

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 18)

16 Wednesday, October 12, 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
----------	--------	-------	----------	---------	---------------------

Defendant Schiff's:

Anthony Davies	4613S	4616I	--	--	--
Robert Brown	4618S	4619N	4622S	--	--
Robert Wesley	4627S	4630I	4631S	--	--
Irwin Schiff	4635L	4694C	4874L	--	--
		4735B			
		4765N			

EXHIBITS

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

Government's:

337	4777	4779
338	4795	4797
339	4833	4835
340	4844	4846

Defendant Schiff's:

2016	4670	--
2117	4884	4885

Defendant Neun's:

2508 and 2625	4722	--
---------------	------	----

1 LAS VEGAS, NEVADA; WEDNESDAY, OCTOBER 12, 2005; 9:13 A.M.

2 --oOo--

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

4 THE CLERK: All rise.

5 THE COURT: Are we ready to bring the jury in?

6 MR. SCHIFF: Your Honor, could I just raise an issue
7 here?

8 I got four --

9 THE COURT: Please be seated.

10 MR. SCHIFF: -- people who came to testify, but they
11 are here. So I would like to put them on as character
12 witnesses: Robert Brown; Ray Hartman, who already -- well, he
13 didn't testify as a character witness; Robert Wesley, and Jim
14 Davies. Can I put them on just as character witnesses? It
15 won't take too long. But they came all the way here to testify,
16 so...

17 THE COURT: Robert Brown.

18 MR. SCHIFF: Pardon me?

19 THE COURT: Robert Brown.

20 MR. SCHIFF: Robert Brown.

21 THE COURT: Ray Hartman.

22 MR. SCHIFF: Ray Hartman, Robert Wesley, came all the
23 way -- and Jim Davies, who flew all the way from New Hampshire.
24 They'll just testify as to my reputation for truth and honesty.

25 THE COURT: How many more are we going to have like

1 this because --

2 MR. SCHIFF: Just this. These four. They are here;
3 they came all the way. They wanna...

4 THE COURT: How many more? How many more?

5 MR. SCHIFF: The only one would be, uh, uh, the -- oh,
6 um, Noel Spaid. You said she can -- I called her this morning
7 and I said you had allowed her to testify. Um, she said, well,
8 how about the other -- the other issue about me representing you
9 in that suit? I said, well, I don't -- I don't know if you can
10 testify. If you want to ask the judge about it. But otherwise
11 just --

12 THE COURT: That's it --

13 MR. SCHIFF: That's it.

14 THE COURT: -- five character witnesses?

15 MR. SCHIFF: That's it.

16 THE COURT: Government's --

17 MR. SCHIFF: I don't know if Bush can get away, but he
18 said he'd come down.

19 MR. NEIMAN: Your Honor, I -- I think so long as they
20 are limited to the reputation in the, uh, community we would not
21 object.

22 THE COURT: All right.

23 MR. SCHIFF: Thank you.

24 THE COURT: When do you want to present them? Now?

25 MR. SCHIFF: Now. So they can go home if they want to

1 or they can listen. Whatever. I'll see who's there.

2 THE COURT: I'm sorry.

3 MR. SCHIFF: I'll see who's there. They are trying to
4 get here.

5 THE COURT: Any other items of business before we...

6 MR. NEIMAN: Not on behalf of the United States, your
7 Honor.

8 THE COURT: All right.

9 MR. CRISTALLI: No, your Honor.

10 THE COURT: It looked like -- looks like the
11 materials -- the books wouldn't come in; however, Defendants
12 Neun and Schiff [sic] can certainly discuss the reliance on
13 those books. They can be -- they can be marked as exhibits.
14 But under Payne it doesn't look like they come in.

15 MR. BOWERS: You -- you limited that to Defendants Neun
16 and Schiff. I would assume that --

17 THE COURT: Yes, for -- for Neun and Cohen. For
18 Schiff, they don't --

19 MR. BOWERS: Thank you.

20 THE COURT: Yeah.

21 MR. BOWERS: I didn't -- yeah.

22 THE COURT: I may have misspoken and said -- said
23 "Schiff" instead of "Cohen." But, uh, for Schiff they're --
24 they really just amount to prior consistent statements and
25 they -- they wouldn't come in because of the tendency to confuse

1 the -- the instructions of law which the Court will give and --
2 and mere buttressing on the part of Schiff.

3 MR. CRISTALLI: Your Honor, just -- I would assume
4 we're talking about specifically all of Schiff's material and
5 writings; correct?

6 THE COURT: His books, the five that were just
7 discussed --

8 MR. BOWERS: Just the books.

9 THE COURT: -- yesterday.

10 MR. CRISTALLI: Oh, the books. Yes, that's correct.

11 MR. BOWERS: The books that aren't in.

12 MR. CRISTALLI: Um, I just wanna just make sure we're
13 clear. I don't think we have a problem. But Ms. Neun's
14 Internal Revenue Code is already in evidence. So I don't
15 assume --

16 MR. NEIMAN: I don't believe it is, your Honor. I --

17 THE COURT: Oh, I don't know.

18 MR. NEIMAN: -- I think it's been --

19 MR. CRISTALLI: It is.

20 MR. NEIMAN: -- marked.

21 MR. CRISTALLI: It is in evidence. It got in evidence
22 through -- I'll tell ya specifically --

23 THE COURT: Possibly. Possibly it did. The clerk can
24 confirm that. But --

25 MR. CRISTALLI: It is.

1 THE COURT: -- my comments, Mr. Cristalli, were to the
2 five books that were tendered --

3 MR. CRISTALLI: Yeah, I understand.

4 THE COURT: -- yesterday.

5 THE CLERK: I don't show it as being in, Judge.

6 MR. CRISTALLI: Thank you. It is. It got in -- I know
7 exactly who it got in through.

8 MR. IGNALL: No one's identified it.

9 MR. CRISTALLI: Yeah, they have.

10 MR. BOWERS: The clerk just said --

11 MR. CRISTALLI: You guys are wrong. I got it -- I'll
12 tell you exact --

13 MR. IGNALL: Ms. Vannozzi, is -- is that Code book
14 admitted into evidence?

15 MR. CRISTALLI: It's the undercover agent who got it
16 in. I showed --

17 THE COURT: We'll -- we'll take a look --

18 MR. CRISTALLI: Mead.

19 MR. IGNALL: Okay.

20 MR. CRISTALLI: Mead. Yes, he [sic] did.

21 THE COURT: We'll try to research the number and see --

22 MR. CRISTALLI: I'm telling --

23 THE COURT: -- see if the --

24 MR. CRISTALLI: -- ya guys he did.

25 THE COURT: -- and see if the reporter has a record of

1 its admission.

2 MR. CRISTALLI: I may be wrong. I dont' know.

3 THE COURT: Okay. Ms. Clerk, will you bring in the

4 jury?

5 THE CLERK: Yes, sir.

6 THE COURT: We can look at it during a break. It

7 doesn't have to be right now.

8 (Pause in the proceedings.)

9 THE CLERK: Okay. Come on in.

10 (Jury enters the courtroom at 9:19 a.m.)

11 MR. SCHIFF: I just found out that Brad Bean is here.

12 He came in last night.

13 MR. CRISTALLI: Shhh.

14 MR. SCHIFF: Those are one of the --

15 MR. CRISTALLI: Shhh.

16 MR. SCHIFF: Your Honor --

17 (Pause in the proceedings.)

18 THE COURT: Please be seated.

19 Will counsel stipulate to the presence of the jury?

20 MR. NEIMAN: Yes, your Honor.

21 MR. BOWERS: Yes, your Honor.

22 MR. CRISTALLI: Yes, your Honor.

23 MR. SCHIFF: Yes, your Honor.

24 THE COURT: Thank you.

25 Mr. Schiff.

1 MR. SCHIFF: I want to call Jim Davies to the stand as
2 a character witness.

3 THE COURT: Okay.

4 MR. SCHIFF: Also, your Honor, I just found out that
5 Brad Bean, who you said could testify -- I didn't know he came
6 in last night and he is here.

7 THE COURT: Well, he'll testify in order. These are
8 short witnesses --

9 MR. SCHIFF: All right. Well, you can tell me --

10 THE COURT: Mr. Bean --

11 MR. SCHIFF: -- when I can --

12 THE COURT: -- I think, was --

13 MR. SCHIFF: -- put him on.

14 THE COURT: -- going to testify to things other than
15 the issue of character. So, uh, we'll -- we'll start with the
16 first --

17 MR. SCHIFF: Jim Davies.

18 THE COURT: -- witness.

19 MR. SCHIFF: I told him.

20 Take the stand, sir.

21 (Anthony James Davies takes the witness
22 stand.)

23 THE CLERK: Sir, please raise your right hand.

24 THE WITNESS: Excuse me. I'm a little hard of hearing.

25 THE CLERK: Raise your right hand, sir.

1 A. Uh, Mr. Schiff, I believe we first met in , um -- in the
2 1980's. But, uh, I would say that, uh, I got to know you, uh,
3 uh, more personally around about 1996 or thereabouts.

4 Q. '96.

5 A. Eight years, nine years.

6 Q. Okay. Now, in knowing me and knowing people who know me,
7 have you formed any opinion concerning, uh, my reputation for
8 truth and honesty?

9 A. Uh, yes, sir, I have. Um, I have, um, heard you speak many
10 times. I have --

11 Q. Just -- do you have any knowledge with respect to the
12 opinions that -- in the community regarding truth and honesty?
13 Just answer directly to that question. Yes or no?

14 A. Not my opinion, but the community's.

15 Q. Well, what is your opinion of the reputation that I have in
16 the community --

17 A. Oh.

18 Q. -- for truth and honesty?

19 A. Well, I would say that it's outstanding. You are, uh, very
20 well known in -- in the community and I have observed that in a
21 number of ways. And you're very high -- very extensively
22 admired and liked.

23 THE COURT: Now wait a minute.

24 BY MR. SCHIFF:

25 Q. But, Jim, just --

1 THE COURT: You don't need to volunteer answers.

2 BY MR. SCHIFF:

3 Q. What is your knowledge --

4 THE COURT: You don't need to volunteer answers. You
5 can --

6 THE WITNESS: I'm trying to amplify, your Honor --

7 THE COURT: Well --

8 THE WITNESS: -- what my answer is once I understand
9 the question.

10 BY MR. SCHIFF:

11 Q. Jim --

12 THE COURT: The question was --

13 BY MR. SCHIFF:

14 Q. Mr. Davies --

15 THE COURT: -- truth and honesty, reputation for truth
16 and honesty in the community.

17 BY MR. SCHIFF:

18 Q. Just --

19 THE WITNESS: I believe it's very high.

20 BY MR. SCHIFF:

21 Q. Okay. So -- so -- all right. So you -- you're statement is
22 that my reputation is high with respect to --

23 A. To truth and --

24 Q. -- truth --

25 A. -- honesty.

1 Q. -- and honesty. Okay.

2 A. Absolutely, yes.

3 Q. Okay.

4 THE COURT: Cross-examination? Cristalli?

5 MR. CRISTALLI: No, your Honor. Thank you.

6 THE COURT: Bowers?

7 MR. BOWERS: No, I have nothing.

8 THE COURT: Government?

9

10 CROSS-EXAMINATION

11 BY MR. IGNALL:

12 Q. Mr. Davies, where do you live?

13 A. In New Hampshire.

14 Q. When you talk about the community, what community are you
15 talking about?

16 A. Uh, I -- I would refer mainly to the community of what I
17 call "freedom-loving people." Uh, Mr. Schiff and I have had
18 dealings, for example, or have met him in the context of
19 supporters, for example, of the Libertarian Party. Uh, he did
20 run for President -- or attempted to run for President in 1996,
21 and I saw him very widely admired in that community. He didn't
22 get the nomination, but he put up a very good case for it.

23 Q. All right. Thank you.

24 Mr. Davies, have you ever sold any of Mr. Schiff's
25 products?

1 A. Yes. I was one of his, um, distributing agents.

2 MR. IGNALL: No further questions.

3 THE WITNESS: Um-hum.

4 THE COURT: Anything further?

5 MR. SCHIFF: Thank you.

6 THE COURT: Anything further?

7 Thank you.

8 THE WITNESS: I'm sorry. Are we done?

9 THE COURT: You are excused. Please watch your step --

10 THE WITNESS: Thank you.

11 THE COURT: -- all the way down.

12 (Pause in the proceedings.)

13 (Discussion between Mr. Schiff and the
14 witness.)

15 MR. SCHIFF: All right. Go.

16 (Robert Brown takes the witness stand.)

17 THE CLERK: Sir, please raise your right hand.

18 You do solemnly swear that the testimony you shall give

19 in the cause now pending before this court shall be the truth,

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

21 THE WITNESS: I do.

22 THE CLERK: Please be seated.

23 Please state for the record your full name and spell
24 your last name.

25 THE WITNESS: Robert Alan Brown, B-r-o-w-n.

1 ROBERT BROWN,
2 called as a witness on behalf of Defendant Schiff, having been
3 first duly sworn, was examined and testified as follows:

4
5 THE COURT: Before you start, Mr. Brown, I want to
6 advise you to only answer the questions that are asked. Do not
7 volunteer anything beyond the questions asked. If you see one
8 of the attorneys around the room stand up to object, wait until
9 I have ruled on the objection before giving your answer.

10 Also, your testimony is going to be restricted to
11 the -- your opinion of the reputation of Mr. Schiff in the
12 community for truth and veracity. Those are the parameters.

13 THE WITNESS: Okay.

14 THE COURT: Go ahead, sir.

15

16 DIRECT EXAMINATION

17 BY MR. SCHIFF:

18 Q. Mr. Brown, when did you first meet me?

19 A. Um, early '97. 1997.

20 Q. '97.

21 So you've known me approximately, what? Eight years?

22 A. Uh, eight, nine years.

23 Q. Where do you live now, Mr. Brown?

24 A. Um, I've moved up to the northwest, Seattle.

25 Q. But, when you new actually knew me, you were living here

1 in --

2 A. Yes. I -- I've lived in Vegas for 27 years prior to that.

3 Q. So -- and you've known me --

4 A. Nine years.

5 Q. -- at least eight years?

6 A. Yeah, at least.

7 Q. Now, have you formed any opinion concerning my reputation in

8 the community with respect to my truth and honesty?

9 A. Oh, I know of no one who has a reputation -- a higher

10 reputation of truth and honesty than Irwin Schiff.

11 MR. SCHIFF: No further questions.

12 THE COURT: Cross-examination, Mr. Cristalli?

13 MR. CRISTALLI: No, your Honor. Thank you.

14 THE COURT: Mr. Bowers?

15 MR. BOWERS: No, your Honor.

16 THE COURT: Government?

17 MR. NEIMAN: Thank you, your Honor.

18

19 CROSS-EXAMINATION

20 BY MR. NEIMAN:

21 Q. Good morning, Mr. Brown.

22 A. Good morning.

23 Q. Mr. Brown, you've filed a zero return before, haven't you?

24 A. Yes, I have.

25 Q. And you sought a refund?

1 A. Um, Irwin took my court [sic] all the way up to the Supreme
2 Court --

3 Q. Well, we're gettin' there.

4 You sought a refund, though, initially with that zero
5 return, didn't you?

6 A. No, I did not.

7 Q. Well, did you ever sue trying to get money back from the
8 United States?

9 A. Yes, I did.

10 Q. And you sued in the District Court here in Nevada --

11 A. Yes --

12 Q. -- didn't you?

13 A. -- I did.

14 Q. And you lost?

15 A. I guess you could say that.

16 Q. All right. And Mr. Schiff helped you with this?

17 A. Yes, he did.

18 Q. And he knew that you lost?

19 A. We appealed the case.

20 Q. Okay. You appealed it to the Ninth Circuit; correct?

21 A. Yes.

22 Q. And you lost there as well, didn't you, Mr. Brown?

23 A. Yes.

24 Q. And Mr. Schiff helped you with that appeal to the Ninth
25 Circuit?

1 A. Well, you mean the Supreme Court beyond that? Yes.

2 Q. Well, we're --

3 A. Yes.

4 Q. -- getting to that one --

5 A. Yes.

6 Q. -- next.

7 A. Yes.

8 Q. He helped you with the appeal from the District Court to the
9 appeals court, didn't he?

10 A. Yes.

11 Q. And you lost it that case as well?

12 A. Yes.

13 Q. All right. And you appealed then to the Supreme Court?

14 A. Yes.

15 Q. And the Supreme Court refused to hear your case, did they
16 not?

17 A. Correct.

18 Q. All right.

19 MR. NEIMAN: Nothing further, your Honor.

20 THE COURT: Anything further?

21 MR. SCHIFF: Um, now, I want to cross-examine him with
22 respect to --

23 THE COURT: You can redirect.

24 MR. SCHIFF: Yeah, redirect. Yeah.

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. SCHIFF:

Q. Were you aware, Mr. Brown, that if the Supreme Court doesn't hear the case that's no commentary on the merits of your appeal?

A. Correct.

Q. Do you recall what were the two major issues that we appealed on?

A. Um, there was no assessment and that the withholding of my tax was not an income tax but a wage tax.

Q. Okay. With respect to the wage tax, did the District Court or the appeals court address that issue in any manner, shape, or form?

A. Both courts ignored the issue.

Q. All right. And the Court that -- said that you were not entitled to a refund even though no assessment was made. Was that your understanding of the law?

MR. NEIMAN: Objection as to his --

THE COURT: Sustained.

MR. SCHIFF: All right.

BY MR. SCHIFF:

Q. Did you think, um, that just because the courts, uh, turned you down that the courts were correct?

MR. NEIMAN: Objection again as to --

MR. SCHIFF: It's his opinion.

MR. NEIMAN: -- his state of mind.

1 MR. CRISTALLI: Your Honor --

2 MR. NEIMAN: His state of mind --

3 MR. SCHIFF: He opened the door to --

4 MR. NEIMAN: -- is irrelevant.

5 MR. SCHIFF: -- this.

6 MR. CRISTALLI: With all due respect --

7 MR. NEIMAN: His state of mind is irrelevant.

8 MR. CRISTALLI: With all due respect, the Government

9 went beyond the scope of direct examination in trying to

10 cross-examine this witness inference to a notice issue. That

11 was -- that was completely outside the scope of this direct

12 examination. It was improper and it shouldn't have been done.

13 He opened the door. It should be -- it's fair game now.

14 BY MR. SCHIFF:

15 Q. Now --

16 MR. BOWERS: I join in that, your Honor.

17 MR. NEIMAN: Your Honor, that was done to show bias

18 towards the defendant --

19 MR. CRISTALLI: No, it wasn't.

20 MR. NEIMAN: -- is what this is doing.

21 MR. CRISTALLI: He --

22 BY MR. SCHIFF:

23 Q. Rob- --

24 MR. CRISTALLI: -- it was specific to notice.

25 THE COURT: Well, I'm gonna allow the question. So --

1 BY MR. SCHIFF:

2 Q. Robert, are you aware that there were a lot of -- the
3 dissension among the circuits, that various courts rule one way,
4 another court rules another way? Just because a court makes a
5 decision, does that mean it's a correct one?

6 THE COURT: Well, Mr. --

7 MR. NEIMAN: Objection.

8 THE COURT: -- Mr. Schiff, that was a compound
9 question.

10 MR. SCHIFF: All right.

11 THE COURT: One question at a time.

12 BY MR. SCHIFF:

13 Q. Just because an appellate court or a district court makes a
14 decision, is that final? Is that the law --

15 THE COURT: Mr. Schiff --

16 BY MR. SCHIFF:

17 Q. -- as you understand it?

18 THE COURT: Mr. Schiff --

19 MR. SCHIFF: I'm sorry.

20 THE COURT: -- that is leading. You're not allowed to
21 lead.

22 MR. SCHIFF: Okay. I'm sorry.

23 BY MR. SCHIFF:

24 Q. Did the fact that you lost the case -- had lower courts
25 changed your view that you were entitled to a refund?

1 A. No, it did not because I knew of at least 15 statutes --

2 THE COURT: No, you're --

3 BY MR. SCHIFF:

4 Q. No, no, no.

5 THE COURT: -- you're not going to recite the law here,
6 sir.

7 BY MR. SCHIFF:

8 Q. Now, how much --

9 THE COURT: You can answer the question and --

10 BY MR. SCHIFF:

11 Q. Now --

12 THE WITNESS: I apologize.

13 BY MR. SCHIFF:

14 Q. Now, I prepared the motions for the District Court --

15 THE COURT: Now, you're testifying, sir.

16 BY MR. SCHIFF:

17 Q. Well, I'm saying: Did I prepare the motion for District
18 Court?

19 A. Yes, you did.

20 Q. Did I prepare the appeal?

21 A. Yes, you did.

22 Q. To the Ninth Circuit?

23 A. Correct.

24 Q. Oh. Did I prepare the, uh --

25 A. Petition for certiorari --

1 Q. Did I prepare the Petition for certiorari?

2 A. Yes.

3 Q. How much did I charge you for helping you in these three
4 areas?

5 A. Not a penny. Not one --

6 Q. Didn't --

7 A. -- red cent.

8 Q. -- you pay the filing fees, however?

9 A. Oh, yes, I paid filing fees to the court. But, as far as
10 your fees, there were none.

11 Q. Thank you very much.

12 THE COURT: Anything further? Cristalli?

13 MR. CRISTALLI: No, sir.

14 THE COURT: Bowers?

15 MR. BOWERS: No, your Honor.

16 MR. NEIMAN: Not on behalf of the United States.

17 THE COURT: Government?

18 You're excused. Watch your step --

19 THE WITNESS: Okay.

20 THE COURT: -- as you go down.

21 THE WITNESS: Thank you.

22 (Pause in the proceedings.)

23 THE COURT: Next, Mr. Schiff.

24 MR. SCHIFF: I want to call Mr. Robert Wesley to the
25 stand.

1 (Pause in the proceedings.)

2 THE MARSHAL: Robert Wesley. Up here.

3 MR. SCHIFF: Yeah, just take the stand, Robert.

4 (Robert Wesley takes the witness stand.)

5 THE CLERK: Sir, please remain standing and raise your
6 right hand.

7 You do solemnly swear that the testimony you shall give
8 in the cause now pending before this court shall be the truth,
9 the whole truth, and nothing but the truth, so help you God?

10 THE WITNESS: Yes.

11 THE CLERK: Please be seated.

12 Please state for the record your full name and spell
13 your last name.

14 THE WITNESS: Uh, my name is Robert Wesley, uh,
15 W-e-s-l-e-y.

16

17 ROBERT WESLEY,
18 called as a witness on behalf of Defendant Schiff, having been
19 first duly sworn, was examined and testified as follows:

20

21 DIRECT EXAMINATION

22 BY MR. SCHIFF:

23 Q. Uh, Mr. Wesley --

24 THE COURT: Hold on a minute.

25 MR. SCHIFF: Pardon me?

1 THE COURT: Wait a minute.

2 BY MR. SCHIFF:

3 Q. Okay. Mr. Wesley --

4 THE COURT: Wait a minute. Wait a minute.

5 Mr. Wesley, your testimony is restricted to your
6 knowledge of the reputation of Defendant Schiff for truth and
7 veracity in the community.

8 You -- you will answer his answers. However, if you
9 see one of the attorneys stand up to object, you will not give
10 your answer until after I have ruled on the objection. And you
11 will not volunteer information; you will answer only the
12 question that is asked to you.

13 THE WITNESS: So, when they stand up, don't say
14 anything?

15 THE COURT: Not until I rule on the objection.

16 THE WITNESS: Okay.

17 THE COURT: Go ahead.

18 BY MR. NEIMAN:

19 Q. Mr. Wesley, where do you live?

20 A. I live in Alta Loma, California.

21 Q. What kind of work do you do?

22 A. I'm a parole agent for the State of California, Department
23 of Corrections.

24 Q. Can you speak up a little louder? You're what?

25 A. I work for the Department of Corrections, Parole and

1 Community Services Division.

2 Q. Okay. When did we first meet approximately?

3 A. I first heard of you in 1998 on the radio. And then I think

4 you had given a seminar, and I came down to Las Vegas to see

5 what you were talkin' about.

6 Q. Okay. You've known me since then and you've known a lot of

7 people who do know me?

8 A. Yes.

9 Q. Have you formed an opinion with respect to my reputation in

10 the community for truth and honesty? Yes or no.

11 A. Yes.

12 Q. Okay. What is your opinion of how I'm regarded in the

13 community with respect to truth and honesty?

14 A. Uh, basically that you abided by Supreme Court rulings, uh,

15 and tax laws and --

16 Q. No. The truth and honesty, Robert.

17 A. Um...

18 Q. What is your opinion of how I'm regarded with respect to

19 being truthful and honest?

20 A. You're regarded highly.

21 Q. Of?

22 A. Truth and honesty.

23 Q. Thank you very much.

24 THE COURT: Cross-examination, Cristalli?

25 MR. CRISTALLI: No, your Honor.

1 THE COURT: Bowers?

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

3 THE COURT: Thank you.

4 Government?

5

6 CROSS-EXAMINATION

7 BY MR. IGNALL:

8 Q. Mr. Wesley --

9 A. Yes, sir.

10 Q. -- do you follow the teachings of Mr. Schiff?

11 A. Uh, to a certain degree I do.

12 Q. Have you ever hosted a seminar that Mr. Schiff, uh,
13 presented?

14 A. Uh, I work for the Department of Corrections. I had all the
15 parole agents come out, and my supervisor, to one of the
16 meetings in Rancho Cucamonga and they thought the information
17 was legitimate.

18 Q. Did you host that yourself?

19 A. Uh, me and another agent, yes.

20 Q. Did you charge people to attend?

21 A. I didn't charge anyone to attend. There's a fee --

22 Q. And how --

23 A. -- to show up. I didn't make any money off of it if that's
24 what you're leading to, no.

25 THE COURT: Just answer the questions.

1 BY MR. IGNALL:

2 Q. Uh, does the IRS claim that you owe them any money
3 currently?

4 A. Uh, fraudulently they say I do. But I don't --

5 MR. IGNALL: No --

6 THE WITNESS: -- legally.

7 MR. IGNALL: -- further questions.

8 THE COURT: What was your answer? Fraudulent?

9 THE WITNESS: Yes, sir.

10 THE COURT: Okay.

11 MR. SCHIFF: He opened the door.

12 MR. IGNALL: Your Honor --

13

14 REDIRECT EXAMINATION

15 BY MR. SCHIFF:

16 Q. Did you --

17 MR. IGNALL: Your Honor, those questions were
18 impeachment for bias only and we could allow a curative
19 instruction to make that clear.

20 MR. SCHIFF: All right.

21 THE COURT: The question was to show bias only.
22 Doesn't open the door.

23 BY MR. SCHIFF:

24 Q. Did you do a term paper on the collection due process
25 hearings with respect to, um, the IRS's conducting collection

1 due process hearings?

2 MR. IGNALL: Objection. Relevance.

3 THE COURT: Sustained.

4 MR. IGNALL: Beyond the scope.

5 THE COURT: Sustained.

6 BY MR. SCHIFF:

7 Q. Um, the seminar that you helped organize, all the money came
8 to me. You just helped, uh, notify people in the -- people who,
9 uh, were in the parole community who wanted to hear my talk?

10 A. That's correct, sir.

11 Q. So all you did is communicate the fact --

12 THE COURT: Mr. Schiff --

13 BY MR. SCHIFF:

14 Q. -- that I was putting on a seminar?

15 THE COURT: -- Mr. Schiff --

16 MR. SCHIFF: I'm -- I'm sorry.

17 THE COURT: You can't lead the witness.

18 MR. SCHIFF: All right.

19 BY MR. SCHIFF:

20 Q. What was the purpose of me contacting you? Why did I put on
21 a seminar in your area?

22 MR. IGNALL: Objection.

23 THE COURT: Sustained.

24 MR. IGNALL: I'm not sure this goes to bias.

25 THE COURT: Sustained.

1 BY MR. SCHIFF:

2 Q. But you didn't get a penny; is that correct?

3 A. That's correct.

4 Q. And the fact that there is a lien placed, do you think that
5 lien is legitimate based on your knowledge of the Internal
6 Revenue Code?

7 MR. IGNALL: Objection, your Honor.

8 THE COURT: Sustained.

9 MR. SCHIFF: Well --

10 THE COURT: His opinion of the law is not -- not
11 relevant.

12 MR. SCHIFF: Thank you very much, Mr. Wesley.

13 THE COURT: Anything further? Cristalli? Bowers?
14 Pardon?

15 MR. CRISTALLI: No, your Honor.

16 THE COURT: Okay.

17 MR. IGNALL: Nothing from the Government, your Honor.
18 Witness is excused.

19 MR. SCHIFF: I just --

20 THE COURT: Watch your step as you go down --

21 THE WITNESS: Okay.

22 THE COURT: -- please.

23 THE WITNESS: Thank you.

24 THE COURT: Next, Mr. Schiff.

25 MR. SCHIFF: I want to see if Mr. Hartman is here. If

1 he's not, then I can't -- all I gotta say is, uh, you said that,
2 uh --

3 THE COURT: Mr. Schiff.

4 MR. SCHIFF: -- Mr. Bean can testify. He's here. I
5 don't know if I -- you want me to put him on now or later.

6 MR. IGNALL: Your Honor, if it's not a character
7 witness, I think it's probably inappropriate to do it out of
8 order.

9 THE COURT: I said later.

10 MR. SCHIFF: All right. Okay. Let me see if
11 Mr. Hartman is here.

12 THE COURT: Okay.

13 (Pause in the proceedings.)

14 MR. SCHIFF: He's not here.

15 THE COURT: Okay. We'll have you resume the stand
16 then.

17 MR. SCHIFF: Okay.

18 THE COURT: Pick up where we left off.

19 (Irwin Schiff resumes the witness stand.)

20

21 IRWIN SCHIFF,

22 the defendant herein, having been previously duly sworn, was
23 examined and testified further as follows:

24

25

1 DIRECT EXAMINATION (Continued)

2 BY MR. LEVENTHAL:

3 Q. Mr. Schiff, yesterday we left off discussing your tax
4 returns and the addendums that you filed. Do you remember that?

5 A. Pardon me?

6 Q. Do you remember -- yesterday we left off -- where we left
7 off was we were talking about your tax returns and the addendums
8 that you filed. Do you remember that?

9 A. Yes.

10 Q. Okay. What did you rely on to form your basis on your
11 addendum?12 A. Well, I -- I don't -- I don't have a copy -- oh. Here I'll
13 use...

14 Q. Well, did you rely on court cases?

15 A. Court cases, statutes, and the Privacy Act. What I relied
16 on primarily is the Privacy Act Notice -- primarily the Privacy
17 Act Notice in the 1040 booklet which clearly says you only have
18 to pay a tax for any tax that you are liable for. So --

19 Q. And we went through --

20 A. -- as far as I'm concerned, this is notice, official notice,
21 that if you can't find a statute that specifically makes you
22 liable -- you don't have to look for five of 'em as the
23 Government contends -- and if you can't find one, the government
24 is notifying you officially you don't have to pay income taxes.

25 Q. And did you rely on the Internal Revenue Code?

1 A. Absolutely.

2 Q. And did you rely on Section 6201 of the Internal Revenue
3 Code?

4 A. Yes. 60- -- yeah, I discussed that at great length in my
5 seminar. 6201, yes.

6 Q. Is -- uh, did you recopy 6201 for The Fed- -- and put it in
7 your book, The Federal Mafia?

8 A. Yes, it's in The Federal Mafia, 6201.

9 Q. Do you have 6201 in front of you?

10 A. Well, 6201 is shown on page 61 of The Federal Mafia.

11 MR. LEVENTHAL: I'd ask that Mr. --

12 BY MR. LEVENTHAL:

13 Q. Mr. Schiff, could you read -- I think -- the question was --

14 MR. LEVENTHAL: Is the Internal Revenue Code in --

15 THE CLERK: No.

16 MR. LEVENTHAL: -- as evidence?

17 THE CLERK: I don't show that it is.

18 MR. LEVENTHAL: Okay. But The Federal Mafia is?

19 THE CLERK: Yes.

20 MR. LEVENTHAL: Okay.

21 MR. IGNALL: What pages in The Mafia?

22 MR. SCHIFF: Could someone give me a copy of my Code,
23 which is over there?

24 MR. LEVENTHAL: Page number is 61.

25 MR. IGNALL: 61?

1 THE CLERK: One moment, Mr. Leventhal. I'll turn the
2 projector back on.

3 MR. SCHIFF: Okay. Yeah, do you wanna put 6201(a)(1)
4 up?

5 MR. LEVENTHAL: One moment, Mr. Schiff. Let me get it
6 up here.

7 THE WITNESS: (A)(1).

8 Will somebody hand me a Code book, please.

9 MR. LEVENTHAL: Judge, may I approach?

10 THE COURT: You may.

11 (Code book placed before Mr. Schiff by
12 Mr. Leventhal.)

13 (Pause in the proceedings.)

14 THE CLERK: I am sorry about this.

15 (Pause in the proceedings due to a problem
16 with the projector lamp.)

17 MR. LEVENTHAL: Is there something I could do over
18 here?

19 THE CLERK: I don't believe there is.

20 (Pause in the proceedings.)

21 THE CLERK: Um, I'm sorry. We may have to proceed
22 without this until I can get someone up here to tell me what I'm
23 supposed to do. And I apologize.

24 MR. SCHIFF: Are we having problems?

25 THE CLERK: Yes, sir, we are having problems,

1 Mr. Schiff.

2 MR. LEVENTHAL: That's okay.

3 BY MR. LEVENTHAL:

4 Q. Mr. Schiff, if you could read Section 6201 of the Internal
5 Revenue Code.

6 A. Yes. Well, first of all, let me --

7 THE COURT: Answer the question.

8 THE WITNESS: Can I read Section 6201? Okay.

9 THE COURT: He just asked you to do that.

10 THE WITNESS: Okay. Can I point out -- all right.

11 THE COURT: Just answer the question.

12 THE WITNESS: Yes. Section --

13 BY MR. LEVENTHAL:

14 Q. What is the heading of Section 6201?

15 A. 6201 is encaptioned [sic] "Assessment authority" --

16 Q. Okay. And --

17 A. -- and it deals with two kinds of taxes. If I could -- if
18 you put up it there, you can see it deals with taxes payable on
19 the basis of a return and taxes payable by stamp because there
20 are two kinds of federal taxes: taxes payable by a return and
21 taxes payable by stamp.

22 When you buy a pack of cigarettes, you'll see a stamp
23 on there. And people who sell cigarettes buy the stamp, put it
24 on the pack. When you buy a bottle of liquor, you'll see a
25 stamp on there. So this section deals with the two kinds of

1 taxes: "Taxes shown on [a] return" and "Unpaid taxes payable by
2 stamp." So it deals with two kinds of taxes.

3 However, you asked me about Section 6201(a)(1); is that
4 correct?

5 Q. I will, yes. Go ahead. Section 6201(a)(1) --

6 A. (a)(1). Okay.

7 Q. -- says what?

8 A. This Internal Revenue Code looks like it's pretty thick.

9 THE COURT: Mr. Schiff --

10 THE WITNESS: I am gonna read it. But I wanna --

11 THE COURT: Mr. Schiff --

12 THE WITNESS: -- tell 'em significance.

13 THE COURT: -- respond to the questions.

14 THE WITNESS: All right.

15 Here's what it says -- it's only three lines -- "The
16 Secretary shall assess all taxes determined by the taxpayer or
17 by the Secretary as to which returns or lists are made under
18 this title."

19 So this particular section says four things which are
20 very important for understanding of income tax.

21 BY MR. LEVENTHAL:

22 Q. Okay. Let's break that down. Go ahead. What is your
23 understanding of the first thing that that one sentence says?

24 A. Okay. Well, in my belief, it condenses the entire Code into
25 three lines. First of all, it says, "The Secretary shall assess

1 all taxes." And that means the Secretary of the Treasury. It
2 doesn't say "the IRS." It says, "the Secretary of the Treasury
3 shall assess all taxes."

4 Now, in my understanding, unless a tax is assessed, you
5 can't owe it. And taxes are assessed when -- when you send in a
6 tax return, the day you send in a tax return there's no
7 assessment.

8 The Secretary then, presumably, takes the taxes that
9 you say you owe and enters it on the assessment roll of the
10 government. But, in my view, if you don't send in a tax return,
11 there can't be an assessment and you'll see -- now, the next
12 phrase is very important, "determined by the taxpayer."
13 "Determined by the taxpayer."

14 Now, when you go to a restaurant and have a meal, they
15 put the taxes on your bill; you don't determine 'em. If you owe
16 property taxes, the city sends you a bill; you don't determine
17 'em. When you drive into a gas station and you pay -- you don't
18 determine 'em. But the law says right here "determined by the
19 taxpayer."

20 So, if I determine I owe \$10,000, what's that the law
21 says I can determine. And if the law -- if I determine I owe no
22 taxes, that's what I've determined. The law allows me to
23 determine the amount of taxes I owe.

24 Now, the next phrase says "or by the Secretary."
25 Presumably if I don't send in a return showing the amount of

1 taxes I owe, presumably he can make the determination for me.
2 Presumably.

3 But then the next phrase is very important, "as to
4 which returns or lists are made under this title." If the
5 Secretary is gonna determine my tax, he has to prepare a return
6 for me showing the amount of tax I owe and he has to sign it
7 pursuant to Section 6020(b). If he doesn't do that, no
8 assessment can be made. But if I file a return and I say I
9 owe -- my income is zero, the law says I can do that and there's
10 no provision in the law that he can make a different
11 determination. And that is shown by the next paragraph.

12 The next paragraph says, "Unpaid taxes payable by
13 stamp."

14 And the next paragraph says, "Whenever any article upon
15 which a tax is required to be paid by means of a stamp is sold
16 or removed for sale ... [it says] the Secretary, [is authorized]
17 upon such information as he can obtain, to estimate the amount
18 of which has" -- "the amount of tax which has been omitted to be
19 paid" by stamp. But there's no provision in the Code that the
20 Secretary is authorized to estimate the amount of taxes I
21 omitted from my return.

22 And the reason that they can do that -- we'll give you
23 an example. Suppose the government comes upon a bootlegger and,
24 according to his records, he ordered a thousand bottles of, uh,
25 half pints but they are not there. So the government could

1 assume he sold it; he didn't pay the tax. So they can estimate
2 the amount of taxes that he omitted from his return and estimate
3 it. But they can't do it when it comes to income tax.

4 Now, what the government has been doing is illegally
5 estimating --

6 MR. NEIMAN: Uh --

7 THE WITNESS: All right.

8 MR. NEIMAN: -- your Honor, we need to stick to his
9 understanding or --

10 THE WITNESS: That's my understanding.

11 MR. NEIMAN: -- his misunderstanding.

12 THE COURT: Sustained.

13 THE WITNESS: You can check the law for yourself and
14 see if you come --

15 THE COURT: Sustained.

16 THE WITNESS: -- to a different understanding. All
17 right.

18 BY MR. LEVENTHAL:

19 Q. There's been some testimony regarding liens and levies.

20 A. Yes.

21 Q. Can you tell us what the difference is between a lien and
22 levy, your understanding of what the difference is?

23 A. Well, a levy is when the IRS -- I -- I should say

24 U.S. Marshals are doing it because an IRS agent -- but

25 theoretically a levy is when they seize property. And a levy is

1 between two people, the person seizing the property and the
2 person whose property is being seized.

3 And, when the IRS does that, they are supposed to give
4 you a notice of seizure. If they don't give you a notice of
5 seizure, there's no levy because the notice says on the date on
6 which the notice of seizure is given is the date that the levy
7 is made. And, if no notice of seizure is given, no levy can be
8 made.

9 Now, a Notice of Levy is something different. A Notice
10 of Levy goes to some third party -- like a bank, an insurance
11 company -- and the IRS sends this Notice of Levy and it wants
12 the insurance company or the bank to send the money to them.
13 The IRS agent doesn't go into the bank and -- and open up the
14 drawer and grab your money. He has to persuade or intimidate
15 that third party into sending the money to the government
16 without a court order. Now --

17 Q. Do you --

18 A. -- if you look into Section 6031, a Notice of Levy only
19 appeals to the accrued wages and salary of a government
20 employee. And the reason it does that is that the government
21 would already have the wages -- the accrued wages and salary of
22 its own employee. So the government created a document called a
23 "Notice of Levy" which by law only applies to the accrued wages
24 and salary of a government employee.

25 Now, the government takes that document and now uses it

1 to attach the wages and bank accounts and insurance proceeds of
2 everybody else and that document is fraudulent and they should
3 be put in --

4 MR. NEIMAN: Uh --

5 THE WITNESS: -- to my view --

6 THE COURT: Mr. Schiff --

7 MR. SCHIFF: This is my view.

8 THE COURT: -- I'm not --

9 MR. SCHIFF: I'm sorry. He asked me the difference.

10 THE COURT: No. No speeches.

11 THE WITNESS: All right.

12 MR. NEIMAN: And, your Honor, the Government would
13 think that his view as to the illegality of this stuff is
14 completely irrelevant.

15 THE WITNESS: This is my opinion.

16 MR. NEIMAN: Even his opinion of that, I think, under
17 Cheek would be irrelevant.

18 MR. CRISTALLI: Your Honor, I disagree with that
19 pursuant to Cheeks [sic]. I think his beliefs and opinions are
20 very relevant for these proceedings.

21 THE COURT: Well, his --

22 THE WITNESS: He said "understanding."

23 THE COURT: -- his legal conclusions are not.

24 MR. BOWERS: And -- and just in joining the -- the
25 objection as to why this would be relevant, the Government has

1 presented evidence that this thing was successfully collected or
2 successfully seized or it was Mr. Irwin's [sic] own -- or
3 Mr. Schiff's own property, or one of his former clients', this
4 levy was put on there. Those were all introduced to suggest
5 that, um, this is the way the law works. And I'm not arguing
6 with that.

7 However, Mr. Schiff's own mental state as to why these
8 actions taken by the Government don't prove the validity of the
9 law is very relevant. And that's what this --

10 THE COURT: Well --

11 MR. BOWERS: -- testimony goes to.

12 THE COURT: -- his conclusion was the actions are
13 fraudulent. He -- he made some legal conclusions. And those
14 are not.

15 THE WITNESS: All right. I should preface every one of
16 my statements that this is my understanding, not necessarily
17 what the law might be. You can read the law yourself and see if
18 you come to a different understanding.

19 BY MR. LEVENTHAL:

20 Q. Do you believe that the IRS has the authority to levy or
21 lien?

22 A. Absolutely not.

23 Q. Why not?

24 A. Well, first, the IRS is not even mentioned in the Internal
25 Revenue Code. Nowhere in the Internal Revenue Code can you find

1 the IRS mentioned.

2 As a matter of fact, if the Government will show me
3 where they are mentioned, I'll plead guilty to all counts. And
4 I want the jury to hold me guilty if they show me a statute --

5 THE COURT: Mr. Schiff.

6 THE WITNESS: All right. That's how I believe it.

7 THE COURT: Mr. Schiff, you will stop making speeches.

8 THE WITNESS: He asked me a question.

9 No, I don't believe they have any authority because I
10 can't --

11 THE COURT: Mr. Schiff, you've answered the question --

12 THE WITNESS: Okay.

13 THE COURT: -- already.

14 BY MR. LEVENTHAL:

15 Q. I'm gonna move onto a different topic now, Mr. Schiff.

16 A. Pardon?

17 Q. I'm gonna move on to a different topic now. We're gonna
18 talk about three things that we heard during the Government's
19 examination: The P.I.L.L. account, the Freedom Foundation, and
20 the Christian Patriot Act.

21 Let's start with the P.I.L.L. account. What does the
22 P.I.L.L. account stand for?

23 A. Well, P.I.L.L. is -- is an offshore account where you can
24 put your money presumably where the IRS can't get at it with
25 their phony Notices of Levy, which they are not authorized to

1 send out.

2 Q. But what does P.I.L.L. stand for?

3 A. P.I.L.L. stand for. I'm not sure. Uh, I'm not sure.

4 P.I.L.L., it's --

5 Q. If you know. If you don't know, that's fine.

6 A. I don't know what it stands for.

7 Q. Okay. Did you set up the P.I.L.L. account?

8 A. Well, I applied for the P.I.L.L. account and I --

9 Q. Okay.

10 A. -- made no bones I had a P.I.L.L. account. I talked about
11 it on my radio show. I sent out in my Schiff Reports
12 information on the P.I.L.L. account. And, when I transferred
13 money to the P.I.L.L. account, I transferred by check. And I
14 know that the government can subpoena your bank records. And so
15 they'd know about it if they ever did.

16 So I made no effort to conceal the fact that I put
17 money there. And it's perfectly legal. They are on the
18 Internet. It's perfectly legal to have an offshore account. I
19 just wanted to put my funds where I believed the IRS couldn't
20 get it without a court order because any bank in the United
21 States will simply turn over money pursuant to a Notice of Levy
22 without a court order. And they've done it to me dozens of
23 times. Well, not dozens of times. Three or four times.

24 So I had to have money someplace where the IRS couldn't
25 put their hands on it.

1 MR. LEVENTHAL: Do we want to take a break or keep
2 going?

3 THE COURT: I'm sorry.

4 MR. LEVENTHAL: Do we want to --

5 THE COURT: No. Keep going.

6 MR. LEVENTHAL: Okay.

7 BY MR. LEVENTHAL:

8 Q. Okay. Let's talk about the Freedom Foundation. What is the
9 Freedom Foundation?

10 A. Well, I set up a Freedom Foundation because people wanted to
11 donate -- because I have a lot of volunteers -- donate to us
12 where you could use the money either to help people with their
13 legal fees in connection with the IRS's attempt to extort money
14 from 'em or I could use it to advertise, uh, buy radio time. So
15 if anybody wanted to donate -- and we didn't make it tax
16 deductible. So, you know, if you donated it to the Freedom
17 Foundation, you didn't get a deduction for it.

18 But I was authorized -- and they knew it -- to use the
19 money for any purpose that I felt would promote a greater
20 understanding of the voluntary nature of the income tax and how
21 the government illegally collected it or to use it to pay
22 expenses of somebody who had a problem. And we spent, I know in
23 one case, 7,500 we gave -- in the Peggy Williams where she
24 won -- she sued the -- the, uh, Boulder Dam Credit Union who
25 turned over 1800 bucks of her money -- she sued the Boulder Dam

1 Credit Union.

2 And the judge in that case -- it was a lower court
3 judge -- ruled in her case that the Boulder Dam Credit Union
4 didn't have to turn over the money. He ruled that a Notice of
5 Levy was not a levy and that the Boulder Dam Credit Union should
6 have honored Peggy Williams's request that before they turned
7 over the money they should have determined whether the agent who
8 sent out the Notice of Levy was authorized to do that. So we
9 won that case. And, uh --

10 Q. Did you personally put money into Freedom Foundation?

11 A. Yes, I -- plus I put my -- plus I would transfer from time
12 to time money from my own personal account to the Freedom
13 Foundation. But I never took any money out for any -- any
14 money. I just used it for those purposes and to pay advertising
15 time. Sometimes I took ads in the paper. I might have used the
16 money for that purpose.

