

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

THE HON. KENT J. DAWSON, JUDGE PRESIDING

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, ) Case No. CR-S-04-119-KJD(LRL)  
 )  
 vs. )  
 )  
 IRWIN SCHIFF, CYNTHIA NEUN, )  
 and LAWRENCE COHEN, )  
 )  
 Defendants. )  
 )

REPORTER'S TRANSCRIPT OF JURY TRIAL (DAY 20)

Monday, October 17, 2005

APPEARANCES: (See Page 2)

Court Reporter: Felicia Rene Zabin, RPR, CCR 478  
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1 APPEARANCES:

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22 Also Present:

23 Adam Steiner, Special Agent, IRS  
24 Sam Holland, Special Agent, IRS  
25 Gary Modafferi, J.D.

1 LAS VEGAS, NEVADA; MONDAY, OCTOBER 17, 2005; 9:11 A.M.

2 --oOo--

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

4 THE CLERK: All rise.

5 THE COURT: Thank you. Please be seated.

6 Any matters of business before we bring in the jury?

7 MR. IGNALL: Your Honor, just one thing. I may be a  
8 little paranoid here. I don't know. Perhaps we can get an  
9 instruction, including Mr. Schiff, not to refer to any exhibits  
10 that were identified but not accepted into evidence during  
11 closing. Certainly we're not going to plan to do that.

12 THE COURT: All right.

13 Any other matters?

14 MR. IGNALL: Not from the Government, your Honor.

15 THE COURT: Thank you.

16 Mr. Cristalli.

17 MR. CRISTALLI: Well, I have, um -- I don't intend to  
18 refer to it as exhibits that have come into evidence, but I do  
19 have a number of, um, uh, books of Cindy's that we discussed  
20 during the course of the trial. If I want to display them to  
21 the jury, um, I think that's fair game, your Honor. I don't  
22 think -- I don't think there's anything wrong with that.

23 MR. IGNALL: We don't have any objection to that. They  
24 were received for a limited purpose.

25 MR. CRISTALLI: Yes. Thank you.

1 MR. IGNALL: That's not what I was referring to, your  
2 Honor.

3 MR. CRISTALLI: Okay. Thank you.

4 MR. SCHIFF: Your Honor, I assumed because a number --  
5 because we showed this to a number of witnesses, I assumed that  
6 the handouts that were passed out at my two-day seminar were  
7 admitted as exhibits. The Government was there. Government  
8 had 'em. I showed 'em to a number of witnesses --

9 THE COURT: Ms. Clerk, were the --

10 MR. SCHIFF: -- who --

11 THE COURT: -- documents --

12 MR. SCHIFF: -- who --

13 THE COURT: -- received into evidence?

14 THE CLERK: No, sir.

15 THE COURT: Then you'll not refer to them.

16 MR. SCHIFF: Well, I -- I don't understand how I --

17 THE COURT: Because they are not in evidence.

18 Understand. They are not --

19 MR. SCHIFF: Well, can I --

20 THE COURT: -- in evidence.

21 MR. SCHIFF: -- refer to them?

22 THE COURT: So that's why they don't come in.

23 MR. SCHIFF: They were discussed at the --

24 THE COURT: It doesn't matter. People can -- can  
25 discuss things; they can identify them. But, if they are not

1 received into evidence, they are not evidence. And,  
2 accordingly, you will not --

3 MR. SCHIFF: Well --

4 THE COURT: -- you will not refer to them.

5 MR. SCHIFF: Well, they were --

6 THE COURT: That's it. That's the ruling.

7 MR. SCHIFF: I can't refer to these documents. Can I  
8 refer to them orally?

9 THE COURT: What do you think summation is?

10 MR. SCHIFF: I can't refer -- all right. So I -- these  
11 were examined by a number of witnesses.

12 THE COURT: Mr. Schiff, do --

13 MR. SCHIFF: So I can comment on their --

14 THE COURT: -- do you not hear?

15 MR. SCHIFF: No. I --

16 THE COURT: No, you can't comment on them.

17 MR. SCHIFF: Well --

18 THE COURT: You can't comment on them because they were  
19 not received into evidence.

20 MR. SCHIFF: But can I ask you a question? But they  
21 were commented on by --

22 THE COURT: It doesn't matter.

23 MR. SCHIFF: -- a number of witnesses.

24 THE COURT: A lot of -- a lot of people identify  
25 documents that don't come into evidence and so they are not in

1 evidence. I can't make it any plainer than that.

2 There is one matter. There was a motion to recuse  
3 filed by --

4 MR. SCHIFF: Well, also --

5 THE COURT: -- Mr. Schiff. Having read and considered  
6 the motion, the Court finds it without merit and denies it.

7 MR. SCHIFF: Also, your Honor, I -- I must object to my  
8 having to make final argument without having, um -- without  
9 having copies of testimony that was given. I mean, I can't  
10 remember everything that was said.

11 THE COURT: I've already --

12 MR. SCHIFF: And I don't have copies --

13 THE COURT: -- I've already explained why we could not  
14 provide a --

15 MR. SCHIFF: I know that.

16 THE COURT: -- daily transcript --

17 MR. SCHIFF: I know you explained why.

18 THE COURT: -- to you and it was impossible. So you've  
19 made your objection.

20 MR. SCHIFF: But that doesn't help --

21 THE COURT: Your objection is noted for the record.

22 Any other matters?

23 Ms. Clerk, will you bring in the jury.

24 THE CLERK: Yes, sir.

25 (Jury enters the courtroom at 9:16 a.m.)

1 THE COURT: Please be seated.

2 Peggie.

3 THE CLERK: Yes, sir.

4 (Discussion between the Court and the clerk.)

5 THE COURT: Ladies and gentlemen of the jury, it is now  
6 time, uh, to listen to the closing arguments, or summations, of  
7 the lawyers. First, the lawyers for the Government will have  
8 the opportunity to address you; then the lawyers for the  
9 defendants will give their summations; and then the Government  
10 will have an opportunity to respond.

11 Who is going to give the summation?

12 MR. IGNALL: I am, your Honor.

13 THE COURT: Go ahead.

14

15 GOVERNMENT'S CLOSING ARGUMENT

16 MR. IGNALL: Thank you, your Honor, Counsel, ladies and  
17 gentlemen of the jury.

18 You've now heard all the evidence. We're almost at the  
19 end. I'd like to thank you for your time, your attention, and  
20 your patience. I know it's been a long trial. But we  
21 appreciate your attention you've given to this matter.

22 Th evidence that you've seen shows that Irwin Schiff,  
23 Cynthia Neun, and Lawrence Cohen don't like paying taxes. Well,  
24 who does? But, as my co-counsel pointed out in the opening  
25 statement in this case, that's not what this trial is about.

1 This case is about three defendants who were exploiting the  
2 desire of people not to pay taxes and to make money doing it.

3 Despite Mr. Schiff's efforts, this case isn't about  
4 putting the IRS or the tax laws on trial. We all agree that the  
5 IRS is an easy target and, indeed, it makes the sales pitch  
6 easier. But this case is about the obligation all Americans  
7 have to obey the law regardless of whether we agree with it.  
8 All three defendants knew the law and they refused to act  
9 according to the law.

10 This case may have seemed confusing at times. But what  
11 is clear is that Irwin Schiff, Cynthia Neun, and Lawrence Cohen  
12 encouraged their followers to take their advice, for a fee  
13 usually, and bad things happened to those customers. Bad things  
14 that the defendants knew were gonna happen because those bad  
15 things kept on happening time and time again.

16 There have been some light moments in this case, but  
17 this case is serious. It's serious for the IRS employees who  
18 spent a majority of their time dealing with frivolous  
19 correspondence, letters, hearings, zero tax returns, and the  
20 like. And serious for customers. Serious for customers like  
21 Ann Kennedy who spent her [sic] dying days with her husband  
22 fighting the IRS in Tax Court and losing and even getting  
23 penalized for making a frivolous Irwin Schiff argument.

24 It's serious for Toni Mitchell and Matt Diamond who  
25 spent money buying products from Freedom Books and ended up in

1 bankruptcy. And it's serious for customers like Jacqueline  
2 Eller, Nancy Driscoll, Brian Allin who ended up owing  
3 significantly more in penalties and interest than in the taxes  
4 that they actually owed and would have paid originally if they'd  
5 followed more traditional tax advice. And they are still  
6 struggling to pay that off. And this case is serious for all  
7 Americans because the more than \$2 billion that Mr. Schiff  
8 himself claims that he's cost the government.

9 At the outset, what Irwin Schiff, Cynthia Neun, and  
10 Lawrence Cohen are selling is nonsense. The idea that taxes are  
11 optional sounds too good to be true because it's not true and  
12 the defendants know it's not true. You've already heard the  
13 judge instruct you on the law. And these defendants are dead  
14 wrong.

15 This court, just like every other court that's  
16 addressed it, has rejected this nonsensical argument. Yet  
17 despite knowing that their arguments are meritless, all three  
18 defendants still push the Freedom -- Freedom Books products and  
19 programs.

20 This program starts with The Federal Mafia, but there's  
21 plenty of other stuff to sell. You've got books, tapes,  
22 packets, handouts, role playing, seminar, return preparation,  
23 court preparation, even T-shirts and bumper stickers.

24 The Federal Mafia, like everything else Mr. Schiff  
25 sells, shows his disagreement with the law. But the book is

1 nonsense. It twists ideas, it picks and chooses court cases and  
2 statutes, quotes them out of context and cites cases for things  
3 that really don't support the proposition that taxes are  
4 optional.

5           Once customers get hooked, once they see [sic]  
6 Mr. Schiff on the radio, see him at his seminar, see a sign,  
7 they start to follow his scheme. They wanna believe that  
8 somehow this is true. The sales pitch doesn't talk about liens  
9 and levies, convictions, or anything else negative. But it does  
10 talk about getting an immediate pay raise, about people who got  
11 refunds from the IRS.

12           You even heard the sales training tape -- that's  
13 Exhibit 237 -- which shows how a sales pitch works. Once the  
14 customer takes the bait, they start a chain reaction of negative  
15 events that you've seen from a number of witnesses here in the  
16 witness box. After filing the zero return, these witnesses said  
17 they got the frivolous return letter. It's the same frivolous  
18 return letter that Mr. Schiff got himself more than once; same  
19 one he got back in 1994. That's Exhibit 47.

20           This frivolous return letter is notice that the zero  
21 return is not a valid return when you have income. Among other  
22 things, this letter recommends that the taxpayers seek competent  
23 tax advice. But you heard a number of customers when they got  
24 this letter went down to Freedom Books to get tax advice.

25           You heard Ann Kennedy talk about going down to Freedom

1 Books. When she did, Mr. Schiff sold her more products. You  
2 heard what she thought of that in the end after everything went  
3 south. You heard her tell Mr. Schiff that she wished Mr. Schiff  
4 had told them, you know, this doesn't work and you know it; that  
5 he was just a salesman.

6 You heard Mel Lewis testify that he bought everything  
7 in the Freedom Books store because he didn't wanna hear Cynthia  
8 Neun and Irwin Schiff tell him, "Well, what products do you  
9 have?" and try and sell him somethin' else.

10 You heard Lawrence Cohen was part of this sales pitch  
11 as well. You heard him on the tape, Exhibit 231, calling in to  
12 sell The Holiday Special. You heard Matt Diamond testify that  
13 everything at Freedom Books was sold a la cart. You heard  
14 Jacqueline Eller talk about how they wanted to believe in the  
15 Schiff program. She didn't make much money, so she got reduced  
16 prices. Anything to make the sale.

17 You heard different customers got treated differently.  
18 Compare two customers you heard from: professional golfer Brian  
19 Allin, who made a lot of money, and self-employed small business  
20 woman Nancy Driscoll, who didn't make as much money. Mr. Allin  
21 got individual attention from Mr. Schiff and Ms. Neun; Nancy  
22 Driscoll, not as much. Indeed, after being sold Series 6 by  
23 Larry Cohen, instead of getting to speak to Mr. Schiff she wrote  
24 a letter complaining. And that's Exhibit 173.

25 Toni Mitchell confirmed in her testimony that

1 big-dollar clients got referred specifically to Mr. Schiff.  
2 Toni Mitchell and Michelle Degrosellier both testified about  
3 these high-income people getting the P.I.L.L. brochure for that  
4 offshore trust. That's Exhibit 78. Indeed, when customers  
5 signed up for that offshore trust, Mr. Schiff got a fee for  
6 that.

7 All these sales pitches worked. You heard that Freedom  
8 Books made more than 35,000 individual sales totalling more than  
9 \$4.2 million. A number that certainly -- almost certainly  
10 doesn't include all of the sales.

11 Thousands of people bought the Schiff products and  
12 followed the Schiff program. The IRS got thousands of returns  
13 that included the Schiff attachment. Indeed, you hear from IRS  
14 Appeals officers about hundreds of meetings and appeals and  
15 hearings that they had right here in Las Vegas where customers  
16 came in to try and impede the process. This stopped the IRS  
17 from addressing concerns of people who really wanted to resolve  
18 their problems.

19 This collection due process is a perfect example of  
20 this conspiracy of trying to impede and impair the IRS, trying  
21 to prevent the IRS from collecting the taxes that people owe.  
22 But, knowing that they won't prevail, these defendants still try  
23 to bog down the system. They argued; they disagreed.

24 They knew that for every hearing there were more  
25 products to sell: roll playing, appearance fees, court

1 preparation fees. You heard that Cynthia Neun herself  
2 represented people at more than a hundred collection due process  
3 hearings for a fee. These frivolous attempts to thwart and  
4 overwhelm the IRS consumed valuable resources and prevented the  
5 IRS from working with people who wanted to legitimately resolve  
6 their tax problems.

7 How does all this translate to your deliberations? Why  
8 don't we start going through the Indictment.

9 Count 1 charges all three defendants with conspiring to  
10 "defraud the United States by impeding, impairing, obstructing,  
11 and defeating the IRS in ascertaining, computing, assessing, and  
12 collecting taxes."

