: I didn't hear him.

14 THE COURT: Watch his lips.

15 THE WITNESS: Because of the typo errors and so forth
16 in this letter, it looks like I'm the one that actually typed
17 the letter out. Where I got the information, I do not recall.

18 BY MR. SCHIFF:

19 Q. Oh, so you typed that letter yourself.

20 A. Most -- most of these letters I did type. When I put in,
21 uh, my name and my wife's name and so forth and then signed 'em,
22 it was out of information that I collected from you.

23 Q. But you typed that letter out with information we supplied
24 you; is that right?

25 A. Yes, sir.

1 Q. Okay. So just -- just -- I'd just ask you to read the first
2 five lines of the letter --

3 THE COURT: Do you want --

4 BY MR. SCHIFF:

5 Q. -- which you typed out?

6 THE COURT: -- him to read it out loud? Is that what
7 you're asking him to do is to read it out loud?

8 MR. SCHIFF: Well, he read -- yes. The Government put
9 in the document, your Honor.

10 THE WITNESS: "According to your De-" -- "'Deficiency
11 Notice' of the above date (cover Sheet attached)< there is an
12 alleged deficiency with respect to my 1998 \$223 645 [uh], if I
13 wanted to 'contest this deficiency before making payment', I
14 must file a petition with the United States Tax Court'. Before
15 I pile [sic]" -- "file, pay, or do anything with respect to your
16 'Notice', I must first establish whether or not it was sent out
17 pursuant to the law and whether or not it has been the 'force
18 and effect of law', since ... it does not" -- "if it does not,
19 than it can not legally apply to me on any basis."

20 Q. Okay. So, without reading the balance of the letter, if you
21 look at the letter, um, the letter contained objections to the
22 deficiency notice, legal objections; is that correct?

23 A. It looks like it --

24 Q. Okay.

25 A. -- yes, sir.

1 Q. So what we did for you is determine why there were legal
2 objections to the notice and help you prepare a letter; is that
3 correct?

4 A. Yes, sir.

5 Q. All right. There was nothing illegal about this letter, was
6 there --

7 MR. IGNALL: Objection --

8 BY MR. SCHIFF:

9 Q. -- to your knowledge.

10 THE WITNESS: Not to my --

11 MR. IGNALL: -- your Honor --

12 THE WITNESS: -- knowledge.

13 MR. IGNALL: -- calls for a legal conclusion. This is
14 some --

15 THE COURT: Sustained.

16 MR. IGNALL: -- evidence.

17 MR. SCHIFF: Okay.

18 THE COURT: Sustained.

19 MR. SCHIFF: Okay. Now, there's only one thing I want
20 to cover further because the question came up about my going
21 with Mr. Allin to a collection due process hearing. And --
22 okay? You -- all right.

23 BY MR. SCHIFF:

24 Q. Now, Mr. Allin, do you recall what the purpose of a
25 collection due process hearing is? Do you recall?

1 A. No, sir.

2 Q. You don't recall.

3 A. No.

4 Q. At the time -- before we went, you and I went, did we sit
5 down and have a discussion of what we were gonna do or what you
6 were gonna do and what we would expect to get from the
7 collection due process hearing?

8 A. Vaguely I remember, uh, havin' a meeting or a discussion
9 about what the --

10 Q. Collection due process hearing. All right.

11 As -- as -- as much as you can recall, what was the
12 purpose of the collection due process hearing?

13 THE COURT: He said he didn't recall the purpose --

14 MR. SCHIFF: Well, he said --

15 THE COURT: -- already.

16 THE WITNESS: Yeah. I --

17 MR. SCHIFF: Okay.

18 THE COURT: That was his answer.

19 THE WITNESS: -- I really don't, sir.

20 BY MR. SCHIFF:

21 Q. Okay. You don't recall it. All right.

22 But I went with you?

23 A. Yes.

24 Q. I went with you.

25 Okay. As a result of that collection due process

1 hearing, the Government submitted Exhibit 189, which is the --
2 which is -- can you go to -- can you turn to 189, please,
3 Mr. Allin? Can you turn to 189? And that is an appeal, right,
4 of the Determination of the Collection Due Process Hearing; is
5 that correct?

6 A. (Reviewing document.) Yes, sir.

7 Q. Okay. Now, do you know why -- do you recall why we
8 appealed -- well, take that back.

9 Do you recall that as a result of that collection due
10 process hearing the hearing officer issued a determination that
11 you owed the tax or that, uh, they can -- they can seize your
12 property? And the purp- -- do you recall that?

13 A. No, sir, I do not recall that.

14 Q. Okay. In any case, this was an appeal that we made for
15 you --

16 A. Yes.

17 Q. -- that you sent in. Could -- do you recall because I think
18 you testified that we charged you about, what, seven or eight
19 hundred dollars --

20 A. Yes, sir.

21 Q. -- for doing the appeal?

22 A. After -- after -- after you did this, I was in the office
23 while you were --

24 Q. But --

25 A. -- working on this --

1 Q. -- in order to do the appeal, you had to tell us what
2 occurred at your collection due process hearing?

3 A. I'm sorry?

4 Q. You had to tell us -- whoever typed this up you had to tell
5 us what happened at the hearing. All right.

6 A. Well...

7 Q. Well, in order for us to -- in order --

8 THE COURT: Are you asking him a question?

9 BY MR. SCHIFF:

10 Q. -- in order for us to prepare the appeal, we had to know why
11 the appeal was appropriate.

12 THE COURT: Is that a question?

13 MR. SCHIFF: Yes.

14 BY MR. SCHIFF:

15 Q. Didn't we have to know why the appeal was appropriate?

16 A. I'm not -- I don't -- I don't follow --

17 Q. You don't --

18 A. -- sir. I'm not --

19 Q. -- remember.

20 Um, without reading -- without reading the whole
21 document, because the Government put in the document, could you
22 just read, uh -- can you -- can you read, uh, paragraph 2? They
23 give you...

24 A. (Reviewing document.)

25 Q. Or just peruse the document so it would give you some idea

1 of why we prepared this appeal.

2 A. (Reviewing document.)

3 Q. Can you just look through the document and sort of read to
4 refresh your recollection?

5 A. (Reviewing document.)

6 (Pause in the proceedings.)

7 THE COURT: Question.

8 BY MR. SCHIFF:

9 Q. All right. That document is about 10 pages long; is that
10 correct?

11 A. Yes, sir.

12 Q. And, from the contents of that document, have you determined
13 that the reason why we filed it for you is that document states,
14 uh -- that you asked for certain documents at your collection
15 due process hearing which were not given to you by the Appeals'
16 officer?

17 A. Correct.

18 Q. Isn't that document, as you read it, basically a complaint
19 that the IRS did not give you the documents that you believed
20 the law entitled you to have?

21 A. Yes, sir.

22 Q. Okay. And, uh, could you have prepared that document
23 without our help?

24 A. Pardon me?

25 Q. Could you have prepared that document without our help?

1 A. Could I have? No, sir.

2 Q. No. Okay. So --

3 MR. SCHIFF: No further questions.

4 MR. BOWERS: Very briefly, your Honor.

5 THE COURT: You may. Hold on a minute. Let Mr. Schiff
6 clear out.

7

8 CROSS-EXAMINATION

9 BY MR. BOWERS:

10 Q. Good afternoon, Mr. Allin. How are ya?

11 A. Good.

12 Q. My name is Chad Bowers. I represent Larry Cohen. Do you
13 have any idea who Larry Cohen is?

14 A. No, sir.

15 Q. You don't recognize this gentleman over here in the corner?

16 A. Not under that name, no. I -- I really -- I met with Cindy
17 and met --

18 Q. I understand.

19 A. -- with Mr. Schiff.

20 Q. Um, you -- you filed some zero returns we talked about here
21 today, right, at some length with various attorneys --

22 A. Yes.

23 Q. -- through your association with Freedom Books; correct?

24 A. Yes.

25 Q. Do you -- do you have any idea what an OMB number is?

1 A. No, sir.

2 Q. Okay. Um, do you recall in making those decisions to file
3 those zero returns ever being influenced in any way by, uh,
4 lookin' at a portion of this -- an instruction manual for the
5 1040 form? Does this look familiar or ring a bell to ya?