17 Q. But --

18 A. But that's what the purpose of the Freedom Foundation was
19 for.

20 Q. Would you characterize it as a nonprofit organization?

21 A. Well, it was nonprofit, yeah. We didn't take any money out
22 of it for personal use.

23 Q. Okay. We've also heard about the Christian Patriot account.
24 What is that?

25 A. Well, as I said before, the IRS has no authority to seize

1 property, but banks get intimidated and they just turn over
2 money. So that was my attempt -- I just got out of jail. There
3 was not too much money that went there. So I had to put money
4 where I thought the IRS couldn't get their illegal hands on it.
5 So that's why I put it there.

6 Q. When did you start using the Christian Patriot account?

7 A. Well, I -- I think when I had just gotten out of jail in
8 1993. I had to put money someplace where the IRS couldn't get
9 it. So that was one area where I could put it. And there was
10 not too much money. I -- I used to put my Social Security check
11 in there and I sold a few books that people bought. And then I
12 paid my rent out of that account. So it wasn't much activity.
13 I wasn't doing radio shows; I wasn't putting on any seminars. I
14 was still --

15 Q. Is it your --

16 A. -- I was still limited.

17 Q. -- is it your understanding that the Christian Patriot
18 account is a -- is a legal account to have?

19 MR. NEIMAN: Objection as to --

20 THE COURT: Sustained.

21 MR. NEIMAN: -- the conclusion.

22 THE WITNESS: Was it sustained?

23 THE COURT: Sustained.

24 THE WITNESS: Okay.

25

1 BY MR. LEVENTHAL:

2 Q. Did you transfer cash into that account or did you write
3 checks to that account?

4 A. I -- I just wrote checks: usually rent checks, utility
5 checks, refund checks.

6 Q. Okay. You talked a little about offshore bank accounts and
7 I think you went into why you had 'em.

8 A. Pardon?

9 Q. Do you know a gentleman by the name of Bob Eislers [sic]?

10 A. Robert Eisler, Rob Eisler, yeah.

11 Q. Who is Robert Eislers?

12 A. Bob Eisler, well --

13 Q. Eisler.

14 A. -- he was a fellow who -- just before I went to jail in
15 1985, I had some very valuable contracts because I was
16 administrator of insurance for the State Medical Society. They
17 were very lucrative contracts.

18 But, if I went to jail without disposing of these
19 contracts, the State Medical Society would just appoint a
20 different administrator. So I made a contract with Robert
21 Eisler, Bob -- Bob Eisler. I sold him my insurance agency and I
22 sold him these contracts with a contract that he could take a
23 portion of renewals that he was getting and send that money to
24 my ex-wife --

25 MR. NEIMAN: Your Honor, I'm just gonna object to the

1 relevance. This --

2 THE WITNESS: The relevance.

3 MR. NEIMAN: -- is way beyond what's charged in this

4 Indictment, I guess.

5 THE WITNESS: Uh, I gotta say who he was. He bought my

6 agency.

7 THE COURT: You've already -- you've already mentioned

8 that. But the relevance --

9 THE WITNESS: The rel- --

10 THE COURT: -- has been questioned.

11 THE WITNESS: And, anyway, he was --

12 THE COURT: No.

13 THE WITNESS: -- supposed --

14 THE COURT: No.

15 THE WITNESS: Okay. He was supposed to send the

16 money --

17 THE COURT: Sustained.

18 MR. SCHIFF: Okay.

19 Now -- well, the IRS --

20 THE COURT: Sustained.

21 THE WITNESS: -- sent him a Notice of Levy.

22 THE COURT: Sustained.

23 THE WITNESS: The IRS sent him --

24 THE COURT: I said sustained.

25 THE WITNESS: -- a Notice of Levy.

1 Pardon me?

2 THE COURT: Sustained. The objection is sustained.

3 It's not relevant.

4 THE WITNESS: Well, it's relevant as to why had I my
5 money in the Christian Patriot Association --

6 THE COURT: You already --

7 THE WITNESS: -- and why I had --

8 THE COURT: -- said why.

9 MR. SCHIFF: -- an offshore bank.

10 THE COURT: You already said why.

11 BY MR. LEVENTHAL:

12 Q. Do you know who -- you know who Simon & Schuster is?

13 A. Pardon me?

14 Q. Do you know who Simon & Schuster is?

15 A. Well, Simon & Schuster was a -- is a major publisher and
16 they came to me and wanted to know if they could distribute my
17 book How Anybody Could Stop Paying Income Taxes, which was very
18 popular in '82, and was listed in the newspapers as a best
19 seller.

20 Q. Did --

21 A. And my nonfiction book, which I was self-published and I was
22 distributing myself, was outselling any of their nonfiction
23 books on the list. So they came to me and they said, Would you
24 like us to distribute your book, How Anybody Could Stop Paying
25 Income Taxes?

1 Q. Did the IRS ever send Simon & Schuster a letter?

2 A. Well -- well -- well, yeah. Simon & Schuster owed me a lot
3 of money. And eventually, uh, the IRS sent Simon & Schuster a
4 Notice of Levy asking Simon & Schuster to turn over to them all
5 the money that Simon & Schuster at that point owed me, which was
6 in excess of a hundred thousand dollars.

7 Q. Did Simon & Schuster comply with that letter?

8 A. No. Simon & Schuster told the IRS that they wouldn't honor
9 their Notice of Levy unless they had a court order. And then
10 the IR- -- the IRS, as shown in my book, acknowledged that fact
11 with a letter back to Simon & Schuster saying that -- here's
12 what they said. They got a letter from James Holmberg saying,
13 "My understanding is that the funds are being held by Simon &
14 Schuster in this regard and will be held until the question of
15 payment of these funds is decided by the courts." So Simon &
16 Schuster told the IRS we're not gonna honor your Notice of Levy;
17 we're gonna wait for a court order.

18 Q. Did they eventually honor that letter?

19 A. Well, what happened is that Simon & Schuster, as shown on --
20 Exhibit 723 -- it's shown on pages 135 of my book -- Simon &
21 Schuster wrote to me and said we're not gonna honor the Notice
22 of Levy. We're gonna -- we have instructed our accounting
23 department to establish a separate interest-bearing account for
24 you and we're gonna hold the money until the dis- -- until the
25 court decides what we have to do with it.

1 Q. Did the court ever decide?

2 A. Well, yeah, but not -- not really.

3 What I did is, as shown in my book, I terminated --

4 MR. NEIMAN: Objection. Nonresponsive to --

5 THE WITNESS: Well, I can't --

6 MR. NEIMAN: -- the question.

7 MR. SCHIFF: -- that's the trouble. I have to write

8 out the questions and when we miss.

9 THE COURT: Sustained.

10 THE WITNESS: It's not exactly right.

11 THE COURT: Sustained.

12 THE WITNESS: If I were asking myself questions --

13 MR. LEVENTHAL: That's okay.

14 THE WITNESS: -- it would be clearer.

15 THE COURT: You --

16 THE WITNESS: I have to --

17 THE COURT: Those are --

18 THE WITNESS: -- supplement.

19 THE COURT: -- your questions. So answer your own

20 questions.

21 THE WITNESS: But --

22 THE COURT: You can't to a narrative.

23 THE WITNESS: I'll answer in the narrative. It's

24 simpler.

25 THE COURT: No. I told you not to answer --

1 THE WITNESS: Then I won't answer --

2 THE COURT: -- in the narrative.

3 THE WITNESS: -- in the nar- -- but I can't write out

4 every simple question. If you'll --

5 BY MR. LEVENTHAL:

6 Q. Mr. --

7 A. -- I gave you the -- I gave you the exhibits. Why don't you

8 go from exhibit to exhibit?

9 Q. Mr. Schiff, let's --

10 A. Go to Exhibit --

11 Q. -- get back to Simon & Schuster. Okay?

12 A. What did Simon & Schuster write to me? What is shown in

13 Exhibit...

14 Q. Did Simon & Schuster --

15 A. I gave you all the exhibits.

16 THE COURT: Listen to the question.

17 THE WITNESS: Oh, let --

18 THE COURT: Mr. Schiff --

19 THE WITNESS: Yes.

20 THE COURT: -- listen to the question.

21 THE WITNESS: Okay.

22 BY MR. LEVENTHAL:

23 Q. Did Simon & Schuster eventually comply with the IRS Notice?

24 A. You skipped -- when I terminated my contract, I --

25 MR. SCHIFF: See, this is why it's very difficult.

1 THE COURT: The question was --

2 THE WITNESS: No, wait a minute. I gave you letters to
3 ask me about which is shown in my book.

4 THE COURT: Mr. Schiff --

5 THE WITNESS: He has to ask me these questions.

6 THE COURT: Mr. Schiff, you do not need to refer to
7 your book to answer the question that he just asked.

8 THE WITNESS: Simon & Schuster violated their agreement
9 not to turn over the money when I terminated my distribution
10 with Simon & Schuster because they weren't giving me any money.
11 And right after I terminated my agreement with Simon & Schuster,
12 who had assured me that they were not gonna turn over the money
13 except pursuant to a court order, shortly thereafter they
14 started sending the government checks. The first check for was
15 98,000.

16 BY MR. LEVENTHAL:

17 Q. Okay. So they eventually --

18 A. So they --

19 Q. -- complied?

20 A. -- they eventually complied with the Notice of Levy, which
21 they told me they weren't gonna comply with, which they told the
22 IRS they weren't gonna comply with, and they knew they didn't
23 have to comply with. I was busy writing my book on the -- on
24 the Social Security and I thought they were gonna hold the money
25 until such time as I can get to sue them and we could establish

1 this in a court of law. So, without doing what they told me
2 they were gonna do, they just started turning over the money.
3 And I eventually sued Simon & Schuster.

4 Q. What was the outcome of that lawsuit?

5 A. As shown -- well --

6 THE COURT: Answer the question.

7 THE WITNESS: -- as shown on page --

8 THE COURT: Mr. Schiff --

9 THE WITNESS: -- eventually --

10 THE COURT: -- you can answer the question without --

11 THE WITNESS: -- the question was --

12 THE COURT: -- referring to your book.

13 THE WITNESS: Here's what happened.

14 THE COURT: Mr. Schiff --

15 THE WITNESS: I'm gonna answer the question.

16 THE COURT: You can answer the question without
17 referring to your book.

18 THE WITNESS: Okay, okay. I'm sorry. Well, it's shown
19 in the book.

20 What happened was when I sued Simon & Schuster for
21 breach of contract, a clear breach of contract, uh, Judge, uh --
22 Judge Eginton in Connecticut basically ruled that they had to
23 comply with the Notice of Levy. So I had no suit against
24 Simon & Schuster even though the records show they didn't have
25 to comply with the Notice of Levy.

1 So I appealed to the Second Circuit. And in an opinion
2 written by Judge, uh -- I forgot his name already -- which is
3 the judge -- oh, this was a summary judgment. Again, I didn't
4 have -- couldn't get into court again; couldn't put on witnesses
5 because it was a summary judgment which means no hearing.

6 And on the appeal the Second Circuit basically said
7 that they had to honor the Notice of Levy even though the record
8 showed that the IRS had acknowledged that they didn't have to,
9 uh, uh, comply with the Notice of Levy. So they breached their
10 contract. But the court in that case protected the IRS and
11 protected -- that's why I had my -- that's why I had to put my
12 money offshore and in the Christian Patriot Association because
13 here's an appellate decision that was rendered totally contrary
14 to what the facts were in the case.

15 Now, the only thing I could have done is appealed to
16 the Supreme Court and the Supreme Court wouldn't have heard the
17 case. So this is how the government robs you under color of law
18 and you can't do anything about it, except maybe leave the
19 country. So you have your money leave the country.

20 BY MR. LEVENTHAL:

21 Q. Let's talk about pocket commissions. What's your
22 understanding of a pocket commission?

23 A. Well, the pocket commission, which is shown in -- as an
24 exhibit -- a pocket commission -- the IRS issues pocket
25 commissions to --

1 MR. NEIMAN: Your Honor, I think the pocket commissions
2 are irrelevant.

3 THE WITNESS: No. The pocket commissions are --

4 THE COURT: Wait a minute. Wait a minute.

5 THE WITNESS: -- the pocket commissions are relevant as
6 to why I have money offshore. Directly relevant.

7 There are two kinds of -- this is directly relevant.

8 And it's an exhibit --

9 MR. NEIMAN: I --

10 THE WITNESS: Why don't -- why don't you want the jury
11 to hear about pocket commissions?

12 MR. NEIMAN: Mr. Schiff, I'd object and ask that
13 obviously be stricken.

14 Uh, if we wanna maybe come back to it when it's time
15 for the morning break, maybe we could address something outside
16 the presence of the jury as to --

17 THE COURT: The objection is sustained. The remarks of
18 Mr. Schiff are stricken and to be disregarded by --

19 THE WITNESS: Your Honor, can I --

20 THE COURT: -- the jury.

21 THE WITNESS: -- say something?

22 THE COURT: No, you can't.

23 THE WITNESS: These are doc- --

24 THE COURT: Mr. Schiff.

25 THE WITNESS: All right.

1 BY MR. LEVENTHAL:

2 Q. Mr. Schiff, how many students approximately do you have?

3 A. Students?

4 Q. Students.

5 A. Well, I sold over 500,000 books. I can't tell you how many.

6 I hear from people occasionally.

7 A man called me. He was on the submarine, Ben
8 Franklin, when I wrote How Anybody Could Stop Paying Income
9 Taxes. And that one book circulated on that submarine to
10 about -- I don't know -- everybody on that submarine. I don't
11 know.

12 One man called me -- he was on an oil rig.

13 THE COURT: Mr. Schiff --

14 THE WITNESS: So I don't know. It's just -- I got
15 500,000 books out there.

16 THE COURT: Go ahead.

17 THE WITNESS: Well, I don't know how many people are
18 influenced by that book. I know that book has influenced other
19 books.

20 THE COURT: Mr. Schiff --

21 THE WITNESS: I don't know.

22 THE COURT: -- Mr. Schiff, just answer the question.

23 THE WITNESS: All right.

24 BY MR. LEVENTHAL:

25 Q. What types of people follow your teachings, Mr. Schiff?

1 A. Pardon?

2 Q. What types of people in terms of doctors, lawyers, or --

3 A. Yes, kinds --

4 Q. -- truck drivers?

5 A. -- accountants, some are lawyers. Mostly working people
6 because the income tax directly affects their standard of
7 living.

8 The average working person, because he pays income tax,
9 he can't take a vacation; he can't buy a new car. A wealthy
10 person can still pay income taxes and -- and live somewhat
11 comfortably. But the income tax impact on the average worker
12 prevents them from buying a lot of things. It forces -- in many
13 cases I found that a wife works just to pay the income tax under
14 two people. So because of that, you have divorces; you
15 bankruptcies. The income tax is a horrible tax. It imposes all
16 kinds of -- of bookkeeping, uh, uh, unnecessary bookkeeping.

17 I've suggested to people that -- picture Thomas Edison
18 in his laboratory trying to invent electric light. Supposed he
19 had to keep --

20 MR. NEIMAN: Your Honor, I'm just gonna --

21 THE WITNESS: -- his books and records --

22 MR. NEIMAN: -- object as nonresponsive to the --

23 THE COURT: Sustained.

24 THE WITNESS: Well --

25 THE COURT: Sustained.

1 THE WITNESS: -- he never -- all right.

2 BY MR. LEVENTHAL:

3 Q. Have you ever spoken to any tax attorneys or accountants
4 regarding your views?

5 A. Yes.

6 Q. Have any of 'em said that you are correct in your views?

7 A. Yes, but that they can't adopt these views.

8 One accountant told me that after he read -- he was
9 another -- he was an enrolled agent -- after he read my book he
10 himself decided he wasn't gonna pay income taxes and he felt it
11 would be hypocritical of him. So -- so he went to all his
12 clients and said, look, I believe you have to pay income
13 taxes --

14 MR. NEIMAN: Objection. Hearsay and relevance.

15 THE COURT: Sustained.

16 THE WITNESS: All right.

17 BY MR. LEVENTHAL:

18 Q. You had people working for you; is that correct?

19 A. Pardon me?

20 Q. You had people working for you?

21 A. Yes.

22 Q. You had people volunteering for you?

23 A. Yes.

24 Q. Did you have any IRS agents actually working or volunteering
25 for you?

1 A. Well, I -- I employed a former IRS agent, Jerry Oliver,
2 whose job at the IRS was preparing substitute for returns.
3 We've heard that. See, he worked for me for about a year or so.
4 And he told me that although he prepared substitute returns he
5 knew he no authority to do so. Now, I knew that anyway.

6 Q. And we talked a little bit about the books that you sell.

7 A. Pardon me?

8 Q. We talked a little bit about the books that you sell, one
9 being The Federal Mafia. Do you put any disclaimers in this
10 book?

11 A. Right in the front, yes.

12 Q. And what essentially does your disclaimer say?

13 A. Well, I want people, A, to check out the information in that
14 book and decide for themselves what to do.

15 As a writer of a book and believing the income tax was
16 undermining and destroy America's industrial base, I believed
17 that it was up to me to explain the nature of the income tax so
18 the public would understand it. But there was always a danger.
19 Because if you look at the back of the book, I say, look,
20 organized crime in America starts with the federal government.

21 But I have an obligation to write the truth. It might
22 be immodest of my to say so but the income tax is really
23 complicated and I believe I'm probably the only one in the
24 country that really understood it. So I believed it was
25 incumbent upon me to put the facts where the public could

1 understand what was goin' on. But I had to warn the public
2 that, look, even though this is the law and this is the truth,
3 you're dealing with the federal Mafia. They don't care what the
4 truth is. So there's danger here. But, despite that, people
5 said I'm not gonna pay the extortion.

6 When I got out of jail the second time, my son said to
7 me, Dad, look, why don't you go back to payin' taxes? They are
8 gonna harass you. And -- and I said to my son, Peter, Look,
9 Peter, I'm not gonna pay a tax that I know the law doesn't
10 require me to pay. I'm not gonna submit to the extortion. I
11 can't do it.

12 Q. Do you talk about your past and who you are, Mr. Schiff, in
13 The Federal Mafia, specifically how you went to jail?

14 A. Well, it's -- it's all that I went to jail. The last third
15 of my book I wrote while I was in jail. I write about my
16 probation hearing. I write about my when -- they violated me on
17 the, um -- my, um, um -- I was on, uh, parole.

18 I served my parole. Then I went back to jail. Then I
19 was out. Then they violated me illegally about two weeks before
20 my probation was gonna be final. They stripped me of all my
21 street time. That means they take away all the -- and they sent
22 me back to jail for two more years. So I basically served four
23 years in jail and four years on parole and probation, which is
24 like being in jail because you got to report to your probation
25 officer; you can't leave town. You know, you gotta -- every

1 month you gotta to show what kind of work you were doing. I
2 couldn't put on seminars.

3 Q. Is all that in your book?

4 A. Yeah.

5 Q. So you were open about it?

6 A. Pardon me?

7 Q. You were open about who you are in your past?

8 A. Well, on my radio show I talk about goin' to jail because --
9 the reason I talk about it is I wanted people to understand that
10 you can go to jail in this country for not committing a crime.

11 As a matter of fact, the last time I went to jail --

12 MR. NEIMAN: Objection --

13 THE WITNESS: -- my conviction --

14 MR. NEIMAN: -- your Honor.

15 THE COURT: Sustained.

16 THE WITNESS: All right.

17 BY MR. LEVENTHAL:

18 Q. Do you conduct seminars, Mr. Schiff?

19 A. Pardon me?

20 Q. Conduct seminars.

21 A. Yes, I do.

22 Q. Where do you conduct seminars?

23 A. I guess I've conducted the seminars in every major city in
24 the United States.

25 Q. Approximately how many people attend each seminar?

1 A. Well, the biggest seminar I ever had was in Portland,
2 Oregon. I had about 600 people. But I only have about a
3 hundred, hundred and fifty; sometimes less. It would depend how
4 much local publicity I would get. I would go to an area and if
5 I got on a good television show or good radio show I'd get more.
6 And, if I couldn't generate the publicity I'd get less people.

7 Q. And you charge for these seminars?

8 A. Pardon me?

9 Q. Do you charge for these seminars?

10 A. Yes, I do.

11 Q. Have you ever spoken at any of the law schools?

12 A. Yes, I have.

13 Q. Which one?

14 A. Well, I've spoken at the Yale law school, not Yale. But I
15 want to be clear. The law school didn't invite me, a student
16 organization when I lived in new haven, of course. So they were
17 curious. So the student organization would invite me and I
18 spoke there, um, at a university. I spoke at the law school
19 in -- in Kansas City.

20 Q. Have you ever --

21 A. But in Toledo, the university paid me. The university paid
22 me, paid my expenses, and I put on three lectures at the
23 University of Toledo, two in the main auditorium and one at the
24 law school.

25 Q. Do you invite lawyers and accountants and IRS agents to your

1 seminars?

2 A. Absolutely. This is so I can get 'em there. I don't want
3 'em to have to pay because I want people to criticize me and --
4 if I'm wrong. So I let anybody who goes comes to my seminar to
5 bring along free of charge any accountant or lawyer who they
6 look to for tax advice. And I don't charge 'em and I try to
7 get 'em to sit up front so they can -- I tell them you can
8 interrupt me at any time if I say anything that you think is
9 illegal.

10 Now, of course, I say nothing in my seminar is illegal.
11 That's why the government --

12 MR. NEIMAN: Objection.

13 THE WITNESS: All right.

14 THE COURT: Sustained.

15 BY MR. LEVENTHAL:

16 Q. We also heard some of your radio show.

17 A. Pardon?

18 Q. The radio show that you do --

19 A. Yes.

20 Q. -- we've heard some snippets of it. How did you get started
21 in that radio show?

22 A. Whew, it started -- you know, just about -- I don't know --
23 shortly after I came here. It was just to generate publicity
24 and people know I was in town.

25 I -- I used to do two radio shows a week: one on KXNT

1 before it became -- you know, I used to do it on Sunday night
2 for two hours and, uh -- that was a 50,000-watt station that
3 went to California, and KLAB. So I was on sometimes four to
4 five hours a week. But I think I had the program on KLAB for
5 about five to six years. Then I was on shortwave four times a
6 week for about four years.

7 Q. Do you consider your radio show a serious radio show or are
8 you having fun on it?

9 A. Well, it has to be entertaining. Otherwise people are not
10 gonna listen. So we have fun on it. I -- I have fun with a lot
11 of things I do. That's why -- when you put on a seminar for two
12 days, you have to entertain as well as inform. So I do a lot of
13 magic tricks. I'm a magician.

14 Q. Do you sell your products on your radio show?

15 A. Pardon?

16 Q. Do you sell your products on your radio show?

17 A. Well, naturally. I gotta sell products to pay for the time.
18 Everybody sells. That's the whole purpose -- you gotta sell
19 products. But sometimes I will even forget to put on a
20 commercial I get so wrapped up -- especially in economics
21 because I'm really an economist. Pretty good one.

22 And I -- I would make a lot of economic commentary and
23 then people would call me and say why don't you stick to taxes.
24 And I would say, look, it's important that you understand what's
25 goin' on with inflation and with cost of living, with what's

1 happening to gold and why there's a big gold loss and what does
2 that mean. So I would spend a lot times talking about
3 economics.

4 Q. And we've heard about the offer, the \$5,000 show me the law.

5 A. Yes.

6 Q. Has anyone ever taken you up on it?

7 A. I think one guy to get publicity did. You know, he sued me.
8 You know, he was a paralegal; it didn't cost him anything. And
9 I won the lawsuit. But that's all.

10 Now, before when I made the offer a hundred thousand, I
11 was sued by three lawyers. I won every -- because it didn't
12 cost 'em anything. So I won each lawsuit. So that's why I
13 reduced it to 5,000, made it realistic, and that would be
14 preventing lawyers from suing me.

15 Q. Have you ever advertised in the Review Journal on November
16 6th of 1997, a letter?

17 A. Yes, I took --

18 MR. LEVENTHAL: Judge --

19 THE WITNESS: -- a half-page ad in the Review Journal.

20 THE CLERK: That's Exhibit 2016.

21 (Defendant Schiff's Exhibit No. 2016, marked
22 for identification.)

23 (Document shown to Government counsel).

24 MR. LEVENTHAL: Judge, may I approach?

25 THE COURT: You may.

1 (Document handed to Mr. Schiff.)

2 BY MR. LEVENTHAL:

3 Q. Mr. Schiff, is that the letter that you put in to the Review
4 Journal on November 6th, 1997?

5 A. Yes.

6 MR. LEVENTHAL: I move -- what exhibit is that?

7 THE CLERK: 2116.

8 MR. LEVENTHAL: -- 2116, Defense Exhibit 2116, into
9 evidence.

10 MR. NEIMAN: You know, the United States would object
11 to this. I assume you haven't seen a copy of the letter, your
12 Honor?

13 THE COURT: I haven't.

14 (Document handed to the Court.)

15 THE COURT: The basis of the objection?

16 MR. NEIMAN: One, relevance. Mr. Schiff was a long way
17 down his path to refusing to pay taxes when this was published.
18 And, therefore, its relevance, if any --

19 THE WITNESS: Your Honor, if I can --

20 MR. NEIMAN: -- is minimal.

21 THE WITNESS: -- if I can state this shows my belief in
22 my convictions; it shows that I wasn't willful. And it's
23 introduced here for the purpose of willfulness. I'm open with
24 what I do and it shows I believe what I say. And none of these
25 Congressman took me up on my offer.

1 MR. BOWERS: Judge, if I may add because this affects
2 our clients as well generally, it appears that the Government's
3 position is this document comes after Irwin begins whatever
4 behavior it is that constitutes a crime. But that's not a
5 static decision, that can -- whatever it is that Irwin's does
6 continues over time. For example, the conspiracy's charged over
7 a number of years. He can rely on a document and continue doing
8 an action based on that reliance.

9 So I -- I disagree with the Government that whatever he
10 admits has to be before some static point in time. It's an
11 ongoing crime as alleged by the Government.

12 THE WITNESS: Also, your Honor --

13 MR. CRISTALLI: So join.

14 THE WITNESS: -- the jury can decide what weight to
15 give to the document. I mean, the jury should see it and then
16 attribute whatever weight they want -- they want to give to the
17 document.

18 I'll extend to the offer -- I'll extend the offer to
19 the Government at this time.

20 THE COURT: What? What are you referring to?

21 MR. SCHIFF: I'm sorry. What?

22 THE COURT: What did you just say?

23 MR. SCHIFF: I said I'll extend the offer to the
24 Government.

25 THE COURT: What offer?

1 MR. SCHIFF: That's in the document.

2 THE COURT: Oh. This is --

3 THE WITNESS: This was published in the newspaper right
4 here in town.

5 MR. NEIMAN: If Mr. Schiff wants to testify as to what
6 he did, that's fine.

7 THE COURT: It's not coming in. It has -- it has no
8 probative value at all. His -- it's really just prior
9 consistent statements, that's --

10 THE WITNESS: Can I make one observation?

11 THE COURT: -- all it's admitted for and it's
12 inadmissible.

13 THE WITNESS: All right. But you notice it was paid
14 for by the Freedom Foundation and the Schiff for Sheriff
15 Committee.

16 MR. LEVENTHAL: My understanding, just so I can be
17 clear, is I can ask him questions. It's just not coming in.

18 THE COURT: You can ask him questions on it; it's not
19 coming in.

20 MR. LEVENTHAL: All right.

21 BY MR. LEVENTHAL:

22 Q. Mr. Schiff, you put a letter into the Las Vegas Review
23 Journal in 1997; is that correct?

24 A. Yes.

25 Q. Okay. Who was that letter -- who was that letter addressed

1 to?

2 A. The letter was addressed to Senator Harry Reed; Richard
3 Bryan, John Ensign, and John Gibbons who then were our two
4 Congressman and two Senators.

5 Q. And did you -- what was the substance of your letter, your
6 public notice letter, to them? Without reading it.

7 A. Yeah. Well, I offered to pay \$50,000 to any charity of
8 their choice if they can cite any law which required Americans,
9 uh -- that made Americans liable for income taxes or requiring
10 them pay the tax. And I said I'd just donate 50,000 to your
11 favorite charity. And that was a half-page ad, um, in the, um,
12 Review Journal. And then we made sure they got it, so we faxed
13 the article to their offices so they'd know that they got it.

14 Q. Did they ever take you up on this?

15 A. No. But there was some interesting results as a result of
16 this. People were writing to their Congressmen and to
17 Senator -- uh, which generated the other letters.

18 But, also, shortly thereafter this ad came out, uh, uh,
19 John Ensign had a public meeting about two weeks after this
20 public meeting [sic]. And there was about 300 people there and
21 a few of the people at the meeting asked him about the ad and,
22 uh, whether or not he could find such a law. And, basically, he
23 said at the meeting, as confirmed in his letter, that he
24 could -- he could not find a law that specifically required
25 people to pay income taxes. Though he did say, you know, as far

1 as I know, the courts have held that you have to pay it. But he
2 himself couldn't come up with the statute.

3 At the time, John Ensign was in the House Ways and
4 Means Committee. That is the committee that writes tax
5 legislation. So, even though he's a veterinarian, he obviously,
6 uh, would have said -- confirmed with the chief counsel -- is
7 there some -- with the chief counsel and he couldn't come up
8 with the -- he eventually -- I don't know how. But he got on my
9 radio show and we confronted him with the same proposition. And
10 he just said I can't find a law that says you gotta pay income
11 taxes.

12 Q. Did you --

13 A. Well, if he can't find it, I can't find it either.

14 Q. Did John Ensign ever write you -- or did you ever get a
15 letter from John Ensign in relation to that?

16 A. Well, I never -- I didn't get a letter specifically.
17 Somebody -- somebody in -- in Vegas, two people wrote to him
18 and -- and that was the letter he responded to somebody. It
19 wasn't to me. But he did come on my radio show and basically he
20 said the same thing.

21 I mean, the person -- I -- I try to keep people --

22 THE COURT: No question pending.

23 THE WITNESS: I'm sorry.

24 BY MR. LEVENTHAL:

25 Q. I'm putting up Defense exhibit which has already been

1 admitted as 2115.

2 (Document displayed in open court.)

3 BY MR. LEVENTHAL:

4 Q. This is a letter from -- who is that -- whose name is at the
5 bottom there? Can you see that?

6 A. Well, the statement is above that.

7 Q. I know. But whose -- the letter, who is this from?

8 A. Well, John Ensign then was a Congressman; now he's our
9 Senator. Here's what he said --

10 Q. Can you read what's been underlined there?

11 A. Here's what he said. He said, "Let me start by saying I
12 cannot point to a specific place in the law where it says you
13 must pay income taxes." That's what he said.

14 And certainly I relied on his inability to find such a
15 section. I mean, if he can't find it and he's on the House Ways
16 and Means Committee, how could anybody expect me to find it?

17 Q. Mr. Schiff, Count 1 accuses you, Ms. Neun, and Mr. Cohen of
18 attempting by various means "to defraud the United States for
19 the purpose of impeding, impairing, and obstructing and
20 defeating, ... the lawful government functions of Internal
21 Revenue Service ... in ascertaining, computing, assessing, and
22 collecting taxes."

23 In your view, have you sought or attempted to do any of
24 these things?

25 A. No. Well, I couldn't do any of those things even if I

1 wanted to. Since the IRS is not even mentioned in the Internal
2 Revenue Code with respect to assessing/collecting taxes, how
3 could I impede the IRS from doing anything that no law
4 authorizes them to do? There is absolutely no mention --

5 MR. NEIMAN: Objection, your Honor, to his conclusory.

6 THE WITNESS: Well, when you --

7 THE COURT: Sustained.

8 THE WITNESS: -- cross-examine me you could show me.

9 THE COURT: Sustained. It is a misstatement of the
10 law.

11 THE WITNESS: Well, they can --

12 THE COURT: Sustained.

13 THE WITNESS: -- they can confront me with that
14 statement.

15 THE COURT: Well --

16 THE WITNESS: If it's perjurious, they can --

17 THE COURT: You --

18 THE WITNESS: I believe --

19 THE COURT: Mr. Schiff --

20 THE WITNESS: -- I have had interfered --

21 THE COURT: -- the objection has been sustained.

22 THE WITNESS: Did you just say something about a
23 conspiracy? Do we conspire?

24 MR. LEVENTHAL: No.

25 THE WITNESS: The three of us have conspired to tell

1 the truth with respect to the income tax. That's what our
2 conspiracy could be all about, to tell the truth and get the
3 truth out to the American public.

4 MR. LEVENTHAL: Judge, may we have a sidebar real
5 quick?

6 THE COURT: We'll take our mid-morning break, have our
7 sidebar while we're taking the break.

8 The admonition continues.

9 (Jury leaves the courtroom at 10:34 a.m.)

10 THE COURT: Sidebar.

11 (Sidebar conference was held as follows:)

12 MR. LEVENTHAL: The next couple questions that
13 Mr. Schiff asked me to ask go into the counts, each specific
14 count, and then ask him questions. And they do ask for legal
15 conclusions. And I just want to know where you wanted -- if you
16 wanted me to go into this stuff or not.

17 THE COURT: What are the questions?

18 MR. LEVENTHAL: Well, it's -- it goes into -- same as
19 the first one. Count 1 accuses you; how do you respond.
20 Counts 2 through 4 as well as 5 and 6 accuse you of aiding and
21 abetting; how do you respond. Count 7 and Count 17 accuses you
22 of attempting to evade payments; how do you regard such an
23 accusation? Counts 18 through 23 charge you with filing false
24 income taxes; how do you regard these charges.

25 THE COURT: He's free to deny it. But if he -- if he

1 tries to put legal conclusions in, like the IRS has no authority
2 to collect taxes, then, you know, an objection's gonna be made
3 and I'll sustain the objection because --

4 MR. SCHIFF: I won't say it.

5 THE COURT: -- it's contrary to the law.

6 MR. SCHIFF: Can I --

7 MR. CRISTALLI: Your Honor, on a previous issue that we
8 had discussed, specifically with regard to the books that
9 Mr. Schiff had, um, written, um, I think the Court's ruling was
10 that we could ask, uh, the witnesses about them but we were not
11 allowed to admit them into evidence.

12 THE COURT: They won't be admitted. But you can ask
13 questions --

14 MR. CRISTALLI: And I just --

15 THE COURT: -- concerning the reliance on part of them.

16 MR. CRISTALLI: And, just so we're clear, my position
17 would be that I -- I request that they be allowed to be put in
18 evidence for the purposes of reliance. On behalf of my client,
19 certainly that's the material she relied on in supporting her
20 positions. I want to specifically cite to the Powell decision.
21 Um, it is United States v. Powell, 936 F.2d 1056 (9th Cir.),
22 wherein, um, it appears the Court reversed the convictions of
23 Roy and Dixie Lee Powell and remanded it for a new trial.
24 "Upon retrial, the district court showed [sic]" -- "should allow
25 proffered" -- "the district court should allow proffered

1 evidence of ... statutes, case law and legal materials the
2 Powells relied [on] in forming their intent to fail to file tax
3 returns."

4 But then it further goes on -- and I have it
5 highlighted here somewhere. Let me just find it real quick --
6 wherein it asserts that, um, "The Powells assert that the
7 district court erred in prohibiting them from introducing into
8 evidence 18 U.S.C. § 6020(b). [Um] Thus, they argue, the
9 district court undermined their defense because the jury could
10 not evaluate the sincerity of their belief [and] that this
11 statute relied [sic]" -- "relieved them of their duty to file
12 income tax[]." "

13 Um, you know, based on that we would just request that
14 the Court consider our, um, renewed request to allow that
15 evidence, uh -- or that evidence into -- uh, to be admitted.

16 THE COURT: Okay. I'll take a look at the case.

17 MR. BOWERS: I'll join in that.

18 THE COURT: What was the cite again, 936 F.2d 956
19 [sic]?

20 MR. CRISTALLI: 236 F.2d 1056 (9th Cir.).

21 MR. SCHIFF: Well, if I can say -- if I can add my two
22 cents, um, again going to the issue of willfulness, if anybody
23 introduces a law that I relied on, even if they misunderstand
24 that law, it's their understanding of the law that's at issue,
25 not what the law is and not --

1 THE COURT: Well, your books go far beyond just
2 introducing the law or statutes. They -- they recite your legal
3 conclusions and erroneous legal conclusions.

4 MR. SCHIFF: Yeah. But, your Honor, people could draw
5 different conclusions. They can take the law. But it shows my
6 belief in the law even if my conclusions are wrong.

7 THE COURT: Yours is simply buttressing.

8 MR. SCHIFF: So, your Honor, you never saw a legal book
9 that devotes a whole chapter to the Brushaber decision or the
10 Pollack decision.

11 THE COURT: Mr. Schiff --

12 MR. SCHIFF: All right.

13 THE COURT: -- it's pretty clear to me you don't know
14 how to read a court case.

15 MR. SCHIFF: Okay.

16 MR. IGNALL: May I add one thing, your Honor?

17 I think we raised this before about Mr. Schiff's belief
18 that the IRS doesn't have the authority to do something. I
19 think the objection there is that Mr. Schiff's misunderstanding
20 about what income is or how it's defined may be one thing that
21 goes to good faith. But I think the Cheek decision is clear
22 that his studied conclusion about the validity of the tax
23 statute is irrelevant to the issue of willfullness and need not
24 be heard by the jury; if they are, an instruction to disregard
25 them would be proper. For this purpose, it makes no difference

1 whether the claims of invalidity are frivolous or have
2 substance.

3 MR. SCHIFF: I --

4 MR. IGNALL: So any testimony Mr. Schiff has given
5 about pocket commissions or the authority of the IRS to levy or
6 do anything like that I think goes to that studied conclusion
7 and the validity of the tax law, not some misunderstanding about
8 whether it applies to him or not and therefore is inadmissible
9 under Cheek.

10 MR. SCHIFF: Well, why don't you confront me when I'm
11 on the witness stand with the Code and show me where the IRS is
12 authorized to do what I say they are not authorized to do? Why
13 don't you confront me with the law?

14 THE COURT: No.

15 MR. SCHIFF: But, secondly -- secondly, I am not saying
16 that any law is invalid. I explained why I believe that under
17 Section 6201 I have a perfect right under the law to
18 determine -- Section 6201 says, "The Secretary shall assess all
19 taxes determined by the Secretary" -- I'm sorry -- "determined
20 by the taxpayer." So I believe that under the law I can make my
21 own determination. I also said when I was on the stand there
22 is --

23 THE COURT: Listen.

24 MR. SCHIFF: -- no provision --

25 THE COURT: Listen. You're not gonna tell them how to

1 cross-examine you.

2 MR. SCHIFF: They can do anything they want.

3 MR. IGNALL: Your Honor, one more --

4 MR. SCHIFF: But why don't they --

5 MR. IGNALL: -- request.

6 MR. SCHIFF: -- why don't they show? Why don't they --

7 why don't they show I'm a fraud and I don't know --

8 THE COURT: They don't have to.

9 MR. IGNALL: I think the Court may have already done

10 this -- and, if the Court did, then I apologize -- an

11 instruction that when any of the lawyers object we're not trying

12 to hide evidence, that we're just following the rules of

13 evidence, if that's an appropriate instruction given what

14 Mr. Schiff was alleging during his testimony. And if the Court

15 already gave that and I missed it, then I apologize.

16 THE COURT: I didn't -- I didn't give it. I -- I just

17 said in the initial, uh, instruction to the jury you're to

18 disregard the question and the answer --

19 MR. IGNALL: Okay.

20 THE COURT: -- if the objection is sustained.

21 MR. SCHIFF: Judge, I just wanna put on the record it's

22 my belief as to what the law is. That's what I'm testifying. I

23 could be all wrong.

24 THE COURT: Well --

25 MR. SCHIFF: That's --

1 THE COURT: You're -- you know, what you say here and
2 what you've been saying over there are two different things.
3 You have been asserting what the law is --

4 MR. SCHIFF: Well, I --

5 THE COURT: -- not your belief.

6 MR. SCHIFF: -- what I believe. I said -- right in the
7 first day I said I could be wrong in the law.

8 THE COURT: Don't argue -- reargue my rulings.

9 MR. SCHIFF: I'm not gonna reargue. But I want to
10 remind you that --

11 THE COURT: You did not say in my opinion; you said
12 this is the law.

13 MR. SCHIFF: The first day --

14 THE COURT: I don't care what --

15 MR. SCHIFF: -- within the --

16 THE COURT: -- you said the first day. I'm talking
17 about what you said --

18 MR. SCHIFF: Well, I said the jury's gonna hear me. I
19 can't keep repeating it and repeating it.

20 THE COURT: You better.

21 MR. BOWERS: Keep repeating what's your opinion.

22 (Sidebar conference concluded.)

23 (Recess from 10:42 a.m. to 10:59 a.m.)

24 THE CLERK: All rise.

25 THE COURT: Be seated.

1 THE CLERK: Mr. Modafferi, Ms. Neun isn't present.

2 MR. CRISTALLI: I'm sorry.

3 THE CLERK: You can be seated, please.

4 THE COURT: Mr. Cristalli, I took a quick look at
5 Powell. Did I understand you to say at sidebar that Powell
6 dealt with the refusal to admit books or just a statute?

7 MR. CRISTALLI: I -- I don't know if it specifically
8 cited books.

9 THE COURT: Just --

10 MR. CRISTALLI: I think it --

11 THE COURT: The part that --

12 MR. CRISTALLI: -- I'm trying to --

13 THE COURT: -- you cited to me dealt with the statute.

14 MR. CRISTALLI: The next page on page -- well, I think
15 it cited a six -- it's like a little headnote 69.

16 MR. SCHIFF: Well, towards the tail end of that case --
17 towards the tail end of the case it refers to Section 6020.

18 MR. CRISTALLI: It refers -- it refers specifically
19 to -- well, proffered evidence of statutes, case law, and legal
20 materials the Powells relied on upon -- in forming their intent
21 to fail to file tax returns. I think that's the gist of my
22 position in terms of why I wanted to have it admitted in terms
23 of the reliance of my partic- -- my client. And that would be
24 the sole and exclusive reason why I wanted it admitted.

25 MR. SCHIFF: Can I...

1 MR. BOWERS: Judge, just very quickly.

2 I -- I would just have to join with the -- with the
3 notion that through Powell and even Cheek our understanding that
4 if there's direct testimony of reliance that should be allowed
5 to come in --

6 MR. CRISTALLI: And I would --

7 MR. BOWERS: -- with a curative instruction --

8 MR. CRISTALLI: Yeah.

9 MR. BOWERS: -- or subject to a 403 analysis. That's a
10 different issue. But that, just generally, if -- if there's
11 testimony of direct reliance, the document should presume to be
12 admissible.

13 MR. SCHIFF: Can I make a comment? I'm familiar with
14 that case.

15 That case involved an individual who believed that
16 Section 6020 said that if they didn't file a tax return, the
17 Secretary would file for them. That's what Section 6020 says,
18 "shall file."

19 And they didn't admit that section into the trial so
20 the defendant can show the law that he relied on. And the court
21 said that -- how could he prove a good-faith belief if he
22 couldn't show the statute that he relied on, whether the statute
23 said it or not. It says "shall." And what the courts have
24 interpreted it means "may" --

25 THE COURT: Well --

1 MR. SCHIFF: -- in that case. But he relied on that.
2 And the court didn't allow the statute to come in. And that
3 said case you could allow in any statute that you relied on.
4 That's what the case said.

5 THE COURT: That's, uh -- you're now, I guess,
6 undercutting the position of --

7 MR. CRISTALLI: Yes.

8 THE COURT: -- Mr. Bowers and --

9 MR. SCHIFF: Did I undercut their position? I'm sorry.
10 I withdraw all my remarks.

11 THE COURT: You withdraw? Okay.

12 MR. SCHIFF: No.

13 THE COURT: Mr. Bower [sic] and --

14 MR. SCHIFF: Well, your Honor, that's how I understood
15 the -- your Honor, that's how I understood --

16 THE COURT: Yeah. Well, that's how --

17 MR. SCHIFF: I'm not a lawyer.

18 MR. BOWERS: Well, again, that's maybe why we ended up
19 where we did.

20 THE COURT: I think they'll stipulate to that.

21 MR. SCHIFF: I suggest to the Court that they accept
22 the opinion of lawyers on that, not mine.

23 MR. IGNALL: Your Honor, if we could --

24 THE COURT: I think they have already checked.

25 MR. IGNALL: I don't know if this is gonna come up

1 during the rest of Mr. Schiff's testimony. I might --

2 MR. CRISTALLI: Well, yeah, it may because, um, I may
3 want -- if the Court allows me, I may want to introduce the
4 material through Mr. Schiff.

5 MR. IGNALL: Saying that Mr. Schiff gave the material
6 to another defendant? Is that... One -- I'm not sure -- I
7 think in order for it even to be an issue it has to somehow be
8 tied into one of the defendants getting it, reading it, and
9 noticing it.

10 MR. CRISTALLI: Right.

11 MR. IGNALL: But the reason I'd like a little more time
12 is -- I'm just reading this for the first time -- the Powell
13 decision that we're looking at now was superseded by another
14 decision, 955 F.2d 1206. And my initial reading of that
15 superseded decision doesn't seem to go into the error or not of
16 admitting the statute itself.

17 THE COURT: Yeah.

18 MR. IGNALL: So I have to admit to a certain amount --

19 THE COURT: What was --

20 MR. IGNALL: -- of ignorance --

21 THE COURT: -- your citation?

22 MR. IGNALL: -- at this moment that if it's gonna come
23 up I'd like to raise it after lunch if we could.

24 MR. CRISTALLI: Well, I could --

25 MR. SCHIFF: Is that a Ninth Circuit case?

1 MR. CRISTALLI: I could do this, your Honor. I don't
2 have to, uh, admit the exhibits through Mr. Schiff. We could,
3 um -- I can discuss, uh, them with them as far as, you know,
4 what I wanna do, not getting into the material, discussing the
5 material. And then, um, your Honor could reserve his ruling on
6 whether or not they could be introduced or not introduced.

7 MR. BOWERS: Well, I guess as long as you laid a
8 foundation that he relied on them and the Government would agree
9 that at some later point the formal admission would depend on
10 the legal decision, that -- that would establish the purpose of
11 Schiff's testimony.

12 THE COURT: We can't -- we can't have a foundation he
13 relied on his -- on his own bootstraps.

14 MR. BOWERS: No. I believe we're talking about -- were
15 you talking about the books, Mike, or are you talking about
16 other materials?

17 THE COURT: Talking about the books. That's the only
18 thing that's been on the table.

19 MR. BOWERS: I apologize, Judge.

20 MR. IGNALL: If it's the books, then we're gonna object
21 that they are, you know, misstatements of the law and there's a
22 403 objection to those. I thought we were talking about an
23 individual Code section. Maybe I misunderstood. I'm sorry.

24 MR. BOWERS: We're all on a different page.

25 THE COURT: I have been trying to ask: What is the

1 rest of the citation?