13 The evidence of this agreement among the defendants is  
14 that they were working together for a common purpose, that is,  
15 they were selling products with the purpose of preventing the  
16 IRS from collecting taxes. And the means they used to  
17 accomplish this purpose were dishonest and deceitful. All three  
18 defendant aided and assisted customers in filling out and filing  
19 zero tax returns knowing full well those customers didn't earn  
20 zero income in a year. These returns were false. The judge has  
21 already instructed you on the law. Income on the tax return  
22 includes wages.

23 All of these false returns are overt acts in  
24 furtherance of the conspiracy. And, as explained in the jury  
25 charge, those are steps taken to further the object, to further

1 the purpose of that conspiracy. The filing of these thousands  
2 of false tax returns prevented the IRS from collecting some  
3 taxes that were legitimately due.

4 In addition to being overt acts in furtherance of  
5 conspiracy, Count 1, these are also -- some of these are charged  
6 specifically in Counts 2 through 16 as aiding and assisting in  
7 the preparation of false federal income tax returns.

8 Every zero return, every pointless collection due  
9 process hearing, every frivolous lawsuit against the United  
10 States that these defendants helped someone file are more overt  
11 acts in furtherance of this conspiracy to defraud the United  
12 States to prevent the IRS from collecting taxes. Every sale  
13 promoting a ridiculous letter or return to be sent to the IRS is  
14 yet another overt act. These defendants didn't commit just one  
15 overt act which, as the judge instructed you, would be enough;  
16 they committed hundreds, if not thousands.

17 You've seen plenty of evidence about what happened.  
18 The next question is why. We don't have a mind reading machine.  
19 So we can't get into someone's head that way. So we have to  
20 look at what the defendants said, what they heard, what they  
21 read, what they did to determine why, why they did what they  
22 did.

23 The legal issue that the judge has instructed you on is  
24 willfulness. And willfulness means did these defendants  
25 intentionally violate a known legal duty? Were these defendants

1 aware of their legal obligations and did they choose to  
2 disregard these obligations? Did they act in good faith or in  
3 bad faith?

4 As the judge has already instructed you, a defendant  
5 doesn't act willfully if he or she acts through accident,  
6 inadvertence, mistake, or a good-faith misunderstanding of the  
7 law. But a disagreement with the law, no matter how adamantly  
8 held, is not evidence of good faith. All citizens have an  
9 obligation to obey the law. The evidence in this case proves  
10 that all three defendants were aware of their obligations, they  
11 didn't act in good faith, and they were willful.

12 You heard a lot of evidence in this case and you heard  
13 a lot of discussion about evidence being introduced for the  
14 purpose of notice. So I'd like to take a minute and explain  
15 what notice means. Notice means "knowledge." Notice means that  
16 the defendants learned that their defendants [sic] were not  
17 correct. Notice negates good faith, which means that these  
18 defendants acted willfully which satisfies one element of the  
19 offenses in this case. Notice means you know better. You may  
20 disagree; you may not like it. But, once you have notice of the  
21 position, you're not acting in good faith. You're not -- you  
22 didn't have a good-faith misunderstanding of the law; you're not  
23 acting by accident, mistake, or inadvertence. It's willful.

24 Indeed, if you look at Jury Instruction 48 on page 53,  
25 the judge even gives you some examples of sources of information

1 that can defeat this good-faith misunderstanding, that includes  
2 an "awareness of the relevant provisions of the Internal Revenue  
3 Code regulations or [sic], of court decisions rejecting or  
4 accepting their interpretation of the law, [or] of authoritative  
5 rulings of the Internal Revenue Service."

6           You've seen evidence that time and time again  
7 defendants were put on notice that what they were doing and what  
8 they were selling was wrong. They were told by the IRS, they  
9 were told by the courts, and they were told by customers who  
10 learned the hard way that what these customers were doing was  
11 illegal.

12           Somebody who misunderstands the law might be acting be  
13 good faith the first time he or she does something. But, once  
14 that person's told otherwise, he or she is not acting in good  
15 faith the next time and certainly isn't acting in good faith the  
16 hundredth time you do the same thing over and over. This is  
17 notice that negates good faith.

18           The idea that taxes are optional -- well, how anyone  
19 might like to believe that or -- or think that could be true --  
20 is so outlandish and preposterous that it would very hard to  
21 hold that belief in good faith. But some people may.

22           For example, Virginia Olen, the cab driver you heard  
23 testify, may have been acting in good faith when she filed the  
24 zero return that Lawrence Cohen prepared for her. But, after  
25 she sent that into the IRS, she got the frivolous return letter,

1 just like the customers before her and after her. And, after  
2 she got this frivolous return letter, she went ahead and called  
3 the IRS. She asked some questions, she got some answers, she  
4 learned that her position was incorrect, she filed a correct  
5 return, and she paid the tax. That shows she probably was  
6 acting in good faith.

7 But imagine instead after she got this notice from the  
8 IRS she went ahead and filed the zero return the next year.  
9 Well, in that case she wouldn't be acting in good faith because  
10 she's on notice that her position that wages aren't income has  
11 already been rejected.

12 Irwin Schiff, Cynthia Neun, and Lawrence Cohen weren't  
13 told just once, but they were told over and over and over again  
14 that their contention that taxes are somehow optional is  
15 flat-out wrong. This is more and more notice.

16 These defendants are stubborn. So no letter, no court  
17 decision, no description of the law is gonna shake them. They  
18 refuse to listen. But someone who is acting in good faith  
19 listens and learns from information and decides to take the high  
20 road, the way Virginia Olen did, instead of repeatedly --  
21 repeatedly insisting on breaking the law.

22 You've heard evidence that Mr. Schiff has had more than  
23 30 years of notice. He's had 30 years of running the IRS in  
24 circles, something that Judge Dorsey said he was doing back in  
25 1991, during his probation revocation hearing process. He's

1 been convicted twice before.

2 In the 1970's, he argued that you didn't have to pay  
3 taxes, he was indicted, he was convicted, he appealed, and he  
4 ultimately lost. That's notice that his position is wrong. In  
5 the 1980's, he argued the same thing. Same result. More  
6 notice.

7 His arguments were rejected by the courts then, so  
8 Schiff was on notice then that he can't continue to hold that  
9 rejected view in good faith.

10 You also heard that in the 1990's Mr. Schiff was on  
11 probation. As part of his probation, he had to file accurate  
12 tax returns. So Schiff tried a new twist: the return, the  
13 exact product that these defendants are selling in this case  
14 here today.

15 But, in 1991, Judge Dorsey told Mr. Schiff the zero  
16 return is not valid. And that's Exhibit 66. And I -- I  
17 encourage you to read Exhibit 66.

18 On page 4 of Exhibit 66, Judge Dorsey tells the  
19 defendant, tells Mr. Schiff, that simply repeating his position  
20 doesn't validate it. Yet that's what Mr. Schiff does, he  
21 continues to repeat it and repeat it.

22 Judge Dorsey said specifically in that order that the  
23 zero returns are "but another gimmick by which to evade good" --  
24 excuse me -- "by which to evade taxes" and are not "filed in  
25 good faith."

1           Judge Dorsey also talks about the Long decision.  
2       That's one of the cases that's cited in that two-page attachment  
3       that customers buy from Freedom Books and send to the IRS.

4           Back in 1991, Judge Dorsey told Mr. Schiff on page 6  
5       that Mr. Schiff's reliance on Long is convoluted and  
6       opportunistic. He's simply trying to spin it his way. That  
7       Long decision is still good law. It just doesn't stand for the  
8       proposition that Mr. Schiff wants it to stand for. It doesn't  
9       say that it's okay to file a zero return when you have income.

10           Schiff knew all this back in 1991, yet he told you from  
11       the witness stand that he disagrees with Judge Dorsey. And he  
12       went on to write a book and sell products espousing his rejected  
13       views. Schiff told you, well, he had to make a living after he  
14       got out of jail. And that's what he's been doing since he moved  
15       to Las Vegas and opened Freedom Books, he's been making a living  
16       selling the same rejected nonsense. His disagreement with the  
17       law is not good faith. His disagreement shows his notice, his  
18       knowledge of what the law is.

19           Mr. Schiff has raised his position in court. If you  
20       have a disagreement with the law or you think you've interpreted  
21       it differently, that's a perfectly reasonable thing to do is to  
22       raise it in court. Every time Mr. Schiff has raised one of his  
23       positions in court, he's lost.

24           Indeed, you heard about the one case he won, the Newman  
25       case. That's a case where the lawyer sued Mr. Schiff over his

1 insincere offer to pay someone a certain reward for a person who  
2 can show Mr. Schiff somewhere in the law that requires a person  
3 to file a tax return. Mr. Schiff won that case. But he won it  
4 on contract law; he didn't win it on tax law. And the  
5 importance of this case is more notice which negates the good  
6 faith. The Court found that Mr. Schiff's theory that no law  
7 requires someone to file a tax return is blatant nonsense.

8           If you remember correctly, this is the argument where  
9 Mr. Schiff said -- tried to spin the word "shall" file a return  
10 to mean "may." The Court praised Mr. Newman, even though he'd  
11 lost the case, for exposing the deceptive nature of Mr. Schiff's  
12 offer. This is the same insincere offer that Mr. Schiff made  
13 weekly on his radio show and even made here in court. And this  
14 is more notice.

15           You also saw the CRS Report. That's Exhibit 225. This  
16 report was found in Mr. Schiff's desk. Agent Holland also  
17 testified that it was found around the office and other places.  
18 There's no doubt that Mr. Schiff saw it, he read it, he shared  
19 it, and he disagreed with it. This exhibit is even more notice  
20 that negates good faith.

21           Mr. Schiff said he used this document as a teaching  
22 tool at seminars, seminars that Mr. Cohen and Ms. Neun attended.  
23 Mr. Schiff said he also discussed this report around the office.  
24 I encourage you when you go back to the jury room to look at  
25 Exhibit 225. It addresses Mr. Schiff's theories; it debunks it.

1 It's further proof that these defendants know that what they are  
2 selling is flat-out wrong.

3 Indeed, the CRS Report even cites two Irwin Schiff  
4 cases where he lost making the same argument. In one of those  
5 cases, the Tax Court called Mr. Schiff's argument "arrogant  
6 sophistry." When I read that, I knew that wasn't good. But I  
7 have to admit it sent me to the dictionary. I looked it up and  
8 it is exactly the right description for what's going on.

9 Sophistry is "a deliberate invalid argument displaying  
10 ingenuity and reasoning in the hope of deceiving someone." This  
11 is exactly what all three defendants are doing. They are trying  
12 to deceive customers with what they know is false so they can  
13 continue to profit from selling a slew of bogus products.

14 Mr. Schiff himself twists pieces of cases and codes,  
15 takes them out of context, and selectively ignores what he  
16 doesn't like to support his, what he calls, beliefs. But what  
17 he doesn't like is what he knows about is what he disagrees  
18 with. And all three defendants know that this twisted logic  
19 simply isn't right. They know how this process works because  
20 they've been selling products and they know what happens to the  
21 customers who follow their advice: Trouble comes for them, the  
22 same way that Judge Dorsey said trouble came for customers who  
23 followed Mr. Schiff's advice back in 1991.

24 Schiff knows that these customers won't prevail, but he  
25 doesn't care. In fact, you even heard him blame some of these

1 customers for not studying his materials more thoroughly; for  
2 not buying all of his other products; for not doing their own  
3 research, research that's tied to the misinformation of the  
4 Schiff program and that's available for sale. The Codes that  
5 Mr. Schiff sold were pretabbed; the court cases and statutes  
6 cited were cherry picked, misquoted, and taken out of context.

7 Mr. Schiff's books and products never include any of  
8 the real facts, laws, or cases concerning the income tax because  
9 those cases reject his position. All of this allowed him to  
10 keep selling more of this nonsensical garbage.

11 Customers reported back the bad results they were  
12 getting, which is even more notice that negates any of the  
13 defendants' good faith. Just about every customer you heard  
14 from who filed a zero return reported bringing back that -- that  
15 frivolous return letter that they all got from the IRS. They  
16 shared these letters with all three defendants. That's more  
17 notice that these defendants know that what they are doing isn't  
18 working and it's getting their customers in trouble.

19 But every time a client lost, it gave the defendants  
20 another opportunity to sell more products. A frivolous return  
21 letter leads to selling more tapes. IRS liens and levies leads  
22 to the sale of the Lien and Levy Packet and a chance to send  
23 Ms. Neun to the collection due process hearing for a fee. A  
24 loss at that collection due process hearing, that's an  
25 opportunity to sell the Tax Court Tool Kit and to prepare other

1 court documents. These losses turned into more dollars. These  
2 losses are also notice that negates good faith.

3 You heard James Dentice talk about following the Schiff  
4 scheme to filing a zero return. He was convicted criminally in  
5 1998 with Mr. Schiff present. Mr. Schiff testified on his  
6 behalf. This is more notice that in 1998 the zero return  
7 program is illegal.

8 You know that Ms. Neun is aware of his conviction. You  
9 heard her talk about it on that sales training tape,  
10 Exhibit 237. She knows that the scheme is not legal.

11 Customer after customer loses, yet these defendants  
12 champion the rare wins they got. The big winner you saw  
13 testify, Calvin Border, also known as "41K Cal."

14 41K Cal is a walking, talking billboard. He's a radio  
15 commercial; he's an advertisement. He may have gotten lucky  
16 once in getting that refund. But all three defendants know --  
17 excuse me -- know full well that the IRS has rejected all of his  
18 more recent zero returns. Yet no one mentions that on the radio  
19 program. It's Exhibit 231. You can listen to that. This is  
20 just another example of Mr. Schiff picking and choosing the  
21 facts he likes and ignoring the rest, just like he does with his  
22 understanding of the law.

23 This is deceit. These defendants never listen to  
24 anything contrary. They disagree and disregard everything and  
25 everyone that tell them they are wrong. Mr. Schiff admitted

1 this time and time again on the witness stand. How many times  
2 was he confronted with a court case rejecting his position? How  
3 many times did he say "I disagree with that"? But, as the judge  
4 instructed you, disagreement with the law is not good faith.  
5 That shows awareness of the law. In other words, claiming good  
6 faith is not a free ticket to continue doing whatever you want  
7 in the face of contrary evidence. How much more notice could  
8 Mr. Schiff possibly get?