6 A. No, sir.

7 Q. Okay. Um, did you ever determine that writing "not liable"
8 on a -- on a tax return instead of zeros -- was that ever part
9 of your philosophy or understanding of why you filed returns the
10 way you did?

11 A. I don't understand the question. I'm sorry.

12 Q. Well, you -- you never -- do -- do you recall any discussion
13 or indication or anything in the materials that you relied on in
14 filing these zero returns that talked about writing "not liable"
15 on a tax return instead of just putting zeros like -- like --

16 A. No, sir. I don't --

17 Q. That doesn't --

18 A. -- have any recollection.

19 Q. -- ring any bell for ya --

20 A. No, sir.

21 Q. -- does it?

22 Okay. Thanks, Mr. Allin. Have a nice afternoon.

23 THE COURT: Redirect?

24 MR. IGNALL: Thank you.

25

REDIRECT EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MR. IGNALL:

Q. Mr. Allin, Mr. Schiff had you read Exhibit 189, various arguments you made to the Tax Court. Do you remember that?

A. Yes.

Q. Did the Tax Court accept any of those arguments that Mr. Schiff included in Exhibit -- in that document?

A. I -- I never had anything back from the IRS that said they -- they believed or understood or -- any of these documents that we sent. No, sir.

Q. And I'm sorry.

But you filed this document with the Tax Court. Am I correct?

A. Yes.

Q. Did you ever get a ruling back from the Tax Court saying whether they accepted any of these arguments?

A. No, sir.

Q. You never got a ruling from them?

A. Well, I got -- I got a ruling, as we discussed before, that on August 12th or whatever, 2002, that I was penalized \$25,000 and I couldn't go to Tax Court.

Q. All right.

A. I mean, that was the ruling that --

Q. So they disagreed with --

A. Yes.

1 Q. -- the comments you made?

2 A. Yes.

3 Q. All right. Mr. Schiff went through a little bit of the
4 attachment that you attached to your Form 1040. Do you remember
5 that discussion?

6 A. Yes.

7 Q. You talked a little bit about cases in there.
8 Do you know what those cases say that are cited in that
9 attachment?

10 A. Do I know what they are? No. The cases? No, sir.

11 Q. All right. Do you know if any of those cases say that a
12 zero return is actually valid for someone who has earned income
13 during the year?

14 A. No, sir. I never investigated or --

15 MR. SCHIFF: What was --

16 THE WITNESS: -- or studied any of that.

17 MR. SCHIFF: -- that question? Can I have that
18 question.

19 THE COURT: Do you know if any of those cases say that
20 a zero return is actually valid for someone who earned income
21 during the year?

22 BY MR. IGNALL:

23 Q. Now, Mr. Allin, did Mr. Schiff ever tell you about any cases
24 that rejected his position?

25 A. No, sir, I don't recollect that he did.

1 Q. I remember Mr. Schiff asked you if he ever gave you any
2 reason to believe that he -- he wasn't sincere in his beliefs.
3 Do you remember that question?

4 A. Yes.

5 Q. If Mr. Schiff had given you some reason to believe that he
6 wasn't so certain about the validity of his position, would that
7 have impacted your decision to continue going back to Freedom
8 Books?

9 A. Yes.

10 MR. IGNALL: No further questions, your Honor.

11 THE COURT: Mr. Cristalli?

12 MR. CRISTALLI: I have nothing, your Honor.

13 THE COURT: Nothing. Okay.

14 MR. CRISTALLI: Thank you.

15

16 RE-CROSS-EXAMINATION

17 BY MR. SCHIFF:

18 Q. Briefly, the Government has suggested that perhaps because
19 the Tax Court didn't accept your arguments that your arguments
20 might have been legally invalid. Is that what he suggested?

21 MR. IGNALL: Objection, your Honor. The question was
22 whether the Tax Court accepted them or not.

23 THE COURT: Correct?

24 MR. SCHIFF: Well -- well, wasn't the question, as I
25 understood it, that the Tax Court didn't accept his arguments

1 and, therefore, my letter was, um, invalid --

2 THE COURT: That wasn't the question.

3 MR. SCHIFF: -- as a question [sic] of law.

4 THE COURT: The question was --

5 MR. SCHIFF: Well --

6 THE COURT: -- was there anything that indicated that
7 the Tax Court accepted your position.

8 MR. SCHIFF: Okay.

9 BY MR. SCHIFF:

10 Q. If the title of my book is correct, How The Government
11 Illegally Imposes And Unlawfully Collects Taxes, it might be
12 that my arguments were correct but the Tax Court simply ignored
13 them because that's the way the income tax is imposed.

14 MR. IGNALL: Objection, your Honor.

15 BY MR. SCHIFF:

16 Q. So just because --

17 THE COURT: Sustained. Argumentative.

18 MR. SCHIFF: No further questions.

19 THE COURT: Anything further, Mr. Bowers? Mr. Bowers,
20 do you have another --

21 MR. BOWERS: I'm sorry, your Honor. I --

22 THE COURT: Do you have --

23 MR. BOWERS: -- have nothing.

24 THE COURT: -- any questions?

25 MR. BOWERS: No, thank you.

1 THE COURT: All right.

2 MR. IGNALL: Nothing further from the Government, your
3 Honor.

4 THE COURT: All right. The witness is excused.

5 THE WITNESS: Thank you, sir.

6 MR. IGNALL: Thank you, your Honor.

7 THE WITNESS: Do I just leave this here?

8 THE COURT: Please.
9 Government will call its next witness.

10 MR. NEIMAN: Your Honor, before we call the next
11 witness, the United States would like to move some documents
12 into evidence. At this time, the United States will move
13 Exhibits 251, 252A, 252B, 253, 254, 258-59, 260, 261, 262, 263,
14 264, 265, 266, 267, 286, and 287.

15 MR. CRISTALLI: I thought we already did this.

16 THE COURT: No, we didn't admit them. They were not to
17 be admitted until after --

18 MR. CRISTALLI: Oh.

19 THE COURT: -- the witness testified.

20 MR. CRISTALLI: Yeah. Right. There was just the -- I
21 think we had already discussed the --

22 THE COURT: We discussed them earlier and these are
23 902(11) certifications.

24 MR. CRISTALLI: Right.

25 THE COURT: And those will be received.

1 MR. CRISTALLI: And there was an objection, your Honor,
2 just so that we recall correctly, just want to make sure that
3 objection was --

4 THE COURT: The objection is preserved.

5 MR. CRISTALLI: Correct. Thank you.

6 (Government's Exhibit Nos. 251, 252A, 252B,
7 253, 254, 258-259, 260, 261, 262, 263, 264,
8 265, 266, 267, 286, and 287, received into
9 evidence.)

10 MR. NEIMAN: Your Honor, the United States would also
11 move into evidence Exhibits 247, 249, 2- -- 247, 248, 249, and
12 250, and 258, bank records from Nevada State Bank.

13 THE COURT: And those will be received subject to the
14 same objection.

15 (Government's Exhibit Nos. 247, 248, 249,
16 250, and 258, received into evidence.)

17 MR. NEIMAN: Thank you. If I may approach.

18 THE COURT: You may.

19 MR. NEIMAN: Your Honor, the United States would call
20 Nancy Driscoll to the stand.

21 (Pause in the proceedings.)

22 (Nancy Driscoll takes the witness stand.)

23 THE CLERK: Please raise your right hand.

24 You do solemnly swear that the testimony you shall give
25 in the cause now pending before this court shall be the truth,

1 the whole truth, and nothing but the truth, so help you God?