2 MR. IGNALL: Oh, I'm sorry.

3 THE COURT: It's 955 F.2d.

4 MR. IGNALL: 1206.

5 THE COURT: Thank you.

6 Okay. Are we ready to bring the jury in?

7 MR. SCHIFF: Can I make one comment? If -- if the
8 Government thinks --

9 THE COURT: No.

10 MR. SCHIFF: -- that if there's anything in my book or
11 illegal or promotes tax evasion --

12 THE COURT: Mr. Schiff.

13 MR. SCHIFF: -- let 'em take my book and confront me
14 with it.

15 (Discussion between Mr. Leventhal and
16 Mr. Schiff.)

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

18 THE CLERK: Yes, sir.

19 MR. SCHIFF: Okay. You better take good notes when
20 they cross-examine me.

21 (Pause in the proceedings.)

22 THE CLERK: Ready?

23 (Jury enters the courtroom at 11:06 a.m.)

24 THE COURT: Please be seated.

25 Will counsel stipulate to the presence of the jury?

1 MR. NEIMAN: Yes, your Honor.

2 MR. CRISTALLI: Yes, your Honor.

3 MR. BOWERS: Yes, your Honor.

4 MR. SCHIFF: Yes, your Honor.

5 THE COURT: Thank you.

6 Mr. Leventhal.

7 MR. LEVENTHAL: Thank you, your Honor.

8 BY MR. LEVENTHAL:

9 Q. Mr. Schiff --

10 A. Yes.

11 Q. -- just to finish up, Counts 2 through 4 as well as Counts 5

12 and 6 accuse you of aiding and assisting of the filing of false

13 and fraudulent income tax returns.

14 A. Well --

15 Q. How do you respond to this?

16 A. Well, I -- I asked, uh, Special Agent Holland when he was on

17 the witness stand, I took my returns and I asked him to me my

18 any statement on there --

19 MR. NEIMAN: Objection.

20 THE WITNESS: -- on there that was --

21 MR. NEIMAN: That was an objectionable question. That

22 was sustained and --

23 THE WITNESS: Well, the reason --

24 THE COURT: Sustained.

25 THE WITNESS: Well, I -- I believed every --

1 THE COURT: Sustained.

2 THE WITNESS: -- statement --

3 THE COURT: Sustained.

4 THE WITNESS: All right. Well --

5 THE COURT: Do you wish to re-ask the question?

6 MR. LEVENTHAL: I do, your Honor. Thank you.

7 THE WITNESS: Do you want --

8 BY MR. LEVENTHAL:

9 Q. Counts 2 through --

10 A. -- ask me that question again?

11 Q. Listen, Mr. Schiff.

12 Counts 2 through 4 as well as Counts 5 and 6 accuse you

13 of aiding and abetting [sic] and assisting in the filing of

14 false and fraudulent income tax returns. How do you respond to

15 this?

16 A. Well, I don't aid and abet anybody. They are free to do

17 what they wanna do. All my book, provides information. If they

18 wanna use the information, they can. And, if they don't wanna

19 use the information, they don't have to.

20 When people call my office and they say from time to

21 time, well, if I use the information, are you guaranteeing that

22 it'll work? I say, I just guarantee the information is correct.

23 But, if you wanna use it, use it. If you don't wanna use it,

24 don't use it. And there's a disclaimer in the front of my book,

25 and all through my books, that there's a danger when you don't

1 pay income taxes to a government that doesn't care about the
2 law.

3 So I have a -- and I believe that my returns are
4 totally honest. If they weren't, certainly the government can
5 cross-examine me with respect to any statement that I put on
6 that return -- we'll see if they do -- and they claim that it's
7 false.

8 Q. Mr. Schiff, Count 17 accuses you of attempting to evade and
9 defeat the payment of income taxes. How do you regard such an
10 accusation?

11 A. Well, it says, "payment of income tax." I, like
12 Congressman -- uh, what -- Congressman and now Senator Ensign --
13 Senator Ensign can't find a law that says you gotta pay income
14 tax and neither can I. So how could I evade a tax that --
15 that -- that requires me to pay a tax that Senator Ensign can't
16 find requires me to pay? I can't find it.

17 Now, if the Government will show me a law that says I
18 gotta pay the tax, I'll be happy to go back to paying taxes. I
19 believe -- as of now, I believe that I have never been able to
20 find such a section. As I explained to the jury, I only have
21 one eye.

22 Q. Thank you.

23 A. So that could --

24 MR. LEVENTHAL: I have no --

25 THE WITNESS: -- have inhibited my ability to --

1 MR. LEVENTHAL: No further questions.

2 THE WITNESS: -- to find it.

3 THE COURT: Thank you.

4 Cross-examination, Mr. Cristalli?

5 MR. CRISTALLI: Thank you, your Honor.

6

7

CROSS-EXAMINATION

8 BY MR. CRISTALLI:

9 Q. Good morning, Mr. Schiff.

10 A. Good morning.

11 Q. Mr. Schiff, this morning you talked a lot about your beliefs
12 and, um, your -- your teachings and your philosophies. I wanna
13 speak to you a little bit about, um, your relationship with
14 Ms. Cynthia Neun.

15 When did you first meet Cindy, um, and under what
16 circumstances was it?

17 A. It was a social function sponsored by -- it was a political
18 function. It was running for -- Aaron Russo had a party to
19 generate --

20 Q. Who is Aaron Russo?

21 A. Aaron Russo was a former -- he was running independent for
22 governor in the State of Nevada. And it was a third-party
23 candidate. And he had a social function. And I went and that's
24 where I met Cindy.

25 Q. And, um, when you met Cindy at the social function, uh, did

1 you know anything about her at that particular time?

2 A. No. But I was immediately smitten.

3 Q. So you liked her?

4 A. Yes.

5 Q. Okay. That's -- that's what "smitten" means?

6 A. Yeah, I -- I think so.

7 Q. Okay. So you guys, uh, had an opportunity to sit down and

8 talk and have a conversation with one another?

9 A. Well, we danced more than we talked.

10 Q. Okay. Did you --

11 A. I used to be a dancer. Now I don't dance anymore.

12 Q. You used to be a dancer?

13 A. Yes.

14 Q. Okay. Um, and what, um -- what did you guys talk about?

15 A. What did we talk about?

16 Q. What -- I mean how --

17 A. The evening?

18 Q. Well, how --

19 A. I think she asked me what I did.

20 Q. So at that time she didn't know what you did?

21 A. No.

22 Q. What were you doin' at that -- what year was it?

23 A. When was it? I'm not good at dates. I would say 1978

24 [sic] -- 1998, '99. Cindy is better at this than I am. She'll

25 know.

1 Q. Okay. So, um, it was in 1998 or 1999?

2 A. Somethin' like that, yeah.

3 Q. Okay.

4 A. Well, when did Aaron Russo run for governor? That would
5 have been -- that's the year.

6 Q. Okay. So it was like a -- it was a function; it was a
7 fund-raiser function --

8 A. Yes.

9 Q. -- something to that effect?

10 Um, do you know why she was there at that time?

11 A. I think she was working for him politically or did volunteer
12 work --

13 Q. Okay.

14 A. -- for him.

15 Q. So safe to say that, um, you guys hit it off and, uh, you
16 then, um, engaged each other in some conversation; correct?

17 A. Yes.

18 Q. Okay. And, during that conversation, um, there -- there
19 came a time when you disclosed to her what you did; right?

20 A. Probably did.

21 Q. What did you tell her? What would you have told her that --
22 what you were doing at that time?

23 A. I told her probably I write -- well, when she asked me what
24 I did, I probably told her I wrote books and she probably said
25 on what and I would have said on the income tax and on

1 economics.

2 Q. Okay. Um, based --

3 A. She said what -- what does economics mean? No. Only

4 kidding about that.

5 Q. Okay. You're asking me that? Don't ask me that,

6 Mr. Schiff.

7 A. Pardon me.

8 Q. Um, okay. So you then -- during the course of your

9 conversation, um, you talked about your, um -- your writings

10 and -- and I would assume your teachings; correct?

11 A. Yes.

12 Q. Okay. Now, during that conversation, did she do -- did she

13 do or say anything that would suggest that, um, she held any

14 type of unconventional tax beliefs prior to meeting you?

15 MR. NEIMAN: Objection. Hearsay.

16 THE WITNESS: Now, she indicated --

17 THE COURT: Wait a minute. Wait a minute for the

18 ruling.

19 It is hearsay --

20 MR. CRISTALLI: Okay.

21 THE COURT: -- unless --

22 MR. CRISTALLI: I think there's --

23 THE COURT: -- your client takes the stand.

24 MR. CRISTALLI: -- a state of mind exception.

25 THE COURT: Yeah. But I don't think it's -- I don't

1 think it's good here unless you can show --

2 MR. CRISTALLI: And it doesn't --

3 THE COURT: -- circumstances.

4 MR. CRISTALLI: It doesn't go to the truth of the
5 matter asserted. Whether --

6 THE COURT: I've sustained the objection.

7 MR. CRISTALLI: Okay.

8 BY MR. CRISTALLI:

9 Q. All right. What happened after your initial meeting with
10 her at -- and where were -- where was the function?

11 A. It was at some big hall someplace. I think it was -- it was
12 called -- I think it was a dance hall. It used to be on
13 Flamingo. Just -- you go up Maryland Parkway, you make a left,
14 and it's on the left, couple of -- half a block or so. I don't
15 know.

16 Q. Okay. So you two got an opportunity to, um, familiarize
17 yourselves together. And then you, um, furthered the
18 relationship; correct?

19 A. Yeah. She's a big follower of Ayn Rand. So we probably
20 talked about Ayn Rand.

21 Q. Okay. Um, so you had some common interests; correct?

22 A. Yeah.

23 Q. All right. Now, um, during the course of your initial
24 meetings with her, um, you obviously learned a little bit about
25 her; correct?

1 A. Yeah.

2 Q. Did you know what -- prior to meeting you, do you know what
3 she was doing for a living?

4 A. No.

5 Q. Okay. Um, did you learn that she was disabled? Did you
6 ever learn that?

7 A. Eventually --

8 MR. NEIMAN: Objection. Hearsay --

9 THE WITNESS: -- I did.

10 MR. NEIMAN: -- also, um, facts not in evidence.

11 THE COURT: Sustained pending further foundation.

12 BY MR. CRISTALLI:

13 Q. Did you find out that she was disabled?

14 A. Yeah, eventually.

15 MR. NEIMAN: Same objection, your Honor. It's now
16 hearsay still.

17 MR. CRISTALLI: Your Honor, it's not hearsay. He
18 visualized whether or not she was disabled or not. I mean --

19 MR. NEIMAN: Well, that would be a different --

20 THE COURT: Well, you can ask that question.

21 MR. NEIMAN: That's a different question.

22 THE COURT: Sustained.

23 MR. CRISTALLI: Well, I asked him how --

24 BY MR. CRISTALLI:

25 Q. Did you have an opportunity to discovery that she was

1 disabled?

2 A. Yeah, just -- yeah, of course I did.

3 Q. I mean, how did you come about --

4 A. Well, as a matter of fact --

5 Q. -- that conclusion?

6 A. -- on that first date, now that I recall, she told me she

7 just --

8 MR. NEIMAN: Objection. Hearsay then.

9 MR. CRISTALLI: Are they --

10 THE COURT: Sustained.

11 THE WITNESS: No. He just --

12 MR. CRISTALLI: -- are they denying --

13 THE WITNESS: -- refreshed my recollection.

14 MR. CRISTALLI: -- that she was disabled?

15 THE COURT: Sustained.

16 THE WITNESS: I remember now. I mean --

17 THE COURT: Well, what --

18 THE WITNESS: -- now --

19 THE COURT: -- she told you is hearsay.

20 THE WITNESS: -- that she had just been recovered. She

21 was in the hospital for about 10 years. I remember -- now I

22 remember talking about that.

23 BY MR. CRISTALLI:

24 Q. Okay. I think she told me that --

25 MR. NEIMAN: Uh, your --

1 THE COURT: I sustained the hearsay objection.

2 THE WITNESS: Oh, okay.

3 THE COURT: Wait for the question.

4 BY MR. CRISTALLI:

5 Q. Okay. And, Mr. Schiff, you knew that, uh, prior to her
6 injury she worked for Mission Linens [sic]; correct?

7 A. Yes.

8 MR. NEIMAN: Your Honor, objection. These are either
9 foundation or hearsay is what these answers are speculating.

10 MR. CRISTALLI: These are foundational --

11 MR. NEIMAN: The Government's --

12 MR. CRISTALLI: -- these are --

13 MR. NEIMAN: The Government's --

14 MR. CRISTALLI: -- foundational questions for --

15 MR. NEIMAN: -- defense counsel --

16 MR. CRISTALLI: -- establishing --

17 MR. NEIMAN: -- hearsay under --

18 MR. CRISTALLI: -- the relationship --

19 MR. NEIMAN: -- the rules of evidence.

20 MR. CRISTALLI: -- and how they met. I'm not quite
21 sure what the --

22 THE COURT: Well --

23 MR. CRISTALLI: -- what the --

24 THE COURT: -- it goes -- an essential question is her
25 claim of disability. And so it is more than foundational.

1 Sustained.

2 MR. CRISTALLI: Actually, your Honor, I asked
3 specifically about -- whether or not he knew if she -- where she
4 was working prior to her disability. I mean...

5 THE COURT: You can ask -- you can ask foundational
6 questions, Counsel, to get that out.

7 BY MR. CRISTALLI:

8 Q. Okay. Mr. Schiff, did you see, um -- did you see Cindy
9 Neun's back and the surgery scars across her entire back?

10 A. Yes, I eventually did, not on that first date though.

11 Q. No. I understand. She doesn't show her scars on the first
12 date.

13 A. No, she didn't.

14 Q. Okay. So, um, through, um, the development of the
15 relationship, did there come a point in time where Cindy
16 began -- became a student of yours?

17 A. She became a student of mine?

18 Q. Yes. Did she --

19 A. Eventually. Everybody becomes a student of mine eventually.

20 Q. Okay.

21 A. But she did, yes.

22 Q. All right. So how did -- how did that happen? I mean, did
23 the -- let's talk about the relationship a little bit -- did the
24 relationship occur before she started to, um, listen to your
25 philosophies and your ideals or was it --

- 1 A. Yeah. We started to go out socially.
- 2 Q. Okay. But, during the course of the time that you guys went
3 out socially, obviously she was -- she was getting to know your
4 personality and your, um -- your beliefs; correct?
- 5 A. Yes.
- 6 Q. Okay. Now, um, you established your belief system in the
7 early '60s; correct?
- 8 A. Yes.
- 9 Q. And then you developed, um, those beliefs, um, I think you
10 had spoken -- initially you had the belief system in terms of
11 the Fifth Amendment privileges against self-incrimination and
12 the fact that you don't have to file, uh, 1040 returns for that
13 purpose.
- 14 A. That's correct.
- 15 Q. And then you got hit with willfulness -- willful failure to
16 file, um, because when you failed to file a 1040 return that's a
17 crime; right?
- 18 A. Initially, I filed Fifth Amendment returns. I pleaded the
19 Fifth to the information based upon a decision of Oliver Wendell
20 Holmes in 1928. He said, since all the information in a tax
21 return can be used against you, you have the right to plead the
22 Fifth.
- 23 Q. Okay.
- 24 A. So I took his advice and I pleaded the Fifth.
- 25 Q. Okay. And as you -- now, you developed -- you developed

1 that philosophy, you developed those beliefs based on your
2 research and -- and the things that you studied. Um, Cynthia
3 Neun at that particular time was not participating in, um,
4 developing your belief system; correct?

5 A. No.

6 Q. Okay. You didn't even meet her; you didn't meet her until
7 1998 --

8 A. No.

9 Q. -- or 1999; correct?

10 A. Most of my beliefs, obviously, were formed long before I met
11 Cynthia Neun.

12 Q. Right.

13 In fact, you were probably doin' it for '60, '70,
14 '80 -- what? -- 30 -- some 34 years before you even met Cindy?

15 A. Something -- something like that.

16 Q. And she's -- um, she's much younger than you, isn't she?

17 A. Uh, only a couple years. No, no. Yeah, she's a lot younger
18 than me.

19 Q. Yeah. 26 years?

20 A. Pardon me?

21 Q. 26 years?

22 A. Somethin' like that, yeah.

23 Q. Okay.

24 A. I was very fortunate to meet her.

25 Q. Right.

1 A. Okay.

2 Q. So you were develop -- you -- you were -- um, you held these
3 belief systems; you were teaching this belief -- these beliefs.
4 Um, you had, uh, thousands of followers well before you met
5 Cindy. Correct?

6 A. That's correct.

7 Q. Okay.

8 A. That's why the conspiracy thing is nonsense.

9 MR. NEIMAN: Your Honor, objection. Nonresponsive.
10 Move to strike.

11 THE COURT: Strike.

12 THE WITNESS: All right.

13 BY MR. CRISTALLI:

14 Q. So certainly she did not develop or facilitate your beliefs;
15 correct?

16 A. No.

17 Q. Okay. Now, um, as the relationship, uh, continued, the two
18 of you became closer I would assume?

19 A. Yes.

20 Q. Okay.

21 A. I eventually saw the scars.

22 Q. And you eventually saw the scars. Correct.

23 And, uh, during the course of your relationship, um,
24 Cynthia participated in Freedom Books; right?

25 A. Yes.

1 Q. In fact, um, when she initially began her participation at
2 Freedom Books -- and I think it continues on -- um, she -- she
3 participated as a volunteer; right?

4 A. Initially, yeah.

5 Q. Yeah.

6 And, um, she participated as a volunteer and she did
7 what she could to digest as much information as she could as it
8 related to your belief system and your teachings; right?

9 A. Yeah. As our relationship grew, she was interested in why I
10 believed as I believed. So I...

11 Q. And she adopted those beliefs; correct?

12 A. I guess so.

13 And it's very important to understand that Cindy is an
14 avid follower of Ayn Rand, which is fundamental to my beliefs,
15 however, but -- but without directly relating it to income tax.
16 She reads Ayn Rand all the time.

17 Q. Okay. And, prior to the interaction she had with you when
18 you guys first met, she never heard of your material; right?

19 A. No, I don't think so.

20 Q. Okay. She never studied your material; correct?

21 A. No, I don't think so.

22 Q. Okay. And, obviously, she didn't implement your material;
23 right?

24 A. No.

25 Q. All right. Okay. So, um, she's -- she's volunteering.

1 Now, in fact, would it be safe to say, um, Mr. Schiff, that,
2 um -- you know, we've heard about the structure of Freedom Books
3 that, um -- Michelle Degrosselier who is Cindy's daughter,
4 correct? And let's just go back.

5 When you first met Cindy, you knew that, um, she was a
6 single mother; right?

7 A. Yes.

8 Q. And -- and, she, um, she -- she -- she cared for, uh,
9 Michelle and her -- her boy; right? You're -- you're familiar
10 with that; correct?

11 A. Yes.

12 Q. Okay. Um, and it'd be safe to say by no stretch of the
13 imagination she was not a wealthy woman.

14 A. No. She was struggling.

15 Q. Right.

16 A. But she -- she just had a job and she wasn't making any
17 money at the job and she was doing very menial work, like
18 washing clothes and cleaning house. And she was trying just
19 at -- roughly at that time she had gone to school where they
20 taught her, uh, to, uh, go around to offices and try to sign 'em
21 up for advisory something or other and she went there.

22 And, uh, now she had to do cold calls, uh, and she did
23 it for two or three weeks. Didn't make one sale, which was
24 purely commission. I knew she was struggling. She didn't have
25 any money. And I knew she was sick. She couldn't hold down a

1 job.

2 As a matter of fact, she needed money. So I was giving
3 her some money even before she came into Freedom Books. I mean,
4 she --

5 Q. Okay. Let's stop --

6 A. -- so she needed the money.

7 Q. Well, let's stop right there.

8 Um, so there came a point in time where you discovered
9 that she wasn't, um, making enough money to make ends meet --

10 A. That's right.

11 Q. -- and you assisted her financially; correct?

12 A. Yes.

13 Q. And you continued to assist her financially; right?

14 A. Yeah. I continue to. I pay all her bills now. She doesn't
15 work for me; she doesn't come and -- I pay her mortgage
16 payments, her --

17 Q. We'll get to that. Now --

18 A. -- her utilities, her medication because she doesn't get any
19 money from anybody.

20 Q. Right.

21 And there -- there was some testimony from Michelle
22 Degrosselier that, um, Cindy got, uh, paid an amount per week
23 specifically for her work at Freedom Books. Um, isn't it true,
24 though, Mr. Schiff, that the -- the money that she received
25 were -- was expense money for her survival, for her living

1 expenses?

2 A. I -- uh, Michelle knew I was living at the house as a matter
3 of fact at the time, and that I never considered money that I
4 gave to Cindy a salary of such. She was my girlfriend; I was
5 living there.

6 I mean, if I had a girlfriend and I bought her a car
7 for 25,000 bucks, nobody would -- or expensive piece of jewelry,
8 nobody would question that. I didn't buy her a car nor I did
9 give her an expensive piece of jewelry.

10 Q. Well, and that's another thing. I mean --

11 A. But I never considered whatever I gave Cindy compensation
12 for her work. Whatever I paid her was tied into our
13 relationship.

14 Q. And you assisted her in maintaining the household bills;
15 correct?

16 A. Yeah.

17 Q. Um, you assisted her in day-to-day living expenses,
18 groceries, um --

19 A. And she would take some of the money I gave her, of course,
20 and to pick up my cleaning and buy food and pay some of my
21 personal bills.

22 Q. And the mere fact that she may receive money from either
23 Michelle Degrosselier or somebody in the office does not
24 suggest, uh, to you, as the owner of Freedom Books, that she was
25 being paid directly for services rendered at Freedom Books;

1 correct?

2 A. No. I never regarded that as a sal- -- I knew that Cindy
3 could not hold down a job at any other place because ever --
4 if -- if -- especially when the weather was bad she would have
5 the pain; she couldn't come in. If she did that in any other
6 place, she'd be fired.

7 Q. And the reason why Freedom Books was, uh, such a good fit
8 for her, not only did she adopt the beliefs that you had, but in
9 addition to that it was flexible. She could come and go as she
10 pleased. Correct?

11 A. Right.

12 Q. Okay.

13 A. And she could do certain things at home that I -- like make
14 those little -- when I put on the seminars, she makes some very
15 cute things. A lot of cute -- I didn't really need 'em. But,
16 you know, she liked to do it.

17 Q. You say "cute things." She's an artist.

18 A. Yes. Excellent.

19 Q. And she struggled to try to be an artist for the majority of
20 her life; correct?

21 A. Yeah. She would try and sell her paintings, you know.

22 Q. Okay. And it would be safe to say she was a pretty
23 struggling artist; correct?

24 A. Yeah.

25 Q. Okay. Um, you know, she wasn't making, uh, you know,

1 multimillion dollars at art galleries, was she?

2 A. No. She wasn't meeting expenses. As a matter of fact, she
3 was writing a book at the time trying to publish it called The
4 Back Book or something like that. Since she had a lot of
5 problems with her back, she overcame some of these problems by
6 doing various things. So she did a book and she illustrated it.
7 She believed that other people having her problems could adopt
8 these --

9 MR. NEIMAN: Objection.

10 THE WITNESS: -- procedures.

11 MR. NEIMAN: Hearsay.

12 THE COURT: Sustained.

13 THE WITNESS: That's not hearsay. She -- she ought to
14 bring in the book. And she was trying --

15 THE COURT: Mr. Schiff --

16 THE WITNESS: -- to have it published but --

17 THE COURT: -- I've sustained the objection.

18 THE WITNESS: All right.

19 BY MR. CRISTALLI:

20 Q. All right. Now, um, there came a point in time where you
21 moved in with Cindy; right?

22 A. Yes.

23 Q. Um, and do you recall what year that was, Mr. Schiff?

24 A. I don't know. Maybe a year after we met socially. I
25 wouldn't know exactly.

1 Q. Okay. And it would be --

2 A. Well, started sleep -- I started -- you know, it was a
3 gradual thing. Maybe I slept over there one or two nights a
4 week, then three nights a week. Then she said, look, why don't
5 you move -- why don't you take some of your clothes and bring
6 them over here, you know. So that's the way it developed.

7 Q. And, um, you -- there came a point in time where she
8 actually, um -- you went through some surgeries; correct?

9 A. Yeah, that was only one aspect.

10 Q. All right.

11 A. I mean, that's -- I went through surgery --

12 Q. And you lived --

13 A. -- and I had -- I had part of my intestine removed,
14 potentially cancerous. And she was very helpful. That was --
15 that was during the period of time I was living there. I didn't
16 move in there just during that period of time.

17 Q. All right. Well, let's talk about that.

18 So you met around late 1998 or early 1999. What time
19 do you believe, um, you moved in there, uh, or you were -- were
20 there on a regular basis?

21 A. It was 4:30 -- no. 4:32. I don't remember exactly, you
22 know. I -- I eventually moved in.

23 Q. Okay.

24 A. But, you know, I eventually moved in.

25 Q. And, um --

1 A. I think I moved in. Nobody was living at my house.

2 But I used my apartment because I had to use my
3 apartment. People would come and I'd use it for that purpose.
4 And, of course, in my apartment I had a lot of my books and
5 records from court cases which I to go over there from time to
6 time just to do some research. Otherwise I'd have to put
7 everything in storage. So it was foolish for me to -- not to
8 keep my apartment going.

9 Q. Um, I heard some testimony that -- from some witnesses that
10 you're the father of -- of the tax movement; um, that you're
11 admired in the movement. During the period of time that you
12 were with Cindy, would -- would it be safe to say that you're
13 pretty much at the peak of your professional career?

14 A. Yeah. She eventually became very enthusiastic about what I
15 was doing and was like a sponge; she wanted to soak up
16 everything.

17 Q. And so -- but, in terms of my specific question, you were at
18 the peak of your career. I mean, you were, uh, selling more
19 books than --

20 A. Yes.

21 Q. -- you've ever sold before?

22 Um, you were going from television program to
23 television program; correct?

24 A. Yeah.

25 Q. Um, you were on "Larry King Live"; right? Uh, wherever you

1 went --

2 A. "20/20" John Stossel interviewed me.

3 Q. Wherever you went in terms of your seminars or other
4 functions there would be lot of people that would surround you
5 and ask you questions and want to discuss things with you;
6 right?

7 A. Yeah. I think what really impressed her the most, I think,
8 was she saw the tape of the debates we had --

9 MR. NEIMAN: Objection.

10 THE WITNESS: -- at the Libertarian --

11 MR. NEIMAN: Speculation.

12 THE COURT: Sustained.

13 BY MR. CRISTALLI:

14 Q. Um, it would be safe to say, though, that based on what you
15 were doing at the time, um, she was impressed but it all;
16 correct?

17 A. Yeah. She knew I was nominated for president. That's
18 not -- you know, I didn't get the nomination. But you know. I
19 think I was the first Jew ever nominated in any political
20 convention. That's somewhat of a distinction.

21 Q. And so it's safe to say that you had many accolades during
22 this period of time; right?

23 A. Yeah. I had a lot of awards. I had received -- matter of
24 fact, just before I met her -- after I met her, I got an award
25 and I had to bring it down to the place where she was working

1 and she framed it. And it was a very -- it's an impressive
2 award.

3 Q. And she --

4 A. And it's hanging in my office.

5 Q. She looked up to you as a leader?

6 A. I guess so.

7 Q. And she admired you?

8 A. I think so.

9 Q. And she thought you were well studied?

10 A. I think so.

11 Q. She thought you were an intelligent man?

12 A. I think so. But sometimes I think she had doubts. But,
13 generally speaking, that's what she believed.

14 Q. All right. Uh, and then as she -- as the relationship
15 developed between the two of you, her involvement in the Freedom
16 Books's movement increased; correct?

17 A. Yes, it did.

18 Q. And so she would -- she would participate more in the due
19 process collection hearings; right?

20 A. Yes. That's very important. Because a lot of people who --

21 MR. NEIMAN: Objection. Non- -- nonresponsive right
22 now.

23 THE WITNESS: Yes. I think it was important to know
24 that some people who had these collection --

25 THE COURT: Sustained.

1 THE WITNESS: I'm sorry.

2 BY MR. CRISTALLI:

3 Q. And, when she participated in these collection due process
4 hearings, she didn't do it for monetary gain. She did it
5 because, um, she believed in your movement. Right?

6 A. And some --

7 MR. NEIMAN: Objection. Speculation as to what she
8 believed or hearsay.

9 BY MR. CRISTALLI:

10 Q. Well, did she --

11 MR. NEIMAN: One or the other.

12 MR. CRISTALLI: Okay.

13 THE WITNESS: Some of these people were elderly. They
14 could not handle the collection -- somebody had to go with them.

15 BY MR. CRISTALLI:

16 Q. She did it in an effort to try to help people; right?

17 MR. NEIMAN: Objection. Speculation --

18 THE COURT: Sustained.

19 MR. NEIMAN: -- or hearsay.

20 THE COURT: Sustained.

21 BY MR. CRISTALLI:

22 Q. Mr. Schiff, Cindy never took money directly from clients.
23 She always would give it to Freedom Books --

24 A. No.

25 Q. -- correct?

1 A. No. We had to charge for her service. Otherwise people
2 would be expecting that we could just send people out for
3 nothing, which we couldn't do.

4 Q. And, if she was compensated for services that were rendered
5 at a due process hearing, that did not mean, sir, did it, that
6 she was going to receive the money directly --

7 A. No.

8 Q. -- to herself?

9 A. If somebody needed somebody to accompany them -- sometimes
10 we try to hook them up with a volunteer. But we certainly
11 couldn't provide services for nothing. We would be deluged. So
12 if they wanted somebody from our office -- sometimes other
13 people would go because they needed help, especially if they
14 were elderly. People didn't know anything about Section 6330.

15 So -- but Cindy would go. Uh, sometimes she went with
16 a man who had an oxygen tank. He wheeled in -- he couldn't
17 talk; somebody had to talk for him. But we had to charge.

18 And I set it up. And I said they had to pay Freedom
19 Books maybe a hundred bucks or two hundred bucks. But they
20 would come to Freedom Books. I have to go over this with them;
21 she'd have to go over it with them. We'd have to spend time and
22 effort with these people. We couldn't do it for nothing.
23 Accountants don't do it for nothing; lawyers don't do it for
24 nothing. But I think our prices were reasonable and most people
25 said we didn't charge enough.

1 Q. All right. Now, um, with regard to those -- we have saw a
2 lot -- the P.I.L.L. account, um, the -- the -- what is it? --
3 Christian?

4 A. Christian Patriot.

5 Q. -- Patriot. We saw another account there. I forgot the
6 name of it. It's the, uh -- it was like the nonprofit account.
7 I forgot what the name of it was.

8 A. Well, that was maybe an account that was --

9 Q. Freedom Foundation, that --

10 A. Only had two accounts.

11 Q. In any event, the P.I.L.L. account was your account;
12 correct?

13 A. Yeah.

14 Q. All of the accounts, bank accounts, that the Government has
15 produced were all related to Irwin Schiff; right?

16 A. Yeah.

17 Q. They weren't related to Irwin Schiff and Cindy Neun --

18 A. No. Now --

19 Q. -- right?

20 A. Now, of course, she may have had like my present -- to
21 write -- to write checks against that account because I do a lot
22 of traveling. So somebody in my office has to be able to write
23 a check, you know, to pay bills and to pay wages to pay the --
24 to pay the wages of my employees.

25 Q. Right.

1 A. So somebody always had to have the authority to write
2 checks. And I think Cindy has the authority, as my current
3 bookkeeper has the authority. Otherwise no one's gonna get paid
4 when I travel.

5 Q. But she wasn't a shareholder of Freedom Books; correct?

6 A. No.

7 Q. Uh, she didn't, uh, have any interest in terms of, uh, uh --
8 corporate interest in any of the organizations. True?

9 A. Well, I don't have a corp- -- I think -- I think at some
10 point in time she did become an officer in the Freedom
11 Foundation. But she never got any money from the Freedom
12 Foundation. You have to have officers.

13 Q. And --

14 A. She's no longer an officer in the Freedom Foundation.

15 Q. Right. And she's no longer an officer in the Freedom
16 Foundation, and that only lasted a relatively short period of
17 time --

18 A. Yeah.

19 Q. -- correct?

20 Um, and that's because you needed somebody at that
21 time --

22 A. Well, yeah.

23 Q. -- to serve as an officer? All right.

24 Um, there came -- you -- just so we're clear, you and
25 Cindy do not share a romantic relationship any longer; correct?

1 A. No.

2 Q. Okay. Um, you're still friends with her I would assume?

3 A. Yes.

4 Q. Okay.

5 MR. CRISTALLI: Um, Court's indulgence.

6 (Pause in the proceedings.)

7 BY MR. CRISTALLI:

8 Q. Um, Mr. Schiff, I'm just gonna ask you if you recognize this

9 IRS Code and if you can identify it in terms of who -- whose

10 Code it is.

11 A. It's my Code. No. It's Cindy's Code.

12 Q. Okay. And you know that it's Cindy's Code?

13 A. Absolutely.

14 Q. Okay. And Cindy would use this Code to study what you

15 promoted in -- in your teaching materials, in The Federal Mafia,

16 and all the other materials that you generated; correct?

17 A. Yeah. But she went to the law itself; she didn't take my

18 word for it.

19 Q. I understand. Just like a lot of the other individuals that

20 we heard here --

21 A. Right.

22 Q. -- she took the foundation for which you supplied and, uh,

23 she cross-referenced it; correct?

24 MR. NEIMAN: Objection. Speculation --

25 THE WITNESS: Yeah.

1 MR. NEIMAN: -- as to what she did --

2 THE WITNESS: It was important --

3 MR. NEIMAN: -- or didn't do.

4 THE COURT: Sustained.

5 THE WITNESS: The reason I sold -- the reason I sold --

6 THE COURT: There's no question pending.

7 THE WITNESS: Okay.

8 THE COURT: Sustained.

9 BY MR. CRISTALLI:

10 Q. This is her book though; correct?

11 A. Yes.

12 Q. I'm gonna show you a copy of The Federal Mafia and I wanna

13 ask you whether or not you can identify, uh, this book.

14 A. That's -- that's Cindy's copy. She would take it to all my

15 seminars and make notes in it.

16 Q. And you know for a fact that that's Cindy's?

17 A. Yeah, absolutely.

18 Q. And she would be an assistant of yours. She would -- during

19 the course of your relationship and the time spent at Freedom

20 Books, she would -- she would be your right-hand person;

21 correct?

22 A. Yeah.

23 Q. Okay.

24 A. Yeah. Sometimes I would do a radio show on a weekend and it

25 would be very difficult for somebody to come in on a weekend.

1 She would always be there to come in on a weekend. Sometimes I
2 would do a late-night talk show. And I knew we'd get calls.
3 And most of the people in the office were reluctant to stay
4 there at night. So she would come in with her son sometimes and
5 take the calls because I would give my number on the radio show
6 12:00 o'clock at night. So she would come in with her son and
7 said, all right, if they -- if the phone rings, we'll take the
8 call. My other employees, you know -- you know, they wouldn't
9 come in at 12:00 o'clock.

10 (Defendant Neun's Exhibit Nos. 2508 and 2625,
11 marked for identification.)

12 BY MR. CRISTALLI:

13 Q. Let me just show you what's also been marked as Defendant's
14 Proposed Exhibit 2508 and Defendant's 2526.

15 Do you recognize --

16 MR. NEIMAN: Your Honor, just for the record, the
17 Government's never seen these books before. We'd like an
18 opportunity just to examine them prior to --

19 THE COURT: All right.

20 MR. NEIMAN: -- whatever it may be.

21 (Exhibits given to Government counsel.)

22 MR. CRISTALLI: Your Honor, I apologize to the
23 Government. But I believe that we did show the Government
24 those -- uh, that material prior to even the case beginning.
25 But for whatever it's worth...

1 (Pause in the proceedings.)

2 BY MR. CRISTALLI:

3 Q. To save some trips...

4 I'm gonna ask you if you can rec- -- if you recognize
5 this material and who it belongs to? If you can.

6 A. Yeah, yeah.

7 Q. Can you tell me what they are?

8 A. Yeah. Well, this is, um -- we sell this also, which is the
9 Title 28. This is the Code of Civil Procedure -- this was
10 Cindy's -- 2000 edition.

11 Q. Okay.

12 A. Yeah, we sold that.

13 Q. Okay.

14 A. And -- yeah. Uh, this is where she put together a lot of
15 exhibits, uh, that we sent to Bob Schulz in connection with his,
16 uh, uh -- he had a hearing in Washington, D.C. and he wanted
17 some --

18 MR. NEIMAN: Objection as to the relevancy --

19 THE WITNESS: So she put this together --

20 MR. NEIMAN: -- of these questions.

21 BY MR. CRISTALLI:

22 Q. Okay. She put that together?

23 A. Yes.

24 Q. -- and finally --

25 THE COURT: Sustained.

1 BY MR. CRISTALLI:

2 Q. -- the last proposed exhibit.

3 A. Oh, yeah. What this is, is a bunch of very important
4 exhibits that we use and that she thought was important that she
5 and the other people in the office, uh, should know about. She
6 was diligent when some of the people in my employ were not that
7 diligent. That's -- she would come in and say, you know, did
8 they know about this. And I had a turnover of people in my
9 office.

10 Q. And the material that I showed you, it would be safe to say
11 that it's filled with, um, legal material, statutory material,
12 um, to -- to support the -- the found- -- the found- -- the
13 foundation of the Freedom Books's movement; correct?

14 MR. NEIMAN: Objection as to what's in them. They are
15 not in evidence. It's --

16 MR. CRISTALLI: I don't think they have to be in
17 evidence for me to discuss 'em, your Honor, as to what -- the
18 contents of them.

19 MR. NEIMAN: Then what's the relevance?

20 MR. CRISTALLI: That they relied on this material and
21 it's part of their positions. And that's going to be reason for
22 the admittance of 'em.

23 MR. NEIMAN: That would be speculation at this point,
24 your Honor.

25 THE COURT: It is speculation at this point.

1 Sustained.

2 MR. CRISTALLI: If he relied on this material and the
3 people at Freedom Books --

4 THE COURT: He relied on her material?

5 MR. CRISTALLI: Well, it's -- it's material that was
6 used in Freedom Books.

7 THE COURT: He's testifying -- he can't testify as to
8 what others relied on.

9 MR. CRISTALLI: Okay.

10 THE WITNESS: Well, I -- I could recognize --

11 THE COURT: Well, you've already identified --

12 THE WITNESS: That material's what we used.

13 THE COURT: The question is --

14 THE WITNESS: She just organized it --

15 THE COURT: I sustained --

16 THE WITNESS: -- in a better way.

17 THE COURT: -- the objection.

18 BY MR. CRISTALLI:

19 Q. Um, the material that I just showed you, Mr. Schiff, is this
20 material that was utilized, um, by Freedom Books in support and
21 in -- in the foundation of the -- the belief system of Freedom
22 Books?

23 MR. NEIMAN: Same objection, your Honor.

24 THE WITNESS: No, no.

25 THE COURT: Now he's talking about instead of

1 individuals in general Freedom Books --

2 MR. CRISTALLI: Right. The organization.

3 THE COURT: -- which is a different question, the
4 organization. Overruled.

5 MR. CRISTALLI: Can I ask that question, your Honor?

6 I'm sorry.

7 THE COURT: Yes. I overruled --

8 MR. CRISTALLI: Okay.

9 THE COURT: -- the objection.

10 BY MR. CRISTALLI:

11 Q. The organization itself. I mean, the material that I showed
12 you -- I mean, Cindy didn't create this herself. I mean, she
13 got this material from somewhere. Correct?

14 A. Yes.

15 Q. She was an organizer; she organized?

16 A. She organized. Let me just say this --

17 Q. Let me just stop you real quick.

18 It would be safe to say that she is the quintessential
19 organizer?

20 A. Oh. You know, you can tell how unorganized I am. So she
21 organized me. Now, that is material that I use.

22 Q. Right.

23 A. And I try to communicate that material to the people who
24 work in my office.

25 Q. Right.

1 Because you want -- you -- you -- so it's -- because
2 it's your purpose if there's individuals that are going to be
3 out there, um, teaching or, um, espousing the philosophies and
4 beliefs of you, you want them to do it accurate and you want
5 them to be able to support it with necessary, uh, foundation;
6 right?

7 A. Yes.

8 Q. Okay. And so basically this is -- this is -- this contains
9 any and all information --

10 A. That --

11 Q. -- reference material --

12 A. -- that --

13 Q. -- case law, statutory law, letters to political, uh,
14 figures, that, um, support Freedom Books's foundation?

15 A. Yeah, yeah, yeah. It's -- Freedom Books is me.

16 Q. Right.

17 A. That support me.

18 Q. Right.

19 A. I try to communicate that information --

20 Q. Right.

21 A. -- to people that work for me.

22 Q. Right.

23 A. Sometimes it's difficult to do. I had a turnover of people
24 sometime because they gave information that I didn't believe was
25 accurate or -- but she -- Cindy made -- tried to make sure, you

1 know, because she had the time to do it apparently, that the
2 people who worked for me only communicated information that was
3 accurate. I couldn't organize all that.

4 Q. All right. So --

5 A. I can't even organize my desk over there.

6 Q. So it's your material --

7 A. She organized the legal material that I used so I would more
8 effectively train my -- I don't have a sales manager and I'm
9 traveling; I'm not in the office. And she was concerned that
10 some people who worked for me may not be communicating the
11 correct information. And sometimes they didn't do it, and I
12 would chew 'em out for it.

13 Q. Yeah. And that's a concern of yours because even here
14 during the course of this trial when individuals would get up
15 and you would find out that they didn't study hard enough and
16 they didn't have a -- they weren't fluid in the belief system
17 you would get frustrated; correct?

18 A. That's right.

19 MR. NEIMAN: Objection as to the relevance what
20 happened here at trial --

21 THE COURT: Sustained.

22 MR. NEIMAN: -- it's not...

23 BY MR. CRISTALLI:

24 Q. You would get frustrated when individuals would prescribe to
25 your -- your beliefs and, um, they didn't do their due

1 diligence, they didn't do their homework?

2 A. I would get upset when people did not communicate exactly
3 what my beliefs were to people who called the office. And I
4 can't listen to everybody. But I would find out about it
5 eventually or not find out about it. And I would have words
6 with some of these people.

7 Q. And Cindy --

8 A. There are all kinds of weird -- all kinds of weird ideas
9 that float around in the so-called "tax movement," which I don't
10 subscribed to at all. And sometimes my own employees would pick
11 up these ideas and would try to adopt them or -- you know. And
12 I would hear about it or find out about it and, uh, we have
13 words about it.

14 Q. And --

15 A. So because -- someone would were leave because of that.

16 Q. And Cindy didn't do anything or she didn't say anything that
17 you observed or heard that would suggest to you that she was
18 doing anything illegal?

19 A. No. Cindy was one person that only would listen to what
20 my -- she didn't know anything about these other -- she wouldn't
21 even -- she wouldn't read stuff that -- that I didn't write or
22 wasn't -- wasn't my belief.

23 Q. She believed you, didn't she?

24 A. Yes.

25 MR. NEIMAN: Objection. Speculation.

1 THE COURT: Sustained.

2 BY MR. CRISTALLI:

3 Q. Let me talk to you a little bit -- there was a fallout

4 between Cindy and -- and Michelle Degrosselier. We know who

5 Michelle is; right? Um, it would be safe to say that the

6 fallout stemmed as a result of, uh, the -- the accusation that

7 Michelle was stealing money from Freedom Books; correct?

8 A. She was shocked when she discovered that, when I did at the

9 same time.

10 Q. And --

11 A. She was totally -- I -- I couldn't begin to give you the

12 words.

13 Q. And it would be safe to say, uh, that you trusted, uh,

14 Michelle, uh, with pretty much the most personal things in your

15 life; right?

16 A. Pardon me?

17 Q. You trusted Michelle initially with some of the most

18 personal things your life?

19 MR. NEIMAN: Objection as to relevance, your Honor.

20 THE WITNESS: Some of more the personal? I don't

21 understand what you're saying.

22 THE COURT: What is --

23 BY MR. CRISTALLI:

24 Q. You -- you --

25 THE COURT: -- what is the relevance of the question?

1 MR. CRISTALLI: Well, Michelle Degrosselier, I think
2 she was a witness in this case, your Honor. I'm not quite sure
3 how it couldn't be relevant.

4 MR. NEIMAN: And, your Honor, this extrinsic evidence
5 which --

6 MR. CRISTALLI: No, it's not.

7 MR. NEIMAN: -- could not be used to --

8 MR. CRISTALLI: I'm not using anything extrinsic.

9 THE WITNESS: I -- I trusted Michelle.

10 THE COURT: The objection was that you trusted Michelle
11 Degrosselier with some of the most --

12 MR. CRISTALLI: Personal.

13 THE COURT: -- personal things in your life. That's a
14 very vague --

15 MR. CRISTALLI: And I'll --

16 THE COURT: -- question.

17 MR. CRISTALLI: All right. I'll ask a follow-up.

18 BY MR. CRISTALLI:

19 Q. Michelle Degrosselier was a --

20 THE COURT: Sustained.

21 BY MR. CRISTALLI:

22 Q. -- had the ability to write checks; right?

23 A. Yes.

24 Q. And she would, uh, write checks. She would go to the bank
25 and cash those checks; right?

1 MR. NEIMAN: Objection. Relevance, your Honor.

2 MR. CRISTALLI: We saw by -- the Government's the one
3 who produced these checks, your Honor.

4 THE COURT: It's already introduced. Overruled.

5 MR. CRISTALLI: Thank you.

6 BY MR. CRISTALLI:

7 Q. We saw these checks that were introduced by the Government
8 for which Michelle would go to the banks and write these checks;
9 correct?

10 A. Yes.

11 Q. And -- and a lot of these checks were written for cash.
12 And, according to her testimony, she would go and she would
13 write the checks; she would cash them; and she would come and
14 distribute those, um -- those moneys to individuals in the
15 office; correct?

16 A. Yeah. I did something that, when you're studying
17 accounting, you're never supposed to do. You should never
18 entrust anybody with cash and receipts all the same -- but I --
19 I liked Michelle. And, of course, Michelle was Cindy's
20 daughter.

21 Q. Right.

22 A. And I treated Michelle very well. It never dawned on me
23 that she would do the things she did. She's a very likeable
24 person and she was enthusiastic. So I just trusted her to pay
25 the bills. Shows you how stupid I am as --

1 MR. NEIMAN: Objection, your Honor.

2 THE WITNESS: -- a businessman.

3 MR. NEIMAN: 608(b) would be --

4 THE WITNESS: I trusted her.

5 MR. NEIMAN: -- basis of our objection here --

6 THE WITNESS: So I was devastated myself when --

7 MR. NEIMAN: -- proving specific instances of

8 conduct --

9 MR. CRISTALLI: I'm not proving anything. I'm just --

10 I'm not trying to prove that at all.

11 MR. NEIMAN: Then what would the relevance be if he's

12 not trying to prove something?