9 On the stand, you heard Mr. Schiff say: I believe. I  
10 believe. I believe. This wasn't an accident. This was  
11 preplanned. How do we know it was preplanned?

12 You heard Mr. Schiff talk about how back in the 1990's  
13 he gave advice to customers on how to defend themselves in  
14 court, just like he's doing now. Mr. Schiff wrote that you  
15 claim good faith and say "I believe" repeatedly. But, if you  
16 claim to be acting in good faith before you've done something,  
17 that's not an accident; that's not a mistake; that's not  
18 inadvertence; and that's not through a good-faith  
19 misunderstanding of the law. That's intentional. That's  
20 willful.

21 Let's talk a little bit about some of the evidence of  
22 Lawrence Cohen's notice, which also negates his good faith.  
23 Before Mr. Cohen even started working at Freedom Books, he got  
24 his own frivolous return letter from the IRS. That's  
25 Exhibit 64. He knows that his position on the zero returns is

1 flat-out wrong, yet he goes to work at Freedom Books. There  
2 he's one of their top salesmen. He's there all the time.

3 You heard Toni Mitchell testify that he answers a dozen  
4 phone calls a day. He made sales of products that he knew  
5 didn't work. He knew they didn't work because customers brought  
6 in letters and evidence that they weren't working. Every time  
7 he heard this, it's even more notice. Yet he still prepared  
8 zero returns for customers.

9 He prepared a zero return for Virginia Olen who told  
10 him that she got a frivolous letter as a result of that. He  
11 prepared a zero tax return for Kay Irely, the undercover IRS  
12 agent. He never warned her of the frivolous letter or any of  
13 the consequences that might be coming, that he knew were coming.  
14 In fact, he told her he was doing some independent research  
15 trying to make it a little bit more likely that she was gonna  
16 get a refund, a refund that he knew she wasn't entitled to.

17 Let's listen to a brief clip of that meeting with  
18 Special Agent Irely. That's Exhibit 94. And we'll just play a  
19 small clip of that right here.

20 (Audio clip played in open court.)

21 MR. IGNALL: Ladies and gentlemen of the jury, I think  
22 I misspoke a second ago. That tape shows his understanding of  
23 how this process works. He does mention the letter, but he says  
24 he's got some sort of way to prevent that. He knows that the  
25 IRS is checking for the red flag. Yet he's working, still doing

1 the zero return, still trying to further the object of the  
2 conspiracy. He still took her check and he still made the sale  
3 and he knows that the zero return doesn't work. You heard he  
4 actually changed it around, turn the zero into a not liable.  
5 This shows more willfulness and active role in furtherance of  
6 this conspiracy.

7           You heard Jason Cardiff testify that he paid Lawrence  
8 Cohen \$2,000 for preparing amended returns, returns that are  
9 zero returns with not liable. Probably took seconds to prepare.  
10 This not liable is a Lawrence Cohen development, but this didn't  
11 work either. Jason Cardiff got a frivolous letter, just like  
12 Virginia Olen did and just like Mr. Cohen himself did.

13           You heard that Jason Cardiff lied to the IRS and he  
14 lied under oath. The question for you to ask, however, here is:  
15 Did Mr. Cardiff lie on the stand when he was testifying? Did he  
16 lie when he said that Mr. Cohen prepared his "Not Liable"  
17 return?

18           You saw Exhibit 200 where Lawrence Cohen sent him a  
19 bill. And Agent Holland testified that he found copies of Jason  
20 Cardiff's return in Larry Cohen's briefcase. Jason Cardiff  
21 isn't a Boy Scout, but the evidence he gave you is corroborated  
22 and it's up to you to decide how much weight to give it, as the  
23 judge has instructed you.

24           You also heard that Cynthia Neun, Larry Cohen, and  
25 Irwin Schiff got the decision from William Waller, a decision

1 from this court rejecting the appeal that Mr. Waller made at his  
2 collection due process hearing.

3 In that opinion, the judge rejected a lot of the  
4 ridiculous arguments these defendants made about the collection  
5 due process and the authority of the IRS. You heard that all  
6 three defendants discussed that with Mr. Waller and they all  
7 disagreed with that decision. That means that Lawrence Cohen,  
8 along with the other two defendants, disagree with this court's  
9 ruling. And, as you know, disagreement is not good faith.  
10 Mr. Cohen's aware of the law. He's not mistaken.

11 You heard Mr. Schiff testify that Lawrence Cohen, like  
12 everyone else at Freedom Books, was aware of Mr. Schiff's  
13 convictions and his court losses. Again, further notice,  
14 further evidence that Lawrence Cohen knows what the law is and  
15 simply disagrees with it. You heard that, nonetheless,  
16 Mr. Cohen was out there selling products. He's on notice that  
17 he's wrong and that notice negates good faith.

18 Let's talk a little bit about Cynthia Neun's  
19 willfullness and the evidence you've heard.

20 Cynthia Neun's handwriting is literately all over this  
21 conspiracy. The first place you can look is Exhibit 1, the Desk  
22 Book.

23 If we could pull up page 26 and show that on the  
24 screen.

25 (Document displayed in open court.)

1 MR. IGNALL: And we'll flip ahead to page 26 hopefully.

2 Look at that, in Ms. Neun's own handwriting instructing  
3 people how to sell the Schiff products. "We are hearing a great  
4 deal of discussion going on around the office that is not in  
5 line with what we want to achieve through the Desk Books (And,  
6 the conversations are not resulting in sales.)"

7 She asks the big question, "ARE YOU DOING  
8 EVERYTHING ... YOU CAN DO TO PROMOTE NEW SALES AT FREEDOM  
9 BOOKS?"

10 In her own handwriting we know why she's doing what  
11 she's doing.

12 You also heard evidence that Cynthia Neun charged out  
13 at \$300 -- as much as \$300 to represent clients or, more  
14 specifically, to help them unsuccessfully try to obstruct the  
15 IRS by following the Schiff script, a script that inevitably led  
16 to adverse determinations at these collection due process  
17 hearings.

18 You heard Cynthia Neun talk on Exhibit 109. That's a  
19 tape-recording of a telephone call between Special Agent Doug  
20 McEwen and Cynthia Neun. In that tape, Ms. Neun displays her  
21 sophisticated understanding of the IRS and how it works and how  
22 she's using that to sell more products. She tells Special Agent  
23 McEwen to go on the offense against the IRS. This shows her  
24 motivation to impair and impede the IRS.

25 Also listen to the in-office meeting between Special

1 Agent McEwen and Cindy Neun. That's Exhibit 110. On that tape,  
2 Cynthia Neun calls the IRS corrupt and evil. Again, IRS is an  
3 easy target; it's a good way to sell more products.

4 But tell me, is this IRS bashing a good-faith  
5 understanding of the law or is that a sign of a bad-faith  
6 disagreement with the law?

7 Let's listen to a little bit of that in-office  
8 conversation between Cynthia Neun and Special Agent McEwen. And  
9 that's part of Exhibit 110.

10 (Audio played in open court.)

11 MR. IGNALL: By her own admission, Cynthia Neun hasn't  
12 filed a tax return since 1987. And now she wants you to believe  
13 that's because she wasn't working and making any money? That's  
14 not what she's saying on that tape. And, indeed, she didn't  
15 meet Mr. Schiff until 1998 or 1999. So she's not relying on  
16 Irwin. She's got her own stubborn disagreement with her known  
17 legal obligations. And, despite what she says on that tape, she  
18 doesn't really want anyone to show her the law. She attended  
19 more than a hundred collection due process hearings.

20 You've seen in the power of attorney book that was  
21 found at Freedom Books, which is Exhibit 212, filled with powers  
22 of attorney; people having Cynthia Neun represent them.

23 Thank you.

24 And, in many of these collection due process hearings,  
25 30 or more, she repeated that same tired line about "show me the

1 law" and she was shown the law.

2 You heard Tom Menaugh testify that he went section by  
3 section with Ms. Neun present any number of times, yet she and  
4 the clients still chose to disregard and disagree with the law.

5 Let's listen to the beginning of one of those  
6 explanations. That's part of Exhibit 153 is the tape.

7 (Audio played in open court.)

8 MR. IGNALL: Indeed, this explanation that Tom Menaugh  
9 gave Cindy Neun any number of times is virtually the same  
10 explanation of the law that Judge Dawson has given you in this  
11 case. It's correct. And, indeed, the law is not hidden. As  
12 Tom Menaugh pointed out, it starts at Section 1 of the Code, a  
13 section, by the way, that isn't tabbed in the pretabbed versions  
14 of the Code that Mr. Schiff and defendants sell.

15 You heard Donna Fisher testify that Cynthia Neun  
16 attended hundreds of collection due process hearings. And she  
17 was given explanations and documents showing that her position  
18 was frivolous. She was given court cases showing that wages are  
19 income. This is notice that negates good faith.

20 You heard Tony Aguiar testify that he explained the law  
21 to Cynthia Neun 30 or 40 times in the hundred-plus times she  
22 appeared at the IRS. This was notice the first time she heard  
23 it; it was certainly notice the hundredth time she heard it.

24 Yet Ms. Neun appeared at these collection due process  
25 hearings more than a hundred times, she never prevailed. Never

1 prevailed in the appeals to the District Court or the Tax Court.  
2 But she kept going back because she kept charging customers for  
3 those services even though she knew full well that she was  
4 wrong. But losing allowed Freedom Books to sell more products.

5 How many times does she need to hear the law, the same  
6 law that the judge has instructed you on? How many more  
7 products and tapes and packages does she need to sell?

8 If we turn to Counts 2 through 16 in the Indictment,  
9 which you'll see when you go back to deliberate, these are  
10 specific instances of specific defendants aiding and assisting  
11 clients in the preparation of false federal income tax returns.

12 For example, Counts 2 through 4 charge Irwin Schiff  
13 with aiding and assisting James Dentice in preparing zero  
14 amended returns for the tax years 1991, 1992, and 1993. Those  
15 are returns in which Dr. Dentice reported zero as income. Yet  
16 Mr. Schiff knew full well when he helped prepare those returns  
17 that Dr. Dentice didn't really earn zero; he simply disagreed  
18 with what income should be reported on the tax return, knowing  
19 full well that the law requires everyone to report income on the  
20 tax return.

21 Same thing with Charles Earnest's tax return for 2001  
22 that Mr. Schiff prepared. It's charged in Count 5, same as it  
23 was with all the other counts charged in Counts 6 through 16.  
24 All these customers had income; they earned money during the  
25 year. Yet these defendants prepared tax returns writing down

1 zero, knowing full well that that zero isn't accurate. They are  
2 wrong. They disagree with that, but they are wrong. And they  
3 insist on selling those services anyway.

4 Count 17 charges Irwin Schiff with taking steps to hide  
5 his money to prevent the IRS from collecting the more than \$2  
6 million that he owes in taxes and that he knows he's owed.  
7 You've seen the evidence of Mr. Schiff's tax liability. You've  
8 seen his tax returns that he filed back in 1991, you've seen the  
9 IRS records recording the assessment of Mr. Schiff's tax  
10 liability, and you've seen his liability reduced to a judgment  
11 of more than \$2 million. That's Exhibit 292. This satisfies  
12 the tax due and owing element which is the first element that  
13 the judge instructed you on in Count 17.

14 Mr. Schiff doesn't really dispute the amount; he just  
15 doesn't want to pay the taxes, just like he doesn't want to pay  
16 the Nevada State sales tax. Mr. Schiff has the money; he can  
17 pay. Yet Mr. Schiff hasn't voluntarily paid one dime in taxes  
18 in the last 30 years. Because of that, the IRS has had to go to  
19 its last resort, liens and levies, because Mr. Schiff simply  
20 won't cooperate. And Mr. Schiff has used any means he can find  
21 to thwart the IRS from collecting his tax liability. He simply  
22 doesn't want to pay any part of what he owes. He -- it's part  
23 of his pattern of stubbornly disregarding the law.

24 You heard about the Simon & Schuster case. It's a case  
25 where Mr. Schiff challenged the authority of the IRS to lien and

1 levy to collect back taxes. He lost at the trial court and he  
2 lost that case on appeal. He knows full well that the IRS has  
3 the authority to collect his taxes through various means,  
4 including liens and levies from third parties. Yet that  
5 decision is notice, notice to him that he's not acting in good  
6 faith; that he's simply stubbornly trying to find some way to  
7 cheat the government, to cheat the IRS.

8           You heard about Mr. Schiff dealing in cash, having a  
9 warehouse bank, titling his car in someone else's name in  
10 Pennsylvania, having a numbered P.I.L.L. account in another  
11 country. These are all actions that prevented the IRS from  
12 collecting the taxes he owed. These are all affirmative acts of  
13 tax evasion, which is one of the elements that the judge  
14 instructed you on in Count 17.

15           And, as Judge Dawson instructed you, an affirmative act  
16 is any act likely to mislead or conceal something from the IRS.  
17 It includes placing assets in the names of others, using bank  
18 accounts in the names of others, transacting business in cash  
19 and cashier's checks, just what Mr. Schiff did in this case,  
20 just what he admitted he was doing.

21           He admitted the tax evasion to Bill Thomas when he told  
22 Bill Thomas back in Indiana that he couldn't open his own bank  
23 account with his own Social Security number because he had  
24 liens, the IRS was gonna take that money. So, instead, he had  
25 Mr. Thomas send cash, send money orders, send cashier's checks

1 from Indiana back here to Nevada for Mr. Schiff to do business  
2 here. Schiff used the cash for payroll. He doesn't do any --  
3 file any W-2's or keep any other books that would allow people  
4 to keep track of his money. This is another way that he's  
5 trying to keep the IRS from tracking how much he makes and how  
6 much his employees make.

7           You heard that Mr. Schiff sent money to an offshore  
8 account, that P.I.L.L. account in Belize. He sent it sometimes  
9 in personal checks; he also sent it sometimes in cashier's  
10 checks. You heard Bill testify about that, how Bill Thomas  
11 would write a Freedom Books's account check to the bank and then  
12 get a cashier's check that he would then send off to P.I.L.L. or  
13 send to Mr. Schiff to send to P.I.L.L. Mr. Schiff did this  
14 because he knew that the IRS couldn't collect, they couldn't  
15 levy on a bank account that's in Belize. Moving his money out  
16 of the country is evidence of Mr. Schiff bad faith.