2 THE WITNESS: I do.

3 THE CLERK: Please be seated.

4 THE WITNESS: Thank you.

5 THE CLERK: Please state for the record your full name
6 and spell your last name.

7 THE WITNESS: My name is Nancy Stacy Driscoll,
8 D-r-i-s-c-o-l-l.

9

10 NANCY DRISCOLL,
11 called as a witness on behalf of the Government, having been
12 first duly sworn, was examined and testified as follows:

13

14 DIRECT EXAMINATION

15 BY MR. NEIMAN:

16 Q. Good afternoon, Ms. Driscoll.

17 A. Good afternoon.

18 Q. Where do you live?

19 A. 3645 English Lavender Avenue, North Las Vegas, Nevada.

20 Q. And how long have you lived in Las Vegas?

21 A. Approximately nine years.

22 Q. And how are you employed in the City of Las Vegas?

23 A. Um, I work for a company called Invention Submission
24 Corporation.

25 Q. What is the Invention Submission Corporation?

1 A. Um, we help inventors submit ideas to companies on a
2 confidential basis and we can help them apply for a patent.

3 Q. And how long have you been working for the Invention
4 Submission Corporation?

5 A. Almost 10 years.

6 Q. And what do you do for them?

7 A. I'm the regional manager -- or regional director.

8 Q. Are you compensated for your employment at Invention
9 Submission Corporation?

10 A. Yes, sir.

11 Q. Do you receive W-2's or 1099's at the end of each year?

12 A. Yes, sir.

13 Q. Which do you receive?

14 A. Uh, 1099's.

15 Q. And, since you received 1099's, are you required to pay
16 quarterly taxes?

17 A. Yes.

18 Q. Approximately how much did you make during the years '97,
19 '98, and '99, if you recall? Ballpark income figures.

20 A. Um, I'm sorry. I really don't recall.

21 Q. Okay. We'll get to it in a minute.

22 Uh, did there come a time when you came became aware of
23 Freedom Books?

24 A. Yes.

25 Q. How did you learn of Freedom Books?

1 A. Um, I was driving home and I saw a gentleman with a sign out
2 there, turn on your dial to a certain station. And, um, uh, the
3 sign basically said, uh: You don't need to pay taxes. Please
4 listen. Something to that point.

5 Q. And did you turn to the radio station?

6 A. When I got home. Um-hum.

7 Q. And what did you hear when you put on the radio station?

8 A. Uh, that you did not have to pay taxes and that you should
9 file a zero return.

10 Q. Approximately what time frame was this when you initially
11 saw the signs out on the street and listened to the radio show
12 for the first time?

13 A. I think it was sometime in 1997 or possibly 1998. But I'm
14 not sure.

15 Q. Uh, did you listen to the radio station at any additional
16 times?

17 A. Yes.

18 Q. Approximately how many times have you listened to the radio
19 show?

20 A. Um, I would say about four times.

21 Q. Can you generally describe what you'd hear with regards to
22 what -- first off, is the speaker on the radio identified?

23 A. Yes.

24 Q. Who -- who is on the radio?

25 A. It's Irwin Schiff.

1 Q. And what do you hear Mr. Schiff talking about on the radio?

2 A. Um, he basically, uh, starts out talking about, um, his
3 Federal Mafia book. Um, there's a question-and-answer where
4 everybody can come in and -- and talk and that, uh, you do not
5 have to pay income tax. Um, and basically buy the book and
6 it'll show you how to not pay income tax.

7 Q. Did you eventually buy the book?

8 A. Yes, I did.

9 Q. How did you buy -- how did you go about purchasing the book?

10 A. Um, over the phone with a credit card.

11 Q. Do you remember approximately how much you paid for the
12 book?

13 A. Anywhere between 50 to 75 dollars, but I'm not sure.

14 Q. Did you read the book?

15 A. Uh, portions of it.

16 Q. What was the name of the book, if you recall?

17 A. It was, uh, The Federal Mafia.

18 Q. And who wrote the book?

19 A. Irwin Schwift [sic].

20 Q. What was the advice, if any, contained within The Federal
21 Mafia?

22 A. Um, that it was frivolous and that, um, you could basically,
23 uh, not have to pay income tax, um, and, um, that you could file
24 a zero return.

25 Q. Did you understand everything you read in The Federal Mafia?

1 A. Absolutely not.

2 Q. Did you seek -- seek out any help or guidance with how to
3 respond to what was in The Federal Mafia?

4 A. Yes.

5 Q. How did you -- who did you contact?

6 A. Um, I contact Irwin's office and talked to, uh, Carol, uh,
7 because I was -- it was so over my head -- I'm not an
8 attorney -- and, um, just wanted some basic guidance of what to
9 do and to get a clarification of what all the forms and
10 everything were in the book.

11 Q. Did you initially try to speak to Mr. Schiff at this
12 first -- first meeting or this first --

13 A. Yes, I did. And I was told he was not available; he was --
14 he was out of town doing a seminar.

15 Q. And what types of questions did you ask Carol at Freedom
16 Books?

17 A. Um, I really don't remember. I know there was a lot. But I
18 don't remember it was so long ago.

19 Q. Did you ask Carol about the zero return?

20 A. Yes, I did.

21 Q. What, if anything, did Carl tell you about the zero return?

22 A. Basically that if I did the zero return that I would get,
23 um --

24 MR. SCHIFF: Objection. Hearsay.

25 THE COURT: Any exception to the hearsay rule?

1 MR. NEIMAN: Your Honor this is a statement made in
2 furtherance of the conspiracy by a employee at Freedom Books.
3 Also, there would be an agency relationship.

4 THE COURT: Overruled.

5 MR. SCHIFF: That's hearsay. How --

6 THE COURT: But there -- well, there is an exception
7 for statements made in furtherance of conspiracies. So the
8 objection is overruled. That is an exception to the hearsay
9 rule.

10 Go ahead.

11 BY MR. NEIMAN:

12 Q. What did Carol say to you with regards to the zero return?

13 A. That I would, uh, basically, uh, get some money back from my
14 income tax.

15 Q. And did you get similar confirmation from what you read in
16 The Federal Mafia?

17 A. That I would get some money back? Yes, there was -- I don't
18 remember what page, but there was some, uh, information about
19 that. Um-hum.

20 Q. And how about when you listen to the radio show, did you get
21 the impression whether or not you would receive a refund for
22 filing a zero return?

23 A. Yes. There was one gentleman on there that said he got
24 thousands of dollars back, uh, because of Irwin. He was
25 actually on, uh, the phone line when the radio station was on.

1 Q. Did you -- did you -- did there come a time when you
2 actually decided to prepare and file zero returns yourself?

3 A. Yes.

4 Q. Did you do it yourself or did you go to someone at Freedom
5 Books?

6 A. Um, I had Freedom Books do a couple of the amended ones, but
7 I actually did one myself.

8 Q. Let's focus on the amended returns.

9 A. Okay.

10 Q. Who did you meet with at Freedom Books to prepare these
11 amended tax returns?

12 A. Carol.

13 Q. And did you bring Carol any other information when you came
14 into Freedom Books?

15 A. She had, um, yes, basically all my tax information.

16 Q. Did you bring her your original 1040's that were filed?

17 A. Yes, I did.

18 Q. Did you -- were you charged for the preparation of the
19 amended 1040 returns?

20 A. Yes. It was two of 'em and it was approximately \$300.

21 Q. For the preparation of the amended zero returns?

22 A. Correct.

23 Q. How long did it take Carol to prepare these zero returns?

24 A. About 15, 20 minutes, if that.

25 Q. And were you in the office when she did this?

1 A. Yes.

2 Q. Can you describe what the offices at Freedom Books looked
3 like?

4 A. Uh, a bonfire waiting to happen.

5 Q. Where were they located?

6 MR. CRISTALLI: Nonresponsive. Move to strike.

7 MR. SCHIFF: What was your response? I didn't hear.

8 THE WITNESS: It's the truth.

9 THE COURT: Sustained.

10 BY MR. NEIMAN:

11 Q. If you could describe the physical characteristics of what
12 you saw at the Freedom --

13 A. Okay.

14 Q. -- Freedom Books's offices.

15 A. Uh, this is a while ago. But, when you walked in there,
16 there was like three or four offices. There was paper all over
17 the place, documentations, uh, Irwin's books. There was
18 newsletters. Um, very disorganized.