13 MR. CRISTALLI: I can establish certain things without

14 coming -- I'm not asking a direct -- I'm not asking for a

15 conclusion. I'm just stating things that were brought up

16 initially in direct --

17 THE COURT: Well --

18 MR. CRISTALLI: -- examination of Michelle.

19 THE COURT: -- there have been no specific instances

20 referenced. Overruled.

21 MR. CRISTALLI: Thank you.

22 BY MR. CRISTALLI:

23 Q. So, um -- and -- and, um -- and I'm not gonna say whether or

24 not Michelle stole money or not, Mr. Schiff. But the bottom

25 line is she was the one who was controlling the money at that

1 particular time. Correct?

2 A. Yeah. I was doing a lot of traveling. I would say,
3 "Where's the money?" She said, "Well, you're spending a lot in
4 your traveling." And it shows you how stupid I was. I wouldn't
5 even look at the books.

6 Q. Well, we all hear the testimony of Michelle and she was
7 having some issues in terms of her addiction.

8 Do you, um, recall specifically, Mr. Schiff, that Cindy
9 would bend over backwards in an effort -- in an effort to get an
10 intervention in order to help Michelle out with her addiction
11 problems?

12 MR. NEIMAN: Objection. Relevance, your Honor.

13 MR. CRISTALLI: Goes to bias.

14 MR. NEIMAN: Whose bias, your Honor? Mr. Schiff's
15 bias? He can't impeach someone's bias with another witness.

16 THE COURT: Sustained.

17 THE WITNESS: I don't believe...

18 THE COURT: Sustained.

19 MR. CRISTALLI: Court's indulgence.

20 THE COURT: Yes.

21 (Pause in the proceedings.)

22 MR. CRISTALLI: Thank you, Mr. Schiff.

23 I have nothing else, your Honor.

24 THE COURT: Thank you.

25 Mr. Bowers?

1 MR. BOWERS: Yeah.

2

3

CROSS-EXAMINATION

4 BY MR. BOWERS:

5 Q. Mr. Schiff --

6 A. Yes.

7 Q. -- uh, what, if anything, do you know about Larry's

8 background prior to his involvement with Freedom Books?

9 MR. NEIMAN: Objection. I think it would be a hearsay
10 unless there's a better foundation --

11 THE COURT: Foundation --

12 MR. NEIMAN: -- which could be laid.

13 THE COURT: -- please, Counsel.

14 BY MR. BOWERS:

15 Q. Uh, when did you first meet Mr. Cohen?

16 A. At some point, I think Larry came into my office, said he
17 had heard about me or --

18 MR. NEIMAN: Objection as to what he said, your Honor.

19 THE COURT: That's foundational, as long as he doesn't
20 repeat what he heard. Foundational.

21 MR. BOWERS: Okay.

22 THE COURT: Overruled.

23 BY MR. BOWERS:

24 Q. So do you know the time roughly? What year that was?

25 A. I don't -- I don't remember. At some point. I don't write

1 these things down. I...

2 Q. So at some point Larry came into --

3 A. He came in --

4 Q. -- your office?

5 A. -- Yeah. I remember Larry coming in and telling me that he

6 had heard -- that he came from Chicago or someplace like that

7 and that he heard about me before he even moved to Vegas.

8 Q. Okay.

9 A. And we -- I used to do a lot of seminars in Chicago and I

10 used to do a lot of radio and TV shows in Chicago. So I was

11 probably interested in hearing about it.

12 Q. So you had a conversation with him?

13 A. Yeah, I remember -- yeah, there was a conversation.

14 Q. What, if anything, do you remember next happening in

15 connection with Larry's involvement at Freedom Books?

16 A. Well, then I think he said something about wanting -- if I

17 need any help, wanting to volunteer or something like that. So

18 we have a lot of people who volunteer. And I said, yeah, if you

19 want to volunteer, I'm sure we could find something for you to

20 do. So initially he volunteered.

21 Q. Okay. So you recall him volunteering at Freedom Books --

22 A. Yeah.

23 Q. -- initially. Okay.

24 Uh, do you have any idea what time frame this was?

25 A. No, I don't remember. I mean, it -- it had to be five, six

1 years ago. A guess. I got a very bad memory for -- for times
2 and stuff like that.

3 Q. You testified earlier that Freedom Books is you; you're
4 Freedom Books.

5 A. Pardon me?

6 Q. You said, I'm Freedom Books.

7 A. That's right.

8 Q. You have no partners?

9 A. No.

10 Q. You don't share profits?

11 A. No.

12 Q. Okay. Um, is it fair to say that during the time that
13 Larry, uh, was associated with Freedom Books his duties were to
14 take orders and answer telephones, help customers?

15 A. Yeah. Let me see. The functions of people in Freedom Books
16 was that if somebody had a particular problem that they would
17 call -- or just some people would call and order The Federal
18 Mafia and they would just take the order and we'd send it out.

19 But they might have a particular problem, let's say,
20 audit or the employer's not honoring their W-4. So we would
21 have a W-4 packet or lien -- they had liens on their houses or
22 something. So we would give them -- we had a Lien and Levy
23 Packet.

24 Their basic function was to, uh, know what kind of
25 information that we could provide that might help them with that

1 specific problem. And what we tried to tell them is they should
2 know the law. We -- I tried to get them to buy the Internal
3 Revenue Code. Um, and I tried to get them to buy either the
4 five-and-a-half-hour cassette seminar or the video because a lot
5 of people will read a book and they'll skim and they'll miss
6 very important things. But, when they heard the cassette, I can
7 yell on a cassette so they get it.

8 Q. Okay. So --

9 A. So the purpose -- if somebody called to buy a book, we'll
10 say, they were supposed to recommend getting a five-and-a
11 -half-hour seminar or the -- what we called "The Truck Driver's
12 Special," which gave them a cassette seminar that they can
13 listen to because too many of the people who after they bought
14 the book I would refer them to certain sections and they -- they
15 skipped over it.

16 Q. All right. So is it fair --

17 A. They wouldn't know the information even though they had the
18 book.

19 THE COURT: Go ahead and interrupt.

20 MR. BOWERS: Okay. I'm trying to be polite.

21 BY MR. BOWERS:

22 Q. Let me -- let me ask this in a way that might control your
23 answer a little better.

24 Is it -- is what you're saying that you couldn't keep
25 an eye on everybody on your telephones. So, as a measure of

1 quality control, you instructed people to do certain things when
2 callers called. Is that fair?

3 A. Exactly.

4 Q. Okay. Perfect.

5 Now, if somebody deviated from the procedure that you
6 had established -- and I understand you -- you weren't able to
7 monitor everybody all the time; is that correct?

8 A. Correct.

9 Q. Okay. But, if somebody did and did something different and
10 you caught wind of it, what was your policy?

11 A. My policy is tell 'em I don't want them to do it.

12 Q. Okay.

13 A. I said, this is my procedure. These are my policies. If
14 you wanna do it differently, open up your own business or get
15 your own...

16 Q. Is it fair to say that people were fired for not following
17 your policies?

18 A. Yes.

19 Q. Okay. Um, what would you estimate or what -- I shouldn't
20 say "estimate" -- what's your best recollection of the number of
21 employees and volunteers, uh, who went through the doors of
22 Freedom Books, uh, in the years '97 to 2004?

23 A. That's gonna be a guess.

24 Q. Well, I don't -- I think you can provide me with an
25 estimate. I don't want you to guess.

1 A. Well, all right. I would say -- you mean how many people I
2 employed over that period of time?

3 Q. How many people -- yes. I don't care how many people you
4 employed. I care how many people came and left.

5 A. Came and left. I would say -- I don't know -- 15, 20, I
6 guess.

7 Q. Okay. In addition to the whatever number that you had
8 employed?

9 A. Left, yeah.

10 Q. Okay. And some of those people were terminated for not
11 following your policies?

12 A. Yeah.

13 Q. And it was understood around the office you needed to do
14 what Irwin does 'cuz --

15 A. Right.

16 Q. -- he's Freedom Books and he wants people to follow his
17 ideas; right?

18 A. Say that again.

19 Q. You're Freedom Books and you want people workin' for Freedom
20 Books to do what you want 'em to do.

21 A. Right.

22 Q. This is -- in your own words in the disclaimer of The
23 Federal Mafia, This is serious stuff these people are messing
24 with --

25 A. Right.

1 Q. -- being the customers -- and it needs to be done correctly.

2 A. Right.

3 Q. Okay. Um, now, as part of that, you said that you had --
4 we've seen evidence of a desk book that you use so that people
5 understood, uh, what your policies and procedures were; is that
6 correct?

7 A. Yes.

8 Q. Did you have other office training, uh -- and I don't mean,
9 you know, formal seminars that you necessarily conducted with
10 your staff, but I'm trying to use training as a large word --
11 did you have an ongoing training or education process for your
12 employees?

13 A. It was informal. I don't --

14 Q. Sure.

15 A. -- have a salesman. It was informal.

16 Q. Right.

17 A. But I told my employees? If anybody asks you a question, I
18 don't want you to guess at it. Come and see me and I'll tell
19 you what the answer is. I don't want you guessing.

20 And some of them would guess. And I said I don't want
21 you to guess at anything. I said: If you don't know the
22 answer, tell 'em you don't know the answer. It's not terrible
23 you don't know the answer. You're not supposed to know all
24 these answers.

25 And sometimes they would really guess and they would

1 guess wrong. And I would be very upset.

2 Q. Let me ask this: If -- do you have any recollection of,
3 during the time that Larry was working for you, him coming to
4 you to discuss any issue related to your philosophy?

5 A. I -- I recall him raising an issue, yeah. About an issue.
6 I remember him raising an issue.

7 Q. Having a conversation with you?

8 A. Yeah.

9 You know, let just say this: There are a lot of
10 different theories about why you don't have to pay -- Sixteenth
11 Amendment wasn't legally ratified; the strawman; uh, using zip
12 codes. There are all kinds of theories that float around --

13 Q. Well, let me --

14 A. -- some of whom I think are ridiculous. But people pick 'em
15 up.

16 Q. Well, let me get to the specific theory momentarily.

17 A. Yes.

18 Q. Okay? That's not what I'm talking about.

19 I'm just talking about in general: Do you recall
20 either talking to Larry about any issue or Larry coming to talk
21 to you about any --

22 A. Yes, yes, yes --

23 Q. -- issue?

24 A. -- yes.

25 Q. Okay.

1 A. About this no liability. Yes.

2 Q. Not anything. Just in general, did that happened?

3 A. Yeah, I must say yes. I mean, I talked to my employees all
4 the time. Questions came up. People are always calling my
5 office giving me new ideas: how about this? How about this
6 Code section? And my employees, how about this theory? So they
7 would come to me and they would say, well, how about this?

8 Q. So let me: Was it -- was it a regular --

9 A. And I would have to give them my opinion of what I thought
10 of it.

11 Q. Okay. So would you say that it was a regular part of your
12 business to have conversations with your employees about either
13 your theories or other people's theories?

14 A. Yeah. How -- a very big -- at one time we called it the 861
15 argument --

16 Q. Well, I don't --

17 A. -- was adopted.

18 Q. -- I don't --

19 A. The people come and --

20 Q. -- I don't --

21 A. -- ask me about it.

22 Q. Well -- and I don't mean to interrupt ya.

23 A. Yes.

24 Q. I'm just -- I don't want to get --

25 A. Yes.

1 Q. -- into specifics. Okay.

2 And Larry did that --

3 A. Yes.

4 Q. -- on occasion?

5 Okay. That's all I'm tryin' to figure out.

6 Um, now, you said earlier -- you made reference to,
7 during your direction testimony, the 1040 OMB number and the
8 Code sections that apply to it. You used to include as your
9 attachments a statement to the effect of why you thought that --
10 that that was a bootlegged document?

11 A. Yes.

12 Q. Do you recall that testimony?

13 A. Yeah.

14 Q. And is it fair to say that because of the interaction
15 between the Code sections and the OMB number on the actual 1040
16 form that you believe that doesn't support the payment of income
17 tax?

18 A. Exactly right.

19 Q. And you got rid of that concept, as you testified, because
20 you found it too complicated to explain to the general public?

21 A. Yes. I wanted to use concepts that were simple, that people
22 could understand which were valid. I used to tell my employees:
23 Why say baw, baw when baw will do?

24 It was very important to me that if anybody used this
25 they had to be able to explain why they did what they did and to

1 be able to get into the regulations and the -- it was correct,
2 but it would be very difficult for people to explain it if they
3 had to. So that's why -- it was correct.

4 Q. Okay. Let me ask --

5 A. But it was too difficult to explain.

6 Q. Let me ask you another question.

7 Do you believe that as you sit here today?

8 A. Do I believe that?

9 Q. That argument, yes.

10 A. Yeah.

11 Q. Okay. Even though you don't use it as part of the
12 materials --

13 A. Yeah.

14 Q. -- you provide at Freedom Books? Okay.

15 A. It's too complicated. It's much easier to say: "Show me a
16 law that makes me liable. Show me a law that says I gotta pay
17 the tax." Everybody can understand that.

18 Q. Does the 1040 -- you have a 1040 book in front of you --

19 A. Yes.

20 Q. -- correct?

21 Does that book in some way, uh, report your argument
22 regarding the OMB numbers?

23 A. Yes. Yes.

24 Q. How does it do it?

25 A. Well, if you had as to file a 1040, it would have to tell

1 you somewhere in the Priv- -- it doesn't say it. It doesn't
2 tell you you have to file a 1040. So how would anybody know?

3 Now, if you look at the front of the book -- here's how
4 the government misleads people. The key word is "required." So
5 what the 1040 tells you -- they make you -- mislead you into
6 thinking: Where do you file? When should you file? Doesn't
7 say when you are -- when are you required to file? When should
8 you? Well, the word "should" if you look up in Black's Law
9 Dictionary can mean "may."

10 Do -- do you have to file? They don't say you have --
11 do you have to file? Well, I can conclude I don't have to file.
12 They don't tell -- this is all designed to mislead the public
13 into thinking they are required to file.

14 They don't tell you anyplace here -- and this has
15 nothing to do with the law. The law is right here in the --

16 MR. NEIMAN: Objection, your Honor. Nonresponsive
17 narrative.

18 THE COURT: It is.

19 THE WITNESS: Here is the law in the --

20 THE COURT: Sustained.

21 THE WITNESS: -- Privacy Act.

22 THE COURT: Mr. Schiff --

23 THE WITNESS: Yes.

24 MR. NEIMAN: Move to strike.

25 THE COURT: Strike.

1 THE WITNESS: Strike.

2 THE COURT: Sustained.

3 MR. BOWERS: Maybe -- can I -- I need to ask to maybe
4 just preserve the portion of the answer where --

5 THE WITNESS: In my -- in my view --

6 MR. BOWERS: Please, Mr. Schiff. Give me just a
7 moment.

8 THE COURT: You'll have to ask it over again because --

9 MR. BOWERS: Okay.

10 BY MR. BOWERS:

11 Q. Mr. Schiff --

12 THE COURT: -- it was --

13 BY MR. BOWERS:

14 Q. -- let me --

15 THE COURT: -- narrative.

16 BY MR. BOWERS:

17 Q. -- let me try to ask this question a yes-or-no answer so
18 that we don't have this same problem because I need to know what
19 the answer --

20 A. Okay.

21 Q. -- to this question is. Okay?

22 So, very carefully, the manual that you have in front
23 of you --

24 A. Yes.

25 Q. -- the 1040 manual --

1 A. Yes.

2 Q. -- it supports a theory that you still believe in but don't
3 advise people on that --

4 A. It is my understanding of this --

5 Q. Please, please, please. Let me --

6 A. I'm sorry.

7 Q. -- let me finish, please.

8 -- that before -- that the 1040 form with the OMB
9 number assigned to it is not a valid document for purposes of
10 imposing the income tax?

11 A. I believe that the government has never put out an
12 official -- yeah. All right.

13 Q. It's okay. It's okay.

14 A. The government has never put out an official document saying
15 you have to file a 1040. That's my belief.

16 Q. Okay. And that book right there in your hand supports that
17 belief?

18 A. Yes.

19 Q. Okay.

20 A. Because if you had to file a 1040, it would say it right
21 here.

22 Q. And it doesn't?

23 A. We always compare to the Privacy Act Notice to the Privacy
24 Act Notice for wagering taxes.

25 MR. NEIMAN: Objection. Nonresponsive.

1 THE COURT: Sustained.

2 MR. BOWERS: Okay.

3 THE WITNESS: Now, that's my -- that's my belief.

4 BY MR. BOWERS:

5 Q. I understand. I appreciate it. We're gonna move on.

6 Is this -- I've heard you mention bootlegged documents
7 in this trial. Is bootlegged documents documents that have
8 problems with their OMB numbers?

9 A. Pardon me? A bootlegged --

10 Q. Bootlegged document. What's a bootlegged document?

11 A. A bootleg document is a document sent out by the government
12 asking you for information which doesn't contain an OMB number.
13 They do it all -- this is one good law passed by Congress.
14 Congress realized that any --

15 MR. NEIMAN: Objection to his characterizations of laws
16 and the relevance --

17 THE COURT: Sustained.

18 MR. NEIMAN: -- as well.

19 MR. BOWERS: Sustained on the grounds of the law. I
20 assume I can ask him, if I can get -- or is that to bootlegged
21 document as well --

22 THE COURT: It's --

23 MR. BOWERS: -- the relevance of that.

24 THE COURT: -- sustained as to his conclusion --

25 MR. BOWERS: Okay. Maybe --

1 THE COURT: -- of the law.

2 MR. BOWERS: -- I'll move on.

3 BY MR. BOWERS:

4 Q. Um, okay. Let me ask you a question, Irwin.

5 Do you ever recall having a discussion with Larry Cohen
6 about OMB numbers, bootlegged documents, foreign source income,
7 nonresident alien, withholding? Any of those topics? Do you
8 ever remember having a conversation with Larry about any of
9 those things?

10 A. Well, it is -- vaguely I remember Larry bringing up this,
11 uh -- this was part of the 861 argument that only -- only
12 foreign source income was taxable. And I would say that was an
13 erroneous argument, that sources being taxable --

14 Q. I'm sorry.

15 A. -- anyway.

16 Q. I have to stop you for just a second.

17 Are you saying that's what you --

18 A. Believe.

19 Q. -- you're saying now and believe or is that what you said
20 during this conversation or you remember the conversation well
21 enough to make this statement?

22 A. I had no specific regulation. But I remember it being
23 brought up in my office by other -- Larry as well as other
24 people. And I'm saying the foreign source argument was
25 erroneous.

1 Q. All right. That's fine.

2 What I'm asking though -- so you don't remember a
3 specific conversation with Larry about foreign source income?

4 A. I had -- I had that conversation with so many people in my
5 office because it was a very popular concept at one time. I --
6 I can't specifically -- I must have talked to him about it
7 because it came up numerous times in my office. And he probably
8 brought it up like everybody else.

9 Q. How about the OMB numbers? Do you --

10 A. Oh, that came up.

11 Q. With Larry?

12 A. I spoke -- yes, Larry brought that up.

13 Q. Okay.

14 A. But I said: That's too complicated. The average person is
15 not gonna understand it.

16 Q. Did you --

17 A. I wanna keep it simple.

18 Q. Okay. Did you ever have a conversation or multiple
19 conversations about the OMB numbers with Larry?

20 A. Yes.

21 Q. Okay. All right. Um --

22 A. It's a good argument, but --

23 Q. And you're --

24 A. -- it's too difficult for the --

25 Q. It's a good argument in your opinion, but it's too difficult

1 for the public?

2 A. Yes. We had -- we had simpler arguments. Why go to a
3 complicated argument when a simple argument will do? And I
4 don't want my employees to complicate things because then the
5 people won't know what they are doing. They forget. You tell
6 them an argument, then they forget what you said.

7 Q. Okay. So is it your recollection that Larry wanted you to
8 use this argument for some reason and you didn't want to? Is
9 that the substance of the conversation?

10 A. Larry went to me I remember. I said: It's a good argument,
11 but I'm not gonna use it here. It's too complicated. I don't
12 want to get into it.

13 That's why I took it off of my original attachment
14 because people didn't understand it. So why would -- why would
15 I want to give somebody something which they don't understand?

16 Q. When did you take it off?

17 A. It was on my original attachment because it's good argument.

18 Q. Right.

19 When -- when did you take it off, out of curiosity?

20 A. Pardon me?

21 Q. What year?

22 A. I don't remember.

23 Q. Mid '90s? Late '90s?

24 A. At some point because I -- when talking to people, they
25 didn't understand it. So I took it off. I didn't want anybody

1 using anything -- before anybody filed anything of mine, I said,
2 look, I want you to understand every paragraph or don't file it.
3 And they couldn't understand that. It was complicated.

4 Q. Was it used in the -- in this version of The Mafia, do you
5 know --

6 A. It was --

7 Q. -- or was it gone by then?

8 A. -- it was -- in the original Mafia, I didn't even talk about
9 it. It got in at some point. I think it's in the 1995 version.

10 Q. The attachment that includes that argument?

11 A. Yeah, I think so.

12 Q. Okay. And so do -- do you know when you abandoned it?

13 A. At some point I did.

14 Q. You don't know when, what year?

15 A. I don't know the year.

16 Q. Okay. Uh, did you ever see Larry doing his own research or
17 did he ever discuss his own research with you?

18 MR. NEIMAN: Objection as to what he discussed. No
19 objection as to --

20 MR. BOWERS: I --

21 MR. NEIMAN: -- what he saw.

22 MR. BOWERS: If I may, your Honor, I think that the
23 substance of any conversation may qualify as an objection. But
24 the fact that Larry may or may not have a discussion would not
25 qualify as to the objection the Government, I believe --

1 MR. NEIMAN: The Government would concede that.

2 THE COURT: The objection is overruled pending the next
3 question.

4 BY MR. BOWERS:

5 Q. Sorry, Irwin.

6 MR. BOWERS: Overruled; correct?

7 THE COURT: Yes.

8 MR. BOWERS: Oh, okay. All right.

9 BY MR. BOWERS:

10 Q. Let me -- let me ask you this again, Mr. Schiff.

11 Do you ever recall seeing Larry at your office -- well,
12 anywhere really -- doing his own research or recall having a
13 discussion with him as to research he had done?

14 A. First of all, people in my office were always doing
15 research. They were always looking at the Code. We would get
16 all kinds of --

17 THE COURT: Mr. Schiff --

18 THE WITNESS: -- faxes from various --

19 THE COURT: -- Mr. Schiff --

20 THE WITNESS: -- people. So when they --

21 THE COURT: -- Mr. Schiff --

22 THE WITNESS: Yes.

23 THE COURT: -- he asked you a specific question as
24 to --

25 THE WITNESS: Well, I don't know --

1 THE COURT: -- as to Larry Cohen.

2 THE WITNESS: -- if they are doing --

3 THE COURT: We don't need a speech. Answer --

4 THE WITNESS: Well, I --

5 THE COURT: -- the question.

6 THE WITNESS: -- if I saw him looking at a document, I

7 wouldn't know if he's doing his own research or researching some

8 of the material that I provided him to know it better.

9 BY MR. BOWERS:

10 Q. Okay. Let me ask it a different way.

11 What -- what I heard you saying in that answer is

12 people were always doing --

13 A. Yes.

14 Q. -- research, I don't remember, I don't know. Let me ask you

15 this: Do you have a recollection of Larry being engaged in

16 looking things up --

17 A. Yes --

18 Q. -- at the office?

19 A. -- yes, of course. I have a recollection of Larry looking

20 at documents and looking into the Code or going -- you know,

21 looking at Title 28 which we have. We have regulations. I

22 probably have a recollection of him looking at the regulations.

23 But I don't check up on that. What are you lookin' up? What

24 are you doing?

25 Q. Okay.

1 A. They -- they just do it.

2 Q. Do you have a conversa- -- do you have recollection of Larry
3 coming to you and saying, I found this or I found that -- and I
4 don't care what they are. That's not what I'm asking -- some
5 concept that wasn't yours or that you weren't using and
6 discussing it?

7 A. Well --

8 Q. Any concept.

9 A. -- I have. The idea of the not liable --

10 Q. Okay.

11 A. -- sending in a return not liable.

12 Q. I'm not asking for the specifics. I'm just wondering --

13 A. Yeah, Larry brought that up.

14 Q. Okay. So now that -- now that we've talked about it, did he
15 also discuss with you the OMB numbers at a point in time where
16 you weren't using them, that argument?

17 A. He brought up -- look. He brought up that argument and I
18 said I'm not using it.

19 Q. Okay. I just wanted --

20 A. End of story.

21 Q. -- to make sure. Okay.

22 And also had a discussion with you about what you're
23 terming 861 arguments, foreign source income? It didn't make
24 you happy, but you recall a discussion --

25 A. Yeah.

1 Q. -- about that?

2 A. That was very common because people thought I was stubborn.
3 Everybody was adopting the 861 argument, practically the whole
4 movement, and I had to tell them that it was wrong for various
5 reasons.

6 Q. Okay. So we know that you can at least remember having
7 these specific conversations with Larry at some point in time;
8 is that right?

9 A. Yes.

10 Q. Okay. Now, let me ask you something. You -- it is not part
11 of your teachings or your philosophy to prepare the returns that
12 we've seen where Larry's written or -- or the people that
13 Larry's has counseled, or whatever the case may be, the "Not
14 Liable" returns --

15 A. No, that was --

16 Q. -- returns that --

17 A. -- not part --

18 Q. -- had "Not Liable" --

19 A. -- of my --

20 Q. -- written on them --

21 A. No --

22 Q. -- correct?

23 A. -- absolutely not.

24 Q. Okay. That's -- that's not your philosophy; is that
25 correct?

1 A. No.

2 Q. So if -- if Larry did that, he didn't get it from you?

3 A. No.

4 Q. Okay. If you had known that Larry was doing that, what
5 would you have done?

6 A. I would have told him.

7 MR. NEIMAN: Objection. Relevance and --

8 THE WITNESS: No, this --

9 MR. NEIMAN: -- or speculation.

10 BY MR. BOWERS:

11 Q. Well, if you know.

12 A. I would have told him: Look. You're not doin' it. If
13 you're gonna do it again --

14 THE COURT: Overruled.

15 THE WITNESS: -- you're not gonna work here. It's that
16 simple.

17 BY MR. BOWERS:

18 Q. And if you continued to do it?

19 A. He would have been fired.

20 Q. What if he said, I think this is right? Would that have
21 mattered or --

22 A. Open up --

23 Q. -- would you still have fired him?

24 A. -- your own office. If you think it's right, no one's
25 stopping you. Open your own office and do it. You're not doin'

1 it here --

2 Q. You're Freedom Books.

3 A. -- for a variety of reasons.

4 Q. Right.

5 But primarily you're Freedom Books. And you do it your
6 or the highway?

7 A. You either do it my way or you don't do it.

8 Q. Okay. And so whatever justification may -- Larry may have
9 had in connection with the "Not Liable" return, if he didn't
10 stop, he would have been terminated; correct?

11 A. Yeah.

12 Q. Okay.

13 (Pause in the proceedings.)

14 BY MR. BOWERS:

15 Q. Oh, I'm sorry. I had another question for you, Mr. Schiff.

16 As -- as part of, uh, the normal course of business at
17 Freedom Books, uh, were there people there who weren't employees
18 or volunteers, maybe customers or others, who just sort of hung
19 out?

20 A. Yeah, yeah, they did.

21 Q. And I -- I've just recently been to your office for whatever
22 reason. And there's sort of an -- an entry where there's kind
23 of a lounge sort of feel there. Is that --

24 A. Yeah. They used --

25 Q. -- a fair characterization?

1 A. -- to hang out in my office.

2 Q. And was -- did you encourage people to sort of spend time
3 there if they had questions or wanted to.

4 A. I -- I didn't encourage him, but they just did it. We had a
5 lot of volunteers. We had the -- you heard about the public
6 alert team. There was about seven or eight people and they
7 would come in and they would stay there. A lot of people would
8 come in and they'd read.

9 It was all right. I didn't discourage it. But
10 sometimes they'd get in the way of people who actually had to do
11 some work. But a lot of -- we had volunteers underlining the
12 Code and -- we had a lot of volunteers because they -- they
13 liked the work we were doing and they wanted to help us.

14 Q. You, um -- you made a comment earlier. I'd like to ask you
15 to explain as concisely as possible. You said that the income
16 tax requires, in your opinion, um, the wife to work in an era
17 today where she wouldn't have had to work before. I didn't -- I
18 didn't understand that. Can you --

19 A. Well --

20 Q. I mean, briefly.

21 A. Well, all you gotta do is -- in many cases I found if you
22 took the taxes paid by the husband and the wife and you add them
23 together, it's more money than the wife had after taxes. So
24 it's obviously the wife was working just to pay the taxes, I
25 mean, for the whole family. That's why she worked, just to pay

1 their taxes.

2 Q. So -- but -- but if you -- if you took a combined-income
3 household and one spouse is workin' to pay the tax for both and
4 the other spouse gets to keep all his income?

5 A. Well, yeah. It was my experience just from doing --
6 especially when I did financial planning --

7 Q. Um-hum.

8 A. -- to me I saw that, wives getting up in the morning, taking
9 their kids to daycare centers so they can go to work. Of
10 course, the government used to say -- as more and more women
11 entered the workforce, the government says, well, they wanted --
12 well, they wanted the extras in life, like being able to pay
13 rent or the mortgage payment. But little by little women had to
14 go to work because a husband did not earn enough money to
15 support the family as happened before the Second World War.
16 Before the Second World War, women you didn't -- you see women
17 working. You know, just very unusual.

18 My sister worked in a real estate [sic] in New Haven,
19 Connecticut --

20 MR. NEIMAN: Just objection. Nonresponsive at this --

21 THE COURT: Sustained.

22 MR. NEIMAN: -- point.

23 THE WITNESS: The only --

24 MR. NEIMAN: The relevance is questionable --

25 THE COURT: Sustained.

1 MR. NEIMAN: -- as well.

2 THE WITNESS: Okay.

3 BY MR. BOWERS:

4 Q. I'd ask where your sister worked, but I don't know that
5 that's relevant. So thank you, Mr. Schiff.

6 THE COURT: All right. We're going to take our break.

7 We'll be in recess until 1:30. The standard admonition
8 continues.

9 (Jury leaves the courtroom at 12:16 p.m.)

10 THE COURT: Okay. We're in recess.

11 MR. IGNALL: Thank you.

12 (Lunch break, 12:16 p.m. to 1:32 p.m.)

13 THE CLERK: All rise.

14 THE COURT: Please be seated.

15 MR. SCHIFF: Judge, if I can ask you -- Ray Hartman is
16 here -- if I could put him on just as a, um, um, and then he'll
17 go -- he can wait until -- you know, I don't know. I got one
18 more witness which I'll put on after the Government is through
19 with me. But Mr. Hartman would like to go as soon as possible
20 to catch his plane back to Pennsylvania. So it'll only take
21 about five or ten minutes.

22 THE COURT: I don't think I had --

23 MR. SCHIFF: Yeah, he should have been here this
24 morning. But he had trouble getting here.

25 THE COURT: Okay.

1 MR. IGNALL: Your Honor, I think Mr. Hartman testified
2 last week. He's the one who hurt his shoulder.

3 THE COURT: Oh.

4 MR. IGNALL: As I understand, Mr. Schiff wants to
5 recall him just as a character witness.

6 MR. SCHIFF: Yes.

7 MR. IGNALL: I don't think we object to that. Just
8 defer to the Court --

9 THE COURT: Okay.

10 MR. IGNALL: -- as to when.

11 THE COURT: Well, how long are you going to be with
12 Mr. Schiff?

13 MR. SCHIFF: Five minutes.

14 THE COURT: No.

15 MR. NEIMAN: Well, I --

16 MR. SCHIFF: He's here.

17 MR. NEIMAN: -- I think that's -- hopefully about 45
18 minutes, at most, to an hour.

19 THE COURT: Okay. We'll do it after you finish.

20 MR. SCHIFF: Okay.

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

23 THE CLERK: Yes, sir.

24 (Pause in the proceedings.)

25 MR. LEVENTHAL: Judge, just briefly. After the

1 Government finishes up their cross, could we take five minutes
2 so I can sit with Mr. Schiff on -- if he wants me to question
3 him on anything --

4 THE COURT: Yes.

5 MR. LEVENTHAL: -- further? Thank you.

6 MR. NEIMAN: Also, your Honor, if there's an objection
7 to one of my questions from the box, how -- how do you want...

8 MR. SCHIFF: Who is supposed to object, he or me?

9 MR. LEVENTHAL: I prefer not to get on the record in
10 terms of objections.

11 MR. SCHIFF: Am I supposed to object or are you
12 supposed to object?

13 THE COURT: You're supposed to object.

14 MR. SCHIFF: Okay.

15 (Jury enters the courtroom at 1:35 p.m.)

16 THE COURT: Please be seated.

17 Will counsel stipulate to the presence of the jury?

18 MR. NEIMAN: Yes, your Honor.

19 MR. CRISTALLI: Yes, your Honor.

20 MR. BOWERS: Yes, your Honor.

21 THE COURT: Thank you.

22 Go ahead.

23 MR. NEIMAN: Thank you very much.

24

25

CROSS-EXAMINATION

- 1
- 2 BY MR. NEIMAN:
- 3 Q. Good afternoon, Mr. Schiff.
- 4 A. Good afternoon.
- 5 Q. Mr. Schiff, if I could have you just close everything up and
6 if you could listen to my questions. If you don't understand
7 any of my questions, just let me know.
- 8 A. Okay.
- 9 Q. Please try and answer them as succinctly as possible.
- 10 A. Sure.
- 11 Q. Mr. Schiff, you pick and choose the portions of cases and
12 statutes which you want to believe, don't you?
- 13 A. No, no, I don't wanna believe anything. When I read
14 something, that forms my opinion.
- 15 Q. But you --
- 16 A. I don't have preconceived opinions.
- 17 Q. But you look at certain portions and you disregard the
18 rest --
- 19 A. No --
- 20 Q. -- the rest, don't you?
- 21 A. -- that's not true.
- 22 Q. Well, Mr. Schiff, if we could refer to Defense Exhibit 2115.
- 23 A. Yes.
- 24 Q. I believe it's in evidence.
- 25 MR. NEIMAN: And, actually -- Ms. Vannozzi, actually, I

1 have a copy here, I think.

2 THE WITNESS: Yes.

3 (Pause in the proceedings.)

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

5 THE COURT: You may.

6 BY MR. NEIMAN:

7 Q. Mr. Schiff, I'm gonna put it on the ELMO. If you have any
8 trouble reading from it --

9 A. I can read, yeah.

10 Q. I don't have a copy of it. That's why I need to put it on
11 the ELMO.

12 A. Okay. You want to take this?

13 Q. Please.

14 A. Okay.

15 Q. Thank you.

16 MR. NEIMAN: Do you have an extra copy, by the way,
17 Mr. Leventhal? Thank you. Sorry about that.

18 (Document displayed in open court.)

19 BY MR. NEIMAN:

20 Q. Mr. Schiff --

21 A. Yes.

22 Q. -- Defense Exhibit 2115 --

23 A. Yes.

24 Q. -- is the letter, is it not --

25 A. Yes.

1 Q. -- from Mr. Ensign --

2 A. From Mr. Burke.

3 Q. I'm looking at the page related to Mr. Ensign. There's two

4 pages. The second page.

5 A. Mr. Ensign?

6 Q. Ensign. I'm sorry.

7 A. Mr. Burke --

8 Q. I'm showing my knowledge.

9 Look at the second letter.

10 A. The second letter is from Ensign.

11 Q. Mr. Ensign. Okay.

12 A. That's correct.

13 Q. And you have a portion here underlined that says, "Let me

14 state" -- "start by saying I cannot point to a specific place in

15 the law that says where you must pay income taxes" --

16 A. That's correct.

17 Q. -- does it not?

18 A. That's correct.

19 Q. And you testified on direct that this is part of what you

20 relied on in forming your beliefs that you're not liable to pay

21 income taxes, did you not?

22 A. It confirmed my belief. I --

23 Q. It confirmed.

24 A. -- I --

25 Q. Mr. Schiff --

1 A. -- I believed this long before I showed this letter.

2 Q. It confirmed your beliefs then --

3 A. Yes.

4 Q. -- did it not?

5 Mr. Schiff, could you read what the next sentence is?

6 A. It says -- what's the next -- "However, as pointed out ...,

7 the courts have determined they feel the laws on the books

8 require you [have] to pay income taxes."

9 Well, that shows --

10 Q. Mr. Schiff --

11 A. Yeah.

12 Q. -- I just asked you to read it.

13 A. Well --

14 Q. You disagree with that statement, don't you? You don't

15 think the courts show you or tell you that you are required to

16 pay income taxes?

17 A. Well, what that shows is if he can't find the law how could

18 judges find the law.

19 Q. Mr. Schiff, you disagree with Mr. Ensign's statement there,

20 do you not?

21 A. No, I don't disagree.

22 Q. You agree with it then?

23 A. I disagree that the courts have determined something that

24 doesn't exist. This goes along with my thinking that most

25 federal judges misstate the law. If Ensign can't find a law

1 that says you gotta pay taxes, how could judges find such a law?

2 Q. Mr. Schiff, Mr. Ensign in this letter says to you that your
3 argument has been rejected by the courts --

4 A. That's not what --

5 Q. -- does it not?

6 A. That's not what he said.

7 Q. That's not what it says.

8 Mr. Schiff --

9 A. That's not what he said.

10 Q. Okay. Let's go on.

11 It then continues to cite the Congressional Research
12 Service Report, does it not?

13 A. That's correct.

14 Q. And that's Government Exhibit 225, which we've heard a lot
15 about?

16 A. Yeah. I use it in my seminars myself.

17 Q. Okay. And the portion that is cited here from the CRS
18 explains why we do not have a voluntary Tax system --

19 A. No, it --

20 Q. -- does it not?

21 A. -- doesn't. What he's trying to do here is get off the
22 hook. The important thing is he can't find a law that says you
23 gotta pay income taxes. But --

24 Q. Mr. Schiff --

25 A. -- he doesn't want the person -- he's trying to blow smoke

1 in the face of the person who got the letter. The important
2 thing was he can't find a law that says you gotta pay income
3 taxes. But then he tries to -- he tries to, uh, rationalize so
4 the person can't go around and say --

5 MR. NEIMAN: Your Honor --

6 THE WITNESS: -- there is no law.

7 MR. NEIMAN: -- I'm gonna object as nonresponsive and
8 move to strike the entire answer.

9 THE COURT: Sustained.

10 MR. SCHIFF: All right.

11 MR. NEIMAN: Thank you very much.

12 THE WITNESS: I'm sorry. Give me --

13 BY MR. NEIMAN:

14 Q. Mr. Schiff --

15 A. -- the question again.

16 Q. Okay. Mr. Schiff --

17 A. I'll try to be --

18 Q. It then --

19 A. -- more responsive.

20 Q. -- quotes to the CRS, does it not? That starts off, "We do
21 not have a voluntary tax system." Does that --

22 A. That's wrong. That's wrong.

23 Q. You disagree --

24 A. We do have --

25 Q. -- with that statement.

1 A. Pardon me?

2 Q. You disagree.

3 A. Absolutely.

4 Q. All right. The next exhibit of 2115 is the letter from
5 Mr. Burton, is it not?

6 A. From Mr. Burton, yes.

7 Q. Again, you underline one portion, one sentence.

8 A. But let me just say this --

9 Q. Mr. Schiff, did you --

10 A. I underlined one portion. I didn't underline the whole
11 letter.

12 Q. Well, you chose to -- you disagree with the rest of the
13 letter, don't you, Mr. Schiff?

14 A. The only thing that's relevant is that -- the fact that
15 there's no law that makes you liable. The rest is irrelevant.

16 Q. Mr. Schiff, what -- after you underlined, read the next
17 sentence.

18 A. "However, the Sixteenth Amendment of the United States
19 provides that: '... Congress shall have the power to lay and
20 collect taxes ..., from whatever source ..., without
21 apportionment among the ... States, and without regard to any
22 census or renum-" -- that's correct.

23 Q. All right.

24 A. But if you --

25 Q. Mr. Schiff --

1 A. I'm sorry.

2 Q. -- he then included in this letter an additional copy of the
3 CRS --

4 A. Yeah.

5 Q. -- did he not?

6 A. Sure.

7 (Discussion between Mr. Neiman and
8 Mr. Ignall.)

9 THE WITNESS: I gotta write down my cross-examination
10 questions.

11 BY MR. NEIMAN:

12 Q. Mr. Schiff, Mr. Burton --

13 A. Can you --

14 Q. -- in his letter to you --

15 A. Hold it.

16 Q. -- does he not say --

17 A. Can I write down my cross-examination questions so he knows
18 what they do? I gotta write down my cross --

19 THE COURT: Write it down.

20 THE WITNESS: Okay.

21 THE COURT: Quit stalling.

22 THE WITNESS: Okay. Why do you disagree with --

23 THE COURT: You don't have to repeat it.

24 THE WITNESS: All right.

25 THE COURT: You can write --

1 THE WITNESS: I got it.

2 THE COURT: -- without talking.

3 THE WITNESS: Okay.

4 THE COURT: I hope.

5 THE WITNESS: Good, good. I forgot about I got a
6 chance to answer. Okay.

7 BY MR. NEIMAN:

8 Q. Mr. Schiff, in the letter from Mr. Burton, does it not say,
9 "I believe that this carefully researched report will answer
10 your question[s] more fully, and other" -- "and others you may
11 have as well"? Does it not say that?

12 A. It does say that.

13 Q. Mr. Schiff, have you reviewed the CRS?

14 A. The CRF?

15 Q. Government Exhibit 225?

16 A. Is that the Congressional Research Report?

17 Q. Yes.

18 A. Absolutely. I -- I testified extensively on direct on that.

19 Q. And -- and you quote and you used to teach the portion
20 relating to excise tax?

21 A. Absolutely.

22 Q. But yet you disagree with the rest of that report that
23 rejects all of your arguments, don't you --

24 A. Well --

25 Q. -- Mr. Schiff?

1 A. -- because the rest of the arguments are invalid. I use
2 only that section of the report that's valid.

3 Q. So you disagree with the rest? Yes or no.

4 A. Yes.

5 Q. All right. Mr. Schiff, if I could turn to your tax return,
6 Government Exhibit 46.

7 A. Do I have a copy of it?

8 MR. NEIMAN: I'm sorry, Ms. Vannozzi.

9 THE CLERK: Actually, you do.

10 THE WITNESS: Is that it?

11 THE CLERK: That's 36.

12 THE WITNESS: 36.

13 THE CLERK: No. Here I think. This is 46.

14 THE COURT: 46.

15 THE CLERK: This is the second one.

16 THE WITNESS: This was the '93 return?

17 THE CLERK: This is the one he wants.

18 THE WITNESS: 46, 46.

19 BY MR. NEIMAN:

20 Q. Mr. Schiff, that's your 2003 tax return, is it not?

21 A. Hold it. (Reviewing document.) 46. 2003.

22 Q. Mr. Schiff, if we can look at your attachment --

23 A. Yeah.

24 Q. -- which included the House and Ways Committee testimony,
25 does it not?

1 A. Yes.

2 MR. NEIMAN: Ms. Vannozzi, if we could switch the
3 source over to Mr. Steiner's computer.

4 THE CLERK: Sure.

5 (Document displayed in open court.)

6 BY MR. NEIMAN:

7 Q. If we could blow up the bottom paragraph on the left side?

8 A. This definition?

9 Q. Mr. Schiff, on direct examination, did you not testify about
10 the meaning of income changing with the enactment of the 1939
11 Code?

12 A. Yes, I did.

13 Q. Mr. Schiff, does this attachment, above where you
14 underlined --

15 A. Yes.

16 Q. -- does it not say this "Section 61. Gross income defined"?
17 Does it say that?

18 A. Right.

19 Q. And does it not continue to say, "This section corresponds
20 to section 22 (a) of the 1939 Code. While the language in [the]
21 existing section 22 (a) has been simplified, the all-inclusive
22 nature of statutory gross income has not been affected thereby.
23 Section 61 (a) is as broad in scope as section 22 (a)"? Is that
24 what it says?

25 A. What's what it says.

1 Q. You disagree with that, do you not?

2 A. Absolutely.

3 Q. All right.

4 A. Absolutely.

5 Q. Thank you.

6 Mr. Schiff, we've heard extensive testimony about

7 United States v. Long.

8 A. Yes.

9 Q. That's a case you cite in your attachment, is it not?

10 A. Pardon me?

11 Q. That's a case you cite in your attachment?

12 A. Yes, I did.

13 MR. NEIMAN: If I may approach the clerk, your Honor?

14 THE COURT: You may.

15 MR. NEIMAN: Can I mark these?

16 THE WITNESS: What was -- the case, U.S. v. Long;

17 right?

18 BY MR. NEIMAN:

19 Q. Mr. Schiff, you've read this case?

20 A. Yes, I did.

21 Q. In its entirety?

22 A. Yes, I did.

23 MR. NEIMAN: Your Honor, at this time the United States

24 would move for the admission of Government's Exhibit...

25 THE CLERK: 337.

1 MR. NEIMAN: 337.

2 (Government's Exhibit No. 337, marked for
3 identification.)

4 MR. CRISTALLI: Your Honor, I'm gonna object to a case
5 coming into evidence. I mean, I think we've been consistent
6 throughout this trial that that is not going to happen during
7 the course of this case. We were not allowed to do it. Um, I
8 think we should be consistent and I don't think the case should
9 come in as an exhibit.

10 MR. BOWERS: We've also -- I'm sorry, Judge. But we've
11 gotta -- we've gotta a shepherds flag on here and I don't --

12 MR. NEIMAN: Well, your Honor --

13 THE WITNESS: Could you give me the case?

14 MR. NEIMAN: If I could explain why it's being
15 introduced. This is --

16 MR. CRISTALLI: Well, your Honor, I would object to a
17 narrative in front of the jury with regard to this. I think we
18 all -- I don't think it's relevant to come into evidence. I
19 mean, they could use it to cross-examine --

20 THE COURT: It's relevant --

21 MR. CRISTALLI: -- Mr. Schiff.

22 THE COURT: -- because the case has been cited
23 extensively in the documents that were used by the defendant.
24 It's coming in.

25 MR. BOWERS: Your Honor --

1 MR. CRISTALLI: Your Honor, my only concern is there
2 were other documents that were offered in support of reliance
3 that were precluded from coming in.

4 THE COURT: Incorrect statements of the law. The case
5 is -- the case is being used, I assume, for impeachment of the
6 defendant's reading of the case.

7 MR. CRISTALLI: And I think that's certainly
8 appropriate. My objection would be as to the introduction of
9 the document.