17           You also heard Special Agent Sara Brana talk about the  
18 warehouse bank, the Christian Patriot Association account. This  
19 account had a hidden name and no disclosed account number. It  
20 would be impossible for the IRS -- or nearly impossible for the  
21 IRS to find this because it's outside of the normal business  
22 channels of commerce. Indeed, these records were only found  
23 through the execution of a search warrant.

24           You also heard Norm Struss, the car dealer, testify  
25 about Mr. Schiff buying a car after his car was seized by the

1 IRS. And he leases the car, he says. He puts it in the name of  
2 someone in Pennsylvania. Keeps the Pennsylvania license plates  
3 to hide it from the IRS because he knows that the IRS has taken  
4 his previous car.

5 Mr. Schiff has admitted all the elements of the tax  
6 evasion from the witness stand.

7 Counts 18 to 23 charge Mr. Schiff with filing his own  
8 false income taxes for the years 1997 to 2002. These returns  
9 were all signed under penalty of perjury and they all falsely  
10 reported zero as his business income. Schiff knew these returns  
11 were false because he knew he had income. He just disagreed  
12 with the requirement that he report his income tax to the IRS, a  
13 position that he's had rejected in court time and time again.

14 You heard Revenue Agent Lowder of the IRS talk about  
15 reconstructing the business income. He did this because  
16 Mr. Schiff didn't keep any books in the way other businesses do  
17 because he doesn't think that any law requires him to do that.

18 Revenue Agent Lowder talked about the bank deposits  
19 method. And basically what that means, as the judge has  
20 instructed you, is he took the bank account balance on  
21 December 31, 1996, before the charged years, and then added in  
22 deposits that come from taxable source; gave Mr. Schiff credit  
23 for everything that could be a business expense, although they  
24 probably weren't; and then added all those deposits together to  
25 come up with the business income.

1           And, if we could look at the chart that Agent Lowder  
2 put together, that's Exhibit 313. Let's see if we can put that  
3 on the screen. Well, you have to look at that when you go back  
4 to the jury room.

5           It explains the gross bank deposits and all the  
6 adjustments that Revenue Agent Lowder made. He took out the  
7 checks to cash, took out checks that were redeposited, took out  
8 nontaxable deposits and transfers between accounts to  
9 conservatively give Mr. Schiff the benefit of any doubt to  
10 determine what the business income was.

11           And you also heard that Mr. Schiff was making money.  
12 You heard many of his customers talk about buying things.  
13 Talked about -- you know, heard Bill Thomas talk about all the  
14 sales that he was making. And, indeed, if you look at the  
15 business income allowed -- business income that Agent Lowder  
16 calculated using this bank deposits method, it's corroborated by  
17 the sales data.

18           And, if you look at Exhibit 321, it shows that  
19 corroboration between the sales data you've gotten, the invoices  
20 you've seen, that are admitted into evidence right there, to  
21 this bank deposit analysis.

22           (Document displayed in open court.)

23           MR. IGNALL: And, if we could see it a little better,  
24 you'd show [sic] that the numbers come out pretty close. In any  
25 event, what we do know for sure is that Mr. Schiff's business

1 income was not zero; it was substantially more than zero. He  
2 knew it, yet he signed those returns under penalty of perjury  
3 because of his stubborn disagreement with his legal obligations.

4 Counts 24 through 25 charge Cindy Neun with aiding and  
5 assisting in the preparation of two of Mr. Schiff's false tax  
6 returns, tax returns for the years 2000 and 2001. Ms. Neun  
7 helped prepare these returns. Those are Exhibits 43 and 44.  
8 She signed them both. These returns that we just discussed are  
9 false. He's got business income well in excess of zero.

10 And Ms. Neun knows that these returns are false. She  
11 knows that Freedom Books is making money. She's making sales  
12 herself. She knows that zero is not the right number, yet she  
13 puts that down as -- in her assisting in the preparation of  
14 those tax returns because she, like Mr. Schiff, simply disagrees  
15 with the legal obligation to report your income to the IRS.

16 This is willful conduct. It's not good faith. It's  
17 not a mistake. It's not an accident. It's not inadvertence.

18 The last two counts [sic] of this Indictment are Counts  
19 26 through 29, which charge Cynthia Neun with failure to file  
20 tax returns, and Counts 32 to 33 which are the Social Security  
21 disability fraud counts.

22 These charges all depend on the same question -- the  
23 answer to the same question: Did Cynthia Neun work at Freedom  
24 Books? She was working at Freedom Books and she was getting  
25 paid in cash. She's getting paid in cash because she wants to

1 keep her employment secret from both the IRS and the Social  
2 Security Administration. She doesn't wanna pay any taxes and  
3 she wants to keep getting her Social Security benefits even  
4 though she knows, she knows full well from the time she filled  
5 out that Social Security disability application form that she's  
6 gotta report if she's working and, if she is working, those  
7 benefits are gonna stop.

8 You've seen lots of evidence to confirm that Cynthia  
9 Neun was working at Freedom Books. You saw Exhibit 257, which  
10 we'll put on -- hopefully put on the screen right now.

11 (Document displayed in open court.)

12 MR. IGNALL: Here's a note Cynthia Neun wrote to her  
13 landlady, Susan Gerech, in her own handwriting saying she's  
14 working at Freedom Books.

15 You heard Michelle Degrosellier, Cynthia Neun's  
16 daughter, testify that she hired her mom, hired her mom at \$600  
17 a week to begin with. Her mom was paid in cash in an envelope  
18 just like every other employee.

19 You don't have to believe Michelle's testimony all by  
20 itself because it's corroborated by other evidence. Toni  
21 Mitchell and other employees say everybody got paid in cash in  
22 an envelope. Toni Mitchell said she saw Ms. Neun getting  
23 paid -- get her envelope. She didn't look inside and see what  
24 was in it, but it's consistent with what every other employee  
25 was getting.

1           You also heard that Ms. Neun is at Freedom Books a lot.  
2 She goes to the IRS a lot. Just about every witness who  
3 testified saw Ms. Neun working at Freedom Books. Indeed, she  
4 called herself the office manager when she spoke to Bill Thomas  
5 back in Indiana.

6           You remember Mr. Thomas say that he had a phone call  
7 with Mr. Schiff. Mr. Schiff said that Cindy wants control of  
8 everything in Vegas, not in Indiana. This shows that she is  
9 indeed acting as the office manager. This is the same thing she  
10 said on the Staples credit card application, which is  
11 Exhibit 233 which -- where she calls herself the office manager.  
12 She doesn't call herself Irwin's girlfriend or office volunteer;  
13 she says "office manager."

14           And Cindy Neun admitted on -- to Special Agent McEwen  
15 on the taped conversations you heard that she worked at home and  
16 in the office. You know that she's appeared at the IRS more  
17 than a hundred times for a fee, yet she doesn't have a bank  
18 account or any other way for the IRS or Social Security to know  
19 whether she's working or how much she's making.

20           Oh, I'm sorry. Consist- -- I -- I skipped ahead. I'm  
21 sorry.

22           You also saw that Ms. Neun had signature authority on  
23 at least one of the Freedom Books's bank accounts, just like  
24 Michelle Degrosellier had when she was the office manager. But  
25 she doesn't have her own bank account. She doesn't have her own

1 bank account because she wants to hide what she's making and  
2 whether she's working. This is consistent with the objective of  
3 the conspiracy to defraud the United States. Payroll records  
4 don't exist, so there's no way to keep up with who's working  
5 there and how much they are getting paid.

6 That's why Revenue Agent Lowder had to use what he  
7 called the "expenditures method," which is explained by the  
8 judge in these jury instructions, to reinstruct her  
9 expenditures. She's got a likely source of income and now this  
10 shows a minute amount of money that she's making. This doesn't  
11 include soft expenditures that there are no records of, like  
12 food and entertainment.

13 We have no way to know exactly how much Cynthia Neun  
14 made. But through this expenditures method, we know that she at  
15 least made enough money from both working at Freedom Books and  
16 from fraudulently obtaining Social Security benefits in excess  
17 of the filing requirements that required her to file a tax  
18 return.

19 But Ms. Neun doesn't file tax returns; hasn't filed  
20 since 1987. She doesn't file them because she doesn't want the  
21 IRS and Social Security to know that she's working and how much  
22 she's making. She doesn't have a bank account. That's because,  
23 again, she wants to keep her activities a secret. She wants to  
24 keep this from Social Security because she knows full well that  
25 if she's working and getting paid she's gonna lose her benefits.

1           After she starts work at Freedom Books, she doesn't  
2     contact Social Security; they contact her. She gets a form from  
3     them. She fills that form out. Takes her about a year to fill  
4     it out. She sends it back. After she fills it out, she gets a  
5     phone call from Gail Loschen, the Social Security employee you  
6     heard testify in this case. Ms. Loschen asked Ms. Neun about  
7     some of the information on that form about Freedom Books and  
8     what she was doing there.

9           And Cindy Neun lied to Gail Loschen. She lied to keep  
10    those Social Security benefits coming. When she was talking to  
11    Ms. Loschen on the phone, her statement she doesn't get paid is  
12    a lie. Her statement she doesn't really work there is a lie.  
13    Her statement that she went to Freedom Books only a few hours a  
14    week is a lie. Her statement that she helps people on an  
15    infrequent basis is a lie.

16           She's lying on the phone because she knows that to do  
17    otherwise would be the end of her Social Security benefits. She  
18    doesn't lie to her landlord and she doesn't lie to Staples  
19    because there's no consequence to telling them the truth that  
20    she's working there and she's the office manager. But all this  
21    dishonest conduct proves all of the elements and proves her  
22    guilt on Counts 20 -- on Counts 32 and 33.

23           This case ultimately is about all three defendants  
24    being aware of their obligations and choosing to disregard them  
25    because they don't like them, because they disagree, and because

1 they wanna sell products to other people who don't want to pay  
2 taxes. This case is about the rule of law. It's about laws  
3 passed by Congress and upheld by the courts.

4 These defendants can't knowingly disregard the laws and  
5 hope to escape the consequences. Otherwise, taxpayers could  
6 evade their obligations simply by stubbornly refusing to admit  
7 their error despite receiving any number of authoritative  
8 statements of the law. These defendants got countless  
9 authoritative statements of the law showing that they are  
10 flat-out wrong. This is notice to all three defendants that  
11 negates good faith and shows their willful conduct.

12 Therefore, based on all the evidence that you've heard  
13 and that you've seen, there's no reasonable doubt about any of  
14 the elements in any of the offenses charged in the Indictment.  
15 Based on this evidence, you should find each defendant guilty on  
16 all the counts charged in the Indictment.

17 Thank you.

18 THE COURT: Has it been decided who will go first?

19 MR. CRISTALLI: Your Honor, I will go first.

20 THE COURT: Okay.

21 MR. CRISTALLI: I just need to plug in -- I'm using the  
22 Government's --

23 THE COURT: Okay.

24 MR. CRISTALLI: -- cord.

25 THE COURT: We'll take a five-minute recess. Just go

1 back into the jury room and take care of whatever you need to --

2 MR. CRISTALLI: Thank you, your Honor.

3 THE COURT: -- and be prepared to come right back out.

4 (Jury leaves the courtroom at 10:08 a.m.)

5 THE COURT: We're in recess.

6 (Recess from 10:09 a.m. to 10:09 a.m.)

7 THE CLERK: Just a second.

8 THE COURT: Okay. Will you bring the jury in, please?

9 THE CLERK: Yes, sir. Let's go.

10 (Jury enters the courtroom at 10:15 a.m.)

11 THE COURT: Please be seated.

12 Will counsel stipulate to the presence of the jury?

13 MR. BOWERS: Yes, Judge.

14 MR. IGNALL: Yes, your Honor.

15 MR. CRISTALLI: Yes, your Honor.

16 THE COURT: Thank you.

17 Mr. Cristalli, you may proceed.

18

19 DEFENDANT NEUN'S CLOSING STATEMENT

20 MR. CRISTALLI: Your Honor, may it please the Court.

21 Ms. Clerk, will you dim the lights for me?

22 THE CLERK: Sure.

23 MR. CRISTALLI: Thank you.

24 Ladies and gentlemen of the jury, the Government ended

25 off by saying they proved their case, they proved their case

1 beyond a reasonable doubt. Remember, that is their obligation  
2 in this particular matter. They must prove their case to you  
3 beyond a reasonable doubt. They must prove to you that Cindy  
4 Neun willfully violated the law.

5 Well, what does that mean? What does it mean to say  
6 that they have to prove beyond a reasonable doubt that she  
7 willfully violated the law? Well, let's look at one of the jury  
8 instructions that you're going to have, the most important jury  
9 instruction because it gonna define to you what willfulness is.

10 "Conduct is not willful" -- and you must always  
11 remember that its their obligation to establish the willfulness.  
12 It's their obligation to establish that she violated the law. I  
13 don't have to do anything. I could have for six weeks sat there  
14 and done absolutely nothing. It's not my responsibility. It's  
15 not my burden to prove to you that she believed in this  
16 philosophy. It's theirs.

17 "Conduct is not willful if it is based upon accident,  
18 mistake, inadvertence or due to a good faith misunderstanding as  
19 to the requirements of the law. Additionally, mere negligence,  
20 even gross negligence is not sufficient to constitute  
21 willfulness under the law. A defendant does not willfully  
22 violate the tax laws if he or she believes in good faith that he  
23 or she is acting within the law, or that his or her actions  
24 comply with the law, even if he or she is incorrect. A  
25 good faith belief is one which is honestly and genuinely held.

1 Therefore, if [a] defendant actually believed that what he or  
2 she was doing was in accord with the tax statutes, he or she  
3 cannot be said to have the criminal intent to willfully fail to  
4 file tax returns, assist or advise in the filing of false tax  
5 returns, or to evade or defeat a tax. A belief need not be  
6 objectively reasonable to be held in good faith. The burden of  
7 proof is not on the defendant to prove his or her good faith."