19 Q. Did you, uh -- when Carol prepared these returns for you for
20 years '97 and '98, did you seek a refund?

21 A. Yes. Oh, did I receive a refund?

22 Q. Did you seek a refund.

23 A. Yes, sir.

24 MR. NEIMAN: Your Honor, if I may approach the witness?

25 THE COURT: You may.

1 MR. NEIMAN: For the record, I'm approaching with
2 Government's Exhibits 163 through 175.

3 BY MR. NEIMAN:

4 Q. If I could direct your attention to Government Exhibit 163,
5 do you recognize Government Exhibit 163 if you --

6 A. Yes.

7 Q. Okay. What is Government Exhibit 163?

8 A. Um, an amended U.S. Individual Income Tax Return Form 1040X.

9 Q. And is it your individual 1040X?

10 A. Yes.

11 Q. For which year?

12 A. 1997.

13 Q. And is this the return that was prepared by Carol at Freedom
14 Books?

15 A. Yes.

16 MR. NEIMAN: Your Honor, at this time the United States
17 would move Government Exhibit 163 into evidence.

18 MR. CRISTALLI: No objection.

19 MR. BOWERS: I don't have any objection.

20 MR. LEVENTHAL: Any objection?

21 MR. SCHIFF: To the introduction of 61? Is that...

22 THE COURT: 163.

23 MR. SCHIFF: Mine has "61."

24 THE COURT: 163.

25 MR. LEVENTHAL: It says "61" on the bottom of the page.

1 MR. SCHIFF: I have it marked as "61."
2 THE COURT: 61?
3 MR. SCHIFF: Is this -- do I have an incorrectly
4 marked --
5 MR. NEIMAN: There may be another sticker up there. I
6 believe the one that --
7 THE WITNESS: Mine says "163."
8 THE COURT: My does as well.
9 He's saying 61 is also...
10 MR. NEIMAN: On the actual return. There -- there's an
11 extra sticker on the second page of the return which says "61,"
12 but the actual document itself is...
13 THE COURT: 61 in my book is something entirely
14 different.
15 MR. IGNALL: No.
16 THE COURT: So 163 --
17 MR. IGNALL: Explain it's the second page of Exhibit
18 163.
19 THE WITNESS: It's the second page, your Honor. Second
20 page says "61."
21 THE COURT: Oh. Well, at the bottom -- the confusion
22 is at the bottom of 163 it says "Government Exhibit 61." It
23 must have been used in a different proceeding.
24 MR. NEIMAN: Or, your Honor, we may have renumbered
25 them at some point as well. But 163 is -- we can cover it up

1 or --

2 THE COURT: It is 163 for purposes of this hearing.

3 Any objection to 163? We're waiting.

4 MR. SCHIFF: No, I have no objection.

5 MR. BOWERS: No.

6 THE COURT: 163 is received.

7 (Government's Exhibit No. 163, received into
8 evidence.)

9 MR. NEIMAN: Thank you.

10 May we publish 163, your Honor?

11 THE COURT: You may.

12 (Document displayed in open court.)

13 BY MR. NEIMAN:

14 Q. Ms. Driscoll, looking at the top portion of this return, is
15 this your tax return?

16 A. Yes, it is.

17 Q. Looking up at the tax year, it's for year 1997?

18 A. Correct.

19 Q. If you can look at line 1 of the amended return, what was
20 your gross income that year?

21 A. Uh, \$38,881.

22 Q. And the net change in column B?

23 A. Oh, I'm sorry. It was the same.

24 Q. And, as a result, do -- the correct amount you're reporting
25 on this 1040X was --

1 A. Zero.

2 Q. If we could look down at line 24, I believe. Is that the
3 refund line? What was the amount of the refund you requested
4 for year 1997?

5 A. Zero.

6 Q. I'm sorry. The amount of the refund on line 20-...

7 A. 23?

8 Q. Uh, line 23 of the 1040X.

9 A. \$3,693.

10 Q. Is that your signature there underneath it --

11 A. Yes --

12 Q. -- on the --

13 A. -- it is, sir.

14 Q. And what is the date of your signature?

15 A. 3-31-2000.

16 (Document displayed in open court.)

17 BY MR. NEIMAN:

18 Q. Looking at the second page of the 1040X, if we blow up the
19 bottom portion, is that your handwriting on this 1040X?

20 A. No.

21 Q. Do you know whose handwriting it is?

22 A. Carol's.

23 Q. Did you see Carol write it on there?

24 A. Yes, I did.

25 MR. SCHIFF: Hold on. Let me -- wait a minute. Carol?

1 (Document displayed in open court.)

2 BY MR. NEIMAN:

3 Q. Going back to the first page of the return, where it's

4 underneath your signature --

5 A. Um-hum.

6 Q. -- where it says "Preparer's Signature," first page there,

7 is that blank?

8 A. Yes, it is.

9 Q. Did you ask Carol at Freedom Books to write her signature

10 there?

11 A. Yes, I did.

12 Q. And what was the response you were given?

13 A. She told me she was not a CPA.

14 MR. SCHIFF: What was the answer?

15 THE WITNESS: That she was not a CPA.

16 BY MR. NEIMAN:

17 Q. If I could direct your attention to Government Exhibit 164,

18 do you recognize Government Exhibit 164?

19 A. I'm sorry?

20 Q. Do you recognize Government Exhibit 164?

21 A. Yes.

22 Q. Is this your 1998 1040X that was prepared by Carol?

23 A. Yes.

24 MR. NEIMAN: Your Honor, at this time, the United

25 States would move Government Exhibit 164 into evidence.

1 MR. CRISTALLI: No objection.

2 MR. BOWERS: Yeah, that's fine, your Honor.

3 MR. SCHIFF: No objection.

4 THE COURT: 164 is received.

5 (Government's Exhibit No. 164, received into
6 evidence.)

7 MR. NEIMAN: May we publish 160-...

8 THE COURT: You may.

9 MR. NEIMAN: Thank you.

10 (Document displayed in open court.)

11 BY MR. NEIMAN:

12 Q. Is your 1998 1040X similar to the 1997 1040X that we looked
13 at? Are -- are the returns similar, the two that we've just
14 looked at?

15 A. Yes, they are.

16 Q. Did you report -- what was the amount of "Adjusted gross
17 income" you reported on line 1 of your amended return for 1998?

18 A. \$42,021.

19 Q. What was -- what was the correct amount that you reported on
20 column C?

21 A. Zero.

22 Q. Did you have income in the amount of \$42,021?

23 A. Yes, sir.

24 Q. And you were working at the Invention Submission Con- --

25 A. Yes.

1 Q. -- Convention [sic] at this time?

2 A. Just say "IC."

3 Q. IC? Will do.

4 Did you seek a refund for year 1990- -- 1998 as well?

5 A. Yes.

6 Q. What was the amount that have refund?

7 A. \$8,800.

8 Q. And is that your signature under the penalties of perjury?

9 A. Yes, it is.

10 Q. And the date on that return?

11 A. Uh, 03-31-2000.

12 Q. Did you ask Carol at Freedom Books to sign this return as a

13 preparer as well?

14 A. Yes, I did, sir.

15 Q. And were these returns prepared at the same time?

16 A. Yes.

17 Q. And was this -- were these the returns in which you were

18 charged \$300 for the preparation for?

19 A. Yes.

20 Q. In addition to filing zero returns that were -- zero

21 1040X's, did you file a 1040 zero return for year 1999?

22 A. Yes, I did.

23 Q. Did you prepare that return yourself?

24 A. Yes, I did.

25 Q. If I could direct your attention to Government Exhibit 166,

1 do you recognize Government Exhibit 166, which you should have?

2 A. Yes, I do.

3 Q. Is that the return you prepared?

4 A. Yes, it is.

5 Q. Whose advice were you following when you prepared the zero
6 return for 1999?

7 A. Uh, Irwin's and The Federal Mafia.

8 MR. NEIMAN: Your Honor, at this time the United States
9 would move into evidence Exhibit 166.

10 MR. CRISTALLI: No objection.

11 MR. BOWERS: I -- I have no objection, your Honor.

12 Thank you.

13 THE COURT: Schiff.

14 MR. SCHIFF: No objection.

15 THE COURT: 166 is received.

16 (Government's Exhibit No. 166, received into
17 evidence.)

18 MR. NEIMAN: Thank you.

19 May I publish 166?

20 THE COURT: You may.

21 (Document displayed in open court.)

22 BY MR. NEIMAN:

23 Q. If we could blow up the top portion of the first page, is
24 this your 1040 for year 1999?

25 A. Yes, it is.

1 Q. Looking at line, uh, 22, "total income," what was the amount
2 you reported?

3 A. Zero.

4 Q. Did you have income that year?

5 A. Yes, I did, sir.

6 Q. Going to the second page of the return, the amount of the
7 refund, line 65?

8 A. Zero.

9 Q. Did you have taxes withheld -- as a 1099 employee as opposed
10 to a W-2 employee, do you have taxes withheld from your
11 paycheck?