10 MR. NEIMAN: If you want -- if I can be heard --

11 MR. SCHIFF: As far as I'm concerned, let the document
12 come in.

13 MR. NEIMAN: Your Honor, we're going to be introducing
14 a series of cases through this cross-examination, all of which
15 go to either, one, to challenge the reasonableness of
16 Mr. Schiff's position and to show that he misquotes or takes out
17 of context certain cases and also, as with regard to the other
18 cases I'm going to introduce, to show notice to Mr. Schiff that
19 his position is being constantly rejected by the courts.

20 MR. SCHIFF: I would like to --

21 THE COURT: The --

22 MR. SCHIFF: -- introduce, your Honor --

23 THE COURT: -- exhibit will be received --

24 MR. SCHIFF: All right.

25 THE COURT: -- 337.

1 MR. BOWERS: I'll join in --

2 THE COURT: Mr. Schiff --

3 MR. BOWERS: -- Mr. Cristalli's objection.

4 THE COURT: -- has stated for the record he has no
5 objection. I don't know --

6 MR. SCHIFF: I have no objection.

7 THE COURT: -- if the clerk picked it up.
8 (Government's Exhibit No. 337, received into
9 evidence.)

10 MR. SCHIFF: But I would like to put in Doyle v.
11 Mitchell, Stratton Independence v. Hobart [sic], Southern
12 Pacific v. Lowe, Bowers Kerbaugh v. Empire [sic], and Burnet v.
13 Harmel.

14 Could we put in those cases too --

15 THE COURT: No --

16 MR. SCHIFF: -- because --

17 THE COURT: -- that's not proper. You're -- you're
18 being cross-examined right now.

19 MR. SCHIFF: All right. Let him --

20 THE COURT: You're not --

21 MR. SCHIFF: -- put in the case.

22 THE COURT: -- conducting --

23 MR. SCHIFF: I have no objection.

24 THE COURT: -- an examination or --

25 MR. NEIMAN: If we could --

1 THE COURT: -- presenting evidence.

2 MR. NEIMAN: -- blow up, Special Agent Steiner, the
3 portion, I guess, where U.S. v. Long is cited.

4 (Document displayed in open court.)

5 BY MR. NEIMAN:

6 Q. Mr. Schiff, on your attachment you say, do you not, "With
7 respect to the information I included in my return, I wish to
8 point out that the courts have ruled that: 'A (1040) form with
9 'zeros' inserted in the space provided...qualified as a
10 return"?"

11 A. Yes.

12 Q. And then you cite to U.S. v. Long?

13 A. Yes.

14 Q. Mr. Schiff, this case, does it not say -- you've read it --

15 A. Yes.

16 Q. -- that you could be prosecuted for other crimes; you just
17 cannot be prosecuted for failure to file?

18 A. Yeah. But that's the only purpose. It's a return. I'm not
19 saying that -- I'm not saying that that case said -- I even
20 testified that the information can be false; the -- what they
21 held is I couldn't be prosecuted for failing to file. That was
22 the whole purpose. I was on -- I was on probation and they said
23 I had to file a return.

24 Q. Well, Mr. Schiff --

25 A. And they said that was a return. I didn't -- I testified

1 they didn't say that any return you filed was valid for -- uh,
2 on the grounds of material being correct. That's what the case
3 said. Isn't that --

4 Q. Mr. Schiff, in the case of United States v. Long, does it
5 not say, "We do not condone either the withholding of tax
6 information or the supplying of false information on tax
7 returns"? Does it say that?

8 A. Absolutely.

9 Q. You're aware of that?

10 A. Absolutely.

11 Q. And you disagree with that?

12 A. No, no. I agree that's what it said. But I didn't provide
13 false information. That's the difference.

14 Q. Well, Mr. Schiff, we'll get to the difference --

15 A. I have no --

16 Q. -- of income in a minute.

17 A. -- income in the constitutional sense. That's why I
18 reported zero. I agree with the case; I complied with the case.
19 And I don't disagree with the case. Show me where --

20 THE COURT: Mr. Schiff --

21 BY MR. NEIMAN:

22 Q. Mr. Schiff --

23 A. I'm sorry.

24 THE COURT: You respond to questions.

25 MR. SCHIFF: Okay.

1 BY MR. NEIMAN:

2 Q. Mr. Schiff, you can't site to a single case, can you, that

3 says if you have wages, if you have earned income you could file

4 a return putting zero on it, can you?

5 A. Well, the reason I can't --

6 Q. Yes or no, Mr. Schiff.

7 A. Yeah, my -- my returns.

8 Q. Your returns --

9 A. Yes.

10 Q. -- state that -- that's a court case. Do you have a court

11 decision that says --

12 A. Well, no Supreme Court has ever ruled on this question. And

13 those are the only cases that the IRS is bound by. The IRS is

14 not bound by lower court decisions.

15 Q. Mr. Schiff, do you have a court case that says you can file

16 a return reporting zero when in fact you have earned wages or

17 you have income?

18 A. There is no --

19 Q. Yes or no, Mr. Schiff.

20 A. Show me -- first of all --

21 THE COURT: Answer the --

22 THE WITNESS: -- I haven't --

23 THE COURT: -- question. Do not --

24 THE WITNESS: -- I haven't --

25 THE COURT: Listen.

1 THE WITNESS: -- seen any case.

2 THE COURT: Mr. Schiff --

3 THE WITNESS: Yes.

4 THE COURT: -- answer the question.

5 THE WITNESS: I haven't seen any case. But that's not
6 the law. The law is right here.

7 THE COURT: Mr. Schiff.

8 THE WITNESS: All right. I haven't seen any case. I
9 haven't seen any case that says you can't do it.

10 BY MR. NEIMAN:

11 Q. Well, we'll get to some of those in a minute, Mr. Schiff.

12 A. Okay.

13 Q. Do you remember you probation hearing?

14 A. I never had a probation hearing. I had a probation hearing,
15 but it was phony.

16 Q. All right. We'll get to that in a minute. Mr. --

17 A. We'll talk about --

18 Q. -- Mr. Schiff --

19 A. -- my probation hearing.

20 Q. -- you have a long history with the Internal Revenue
21 Service, do you not?

22 A. Pardon me?

23 Q. You have a long history in dealing with the Internal Revenue
24 Service --

25 A. Exposing --

1 Q. -- do you not?

2 A. -- their illegal activities, yes.

3 Q. And you've been exposing these illegal activities for more
4 than 30 years; correct?

5 A. Approximately 30 years.

6 Q. You've gone to court numerous times putting forth these very
7 positions which you argued on direct?

8 A. No.

9 Q. You've never gone to court?

10 A. Well, in no prior case have I brought up House Report and
11 Senate Report; in no prior case have I ever litigated the zero
12 return. The last time I was prosecuted was for not filing at
13 all and I didn't have the House and Senate Reports --

14 Q. Mr. Schiff --

15 A. -- to rely on.

16 Q. -- you've challenged the authority of the IRS to seize your
17 property on direct examination and you testified, did you not?

18 A. Yeah. Of course, of course. They are not even mentioned in
19 the Code. So how could they seize my property legally?

20 Q. You've made that argument to the courts before, have you
21 not?

22 A. I don't think so.

23 Q. All right. We'll get to that one in a minute as well.

24 Mr. Schiff, how many times have you gone to court
25 against the IRS or the federal government?

1 A. 15, 20 -- 15 times.

2 Q. You've lost every time, haven't you?

3 A. I'm gonna get it right this time.

4 Q. You've lost every time --

5 A. Most of the times --

6 Q. -- haven't you?

7 A. -- I've lost, the government always got a summary judgment.

8 I never got in front of a jury.

9 Q. Mr. Schiff, how many times have you gone to Tax Court?

10 A. Couple of times. I'm gonna put in stuff about the Tax

11 Court. And I offered -- when I went to court the last time --

12 THE COURT: Mr. Schiff, you will respond --

13 THE WITNESS: I went to --

14 THE COURT: -- to questions.

15 THE WITNESS: -- Tax Court twice. I'm sorry.

16 BY MR. NEIMAN:

17 Q. Twice personally?

18 A. Yeah.

19 Q. How many times did you go to Tax Court as a representative

20 for your customers?

21 A. Never.

22 Q. You never went on behalf of Ms. Kennedy?

23 A. Well, I tried to because he was in the hospital, but they

24 didn't let me talk.

25 Q. So you have been to Tax Court on behalf of a customer.

1 A. But I didn't argue the substance. I --

2 Q. How many times --

3 A. -- he wouldn't let --

4 Q. -- how many times did you try to go to Tax Court?

5 A. I think just that once. And the only reason why I went I

6 got a call from Mrs. Kennedy to my office saying that her

7 husband was in the hospital, she couldn't go, she had a hearing.

8 Could somebody go and represent her.

9 Q. And you went.

10 A. I tried to represent her.

11 Q. And she got fined \$2500 for the arguments that you were

12 making when they were --

13 A. I didn't --

14 Q. -- deemed frivolous?

15 A. -- make any arguments. He wouldn't let me argue.

16 Q. Mr. Schiff, when you personally went to Tax Court, you lost

17 both of those times also, didn't you?

18 A. Yeah. But the Tax Court judge --

19 Q. Mr. Schiff, yes or no --

20 A. Yes.

21 Q. -- did you lose?

22 A. Well, I lost, yeah.

23 Q. And you disagree with court decisions, don't you?

24 A. Absolutely, because they were wrong.

25 Q. Mr. Schiff, I think you said you've brought suit against the

1 United States in District Court about 15 times?

2 A. Well, U.S. Court of Claims twice. Uh, I sued, uh, uh,
3 Simon & Schuster for breach of contract. Then they said you
4 gotta sue the government, so I sued the government. In every
5 one of those civil cases the government got a summary judgment.

6 Q. You lost?

7 A. I lost to a judge who was paid by the very government that
8 was stealing my money.

9 Q. So --

10 A. How do you expect a federal judge to rule?

11 Q. So you disagree with those courts' decisions rejecting all
12 of your positions?

13 A. Absolutely.

14 Q. And you appealed many of those decisions, have you not?

15 A. Yeah, I have.

16 Q. You appealed them up to the Circuit Court, whether it be the
17 Second Circuit, the Ninth Circuit --

18 A. And to the Supreme Court.

19 Q. -- and you lost all those appeals as well, didn't you?

20 A. I lost all the appeals, yeah.

21 Q. And you disagree with all those decisions --

22 A. They are all wrong.

23 Q. -- as well?

24 A. Did you ever meet a federal judge who wrote a book on the
25 taxes that sold 200,000 copies?

1 MR. NEIMAN: Your Honor, I'd move to strike as --

2 THE COURT: Strike.

3 MR. NEIMAN: -- nonresponsive.

4 THE COURT: Nonresponsive.

5 THE WITNESS: Well -- well, why do I have to believe a
6 federal judge when I know more law than any federal judge?

7 MR. NEIMAN: Again, your Honor, move to strike --

8 THE COURT: Strike.

9 MR. NEIMAN: -- nonresponsive.

10 THE WITNESS: Well, the implication is that just
11 because a federal judge said something I'm supposed to believe
12 it.

13 THE COURT: Mr. Schiff --

14 THE WITNESS: There are a lot of five to four
15 decisions.

16 THE COURT: Mr. Schiff --

17 THE WITNESS: I'm sorry.

18 THE COURT: -- you will not argue.

19 THE WITNESS: All right.

20 BY MR. NEIMAN:

21 Q. Mr. Schiff --

22 A. Yes.

23 Q. -- you were indicted in the '70s for not filing a tax
24 return, were you not?

25 A. That's correct.

1 Q. You were convicted?

2 A. The first time?

3 Q. Yes.

4 A. When I got six months or somethin'?

5 Q. You were convicted. Yes or no.

6 A. Well, the first time I filed tax returns it was -- it was a
7 Fifth Amendment return, and the judge ruled that that wasn't a
8 return when it obviously was. So I went to jail then.

9 Q. You were convicted. You may disagree with the -- whether or
10 not you were legally convicted in your mind. But --

11 A. Well --

12 Q. -- you were convicted --

13 A. I was --

14 Q. -- were you not?

15 A. -- convicted for failing to file when I obviously filed.
16 So --

17 Q. Well, the court rejected your Fifth Amendment return, did it
18 not?

19 A. Yeah.

20 Q. And -- and you disagree with the courts rejection of --

21 A. Absolutely.

22 Q. And, at that first trial in the '70s, Mr. Schiff, the judge
23 instructed the jury that the law requires the payment of taxes,
24 did he not?

25 A. And he was wrong. But that's what he must have said.

1 Q. You were in the courtroom when he said that?

2 A. Let -- let -- let me see a law that says it. There is no
3 such law that says you're --

4 Q. Mr. Schiff --

5 A. -- required to pay --

6 THE COURT: Mr. Schiff, answer the question.

7 THE WITNESS: I was --

8 THE COURT: Mr. Schiff --

9 THE WITNESS: -- if he said it.

10 THE COURT: -- I've warned you about arguing.

11 THE WITNESS: All right.

12 THE COURT: You answer --

13 THE WITNESS: I don't remember --

14 THE COURT: -- the question --

15 THE WITNESS: -- him saying it.

16 THE COURT: -- if you can.

17 THE WITNESS: He -- he -- he -- he obviously said I was
18 required to file.

19 BY MR. NEIMAN:

20 Q. And you disagreed with him when he said that?

21 A. Yes. As a matter of fact --

22 Q. Uh --

23 A. -- spoke -- yes. I told the judge -- as a matter of fact,
24 now I recall specifically. I said to -- I forgot the judge's
25 name -- I said to the judge, I said, if you send me to jail,

1 you're sending me to jail not because I didn't file; you're
2 sending me to jail because I pleaded a Fifth Amendment; you're
3 sending me to jail because I claimed a constitutional right --

4 Q. Mr. --

5 A. -- in lieu of not -- and that's why I'm going to jail, for
6 claiming the protection of the Constitution --

7 Q. And the judge --

8 A. -- because it was a Fifth Amendment return.

9 Q. And the judge rejected that argument, did he not?

10 A. I'm not sure he did --

11 Q. You --

12 A. -- because he only gave me --

13 Q. -- went to jail, didn't you?

14 A. Yeah. But he only gave me six months. I think before I
15 made that argument he would have given me two years.

16 Q. You chose to disregard that judge's decision, did you not?

17 A. It was wrong.

18 Q. Well, you continued to advocate or put forth your -- your
19 antitax positions in the '80s, did you not?

20 A. Yeah. Based upon my research, I believed I was right.

21 Q. And you were --

22 A. Socrates lost a trial. You know, a lot of people have lost
23 trials. Pat Magandy (phonetic) lost a trial; Billie Mitchell
24 (phonetic) lost a trial. Are all these people supposed to think
25 they are wrong because they lost a trial?

1 MR. NEIMAN: Your Honor, I'd move to strike as
2 nonresponsive.

3 THE WITNESS: Okay.

4 THE COURT: Strike.

5 BY MR. NEIMAN:

6 Q. Mr. Schiff, you were indicted and charged again in the '80s
7 for committing tax crimes, were you not?

8 A. In the '80s? '85, I believe.

9 Q. '85.

10 A. Yes.

11 Q. And you were convicted again?

12 A. Only because the judge told my jury they can convict me even
13 if the government didn't prove the act of evasion I was charged
14 in an indictment.

15 Q. All right. So --

16 A. That's why I got convicted.

17 Q. So the first conviction was because you filed the Fifth
18 Amendment return; the second one is because the judge acted
19 without -- didn't obey by the law in your opinion?

20 A. Well, do you think that I should be convicted if the judge
21 tells the jury they can convict me even --

22 THE COURT: Mr. Schiff --

23 THE WITNESS: -- if the Government --

24 THE COURT: -- Mr. Schiff --

25 THE WITNESS: -- didn't prove --

1 THE COURT: -- you are not the one asking questions.

2 THE WITNESS: All right.

3 THE COURT: I've warned you enough.

4 THE WITNESS: I'm sorry.

5 THE COURT: I want you to listen --

6 THE WITNESS: He may not ask me the correct

7 cross-examination questions.

8 THE COURT: He's not asking the correct questions? Let

9 meet decide what --

10 THE WITNESS: All right.

11 THE COURT: -- questions he'll ask. That's --

12 THE WITNESS: He may not know all this.

13 THE COURT: You don't decide what --

14 THE WITNESS: All right.

15 THE COURT: -- questions he'll ask.

16 THE WITNESS: I was --

17 THE COURT: I'm warning you -- I'm warning you to

18 answer the questions --

19 THE WITNESS: All right.

20 THE COURT: -- without the speeches. If you continue,

21 sanctions will be added.

22 THE WITNESS: Then you gotta give me time to help me

23 write the cross-examination questions.

24 MR. NEIMAN: I think he means "redirect," your Honor,

25 when he says "cross."

1 THE WITNESS: Okay. Go ahead.

2 BY MR. NEIMAN:

3 Q. Mr. Schiff, you were convicted again in the '80s, in '85,

4 were you not?

5 A. You can say that.

6 Q. And the judge, just like he did in your first trial,

7 instructed the jury that are you're required to pay taxes and

8 file a tax return?

9 A. He might have said that.

10 Q. And you were there when he said it?

11 A. I must have been.

12 Q. And you disagreed with that?

13 A. Yeah, 'cuz he was wrong.

14 Q. You brought up some issue as to whether or not the jury was

15 properly, uh, charged or given instructions about this second

16 conviction. You appealed that conviction, did you not?

17 A. Yes, I did.

18 Q. You appealed it up to the Second Circuit in -- over in

19 Connecticut?

20 A. Yes, I did.

21 Q. And you lost that appeal?

22 A. Yes, I did.

23 Q. And you disagreed with that, that --

24 A. Absolutely, because it was wrong.

25 Q. And did you read that opinion which rejected your position?

1 A. Yeah.

2 MR. NEIMAN: Your Honor, if I may approach the Clerk?

3 THE COURT: You may.

4 (Discussion between Mr. Neiman and the
5 clerk.)

6 THE CLERK: This is Government's 338.

7 (Government's Exhibit No. 338, marked for
8 identification.)

9 MR. NEIMAN: If I may approach the witness?

10 THE COURT: You may.

11 BY MR. NEIMAN:

12 Q. Mr. Schiff, I'm handing you what's been marked as
13 Government's Exhibit 338.

14 A. Yeah. (Reviewing document.)

15 Q. This is the appeal of your second conviction, is it not?

16 A. Can you give me a moment to --

17 Q. Yes.

18 MR. NEIMAN: Your Honor, as another matter, it may be
19 appropriate to give --

20 THE WITNESS: Just give me a minute to --

21 MR. NEIMAN: -- to give --

22 THE WITNESS: -- read this.

23 MR. NEIMAN: -- the jury a limiting --

24 THE WITNESS: I don't know --

25 MR. NEIMAN: -- instruction --

1 THE WITNESS: -- these by heart.

2 MR. NEIMAN: -- as to the relevance of the prior
3 convictions and how they are not supposed to use those at all,
4 with the exception of notice and --

5 MR. CRISTALLI: They should not be used, I don't think,
6 your Honor, as notice as relates to Ms. Neun.

7 MR. NEIMAN: Well --

8 MR. BOWERS: Or Mr. Cohen.

9 MR. CRISTALLI: Unless there's some piece of evidence
10 that I missed.

11 MR. NEIMAN: I -- I think that the evidence is
12 presented that they -- Ms. Neun and Mr. Cohen through The
13 Federal Mafia and Mr. Schiff's own words that they were aware
14 that he had been gone -- that he had gone to jail.

15 THE COURT: The prior conviction is to be received for
16 the very limited purpose of showing notice to the Defendant
17 Schiff unless and until there's evidence adduced that it is also
18 notice to the other defendants.

19 MR. CRISTALLI: Thank you, your Honor.

20 THE WITNESS: I have no objection to putting in
21 these -- my prior conviction.

22 MR. NEIMAN: Your Honor, at this time, then, the United
23 States would move into evidence Exhibit 338.

24 THE COURT: 338 is received.

25

1 (Government's Exhibit No. 338, received into
2 evidence.)

3 MR. CRISTALLI: Your Honor, just so we're clear, over
4 my objection?

5 THE WITNESS: Okay.

6 THE COURT: If you make -- if you want your objection
7 noted, it is.

8 MR. CRISTALLI: Thank you.

9 MR. NEIMAN: And, your Honor, we would also ask for a
10 limiting instruction as these cases are coming in as notice to
11 Mr. Schiff, not as statements of the law. That would --

12 THE WITNESS: I object to that.

13 MR. NEIMAN: -- invade upon your province.

14 THE WITNESS: These aren't notice to me of anything. I
15 object to this being notice to me. Billie Mitchell lost a
16 trial. Was that notice to him that he's wrong on air power?

17 THE COURT: It's received --

18 THE WITNESS: Gandhi --

19 THE COURT: Mr. Schiff, no more speeches.

20 THE WITNESS: But this is not notice to me. This is a
21 decision of a court that was wrong. Well, I'm supposed to
22 believe I'm guilty just because some judge says I'm guilty when
23 I'm obviously not guilty?

24 THE COURT: Well, it is received for the very limited
25 purpose of showing notice.

1 MR. BOWERS: I'm sorry, Judge. Is that --

2 THE WITNESS: Uh, good. Very good.

3 MR. BOWERS: -- that's the same exhibit so...

4 THE WITNESS: Okay. Very good.

5 BY MR. NEIMAN:

6 Q. Mr. Schiff, when you've had a chance to review the case, let

7 me --

8 A. No --

9 Q. -- know.

10 A. -- I haven't finished yet.

11 Well, I'll cover this in cross-examination; right?

12 Q. Or redirect you mean, I believe.

13 A. Okay.

14 THE COURT: Go ahead with your next question.

15 MR. NEIMAN: I was just giving Mr. Schiff --

16 THE WITNESS: Let me finish.

17 (Reviewing document.) Ah. (Mumbling while reading.)

18 Oh, boy. (Laughing.)

19 THE COURT: Mr. Schiff --

20 THE WITNESS: Yeah, I gotta --

21 THE COURT: -- finish your reading.

22 THE WITNESS: I'm reading.

23 BY MR. NEIMAN:

24 Q. Mr. Schiff, I'm only gonna ask you really one or two

25 questions about this document.

1 A. (Mumbling while reading.) Okay.

2 Yes. Go ahead.

3 Q. One, you're aware of the decision. You've read it prior to

4 today?

5 A. I just read part of it, yeah.

6 Q. And you disagree with the decision --

7 A. Totally.

8 Q. -- do you not?

9 And this document says -- or this case says, the Court

10 says, that you refused to admit your errors despite the receipt

11 of any numerous statements as to what the law actually is. Does

12 it not say something to those --

13 A. The law was misstated over and over again.

14 Q. You disagree with the law?

15 A. No, I don't disagree with the law.

16 Q. Okay.

17 A. I disagree with this judges's understanding of the law.

18 Q. You disagree with this opinion?

19 A. Totally. You couldn't even give that jury instruction

20 today --

21 Q. Mr. --

22 A. -- after the Cheek decision.

23 Q. Well, Mr. -- Cheek, you bring up Cheek. Cheek was one of

24 your customers, was he not?

25 A. I think he used my information.

1 Q. And he was -- he was prosecuted --

2 A. Yes, he was.

3 Q. -- for following --

4 A. Illegally prosecuted, yes.

5 Q. In your opinion illegally prosecuted. But the courts

6 restricted that argument, did they not?

7 A. Well, the courts are always gonna reject anybody who says

8 there's no law to pay income taxes. Are they gonna say, yeah,

9 you're right. There is no law for paying income -- and we've

10 been prosecuting people illegally for 50 years? What court is

11 gonna say that?

12 MR. NEIMAN: Your Honor, I move to strike as

13 nonresponsive.

14 THE COURT: Strike, non- --

15 THE WITNESS: I'm sorry. Strike.

16 THE COURT: -- -responsive.

17 BY MR. NEIMAN:

18 Q. Mr. Schiff --

19 A. Yes.

20 Q. -- after your second case, after your second conviction --

21 A. Yes.

22 Q. -- you sued the prosecutor in that case, did you not?

23 A. I sued the prosecutor. I sued Judge Dorsey. I sued the,

24 uh -- the person who violated me who never met me in his life;

25 he wasn't --

1 Q. The probation officer?

2 A. The probation officer. It wasn't my probation officer.

3 And I sued, uh -- four people. I sued the prosecutor,
4 the judge for conspireing -- as a matter of fact, I filed a
5 lawsuit against Judge Dorsey and I filed criminal charges
6 against them also.

7 Q. And, Mr. Schiff --

8 A. And he still didn't recuse himself.

9 Q. And, Mr. Schiff, in that case, in your lawsuit, you argue
10 that the prosecutor and the judge had no authority to bring
11 these illegal prosecutions, did you not?

12 A. Well, the -- the charge again was dismissed on a summary
13 judgment --

14 Q. You --

15 A. -- by a former colleague of Judge Dorsey who is now elevated
16 to the Second Circuit.

17 Q. So you lost that case as well?

18 A. No. I lost it to a judge who wouldn't give me a jury trial.

19 I --

20 Q. And you disagree with that judge's decision --

21 A. Absolutely.

22 Q. -- to throw out your case?

23 A. Absolutely.

24 There's no such thing as someone who is not your
25 probation officer violating you when your probation officer says

1 everything's fine.

2 Q. You made that argument, the Court rejected it, and you
3 disagree with that rejection?

4 A. I didn't -- I didn't have a chance to make it to a jury. I
5 only...

6 Q. You made it to a court. You made it to a judge, did you
7 not?

8 A. Yeah. Well, I tried to make it. But I didn't get a jury
9 trial on it.

10 Q. Mr. Schiff, just so we're clear, you never went to law
11 school, did you?

12 A. No. But I had two -- I had two classes in commercial law
13 while in college --

14 Q. Okay.

15 A. -- contract law and negotiable instruments and stuff.

16 Q. Mr. Schiff, in addition to suing prosecutors and judges,
17 you've also sued IRS employees, have you not?

18 A. No, I never have.

19 Q. You never sued Mr. Talley when he -- after he seized your
20 car?

21 A. I tried to. Oh, yeah, wait a minute. Wait a minute. I
22 didn't do it. Some other judge -- some other lawyer did it,
23 yeah.

24 Q. On your behalf?

25 A. Yeah. But then, also, a summary judgment. Couldn't get a

1 jury trial.

2 Q. We'll get to the result in a minute.

3 But, Mr. Schiff, you argued in that suit that the IRS
4 didn't have any authority to seize your car?

5 A. That's correct.

6 Q. Same argument you made on direct examination regarding
7 Section -- the difference between notice of seizure and seizure
8 and all that stuff?

9 A. Well, how could the IRS have any authority when they're not
10 even mentioned the Internal Revenue Code? It's obvious.

11 Q. But you made -- you made that argument to a court?

12 A. No, no, no, no. I had a totally ineffective lawyer who
13 didn't even get into discovery. I lost that case because the
14 lawyer didn't even get into discovery. And we got a summary
15 judgment without getting into discovery.

16 Q. Mr. Schiff, a summary judgment, does it not mean that you
17 have no claim as a matter of law?

18 A. That's what the judge may say. But even if he has -- if he
19 thinks you have a claim against the federal government, he's not
20 gonna let you make it in front of a jury.

21 Q. So you disagreed with the court when they threw out your
22 lawsuit against the IRS employees who seized your vehicle?

23 A. Absolutely. They --

24 Q. All right.

25 A. -- had no authority to seize my vehicle. They didn't have a

1 court order.

2 Q. Mr. Schiff, you testified --

3 A. And Talley didn't have an enforcement pocket commission.

4 MR. NEIMAN: I would move to strike as nonresponsive.

5 THE COURT: Strike. Nonresponsive.

6 BY MR. NEIMAN:

7 Q. Mr. Schiff --

8 A. Yes.

9 Q. -- you testified on direct examination that Simon & Schuster
10 received a levy -- Notice of Levy?

11 A. Notice of Levy?

12 Q. Well, we're gonna get to the distinction and the irrelevance
13 of that --

14 A. Okay.

15 Q. -- distinction in a minute.

16 A. Yes, I -- yes, I did. I raised that issue.

17 Q. You sued Simon & Schuster after they gave the money to the
18 IRS pursuant to the levy, did you not?

19 A. Yeah, in violation of their agreement to me not to turn over
20 the money until they got a court order.

21 Q. Well, Mr. Schiff, you sued Simon & Schuster making that very
22 argument, didn't you?

23 A. Yep.

24 Q. And you lost that lawsuit as well, didn't you?

25 A. Another federal judge protected the government from my

1 lawsuit. That's the sum and substance of my book. The
2 government couldn't collect taxes if federal judges correctly
3 applied the law in civil and criminal cases. He wouldn't get a
4 dime.

5 Q. You know more about the law than all these federal judges?

6 A. Absolutely.

7 Q. All right.

8 A. Do you know a federal judge who has written a book that sold
9 200,000 copies on the income tax?

10 Q. Okay. Mr. Schiff --

11 A. Yes.

12 Q. -- let's go back to the second conviction.

13 Uh, you're on probation around 1991, were you not?

14 A. I think so.

15 Q. And, in fact, in 1991 is when you filed your first set of
16 zero returns?

17 A. Probably around that year. I -- I -- I filed my first zero
18 return to satisfy the requirements of my then parole officer and
19 he accepted it.

20 Q. So 1991 is when you filed the first set of zero returns?

21 A. Somethin' like that, yeah.

22 Q. You heard Special Agent Wethje come and testimony that you
23 gave a bunch of zero returns prior to the probation hearing to
24 the IRS. Do you remember --

25 A. When --

1 Q. -- that testimony?

2 A. -- we had the hearing, they didn't know I filed zero
3 returns. They didn't know. I had filed improvised returns
4 that --

5 Q. Well --

6 A. -- they were aware of. That's why there was a -- that's why
7 there was an initial, um, violation and then a supplemental
8 violation.

9 Q. Well, let's look at Government Exhibit 32.

10 A. Government Exhibit 32, let's see it.

11 MR. NEIMAN: Ms. Vannozzi, if you could please hand
12 that to the witness? Thank you.

13 THE WITNESS: Government Exhibit 32.

14 BY MR. NEIMAN:

15 Q. Mr. Schiff, this is your 1989 tax return, is it not?

16 A. Hold it. (Reviewing document.)

17 Let me see. It says, "1 of 9." Are there nine pages
18 in it? Let me see. (Reviewing document.)

19 Yeah. Was this return introduced with that woman who
20 was introducing all my returns?

21 Q. I believe it came in through Special Agent Wethje.

22 A. Who? Wethje? When? Just now at this trial --

23 Q. Day --

24 A. -- or at --

25 Q. -- three.

1 A. -- the prior trial? Hum?

2 Q. Or it may have come in through Chris Willie (phonetic). I'm
3 not sure, but one or the other.

4 A. I mean, you had a witness, a Government witness, that
5 introduced --

6 THE COURT: Mr. Schiff --

7 THE WITNESS: I'm trying to figure out when this came
8 in.

9 BY MR. NEIMAN:

10 Q. It's irrelevant right now, Mr. Schiff.

11 A. All right. It's irrelevant.

12 Yeah. Yeah, this is my return.

13 Q. This is your 1989 return?

14 A. That's correct.

15 Q. And you reported zero income on there on line 11, did you
16 not?

17 A. That's right.

18 Q. And down at the bottom also zero?

19 A. Right.

20 Q. This is one of the your first zero returns, was it not?

21 A. Yeah, I think so.

22 MR. NEIMAN: And if we could go to the second page of
23 this return.

24 THE WITNESS: Wait a minute. Wait a minute. I wanna
25 make sure nothin's written -- let me see.

1 MR. NEIMAN: If we could pull up the signature line.

2 (Document displayed in open court.)

3 THE WITNESS: Yeah. Yeah, I refer to U.S. v. Kimball.
4 I refer -- yeah. I'm sorry. Yeah, this is one of the first
5 ones. Yeah.

6 BY MR. NEIMAN:

7 Q. All right. And you signed this return on October of 1990,
8 did you not?

9 A. (Reviewing document.) Yeah, October 13th, 1990.

10 Q. And, along with the 1989 return, you also filed Government's
11 Exhibits 23 through 31, which are zero returns for years 1980 --
12 1980, 1981, 1982, 1983 --

13 A. Yeah.

14 Q. -- 1984, 1985, 1986, 1987, 19- -- and 1998 [sic], didn't
15 you?

16 A. Yeah. I did them all the same day.

17 THE COURT: Did you say --

18 THE WITNESS: Yes.

19 THE COURT: -- '98 or --

20 MR. NEIMAN: '88.

21 THE COURT: -- '88?

22 MR. NEIMAN: I apologize, your Honor.

23 THE WITNESS: Yeah. I filed them all on the same day,
24 I think.

25

1 BY MR. NEIMAN:

2 Q. And all while you're on probation?

3 A. I might have been on parole or probation. One or the other.

4 Q. Well, needless to say, Mr. Schiff, you were called before
5 Judge Dorsey after filing these returns, were you not?

6 A. No, I wasn't.

7 Q. Well, Mr. Schiff, didn't you have a hearing in front of
8 Judge Dorsey over the validity of these zero returns?

9 A. No. The original -- the original hearing was over the
10 validity of my improvised returns.

11 Can I get those improvised returns? I gave them to
12 Todd.

13 Q. Well, let's look at Government Exhibit 66, which I believe
14 is in evidence.

15 MR. SCHIFF: Todd, do you want to bring....
16 Government Exhibit 66?

17 MR. NEIMAN: Yes.

18 MR. SCHIFF: Let me see.
19 Todd, could I have that improvised return I gave you?
20 (Document handed by the clerk.)

21 THE WITNESS: Yes. Oh, boy. There's no way I can
22 bring him up to speed on this.

23 (Discussion between the clerk and the
24 witness.)

25 THE WITNESS: Yes. Yes. Yes, go ahead.

1 BY MR. NEIMAN:

2 Q. All right, Mr. Schiff. You had a hearing before Judge

3 Dorsey?

4 A. You can call it that if you want to.

5 Q. You may disagree with what I call it, but --

6 A. Yeah, if you wanna call it a hearing.

7 Q. Well, looking at page 3 of the order --

8 A. Page 3?

9 Q. Page 3.

10 A. Yes.

11 Q. -- does it not say -- I'm sorry -- page 2 --

12 A. Page 2.

13 Q. -- "probable cause for a violation was found, based on

14 defendant's filing, for 1980" --

15 A. Hold it. Where are you reading from?

16 Q. Uh, page 2.

17 A. Page 2.

18 Q. It's blown up on the screen if you look right to your left.

19 A. All right. Page 2. Go ahead.

20 Q. "Probable cause for a violation was found, based on

21 defendant's filing, for 1980 through 1988, 'zero' returns."

22 Does it not say that?

23 A. "Probable cause ... was found based on" -- "based on ...

24 filing, ... 'zero' returns ... with zeroes for all the pertinent

25 categories."

1 Q. Mr. Schiff, that's what the document --

2 A. That's what he said.

3 Q. -- says?

4 A. That's what he said.

5 Q. That's what the document says?

6 A. That's what the document said. But -- but the charge was I

7 failed to file. It was not up to Judge Dorsey to determine

8 whether a return was valid.

9 Q. Mr. Schiff --

10 A. Well --

11 Q. Mr. Schiff --

12 A. Judge Dorsey wanted to --

13 THE COURT: Mr. Schiff, you'll --

14 THE WITNESS: Yeah, all right. That's what he said.

15 That's what he said.

16 BY MR. NEIMAN:

17 Q. And you read this order before? You're aware of this order?

18 A. Of course I am.

19 Q. And this order, does it not, reject the zero return as a

20 valid return?

21 A. No. First of all, it's not up to Judge Dorsey to determine

22 what a return was or not. The hearing was whether I filed or I

23 didn't file. And the fact is I filed.

24 Q. Well --

25 A. And Judge Dorsey couldn't figure out what a return was if

1 his life depended on it.

2 Q. Well, you disagree with Judge Dorsey?

3 A. Of course I do.

4 Q. All right.

5 A. He's also instructed my jury that they can convict me even
6 if the Government didn't prove the act of evasion I was charged
7 with -- with committing.

8 Q. If we can look at the first paragraph of page 5.

9 A. I didn't have -- I didn't have a lawyer though the law
10 required.

11 Q. Well, Mr. Schiff, I think that's addressed in this order
12 where you were given the opportunity but you delayed, did you
13 not?

14 A. I didn't hear what you just said.

15 Q. If you look at -- footnote 1 of this order addresses that
16 very point, does it not?

17 A. (Laughing.) Yeah. He lied. The first thing the prosecutor
18 said and the first thing I said, I wanted a lawyer.

19 Q. All right. Mr. Schiff, Judge Dorsey in this order called
20 your zero return, did he not, a gimmick?

21 A. Yeah. Who is he? He's just -- just a lawyer who knew a
22 governor and he came to be a judge. He doesn't know more about
23 the income tax than I do.

24 Q. You disagree with that characterization of it being a
25 gimmick by Judge Dorsey?

1 A. Well, the point is he's just a lawyer who became a judge.
2 Do I have to believe what he says when I know more about it than
3 he does?

4 Q. You reject Judge Dorsey's position?

5 A. Absolutely.

6 Q. All right.

7 A. He wanted to stop me from preventing a book -- from
8 publishing a book that said he had no right to -- had any more
9 right to be a judge than to judge a dogfight. That's what my
10 book says.

11 Q. Mr. Schiff, the rest of this order, does it not, go on to
12 say that you write your books about your theories "to the
13 disadvantage of the gullible who follow [your] recommendations,
14 only to find themselves in trouble with the law"? Does that
15 order say that?

16 A. He was (mumbling) -- didn't have -- I never waived my right
17 to counsel. I mean, the transcript shows that he --

18 Q. That's not --

19 A. -- promised to provide --

20 Q. -- what the question was, Mr. Schiff.

21 THE COURT: Mr. Schiff, listen --

22 THE WITNESS: All right. We'll --

23 THE COURT: -- to the question.

24 THE WITNESS: -- have to go over this.

25 THE COURT: Focus.

1 THE WITNESS: "He was then held to have waived his
2 right to counsel." I never did.

3 "... if the violation alleged had been committed,
4 was was defendant was deemed to be" --

5 THE COURT: Mr. Schiff, you are not answering the
6 question.

7 THE WITNESS: I don't know what the --

8 THE COURT: You're just reading.

9 THE WITNESS: What was the question? What was the --

10 BY MR. NEIMAN:

11 Q. Page 5. It's on the --

12 A. Are you asking --

13 Q. -- screen, Mr. Schiff.

14 A. Page 5.

15 Well, let me ask you something. Doesn't --

16 THE COURT: Mr. Schiff --

17 THE WITNESS: -- page 5. What does page 5 say?

18 Page 5. Where do you want me to read on page 5?

19 BY MR. NEIMAN:

20 Q. Well, Mr. Schiff, does it not say, "Mr. Schiff has at least
21 a seventeen year history of running the IRS in circles. He
22 writes books about his theories, to the disadvantage of the
23 gullible who follow his recommendations" -- I think if we go to
24 the next page -- or the next line. I'm sorry. I think it's the
25 next page -- "only" -- "only to find themselves in trouble with

1 the law"? That's what the order says, does it not?

2 A. That's what the order says, yeah.

3 Q. You disagree with that?

4 A. Well, you heard witnesses testify that they were -- did they

5 seem gullible and stupid to you?

6 Q. Did they get into trouble with the law?

7 A. No.

8 Q. Did they have liens placed on their properties?

9 A. Notices of Liens. And those liens are phony. They --

10 because there was -- nobody's ever had a lien placed on their

11 property by using my material. And how about the people who

12 don't use my material, like Leona Hemsley who used lawyers and

13 paid 15 -- a million dollars and went to jail.

14 And who is that baseball player? Uh...

15 Q. You may disagree --

16 A. Well, a lot of --

17 Q. -- with the --

18 A. -- people go to jail --

19 Q. -- results --

20 A. -- who don't follow my advice.

21 Q. -- and the trouble that comes. But trouble does come to

22 those who follow your advice --

23 A. Not legal --

24 Q. -- does it not?

25 A. -- trouble.

1 Q. None of these people?

2 A. No. They came here and they testified. Did they sound as
3 if they were in trouble?

4 Q. Dr. Dentice sounded like he was convicted and went to trial
5 for following your advice.

6 A. No. He went to -- because of ineffective counsel. You
7 heard Dr. Dentice say that -- that -- that he believed that all
8 of the statements he put on his return were valid. He believed
9 it then; he believed it now and --

10 Q. Mr. Schiff --

11 A. -- no, he --

12 Q. -- you were aware that Judge Dorsey said that your program
13 leads to trouble for those who follow it, didn't you?

14 A. He's a liar. He's a federal --

15 Q. You moved --

16 A. -- judge who is a liar.

17 Q. -- you moved out to Las Vegas when, Mr. Schiff?

18 A. In 19- -- I wish I could put him on the stand and
19 cross-examine him. But, anyway, I moved to Las Vegas about
20 1994 --

21 Q. And you --

22 A. -- '93, '94.

23 Q. -- immediately started marketing --

24 A. Well, I had to --

25 Q. -- the --

1 A. -- make a living.

2 Q. -- the zero return, did you not?

3 A. I think so.

4 Q. The same zero return that Judge Dorsey told you in 1991

5 would lead to trouble for its followers --

6 A. Well --

7 Q. -- did you not?

8 A. -- did you ever hear my followers complain? You heard at

9 least 10 witnesses --

10 THE COURT: Mr. Schiff --

11 THE WITNESS: -- say they couldn't -- no.

12 THE COURT: -- you do not ask the Government --

13 THE WITNESS: Look --

14 THE COURT: -- attorney questions.

15 THE WITNESS: All right.

16 THE COURT: You are on the witness stand. You are to

17 answer questions --

18 THE WITNESS: All right. Here's what I do --

19 THE COURT: -- not ask them.

20 THE WITNESS: -- I put in my book my understanding of

21 the law.

22 BY MR. NEIMAN:

23 Q. Mr. Schiff --

24 A. People can accept --

25 Q. -- there's not a --

1 A. -- or not accept it.

2 Q. -- question pending right now.

3 THE COURT: No more speeches. Respond to questions.

4 The next time you do this I am going to sanction you.

5 THE WITNESS: All right. What is the question again?

6 BY MR. NEIMAN:

7 Q. Mr. Schiff, you moved out to Las Vegas in 1994 --

8 A. Yes.

9 Q. -- and almost immediately began promoting the filing of the

10 zero return which causes trouble to come --

11 A. No. It's a compound question. Why don't you ask when I

12 stopped beating my wife? It doesn't cause trouble. I reported

13 in my book my be- -- my understanding of the law.

14 Q. Your understanding which has been rejected by every court

15 which you've appeared before, has it not?

16 A. Well, that's in my book too. People can accept --

17 Q. Yes or no --

18 A. -- I put that --

19 Q. -- Mr. Schiff.

20 A. -- in my book.

21 Q. Your position -- you're aware your position's been rejected?

22 A. Yeah. But so what?

23 Q. But you choose to disregard these rulings, do you not?

24 A. I don't disregard -- show me the law which says I gotta pay

25 income taxes and I'll plead guilty right now. I don't disregard

1 the law. This is the law right here.

2 Q. Well --

3 A. Show me where the IRS is authorized to put liens on property
4 and required to pay income taxes and I'll be happy to plead
5 guilty.

6 MR. NEIMAN: Your Honor, I move to strike that as well.

7 THE COURT: Strike.

8 THE WITNESS: This is the law. I believe in the law; I
9 sell the law. And I --

10 BY MR. NEIMAN:

11 Q. Mr. Schiff --

12 A. Yes.

13 Q. -- you've sold millions of dollars in products --

14 A. Pardon me?

15 Q. -- you've sold millions of dollars in products promoting
16 your advice?

17 A. No.

18 Q. You haven't?

19 A. Explaining my information to the public. Everybody who
20 writes a book wants to convey information. That's what I'm
21 trying to do.

22 Q. And tapes?

23 A. Tapes.

24 Q. And packets?

25 A. What?

1 Q. And packets?

2 A. Packets, yes.

3 Q. And you had a 900 number?

4 A. I had -- for a while, yes. Is that a crime?

5 Q. You've caused thousands of these zero returns to have been
6 filed --

7 A. Well --

8 Q. -- have you not?

9 A. -- I suppose. But people only filed them because they
10 believed they're valid.

11 Q. Mr. Schiff, you knew -- you knew the IRS was rejecting these
12 returns, did you not?

13 A. No, I didn't know any such thing.

14 Q. You knew that those who filed zero returns were receiving
15 frivolous letters?

16 A. What does "frivolous" mean? It means silly. That's
17 nonsense. There are 30 --

18 Q. Yes or no, Mr. Schiff: Did you know --

19 A. But "frivolous" doesn't --

20 Q. -- they were --

21 A. -- mean illegal.

22 Q. -- receiving them?

23 A. A lot of people got refund checks --

24 THE COURT: Mr. Schiff --

25 THE WITNESS: -- including 41K Cal.

1 THE COURT: Mr. Schiff --

2 THE WITNESS: I didn't know -- I knew they got
3 frivolous letters, yes.

4 BY MR. NEIMAN:

5 Q. And you knew your customers who followed your advice were
6 being fined?

7 A. What?

8 Q. You knew the customers who followed your advice were being
9 fined.

10 A. Some. Some.

11 Q. You've challenged the validity of this fine in court, have
12 you not?

13 A. Did I?

14 Q. Yes.

15 A. I don't remember whether I did personally or didn't.

16 Q. Well, you --

17 A. I don't think so.

18 Q. -- or one of your customers challenged the validity of the
19 fine in court, did they not?

20 A. They might -- yeah, they might have.

21 Q. And you lost there?

22 A. It's always summary judgments; never before a jury.

23 Q. Mr. Schiff, yes or no: Did you lose?

24 A. Lose. Well, yeah, we -- so what? You know --

25 Q. Yes --

1 A. -- Galileo lost a trial. What does that mean?

2 Q. Yes or no?

3 THE COURT: Mr. Schiff --

4 THE WITNESS: I -- I -- they lost. They --

5 THE COURT: Mr. Schiff, you are sanctioned for
6 failing --

7 THE WITNESS: All right.

8 THE COURT: -- to answer directly.

9 THE WITNESS: Well -- well, did they lose or not
10 legitimately? That -- he is conveying to me that because they
11 lost I should realize that the information is false.

12 THE COURT: You can answer the question. If you wish
13 to do something else on redirect --

14 THE WITNESS: He's not --

15 THE COURT: -- you may.

16 THE WITNESS: -- gonna know how -- he's not gonna know
17 how to cross-examine.

18 The answer is --

19 THE COURT: Mr. Schiff --

20 THE WITNESS: -- the answer is they've lost. But this
21 was not knowledge to me that my information was false.

22 BY MR. NEIMAN:

23 Q. But you knew that they lost?

24 A. If you wanna say that, but --

25 Q. You knew your position was being rejected?

1 A. I knew that the courts, whose duty is to protect the
2 collection of taxes --

3 THE COURT: Mr. Schiff --

4 THE WITNESS: -- were not buying this -- this idea,
5 yes.

6 BY MR. NEIMAN:

7 Q. Mr. Schiff --

8 A. But I also discussed --

9 Q. -- Mr. Schiff, there's not a question pending right now.

10 A. Okay.

11 Q. Mr. Schiff, you've revised The Federal Mafia about four
12 times?

13 A. I might have, yeah.

14 Q. New editions?

15 A. Yes. But every time I revised it I just stuck stuff at the
16 end without making a revision --

17 Q. Well --

18 A. -- of the internal stuff because that costs a lot of money.

19 Q. Well, one of the things that you never included in the end
20 was the response to the friv letter -- frivolous letter in any
21 of those editions, did you?