8 Ladies and gentlemen, that means if you sit up there  
9 and say, well, I think this is unreasonable -- you as a  
10 object- -- object- -- objectively reasonable person -- that  
11 doesn't count. Objectively reasonable is not the standard.  
12 It's her reasonable belief based on what she knew. It's a  
13 subjective reasonable belief. It's what she knew based on all  
14 of the evidence that you hear in this particular case, not  
15 whether or not you believe it's reasonable or not, not whether  
16 or not the objective person in the world believes it's  
17 reasonable or not, it's this person's subjective belief based on  
18 the facts and circumstances as you've heard in this particular  
19 case.

20 The Government wants to pound on the fact that it is  
21 a -- her belief stems in a disagreement with the law, not  
22 necessarily in a misunderstanding of the law. They have to have  
23 that in order to convict. If they just have a misunderstanding  
24 of the law, they lose.

25 So the second paragraph is "Neither a disagreement with

1 the requirements of the law, nor a belief that the tax laws are  
2 unconstitutional -- no matter how earnestly held -- constitutes  
3 a defense of good faith."

4 So basically it's not -- if -- if you challenge the  
5 constitutionality of the law, that's not a defense. Nowhere in  
6 this particular case, not one witness in the particular case,  
7 has argued or has established that Cindy Neun challenged the  
8 constitutional -- constitutionality of the law. All of the  
9 arguments as established by Freedom Books and as established by  
10 Cindy when she was going into her due process collection  
11 hearings is that -- show me the law that requires me to pay  
12 federal income tax. It's not that I disagree with the law that  
13 requires me to pay federal income tax.

14 In fact, I have done my own research ad nauseam [sic].  
15 I've looked at books after books after books and I can't find  
16 the law. So show it to me. It's not that I don't disbelieve  
17 the law; it's I wanna know where it is because I've looked at  
18 it. Over and over again I've looked at it. I've done my  
19 homework, along with a lot of other individuals that prescribe  
20 to Irwin -- Irwin's teachings.

21 So it's not a disagreement of the law. It is a  
22 fundamental misunderstanding of the law. It's not an -- we're  
23 not here to argue whether or not the law is legitimate, not  
24 legitimate. That's not the issue. The judge has told us what  
25 the law is. That's not the issue. It's -- the issue is whether

1 or not she in good faith misunderstand -- misunderstood the law  
2 and it's her subjective good-faith belief, not an objective one.

3 The bottom line, ladies and gentlemen of the jury, is  
4 when I talked to you during my opening statement I told you that  
5 Cindy believed Irwin's teachings. Cindy sincerely believes that  
6 the government has no legal authority to require an individual  
7 to pay personal income tax.

8 She didn't develop these ideals. It -- it was Irwin  
9 who developed the ideals. She didn't, uh, meet Irwin until late  
10 1998. He has -- he's been practicing this 30, 40 years before  
11 he ever met her. So, just like a lot of the other individuals  
12 that you heard from, she prescribed to the belief and it wasn't  
13 that she just -- she didn't prescribe willy-nilly; she did her  
14 homework. And, based on her beliefs, there was no requirement  
15 for her to pay income tax.

16 But I'm -- but let's look at the evidence because  
17 that's what you have to hold true to in this particular case.  
18 You have to stay true to the evidence. And, if the evidence  
19 tells you that she truly believed in the belief, then that's  
20 what you have to stay true to. So let's look at the evidence.

21 Toni Mitchell. First of all, Toni Mitchell worked at  
22 Freedom Books before Cindy ever got there. Toni Mitchell went  
23 to collections due processes herself. In fact, I think Toni  
24 Mitchell was one of the first individuals who was -- who  
25 actually filed an appeal at Tax Court if I'm not mistaken.

1 Well, the government said, well, Toni Mitchell was one  
2 of the individuals who establishes that, um -- that Cindy  
3 received compensation for her services at Freedom Books.  
4 There's no testimony of that. The testimony is that she saw,  
5 uh, Cindy get a envelope. She didn't know what was in the  
6 contents of the envelope. In fact, what else she said is that  
7 she did not know how Cindy was, if at all, compensated. That's  
8 the evidence. That's what she testified to, not Cindy got  
9 compensated. So she doesn't corroborate anything; she doesn't  
10 corroborate what Michelle Degrosellier says.

11 What else did she say? She said, yeah, well, I  
12 believed in -- I believed in it. I believed in what Irwin's  
13 teaching was. Toni Mitchell said this. I believed in it  
14 myself. I sincerely did my research, cross-referenced his  
15 material to material that I went out and looked at, my own case  
16 law, my own statutory interpretations, and I believe it. And  
17 you know what? To this day I believe it.

18 She also said -- another important piece of, uh,  
19 testimony from Toni Mitchell was that, uh, Cindy was ill. She  
20 had difficulties getting around the office. When she did come  
21 in, she would suffer from back pains. When the weather was, uh,  
22 uh, bad she would suffer from -- from back [sic]. There was no  
23 question that she was disabled. I haven't heard one piece of  
24 evidence which suggests that she wasn't disabled. She was.  
25 It's clear.

1           That's the evidence. That's what you have to hold true  
2 to, not speculate. There's no speculation here. You have to be  
3 convinced that they have proved this case beyond a reasonable  
4 doubt. You cannot speculate. You have to hold true to the  
5 evidence.

6           Ann Kennedy. Well, the important thing about Ann  
7 Kennedy -- first of all, Ann Kennedy and her husband, Jimmy,  
8 were subscribing to these belief well before Cindy got involved.  
9 They were subscribing to these beliefs back in Rhode Island and  
10 went to see Irwin in Connecticut. And the essential thing is  
11 Jimmy really -- Jimmy, I'm referring him to [sic] because that's  
12 how Ann referred to him -- her husband, believed in this.

13           And her testimony was I went along with him. You know,  
14 he was my husband; I believed in my husband. My husband is the  
15 one who wanted to -- who did this. My husband is the one who  
16 did the research. So I followed him.

17           Yes, she was -- she's upset. She lost her husband.  
18 She's got tax liens on her house. She's suffering financially.  
19 Of course she's gonna point the finger at him right now and  
20 say -- 'cause she wasn't the one who -- who truly first believed  
21 in it. It was Jimmy. And, as later testimony, uh, will show  
22 through another witness, it establishes that Jimmy was at  
23 Freedom Books quite often and he was the one who was doin' the  
24 research; he was the one who was fundamentally involved in  
25 this -- in the teaching, in the philosophy.

1 Melvin Lewis. Melvin Lewis, in my opinion, wasn't  
2 complete [sic] sincere to us. Because Melvin Lewis, I think,  
3 beyond -- beyond anybody else truly, uh, believed that he had no  
4 legal responsibility to pay -- to pay income tax. In fact, I  
5 think he went one step further. He didn't only follow Irwin's  
6 teachings; he followed other unconventional tax beliefs as well.

7 And one -- the thing that caught my eye with regard to  
8 Melvin is that he said testifying is the first step in -- in  
9 correcting things with the IRS. So that's where he's at right  
10 now. That's where his mind-set is at this particular time. So  
11 he's gonna get up there and backpedal to a certain extent on his  
12 unconventional beliefs.

13 But there is no question that he believed in this.  
14 There is no question -- I don't think during the course of my --  
15 of his testimony I heard him say that he disbelieved in it. The  
16 only thing I -- that I heard from him is that he -- this was the  
17 first step in correcting the problems. He heard [sic] the  
18 warnings in The Federal Mafia. That didn't deter him. He said  
19 he did a lot of re- -- re- -- research. And -- and the -- the  
20 thing that he said, which I think was -- was important, he said  
21 I was mistaken about the beliefs.

22 He didn't -- and that -- that was as a result of his  
23 confrontation recently with the Internal Revenue Service. He's  
24 a fireman; works for the city. He doesn't want to lose his job.  
25 He sued them. I mean, he went to extraordinary measures on his

1 own without the assistance of Cindy at all. He did it. They  
2 didn't assist him in suing his employer.

3 Bill Thomas. Well, the important -- I mean, one of the  
4 things that jumped out of my -- jumped out at me is Bill Thomas  
5 said, yeah, Irwin, you believed it with all your heart and soul.  
6 Another thing that he said that I thought was important is he  
7 said -- and he's the guy who was involved with Irwin for many  
8 years, many years before Cindy was, uh, involved. He was the  
9 guy who was interacting directly from his place, I think, in  
10 Indiana to Las Vegas. He knew who was getting paid, who wasn't  
11 gettin' paid. He said -- he had no knowledge as to Cindy's  
12 compensation, if at all. Another direct testimony which doesn't  
13 support their theory.

14 Doug McEwen, the special agent who went undercover.  
15 Well, what's the big thing what Doug McEwen says? Well, first  
16 of all, he has a telephone call with Cindy. She's helpful  
17 during the conversation with him. She's cooperative with him.  
18 She's tellin' -- she's encouraging him to do his -- his  
19 homework. He's not sayin' -- she's not sayin': Come and buy  
20 this stuff. Don't worry about it. Buy this stuff. No, you  
21 don't have to read it. You don't have to do anything. We'll  
22 fill it all out. Just bring me the money.

23 That's not the case. The case is always, throughout  
24 the entirety of this trial, is that she always told them to do  
25 their own research; to do their cross-references; to do whatever

1 they needed to do to validate the position themselves. It  
2 wasn't a money-making scam, at least from her it wasn't. Show  
3 me the documentation that demonstrates that she was doing this  
4 solely for the purposes of profiting? It doesn't exist. What  
5 exists through every witness is a theme which establishes that  
6 she believes, not that the laws are unconstitutional but there  
7 is no law that requires me to pay income tax which then  
8 demonstrates, just like Melvin Lewis, that she was mistaken  
9 about the law for which she cannot be guilty criminally for.

10 She tells -- if she's tryin' to hide somethin', if she  
11 knows the law, if she's trying to hide somethin' why is she  
12 telling Douglas McEwen to make a record of the proceedings? Why  
13 is she telling him to call your Congressman? Why is she telling  
14 him to answer the notices and understand the teaching if this  
15 was a rip-and-tear type situation? If she didn't believe in  
16 this, why? Because she truly did.

17 Again, she -- Doug McEwen then has a face-to-face  
18 meeting with her. She wasn't initially in the office. She had  
19 to come in, which further corroborates the fact that she wasn't  
20 always in the office. And the one thing that the testimony  
21 corroborates as well is the reason why she did what she did at  
22 Freedom Books is because it allowed her to be versatile; it  
23 allowed her to come and go to and from the office as she  
24 pleased, to continue to do her art, to take care of herself when  
25 she was sick and ailing.

1 Doug McEwen, through his own testimony, presented that  
2 she presented herself in an honest and forthright manner; that  
3 she was passionate about her beliefs. What does that tell us?  
4 This is their witness. This is their undercover agent.

5 Mi- -- Michelle Degrosellier. One of the most  
6 unfortunate situations that I've ever seen that the mother has  
7 to take a stand against [sic] -- a daughter has to take a stand  
8 against a mother in a criminal, uh, case. And then -- and then  
9 what Michelle does, that we know for a fact, is she -- she --  
10 she communicates with the Government.

11 She says: Listen, I'll testify. But I want you to do  
12 these things. I want you to fix my warrants. I want you to  
13 give me a \$7,000 refund for my Internal Revenue, uh, whatever  
14 refund. And, if you can't do these things, I won't testify.  
15 And, if you can't do these things, you know what? I'm not gonna  
16 testify clean and sober. Well, she also says that the  
17 Government should buy -- you know, I'm so important to you they  
18 should buy my testimony. This is what the Government -- you  
19 want -- the Government wants you to believe this woman?

20 Then she has another meeting she says in -- in  
21 September 5th, just I think two -- a little over two weeks  
22 before the trial started she says, well, yeah, that was the last  
23 time I did methamphetamine and marijuana. She's a junky. Her  
24 mother tried to do numerous interventions to try to correct her.  
25 The reason why she's so upset about this current situation is

1 not only the pressure that has been put on her by the federal  
2 government but also because she was accused of stealin' \$50,000  
3 and lost her job.

4 And I submit to you that I'm not gonna tell you whether  
5 or not she -- she stole it. We don't have evidence of that.  
6 What we do have evidence of, that I know for a fact, is that she  
7 was the one who was handling all the money. She was the one  
8 that would go to the bank, write out the checks, take it for  
9 cash, and then, according to her, she would disburse it amongst  
10 the employees. Well, what would prevent her from takin' the  
11 check, cashin' it, and puttin' it in her pocket? Is that  
12 unheard of? Is that impossible? What incentives, what  
13 motivation does she have in this particular case to protect  
14 herself?

15 You know, I mean, then she -- I mean, the most bizarre  
16 part of her testimony, I asked her about these checks that were  
17 written to Peter -- Perry Oshiro during a two-week period of  
18 time. It just stuck out at me. This Perry Oshiro, who was  
19 supposedly working at Freedom Books during a period of time was  
20 getting more money than anybody else at Freedom Books.

21 Well, what was he doing? He was workin' there. Well,  
22 he's your drug dealer; right? Well, no, not at that time. He  
23 was -- he was only distributing to me after. So he comes in, he  
24 works two weeks for Freedom Books. He's her drug dealer. I  
25 mean, how can you -- how can you take her testimony seriously?

1 And what does her testimony say, that Cynthia was making' \$600  
2 when she was workin' at Freedom Books?

3 But here's another important thing you have to remember  
4 with regard to Michelle Degrosellier. She was -- she stopped  
5 working in April of 2000 at Freedom Books. Okay? Very  
6 important. Why is it important? Because the Indictment,  
7 specifically the -- the disability theft and the dis- --  
8 disability fraud as it relates to Cindy, goes from 2000 to 2003  
9 after Michelle Degrosellier left Freedom Books.

10 So you can't use evidence from Michelle Degrosellier to  
11 infer that Cindy continued to get money after Michelle left.  
12 It's not about speculation. It's not about guessing. It's  
13 about evidence. It's about hard evidence. What do I know in  
14 this particular case? Did the Government prove their case  
15 beyond a reasonable doubt?