12 A. No.

13 Q. Are you obligated to pay quarterly taxes?

14 A. Yes, I am.

15 Q. Did you pay quarterly taxes for tax year 1999?

16 A. No, I did not.

17 Q. Why didn't you?

18 A. Um, because according to this, I did not owe taxes.

19 Q. "According to this" being what?

20 A. I'm sorry. The Federal Mafia and, uh, Irwin's advice.

21 Q. And is that your signature on the bottom of this tax return?

22 A. Yes, it is.

23 Q. Did you attach anything to your tax return?

24 A. Yes, I did.

25 Q. Where did you get the attachment to your tax return?

1 A. From The Federal Mafia, the frivolous rule.

2 Q. And what instructions were you given with regards to this
3 attachment?

4 A. Uh, just to take the attachment; um, type it up myself; and
5 then add it to this form.

6 Q. And is that what you did?

7 A. Yes, sir.

8 Q. Did you understand everything that was in this tax -- in
9 this attachment?

10 A. Absolutely not.

11 Q. Did you seek advice or did you have questions about the
12 contents of this attachment?

13 A. Um, to be honest, I don't remember.

14 Q. Did you ever make contact with anyone at Freedom Books after
15 filing your 1999 1040 and the '97/'98 1040X's?

16 A. Yes, I did.

17 When I started getting the information about the
18 frivolous, um, I think once the book was -- once I went through
19 it, what I understood, then, um, I was told that I needed to
20 order some more tapes to basically go on and understand
21 everything that I was sending in.

22 Q. And who told you that?

23 A. Um, there were two salespeople, Johnny and, I think, Larry,
24 that every time I'd call -- um, one time I did call and asked to
25 talk to Irwin and I was told, no, you don't need to talk to him.

1 If you order these sets of tapes, this'll answer all the
2 questions that you have.

3 Q. If I could direct your attention to Government Exhibit 167,
4 do you recognize Government Exhibit 167?

5 A. Yes, I do.

6 Q. What is Government's Exhibit 167?

7 A. Um, it is, uh, basically, uh, a two-page form that I typed
8 up from The Federal Mafia, uh, basically talking about not
9 having to pay income tax.

10 Q. Did you read all the cases cited in this attachment?

11 A. I think at the time, yes, I probably did.

12 Q. Did you read the entire cases or did you read the portions
13 of the cases contained within The Federal Mafia?

14 A. Uh, I don't really remember. I'm sorry.

15 MR. SCHIFF: What did she say?

16 (Discussion between Mr. Leventhal and
17 Mr. Schiff.)

18 BY MR. NEIMAN:

19 Q. After filing year 1997 and 1998 1040X's seeking a refund,
20 did you get a refund?

21 A. No.

22 Q. What did you get, if anything, from the IRS?

23 A. A lot of letters, uh, basically telling me that I was in
24 penalty and, um, that I owed the IRS some money.

25 Q. If I could direct your attention to Government Exhibit 169,

1 is this one of the letters you were just referring to?

2 A. Yes, it is.

3 Q. And what did you do after receiving this letter?

4 A. Um, I basically called, uh, Irwin's office and, um, said
5 that I felt that I was in trouble and I really needed some help
6 and, again, asked to speak with someone and, uh, I was told,
7 again, to order, uh, a series of tapes.

8 Q. Did you order those tapes?

9 A. Yes, I did.

10 Q. How many sets of tapes did you order?

11 A. Um, it was two sets, um, I think of like six or seven tapes.

12 Q. And how much did you have to pay for those tapes?

13 A. It was about a hundred and sixty-six, a hundred and seventy
14 dollars, I think.

15 MR. NEIMAN: Your Honor, at this time the United States
16 would move Government Exhibit 169 into evidence.

17 THE COURT: Any objection to 169?

18 MR. CRISTALLI: What is 169 again?

19 MR. NEIMAN: Frivolous letter.

20 MR. CRISTALLI: No objection.

21 MR. BOWERS: I have no objection, your Honor.

22 MR. SCHIFF: No objection.

23 THE COURT: 169 is received.

24 (Government's Exhibit No. 169, received into
25 evidence.)

1 MR. SCHIFF: 169. Is that the frivolous letter?

2 BY MR. NEIMAN:

3 Q. After calling Freedom Books and receiving this -- after you
4 received this letter and you called Freedom Books and you bought
5 some tapes, did you listen to the tapes?

6 A. Um, the first set came and they weren't working. So I had
7 to call and get another -- another set of tapes. I listened to
8 a couple and then I was very, very frustrated because I thought
9 that, uh, I spent way too much money and that, uh, I was the
10 bait for somebody fishing because I could not get any answers or
11 any help.

12 Q. Well -- well, was part of the advice on the tapes to respond
13 to this frivolous letter?

14 A. Yes.

15 Q. And what were you to respond to this frivolous letter with?

16 A. Uh, another letter.

17 Q. If I could direct your attention to Government Exhibit 168.
18 Sorry to jump out of order.

19 A. That's okay.

20 Q. Is this a response letter that you sent the IRS after
21 receiving one of the frivolous letters --

22 A. Yes --

23 Q. -- you received?

24 A. -- it is.

25 Q. And was this contained within the series of tapes that you

1 purchased at Freedom Books?

2 A. Um, it wasn't with the tapes. It was with some other
3 information that Irwin sent out, updates, uh, and it could have
4 also been in the book. I'm not real sure.

5 MR. NEIMAN: Your Honor, at this time, the United
6 States would move into evidence Government Exhibit 168.

7 THE COURT: Any objection to 168?

8 MR. CRISTALLI: No, no objection.

9 MR. SCHIFF: Yeah, I have an objection. I don't -- I'm
10 not -- my objection is I don't recall this letter.

11 Did you make a condensation of my letter?

12 THE COURT: Um --

13 THE WITNESS: No, I'm not --

14 THE COURT: Wait --

15 THE WITNESS: -- that good.

16 THE COURT: Wait a minute.

17 THE WITNESS: Sorry.

18 THE COURT: Mr. Bowers, do you have any objection
19 before we address Mr. Schiff's objection?

20 MR. BOWERS: Just a moment, your Honor. I didn't
21 realize it was going to be so controversial.

22 No, your Honor, I don't have any objections. Thank
23 you.

24 MR. SCHIFF: All right. I --

25 THE COURT: And to your objection --

1 MR. SCHIFF: -- I don't object.

2 THE COURT: You don't have an objection. Okay.

3 168 is received.

4 MR. NEIMAN: Thank you.

5 (Government's Exhibit No. 168, received into
6 evidence.)

7 MR. NEIMAN: If we could publish -- may we publish
8 Government Exhibit --

9 THE COURT: You may.

10 MR. NEIMAN: Thank you.

11 (Document displayed in open court.)

12 BY MR. NEIMAN:

13 Q. Who is Government Exhibit 168 addressed to?

14 A. Ms. St. John, Internal Revenue Service, Department of the
15 Treasury, Western Region, Ogden, Utah.

16 Q. And who told you to send a response letter to Ogden and
17 Ms. St. John?

18 A. I'm sorry. I really don't remember.

19 Q. Was that part of the advice that you received from Freedom
20 Books materials?

21 A. It could have been that or it could have been the name of
22 the lady who actually sent me the IRS notification.

23 Q. Did you compose this letter yourself?

24 A. I typed it up, but I did not compose this information.

25 Q. Where did you type it up from?

1 A. Either the -- the book or information that I received
2 afterwards.

3 Q. After sending this letter, were your problems with the IRS
4 solved?

5 A. Absolutely not.

6 Q. What happens next with regard to your tax position with
7 regard to these tax years?

8 A. Uh, I continued to receive, uh, more letters and more fines.

9 Q. And what happened -- what did you do after you continued to
10 receive the letters from the Internal Revenue Service?

11 A. I wrote Irwin a letter and told him that I was very
12 dissatisfied, very upset, that, uh, I could not receive some
13 help.

14 Q. Can I direct your attention to Government Exhibit 173? Is
15 this the letter you were just referencing?

16 A. Yes, sir.

17 Q. Who is the letter addressed to?

18 A. Irwin.

19 MR. NEIMAN: Your Honor, at this time the United States
20 would move into evidence Exhibit 173.

21 MR. BOWERS: No objection.

22 MR. CRISTALLI: No objection, your Honor.

23 THE COURT: 173?

24 MR. LEVENTHAL: One moment, your Honor. No objection.

25 No objection.

1 THE COURT: No objection, Mr. Schiff?

2 MR. SCHIFF: No, no objection.

3 THE COURT: 173 is received.

4 MR. NEIMAN: Thank you.

5 (Government's Exhibit No. 173, received into
6 evidence.)