22 A. No, because it would change.

23 Q. Yes or no.

24 A. I don't believe so.

25 Q. And in fact, Mr. Schiff, you chose to sell that separately

1 at \$85 a response letter with the Series 5, did you not?

2 A. Well, they had the response letter. They didn't have to pay
3 extra for it. But some people wanted us to prepare it anyway.

4 Q. You charged \$85 for Series 5?

5 A. For six tapes and six -- and six -- that -- Series 5
6 consisted of a series of --

7 Q. Mr. Schiff --

8 A. -- six one-hour tapes and documents that -- that
9 supplemented this. It was six different tapes. And in one of
10 those tapes, Series 5-1 and 5-3, we included what I would
11 suggested could be a response to the frivolous letter.

12 Q. And you charged \$85 for that.

13 A. For the whole series, not for the frivolous letter. There
14 are hundreds of -- there was a lot of other material in
15 Series 5.

16 Q. Mr. Schiff, you encouraged your followers to request
17 collection due process hearings when the IRS was about to
18 institute or begin --

19 A. Well, they --

20 Q. -- collection activity, did you not?

21 A. -- well, they had a right to do it. They were advised that
22 that's what the government --

23 Q. Yes or no, Mr. Schiff.

24 A. Yes. I -- well, I said they had a right to do it if they
25 wanted to do it or not.

1 Q. You caused -- hundreds of your followers here in Las Vegas
2 actually had this collection due process hearings, did they not?

3 A. I think so.

4 Q. And Defendant Neun went along with many of those taxpayers?

5 A. Yes, I think so.

6 Q. And you charge anywhere from a hundred to three hundred
7 dollars for her appearance?

8 A. I don't remember. It was supposed to be about a hundred at
9 most. It was just a hundred bucks. If it were complicated, it
10 might have been two. But that's --

11 MR. NEIMAN: If could I have --

12 THE WITNESS: -- my recollection.

13 MR. NEIMAN: -- Government Exhibit 1, please.

14 THE WITNESS: And, incidentally, they didn't have to --

15 THE COURT: Mr. Schiff, there's no question pending.

16 MR. NEIMAN: If I may approach?

17 THE COURT: You may.

18 MR. NEIMAN: I'm approaching the witness with what's
19 been marked as Government Exhibit 1.

20 BY MR. NEIMAN:

21 Q. Mr. Schiff, does it not say "Mr. Schiff charges \$300 to send
22 Cynthia Neun to the IRS to represent them at the collection due
23 process hearings"?

24 A. If it said that in this document, we must have revised it
25 downward because I don't have any recollection.

- 1 Q. Does it say that? Yes or no.
- 2 A. Yeah -- where does it say it?
- 3 Q. Top left-hand corner on the left-hand page, first sentence.
- 4 A. That's what it says, yeah. That's what it says. But let me
- 5 just say -- all right. That's what it says.
- 6 Q. Mr. Schiff, of these hundreds of collection due process
- 7 hearings, your customers always had an adverse decision, did
- 8 they not?
- 9 A. They did.
- 10 Q. You disagree with those decisions?
- 11 A. Yeah, because they never produced the documents. They sent
- 12 out adverse decisions, but they didn't produce the documents.
- 13 So --
- 14 Q. And you appealed those decisions?
- 15 A. We had to.
- 16 Q. You appealed them to District Court here?
- 17 A. Yeah.
- 18 Q. You appealed them to Tax Court sometimes if they had to do
- 19 with the liability?
- 20 A. Absolutely.
- 21 Q. And you lost every single one of those appeals as well,
- 22 didn't you?
- 23 A. I don't think so. I think we won a couple.
- 24 Q. On the merits of your argument --
- 25 A. Yeah.

1 Q. -- or because the IRS may not have sent the notice to the
2 actual taxpayer's right address?

3 A. I -- I believe that in some cases where they didn't get a
4 deficiency notice.

5 Q. But not on the merits that the IRS was doing outside their
6 authority?

7 A. Well, the IRS never, never produced certification from the
8 Secretary. And that's --

9 THE COURT: Mr. Schiff --

10 THE WITNESS: -- what the law said they have to do.

11 THE COURT: Mr. Schiff --

12 THE WITNESS: All right.

13 THE COURT: -- you will not argue --

14 BY MR. NEIMAN:

15 Q. You disagree --

16 THE COURT: -- your --

17 THE WITNESS: Okay. We --

18 THE COURT: -- legal argument; you'll answer the
19 questions.

20 THE WITNESS: We appealed when we thought that the IRS
21 agent did not produce what they were required to produce. But
22 all of these people could have done the appeal themselves; they
23 didn't need us. But they couldn't do it, so they had to come to
24 us.

25

1 BY MR. NEIMAN:

2 Q. And they all lost.

3 A. It's because of the corruption of the courts.

4 Q. And you were aware that they were all losing?

5 A. Well, you keep trying. You keep -- you hope to find the
6 honest judge that'll make a correct decision.

7 Q. And you disagree with all these corrupt judges?

8 A. Absolutely.

9 Q. And I'm using "corrupt" in quotes just for the record.

10 A. Yeah, yeah. Yeah, when you're dealing with the federal
11 Mafia, according to my book, what does that tell you?

12 Q. Mr. Schiff, do you remember giving an interview in which you
13 state you've cost the United States government in excess of \$2
14 billion?

15 A. I thought I cost them more, but I don't remember that. But
16 they pay farmers billions not to grow food.

17 Q. And you testified you don't like -- you don't like
18 government spending?

19 A. Absolutely. I was in Army finance and I saw how they wasted
20 money. That's my first introduction --

21 Q. Mr. Schiff --

22 A. -- to how the government wastes taxpayers' money.

23 Q. You currently collect Medicaid, do you not?

24 A. Yeah, I do.

25 Q. That's government spending, isn't it?

1 A. That's right. But I paid taxes in those years. And, if I
2 didn't accept Medicaid, that wouldn't cut down government
3 spending. How is that gonna help?

4 Q. Mr. Schiff --

5 A. The government's taken thousands from me. And Medicare
6 [sic] --

7 Q. Mr. Schiff --

8 A. -- is peanuts.

9 Q. -- Mr. Schiff --

10 A. Yes.

11 Q. -- your car is in somebody else's name, isn't it?

12 A. I'm leasing it.

13 Q. From Mr. Deaton?

14 A. I think so, yeah.

15 Q. And it can't be in your name because you know the IRS has
16 seized your car in your name before, have they not?

17 A. Yeah. Without -- without enforcement pocket commissions,
18 these didn't seize my car; they stole it. And I reported it
19 stolen to the authorities.

20 Q. And -- and you even sued the employees making that same
21 argument.

22 A. Pardon me?

23 Q. We've already covered this. You sued the IRS employees --
24 we already went over this -- making that same argument, didn't
25 you?

1 A. It's a valid argument.

2 Q. It was rejected.

3 A. By who?

4 Q. The courts.

5 A. Yeah. So?

6 Q. And you disagree with that?

7 A. Absolutely.

8 Q. Mr. Schiff --

9 A. Show me a statute where the IRS can seize anything. Here's

10 the law. Show me where the IRS --

11 THE COURT: Mr. Schiff --

12 THE WITNESS: -- can seize anything.

13 THE COURT: -- sanctions.

14 THE WITNESS: Sanctions.

15 THE COURT: Nonresponsive.

16 THE WITNESS: How many days do I get now? It's

17 responsive. I believe it's responsive.

18 BY MR. NEIMAN:

19 Q. Mr. Schiff, you have bank accounts offshore.

20 A. I have a bank account offshore.

21 Q. And it's put offshore because you know the IRS cannot take

22 that money.

23 A. I know that they are not authorized to take money.

24 Q. You know -- but, you know when you put money in a bank

25 account in the United States, the IRS will get that money, don't

1 you?

2 A. Without authority because the banks will just turn it over.

3 THE COURT: Mr. Schiff.

4 THE WITNESS: Yes.

5 BY MR. NEIMAN:

6 Q. And that's why you put your money offshore?

7 A. Exactly right. If I knew a thief was in the neighborhood --

8 THE COURT: Mr. Schiff.

9 BY MR. NEIMAN:

10 Q. Mr. Schiff, you -- we've heard testimony already about you
11 making this offer for a hundred thousand dollars, and it's
12 similar to the offer you just made to me that --

13 A. Five --

14 Q. -- if anyone --

15 A. Five --

16 Q. -- could show you --

17 A. 5,000.

18 Q. At one point it was a hundred thousand?

19 A. Yeah. I don't do it anymore.

20 Q. And the argument was if you could show me where in the law
21 I'm liable, I'll pay you the money?

22 A. You show me -- you show me a statute that says persons who
23 earn income shall be liable for income tax or required to pay
24 the tax and you got five grand immediately.

25 Q. That's the same argument you made back on CBS but the amount

1 was a hundred thousand dollars?

2 A. No, no. Absolutely not. It was different entirely. It's

3 not --

4 Q. Well, Mr. Schiff --

5 A. -- the same one.

6 Q. -- you got on CBS and did you not say someone, if you could

7 show me where in the law I'm liable for taxes, I'll pay you --

8 A. No --

9 Q. -- a hundred thousand dollars?

10 A. -- no, that's not what I said.

11 Q. What did you say?

12 A. I said if anybody calls this show and cites any statute that

13 requires you to pay income taxes I'll pay 'em a hundred thousand

14 bucks. The offer was required to pay income taxes. Now, there

15 is no statute -- what -- what they do is they use Section 6012

16 which says "shall file" and they interpret the "shall" to mean

17 "require."

18 Q. Well --

19 A. There is no statute. Show me a statute that says required

20 to pay -- file.

21 Q. Mr. Schiff, this is one of the -- a lawyer took you up n

22 this offer, didn't he?

23 A. Yeah.

24 Q. And this was one of the -- probably only court case you

25 actually won, is it not?

1 A. I -- I -- no, I think -- no. I told you the two other
2 lawyers sued me and I won two other cases on the same issue.

3 Q. Same issue.

4 MR. NEIMAN: Your Honor, if I --

5 THE WITNESS: But it cost me --

6 MR. NEIMAN: -- may approach?

7 THE WITNESS: -- a lot of money even though I won. You
8 will see if you look at the statute --

9 THE COURT: Mr. Schiff, there is no question pending.

10 THE WITNESS: Okay.

11 THE CLERK: 339.

12 THE COURT: 339?

13 THE CLERK: 339, your Honor.

14 (Government's Exhibit No. 339, marked for
15 identification.)

16 THE WITNESS: There's no way he can cross-examine me on
17 all this stuff. I've gotta testify in the narrative. It'll be
18 much simpler and quicker.

19 THE COURT: Mr. Schiff.

20 MR. NEIMAN: If I may approach, your Honor?

21 THE COURT: You may.

22 MR. NEIMAN: I apologize, your Honor. I'm a couple
23 copies short on this.

24 THE WITNESS: Okay.

25

1 BY MR. NEIMAN:

2 Q. Mr. Schiff, this is the case which we were just talking
3 about, is it not?

4 A. Let me see. (Reviewing.) Guy Newman. Yes.

5 Can you hold it? Let me get.... Okay. Oh, yeah,
6 that's the case.

7 Q. And you've read this case?

8 A. Long time ago.

9 Q. And you know that -- in fact, you testified that law schools
10 even talk about this case --

11 A. Yeah. It's in a lot of law books now.

12 Q. -- about contract law?

13 A. Um, unilateral contracts.

14 MR. NEIMAN: Your Honor, at this time the United States
15 would move for the admission of 339.

16 THE CLERK: Do you want to see it?

17 THE COURT: Well, I'm waiting --

18 MR. BOWERS: Your Honor --

19 THE COURT: -- for objections.

20 MR. BOWERS: -- just for the record, I believe -- can
21 we be allowed a standing objection based on the...

22 (Discussion between counsel.)

23 MR. BOWERS: I'm sorry, your Honor. There's a standing
24 objection regarding what we talked about earlier on the notice.

25 MR. CRISTALLI: Your Honor, you know, the same

1 objection. Obviously we attempted on numerous occasions to get
2 cases in to support our position of reliance. And, um, with
3 that said, you know, certainly we would object to any of the
4 Government's cases coming in on that same basis.

5 MR. NEIMAN: Your Honor, like the other cases, this
6 one's come in as notice to Mr. Schiff.

7 THE COURT: It's coming in for a limited purpose.

8 MR. SCHIFF: It's all right. Let it come in. I really
9 want this case in.

10 THE COURT: 339 is received.

11 MR. SCHIFF: I insist you put the case in.

12 (Government's Exhibit No. 339, received into
13 evidence.)

14 (Document displayed in open court.)

15 BY MR. NEIMAN:

16 Q. Because you won this case; right, Mr. Schiff?

17 A. It shows how the judges misstate the law deliberately to
18 help the government.

19 Q. But you won.

20 A. I won -- I won the District Court case and I won the appeal.

21 Q. But you won on a technicality --

22 A. No.

23 Q. -- didn't you, Mr. Schiff?

24 Didn't the court in this opinion say that because the
25 lawyer who took you up on the offer called in the morning

1 instead of the night when you were actually on the television
2 that you didn't have to pay him because the offer had elapsed?

3 A. No. But -- but also, if you read the decision, you'll see
4 that he didn't even meet the terms of my offer. That's clear
5 from what this case says.

6 Q. Mr. Schiff, if I could turn your attention to page 7 of the
7 opinion --

8 A. Yes, yes.

9 Q. -- under --

10 A. Yes.

11 Q. -- under the heading that says "Mandatory Nature of the
12 Federal Income Tax."

13 A. Wait, wait, wait. Wait a minute. Where are you reading?

14 Q. Page 7, right under the heading that says, "D. Mandatory
15 Nature of the Federal Income Tax."

16 A. Where are you reading? It says, "ratification may
17 occur...." I can't tell where you're reading.

18 THE COURT: Page 7.

19 THE WITNESS: I'm looking at page 7.

20 BY MR. NEIMAN:

21 Q. Well, if you look on the screen, Mr. Schiff, that may be a
22 better indication of where I'm going.

23 A. "Mandatory Nature of the Federal Income Tax." Okay. I --
24 I -- right. I see that.

25 Q. Mr. Schiff, does this opinion not say, "Schiff's claim that

1 there is nothing in the Internal Revenue Code that requires an
2 individual to file a federal income tax return demands comment"?

3 A. Yeah, it says that.

4 Q. "The kindest thing that can be said about Schiff's promotion
5 of this idea is that he is grossly mistaken or a mere pretender
6 to knowledge in income taxation. We have nothing but praise for
7 Mr. Newman's efforts which have helped bring this to light."

8 Does it say that?

9 A. Yeah.

10 Q. And this was -- this was an opinion that you read and it was
11 issued back in 1985?

12 A. Yeah. Well, you cite me a statute that says you're required
13 to pay income tax --

14 THE COURT: Mr. Schiff.

15 THE WITNESS: -- required to file.

16 BY MR. NEIMAN:

17 Q. Mr. Schiff --

18 THE COURT: Mr. Schiff, you'll respond to the
19 questions. I've warned you over and over again.

20 THE WITNESS: I -- but he -- the implication here -- he
21 can't --

22 THE COURT: You can bring it out on --

23 THE WITNESS: On cross. All right.

24 THE COURT: -- redirect --

25 THE WITNESS: I understand.

1 THE COURT: -- if you wish.

2 THE WITNESS: Yeah, all right.

3 BY MR. NEIMAN:

4 Q. Mr. Schiff, I assume you disagree with this decision as

5 well?

6 A. I disagree with the statement because it's incorrect.

7 Q. Mr. Schiff, does it not go on to say, "the District

8 Court" -- this is the Appeals Court we're reading from --

9 A. Yeah.

10 Q. -- right?

11 -- "the District Court stated that Schiff's argument

12 is --

13 A. Hold --

14 Q. -- "quote, blatant nonsense."

15 A. Well --

16 Q. Does it say that?

17 A. Uh, hold it. It says of certain -- shall -- wait a

18 minute... (mumbling while reading) (laughing.)

19 Q. Does it say that?

20 A. Yeah, wait a minute. They say Section 6012 says "shall."

21 THE COURT: Mr. Schiff --

22 THE WITNESS: Yeah, I --

23 THE COURT: -- the bottom of the page.

24 THE WITNESS: Well, yeah. Well --

25 THE COURT: He's pointing --

1 THE WITNESS: -- the document speaks --

2 THE COURT: -- it out to you. Answer the question.

3 THE WITNESS: Well, the document speaks for itself.

4 Yes, that's what it says.

5 BY MR. NEIMAN:

6 Q. And, Mr. Schiff, this is the "shall" argument that you were

7 just talking about, isn't it? The "must" or the "shall" and

8 that's why you don't have to file a tax return.

9 A. No. The -- the -- the offer was show me a statute that says

10 you're required to file. And 6012 doesn't say that.

11 Q. Mr. Schiff, the court addresses that very point in this

12 decision, don't they?

13 A. But my offer was -- I didn't say show me a statute that says

14 you shall file a return. The offer was show me a statute that

15 says you're required to file. And Section 6012 doesn't say it.

16 So they threw the lawyer a bone because he lost.

17 Q. Mr. Schiff, they called that argument that you just made

18 blatant nonsense --

19 A. But he can't --

20 Q. -- didn't they?

21 A. Well, that's what they called it. That doesn't mean it is

22 blatant nonsense just because some federal judge said it.

23 Q. Well, speaking of Mr. Newman not winning, Mr. Schiff, does

24 this case go on to say, "Although Newman has not [quote] 'won'

25 his lawsuit in the traditional sense of recovering a reward that

1 he sought, he has accomplished an important goal in the public
2 interest of unmasking the 'blatant nonsense' dispensed by
3 Schiff"?

4 A. Yeah. But that's a federal judge trying to protect an -- an
5 illegal system. He's not gonna a, oh, oh, Schiff is right.
6 There's no law that requires you to pay. You expect him to say
7 this?

8 Q. You disagree with this?

9 A. Of course I disagree with it. Of course I disagree.

10 Q. Mr. Schiff, this case that we; just looked at, Myron v.
11 Newman [sic], it's cited in the CRS Report, isn't it?

12 A. It's cited in the CRS?

13 Q. The CRS Report. Government Exhibit 225.

14 A. I didn't know it was cited in there. It may be.

15 Q. Well, if I could hand you --

16 A. If it is --

17 Q. -- Government Exhibit 225.

18 MR. NEIMAN: I apologize, your Honor. I'm taking
19 longer than I initially said I would.

20 (Discussion between Mr. Neiman and the
21 clerk.)

22 THE WITNESS: Oh, boy.

23 THE CLERK: 225 is right here, sir.

24 THE WITNESS: Is this it?

25 THE CLERK: Yes, sir.

1 THE WITNESS: Okay. It is cited in this report.

2 MR. NEIMAN: Ms. Vannozzi --

3 THE WITNESS: I didn't know that.

4 MR. NEIMAN: -- if we switch the source back here to
5 Special Agent Steiner.

6 THE CLERK: Yes.

7 (Document displayed in open court.)

8 BY MR. NEIMAN:

9 Q. 225. On page 14 of the CRS Report --

10 A. Page 14.

11 Q. -- the heading on number 9 is "DO THE INTERNAL REVENUE
12 SERVICE'S COLLECTION" -- or, actually, I think it pertains to
13 the top portion, which would be number 8. The heading is --

14 A. Are you reading from page 14?

15 Q. Actually, we're gonna start on page 13. I apologize.

16 A. Page 13.

17 Q. -- "DO WE HAVE A VOLUNTARY TAX SYSTEM?" Is that not what
18 the heading is?

19 A. That's correct. That's a correct -- "DO WE HAVE A" -- yeah,
20 absolutely correct.

21 Q. All right. And, going back to the next page, one of the
22 cases rejecting your argument is your very own case, is it not?

23 A. Let me see.

24 Q. Back in footnote -- I believe that says --

25 A. Where?

1 Q. -- 16 or 18 [sic].

2 A. Footnote 16?

3 Q. 46.

4 A. 46?

5 Q. Footnote 46 is Newman v. Schiff, is it not?

6 A. Footnote 46. Oh, Newman v. Schiff.

7 Q. That's your case?

8 A. There it is.

9 Q. And, if you look at the footnote right above it, footnote
10 45, there's another case with your name in there, is there
11 not --

12 A. Yeah.

13 Q. -- Schiff v. Commr --

14 A. That's correct.

15 Q. -- rejecting the position that we don't have -- that we have
16 a voluntary tax system?

17 A. But that doesn't mean anything because the IRS doesn't --
18 doesn't, uh, uh -- doesn't say that they are bound by court
19 decisions. So this doesn't bound -- bind anybody. The
20 significance of these decisions are nothing.

21 Q. You disagree with --

22 A. And they are not --

23 Q. -- the decisions --

24 A. -- Supreme Court decisions.

25 Q. -- Mr. Schiff?

1 A. But this is what they say. All right.

2 Q. Mr. Schiff, the CRS Report you used at seminars?

3 A. Yes, to point out the income tax is an excise tax.

4 MR. NEIMAN: If I could have a quick moment, your
5 Honor.

6 THE COURT: You may.

7 THE WITNESS: There are certain things in the CRS
8 Report that are correct.

9 BY MR. NEIMAN:

10 Q. Mr. Schiff, at these seminars, you would -- you would
11 discuss the CRS Report?

12 A. That aspect of it that explains that an income tax is an
13 excise. Once you understand it's an excise, everything else
14 doesn't mean anything.

15 Q. So you --

16 A. If the income tax is not imposed as an excise, then
17 everything connected with it is illegal.

18 Q. So you disregard the rest of the report?

19 A. Well, there's nothing else to regard.

20 Q. Because you disagree with the rest of the report?

21 A. Pardon me?

22 Q. Because you disagree with the rest of the report?

23 A. Of course I disagree with it because --

24 Q. Did you ever discuss the report with Defendant Cohen?

25 A. Who?

1 Q. Larry, Defendant Cohen.

2 A. I don't have -- I must have. If he came to a seminar, he

3 heard me discuss it.

4 Q. And did he go to seminars with you?

5 A. I think he did.

6 Q. Approximately how many seminars did he go with you to?

7 A. I didn't keep track. I don't know.

8 Q. Did you ever discuss it with Defendant Neun, the CRS Report?

9 A. Um, this aspect of it of course. All it does is confirm

10 that the income tax is not imposed pursuant to any of the taxing

11 clauses of the Constitution and, therefore, it must be

12 voluntary.

13 Q. Mr. Schiff, that second case cited in footnote 46 --

14 A. Yes.

15 Q. -- if I may approach you again. Have you ever read that

16 opinion?

17 A. Did I ever read this opinion, Newman v. U.S. [sic]?

18 Q. No. Schiff v. Commissioner of the Internal Revenue.

19 A. Oh, God. Let me see.

20 MR. NEIMAN: If I may approach the witness, your Honor?

21 THE COURT: You may.

22 (Government's Exhibit No. 340, marked for

23 identification.)

24 BY MR. NEIMAN:

25 Q. I'm handing the witness what's been marked as Government

1 Exhibit 340.

2 A. Yes.

3 Q. That's the case cited, is it not?

4 A. Well, first of all, I wanna see what year this is for.

5 Q. I believe the opinion was issued in 1984.

6 A. Is this 1979? '84.

7 Q. Mr. Schiff, this is one of the two times you're talking
8 about you went to Tax Court, isn't it?

9 A. Yeah. I'm trying to see what year this is for.

10 Q. It's for tax years in the '70s.

11 A. Pardon me?

12 Q. Tax years 1974 and '75.

13 A. 1974.

14 Q. I'm sorry. I -- I -- I misspoke.

15 A. Is it 1974?

16 Q. 1974 and 1975.

17 A. 1974 and 1975. I don't believe I filed tax returns in those
18 years.

19 Q. But you argued the tax liability in the Tax Court.

20 A. Let me just see something. (Reviewing document.)

21 I want to see -- does it say I filed returns for those
22 years? (Reviewing document.)

23 Did I file returns in those years? Oh, '74 and '75.

24 Oh. Let me just see something. (Reviewing document.)

25 Unsigned. Unsigned which contained no information from

1 which this tax (mumbling while reading) could be determined.

2 Oh, so this is for the years -- were these for years
3 '74 and '75? It's...

4 Q. Have you ever read this opinion, Mr. Schiff?

5 A. So -- I must have. It's so long ago.

6 MR. NEIMAN: Your Honor, at this time we would move for
7 the admission of Exhibit 340.

8 MR. CRISTALLI: Objection.

9 THE WITNESS: Let me just try and determine. Is this
10 for the tax years '74 and '75 and '76? Oh, '74 and '75. Okay.
11 Okay.

12 THE COURT: 340 is received.

13 MR. NEIMAN: Thank you.

14 THE WITNESS: Okay.

15 (Government's Exhibit No. 340, received into
16 evidence.)

17 THE WITNESS: So this is for the years '74 and '75.

18 BY MR. NEIMAN:

19 Q. Mr. Schiff, in this -- at Tax Court you argued your wages
20 aren't income argument and that the IRS can't file --

21 MR. SCHIFF: Are you writing all this down? Is Todd
22 writing all this down? Because you gotta bring all this up in
23 cross.

24 BY MR. NEIMAN:

25 Q. Mr. Schiff, you raised your wages aren't income tax argument

1 here?

2 A. I probably did.

3 Q. It was rejected?

4 A. The Tax Court had no authority to determine whether --

5 that's a -- that's a constitutional issue --

6 Q. What --

7 A. -- and they only have -- let me tell you -- I raised it and

8 they had no authority --

9 Q. You're not answering the question, Mr. Schiff.

10 A. Yes.

11 Q. Was your argument rejected? Yes or no.

12 A. They had no authority to make --

13 THE COURT: Mr. Schiff --

14 THE WITNESS: -- the determin- --

15 THE COURT: -- yes or no.

16 THE WITNESS: I guess so. I guess so.

17 BY MR. NEIMAN:

18 Q. In fact, did the Tax Court not call your arguments in 1984

19 "stale and meritless"?

20 A. Yeah, even though they were correct. This was a fraudulent

21 decision based on a tax -- based on a fraudulent deficiency

22 notice.

23 Q. You disagree with the decision?

24 A. It wasn't deficiency. It was my total tax which they

25 attempted to assess in the guise of the deficiency.

1 Q. All right.

2 A. This is the heart of the fraud. All right.

3 Q. Mr. Schiff --

4 A. I disagree with it --

5 MR. CRISTALLI: Your Honor, I just --

6 THE WITNESS: -- because it's wrong.

7 MR. CRISTALLI: -- in terms of this -- in terms of this

8 document, just so we're clear, this has nothing to do with the

9 crimes charged in the -- in the instant Indictment.

10 THE COURT: It's received for the limited purpose of

11 showing notice to Defendant Schiff --

12 THE WITNESS: Where did I put it?

13 THE COURT: -- and anyone else --

14 THE WITNESS: I want the --

15 THE COURT: -- who read it.

16 THE WITNESS: I want the document in. It's good.

17 BY MR. NEIMAN:

18 Q. Did you ever discuss all of your court decisions that we're

19 goin' through with Defendant Neun?

20 A. There was about 17 cases.

21 Q. Did you discuss any of them with her?

22 A. Well, they knew they were all phony because there's no

23 liability for the tax.

24 Q. Did you discuss --

25 THE COURT: Answer the question.

1 BY MR. NEIMAN:

2 Q. -- them with her?

3 A. I guess so. I don't know.

4 Q. And she knew they were -- your arguments were --

5 A. Who?

6 Q. Defendant Neun knew that your arguments were constantly
7 being rejected, didn't she?

8 MR. CRISTALLI: Objection. Calls for speculation.

9 BY MR. NEIMAN:

10 Q. Did you tell her?

11 MR. CRISTALLI: Objection.

12 THE WITNESS: She knew my -- she knew my --

13 MR. CRISTALLI: Objection --

14 THE WITNESS: -- views were correct.

15 THE COURT: The question is --

16 THE WITNESS: -- regardless of what the court --

17 THE COURT: -- the question was withdrawn. Did you
18 tell her.

19 MR. CRISTALLI: I'm sorry?

20 THE COURT: The question -- the first question was
21 withdrawn; another question was asked, did you tell her?

22 THE WITNESS: I don't specifically have recollections
23 of telling her that all my convictions -- she knew they were
24 wrong just from her own knowledge of the Code.

25

1 BY MR. NEIMAN:

2 Q. And how about Defendant Cohen? Did you ever discuss your
3 history with the IRS with him?

4 A. I didn't have to. They knew that any decision that stated
5 you're required to pay income taxes had to be false because
6 there's no liability in the Code for the payment of -- it's
7 voluntary.

8 Q. Mr. Schiff, if you can --

9 A. You don't tell your employees the obvious. But go ahead.

10 Q. If you can look at Government Exhibit 286.

11 A. 286.

12 MR. NEIMAN: I apologize. Could you grab 288 as well?

13 (Document displayed in open court.)

14 THE WITNESS: This is important. This is very
15 important. This is Section 340. Oh, God.

16 Well, you -- are you giving me another -- I got to keep
17 these all together because I wanna go over all of these. Very
18 good.

19 (Discussion between the clerk and the
20 witness.)

21 THE WITNESS: This case is beautiful. Where's this one
22 go?

23 THE CLERK: That one doesn't have a folder to it, sir.

24 THE WITNESS: It doesn't have a folder. Just put it on
25 top.

1 THE CLERK: Yeah, that's good.

2 THE WITNESS: I want to be able to go over each of
3 those cases. And I have to be able to do it in the narrative.
4 There's no way I can write out questions.

5 BY MR. NEIMAN:

6 Q. Mr. Schiff --

7 A. Yes.

8 Q. -- this is your credit card application at Men's Warehouse,
9 isn't it?

10 A. Let me see. Where -- where is it?

11 Q. 286.

12 A. 286. 286. Yes, it is.

13 MR. NEIMAN: If we could blow up the, uh, income
14 portion.

15 (Document displayed in open court.)

16 MR. SCHIFF: Irrelevant. I'm gonna put -- there's no
17 relevancy.

18 BY MR. NEIMAN:

19 Q. "Annual Income From All Sources." You wrote down \$75,000,
20 didn't you?

21 A. But that's not taxable income. That's income in the
22 ordinary sense, not income in the constitutional sense.

23 Q. So there's a difference whether you're writing down income
24 on a credit card application or a dating service application or
25 on your tax return?

1 A. Absolutely because --

2 Q. Let's look at --

3 A. -- because income for tax purpose simply is not the same
4 thing as income -- are you saying that it is the same thing?

5 Q. Mr. Schiff --

6 THE COURT: Mr. Schiff --

7 BY MR. NEIMAN:

8 Q. -- the argument you're making right now is the same argument
9 which was addressed in one of your attachments and rejected, was
10 it not?

11 A. No, it wasn't rejected.

12 Q. It was the same argument we just went --

13 A. No. Wait a minute. Wait a minute. Wait a minute. I
14 didn't attach that until 2002, 2003.

15 Q. Well, Mr. Schiff --

16 A. They never sent me -- they never sent me a statement saying
17 it's frivolous. They never sent me a deficiency notice.

18 Q. Look at Government Exhibit 288, please.

19 A. That's income in the ordinary sense; it's not --

20 THE COURT: Mr. Schiff --

21 THE WITNESS: -- income in the --

22 THE COURT: -- 288.

23 THE WITNESS: -- constitutional sense.

24 (Document displayed in open court.)

25

1 BY MR. NEIMAN:

2 Q. Government Exhibit 288 should be in front of you as well,

3 Mr. Schiff.

4 A. I got 286.

5 Q. And right behind it should be 288.

6 A. Where is 288?

7 MR. NEIMAN: If I may approach?

8 THE WITNESS: Is it the same folder?

9 MR. NEIMAN: It should be in a different folder. If I

10 may approach?

11 THE COURT: You may.

12 THE WITNESS: 288.

13 BY MR. NEIMAN:

14 Q. Mr. Schiff, you checked the income box of a hundred thousand

15 plus on this application, didn't you?

16 A. I think so. There wasn't a higher -- there wasn't a higher

17 amount that I could check.

18 Q. Would it have been higher?

19 A. I would have check it.

20 Q. How much higher would it have bee?

21 A. The highest they would have had. I would have gotten more

22 replies on my social application.

23 Q. Well, this is --

24 A. That was the highest amount they showed. But, of course,

25 this is income in the ordinary sense, not income in the taxable

1 sense.

2 Q. Mr. Schiff, you fought the State of Nevada when it came to
3 paying sales tax, didn't you?

4 A. Yeah, because the Constitution of the State of Nevada didn't
5 provide for a tax on books. The Constitution of the State of
6 Nevada said that people shall have a right to freely publish.
7 And, if the individuals don't fight for their constitutional
8 rights, who are gonna do it?

9 Q. And you made that argument and you lost, didn't you,
10 Mr. Schiff?

11 A. Yeah, because they wanted the money regardless of what the
12 Constitution said.

13 Q. And you disagree with that decision as well?

14 A. Of course.

15 Q. Mr. Schiff --

16 A. The government wants more and more money until the point you
17 don't have anything. They want it all.

18 Q. Mr. Schiff, you don't want to pay workers' compensation
19 insurance either, do you?

20 A. I paid it. I for- -- I pay workers' comp.

21 Q. There was a battle whether or not you were gonna have to pay
22 that as well, wasn't there?

23 A. Well, it's --

24 Q. Is that in the State of Nevada Constitution as well?

25 A. No. I paid it.

1 Q. All right. Mr. Schiff, your car --

2 A. I pay automobile insurance. I pay gasoline taxes. I pay
3 property insurance. I pay all kinds -- property taxes.

4 MR. NEIMAN: Objection. Nonresponsive. Move to
5 strike.

6 THE COURT: Sustained.

7 THE WITNESS: Okay.

8 THE COURT: Strike.

9 BY MR. NEIMAN:

10 Q. Mr. Schiff, your vehicle, your car, is registered outside
11 the state, isn't it?

12 A. I think so.

13 Q. You don't want to pay for the registration here as well?

14 A. Well, because the -- the city didn't protect my car when the
15 IRS stole it. I reported it stolen; they did nothin' about it.

16 Q. Mr. Schiff --

17 A. So, if I reregister it, they'll just -- the IRS will just
18 grab it again.

19 Q. Mr. Schiff, in the front of every one of your books, you
20 have a disclaimer, do you not?

21 A. Yes, I do.

22 Q. And that disclaimer says that there's a risk in standing up
23 for ones rights.

24 A. Absolutely.

25 Q. That risk, Mr. Schiff, is that every court and the law

1 disagrees and rejects your position, isn't it?

2 A. I'm not -- no, I'm not sure they do. No, as a matter of
3 fact, the Supreme Court affirms my position. As a matter of
4 fact, you had the CRS Report that said that the Brushaber court
5 ruled that the income tax is an excise. That's my position.

6 Q. Well, Mr. Schiff, you have many other --

7 A. What?

8 Q. -- many other arguments which you've put forth which you
9 have just gone through which have all been rejected, haven't
10 they?

11 A. No. The -- the Brushaber case; the Pollack decision, which
12 is still in force, says -- says taxes on -- on -- on income from
13 private property and real estate property can only be taxed
14 pursuant to -- show me a Supreme Court decision that rejects my
15 argument.

16 Q. Mr. Schiff --

17 A. Show me a Supreme Court --

18 Q. -- if we can go --

19 A. -- that says --

20 Q. -- back to --

21 A. -- wages are --

22 Q. -- Government Exhibit 225.

23 A. -- taxable as income.

24 THE COURT: Mr. Schiff --

25 THE WITNESS: No. The courts don't reject --

1 THE COURT: -- I've warned you about this.

2 THE WITNESS: He said -- the Supreme Court has not
3 rejected my -- my positions. I'm trying to uphold the Supreme
4 Court decisions.

5 BY MR. NEIMAN:

6 Q. Mr. Schiff, if I can direct your attention back to
7 Government Exhibit 225.

8 A. 225, where is it? 225.

9 Q. Page 2.

10 A. Wait. Wait a minute. Wait a minute. I don't have it here.

11 225. Did you give me 2 -- is that the CRS Report?

12 Q. CRS Report.

13 A. Okay. That's the report that said income tax is an excise.
14 Right?

15 Q. Mr. Schiff, let's look at it.

16 A. Where is it? Oh, here it is. I use this report in my
17 seminar documents, you know.

18 Okay. Where do you want me to look?

19 (Document displayed in open court.)

20 BY MR. NEIMAN:

21 Q. If I could direct your attention to page 4 which is under
22 the heading "IS THE FEDERAL INCOME TAX A DIRECT OR INDIRECT
23 TAX."

24 A. (Laughing.) Okay. Page 4? Where are you? Page 4? 3, 4.
25 Let me see. Hold it. Let me get....

1 I'm lookin' at page 4. Where does it say that? Are
2 you -- where are you directing me to look?

3 Q. Well, Mr. Schiff, it addresses your argument with the
4 Brushaber decision, does it not, right there?

5 A. Yeah. Well, you just told me to look someplace. Where do
6 you want me to look?

7 Q. The middle of page 4. What's blown up on the screen.

8 A. "The Supreme Court, in a decision written by ..., first ...
9 did not authorize any new type of tax, nor did it repeal or
10 revoke the tax clauses of Article I.... Direct taxes were, not
11 withstanding the advent of the ..., still subject to the rule of
12 apportionment."

13 Q. Mr. Schiff --

14 A. Yes.

15 Q. -- you disagree with the characterization of the Brushaber
16 case in this -- in this --

17 A. No. I agree. I have a whole chapter in my book. The
18 Brushaber case said the Sixteenth Amendment did not amend the
19 Constitution nor give the government -- just like -- nor give
20 the government any new taxing power. I agree with that.

21 Q. Well, Mr. Schiff, the rest of this document, 225, goes on to
22 say that you're required to pay taxes.

23 A. No, it doesn't.

24 Q. You disagree with what it says. But it does say that, does
25 it not?

1 A. Well, how could you be required to pay an income tax which
2 is not imposed pursuant to the taxing clauses of the
3 Constitution if the Six- -- look, if this said that I'm the King
4 of Romania, am I supposed to believe it? If it says the moon is
5 made of green cheese -- just because it says something, I'm
6 discriminating. I could tell which is correct and which is
7 incorrect.

8 Q. Mr. Schiff, you say the word "I believe," "I believe," "I
9 believe." Do you have any idea how many times you said the word
10 "I believe"?

11 MR. CRISTALLI: Objection. Argumentative.

12 THE WITNESS: I believe. This is what I believe. I
13 could be wrong; maybe I'm wrong.

14 BY MR. NEIMAN:

15 Q. Mr. Schiff, you said that over and over again throughout
16 this trial: I believe, I believe, I believe.

17 A. Well, ultimately, this is a decision for the jury. If they
18 think I believe it, then they have to find me not guilty
19 regardless of what the law is.

20 Q. Well, let's let the judge instruct --

21 A. All right.

22 Q. -- as to what -- Mr. Schiff --

23 A. Well, you know that to be true though.

24 Q. -- there needs to be a good-faith belief, Mr. Schiff. Isn't
25 that true?

1 A. Well --

2 MR. CRISTALLI: Objection.

3 THE WITNESS: -- certainly good faith. I wrote books on
4 this subject.

5 MR. CRISTALLI: Objection. Move to strike.

6 MR. NEIMAN: I'm gonna move on. I'm gonna move on.

7 MR. CRISTALLI: Misstates the law. Move to strike.

8 It's ultimately up to this judge to make a determination as to
9 how to instruct this jury. It's improper comment by this
10 prosecutor in reference to what the standard of the law is.
11 Move to strike. And I have another motion that I'd like to make
12 at sidebar as well.

13 MR. BOWERS: I join in that and preserve my right to
14 make the same motion.

15 THE COURT: All right.

16 We'll take our mid -- midafternoon break. Be in recess
17 for approximately 15 minutes.

18 MR. SCHIFF: Your Honor, there is way that I can
19 write -- what I'd like to do --

20 THE COURT: Don't address me --

21 MR. SCHIFF: Okay.

22 THE COURT: -- ex parte.

23 MR. SCHIFF: Can I -- all right. Let's have a sidebar
24 on this.

25 (Jury leaves the courtroom at 2:58.)

1 THE COURT: Wait for -- Mr. Schiff.

2 Court is in recess.

3 Sidebar.

4 (Sidebar conference was held as follows:)

5 THE COURT: Mr. Cristalli, we're waitin' for you.

6 MR. CRISTALLI: Your Honor, um, the Government, during
7 the course of their examination of Mr. Schiff, indicated that
8 Mr. Schiff's, um, beliefs, uh, have to be held in good faith in
9 order for them to, uh, acquit. That's absolutely, um, not the
10 standard of law as articulated in Cheeks [sic]. Whether or not
11 an individual, um -- it could be completely unreasonable as far
12 as the jury is concerned.

13 It could be unreasonable to me. It can be unreasonable
14 to your Honor. It could be unreasonable to every single one of
15 those jurors. However, if there -- if the evidence supports the
16 fact, no matter how unreasonable the theory or philosophies may
17 be, if Mr. Schiff holds those beliefs to be true, then this jury
18 must acquit.

19 THE COURT: Well, the --

20 MR. CRISTALLI: That's the standard of law.

21 THE COURT: The word "reasonable" was never used. It
22 was good faith. And it was in response to Mr. Schiff's attempt
23 to instruct the jury on what the law was.

24 MR. CRISTALLI: That's fine. But I don't think --

25 THE COURT: It is --

1 MR. CRISTALLI: -- whether or not --

2 THE COURT: -- it is the correct standard.

3 Good-faith --

4 MR. CRISTALLI: Well --

5 THE COURT: -- belief is the -- is the test, even under
6 Cheek.

7 MR. CRISTALLI: Good faith -- but good-faith belief is
8 proved through certain evidence that the Government is going to
9 produce. It's not for the Government to get up and argue
10 that --

11 THE COURT: They didn't.

12 MR. CRISTALLI: -- in front of a jury.

13 THE COURT: They didn't. Is all they said -- they
14 corrected Mr. Schiff when he made his remark about what he
15 thought the legal standard was.

16 MR. SCHIFF: Well, first of all, according to Cheek:
17 A, the Government has to prove that the law imposes a legal duty
18 on me -- they haven't done that yet -- second, I knew of this
19 legal duty; and, three, I deliberately violated that legal duty.

20 THE COURT: There's enough evidence that the jury could
21 find you guilty and make all --

22 MR. SCHIFF: But --

23 THE COURT: -- of those findings.

24 MR. SCHIFF: -- here's what -- I -- I wanna say this:
25 They made so many false statements and those cases so misstated

1 what goes on there is no way that I can, um, write out a number
2 of cross-examining questions.

3 THE COURT: Well, you're gonna question -- you're
4 gonna -- you're gonna do cross-examination or redirect with
5 direct questions.

6 MR. SCHIFF: I --

7 THE COURT: I'm not gonna allow you to --

8 MR. SCHIFF: Well, then I'll do redirect.

9 THE COURT: -- do a narrative because you have taken
10 liberties in this -- in the course of cross-examination that I
11 should have sanctioned you for over and over and over again.

12 MR. SCHIFF: I'll do question and --

13 MR. BOWERS: Your Honor, I'm sorry.

14 MR. SCHIFF: -- question and answer then. I'll do
15 question and answer.

16 MR. BOWERS: For appellate purposes, I -- for purposes
17 of the record, I'd like to join in Mr. Cristalli's motion. I'd
18 also like -- we haven't done this daily like we used to, but
19 that doesn't mean Mr. Schiff's conduct hasn't prejudiced us.
20 I'd like to renew the motion to sever.

21 Um, however, having said that -- and whatever the Court
22 rules the Court rules -- I do think that some opportunity should
23 be afforded to Mr. Schiff to write questions for
24 cross-examination. Um, and I don't know how we'd work that out
25 as a scheduling matter. I don't how long Mr. Neiman's gonna be.

1 MR. SCHIFF: I can't write enough questions. There was
2 whole cases that --

3 MR. BOWERS: Would you let me finish, please?

4 MR. SCHIFF: I'm sorry.

5 MR. BOWERS: It -- it's clear the Court has ordered you
6 to do this. I'm not arguing with this order. I'm just saying
7 obviously a monumental amount of material has been covered.
8 Mr. -- I'm sorry -- Leventhal is not familiar with the nuances
9 with this. And this will take some time, I think, to fairly
10 give Mr. Schiff to give a chance to respond. And I only raise
11 that because of the spillover effect onto my client.

12 MR. CRISTALLI: And, just to finalize my argument with
13 regard to that, it is in my understanding whether or not -- if
14 it's a good-faith belief, the good-faith belief is not an
15 objective good-faith belief; it is a subject good-faith belief.
16 It has --

17 THE COURT: Nobody said anything about objective or
18 subjective.

19 MR. CRISTALLI: Well, the imp- -- the implication --

20 THE COURT: No, it wasn't.

21 MR. CRISTALLI: -- concerns me.

22 THE COURT: I disagree with you.

23 MR. CRISTALLI: And I respect the Court's ruling.

24 MR. SCHIFF: Those cases they cited and the case that
25 he cites, the Second Circuit, there is a number of references to

1 whether I -- there's a lot of subjective belief.

2 THE COURT: Let Mr. -- let Mr. Cristalli finish his
3 argument.

4 MR. SCHIFF: I'm sorry.

5 MR. CRISTALLI: I've made my record. Um, I would move
6 for a mistrial based on that.

7 MR. SCHIFF: Your Honor, all I wanna --

8 THE COURT: Denied. Denied as to the mistrial.

9 The -- the remark by the prosecutor was merely in
10 response to -- to Mr. Schiff's attempt to state the legal
11 standard.

12 With respect to the, uh, severance, the motion to
13 denied for all of the reasons previously stated.

14 MR. SCHIFF: Your Honor, can I just answer the -- on
15 redirect? I'll do it in question and answer. And you can
16 object; he can object. But I wanna clarify all those cases.
17 And I can do it very simply by saying is this what you said?
18 No. This is what I said. Otherwise I gotta go and get all
19 those cases.

20 THE COURT: Are you gonna use the different voices for
21 us?

22 MR. SCHIFF: I'll use the different voices.

23 THE COURT: No. Rejected.

24 MR. SCHIFF: Well, I can't -- I can't do it.

25 THE COURT: I can't -- I can't trust you to --

1 MR. SCHIFF: Scout's honor.

2 MR. BOWERS: Well --

3 THE COURT: Not worth -- not worth anything.

4 MR. SCHIFF: Well, I -- there was a lot --

5 THE COURT: Because you have repeatedly --

6 MR. SCHIFF: -- of false statements.

7 THE COURT: You have repeatedly --

8 MR. SCHIFF: Your Honor, I can't --

9 THE COURT: -- gone back on your word.

10 MR. SCHIFF: I won't go back on my word.

11 Your Honor, there's no way I can write -- you gotta

12 give me a day off to write the question out.