16 They want you to infer that she continued to get cash  
17 payments in her envelope after Michelle left. The only witness  
18 they have to even establish at the very slightest that Michelle  
19 was receiving -- I mean, that Cindy was receiving cash from  
20 Freedom Books was Michelle Degrosellier. Toni Mitchell said  
21 specifically, which they want you to believe was corroboration,  
22 that she didn't know if at all whether or not Cindy was being  
23 compensated. So you gotta believe Michelle; you gotta infer it  
24 into the future, which is not your job. Your job is to stick to  
25 the evidence: the hard evidence, the testimony.

1 Michelle was the one that controlled the money, not  
2 Cindy. Michelle was. That's what the evidence demonstrates.  
3 She was the one that was makin' the checks out; she was the one  
4 that was goin' to the bank and cashing them.

5 Matt Diamond. Well, the -- the Government wants to use  
6 Matt Diamond for notice to Cindy. I listened to that tape with  
7 Matt Diamond. Matt Diamond held himself with regard to his  
8 position pretty steadfast.

9 Now, another thing is they want you to believe that  
10 everybody that takes this witness stand is naive and ignorant  
11 and, you know, they just bought into this whole program by Irwin  
12 and Cindy was somehow able to convince them of it. Matt  
13 Diamond, not only is he a -- I mean, this guy is a former  
14 New York detective, you know. I mean, he's seen everything  
15 under the sun.

16 I asked him specifically, you know, you've seen all  
17 kinds of people, huh? You've seen con men. You've seen, you  
18 know, people who steel. You've seen people who -- who defrauded  
19 other people. Yeah. You've investigated 'em. You've seen all  
20 kinds of fraud, haven't you? Yeah. Many kinds of criminals,  
21 haven't you? Yeah.

22 Okay. So he's not gonna be somebody that you're gonna  
23 be able to pull the wool over his eyes. And he was very  
24 steadfast in his positions throughout the due process collection  
25 hearing. She didn't say anything. And they wanna say, well,

1 Tom Menaugh was the one who gave him notice during that  
2 particular collection due process hearing.

3 If I'm not mistaken, I heard ad nauseam Matt Diamond  
4 askin' for verifications from the Secretary; um, asking for  
5 document after documents after document for which, uh, the agent  
6 said we don't supply that. And you have to ultimately  
7 understand that this is a collection due process hearing which  
8 they've conceded is not a liability hearing. It's a hearing  
9 just to collect -- collect a tax.

10 Jackie Eller. Well, I think Jackie Eller is important  
11 because she also said she never believed. Once again, you know,  
12 the same theme throughout the course of all the testimony. Each  
13 individual never believed that what they were doing was illegal.  
14 And the Government wants to say that, well, once she was shown  
15 the law she conceded to the Government with regard to -- that's  
16 not the case. The testimony was that she believed in it.

17 How- -- however, she said, no matter how much she  
18 believed or whether it was legitimate or not she just couldn't  
19 do it anymore. She didn't have the stamina. This is not a  
20 prescription for the weakhearted. I mean, this is something  
21 that you know throughout the readings that we've heard in the --  
22 in the testimony that you're gonna be subjected to audits,  
23 you're gonna be subjected to all types of reviews by the  
24 Internal Revenue Service. These people know that they are in  
25 for a fight. There's no question about it. The books, the

1 reading material suggests that; supports that.

2 Carol Branigan also worked at Freedom Books. She said  
3 that -- and it's an important theme throughout. I mean, the  
4 Government can do whatever they want. But none of his  
5 individuals were prosecuted. Carol Branigan was doin' the same  
6 thing as Cindy; so was Toni Mitchell.

7 MR. IGNALL: Objection, your Honor. I think it's  
8 irrelevant whether anyone else was --

9 MR. CRISTALLI: And I said that.

10 MR. IGNALL: -- prosecuted.

11 THE COURT: Sustained.

12 MR. CRISTALLI: She said that she believed -- that what  
13 she was doing was legal. She still believes it. Everyone at  
14 Freedom Books believed that what they were doing was legal.  
15 Observed Cindy performing duties. She did not see her get  
16 compensated for her services. Another witness that -- stated  
17 specifically that she did not see Cindy get compensated. So the  
18 only person that we have in terms of a direct compensation for  
19 services from Freedom Books as it relates to Cindy is Michelle.

20 She was also interesting to hear that -- unless I was  
21 misunderstanding -- that Carol Branigan indicated that she never  
22 witnessed any complaints during her tenure at Freedom Books.  
23 She also did her reading, her research, she cross-referenced the  
24 material with other material, and she still is convinced that  
25 what she was doing was correct.

1 Dr. Abdulla did not believe that what they were doing  
2 was illegal. Never discussed anything with Cindy. But -- but,  
3 once again, another -- another witness in this particular case  
4 that demonstrates the belief system. Every witness that you're  
5 gonna hear from is going to corroborate, articulate the same  
6 theme, that they believed in it, they didn't think it was  
7 illegal. Neither did she.

8 I think we're having technical difficulties here.

9 Charles Earnest. Once again, same thing. Doesn't  
10 believe he was doing anything illegal. Didn't observe or hear  
11 Cindy do anything or suggest anything that would, uh, suggest to  
12 him that she was doing anything illegal. Believed that what he  
13 was doing was correct. Does not wanna do it anymore because  
14 does not want to be prosecuted. Read everything,  
15 cross-referenced everything. And doesn't -- didn't say he  
16 doesn't want to do anything anymore because I didn't believe it  
17 was true; said he doesn't wanna be prosecuted.

18 Jason Cardiff. Well, this guy was interesting because  
19 this guy was a little bit more than anybody else. This guy was  
20 doing things not even directly related to Irwin's teachings. He  
21 was defrauding the federal government on his own in an effort to  
22 collect more money. So, you know, take what he says -- you  
23 know, and here's a guy who's makin' lots of money, over a few  
24 hundred thousand dollars a year; he's testifying under a grant  
25 of immunity. He said on the stand -- he testified that he lied

1 at Grand Jury with regard to his W-2's; he lied to Agent Holland  
2 and Agent Steiner. I mean, he'll do anything that they want him  
3 to do at this particular point to save himself. There's no  
4 question about that.

5 Phillip Parrinelli. He's a fun guy, um, funny kinda  
6 guy. But, once again, the same kinda guy, uh, you know, that  
7 we've been dealing with. He, um -- he -- he -- he took the  
8 information that Irwin -- Irwin provided; he cross-referenced  
9 it. He did his own research. He doesn't believe anything that  
10 he did or is continuing to do is illegal. He -- he said that he  
11 never -- he doesn't believe she was doing anything illegal. She  
12 did nothing, uh, to demonstrate to him that she didn't believe  
13 in the system; that she was committing a crime of any sort.  
14 Another witness that used the same theme that they believed,  
15 that she believed.

16 And another interesting thing. They want -- they  
17 want -- they want -- they have to portray this as a profiteering  
18 organization. They have to portray her as somebody who wants to  
19 profit. That's what they have to do. Financial gain. He's a  
20 broker. He says -- Phillip Parrinelli says -- testified that  
21 she -- she wouldn't even take any money from him. She didn't  
22 make any money.

23 Brian Allin made -- this guy made six, seven hundred  
24 thousand dollars a year; golf pro. Once again, you know, he --  
25 he believed the information was true. Did not believe that he

1 was doing anything illegal. Cindy did nothing and said nothing  
2 that would suggest what she was doing was illegal. He believed  
3 that Irwin believed.

4 And this is gonna continue, this theme will continue,  
5 throughout all of these witnesses.

6 Gregory Cassidy, a builder, did not believe he was  
7 going anything illegal. Cindy did nothing and said nothing that  
8 would suggest that what she was doing was illegal. Cindy  
9 believed. They can't prove that case beyond a reasonable doubt.  
10 Every witness will -- will establish the same general theme.

11 Susan Gerecht. This woman was the woman that knows  
12 Cindy for a long time. Testified that she lived in this modest  
13 apartment with her two children as a single mother for 15 years.  
14 She drove around in a beat-up 1990 van, which she still drives  
15 around in. She at times struggled with her rent but would  
16 always come through. She testified that she was a struggling  
17 artist for -- for many years, that she was in financial ruin.

18 She testified that she knew for a fact that Irwin after  
19 his surgery was living with Cindy, which corroborates another  
20 point for us. She never saw -- oh, all of a sudden she met  
21 Irwin and, uh, you know, she started drivin' around in a new  
22 car, she started buyin' new stuff. She started -- she said I'm  
23 out of this -- this dump apartment. I -- I wanna get somethin'  
24 nice now. That's not the case.

25 Here, Thomas Menaugh, also, again with regard to the

1 collection due process hearing. And we know just -- you know,  
2 just for an overview, the collection due process hear --  
3 hearings were put into place because of some dissatisfaction  
4 with how liens and levies were being conducted by the Internal  
5 Revenue Service. So their job pretty much was exclusively,  
6 let's say, okay, you owe "X" amount of dollars. How do you want  
7 to pay it? How do you want to pay me my money? It's not  
8 whether or not you know you want -- you're gonna pay me, you're  
9 not gonna pay me. No. You're gonna pay us. We're just trying  
10 to figure out how you're gonna pay us.

11 And -- and the thing about this is, is they want to  
12 portray the Appeals officers in the Internal Revenue Service and  
13 the collection due process hearing officers as nice cooperative  
14 people; people that are trying to assist the taxpayer; that want  
15 to answer the questions that the taxpayer may have. And that's  
16 why they wanna put Thomas Menaugh up because we saw the  
17 collection due process hearing transcripts where he tried to  
18 explain a portion of the law.

19 Well, Matt Diamond had response -- Matt Diamond spoke  
20 throughout that particular hearing. Matt Diamond had responses,  
21 Matt Diamond had requests that weren't satisfied. It wasn't  
22 that Matt Diamond said: You know what? You're right. Cindy,  
23 you're wrong. I just found out that, Cindy, you are wrong and  
24 I'm outta here. No, that's not the case.

25 Matt Diamond said they didn't answer my questions. I

1 came in here with my Code, I pulled up my section, and where's  
2 the -- where's the verification from the Secretary? Where is  
3 this? Where is that? They didn't get it. Well, we're not here  
4 to do that, sir, which is fine. But they wanna put us on notice  
5 as far as the law is concerned.

6 Donna Fisher. You know, in -- in -- okay. So Thomas  
7 Menaugh came in. We had one transcript of a collection due  
8 process hearing where it appears there was some part of -- or an  
9 attempt to explain the law to, um, Mr. Diamond. So, now, Donna  
10 Fisher comes in and says: Oh, yeah. I had lots -- I had lots  
11 of hearings with Cynthia Neun with regard to this. And I put  
12 her on notice all the time. Oh, you did? Oh, okay. Do you  
13 have any of those collection due process transcripts with you  
14 where it supports the fact that you put her on notice? Well,  
15 why -- why don't we have those? Well, if you'd put her on  
16 notice, we should be able to see it. Right?

17 MR. IGNALL: Objection, your Honor. That's, I think,  
18 speculating on evidence that's not been admitted. I mean...

19 MR. CRISTALLI: William Waller. Once again, another  
20 individual who states: Did not believe he was doing anything  
21 illegal. Did not -- Cindy did nothing and said nothing that  
22 would suggest what she was doing was illegal. Followed no one's  
23 advice. Followed his own advice. Cross-referenced. Did his  
24 own research. Still believes in the, uh -- in -- in his  
25 philosophy today.

1 Kay Irey, the undercover, uh, agent. What do we know  
2 about, uh, her or her testimony? How does that in some way  
3 support the theory that Cindy believed?

4 Well, I looked at the -- she talked about the seminar.  
5 There was discussions about the law, there was discussions about  
6 the history of the income tax, regulations and statutes, liens  
7 and levies. Yeah, yeah, she didn't evaluate the legality of it,  
8 but she sat through it. It wasn't a two-day, as it was  
9 explained by the Government, sales pitch. It wasn't. Two --  
10 two days there was significant suggestion about the Internal  
11 Revenue Code. There was significant discussion about the  
12 contents of The Federal Mafia. It was a two-day seminar. And I  
13 don't think we've heard any -- any evidence here to -- to  
14 suggest that the two-day seminars gave us something other than a  
15 discussion about the legality of the income tax laws.

16 The tape. There was no indication that anybody asked  
17 for money on the tape. Talked about -- ad nauseam about I- --  
18 IRS due process hearings. Talked about lawsuits that were going  
19 to be filed regarding the due process violations.

20 Tony Aguiar. Well, okay. This is -- this is an  
21 interesting, uh, guy. He -- he's an agent who was supposed to  
22 be representing the IRS during these collection due process  
23 hearings; supposed to be a reasonable guy trying to explain the  
24 law to taxpayers as they came in. Said, yeah, I met with Cindy  
25 a number of times as she was a representative for the taxpayer

1 and I advised her of the law and I give her handouts. Okay?  
2 You did? Here's five collection due process hearing transcripts  
3 that I have. Show me in there once where you tried to explain  
4 to her the law. Doesn't exist. He acknowledged it. He goes,  
5 oh, yeah, every one of 'em. I just pulled out at random five.

6 MR. IGNALL: Objection, your Honor.

7 MR. CRISTALLI: It's true.

8 MR. IGNALL: That's not in evidence, and that's  
9 inappropriate.

10 MR. CRISTALLI: It is in evidence.

11 MR. IGNALL: No. Mr. Cristalli is now testifying, and  
12 that's wholly inappropriate.

13 MR. CRISTALLI: Okay.

14 THE COURT: Ms. Clerk, is the matter in evidence?

15 THE CLERK: Which number is it, please?

16 MR. IGNALL: The word "random" is what's not in  
17 evidence, your Honor.

18 THE COURT: All right. Sustained.

19 MR. CRISTALLI: Okay. I showed Tony Aguiar five  
20 collection due process hearing transcripts wherein Cindy was a  
21 collection due process -- I mean, a representative. Five of 'em  
22 from 2000 -- in 2001; I think maybe one in 2002. He  
23 acknowledged not one of those had any language in there that  
24 explained the law to her or that demonstrated that she was  
25 giving -- given any type of notice or handout on the law.