7 MR. NEIMAN: May we publish Exhibit 173?

8 THE COURT: You may.

9 (Document displayed in open court.)

10 BY MR. NEIMAN:

11 Q. Ms. Driscoll, if you could please read, uh, what your letter
12 states in Government Exhibit 173?

13 A. Sure.

14 "Dear Irwin,

15 "I have enjoyed listening to your radio program for six
16 months and ... have spoke to you on the air 'singing your
17 praise' I also purchased 'The Federal Mafia' and scheduled an
18 appointment with Carol to process my 1999 zero tax return and
19 amend my 1997 and 1998 tax returns.

20 . . .

21 "I received letters from the IRS informing me that they
22 cannot process my claims/refunds since they have applied the
23 monies from my 1998 account. Furthermore, they have determined
24 that the documents for 1997, 1998, and 1999 are 'frivolous.' I
25 called and talked to a consultant at your office today and they

1 stated [that] I needed to purchase series five for \$85 I
2 scheduled an appointment with Carol to review the documents and
3 she prepared the necessary forms to send to the IRS NOTHING WAS
4 MENTIONED I assumed that all would be handled from your office
5 or I would receive additional guidance I feel this is not an
6 ethical business practice and I need you to advice [sic] me what
7 to do WITHOUT purchasing any more books, or tape series

8 "I would appreciate a response in a timely manner since
9 the IRS gave me a 30 day notice and penalties of \$500 for each
10 'frivolous' document I file[d].

11 "Thank you for your cooperation!"

12 "Nancy S Driscoll."

13 Q. What's the date of this, uh, tax return? Or I'm sorry --

14 A. July 7th --

15 Q. -- I'm sorry --

16 A. -- 2000.

17 Q. -- of this letter?

18 Did you ever get a response from anybody at Freedom
19 Books?

20 A. No.

21 Q. How many times did you go back and forth with conversation
22 with Freedom Books prior to sending this letter?

23 A. Um, probably about three or four times.

24 Q. Each time you spoke to them, were you offered more products
25 to purchase?

1 A. Yes. Or I could also -- they gave me dates of when, uh, uh,
2 Irwin's next seminars were.

3 Q. Was there a charge to go to those seminars?

4 A. Absolutely.

5 Q. Did you ever go to a seminar?

6 A. No, I never did.

7 Q. In your dealings with Freedom Books, did you receive
8 advertisements?

9 A. Um, newsletters. Um, he had promotional items. I think
10 there were bumper stickers, T-shirts, uh, dates of when he would
11 be, uh, going out and doing his seminars, uh, updated
12 information that, uh -- for the, uh, Freedom Books and also The
13 Federal Mafia.

14 Q. If I could direct your attention to Government Exhibit 174,
15 are these some of the documents that you were just referring to?

16 A. Yes.

17 MR. NEIMAN: Your Honor, at this time, the United
18 States would move into evidence Exhibit 174.

19 THE COURT: 174, Mr. Cristalli.

20 MR. CRISTALLI: I don't have a 174. It's omitted in my
21 book for some reason. Can I see it?

22 MR. NEIMAN: We would apologize for that.

23 (Pause in the proceedings.)

24 MR. BOWERS: I have no objection to that exhibit, your
25 Honor.

1 MR. CRISTALLI: No, your Honor, I have no objection.

2 MR. SCHIFF: No objection.

3 THE COURT: 174 is received.

4 MR. NEIMAN: Thank you.

5 (Government's Exhibit No. 174, received into
6 evidence.)

7 MR. NEIMAN: May we publish --

8 THE COURT: You may.

9 MR. NEIMAN: -- Government Exhibit 174?

10 THE COURT: Yes.

11 MR. NEIMAN: If you could pull the -- the first page.

12 (Document displayed in open court.)

13 BY MR. NEIMAN:

14 Q. Is this a flyer you received with regard to Irwin's "Seminar
15 [and] Workshop Schedule"?

16 A. Yes, it is.

17 Q. And you said you never attended a seminar?

18 A. No, I did not.

19 (Document displayed in open court.)

20 BY MR. NEIMAN:

21 Q. If we can go to the second page, is this another flyer you
22 received in regards to the "2-DAY SEMINAR & WORKSHOP"?

23 A. Yes.

24 Q. If we could blow up the bottom portion where -- what was the
25 admission charge to go to one of these seminars?

1 A. Um, married couples, \$200 or, uh, \$150 per person, including
2 both days.

3 Q. Did Mr. Schiff offer an accountant or tax attorney to go for
4 free, if you...

5 A. Yes.

6 Q. If we can look at the rest of the brochure, right above the
7 dollar sign [sic], does this brochure say, "Join millions of
8 Americans who refuse to pay the strictly voluntary income tax"?
9 Is that what the document says?

10 A. I'm trying see where you are. I'm sorry.

11 Q. If you need the lights on for better vision --

12 A. Yeah, see --

13 Q. -- let us know.

14 THE COURT: Bottom right. Bottom right.

15 THE WITNESS: I don't see it.

16 By his elbow?

17 THE COURT: On the other side. Right.

18 THE WITNESS: Yes. I'm sorry. Yes.

19 MR. NEIMAN: That's all right.

20 BY MR. NEIMAN:

21 Q. What was the date of this seminar? Do you see in the
22 middle?

23 A. March 11th and 12th, Saturday and Sunday.

24 Q. Was that here in Las Vegas?

25 A. Yes, at the Gold Coast Hotel.

1 (Document displayed in open court.)

2 BY MR. NEIMAN:

3 Q. If we can go to the next page, does this document appear to
4 be an advertisement for an Irwin Schiff Tax Freedom Jubilee? Is
5 that -- is that what this appears to be?

6 A. Yes.

7 Q. I'm sorry.

8 Did you attend this Tax Freedom Jubilee?

9 A. No, I did not.

10 (Document displayed in open court.)

11 BY MR. NEIMAN:

12 Q. If we can go to the next page, do you recognize, uh, the
13 document entitled "DON'T DELAY! SUBSCRIBE TODAY!" --

14 A. Yes.

15 Q. -- "SCHIFF REPORT SERIES 6 IS COMING YOUR WAY!"?

16 A. Yes, I do.

17 Q. Did you ever purchase Schiff Report Series 6?

18 A. Yes, I did.

19 Q. Looking down at the bottom of this order form, or the bottom
20 third where it has pricing information --

21 A. Um-hum.

22 Q. -- could you buy a case of books or tapes of Series 6 where
23 it says "CASE (14) [for] \$315"? Is that what it says?

24 MR. BOWERS: He's leading the witness --

25 THE WITNESS: Yes.

1 THE COURT: I'm sorry?

2 MR. BOWERS: I just had to object to that answer [sic]

3 suggested -- the question suggested the answer.

4 THE COURT: It was leading. Sustained.

5 MR. NEIMAN: I'm sorry.

6 BY MR. NEIMAN:

7 Q. Is that -- does this document indicate whether or not you

8 could purchase a case of tapes?

9 MR. SCHIFF: It's a mischaracterization of the ad.

10 MR. BOWERS: You know, I -- I have the same objection.

11 But I think it's pretty clear what this document says.

12 MR. NEIMAN: Well, the Government will move. The

13 Government will move on.

14 THE COURT: Okay. All right.

15 MR. SCHIFF: It's a case of books --

16 MR. NEIMAN: I'm sorry.

17 MR. SCHIFF: -- and the Secrets video.

18 MR. NEIMAN: Sorry.

19 (Document displayed in open court.)

20 BY MR. NEIMAN:

21 Q. If we can skip the next page and go to the next page after

22 that, is this next document -- uh, I believe the next one after

23 that, is this the newsletter you were referencing?

24 A. Yes, it is.

25 Q. What's the title of the newsletter?

1 A. "A Message From The Chief."

2 Q. And how about on the left-hand side, is there a title?

3 A. The Liberty Communicator with a bell.

4 Q. And who is the publisher of The Liberty Communicator?

5 A. Uh, Irwin Schiff.

6 Q. And who's the, uh, "Graphics & Design," if you see what that

7 says?