13 THE COURT: I'm not gonna give you a day off.

14 MR. SCHIFF: Well, how can I write the questions?

15 THE COURT: You can write 'em. There hasn't been an

16 hour's worth of questions. It hasn't been that long.

17 MR. SCHIFF: Did you -- did you read those discussions?

18 THE COURT: And it only took an hour because you

19 refused to answer --

20 MR. SCHIFF: I forgot --

21 THE COURT: -- or heed the Court's rulings. You

22 disrespected the Court repeatedly. And so it took longer than

23 it should have. There's not even 20 questions that could be

24 generated --

25 MR. SCHIFF: Well --

1 THE COURT: -- as a result of --

2 MR. SCHIFF: -- can I write 20 questions on --

3 MR. NEIMAN: Your Honor --

4 THE COURT: Go write it. Get with it.

5 MR. NEIMAN: Your Honor, just so you're aware, the

6 reason I was going into the belief -- I'm leading into what is

7 going to be my final point regarding certain documents which

8 were found --

9 THE COURT: Okay.

10 MR. NEIMAN: -- in that regards.

11 MR. SCHIFF: He went into my probation violation

12 hearing. He went into --

13 THE COURT: You're wasting time.

14 MR. SCHIFF: Well, how much time --

15 THE COURT: I know what he went into.

16 MR. SCHIFF: Well, he still wants to cross-examine me.

17 THE COURT: A dozen questions would cover it.

18 MR. SCHIFF: No.

19 THE COURT: Yeah, it would.

20 (Sidebar conference concluded.)

21 (Recess from 3:06 p.m. to 3:26 p.m.)

22 THE COURT: All right. Are we ready to bring the jury

23 back in?

24 MR. NEIMAN: Nothing from the Government.

25 THE COURT: All right. Thank you.

1 MR. CRISTALLI: Yes, your Honor, we're prepared.

2 THE COURT: Thank you.

3 MR. BOWERS: I'm fine.

4 THE COURT: All right.

5 Ms. Clerk, bring in the jury.

6 THE CLERK: Mr. Schiff.

7 THE COURT: I need to go get my notes. I'll be right
8 back.

9 (Pause in the proceedings.)

10 MR. SCHIFF: Your Honor, he gave me the Second Circuit
11 decision. I just had it. Where is it?

12 (Pause in the proceedings.)

13 (Jury enters the courtroom at 3:27 p.m.)

14 THE COURT: Please be seated.

15 Will counsel stipulate to the presence jury?

16 MR. NEIMAN: Yes, your Honor.

17 MR. CRISTALLI: Yes, your Honor.

18 MR. BOWERS: Yes, your Honor.

19 THE COURT: Thank you.

20 You may resume your examination --

21 MR. NEIMAN: Thank you.

22 THE COURT: -- Mr. Neiman.

23 MR. SCHIFF: I'm just looking for the Pollack decision.
24 I had it here. I don't.... Here's U.S. v. Long. Okay.

25 (Pause in the proceedings.)

1 MR. SCHIFF: Did you find the appellate decision,
2 Second Circuit?
3 Your Honor, can I just take a little look over there?
4 THE COURT: Go ahead.
5 MR. SCHIFF: We just went over it. Do you have the
6 Second Circuit --
7 MR. NEIMAN: Here's a copy of it, Mr. Schiff.
8 THE CLERK: Mr. Schiff?
9 MR. SCHIFF: This is the one I marked up.
10 THE COURT: It's over here, Mr. Schiff. Mr. Schiff --
11 THE CLERK: Mr. Schiff --
12 THE COURT: -- it's over there.
13 THE CLERK: -- you have one in the folders.
14 MR. SCHIFF: This one is marked up.
15 MR. NEIMAN: You marked up the actual exhibit?
16 MR. SCHIFF: No. So I -- so I could reread it. So I
17 know what to talk about.
18 THE CLERK: He did mark it up.
19 THE COURT: He did mark it up? All right.
20 MR. NEIMAN: I have a clean copy.
21 THE COURT: Get a clean one.
22 MR. SCHIFF: I have to see what's relevant.
23 THE COURT: It's all right. "X" out the -- take out
24 the exhibit number off of it.
25 MR. NEIMAN: We'll bring a clean copy, your Honor.

1 THE COURT: Yeah. We're getting a clean copy. I just
2 need you to "X" that off so we don't get it mixed up.

3 THE CLERK: Is that a clean copy?

4 MR. SCHIFF: I think so.

5 THE COURT: Take the sticker off or scribble it out.

6 THE CLERK: I'll just do this.

7 THE COURT: There you go.

8 MR. SCHIFF: Thank you.

9 Do I have the Tax Court decision here too?

10 THE CLERK: You should. Hopefully you --

11 THE COURT: Go ahead and take the stand, Mr. Schiff.

12 Please be seated, sir. Go ahead.

13 MR. NEIMAN: Thank you.

14 MR. SCHIFF: And can I...

15 BY MR. NEIMAN:

16 Q. Mr. Schiff --

17 A. Yes.

18 Q. -- I think right before we went on break, you were -- I was
19 asking you about -- you were saying -- you said, I believe, I
20 believe, I believe, I believe throughout this trial many times,
21 have you not?

22 A. That's the only thing I can say. I can't say what the law
23 is actually --

24 Q. But --

25 A. -- all I can say is what I believe the law is.

1 Q. And, Mr. Schiff, is it not true that that's advice that you
2 give to your customers who find themselves in the very position
3 you're in right now?

4 A. I don't know by who I was supposed to give it to.
5 There's -- there's nobody who could use this --

6 Q. Well, Mr. Schiff --

7 A. -- that's been charged. I -- I don't know who you're
8 talking about.

9 Q. Do you remember Schiff Report Series 1?

10 A. Yes. That was a long time ago.

11 Q. Do you remember that Schiff Report Series 1 was written
12 about 1992, early 1990's?

13 A. Probably, yes.

14 Q. Mr. Schiff, in that report you gave the advice to your
15 customers to say "I believe, I believe, I believe, I believe"
16 when you're on the stand so that the jury hears you say that
17 over and over again?

18 A. Well, no, no, no. Because the Cheek decision is based upon
19 what you believe to be true.

20 Q. Well, Mr. Schiff --

21 A. I made the mistake -- I'll tell you what. Yeah, I say it.

22 Q. That -- you were -- in essence, Mr. Schiff, you were
23 planning your defense --

24 A. No, I wasn't.

25 Q. -- years before you were even indicted in this case, were

1 you not?

2 A. No, absolutely not.

3 Q. You knew that --

4 A. No --

5 Q. Mr. Schiff, your advice was --

6 A. Right.

7 Q. -- and you knew that if you were ever charged you would get

8 on the stand and you would say to the jury over and over and

9 over again "I believe, I believe, I believe." Did you not?

10 A. No, that's not why -- that's not why I said it.

11 Q. Did you say it?

12 A. Yes, because I made the mistake in my first two trials of

13 attempting to prove to the jury what the law is. And -- and the

14 judge just said the law is not what I said it is, guilty. And

15 the issue is after the Cheek decision --

16 Q. Well, Mr. Schiff --

17 A. -- the question is what you believe.

18 Q. Let's not get into the law. We'll let the judge instruct

19 the jury as to --

20 A. No, I'm not planning anything.

21 Q. -- what the law is at the end.

22 A. I'm just tellin' people if you go to trial don't try to

23 prove to the jury what the law is; it's what you believe the law

24 is. And that was based on the Cheek decision.

25 Q. So you understood -- or you preplanned --

1 A. No --

2 Q. -- that --

3 A. -- I didn't preplan anything.

4 Q. Mr. Schiff, you had a handout in a folder labeled --

5 A. Yes.

6 Q. -- "trial techniques."

7 A. Exactly right.

8 Q. And in that you gave the advice if you find -- if you were

9 ever cross-examined by a prosecutor --

10 A. Yes.

11 Q. -- or on direct examination --

12 A. Yes.

13 Q. -- make sure you say the words, "I believe, I believe, I

14 believe."

15 A. Exactly right.

16 Q. Thank you.

17 A. I made the mistake in my prior trial of trying to convince a

18 jury what the law was.

19 Q. And, Mr. Schiff, but that was your advice and that was your

20 advice written in the early '90s?

21 A. Yeah.

22 MR. NEIMAN: Nothing further, your Honor.

23 THE COURT: Redirect?

24

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. LEVENTHAL:

Q. Mr. Schiff --

A. Yes.

Q. -- the Government claims that you pick and choose what law you want to decide [sic]. Is that your understanding?

A. That's what they claim.

MR. LEVENTHAL: Could I have Exhibit -- Government -- Defense Exhibit 2115?

MR. NEIMAN: The original should be -- you gave me your copy.

THE CLERK: He should have 2115.

(Pause in the proceedings.)

THE COURT: Mr. Leventhal, did you say 2115?

MR. LEVENTHAL: Yes, sir, I have it.

THE COURT: Okay.

MR. LEVENTHAL: That's the letter from Congressman Dan Burton and the letter from Congressman John Ensign.

THE WITNESS: Can I see the letters? Oh, maybe I have them here.

THE CLERK: You have them. I'm certain that you have them there somewhere. This one right here.

THE WITNESS: Okay. Yes, okay.

Which letter are you lookin' at? Yes. You're looking at --

1 BY MR. LEVENTHAL:

2 Q. This is the letter from Dan Burton. Do you see that?

3 A. From Dan Burton.

4 Q. That's correct.

5 A. Yes.

6 Q. And you have -- or someone's underlined, "You are correct in
7 your assertion that the word 'liable' or the terminology
8 'liability for income taxes' is not included in the" -- "... the
9 Internal Revenue Code" --

10 A. Yes.

11 Q. -- is that correct? Okay.

12 Is that the only thing that you got from that letter?

13 A. Yeah.

14 Is that the only thing that I got from that letter?

15 Q. Yeah. I mean --

16 A. Yeah. That's the only thing that's really relevant.

17 Q. Okay. Why is that the only thing that's relevant to you?

18 A. Okay. First of all, when I send out a document, the people
19 could read the whole document. They could read the whole
20 document. But what I do is I simply direct their attention to
21 what I consider the most important aspect of the document.

22 The person who wrote the letter wanted to know what law
23 made you liable. That's the important thing because the Privacy
24 Act Notice says you only have to file a return for any tax you
25 are liable for. So here is Dan Burton saying you are correct.

1 Q. Do you use --

2 A. The word --

3 Q. -- do you use thi --

4 A. Let me answer --

5 Q. Go ahead. Do you use --

6 A. -- the question.

7 Q. -- do you use this letter in your handouts for your --

8 your -- when you give lectures?

9 A. Yes.

10 Q. You do. It's in every handout? You rely on this? You give

11 it to all the students?

12 A. Yes.

13 Q. In its entirety?

14 A. Yes.

15 Q. Okay.

16 A. Can I finish explaining this?

17 Q. Absolutely, please.

18 A. Okay.

19 "However, the Sixteenth Amendment ... proves that: ...

20 Congress shall have the power to lay and collect taxes ...,

21 whatever source."

22 We're not -- we're not disputing that. The question

23 is, is there a law that makes you liable, not whether or not

24 Congress has the power to make you liable.

25 The rest of the letter is obviously designed to confuse

1 the reader as to the meaning of the fact, hey, there is no law
2 that makes you liable. So, therefore, the rest of the letter is
3 designed to hide the significance of that one statement.

4 As you know, the -- the rest -- you know, any --
5 anything after the word "but," you know, was nonsense. The
6 significance of the letter was: Is there a law that makes you
7 liable? No, there is no law that makes you liable. What else
8 is significant? And that's the purpose of the letter.

9 But the people can read the rest of the letter. If
10 they think there's something more significant, they are free to
11 do it.

12 Q. You don't cross anything out on the letter --

13 A. No.

14 Q. -- do you? Okay.

15 Turning --

16 A. That's the whole letter.

17 Q. -- turning your attention to --

18 A. Let me continue.

19 Q. -- John Ensign's letter -- oh, I'm sorry. Go ahead.

20 A. The -- if --

21 THE COURT: There's no question pending.

22 THE WITNESS: Well --

23 BY MR. LEVENTHAL:

24 Q. Okay. You can --

25 A. He's still got --

1 Q. -- continue.

2 A. -- the same question.

3 Q. Is there anything else you see in that letter that's
4 relevant --

5 A. Yes.

6 Q. -- to you?

7 A. Yes.

8 Now, the fact is whether you owe a tax or not is not
9 based on what the -- on what the Congressional Research Report
10 says. Uh, he talks about these other sales tax.

11 What is important is, is there a statute in the
12 Internal Revenue Code that makes you liable? When Dan Burton
13 says there is no law that makes you liable, what else is
14 important? So that is why I highlighted. But people can get
15 whatever they want out of the letter.

16 Q. Okay. Let's move on to John Ensign's letter.

17 A. Okay. First of all, they have the whole letter. They can
18 derive whatever information they want. The important thing is
19 the letter is -- John Ensign says, "Let me start [off] saying I
20 cannot point a specific place in the law where it says you must
21 pay income taxes."

22 Now, if there is a section of the law that says you
23 have to pay income taxes, John Ensign should have found it. He
24 is on the House Ways and Means Committee. He certainly could
25 have gone to the head of the committee and said, look, I got a

1 letter from one of my, um, constituents. What law says you got
2 to pay income taxes? He can't find it. That is what's
3 significant.

4 But John Ensign doesn't really want his constituents to
5 be able to say, hey, there's no law that says you gotta pay
6 income taxes. So the rest of the letter, in my view, is
7 designed to blow smoke.

8 MR. NEIMAN: Objection as to speculation as to what
9 the --

10 THE WITNESS: All right, all right.

11 MR. NEIMAN: -- rest of the letter --

12 THE WITNESS: Let's see what he says.

13 THE COURT: Sustained.

14 MR. SCHIFF: Let's see what he says.

15 "However, as is pointed out below, the courts have
16 determined [that] they feel the laws on the books require you to
17 pay income taxes."

18 Well, what John Ensign's letter says is that the courts
19 are wrong. Because if John Ensign can't find the law that says
20 you gotta pay income taxes, how can the courts find it?

21 And what this proves is that the courts are illegally,
22 uh, uh, charging juries --

23 MR. NEIMAN: Objection as to --

24 THE WITNESS: Well, you're asking me why --

25 MR. NEIMAN: -- the characterization of --

1 THE WITNESS: -- I disagree with the letter.

2 THE COURT: Sustained.

3 THE WITNESS: So the -- the important part of the
4 letter and why the letter was written in the first place is
5 somebody asked John Ensign what law says they gotta pay income
6 taxes. And John Ensign says, gee, I can't find it. What else
7 is important? If John Ensign can't find it, how can you find it
8 and how can the courts find it?

9 So that's why, uh, I'm saying I disagree with the
10 letter. Both of these letters prove there's no law that makes
11 you liable and there's no law that says you gotta pay income
12 taxes. And, if any federal judge says anything to the contrary,
13 in my view they are misstating the law.

14 BY MR. LEVENTHAL:

15 Q. Can we move on to Government's Exhibit 46, please?

16 A. Next.

17 Q. I believe Government's Exhibit 46 is your year 2003 tax
18 return?

19 A. What's that?

20 Q. Your 2003 tax return.

21 A. 2003?

22 Q. Could we go to the attachment --

23 A. The attachment?

24 Q. -- the House Ways and Means --

25 A. 2003 --

1 Q. -- report?

2 A. -- attachment.

3 Did we -- I don't have it. 2003 attachment?

4 Q. The House Ways -- IR- -- IRC Code 1954 report. Do you see

5 that?

6 A. I don't recall them cross-examining me about -- oh --

7 Q. They asked you about --

8 A. Oh. Oh, I know.

9 Q. -- gross income defined.

10 A. Oh, the House and Senate Reports.

11 Q. That's correct.

12 A. Oh.

13 Q. Do you have that in front of you?

14 A. Yeah.

15 Q. Now --

16 A. Okay. What you have to do is give me that exhibit I gave

17 you. Yes. Give me that exhibit.

18 Q. Well, I'll get to that in a minute. Let me just --

19 A. Yeah. We got --

20 Q. -- ask.

21 A. Yes. I'll show why --

22 MR. LEVENTHAL: Can you highlight --

23 THE WITNESS: -- I disagree with the report.

24 MR. LEVENTHAL: -- that portion that you highlighted

25 there --

1 THE WITNESS: Now --

2 MR. LEVENTHAL: -- on "Gross income defined"?

3 (Document displayed in open court.)

4 BY MR. LEVENTHAL:

5 Q. Now, the --

6 A. Okay.

7 Q. -- Government put up this Section 61, "Gross income Income

8 defined" and read that to you.

9 A. Yeah.

10 Q. Do you agree or disagree with that statement?

11 A. Well, I disagree with the statement.

12 Q. Why do you disagreement with the statement?

13 A. Well, just look at the difference between the '39 Code and

14 the '54 Code. I have -- in that exhibit --

15 MR. LEVENTHAL: Judge, may I --

16 THE WITNESS: -- the difference between --

17 MR. LEVENTHAL: Hold on.

18 May I approach?

19 THE COURT: You may.

20 THE WITNESS: Yes.

21 MR. LEVENTHAL: Thank you.

22 THE WITNESS: Okay. Okay.

23 BY MR. LEVENTHAL:

24 Q. Do you know what that is?

25 A. Yes.

1 Q. What is that?

2 A. In the material I supply and at my seminar, I show that
3 portion of the '39 Code where they define or try to define
4 what's taxable as gross income. That's Section 22 in the '39
5 Code. That became Section 61 of the '54 Code.

6 Now, in -- in saying income is used in the
7 constitutional sense, Congress said in the report that -- it
8 says, "the word 'income' is used as in ... 22 in its" -- it is
9 now -- the section provides, "While the language in existing
10 section ... has been simplified, the all-inclusive nature ...
11 has not been affected."

12 That is not true. The -- the --

13 Q. Why is that not true?

14 A. I'm gonna show you the difference.

15 Q. Okay.

16 A. What happened here is that Congress did not wanna suddenly
17 say that income means a corporate profit. Though they changed
18 the meaning of income, they didn't want the public to know it.
19 The minute the public knew that income meant a corporate profit
20 everybody would stop paying income taxes.

21 So they wanted to legally change the meaning so it
22 would conform to what the Supreme Court said it had to mean
23 without the public knowing that they changed the law. But they
24 changed the law; they made the law legal because they said
25 income is used in the constitutional sense.

1 Now, let's compare -- let's throw this on the screen --
2 so we will compare what Section 22 said to what Section 61 say
3 and you'll see how they changed the law.

4 Q. Well, let me -- where -- where is this from, this -- this --

5 A. This is from the -- this is Section 22 of the '39 Code and
6 this is Section 61 of the '54 Code.

7 Q. Do you use this in your paperwork when you've handed out at
8 seminars?

9 A. Yeah, absolutely. Very important.

10 Q. Do you rely on this?

11 A. Yes. Let's put it up there. Let's put it up there.

12 (Document shown to Government counsel.)

13 THE WITNESS: They changed the meaning --

14 MR. LEVENTHAL: Hold on.

15 THE WITNESS: -- completely.

16 MR. LEVENTHAL: Hold on, Mr. Schiff.

17 (Pause in the proceedings.)

18 MR. LEVENTHAL: Judge, may I approach?

19 THE COURT: You may.

20 MR. LEVENTHAL: Thank you.

21 (Discussion between Mr. Leventhal and the
22 clerk.)

23 THE CLERK: 2117.

24 (Defendant Schiff's Exhibit No. 2117, marked
25 for identification.)

1 MR. LEVENTHAL: Judge, I ask that Proposed Defense
2 Exhibit 2117 be moved into evidence.

3 MR. NEIMAN: Your Honor, the United States doesn't
4 object to the one-page, I think, which that is being referenced.

5 THE COURT: Any objection? Cristalli?

6 MR. CRISTALLI: No, your Honor.

7 THE COURT: Bowers?

8 MR. BOWERS: No, your Honor.

9 THE COURT: 2117 is received.

10 (Defendant Schiff's Exhibit No. 2117,
11 received into evidence.)

12 THE WITNESS: Oooh.

13 MR. NEIMAN: Your Honor, the Government doesn't object
14 to a agreed-upon redacted version of -- of this exhibit.

15 THE COURT: Received subject to redaction.

16 MR. BOWERS: I'm sorry. Where do we get this
17 redacted --

18 MR. LEVENTHAL: The redacted portion is a noncomplete
19 Section 1 tax imposed, which is on the bottom of this.

20 THE WITNESS: No. There's two --

21 MR. BOWERS: No objection --

22 THE WITNESS: -- sections --

23 MR. BOWERS: -- Judge. That's fine. I know what he's
24 talking about.

25 MR. LEVENTHAL: I'm gonna put it up.

1 THE WITNESS: There were a lot of changes between the
2 '39 Code and the '54 -- okay.

3 (Document displayed in open court.)

4 THE WITNESS: Now, let's take a look at the '39 Code.
5 Let's move over to the '39 Code. You can enlarge it if you can.

6 MR. LEVENTHAL: I'm trying here.

7 THE WITNESS: Now, the -- in other words, the '39 Code
8 said -- incidentally, this was the same --

9 THE COURT: Mr. Schiff --

10 THE WITNESS: Yes.

11 THE COURT: -- quit meandering.

12 THE WITNESS: Well --

13 THE COURT: Finish a statement if you're --

14 THE WITNESS: Okay. This was --

15 THE COURT: -- going to make one.

16 THE WITNESS: All right.

17 This is the same definition of income that appeared in
18 the 1913 statute. Look what it says, "'Gross income' includes
19 gains, profits, and income derived from salaries, wages, or
20 compensation for personal service (including personal
21 service...." And it lists specific items which are taxable as
22 income.

23 What they are doing here is listing sources of income
24 and claiming that these sources of income are taxable. It
25 doesn't attempt to define the word "income." It says, "'Gross

1 income' includes." But the important thing it said, "wages,
2 salaries, [and] compensation for personal service."

3 These are what are known as "sources of income" or
4 "items." And it allowed the Government to put a direct tax on
5 these items. But, remember, as you remember from the CRG [sic]
6 Report, it says income is an excise which means an excise tax
7 are taxes placed on privileges or items.

8 Anyway, now, let's see how it was changed.

9 BY MR. LEVENTHAL:

10 Q. So it was changed --

11 A. Let's see --

12 Q. -- by the 1954 --

13 A. -- how it was changed. Now, here's the '54 Code. Now, you
14 will notice it says, "Gross income defined." It didn't say
15 specific items are taxable; it attempted to define gross income.

16 And how does it define it? It says, "Except as
17 otherwise provided ... gross income [includes] all income from
18 whatever source derive" -- "from" -- the key word is "from" --
19 "whatever source derived, including" the following items.

20 And look what it says, "Compensation for services."
21 But it took out personal services. A corporation can receive
22 compensation for services, but it can't get compensation for
23 personal services.

24 And now look. What happened to wages and salaries?
25 Removed. You might say, well, there's fees/commissions. Why

1 didn't they leave in wages and salary? If there was an
2 intention to tax wages and salary, it should be in there.

3 Now, you might say, well, compensation for services is
4 the same thing as a wage or a salary. The difference is a
5 corporation can receive compensation for service but a
6 corporation can't get a wage, a corporation can't get a salary.

7 So they went from a statute that makes specific items
8 taxable to another statute that made income dependent on the
9 definition. Now, the definition that they used is gross income
10 means all income. But, since they didn't define income and
11 income is not defined in the Code -- and there are a number of
12 Supreme Court cases that say income is not defined in the
13 Code --

14 MR. NEIMAN: I --

15 THE WITNESS: -- as long as --

16 MR. NEIMAN: Object- --

17 THE WITNESS: -- income is not defined in the code --

18 THE COURT: Yeah.

19 MR. NEIMAN: I --

20 THE COURT: Hold on a minute.

21 MR. NEIMAN: I think it's important that, again,
22 Mr. Schiff testifies that his beliefs or misunderstanding --

23 THE WITNESS: Well, I'm explaining to you why -- you
24 asked the question that I don't agree with the fact that there
25 was no change when the fact is there was a change.

1 THE COURT: Those are your views, Mr. Schiff.

2 THE WITNESS: All right. Well, the jury is free to
3 accept my views or not accept -- this is my view.

4 Now, you'll notice that what is being taxed is not
5 interest, not rents, not royalties but income which, in my view
6 means profit, from those sources.

7 Now, a corporation -- oh. You have that exhibit -- 60
8 percent of U.S. corporations pay no income tax. They pay no
9 income tax. A corporation only pays income tax --

10 THE COURT: Mr. Schiff --

11 THE WITNESS: -- if it has a profit.

12 THE COURT: -- I have ordered you not to do narrative
13 and I'm going to enforce it with sanctions if you don't stop.

14 THE WITNESS: He asked me why I disagree.

15 THE COURT: You're -- you're taking liberties with --
16 with the --

17 BY MR. LEVENTHAL:

18 Q. So --

19 THE COURT: -- with the --

20 THE WITNESS: Well --

21 BY MR. LEVENTHAL:

22 Q. -- Mr. Schiff, that's why you --

23 THE COURT: -- question-and-answer --

24 THE WITNESS: Well, let me --

25 THE COURT: -- format that I have ordered you to use.

1 THE WITNESS: But you -- how can I explain the
2 difference in five words?

3 THE COURT: Next question.

4 THE WITNESS: There was a change --

5 THE COURT: Next question.

6 MR. SCHIFF: -- and it's not simple.

7 THE COURT: Next question.

8 BY MR. LEVENTHAL:

9 Q. So that's why you disagree with the definition --

10 A. I disagree --

11 Q. -- of gross income?

12 A. -- because there was a -- there was a significant change in
13 the meaning of the word "income." And what they said here is --
14 you'll notice -- one other comment -- Section 61 does not make a
15 distinction between what is income for corporations and income
16 for individuals. And, if a corporation doesn't have any profit,
17 it pays no income tax. You could have a million dollars' worth
18 of income. But, if it doesn't have a profit, it pays no income
19 tax. Since I don't have a profit, I'm not a corporation, I
20 don't have any.

21 Do you have that, uh -- you have that newspaper article
22 I gave you that said 60 percent of U.S. corporations pay no
23 income tax?

24 MR. NEIMAN: We would object to the relevance of any
25 such --

1 MR. SCHIFF: The relevance --

2 MR. NEIMAN: -- testimony.

3 MR. SCHIFF: -- is why I say that the meaning of the

4 word "income" was changed.

5 THE COURT: Sustained.

6 THE WITNESS: Okay.

7 MR. LEVENTHAL: I don't have it right now.

8 THE COURT: Sustained.

9 BY MR. LEVENTHAL:

10 Q. Let's move on.

11 The -- you were asked about your indictment in the

12 1970's. Do you remember that?

13 A. My indictment -- what?

14 Q. In 1970, I believe.

15 A. No. My indictment in 1985.

16 Q. Well, there were two. You were --

17 A. That was the appellate decision which I have here.

18 Q. Okay. Let's go to your indictment --

19 A. Hold it. Let me get --

20 Q. -- in 1985.

21 A. -- the appellate decision. Okay.

22 Q. Do you have the appellate in front of you?

23 A. Yeah. I'm supposed to have it here.

24 Q. Decision.

25 A. Well, hold it. Are we gonna talk about the Long decision or

1 Pollack decision?

2 Q. I believe it's -- is that Exhibit 338?

3 A. That's the one I marked up. Let me find it. She just gave
4 it to me.

5 MR. LEVENTHAL: Judge, may I approach the witness?

6 THE WITNESS: Wait a minute.

7 MR. LEVENTHAL: I don't have a clean copy.

8 THE WITNESS: The appellate decision, she just gave it
9 to me. She said I marked it up and gave...

10 THE CLERK: The one I gave him was the -- was not...

11 THE WITNESS: She saw me mark...

12 (Pause in the proceedings.)

13 THE WITNESS: Well, what is this decision? This is a
14 Tax Court decision. This is the Long decision. I want the
15 Second Circuit affirming my conviction. Do I have that?

16 MR. NEIMAN: I think it's 339, but I'm not sure.

17 THE WITNESS: I took it with me over there.

18 MR. LEVENTHAL: Judge, may I approach again?

19 THE COURT: You may.

20 THE CLERK: 338.

21 MR. LEVENTHAL: 339, is that it?

22 THE CLERK: No, sir.

23 THE WITNESS: That's the Newman decision. Okay. We
24 discussed that. Yeah, I'll go over this.

25

1 BY MR. LEVENTHAL:
2 Q. Okay.
3 A. Okay. Now --
4 Q. What is Exhibit 339, Mr. Schiff?
5 A. Okay.
6 Q. What is that Exhibit 339?
7 A. That's the Newman decision.
8 Q. Okay. That's the Newman decision --
9 A. Right.
10 Q. -- that you were talk -- that you were asked about on direct
11 [sic] examination; is that correct?
12 A. Right. The question was why do I disagree with this.
13 Q. Now, that -- did you win that decision?
14 A. Well, I won it on the -- I -- I won the trial and I won the
15 appeal. Yeah.
16 Q. Okay. Why do you -- so you agree with the decision itself.
17 It's just some of the language within the decision you disagree
18 with?
19 A. No, no. The decision -- the appellate decision made it
20 appear like if Mr. Newman met the terms of my offer he would
21 have won. Now, my offer -- the decision itself, the decision
22 itself -- if you want to put it up on the screen -- the decision
23 itself quotes me exactly when I made the offer. And this is
24 shown -- this is shown -- the decision shows, Schiff -- this was
25 on -- I was on "CBS Overnight [sic]."

1 It was a television show. And on that show I said --
2 here is what I said exactly. I said, "If anybody calls this
3 show ... and cites [the Code section] of this Code that says an
4 individual is required to file a tax return, I'll pay him
5 \$100,000."

6 And I said: "The fact of the matter is you're not
7 required to file. The income tax is voluntary, and it's not
8 that I say it --"

9 Now, the decision goes on to state: "Newman felt
10 certain that Schiff's statements regarding Internal ... [was]
11 incorrect. Upon arriving at work that day, he researched the
12 issue and located several sections of the Code that to his
13 satisfaction demonstrated the mandatory nature of the federal
14 income tax The next day Newman telephoned CBS Morning
15 News" -- "Morning News and cited the following provisions of the
16 Internal Revenue Code as authority for his position that
17 individuals are required to pay federal income tax."

18 That was not what my offer was.

19 Q. What was your offer?

20 A. My offer was cite a section that required you to file. I
21 did not say as proven in this appeal that I said anything about
22 payment of income tax.

23 Now, in a unilateral offer, it must be accepted exactly
24 as the offer was tendered. I said nothing about payment of a
25 tax. So he -- filed sections that had nothin' to do with my

1 offer.

2 Second- -- and that's in the appellate decision --
3 secondly --

4 Q. What specific sections did --

5 A. Well, here's the sections that he cited: 6012, 6151, 6153,
6 7201, 7202, and 7203. He cited one, two, three, four, five,
7 six. He was hoping to hit one.

8 Now, the only section that could be related to the
9 payment of income tax is Section 6012 because the Privacy Act in
10 the 1040 booklet only mentioned 6001, 6011, 6012. If 6151,
11 6153, 7201, 72- -- if these other section were related to the
12 payment -- how would you know about it? No. The only section
13 that could possibly be related is Section 6012.

14 Now, the question is: Does Section 6012 say you're
15 required to file?

16 Q. Well, was he right?

17 A. The answer is no.

18 Q. He was not right?

19 A. Pardon me?

20 Q. He was not right?

21 A. No.

22 Q. Why not?

23 A. Because, number one, he talked about payment of tax when
24 that's not what my offer was about; and, secondly, neither of
25 those sections -- none of those sections stated that you're

1 required to file income tax.

2 Section 6012 says persons required to file. And it
3 says certain persons are not required and these other persons
4 shall file. Shall. I didn't say call the show and cite me a
5 section that says who shall file because if you look in the --
6 he has Black's Law Dictionary right there. If you look in the
7 Black's Law Dictionary, the word "shall" can be interpreted as
8 may. So my offer wasn't based upon who shall but who is
9 required to file. And Mr. Newman didn't even come close.

10 And, if there were such a statute, you wouldn't have to
11 cite six of 'em. But the Appellate Court wanted to throw him a
12 bone and wanted to say something nasty about me because I'm
13 challenging the legality of the income tax. So that's how that
14 came about.

15 So he -- he didn't call -- he didn't call the show when
16 he's supposed to. He didn't even cite my offer correctly. And,
17 incidentally, none of the sections, even if -- even if I made
18 the offer about payment, none of those sections state anything
19 at all about the payment of income tax. So that's why I
20 disagree with the decision and it's dead wrong.

21 Though I'm flattered that that decision is used in a
22 lot of law books today as an illustration of what a unilateral
23 offer is and why it has to be accepted exactly as the offer was
24 made. And that didn't even come close.

25 Satisfied with my answer?

1 Q. The Government --

2 A. Next question.

3 Q. -- the Government introduced the case U.S. v. Long.

4 A. Yes. Well, United States v. --

5 Q. What's your understanding of the holding of the Long case?

6 A. The Long case? Do I have the Long case?

7 Q. Do you have it?

8 A. Do I have it here? Yeah, here's the Long case.

9 Long. Here's what the Long case said -- see, up until

10 the Long case people were -- were -- were -- were held not to

11 have filed if they filed a --

12 Q. Let --

13 A. -- Fifth Amendment return --

14 Q. -- let me ask you this: What is your understanding of the

15 holding of the Long case --

16 A. Well, the --

17 Q. -- and then we can --

18 A. It's clear.

19 Q. -- get into the reason why.

20 A. Here's what it said. Long filed a return and he put zeroes

21 for -- he reported zero income. I didn't think of this; he did.

22 Fortunately for me, he thought of it and I found out about it.

23 Q. Now, where was --

24 A. This is what --

25 Q. -- where was the Long case decided?

1 A. It was decided in 1980.

2 Q. No. Where?

3 A. Ninth Circuit. Right here.

4 Q. Right here? Okay. Go ahead.

5 A. It isn't --

6 Q. What's your understand --

7 A. -- here's what the Supreme --

8 Q. -- of the --

9 A. -- here's what the Ninth Circuit said. Okay.

10 (Reviewing document.) Where's it say? Okay. Okay.

11 Here's what the Ninth Circuit held:

12 "The zeroes entered on Long's tax form[] constitute

13 'information relating to the taxpayer's income from which the

14 tax can be computed.' The I.R.S. could calculate assessments

15 from Long's strings of zeroes, just as it could if Long had

16 entered other numbers" -- a zero's a number just like a

17 thousand's a number -- "The resulting assessments might not

18 reflect Long's actual tax liability, but some computation was

19 possible. In this respect, the circumstances here differ from

20 those in [the] *76 Porth and similar cases in which" -- Porth

21 claimed the Fifth. He just put "Fifth Amendment" -- "in which

22 defendants failed to complete tax forms or left them blank.

23 Nothing" -- oh, some people left them blank, yeah -- "Nothing

24 can be calculated from a blank, but a zero, just like other

25 figures, has significance. A return containing false or

1 misleading figures is still a return."

2 Q. So that's your understanding --

3 A. "False figures convey false information, but they convey
4 information."

5 And this is what -- but -- but there was another case
6 after this, the Long case and there was the 1990 case, um,
7 which -- another Ninth Circuit case that said that this, uh, was
8 correct.

9 And I showed this to my parole officer at the time.
10 And I was able to convince him that by filing a zero return I
11 filed a legitimate return and that the courts had ruled that
12 this was a return. And he accepted it and didn't violate me.

13 Q. Now, Long, as you stated earlier, was decided in 1980 --

14 A. Yeah. But --

15 Q. -- is that correct?

16 A. -- there was another case. Oh, where's my zero return?

17 Yeah. But that was only one case. In 1990 --

18 Q. Is it your understanding that --

19 A. -- the Ninth Circuit reaffirmed that.

20 Q. Is it your understanding that Long is still good law today?

21 Is it your understanding?

22 A. Pardon me?

23 Q. Is it your understanding, your belief, that Long is still
24 good law today?

25 A. I didn't --

1 Q. Long, is it your understanding that the case of Long is
2 still good law today?

3 A. Yeah. As far as I know, the Ninth Circuit has never
4 reversed it.

5 Now, on my zero return, I cite that case and another
6 Ninth Circuit case, U.S. v. Kimball, which was decided ten years
7 later in which the Ninth Circuit said -- restated what they said
8 in Long and said we were right in Long. And then there was a
9 Seventh Circuit case, U.S. v. Moore, that says that the Ninth
10 Circuit was right.

11 So I believed whatever I was doing was certainly lawful
12 in the Ninth Circuit and maybe the other circuits would adopt
13 that position. So I relied on that. And I think this court is
14 bound by those two decisions.

15 MR. LEVENTHAL: Court's indulgence for one moment.

16 THE WITNESS: Okay. I want to get to that Second
17 Circuit decision.

18 (Discussion between Mr. Leventhal and
19 Mr. Cristalli.)

20 BY MR. LEVENTHAL:

21 Q. Just to be clear, Mr. Schiff --

22 A. Pardon me?

23 Q. -- just to be clear, is Nevada here in the Ninth Circuit?
24 Nevada, the State --

25 A. What about it?

1 Q. -- of Nevada, is that part of the Ninth Circuit?

2 A. Nevada is part -- the last time I looked it was still part
3 of the Ninth Circuit.

4 Q. Okay. You spoke earlier about a Cheeks [sic] decision.

5 A. Well, the Cheek decision was --

6 Q. First of all, where is Cheeks out of? What circuit is it
7 out of?

8 A. I don't know. Oh, it was the Supreme Court. It went up to
9 the Supreme Court. So -- so it's binding on all courts.

10 Q. Okay. And when did Cheeks decision come down, if you know?

11 A. Well, I write about it, the Cheek decision.

12 MR. NEIMAN: Your Honor, I just want to state a
13 precautionary objection of Mr. Schiff misstating or
14 mischaracterizing this -- this decision and invading upon the
15 province of the Court.

16 THE COURT: The question was when did -- when did the
17 decision come down.

18 THE WITNESS: Hold on.

19 MR. NEIMAN: I realize the objection's premature, but I
20 guess I'm -- I think it's --

21 THE WITNESS: You're asking --

22 MR. NEIMAN: -- important.

23 THE WITNESS: -- about the Cheek decision. I don't
24 remember all these by heart, but it's in my book. I write
25 about....

1 Oh, yeah. Starting on page 365, it's entitled, "The
2 Cheek Decision Or Happy Days Are Here Again."

3 BY MR. LEVENTHAL:

4 Q. Okay. The question was: When did the decision come down?

5 A. On January 8th, 1991.

6 Q. Okay. And do you know the facts of the Cheeks case briefly?

7 A. Yes.

8 Q. What are the facts of the Cheeks case briefly?

9 A. Well, Mr. Cheek said he believed that wages were not income
10 tax. He believed wages were not income. That was his belief.
11 The court instructed the jury that his belief that wages were
12 not income was not a defense. In my belief, anything is a
13 defense if the jury believes it. But the judge instructed the
14 jury that that wasn't a defense.

15 MR. NEIMAN: Objection. This --

16 THE WITNESS: It went up to --

17 MR. NEIMAN: -- does not go to his --

18 MR. LEVENTHAL: Hold on.

19 MR. NEIMAN: -- his understanding, or lack thereof, of
20 the tax -- the tax laws. This is a different area in and of
21 itself.

22 THE COURT: Sustained.

23 THE WITNESS: Okay. Cheek appealed it --

24 MR. LEVENTHAL: No.

25 THE COURT: Sustained.

1 MR. LEVENTHAL: It's been sustained.

2 THE WITNESS: Well, he wants -- he appealed it to the
3 Ninth -- to the --

4 THE COURT: Sustained.

5 THE WITNESS: -- appellate court.

6 THE COURT: Did you hear?

7 THE WITNESS: Well, should I get to the Supreme Court
8 case? He asked me --

9 THE COURT: I sustained the objection.

10 THE WITNESS: Can I discuss the --

11 THE COURT: No --

12 THE WITNESS: -- Cheek decision?

13 THE COURT: -- because I sustained the objection.
14 Next question.

15 THE WITNESS: All right. So I can't discuss the Cheek
16 decision.

17 BY MR. LEVENTHAL:

18 Q. Mr. Schiff, you were asked on direct examination on two
19 cases Brushbuyer [sic]? I'm sorry.

20 A. Brushaber.

21 Q. Brushaber and Pollack.

22 A. The Brushaber and the Pollack decision.

23 Q. That's correct.

24 What did these --

25 A. They are probably the two most important cases in the whole

1 tax --

2 Q. What is your understanding of the holding of those two --

3 A. Can you give --

4 Q. -- Supreme Court cases?

5 A. -- me The Great Income Tax Hoax, please? Because they are

6 discussed at great length.

7 MR. LEVENTHAL: Judge, may I approach?

8 THE COURT: You may.

9 THE WITNESS: These are probably the two most important

10 cases in the entire law literature.

11 (Reviewing book.) Okay. I devote a whole chapter.

12 Okay. The first time we had an income tax was during the Civil

13 War in 1861, the Tax Act of 1861. And, in the appendix of this

14 book, I reproduce --

15 MR. NEIMAN: Objection. Nonresponsive to the question.

16 THE COURT: Sustained.

17 BY MR. LEVENTHAL:

18 Q. The question is, is: What is your understanding of the

19 holding of those two cases?

20 A. Well --

21 Q. Briefly.

22 A. -- what happened in the Pollack -- I'm talking about the

23 Pollock decision.

24 Q. Okay.

25 A. The government resurrected in 1895 the income tax that was

1 in force during the Civil War. This is what brought about the
2 Sixteenth Amendment and the Pollack decision.

3 So the Government in 1894 passed the Income Tax Act of
4 1894. Roughly, it was the same kind of tax we had during the
5 Civil War but which had lapsed, uh, in 1891. But this time the
6 Supreme Court declared the Income Tax Act of 1894
7 unconstitutional for want of apportionment.

8 Now, apportionment is a very tough concept to explain.
9 But basically it means that before a government could levy a
10 direct tax -- and what's a direct tax is when you pay money
11 directly to the government, like a state. Normally when you --
12 when you go into a gas station you pay gasoline taxes. You pay
13 federal taxes, but you don't pay them to the government.
14 Eventually the gasoline companies send that money to the
15 government. That's an indirect tax. Or, when you get a
16 telephone bill, you'll see federal taxes. But you don't send
17 them to the government; you send it to the phone company.

18 Now, all indirect taxes have to be imposed by what is
19 known as the Rule of Uniformity. They have to be uniform in
20 every state. However, the Constitution requires that all taxes
21 that are direct, that means you pay the money to the government,
22 must be apportioned, which means the government must decide how
23 much money it's gonna collect and then it apportions a portion
24 of that to each state based upon their population.

25 And, in the appendix of this book, I reproduce all of

1 the original --

2 THE COURT: Mr. Schiff --

3 THE WITNESS: Well, anyway. So here's what happened --

4 THE COURT: -- Mr. Schiff, the question was: What is
5 your understanding of the Pollock case?

6 THE WITNESS: The Pollock case --

7 THE COURT: You have done everything except answer that
8 question.

9 THE WITNESS: Well, they have to understand what
10 "apportionment" means. They said --

11 THE COURT: You answer the question directly rather
12 than --

13 THE WITNESS: Okay.

14 THE COURT: -- with a history.

15 THE WITNESS: What they said is an income tax imposed
16 on the income of real estate and personal property -- like
17 dividends, wages -- is unconstitutional unless it's apportioned.
18 So they struck down the Income Tax Act of 1895. Made it
19 unconstitutional.

20 Now -- so Congress and the people -- that's what it
21 did.

22 BY MR. LEVENTHAL:

23 Q. Okay. Is --

24 A. That's the --

25 Q. -- is it your --

1 A. -- Pollock decision, which is still good law. It's never
2 been reversed or repealed.

3 Q. That case has never been overturned?

4 A. Never been overturned.

5 Q. Your understanding is that case has never --

6 A. My -- well...

7 Q. Okay.

8 A. You can shepardize it. It's never been overturned. This
9 brought about the Sixteenth Amendment.

10 Were you gonna ask me about the Brushaber decision?

11 Q. Sure. Let's talk about the --

12 A. I'm glad --

13 Q. -- Brushaber decision.

14 A. -- you asked that.

15 Q. What's your understanding of the holding --

16 A. I don't understand your question.

17 Q. What's your understanding of the Brushaber decision?

18 A. Well, what happened is the Sixteenth Amendment was passed,
19 though some people question it. But I'm assuming it was passed.

20 In 1909, the government passed the Sixteenth Amendment which
21 presumably said that the federal government has a right to levy
22 a tax on income without apportionment. And Congress thought
23 they were getting around the apportionment provisions of the
24 Constitution and getting the power to levy a direct tax on
25 individual items like wages, dividends, and what have you. So

1 that's why they wrote the statute that said dividends and, uh,
2 wages are taxed.

3 However, the Supreme Court in 1915 in the most
4 important of all decisions said: Nah-uh. The Sixteenth
5 Amendment did not amend the Constitution. They said what the
6 Sixteenth Amendment did is set up an income tax as an excise
7 tax. That's what the CRS Report says because an excise tax does
8 not have to be apportioned.

9 And they said in this case that the whole purpose --
10 let me see. The Brushaber decision. Uh, listen to this.
11 Here's what the Supreme Court said was: The whole purpose of a
12 decision --

13 MR. NEIMAN: Objection from reading from the book not
14 in evidence.

15 THE COURT: Sustained.

16 THE WITNESS: -- the whole purpose of the amendment --

17 BY MR. LEVENTHAL:

18 Q. Mr. Schiff --

19 THE COURT: Sustained.

20 BY MR. LEVENTHAL:

21 Q. Mr. Schiff --

22 A. What did he say?

23 Q. Put the book down. You know Brushaber case. You know
24 holding; is that correct?

25 A. Well, basic --

1 Q. You don't need to read it. Tell us what our understanding
2 of it is.

3 A. They said that the whole purpose of the amendment was to put
4 an excise tax on income separated from the source. Income
5 separated from the source, which only accords in a corporate
6 profit. Because when you tax corporate profit, you do not tax
7 the source.

8 I have an exhibit I give you on that where you -- so,
9 what happened is -- that means in my view corporate profit -- so
10 from -- and other -- and other Supreme Court decisions around
11 the same time said the same thing. That's -- those cases are
12 mentioned in my attachment.