1 That's in evidence.

2 Kathy Mead, the special agent with regard to Social  
3 Security -- Social Security Disability. The interesting thing  
4 about Kathy Mead is the only evidence she developed is from them  
5 subsequent to the beginning of their investigation. The only  
6 single piece of evidence that she used to develop her case  
7 against Cindy, guess what it was? Michelle Degrosellier.  
8 That's it. Well, what evidence did you get? Well, how did you  
9 gather it? Well, I gathered it from the agents. Okay, gathered  
10 it from the agents. Well, what evidence did you have? Well,  
11 some evidence with regard to her receiving compensation while  
12 she was at Freedom Books. Well, who -- who was that from?  
13 Michelle Degrosellier. That's it. That's it. Nothing else.

14 And let's not forget about the hypothetical that I  
15 proposed to her. That she's a -- she's a -- she's an agent  
16 working for Social Security. Remember, ladies and gentlemen,  
17 one -- a person who is receiving disability has no obligation to  
18 report that on their income tax returns. The only time --  
19 and -- and, for that matter, say you're -- say you're getting  
20 disability and you're also earning income, the only thing you  
21 report on your tax returns is the income, not the disability.  
22 You don't even have to report that. She said that.

23 And, in order to have to be required to report the  
24 income, it has to meet the threshold level of the law. So it  
25 has to be a -- I'm -- excluding disability, I'm making "X"

1 amount of dollars. Does my "X" amount of dollars rise to the  
2 level which requires me to file a return? That's the  
3 discussion; that's the analysis.

4 Okay. Gail Loschen. Um, this is -- this is so  
5 important because Gail Loschen is the Social -- Social Security  
6 technical officer who interviewed the claimants. Okay? So she  
7 would periodically review the claimants', um, case.

8 Specifically there was a Report of Continuing  
9 Disability Interview which was done by Cindy. Okay. So a  
10 person has a responsibility to fill out a Report of Continuing  
11 Disability, um, on an interview form. Okay? And on that -- and  
12 this one was -- this one was on November 5th, 2001. And I can't  
13 read it too good on my screen, so I'm going read it. And this  
14 is what -- this is what Cindy said to them on her own initiative  
15 she disclosed it to them. Okay?

16 "I am up and waking around most days now. I have about  
17 3 weeks out of every month when I am able to work part time in  
18 the office/bookstore. For exercise, I use a small trampoline -  
19 I am still very limited on what my back and hip will tolerate as  
20 far as exercising is concerned, but I push myself to do as much  
21 as possible. I am able to take care of my own dressing and  
22 grooming activities, except for that (about) one week [out of  
23 every] month when I can hardly walk at all."

24 "I put blisters on my feet looking for work. But, I  
25 shouldn't have been working. My back was not well enough. I

1 was forced into ... survival activities: employment seeking,  
2 doing an occasional art job, borrowing money from friends, going  
3 hungry, - unbelievable - There's not enough space to describe  
4 what [I've] been doing and what I have to tolerate to establish  
5 myself in my new life."

6 "I am working now again. I am working off and on for  
7 my boyfriend, Irwin Schiff. He has a book store, Freedom Books,  
8 at 44 [sic] East Sahara, here in Las Vegas. I am his 'sidekick'  
9 on his radio show every Thursday for 2 hours. Sometimes I  
10 represent taxpayers in audits & hearings at the I.R.S. The pay  
11 is lousy. But, I have not been able to find another  
12 location" -- "situation where absences are tolerated. There is  
13 something wrong with my back, and as I have been betrayed by the  
14 whole community of 'care-givers' on my case - I really don't  
15 know where to turn."

16 How much more honest can you be? They got -- I heard  
17 the Government say that she lied like 10 times in this --  
18 between this hearing -- this hearing and the discussion. That's  
19 a lie? She tells 'em that she's working again at Freedom Books,  
20 that she's a side -- she's -- she's a sidekick of Irwin's, that  
21 the pay is lousy. What is the lie there? She's completely  
22 forthright on her own initiative without any inquiries by the  
23 agency. This is done on her own initiative.

24 And then there's the -- then there's the phone call.  
25 Well, this is -- this is where [sic] they have to rely on.

1 Well, yeah, she didn't -- she was forthright there, but now  
2 she's lying. Well, that's not the case because they did an  
3 inquiry to determine whether or not she would still have --  
4 because of her work situation whether or not she would still be  
5 able to receive disability. Her position is: Listen, the pay  
6 is lousy. I don't really get paid. I'm not being compensated  
7 directly for my services at Freedom Books. That's what she's  
8 saying. There was no inconsistency.

9 She volunteers her time but is not an employee. So  
10 what is a lie about that? She draws no income and doesn't have  
11 assigned duties. Same is true for her advocacy for IRS audits  
12 and hearings. Sh doesn't get paid. She simply helps as [sic] a  
13 volunteer basis. She has -- her roll as a sidekick is done as a  
14 favor to him and not as employment. She wants to stay busy in  
15 that vein. I believe that's why she stated that her various  
16 pastimes were work.

17 Once again, the hypothetical, if I am disabled and  
18 receiving benefits, it's not illegal -- it's not illegal to  
19 receive assistance from third parties. So that's another thing  
20 that we're gonna -- we're gonna get to. It doesn't matter --  
21 say -- if I'm getting disability and if somebody wants -- my --  
22 my girlfriend or my father or my mother wants to give me money  
23 or give me cars or give me extravagant things, they can do that  
24 and I'm not required to report that to Disability and I'm not  
25 required to report that to, um, the government. If somebody's

1 paying for my expenses, I don't have to require -- I don't have  
2 to -- I don't have to tell anybody that. It's not -- that does  
3 not go into the computation of gross income. It is a gift.

4 Now, one of the things that we had which further  
5 corroborates Cindy's belief system -- and -- and I can say  
6 forget about all the witnesses that you heard that said that  
7 they believed in the -- in the system, that Cindy did nothing or  
8 said nothing to suggest that she did not believe in the system.  
9 What about the, um -- the stipulation of Cindy's letter to the  
10 United States Supreme Court?

11 That was -- first of all, it was interesting that...  
12 (pause) that it was a -- the letter was not from Freedom Books,  
13 by the way. The letterhead was on Cindy's own letterhead, her  
14 own address which was at her house. And it was a letter to the  
15 United States Supreme Court urging them to grant cert.  
16 Basically, granting cert means giving them -- having them hear  
17 the case. The United State Supreme Court has no requirement to  
18 hear any cases unless they grant cert to hear it. So that's  
19 what she was requesting. And the case was Brown v. United  
20 States.

21 And she talks about her belief systems right in the  
22 stipulation. She said, "You see, there [is] thousands of  
23 American workers who have been following this case in the courts  
24 for the past two years." And she discusses her involvement.

25 They want to use this case to demonstrate that she was

1 working at Freedom Books full time, but that's not the case.  
2 She was working on this case full time, not at Freedom Books  
3 full time.

4 She says that "We have been discussing the merits of  
5 this case, (and, other cases raising the same issues of fact" --  
6 "of law in the various Court Circuits across the country), and,  
7 as we have thoroughly researched, analyzed and scrutinized the  
8 legal Motions for recent] Rulings, we have come to recognize the  
9 Brown Case as OUR case."

10 Specifically she says, "Whether or not you are  
11 concerned about the topic of this case ... you cannot deny that  
12 the Courts are ruling every which way on the issue of these wage  
13 tax refund lawsuits, while the I.R.S. has disbursed thousand of  
14 refund checks to people across the country who have made the  
15 same 'return' that Browns" -- "Browns" -- "the Browns [have]  
16 filed."

17 Ladies and gentlemen, this is not a woman who was  
18 challenging the constitutionality of the law. This is a woman  
19 who is asking the courts to define the law or finding out what  
20 the definition of the law is. It is at the very most a mistake  
21 of the law, not a challenge of the law.

22 "The Brown case wouldn't have found its way to you if  
23 the Government could find a law that justified the fact that it  
24 was keeping the refund of Credits due Robert and Elena Brown.  
25 (Yes, they are recorded as a 'Credit' on the Government's own

1 documents!) The Government hasn't produced a law that requires  
2 the Browns to pay income tax either."

3 This is language from Cindy. This is language that  
4 demonstrates what her belief system is. It is not a challenge  
5 to the law, as the Government must make you believe; it is a  
6 request that the government produce the law. That's what it is,  
7 ladies and gentlemen.

8 "If the Supreme Court Justices hear the case of Brown,  
9 and uphold the law the way that it is written, they will render  
10 a decision that will facilitate the rebirth of America."

11 Once again, not a fundamental disagreement with the law  
12 as the Government must make you believe but a request to show  
13 the law where it requires you to pay federal income tax. Very  
14 different.

15 "[Furthermore,] Many parents will be able to go back  
16 home to raise their own children. They may" -- "They may  
17 home-school their children or, they become active in the Public  
18 School System.

19 "Our young people will have job opportunities where  
20 they are able to learn a trade, craft or profession, rather than  
21 looking to the Government for gifts or loans to" -- "to" -- "to  
22 learn these things. Our college graduates [wouldn't] be  
23 starting their first jobs indebted to the Government for tens of  
24 thousands of dollars."

25 And she goes on and talks about their belief system.

1 That's what Cindy believes. That's what creates reasonable  
2 doubt in this case. That's why the Government has failed to  
3 establish their case. And that's why you're gonna have to  
4 acquit.

5 Jerry Brookins. Well, the interesting thing about  
6 Jerry is, once again, he corroborates the fact that Irwin was  
7 staying with Cindy at her house. Uh, Irwin -- during the course  
8 of the time that Irwin was staying at Cindy's house, Irwin  
9 allowed Jerry to stay there [sic] because he was homeless, had  
10 no money, he was broke. He's another individual who not only  
11 believes in Irwin's teachings, believes in his own teachings,  
12 the way he developed his own thought processes.

13 Now, Mr. Lowder. Um, this is a very important witness.  
14 He is the individual who establishes the Government's  
15 calculations. Um, in this particular case as it relates  
16 specifically to Cindy, once again, in terms of identifying a  
17 compensation directly to Cindy in exchange for work at Freedom  
18 Books, the only witness that they have is Michelle Degrosellier  
19 who says that Cindy got paid \$600 a week.

20 Once again, the interesting thing in this particular  
21 scenario is that you have to speculate because the Indictment  
22 does not cover the periods of time for which Ms. Desgrosellier  
23 was employed there. It was April of 2000 where [sic] she left.  
24 The Social Security disability fraud and the theft as it relates  
25 to the disability are post-2000. So you have to infer that --

1 if you believe Michelle, which I submit to you is very  
2 questionable -- you have to infer that the conduct was  
3 continuing after Michelle had left and somebody else was giving  
4 Cindy the money. But you can't infer because that's not your  
5 job; you can't speculate because that's not your job. It's  
6 their job to prove the case beyond a reasonable doubt on hard,  
7 solid evidence. You must stay true to the evidence. If you do,  
8 you must acquit. There's no question about it.

9 So, in terms of the cash distributions, I submit to you  
10 you can't even use it. Okay? Because you can't cal- -- did you  
11 hear any calculations about how much cash she got? No. There  
12 was none. There was zero calculations in terms of cash  
13 deliberations.

14 So the only thing that we have left are the bills.  
15 Okay? And then there was some testimony with regard to  
16 miscellaneous expenses where Mr. Lowder said, well, there was --  
17 I couldn't identify any miscellaneous expenses. But I think  
18 they were here, so you can infer it. No, you can't. It's not  
19 about guessing. It's not a guessing game. This girl -- this  
20 woman's life is at -- is -- is on the line here. We don't  
21 guess. We don't speculate. Show me the evidence. Show me  
22 where it says that she's gettin' paid cash after 2000? Who --  
23 who testified to it? Nobody.

24 She didn't -- there's no testimony of her drivin'  
25 around in expensive cars or throwin' money around or buyin' a

1 new house or any apartment or givin' money to people. So what  
2 are we left with? We're left with this expenditure that --  
3 that -- that she paid for her -- her rent, she paid for her  
4 telephone bills, she pays for Southwest Gas, she paid for Cox,  
5 she paid for Nevada Power.

6 And, once again -- and then they -- they want you to  
7 make this enormous hurdle to then just assume that this is gross  
8 income when I established clearly through the -- the employees  
9 of the Social Security Disability that that's not the case. If  
10 you are gifted or somebody pays your expenses on a gratuitous  
11 basis, that does not qualify as income.

12 What evidence have we seen to dispute that? Nothing.  
13 Irwin testified himself that he paid for all of this, paid all  
14 of her expenses. He pays for her expenses. And, even if you  
15 assume that she was compensated to a certain extent for some  
16 activities at Freedom Books, which we don't dispute that there  
17 was some compensation from Freedom Books, you only have -- and  
18 here's the thing right now. You have -- in '99, you have 11,000  
19 and change in terms of expenditures for which the threshold  
20 amount is 7,000 and change. Okay?

21 So you would have to assume that that entire \$11,000 is  
22 all income, without taking into consideration the evidence which  
23 establishes that she was -- she was given gratuitously or --  
24 or -- or -- or her expenses were paid gratuitously by Irwin. At  
25 least a portion of it you have to give it to her. And that's

1 the same for 2000, 2001, and 2002. They have not established  
2 specifically what relates to gross income versus what was  
3 gratuitously given to her. They have not proven their case.

4 Once again, Glen Murphy. Another individual who  
5 prescribed to Irwin's teachings, who believes in the -- not only  
6 Irwin's teachings but his own research and cross-referencing of  
7 material that he did and found. And he said he -- he has found  
8 nothing to suggest that Irwin's teachings are nonsense.

9 In fact, the interesting thing with regard to this  
10 particular individual is that he -- they tried to get  
11 information from the Internal Revenue Service. He went to this  
12 little office. They told him to go to a bigger office. He went  
13 to the big office. They told him -- they gave him a 1-800  
14 number. He called a tax -- he talked to a tax attorney, tried  
15 to get -- have some discussion with him. He says you're a  
16 protestor and hung up on him. So that's not notice. That's  
17 notice of nothing other than the fact that this individual  
18 believed, and so did she.