8 A. Cindy Smith and Shamus Oliver.

9 Q. And how about the "Advertising & Circulation"?

10 A. Cindy Smith.

11 Q. How often would you receive a newsletter like this?

12 A. Um, I really don't know.

13 Q. Do you still receive correspondences from Freedom Books?

14 A. Absolutely not.

15 Q. Do you still follow the advice of Irwin Schiff?

16 A. Absolutely not.

17 Q. Why not?

18 A. Um, because...

19 JURORS: (Hand raised.)

20 MR. NEIMAN: I'm sorry.

21 JUROR: Can we get the lights out? We can't see.

22 MR. NEIMAN: Oh, I'm sorry.

23 THE WITNESS: Because taking his advice destroyed my

24 life.

25

1 BY MR. NEIMAN:

2 Q. How did you it destroy your life?

3 A. Um, had to file bankruptcy. Um, the IRS, I had my wages
4 garnished for over six months; almost lost my business. My
5 house was in, uh, foreclosure.

6 Q. Have you attempted to make payments or pay your back tax
7 liability?

8 A. Yes. I'm in Offer and Compromise right now and, um,
9 refin- -- refinancing my house, uh, to remove the IRS lien.

10 Q. Is the IRS working with you in order to assist you in this
11 process?

12 A. Absolutely.

13 Q. Do you now go to a CPA or an accountant to have your taxes
14 prepared?

15 A. Yes, I do.

16 MR. NEIMAN: Your Honor, Government has nothing
17 further.

18 THE COURT: It's a good time to take our recess. We
19 are at 4:30.

20 Unless the cross-examination is going to be very, very
21 brief, we'll --

22 MR. BOWERS: We could probably --

23 MR. CRISTALLI: We could -- I mean --

24 MR. BOWERS: -- we could probably fit most of it in
25 this afternoon. But I -- I have reason to believe that

1 Mr. Schiff might not really finish with her.

2 MR. CRISTALLI: Yeah. I don't -- I don't know if --

3 MR. SCHIFF: I have to get the tape recorder. Is that
4 all right?

5 MR. BOWERS: So, you know...

6 THE COURT: Okay. We'll --

7 MR. BOWERS: Thank you, Judge.

8 THE COURT: Thank you.
9 Anything tomorrow, first thing?

10 THE CLERK: No. We're clear.

11 THE COURT: Okay. We'll resume at 9:00 a.m.

12 Ladies and gentlemen of the jury, please remember that
13 you are not to discuss the case among yourselves or with others
14 or view or listen to any media accounts or read any media
15 accounts and not to form any conclusions until you have received
16 all of the evidence.

17 We are in recess.
18 Just wait until the jury leaves.

19 THE WITNESS: Okay. I'm sorry.

20 (Jury leaves the courtroom at 4:31 p.m.)

21 THE COURT: Okay. You can go ahead and step down.

22 THE WITNESS: Thank you --

23 THE COURT: Watch your --

24 THE WITNESS: -- your Honor.

25 THE COURT: -- step there. Over here there's an extra

1 step right in front of you.

2 THE WITNESS: Thank you, your Honor.

3 MR. NEIMAN: I'm sorry you have to come back.

4 THE WITNESS: That's okay.

5 MR. IGNALL: And, your Honor, we had -- we had one
6 thing we wanted to address.

7 THE COURT: Okay.

8 MR. IGNALL: I don't know if the Court had anything
9 else, but...

10 THE COURT: Okay.

11 MR. IGNALL: I just wanted to inquire of the Court if
12 the Court's had an opportunity to review the Government's motion
13 about the Jencks disclosure for Agent Holland. He may or may
14 not testify tomorrow, but...

15 Because we have one further request: If the Court is
16 inclined to require us to turn over the redacted copy of the
17 Special Agent's report, we'd also like an instruction from the
18 Court that that document can only be used to cross-examine
19 Special Agent Holland and can't be disseminated in any other
20 way.

21 MR. BOWERS: This is the report?

22 MR. IGNALL: The Special Agent's report.

23 MR. BOWERS: And are you saying you're -- if we agree
24 to that, you'd be willing to give it to us?

25 MR. IGNALL: Well --

1 MR. SCHIFF: I didn't hear.

2 MR. IGNALL: -- I think the appropriate procedure under
3 the case law is to provide it to the Court and let the Court
4 make that determination.

5 MR. BOWERS: I'm just asking. Every little bit will
6 help.

7 MR. SCHIFF: I don't understand this. He has a report.
8 His report resulted in getting the, um -- the -- the, um, search
9 warrant.

10 MR. IGNALL: No, it's not the affidavit. This is the
11 report that Special Agent Holland prepared to recommend
12 prosecution to the Department of Justice.

13 MR. SCHIFF: I don't understand. We cannot use that?
14 Suppose I want to publish it in my next book?

15 MR. NEIMAN: Well, that's the concern.

16 MR. IGNALL: Yeah, that we'd like an order preventing
17 Mr. Schiff from doing that.

18 THE COURT: Okay. Does the Government rest on that?

19 MR. BOWERS: Imagine that.

20 THE COURT: Okay. Where -- where is the issue framed
21 for the Court? Is it -- is it in a motion?

22 MR. IGNALL: We filed a document -- do you want to dig
23 through the...

24 MR. BOWERS: Your Honor --

25 MR. IGNALL: I think it was a notice or a request for a

1 ruling on Jencks material. We -- we gave a copy of that motion
2 to defense without the attachment and we had provided the Court
3 with both an unredacted and a proposed redaction to the Special
4 Agent's report.

5 MR. BOWERS: Your Honor --

6 THE COURT: Well, I just want to make sure that I have
7 it. Maybe what I ought to do, rather than letting you go
8 without making sure I have it is to have the clerk copy it right
9 now.

10 MR. IGNALL: Pardon?

11 THE COURT: I'll have the clerk copy --

12 MR. IGNALL: Okay.

13 THE COURT: -- what you have right now and that way I
14 won't have to look for it.

15 MR. IGNALL: I'm sorry. We may have -- I take that
16 back. We addressed it -- this may have been our error -- we
17 addressed it as a letter to the Court dated September 8th.

18 THE COURT: Well --

19 MR. IGNALL: We sent a copy of the -- the letter but
20 not the attachments to defense counsel and to Mr. Schiff.

21 THE COURT: All right.

22 MR. BOWERS: So this is -- all I've ever seen is the
23 letter --

24 MR. NEIMAN: Yes.

25 MR. BOWERS: -- correct?

1 MR. IGNALL: Yes.

2 THE COURT: Well --

3 MR. BOWERS: Okay. All right.

4 MR. IGNALL: Would the Court like us to provide all
5 that again?

6 THE COURT: Provide it to the clerk. She will make
7 copies right now.

8 MR. IGNALL: Okay.

9 THE COURT: I will be prepared to rule on it in the
10 morning.

11 MR. IGNALL: All right. Thank you, your Honor.

12 THE COURT: Did you file any response?

13 MR. BOWERS: Well, your Honor, I don't wanna admit I
14 didn't do something I should have. But I don't -- and I'm not
15 saying the Government did anything wrong -- I don't recall
16 seeing this letter.

17 THE COURT: Okay.

18 MR. IGNALL: All right.

19 MR. BOWERS: Obviously --

20 MR. IGNALL: Your Honor --

21 MR. BOWERS: -- I would love to respond, but at the
22 same time --

23 THE COURT: Well, we'll give you a copy.

24 MR. IGNALL: All right.

25 THE COURT: We'll make a copy of the letter, not the --

1 not the --

2 MR. BOWERS: I understand. So, you know, whatever's in
3 the letter is fine.

4 THE COURT: Mr. Cristalli, do you need a copy?

5 MR. CRISTALLI: Yeah, I would -- I would appreciate a
6 copy also --

7 THE COURT: All right.

8 MR. CRISTALLI: -- your Honor.

9 THE COURT: Mr. Schiff? Mr. Schiff, would you like a
10 copy of the letter?

11 MR. SCHIFF: Yes.

12 THE COURT: All right.

13 So, Ms. Clerk, will you make a total of four copies of
14 the letter and only one copy of the redacted --

15 THE CLERK: Right.

16 THE COURT: -- material.

17 MR. IGNALL: Your Honor, to expedite things, in case
18 Mr. Holland -- or Agent Holland does takes the stand tomorrow,
19 if the Court would order or the parties would agree not to
20 disseminate the redacted copy.