13 However, when Congress got to 1954, apparently Congress
14 had pangs of conscience. They decided to bring the law itself
15 into conformity with these Supreme Court cases. So they changed
16 the law and they changed --

17 MR. NEIMAN: Objection --

18 THE WITNESS: -- the meaning of income.

19 MR. NEIMAN: -- as to the speculation as to what
20 Congress was doing --

21 THE WITNESS: No.

22 MR. NEIMAN: -- or not doing.

23 THE WITNESS: They called me. They wanted to know if
24 they should do it this way.

25 THE COURT: Sustained.

1 THE WITNESS: I said, oh, it's okay with me.

2 And they knew that they couldn't --

3 THE COURT: I have sustained the objection.

4 THE WITNESS: I'm sorry.

5 So they --

6 THE COURT: Sustained.

7 THE WITNESS: Okay.

8 THE COURT: Wait for the next question.

9 THE WITNESS: Okay.

10 What's the next question?

11 BY MR. LEVENTHAL:

12 Q. How many times have you been sued?

13 A. Pardon me?

14 Q. How many times have you been sued or been in court?

15 A. Well, because of my offer --

16 Q. Because of your offer or --

17 A. -- the hundred thousand offer?

18 Q. -- because of your views on tax laws. I think we heard --

19 A. Well, I've been sued three times by lawyers trying to claim
20 the hundred-thousand reward.

21 MR. NEIMAN: Objection as nonresponsive. If we can get
22 the number.

23 THE COURT: Sustained.

24 BY MR. LEVENTHAL:

25 Q. How many times by lawyers have you been sued?

1 A. Well, three times.

2 Q. How many times have you been in court as a defendant?

3 A. What?

4 Q. As a defendant.

5 A. Totally?

6 Q. Totally.

7 A. I don't know. Five, six times or something. I don't know.

8 Q. And you've been to prison how many times because of that?

9 A. I've been in prison so many times in New Haven they used to
10 call me showboat. I was up the river so many times.

11 Anyway, I was convicted in 1990. That conviction was
12 overturned. I was prosecuted again and convicted. Then in 1985
13 I was convicted. However, Judge Peter Dorsey told my jury they
14 can convict --

15 THE COURT: The question was: How many times have
16 you --

17 THE WITNESS: I think --

18 THE COURT: -- been to prison?

19 THE WITNESS: -- was that three times? Well, one of
20 the times was reversed.

21 BY MR. LEVENTHAL:

22 Q. The Government asked you if you actually believe this. Do
23 you actually believe what you're saying here today?

24 A. Of course I do. Would I write a book containing all this
25 information that I didn't believe?

1 Are you gonna go over the Tax Court cases and the Court
2 of Appeal case?

3 Q. I'm sorry. Which ones?

4 A. They brought up the Second Circuit Court of Appeal and they
5 brought up that Tax Court case and they asked me if I thought it
6 was -- I want to discuss that Tax Court case. Here, I have it
7 right here. They asked me --

8 Q. Okay.

9 A. -- if I believed it.

10 Q. Is that the Irwin v. Commissioner of --

11 A. This is the case --

12 Q. -- Internal Revenue?

13 A. -- this is the case where they sent me a deficiency notice
14 and it involved the year 1974 and 1975. And they asked me if it
15 was correct and I said no.

16 Q. Can I stop you for a minute?

17 A. Sure.

18 Q. Can you tell me what you're referring to? Is that Irwin
19 Schiff v. --

20 A. Commissioner. It's United States --

21 Q. -- Commissioner --

22 A. -- Irwin A. Schiff --

23 Q. -- of Internal Revenue?

24 A. -- versus the Commissioner.

25 Q. Is that the Docket 941084?

1 A. Pardon me?

2 Q. What exhibit are you looking at?

3 A. I don't know what the exhibit is.

4 MR. NEIMAN: I think it's 340, but I --

5 THE COURT: It is.

6 MR. NEIMAN: -- could be mistaken.

7 THE WITNESS: Okay.

8 THE COURT: It is 340.

9 BY MR. LEVENTHAL:

10 Q. Why don't you agree with this decision?

11 A. (Laughing.) This is the heart of the problem.

12 If you look at the Exhibit No. 1, you'll see it says

13 deficiency. Deficiency.

14 Q. Can you tell me where you're looking at so I can --

15 A. I'm looking at the front of it.

16 Q. Okay. I got it.

17 A. It says deficiency 16,406 -- do you see that? -- and 3,226.

18 Now, they admit here that I filed a Fifth Amendment

19 return. That means I put no information on my return. So, if I

20 owed anything, I owed the whole thing, not just the deficiency.

21 A deficiency means you're deficient. In other words,

22 suppose I reported 5,000 or 2,000, then I would be deficient.

23 What this is my total tax; it's not a deficiency.

24 Now, what the government does in order to get

25 jurisdiction in Tax Court they claim your total tax is a

1 deficiency. Now, if you look at the definition of a deficiency
2 which is in Section, uh, 6011, it defines a deficiency as the
3 amount over and above the amount shown on the return if return
4 is filed and an amount is shown thereon. Since I didn't show an
5 amount on those returns, there couldn't be a deficiency.

6 Therefore, under this Section 6501(c)(1) and (c)(3),
7 the government would have to sue you in district court. So
8 since the government doesn't wanna sue you, they create this
9 phony deficiency and now you go to Tax Court. But Tax Court is
10 not a court of law. The only jurisdiction that Tax Court has is
11 to redetermine a deficiency, which means that if I filed a
12 return and I said I owed 5,000 bucks and the government claims I
13 owe 10,000 and they disallow deductions so the Tax Court has
14 jurisdiction to -- to determine your deductions and what have
15 you. But Tax Court is not a court of law. So, therefore, it
16 has no jurisdiction to determine constitutional reasons.

17 I didn't know that at the time. Because when you go
18 into Tax Court in Washington, you're thinking you're in court of
19 law. So what are the issues I raised because I didn't pay a
20 tax? I said income -- I raised issues like income is a
21 corporate profit. I had no liability. So instead of the Tax
22 Court judge saying, hey, wait a minute, we have no
23 jurisdiction --

24 MR. NEIMAN: Objection as to --

25 THE WITNESS: All right. So this is why --

1 MR. NEIMAN: -- I think the --

2 THE COURT: Sustained.

3 MR. NEIMAN: -- characterization of Tax Court. It's

4 also nonresponsive.

5 THE WITNESS: Okay.

6 THE COURT: It is.

7 THE WITNESS: The reason why --

8 MR. NEIMAN: And irrelevant.

9 THE WITNESS: -- this is phony is that this is not a

10 deficiency. This was the total tax that I owed which the

11 government calls a deficiency. And this is the heart of the

12 fraud. The government calls things deficiencies which are your

13 total tax and then you go to Tax Court and you use the words

14 they give you and you don't know that the Tax Court is trying to

15 determine your total tax in the guise of a deficiency. And

16 there is no authority in the Code for anywhere for the IRS to --

17 MR. NEIMAN: Objection as to --

18 THE WITNESS: -- determine your total tax.

19 MR. NEIMAN: -- challenge to the authority of the IRS.

20 THE WITNESS: Well --

21 THE COURT: Sustained.

22 THE WITNESS: -- well, I'll be happy to take it back if

23 you show me --

24 THE COURT: Strike.

25 THE WITNESS: See, the laws are fine.

1 THE COURT: There is no question pending.

2 THE WITNESS: Okay. So that's why --

3 BY MR. LEVENTHAL:

4 Q. So you have a problem --

5 A. -- I believe -- that's why I believe that decision is phony.

6 Q. Were you represented by an attorney?

7 A. At my --

8 Q. Yes.

9 A. At my probation hearing?

10 Q. No. At your -- your -- this, your Internal Revenue --

11 A. No, no. I represented myself --

12 Q. Okay.

13 A. -- in the so-called "Tax Court," which is not a court of
14 law. They changed the name of U.S. Board of Tax Appeal. They
15 want the public to think it's a court of law.

16 Q. Is there anything --

17 A. And there's no jury trial in court [sic].

18 Q. Is there anything else you'd like to add?

19 A. Yes. I want you to ask me about the Second Circuit
20 decision.

21 Q. Okay.

22 A. They asked me about -- they asked me if I agreed with the
23 Second Circuit decision. It's very important. You wanna hand
24 it to me?

25 Q. Do you have it up there?

1 A. Well, I had it. We went over it.

2 THE CLERK: It's this one, the one that --

3 THE WITNESS: I made --

4 THE CLERK: -- the one that you made notes on.

5 Correct.

6 THE WITNESS: Where is it? Do you have it? All right.

7 I won't make any notes on it. No, this is the Tax Court

8 decision.

9 THE CLERK: Isn't that what you're talking about?

10 THE WITNESS: Second Circuit decision.

11 (Discussion between Mr. Schiff and the

12 clerk.)

13 THE WITNESS: We discussed it. I can show it to you.

14 (Discussion between Mr. Leventhal and

15 Mr. Schiff.)

16 THE WITNESS: Okay.

17 BY MR. LEVENTHAL:

18 Q. That's your Second Circuit case?

19 A. Yeah.

20 Q. You were found guilty on that?

21 A. Now -- now, this is not the case where I made notes. So I

22 got to -- okay.

23 Q. Do you disagree with the -- with the decision in that case?

24 A. Yeah. Not only do I disagree with it but my -- this

25 decision was written up in the Journal of Taxation --

1 MR. NEIMAN: Objection as to relevance. He's --

2 THE WITNESS: I'm gonna bring that decision -- I'm

3 gonna bring that -- I'm gonna bring that article in.

4 MR. NEIMAN: It would be irrelevant hearsay is what it

5 would be --

6 THE WITNESS: No, no --

7 MR. NEIMAN: -- your Honor, if he brought it in.

8 THE WITNESS: It's not hearsay because that is the --

9 that is the lawyer who wanted to -- he admitted he wrote the

10 article.

11 MR. NEIMAN: Objection as to the speaking nature of

12 the --

13 THE COURT: Sustained.

14 MR. NEIMAN: -- objection.

15 THE WITNESS: He filed a motion --

16 MR. NEIMAN: This is the motion --

17 THE COURT: Sustained.

18 MR. NEIMAN: -- to quash.

19 THE WITNESS: -- to quash --

20 THE COURT: Sustained.

21 THE WITNESS: -- the --

22 THE COURT: Do you hear sustained? When I say

23 "sustained," you stop talking.

24 THE WITNESS: Okay. Okay.

25

1 BY MR. LEVENTHAL:
2 Q. Mr. Schiff --
3 A. I was charged --
4 Q. Yes. What were you charged with?
5 A. I was charged in this case with failing to file, failing to
6 pay, and concealing my income. Now, failing to file and failing
7 to pay are omissions, you fail to do something. At the most,
8 they are misdemeanors.
9 MR. NEIMAN: I'm gonna object --
10 THE WITNESS: I'm explaining why this -- I'm explaining
11 why -- why the -- the -- the decision was wrong.
12 MR. NEIMAN: Again --
13 THE COURT: Go ahead with --
14 MR. SCHIFF: Now, how could --
15 THE COURT: -- your objection.
16 THE WITNESS: -- the jury know --
17 MR. NEIMAN: Again, this doesn't go to his, um,
18 misinterpretation of the tax laws. This is --
19 THE WITNESS: You're telling me it's a felony to --
20 MR. NEIMAN: -- a misinterpretation --
21 THE WITNESS: -- to omit?
22 MR. NEIMAN: -- now of his -- of his case.
23 THE COURT: Sustained.
24 THE WITNESS: Your Honor, it's not --
25 THE COURT: Sustained.

1 THE WITNESS: In order to be guilty of --

2 THE COURT: Sustained.

3 THE WITNESS: -- of --

4 THE COURT: Sanctions.

5 Did you hear what I said? When I say "sustained," you

6 stop talking and wait for the next question.

7 THE WITNESS: Can we have a sidebar on this?

8 THE COURT: No.

9 THE WITNESS: Well, the Government is making all kinds

10 of --

11 THE COURT: Mr. Schiff --

12 THE WITNESS: All right.

13 THE COURT: -- you will not argue with the Court.

14 THE WITNESS: Okay.

15 THE COURT: Next question.

16 THE WITNESS: I won't explain it. In any case, here I

17 was --

18 THE COURT: Next question.

19 THE WITNESS: -- I was charged with failing to file,

20 failing to pay, concealing --

21 THE COURT: Sanctions.

22 THE WITNESS: -- concealing my income.

23 THE COURT: Mr. Schiff, wait for the question.

24 THE WITNESS: He asked me why I disagreed with this

25 decision.

1 Is that what you asked me?

2 BY MR. LEVENTHAL:

3 Q. That's what I'm asking you.

4 A. The government said --

5 Q. Well, first of all, what was the decision?

6 A. It was to sustain my conviction. But I'm gonna tell you why

7 I disagree with it.

8 Q. Okay.

9 A. First of all, this was before the Cheek decision. And Judge

10 Peter Dorsey in charging the jury stated -- let me....

11 (Reviewing document.) Let me find it. Let me tell you what he

12 charged the jury. (Reviewing document.)

13 Okay. As the Appellate Court points out in this

14 decision, the District Court here was properly reminding the

15 jury of that obligation. It says, This portion of the charge

16 did -- as Schiff -- as Schiff argues, require the jury to

17 determine objectively whether a reasonable person could have

18 believed --

19 MR. NEIMAN: Objection. We're --

20 THE WITNESS: I'm telling you why I don't believe this

21 decision. He asked me --

22 MR. NEIMAN: Yeah, if it goes to notice. If Mr. Schiff

23 wants to explain why it's not notice to him, that would be one

24 thing. To get into, uh, his misinterpretation --

25 THE WITNESS: No. Then you -- you correct my

1 misinterpretation.

2 THE COURT: Mr. Schiff, you will not argue with the
3 attorneys making objections.

4 THE WITNESS: All right. I'm sorry.

5 But he -- you gotta let me explain why I disagree with
6 this decision. It sounds like -- just off the wall, like I'm
7 arbitrary. I'm just reading from the decision and say why I
8 disagree with it. If you want to show me I'm wrong, let him
9 show me I'm wrong. But you gotta let me at least explain.

10 THE COURT: Mr. Schiff, you will respond to questions
11 from -- that have been written by you that are being read by
12 Mr. Leventhal.

13 Ask the question again.

14 THE WITNESS: But did you ask me -- he asked me why I
15 disagree with the decision.

16 THE COURT: Ask the question --

17 THE WITNESS: Can I --

18 THE COURT: -- again, Counsel.

19 THE WITNESS: -- respond to that?

20 BY MR. LEVENTHAL:

21 Q. Mr. Schiff, what is your understanding of the holding in
22 that case there?

23 A. They held me to an objective standard. In this decision,
24 Judge Dorsey said -- he said did he close his eyes and refuse to
25 be -- refuse to be -- did he close his eye -- he used it twice.

1 It's called "a closing of the eyes" instruction. Did he closed
2 his eyes and refuse to be informed.

3 MR. NEIMAN: Objection. Again, this goes to notice of
4 Mr. Schiff being aware he's obligated to pay taxes --

5 THE WITNESS: No.

6 MR. NEIMAN: -- and --

7 THE WITNESS: You wanna show me an obligation, take the
8 Code book and show me where --

9 MR. NEIMAN: That's it. He...

10 THE COURT: I --

11 THE WITNESS: All right. Judge Dorsey in this
12 decision --

13 THE COURT: Mr. Schiff --

14 THE WITNESS: Yes.

15 THE COURT: -- I've warned you over and over again.
16 Answer the question. I don't want a narrative.

17 THE WITNESS: Okay. Narrative.

18 In this decision --

19 THE COURT: I said no narrative.

20 THE WITNESS: Well, Judge Dorsey held me to an
21 objective standard. He said, did I close my eyes and refused to
22 be informed.

23 THE COURT: Next --

24 THE WITNESS: He didn't instruct.

25 THE COURT: -- question.

1 BY MR. LEVENTHAL:

2 Q. That's fine.

3 Did you agree or disagree with that holding?

4 A. Of course I disagreed because the Cheek decision said that
5 this -- this was all wrong. And I -- after this I filed what is
6 known as a corium novis showing that this decision was totally
7 contrary to the Cheek case.

8 And, also, further on, the Second Circuit appeal showed
9 that he instructed the jury that they didn't have to find me
10 guilty of concealment. So, therefore, I wasn't found guilty of
11 committing an affirmative act of evasion, which was the element
12 that proved tax evasion.

13 So I wasn't really legally convicted of committing any
14 crime of tax evasion because Peter Dorsey charged the tax
15 evasion element out of the trial. And that's right in the
16 appellate case if I can get to it. They say it right here.
17 They say --

18 THE COURT: Next question.

19 THE WITNESS: -- it right here in the appellate
20 decision.

21 THE COURT: Next question.

22 THE WITNESS: So that's why I disagree.

23 BY MR. LEVENTHAL:

24 Q. Okay.

25 A. You would never give this -- you would never give this jury

1 charge today.

2 THE COURT: Mr. Schiff, you editorializing is out of
3 order. Strike.

4 THE WITNESS: Well, he asked me why I disagree.

5 THE COURT: You're editorializing to the Court. You
6 address your responses to counsel.

7 THE WITNESS: Okay. I just wanna say that the way
8 the --

9 MR. NEIMAN: Objection --

10 BY MR. LEVENTHAL:

11 Q. Mr. Schiff --

12 MR. NEIMAN: -- nonresponsive.

13 THE WITNESS: Go ahead.

14 BY MR. LEVENTHAL:

15 Q. That's all I have for you, Mr. Schiff --

16 A. No, no, no, no, no, no.

17 Q. -- unless there's something else.

18 A. No. No, no. He brought up the issue of my, um, probation
19 violation. And I pointed out that at the very -- at this very
20 trial, this very trial, documents were introduced that prove
21 that my probation violation was illegal and the documents
22 were --

23 MR. NEIMAN: Objection. Relevance.

24 THE WITNESS: The relevance --

25 MR. NEIMAN: Move to strike. Mischaracterization of

1 testimony.

2 BY MR. LEVENTHAL:

3 Q. You were --

4 THE WITNESS: You have to ask me --

5 BY MR. LEVENTHAL:

6 Q. You were --

7 A. -- why I disagree. He asked me why I --

8 Q. Hold on --

9 A. -- disagreed --

10 Q. -- Mr. Schiff, please.

11 THE COURT: Sustained.

12 THE WITNESS: Well, he asked my why I disagreed.

13 THE COURT: He didn't ask you anything.

14 BY MR. LEVENTHAL:

15 Q. Mr. Schiff, you were --

16 THE WITNESS: No. The Government said, do you disagree
17 with Judge Dorsey's determination? I said yes.

18 THE COURT: Mr. Schiff, there's not a question
19 pending --

20 THE WITNESS: Well --

21 THE COURT: -- from Mr. Leventhal.

22 THE WITNESS: Well, Mr. Leventhal should have asked me
23 the question.

24 MR. LEVENTHAL: Judge, may I approach?

25 THE WITNESS: If I was asking myself the question, I

1 would have asked it.

2 MR. LEVENTHAL: Court's indulgence.

3 (Discussion between Mr. Leventhal and
4 Mr. Schiff.)

5 BY MR. LEVENTHAL:

6 Q. Mr. Schiff, you were placed on probation in 1991; is that
7 correct?

8 A. Something like that, yeah.

9 Q. Okay. And, in 1991, you were violated of that probation; is
10 that correct?

11 A. Not by my own probation officer, but --

12 Q. Who violated you?

13 A. -- by somebody else who was not my probation officer.

14 Q. Do you know who it was?

15 A. Yeah. I was violated by somebody by the name of -- it's in
16 the book --

17 Q. Okay. That's fine.

18 A. -- on page 270 by --

19 Q. And did you --

20 A. -- by -- I was violated by Carmelo Medina.

21 Q. Okay. Did you ultimately serve jail time for that?

22 A. Pardon me?

23 Q. Were you ultimately put back into prison or jail for that?

24 A. No, no. You get a -- you get a violation -- it's called --
25 you're violated. And, if you're found guilty, you either finish

1 the rest of your time confined. The worst thing is they take
2 away your street time and they make you do it all over again.
3 And I was about two or three weeks from finishing my probation.

4 So I was called by a probation -- I was called by a
5 probation officer in New Haven while I was on probation in
6 New York and told to come to New Haven. And I was handed this
7 idea that I had violated the terms of my probation. And the
8 probation officer, as shown here, said that "This violation was
9 based upon the conduct and attitude of Irwin Schiff." I never
10 met this probation officer in my life.

11 Q. What did you take that to mean, the conduct and attitude of
12 Irwin Schiff?

13 A. Well, this person never met me. How did he know what my
14 conduct -- so they told me I didn't file tax returns.

15 Q. Who? Your --

16 A. This guy.

17 Q. -- this probation officer?

18 A. This guy. No. My probation officer knew I did. But this
19 Mr. Medina --

20 Q. This probation officer --

21 A. -- so I showed Mr. Medina --

22 Q. -- you had never met?

23 A. No, I never met him before.

24 Q. Okay. And so you were brought back into court; is that
25 correct?

1 A. Yeah. But, first of all, as shown in my book --

2 MR. NEIMAN: Objection. Nonresponsive.

3 THE COURT: Sustained.

4 THE WITNESS: All right.

5 BY MR. LEVENTHAL:

6 Q. You were brought back --

7 A. So I told him --

8 Q. You were brought back into court --

9 A. No, no --

10 Q. -- is that right?

11 A. -- no.

12 I told this probation officer that I did file --

13 MR. NEIMAN: Objection.

14 THE WITNESS: -- tax returns.

15 MR. LEVENTHAL: Okay.

16 MR. NEIMAN: Again, the probation hearing was notice to

17 Mr. Schiff that the zero return was not a valid return.

18 THE WITNESS: No.

19 MR. NEIMAN: I think --

20 THE WITNESS: But they were --

21 MR. NEIMAN: -- that's where --

22 THE WITNESS: -- introduced at this trial --

23 MR. NEIMAN: -- the inquiry needs to be.

24 THE WITNESS: -- as being valid. That's the whole

25 point.

1 Did you notice -- no, no. Did you notice --
2 THE COURT: Mr. Schiff --
3 THE WITNESS: -- did you notice --
4 THE COURT: -- Mr. Schiff --
5 THE WITNESS: -- when -- when that woman was
6 introducing tax returns when she got to 1990 she introduced --
7 THE COURT: Mr. Schiff --
8 THE WITNESS: -- two returns --
9 THE COURT: This is improper. I've warned you about
10 editorializing. Wait for the question and then answer the
11 question.
12 BY MR. LEVENTHAL:
13 Q. Did you tell this probation officer that you had --
14 A. That I filed.
15 Q. -- filed taxes?
16 A. Yes.
17 Q. And what did the probation officer do?
18 A. Well, I showed him the returns I filed. They were only
19 aware that I filed those -- the improvised returns.
20 Do you have the improvised returns?
21 Q. I do.
22 A. Okay. Let me get them.
23 MR. LEVENTHAL: Judge, may I approach?
24 THE COURT: You may.
25 MR. LEVENTHAL: Thank you.

1 THE WITNESS: He was only aware that I filed these
2 returns. Yeah.

3 BY MR. LEVENTHAL:

4 Q. Okay. When you say "improvised returns" --

5 A. Okay.

6 Q. -- what do you mean by that?

7 MR. NEIMAN: Objection to these --

8 THE WITNESS: When I was in jail --

9 MR. NEIMAN: -- improvised returns as -- they're
10 irrelevant.

11 THE WITNESS: It's not irrelevant because this is what
12 I was violated on. They didn't know I filed regular zero
13 returns. This is what the probation officer had, these
14 improvised returns.

15 While I was in jail, I had a lawyer and he said, look,
16 you better file something or they may violate you because you're
17 supposed to file. So I just took a sheet of paper, filled them
18 out. And my understanding is that if you file a return, which
19 claims to be a return, signed under penalty of perjury, it's a
20 return. If it claims to be a return, it doesn't necessarily
21 have to be filed on official documents. So I did this and I
22 sent them in.

23 BY MR. LEVENTHAL:

24 Q. Where did you send them into?

25 A. I don't know. I sent them somewhere.

1 Q. Was it the --

2 A. These were signed at FCI Morgantown.

3 However, when I got out, at some future point I got
4 regular returns with the -- you know, with all the dates and I
5 filed them and sent them in. So when the probation officer said
6 these aren't returns and then I showed him the returns I did
7 file and then I showed him the -- the -- the -- the cases from
8 the Ninth Circuit that said they were returns, the probation
9 officer said, well, you'll be okay. Just show them to Dorsey
10 and you'll be okay. So I said, no, I -- I'm not gonna be okay.
11 I said I didn't violate. So I proceeded to the hearing at the
12 preliminary injunction -- uh, the -- the -- the probable cause
13 hearing. Now --

14 Q. Was that in --

15 A. -- in his --

16 Q. What judge --

17 A. -- in his --

18 Q. -- was that in front of?

19 A. Now, as long as you brought it up, you read me Judge
20 Dorsey's decision and in that decision Judge Dorsey said that I,
21 uh, wanted to proceed without an attorney. But -- but, uh,
22 he -- he -- he advised me of my right to an attorney and I said
23 I don't need one. That's not true. Here is the transcript of
24 the actual hearing of that initial hearing --

25 Q. So you weren't --

1 A. -- the actual --

2 Q. -- represented?

3 A. -- transcript, yeah.

4 His -- his -- his -- his order was a tissue of lies
5 from beginning to end and this transcript proves it because the
6 transcript, which I want to make an exhibit -- it was an
7 exhibit -- starts off --

8 MR. NEIMAN: Objection. It's not in evidence nor
9 should it be.

10 THE COURT: Sustained.

11 THE WITNESS: Well, you want me to prove why his motion
12 was a tissue --

13 THE COURT: Sustained.

14 Next question, Counsel. Mr. Leventhal, next question.

15 BY MR. LEVENTHAL:

16 Q. Mr. Schiff, what occurred at this trial that proves the
17 fraudulent nature of the probation violation?

18 A. Okay.

19 MR. NEIMAN: Objection as to relevance. What happens
20 at this trial --

21 THE WITNESS: No, no. This --

22 MR. BOWERS: Your Honor, may I --

23 MR. NEIMAN: -- with regards to that probation hearing
24 is --

25 MR. BOWERS: I'm sorry. May I --

1 MR. NEIMAN: -- notice again.

2 MR. BOWERS: I'm sorry, your Honor. May I --

3 THE WITNESS: No.

4 MR. BOWERS: -- request --

5 THE WITNESS: -- this is highly relevant.

6 MR. BOWERS: -- a sidebar on this issue?

7 THE WITNESS: This is highly relevant.

8 THE COURT: We're at the end of the day. We're going
9 to take our break for the evening.

10 What do we have tomorrow morning, Ms. Clerk?

11 THE CLERK: Nothing, your Honor.

12 THE COURT: We're in recess until 9:00 a.m. the
13 standard admonition continues.

14 (Jury leaves the courtroom at 4:38 p.m.)

15 THE COURT: Be seated.

16 Mr. Bowers, what is your --

17 MR. BOWERS: Well --

18 THE COURT: -- point?

19 MR. BOWERS: -- my objection is -- I understand that
20 technically the Court's ruled that this proceeding only goes to
21 notice against Mr. Schiff. However, while I understand there's
22 a curative instruction, I -- I think that Mr. Schiff should be
23 able to present the limited purpose of this proceeding against
24 him.

25 And I -- I don't believe I've made this objection

1 before when this was discussed. But this proceeding is not a
2 determination of, um, whether or not he committed a new criminal
3 offense but whether or not he's following his probation
4 officer's directives.

5 And the reason I interject is because Mr. Schiff and --
6 and the Government are having sort of a back and forth that's
7 getting away from that issue. And, even though it's a curative
8 instruction, it still has an impact on my client. If the
9 implication is Mr. Schiff was, as early as 1999 -- or 1991 at
10 his probation hearing, warned by a judge about this directly.

11 I'm not saying he wasn't warned by a judge, but it was
12 for a different purpose than Mr. Cohen -- it was for a different
13 purpose than why we're here today. And, again, I -- I
14 understand that to some extent this is supposed to be an issue
15 between the Government and Mr. Schiff. But I -- I believe
16 there's still an effect on Mr. Cohen as a result of it.

17 MR. NEIMAN: Your Honor, if I just may be heard,
18 obviously we've heard a lot of testimony about Mr. Schiff's
19 prior court cases, his probation hearings. These are all done
20 to show that Mr. Schiff was put on notice as to his position
21 being rejected and, therefore, his good faith -- his belief
22 could not have been held in about faith. That's the relevance.

23 I think to go back and attack the -- the -- the
24 fairness or what happened at these proceedings is -- is a
25 dangerous side road -- or sidetrack, I guess, which would be

1 irrelevant under the Government's --

2 MR. BOWERS: And, your Honor, I may not be asking that
3 we go all that far down that road. But I am asking, in fairness
4 to Mr. Cohen, that Mr. Schiff be allowed to explain what I
5 understand to be -- the things that I think are relevant, I
6 guess, would be that he -- he -- and he's done some of this, but
7 he's getting lost on some of it -- which is he had a probation
8 officer -- as he tells it at least, he had a probation officer
9 who asked him to file returns. He filed zero returns. That was
10 a problem. He was violated. He filed some other returns. And
11 Judge Dorsey said those zero returns are no good.

12 That's what I understand his testimony to be on this
13 issue. I just -- I'm not asking anything more than that. I'm
14 asking that he should be able to tell that story because the
15 implication without being able to tell that story is these zero
16 returns were considered on the basis of their merit as early as
17 1991. And they may have been -- there may have been a judicial
18 determination as to their merit, but it's not the same purposes
19 for which we're here today. That's all I'm trying to clarify.

20 MR. NEIMAN: I -- I think Mr. Bowers is incorrect in
21 that they -- they were determined on their face, the legitimacy
22 of the zero return by Judge Dorsey. And he said no, these are
23 invalid --

24 MR. SCHIFF: No.

25 MR. NEIMAN: -- and --

1 MR. SCHIFF: Let me tell you what happened here now.
2 Because Judge Dorsey said basically I didn't file, the
3 Government said I didn't file. I said I filed.

4 So because of the -- I didn't want to go to jail. I
5 did a stupid thing, I accepted their figures, and I put the
6 figures on what I called "the coerced returns."

7 Dorsey said they are still not returns. The Government
8 assessed those amounts against me. Then he stripped me of all
9 my street time. But the point is this: Those returns just were
10 submitted in this trial.

11 What happened in this trial when they were submitting
12 returns for the years 1980, '81, '82, '83, '84, and '85 they
13 submitted two sets of returns, the -- the returns that Dorsey
14 said I didn't file and my coerced returns.

15 Now, I never saw that happen before. So when she got
16 all through, I said -- and they had -- and they had the same --
17 as if I submitted them on my probation hearing but they had two
18 different dates. So I asked the woman who was submitting
19 them -- I forgot her name -- I said, Did you ever see two
20 returns filed for the year as valid? And -- and I think her
21 testimony was, I don't know. No. Whatever it was.

22 Then, when the 4340's came in, I pointed out to her
23 that every 4340, every year, showed -- the first entry in the
24 4340 was return filed; tax assessed. Even if it was a zero, tax
25 assessed. Return filed; tax assessed. However, the 4340's for

1 the years '80, '81, '82, '83, '84, '85 showed -- didn't start
2 off with return filed; tax assessed.

3 So I said to her, do you have any explanation as to why
4 no returns were shown as being received for the years '80 to '85
5 even though you submitted two returns for that year? I said, do
6 you have any explanation? And her explanation was no, I don't.

7 Now, the explanation, of course, is the IRS had two
8 returns and they did not know which ones to show on my 4340.
9 Because if they showed the zero returns, they couldn't have
10 assessed the coerced returns. And they didn't know which ones
11 to show.

12 So what they did is they showed neither. But that is
13 proof that I filed returns and Judge Dorsey and that probation
14 officer who violated me, who said I didn't file returns, were
15 dead wrong because there was the returns that was processed by
16 the IRS and accepted as valid returns just like my regular
17 probation officer accepted it. So it was contrived.

18 And, in addition to everything else, I was denied -- I
19 asked for a -- the transcript will show I asked to be
20 represented by counsel. As a matter of fact, Judge Dorsey said
21 he'll even appoint counsel for me. That's what it says. Do you
22 want me to read the transcript?

23 So then, when I'm waiting for counsel, he has a hearing
24 without appointing counsel; uh, strips me of all my street time,
25 which according to the regulations at that time you can only

1 have your street time stripped if you commit a crime while on
2 probation. The worst he could have done by violating me is to
3 send me back to jail to complete my probation confined.
4 Instead, he stripped my all my street time. Two years I had to
5 go and do it again.

6 On top of which, the regulations that -- and I have
7 them here said that you cannot change the terms of your
8 probation unless you were represented by counsel. And I wasn't
9 represented by counsel. And I -- and I can have the record
10 right here.

11 Do you want me to read where Judge Dorsey said I'm
12 gonna appoint a lawyer for you and he never did?

13 So that, your Honor, was a miscarriage of justice. And
14 the proof was submitted right here at this trial that the
15 returns that Dorsey said were not returns and not processed by
16 the IRS they submitted at this trial. And they couldn't figure
17 out which return to show on my 4340, so they showed no return.

18 Now, how many times do you want to send me to jail for
19 doing nothing?

20 Now, I'm supposed to believe that because I lost -- was
21 Galileo supposed to think that the -- that the earth doesn't
22 revolve around the sun because some ecclesiastical court --

23 THE COURT: Mr. Schiff --

24 MR. SCHIFF: -- says --

25 THE COURT: Mr. Schiff --

1 MR. SCHIFF: -- you're wrong?

2 THE COURT: Mr. Schiff, you are not Galileo or anything

3 close to --

4 MR. SCHIFF: But the principle --

5 THE COURT: -- Galileo.

6 MR. SCHIFF: -- is the same.

7 THE COURT: No.

8 MR. SCHIFF: Am I supposed to believe I'm guilty of a

9 crime --

10 THE COURT: Are you through?

11 MR. SCHIFF: Yeah. That's not notice to me of

12 anything.

13 THE COURT: All right. All right.

14 MR. SCHIFF: I've been framed a number of times.

15 THE COURT: The -- the matters with Judge Dorsey were

16 received for notice only. The Court is well familiar with the,

17 uh, standards that govern revocation of probation; they are

18 different for standards for conviction. The judge uh, has

19 ruled. We are not going to retry the probation violation

20 hearing. It was introduced for a very limited purpose. And

21 you've had an opportunity to explain why you disagree with it.

22 MR. SCHIFF: No. You didn't let me finish.

23 THE COURT: I did. And that's --

24 MR. SCHIFF: You didn't -- I said --

25 THE COURT: That's the end of it. I've asked you over

1 and over again to stop editorializing and you refused.

2 MR. SCHIFF: It's complicated. It's not sim- -- he
3 wanted the jury to believe that something happened to me that
4 should have been notice to me that I did something wrong when my
5 own probation officer didn't violate me.

6 THE COURT: Mr. -- Mr. Schiff, the judge did not
7 recognize your actions as complying with the terms of probation
8 or supervision and he rejected --

9 MR. SCHIFF: No.

10 THE COURT: -- he rejected your -- your so-called, uh,
11 efforts. Uh, and we're not retrying it.

12 MR. SCHIFF: Let me --

13 THE COURT: The matter is not open for retrial.

14 MR. SCHIFF: But then why did he raise it? He's trying
15 to get -- look, my terms of my probation said --

16 THE COURT: I'm not going to go back --

17 MR. SCHIFF: I am complying --

18 THE COURT: -- I'm not going to go back through the
19 points that were raised in the order. But the -- the jury is
20 entitled to consider that as notice to you that your views are
21 not consistent with the law.

22 MR. BOWERS: Your Honor, I'm sorry.

23 MR. SCHIFF: Judge Dorsey --

24 MR. BOWERS: I have an unrelated, very --

25 THE COURT: I'm sorry?

1 MR. BOWERS: -- I have an unrelated, very, very brief
2 evidentiary matter --

3 THE COURT: All right.

4 MR. BOWERS: -- that I believe truly needs to be taken
5 at sidebar. So I can wait if everybody else has nothing for
6 you. But -- and I'll be very short. But I think it really
7 needs to be had up there.

8 THE COURT: Sidebar.

9 MR. BOWERS: I'm sorry.

10 MR. SCHIFF: Let me point out --

11 THE COURT: Sidebar.

12 (Sidebar conference was held as follows:)

13 MR. BOWERS: Your Honor, I apologize for taking up the
14 Court's time with this.

15 In regards to Dr. Roitman who -- I'm not requesting
16 money, but he is expensive. So I only want to reserve him if
17 there was some possibility, uh, the Court might consider seeing
18 him. There's a strong possibility, it appears, that, uh, this
19 case may end tomorrow. And so I needed to talk to you about
20 that tonight. If there was any possibility, I had to talk to
21 him.

22 I've submitted the case. Just in a nutshell, I can
23 direct the Court to comments. But, basically, I think that
24 Dr. Roitman's testimony could be limited for 704 purposes, uh,
25 but be assist -- render assistance to the trier of fact under

1 702 purposes, uh, with respect to -- uh, much like was done in
2 Finley.

3 And I have, um -- I have some portions of the report
4 that I think are particularly salient that I can either read
5 into the record or highlight to chambers. But basically it
6 would just direct the Court's attention to, uh, the fact that
7 the Finley court looked at not the official diagnosis of -- made
8 by the expert but simply some of the thought processes that were
9 relevant.

10 And I'll be the first to admit that there's other cases
11 that say just because you have fixed and rigid thinking doesn't
12 mean that an expert's appropriate. But in this case, in
13 addition to fixed thinking, uh, there are a number of other
14 things Dr. Roitman suggests affected Larry's ability to form
15 this intent, such as, um, his near obsession with the importance
16 and significance of his discoveries about taxation and emotional
17 payoff, fixed belief system, underlying drive, um, regarding his
18 self-importance and intellectual superiority, his inflated sense
19 of self-importance, his inability to recognize and identify with
20 others.

21 So I just wanted that in the event the Court was --
22 needed me to make arrangements for him.

23 Thank you.

24 MR. IGNALL: Briefly, be our same response that we've
25 made before that this seems to be more in the line of excusing

1 behavior rather than inability to form the mens rea because of a
2 mental disease or defect. Because there isn't a close fit, I
3 think, under Daubert, it's inappropriate to have that testimony
4 to the jury.

5 THE COURT: I haven't changed my mind on it.

6 MR. BOWERS: Okay. I'm just -- and, again, I'm not
7 arguin with your ruling. I --

8 THE COURT: Are you bringing up something that we just
9 finished?

10 MR. SCHIFF: No, I --

11 THE COURT: You hadn't better be.

12 MR. SCHIFF: I'm just saying why Judge Dorsey ruled the
13 way he did. He was --

14 THE COURT: I've already ruled against you on this.
15 I'm not going to argue -- continue to argue it.

16 There is one matter. It's come to my attention that
17 your witnesses are violating the Exclusionary Rule by discussing
18 their testimony among themselves out in the anteroom and I'm
19 going to tell you you better take control of it.

20 MR. SCHIFF: I don't have any more witnesses.

21 THE COURT: All right. It's come to my attention that
22 your witnesses were discussing their testimony out in the
23 anteroom --

24 MR. SCHIFF: I don't know what --

25 THE COURT: -- by the Court Security Officers.

1 MR. SCHIFF: Well, wait a minute. I'm not there. I
2 don't know what they are doing.

3 THE COURT: I know you --

4 MR. BOWERS: Well, if you don't have any more
5 witnesses --

6 THE COURT: I know you say you can't control them.

7 MR. SCHIFF: I don't know what they are doing when they
8 are in there.

9 THE COURT: I know.

10 MR. SCHIFF: I didn't know we had to separate them. I
11 figured they were all there. I mean, I don't know anything
12 about it. They're -- they're -- they're not in the courtroom.
13 I don't know what they do.

14 MR. IGNALL: I think we discussed among counsel a
15 scheduling issue. I'm just curious. Maybe we could ask
16 Mr. Schiff how many more witnesses he has.

17 MR. SCHIFF: I have -- the only witness I had -- I
18 called Noel Spaid. She may come in tomorrow. That's the
19 attorney.

20 THE COURT: For --

21 MR. SCHIFF: Well --

22 THE COURT: -- character?

23 MR. SCHIFF: -- character. But she says she has
24 something else she wanted to testify to about the trial where
25 she represented me; somebody was suing me.

1 THE COURT: Better give me a proffer.

2 MR. SCHIFF: I -- I -- I -- she'll speak to you because
3 it was a little too complicated for me. I said if she -- I said
4 as far as I knew I was just bringin' her in for, uh, character
5 evidence. She said she wanted to bring up something else. I
6 said ask the judge and see what he says.

7 MR. BOWERS: I think the stipulation that we -- we
8 were -- we had sort of unofficially entered and wanted to run by
9 the Court --

10 MR. SCHIFF: Well, I got one more witness. I --

11 MR. BOWERS: Please.

12 MR. IGNALL: How many more?

13 MR. SCHIFF: I have one more witness. I forgot. That
14 guy, uh --

15 MR. BOWERS: Who?

16 MR. IGNALL: Ray Hartman?

17 MR. SCHIFF: No, no.

18 MR. IGNALL: Bean?

19 MR. SCHIFF: Bean.

20 MR. IGNALL: Okay. So two more witnesses.

21 MR. SCHIFF: No. I just got one more witness and --

22 MR. BOWERS: The thought was --

23 MR. SCHIFF: -- yeah.

24 MR. BOWERS: -- in the event -- and we should run this
25 by the Court for timing purpose -- in the event that we find

1 ourselves tomorrow with clients not testifying, or for whatever
2 reason prior to the time jury would normally be excused, done
3 with our cases, that we would send the jury home with
4 instructions to come back Monday morning at 9:00; finish
5 whatever business we needed to do so at 9:00 o'clock Monday
6 morning --

7 MR. SCHIFF: I got jury instructions.

8 MR. BOWERS: -- we charge the jury and then have
9 opening [sic].

10 And, obviously, it's the Court's province to conduct
11 that anyway it wants. But I think all the attorneys sort of
12 thought that was better than if we ended at 10:00 tomorrow or
13 11:00 or whatever trying to get it all done because we have two
14 issues: One is defense counsel -- is decisions -- final
15 decisions about our clients' ability to testify, which -- and we
16 also have to close, which -- you know, we'll do what the Court
17 tells us to. But I think we all discussed --

18 THE COURT: Well, I have to take into consideration the
19 jury and so I'm gonna inquire of the jury --

20 MR. BOWERS: Okay.

21 THE COURT: -- if there's a problem with --

22 MR. BOWERS: With finishing Monday like that.

23 THE COURT: Yeah, comin' back because we told 'em five
24 weeks and --

25 MR. BOWERS: I understand.

1 THE COURT: -- this is it.

2 MR. BOWERS: I mean, I just -- you know, so I'll work
3 late tonight.

4 THE COURT: All right.

5 THE CLERK: There's been substantial questions today --

6 MR. SCHIFF: Tomorrow's Thursday; right?

7 THE COURT: Hum?

8 THE CLERK: There have been substantial questions,
9 which I declined to answer.

10 MR. CRISTALLI: We should be prepared to close
11 tomorrow.

12 THE COURT: Okay. Be prepared to close.

13 MR. BOWERS: I'm sorry. What were you saying, ma'am?

14 THE CLERK: Some jurors have asked how much longer.
15 They wanted to know if it was going to go into next week. I said
16 possible.

17 MR. MODAFFERI: Gotta be --

18 MR. CRISTALLI: Gotta be ready to close tomorrow.

19 MR. IGNALL: It may go to next week either way.

20 MR. MODAFFERI: You've got to be ready to do your
21 closing tomorrow.

22 MR. SCHIFF: I gotta to do my closing argument?

23 THE COURT: Well, the things is, is if we get it to the
24 jury tomorrow, then it's up to them whether they deliberate on
25 Friday. The mere fact that we've been recessesing on Friday

1 doesn't mean the jury could not deliberate --

2 MR. SCHIFF: I was planning --

3 THE COURT: -- right into the weekend.

4 MR. SCHIFF: -- I was planning to fly outta here on
5 Thursday night to see my sister. So I can't plan on going,
6 being Friday?

7 THE COURT: You shouldn't because, uh, I don't know
8 what's gonna happen. I don't know what the jury's gonna say.
9 The clerk has just mentioned that some of 'em are very concerned
10 and I don't know what -- what their problems are until I
11 ask 'em. So I'll have to ask 'em in the morning. I'll inquire
12 of them and -- but we'll -- we'll need to have you rest on the
13 record. I'm not going to continue to Monday to find out you
14 want to call --

15 MR. BOWERS: Oh, no, no. I think the proposal was if
16 it's --

17 MR. IGNALL: You'll have a chance tonight to decide --

18 MR. BOWERS: -- amenable then, you know, we rest on the
19 record and all that's left to be done Monday is to instruct them
20 and start the trial -- or, I mean, close.

21 THE COURT: Okay.

22 MR. BOWERS: Thank you.

23 MR. CRISTALLI: Your Honor, if we don't complete
24 tomorrow, um, would your Honor be inclined to, uh, have court on
25 Friday?

1 THE COURT: Um, do we have things on Friday?

2 THE CLERK: Yes.

3 THE COURT: We have some things.

4 I -- I'm not adverse to that if we need to to
5 accommodate the jury. I'm not adverse to going ahead on Friday
6 and trying to finish it up, get it to the jury, no, depending on
7 what the jury situation is.

8 I'm sorry about your sister. You know, I just can't
9 have the jury fall apart because we didn't get done when we said
10 we would. I have to put it -- I have to ask them.

11 MR. IGNALL: So, your Honor, if we have additional jury
12 instructions, we should submit them by tomorrow --

13 THE COURT: Yes.

14 MR. IGNALL: -- I assume?

15 THE COURT: Yes.

16 MR. IGNALL: Okay. Thank you, your Honor.

17 MR. BOWERS: And the Court receives --

18 THE CLERK: Yes, I took -- yes, I did.

19 MR. IGNALL: All right. Thank you, your Honor.

20 MR. CRISTALLI: Thank you.

21 MR. BOWERS: Wait. Before everybody leaves, the -- I
22 understand it's a preliminary ruling and I'm not necessarily
23 entitled to it. But, with respect to Mr. Cohen and the issues I
24 addressed in that renewed motion, has the Court had an
25 opportunity to make a decision on that? Regarding, uh, the

1 prior bad acts or 609(b) material --

2 THE COURT: Oh, yeah.

3 MR. BOWERS: -- from the '80s and his whole conviction.

4 THE COURT: It's not comin' in.

5 MR. BOWERS: All right. Thank you, your Honor.

6 (Sidebar conference concluded.)

7 (Proceedings adjourned at 4:58 p.m.)

8 --oOo--

9 I hereby certify that pursuant to Section 753, Title 28, United
10 States Code, the foregoing is a true and correct transcript of
11 the stenographically reported proceedings held in the
12 above-entitled matter.

13

14 DATED:

FELICIA RENE ZABIN, RPR, CCR NO. 478

15

16

17

18

19

20

21

22

23

24

25