21 THE COURT: We're not -- they're not gonna get the
22 redacted copy. I -- I thought that was -- you were just saying
23 they were gonna get the letter.

24 MR. IGNALL: No. They have the letter.

25 THE COURT: Oh, they --

1 MR. IGNALL: And what we --

2 THE COURT: No, no. They -- I thought -- it was my
3 understanding they didn't have the letter. Mr. Bowers said he
4 didn't remember --

5 MR. IGNALL: We --

6 THE COURT: -- receiving it.

7 MR. IGNALL: Okay. I --

8 THE COURT: Have you already disseminated the redacted
9 copy?

10 MR. IGNALL: No, no, no. We --

11 THE COURT: You told me you hadn't.

12 MR. IGNALL: No. We've given the Court a full copy of
13 the Special Agent's report and a redaction, a proposed
14 redaction --

15 THE COURT: All right.

16 MR. IGNALL: -- and we've provided the letter to
17 counsel. I'm not disputing that they didn't get it.

18 THE COURT: That's -- that's right. And so --

19 MR. IGNALL: But, in order to expedite things for
20 tomorrow if we should get to Agent Holland, what I was gonna
21 propose to the Court, if the Court's amenable, is that the
22 proposed redaction is what we would suggest that the Court order
23 us to turn over as potential Jencks material. We're willing to
24 turn over that redaction today with either an order from the
25 Court on an agreement from the parties that they will not

1 disseminate and they will only use that in the cross-examination
2 of Special Agent Holland and that -- if the Court wanted to
3 order us to turn over something different, that's fine. But
4 they'd have an opportunity --

5 THE COURT: So you're willing to turn over a redacted
6 copy this evening with a promise from the -- those receiving it
7 that they will not disseminate it.

8 MR. BOWERS: I -- I accept that. I wouldn't even copy
9 it. I'll just have one for me and I'll look at it. Whatever
10 terms you want.

11 THE COURT: All right.

12 MR. IGNALL: Okay.

13 MR. BOWERS: That's fine.

14 THE COURT: All right. Okay.

15 Are you agreeable to those terms, Mr. Cristalli?

16 MR. CRISTALLI: I -- I'm not gonna -- I mean, just
17 myself and Mr. Modafferi, are going to review it. No one else
18 will.

19 THE COURT: No one else?

20 MR. CRISTALLI: I don't --

21 THE COURT: All right.

22 MR. CRISTALLI: -- have any problems with --

23 THE COURT: You agree to that.

24 MR. IGNALL: And it will only be used to prepare the
25 cross-examination of Special Agent Holland.

1 THE COURT: Right.

2 MR. CRISTALLI: And then, you know, my only concern is
3 in terms of dissemination. It's myself, whoever's working on my
4 case with me, and my client. But I have not -- I'm not gonna
5 disseminate to outside sources. Absolutely not.

6 THE COURT: Well, I need -- I need an agreement from
7 everyone who is going to receive it that -- that they won't
8 disseminate it because I'm gonna enforce it with the contempt
9 powers of the Court.

10 MR. BOWERS: Well, I can represent to this Court that I
11 will have one copy of this document that doesn't go anywhere
12 other than my client and myself. I'm fine with that.

13 MR. CRISTALLI: I'm -- I'm not quite sure what the
14 concern is though. I mean, we're -- we're --

15 THE COURT: Well, I don't know because I haven't seen
16 it.

17 MR. CRISTALLI: Right. So --

18 THE COURT: So your --

19 MR. CRISTALLI: -- I mean, I'm not --

20 THE COURT: -- choice is this --

21 MR. CRISTALLI: But I haven't either. So I'm agreeing
22 to not --

23 THE COURT: Yeah. All right.

24 MR. CRISTALLI: -- disseminate somethin' that I
25 haven't --

1 THE COURT: Well --

2 MR. CRISTALLI: -- even seen.

3 MR. BOWERS: Well, just for tonight.

4 THE COURT: -- choice is this is: If you want to wait
5 until tomorrow to see it and not make these concessions, that's
6 fine with me. I'm not gonna order them to turn it over tonight
7 without my seeing it --

8 MR. CRISTALLI: Right.

9 THE COURT: -- or without the promise that they've
10 asked for.

11 MR. CRISTALLI: Well --

12 THE COURT: So it's a pretty simple choice.

13 MR. CRISTALLI: Like I said, I -- I have no -- I'm not
14 going to disseminate the material to anybody, other than review
15 it in the -- in the preparation of cross-examination. And
16 that's the extent of it.

17 THE COURT: Of Agent Holland.

18 MR. CRISTALLI: Correct.

19 THE COURT: All right.

20 MR. CRISTALLI: But I would like --

21 THE COURT: So --

22 MR. CRISTALLI: And I mean --

23 THE COURT: -- so you agree to that --

24 MR. CRISTALLI: Yes.

25 THE COURT: -- and your client agrees to it?

1 MR. CRISTALLI: Yes.

2 THE COURT: Mr. Bower [sic], you agree to it? Your
3 client agrees to it?

4 MR. BOWERS: To -- to -- to the idea that if we get a
5 copy of this report we --

6 THE COURT: Just what I said.

7 MR. BOWERS: Yeah, yeah, yeah. That's fine.

8 THE COURT: All right.
9 Do you agree?

10 MR. SCHIFF: I don't understand.

11 THE COURT: Okay. Then you won't get a copy of the
12 redacted report.

13 MR. SCHIFF: Well -- well -- well -- but just explain
14 to me. I never can reveal what's in that report or is it just
15 for the period of the trial?

16 THE COURT: It's -- that's the agreement.

17 MR. SCHIFF: I never can reveal what's in that
18 document?

19 MR. IGNALL: What we're requesting is never, other than
20 to prepare for cross-examination of Special Agent Holland.

21 MR. SCHIFF: Well, then I won't see the document. Then
22 how can I cross-examine him?

23 THE COURT: Okay. You'll see it tomorrow depending on
24 how I rule.

25 MR. SCHIFF: Well, I can I ask -- have you ruled yet on

1 Dr. Hayes? Because I have to tell him at this time. He called
2 me. He wants to...

3 THE COURT: No, I haven't. I'll have to review his --
4 his report and the documents again to see in light of the -- of
5 the evidence so far whether his -- whether he will be allowed to
6 testify.

7 MR. NEIMAN: Um, and, also just to give the Court a
8 heads up, the Government is progressing with its case and we do
9 anticipate being able to rest hopefully, hopefully, uh, midweek
10 next week.

11 THE COURT: Okay. Thank you.

12 Okay, Ms. Clerk, you will make copies of the letter and
13 the redacted portion only for --

14 MR. IGNALL: Your Honor, I have -- I have copies of the
15 reacted portion I can give to Mr. Cristalli and Mr. Bowers --

16 THE COURT: You can give --

17 MR. IGNALL: -- right now.

18 THE COURT: -- them now? All right.

19 So it is -- it is ordered that those -- that that not
20 be disseminated except as stated. Now, you'll just need to make
21 me a copy.

22 THE CLERK: Yes, sir.

23 MR. SCHIFF: I won't disseminate it. All right.

24 MR. CRISTALLI: And, your Honor, um, the only other
25 concern I have, because I wasn't -- the Court obviously has an

1 unredacted version of the report, correct, and --

2 THE COURT: I will have. I don't have it yet.

3 MR. CRISTALLI: Okay.

4 And then ultimately the Court's gonna make a
5 determination as to what, if any, of the report is gonna be
6 redacted?

7 THE COURT: Correct.

8 MR. CRISTALLI: Okay. Thank you.

9 THE COURT: Okay, Ms. Clerk, will do that as quickly as
10 possible?

11 THE CLERK: I will take care of that.

12 (Proceedings adjourned at 4:41 p.m.)

13 --oOo--

14 I hereby certify that pursuant to Section 753, Title 28, United
15 States Code, the foregoing is a true and correct transcript of
16 the stenographically reported proceedings held in the
17 above-entitled matter.

18

19 DATED:

FELICIA RENE ZABIN, RPR, CCR NO. 478

20

21

22

23

24

25