19 Ken Nicholson, same thing. Heard Irwin talking to  
20 Senator John Ensign on the radio wherein he could not cite the  
21 law. Not notice. Notice of the law? How could that be notice  
22 of the law? It's notice that the Congressman couldn't cite the  
23 law.

24 He heard Irwin ask lawyers and accountants to engage in  
25 dialogue. Irwin's interpretation of the law consistent with the

1 courts' interpretation, as far as he's concerned anyway. He  
2 said he was responsible for his own actions. Teachings led him  
3 to a conclusion and I made my own decision. Could not find any  
4 law or statute requiring payment. Made decision on own with  
5 research and analysis. So did she. So, if she's mistaken,  
6 she's mistaken. But that's not criminal liability.

7 Calvin Border. Once again, as the Government has  
8 suggested, 41K Cal. He got a refund from the government of  
9 \$41,000. Is that notice of the law? No. Teachings led him to  
10 a conclusion and I made my own decision. Responsible for his  
11 own actions. Has not found a law requiring him to pay income  
12 tax. Was successful in filing exempt. Has found nothing to  
13 suggest that Irwin's teachings are nonsense; nothing to suggest  
14 that either Irwin or anyone at Freedom Books did not believe in  
15 Irwin's teachings.

16 How about Irwin with regard to his testimony as related  
17 to Cindy? He knew that she was disabled. He conceded that he  
18 was the one who was the founder of his movement. He in some way  
19 has been doing this for 30-excess years.

20 Cindy was 26 years his minor. They met at a political  
21 function. She was politically involved. She saw this guy at  
22 the particular height of his career. He at that particular time  
23 was -- he was running for President. He was on "20/20." He was  
24 on "Larry King Live." He was a larger-than-life figure. And,  
25 remember, that was when she had met him pre- -- you know, before

1 she went to Freedom Books. So was pre-1998. So he was, as --  
2 as Irwin had stated, at the pinnacle of his career. He was  
3 admired. He would go to major political functions in the  
4 community and be accepted with open arms.

5 A woman 26 years his minor was enamored by him.  
6 Enamored by the way he spoke. Enamored by the people he dealt  
7 with. Enamored how strong he was and -- and what he did in the  
8 community and who he associated with. Of course she's gonna be  
9 susceptible to the teachings of Irwin. Just like everybody else  
10 that was. Of course he influenced her. And she became a  
11 student of his, like other individuals became a student of his.  
12 She did her own research.

13 She didn't just say, oh, Irwin's my boyfriend. I rely  
14 on him. So no, she didn't. She did her own research and she  
15 believed the teachings, she believed the philosophies. But the  
16 philosophies were not a challenge to the law. The philosophies  
17 were that there was no law that required one to pay income tax.  
18 There's a difference. One's about a mistake; one's about a  
19 challenge of law. A mistake you cannot be criminal [sic]  
20 liable.

21 Once again, Irwin said that Cynthia was never  
22 compensated directly for her activities at Freedom Books. They  
23 were living together; he was paying her expense. Conceded that,  
24 you know, she continued it even when they were together, you  
25 know. I mean, her lifestyle pre- -- predating Irwin was modest

1 and difficult and was about surviving and taking care of her  
2 children.

3 But, after she met Irwin, it didn't -- didn't get  
4 really easy. I mean, he paid for her -- her expenses and helped  
5 her out. She still drove around in her 1990 vehicle. She  
6 didn't have anything extravagant. She still had to struggle in  
7 life. They say that she received \$300 for going to due process  
8 hearing -- uh, collection hearings. There's no evidence, not  
9 one piece of evidence, that suggests that she was directly  
10 compensated for anything she did at the collection due process  
11 hearing. All the evidence demonstrates that the money went to  
12 Freedom Books.

13 Ladies and gentlemen, Cindy believed. They haven't  
14 proved their case beyond a reasonable doubt.

15 Some of the other individuals that I pointed out that  
16 came up to talk about, um, Irwin's, um, veracity for truth and  
17 honesty are important to me to the extent that these  
18 individuals, specifically Robert Schulz -- an educated man,  
19 investment banker from Prudential, worked at General Electric  
20 for years and years, about the same age as Irwin. Identified  
21 Irwin as the elder states -- statesman, passionate, intelligent  
22 extraordinary credentials, well published, truthful, and honest.

23 If this individual of an educated nature, of the same  
24 age and experience as Irwin can validate him or accept what he  
25 is saying is honest and true, why wouldn't a woman 26 years his,

1 uh, minor be in even a more susceptible position to believe him?  
2 Of course.

3 Same thing with John Turner, a former IRS Revenue  
4 officer. Also talked about Irwin bein' well published, honest,  
5 truthful, straightforward, passionate, brilliant. If this  
6 individual identifies Irwin as that, why wouldn't this woman 26  
7 years his minor?

8 Same thing as James Davies. Ladies and gentlemen,  
9 everything in this case establishes that Cindy believed Irwin,  
10 truly believed Irwin, not because she wanted money; because she  
11 believed in it and she held steadfast to her beliefs.

12 Once again, Robert Allin, another individual.  
13 Although -- the interesting thing with regard to Robert Allin is  
14 that there was an appeal filed to the Ninth Circuit, uh, by  
15 Irwin himself and he was never charged for that particular  
16 service. They want to portray this as a profiteering  
17 organization. But there's evidence to suggest otherwise. And  
18 you be -- you must recognize that.

19 Robert Wesley, parole officer in California. Regarded  
20 Irwin as highly -- regarded him highly for truth and honesty.  
21 Once again, another individual who holds a good position in  
22 life. Well, compare that to Cindy. Why couldn't she do the  
23 same thing? Why couldn't she feel the same way? She does.

24 Noel Spaid, an attorney. Once again, holds Irwin out  
25 there as a truthful, honest, person with impeccable character.

1 Well, why couldn't she do the same thing? She can. She did.  
2 She believed.

3 Ladies and gentlemen, all of these witnesses -- Kathy  
4 Mead, Susan Gerecht, Irwin, Gail Loschen, Clint Lowder -- all  
5 establish and corroborate -- and this is the Government's own  
6 witnesses -- that Cindy made no money. Cindy did not profit  
7 from this organization. This was not about profiteering for  
8 Cynthia Neun. This was about a belief for Cynthia Neun. A  
9 belief that she held true to, a belief that she was mistaken  
10 about, but not a challenge to the constitutionality of the law.

11 Finally, all of these witnesses, ladies and gentlemen,  
12 all of these witnesses, most of which were presented by the  
13 Government, established in some way that Cindy has a belief in  
14 the philosophies of Irwin; establishes her belief; contradicts  
15 the willfulness element of -- of the law which would require --  
16 which would make her criminally liable. All of these witnesses  
17 undermine the Government's case and establish reasonable doubt.

18 Ladies and gentlemen, the evidence in this case  
19 establishes that Cindy believed Irwin. The evidence in this  
20 case clearly demonstrates that Cindy did not willfully violate  
21 the law.

22 Ladies and gentlemen, the Government has not proven  
23 their case. You must hold them to the burden and you must come  
24 back with a verdict of not guilty.

25 Thank you --

1 THE COURT: We'll take another five-minute break.

2 Ms. Clerk, will you -- no discussion, please, until the  
3 closing arguments have been completed.

4 (Discussion between the Court and the clerk.)

5 (Jury leaves the courtroom at 11:19 a.m.)

6 (Recess from 11:20 a.m. to 11:28 a.m.)

7 THE CLERK: All rise.

8 THE COURT: Ms. Clerk, will you bring in the jury  
9 please?

10 THE CLERK: Yes, sir.

11 THE COURT: Please be seated.

12 MR. IGNALL: Your Honor --

13 THE COURT: Yes.

14 MR. IGNALL: -- again, this might be an over abundance  
15 of paranoia, but I see Mr. Schiff has placed some documents  
16 there that I believe are not in evidence on the table, which --  
17 we don't object to them being on the table. But I don't know if  
18 they are appropriate in the closing argument.

19 THE COURT: I've already instructed Mr. Schiff that  
20 anything that was not --

21 MR. SCHIFF: Well, can't I mention --

22 THE COURT: -- admitted is not --

23 MR. SCHIFF: -- my books in --

24 THE COURT: -- appropriate in closing argument.

25 MR. SCHIFF: Pardon?

1 THE COURT: Anything that was not admitted is not  
2 appropriate in closing argument.

3 (Pause in the proceedings.)

4 (Jury enters the courtroom at 11:34 a.m.)

5 THE COURT: Please be seated.

6 Will counsel stipulate to the presence of the jury?

7 MR. IGNALL: Yes, your Honor.

8 MR. CRISTALLI: -- yes, your Honor.

9 THE COURT: Thank you.

10 You may proceed, Mr. Bowers.

11 THE CLERK: Uh, Mr. Schiff is --

12 THE COURT: Mr. Schiff is going first.

13 THE CLERK: Um-hum.

14 THE COURT: All right.

15

16 DEFENDANT SCHIFF'S CLOSING STATEMENT

17 MR. SCHIFF: Ladies and gentlemen of the jury, I want  
18 to thank you for giving up so much of your time, but this is a  
19 very important trial. It not only affects us', it affects you  
20 and the rest of working Americans who have been for 50 years  
21 duped by the federal government into paying a tax that no law  
22 requires them to pay.

23 In my opening statements, I promised you that the  
24 evidence would show that no law made you and me liable for  
25 income taxes or required us to pay the tax. I also said the

1 evidence would know show that no IRS agent had any authority to  
2 do anything in connection with income taxes. And the evidence  
3 would show that the federal income tax represents the greatest  
4 program of organized extortion ever conceived by man. And the  
5 evidence (ha, ha) proved just that.

6 You will recall when I finished my direct testimony my  
7 advisory counsel, Mr. Rosenthal [sic], asked me:

8 Mr. Schiff, do you believe there's a law making you  
9 liable for income taxes? And I said no.

10 He then asked me on what do you base your belief? And  
11 I said because I could find no law in the Internal Revenue Code  
12 that makes me liable for income taxes.

13 Though I have found numerous such laws in the Code in  
14 connection with tobacco taxes, firearms, wagering taxes, and no  
15 less than six government witnesses and five of my own all  
16 testified to the same thing, they couldn't find such laws  
17 either.

18 He then asked me: Do you believe that there's a law  
19 requiring you to pay income taxes? And I said no.

20 And he said, on what do you base your belief? And I  
21 said because when I examined the Code -- which I sell, of  
22 course -- when I examined the Code I can find provisions that  
23 require the payment of alcohol taxes, tobacco taxes, wagering  
24 taxes, a variety of taxes. As a matter of fact, you can  
25 actually go to the index. There's a provision that says

1 "Payment of Tax." Here it is, "Payment of Tax." You see  
2 employment taxes, gasoline taxes, manufacture excise taxes,  
3 occupational taxes, stamp tax, tobacco. Can't find income  
4 taxes. Well, of course, I only have one eye. So maybe I'm  
5 overlooking it.

6 The fact I was never able to find a law that required  
7 me to keep books and records -- he said to me, do you keep books  
8 and records? I said, no, I don't. I said, because I can't find  
9 a law that requires you to keep books and records.

10 He said, on what do you base your belief? I said  
11 because when I go to the Code you can actually -- there's an  
12 entry here. Here you see books and records. Here you see  
13 tobacco products, cigarettes, diesel fuel taxes, distilled  
14 spirits, alcohol taxes, gasoline taxes. I can't find one that  
15 says you gotta keep books and records.

16 And, as a matter of fact, the way I tab my Codes, if  
17 you go to alcohol tax, the individual taxes, you'll see entries:  
18 books and records, liability, payment. When you go to the  
19 income tax, you run your finger down, there's no entry for  
20 keeping books and records, for payment of income tax, for  
21 liability.

22 You know, the Government can keep saying that I  
23 disagree with the law. I don't disagree with the law; I sell  
24 the law. Did you notice all of my witnesses (ha, ha) brought  
25 the law with them? And one of the [sic] days the Government may

1 start obeying it also. You may force 'em to do it. You have  
2 the power to force 'em to do it.

3 So after -- also, Mr. Blumenthal [sic] said to me, do  
4 you believe that any IRS agent has any authority to do anything  
5 because the first count of the Indictment charges Cindy and  
6 Larry and myself with interfering with the IRS collection of  
7 taxes. I said, I can't even find any provision in this Code  
8 that even mentions the IRS. I said, and if the Government will  
9 show me where the IRS is even mentioned, I'll plead guilty to  
10 all counts.

11 You would think (ha, ha) after I got through they would  
12 come over to me while I was sittin' there with the law right in  
13 front of me --

14 MR. IGNALL: Objection.

15 MR. SCHIFF: You would think --

16 MR. IGNALL: This is --

17 MR. SCHIFF: -- that they would --

18 MR. IGNALL: -- inappropriate, your Honor.

19 MR. SCHIFF: -- open up the law and say --

20 THE COURT: Sustained.

21 MR. SCHIFF: Somethin' happen?

22 THE COURT: An --

23 MR. SCHIFF: Was there --

24 THE COURT: -- objection --

25 MR. SCHIFF: -- an objection?

1 THE COURT: -- was made and it was sustained.

2 MR. SCHIFF: I didn't hear what he said.

3 Instead of confronting me and refuting what I just  
4 said, he starts to raise court decisions that I apparently lost,  
5 as if losing a court decision means I automatically should know  
6 better.

7 I pointed out that a number of other people have lost  
8 court decisions: Socrates, Nelson Mandela lost a court  
9 decision, Gandhi, Billie Mitchell lost a court decision because  
10 he advocated the supremacy of air power. Because he lost that  
11 decision, was he suddenly supposed to think he was wrong? Not  
12 that I am putting myself in their class, but the -- but the --  
13 but the analogy is the same. Just because you lose a court  
14 decision, does that mean you think you're wrong, especially  
15 when -- when the court decision involved the government that  
16 you're trying to expose for their illegal collection of income  
17 taxes?

18 And how do you and I both know that they are illegal?  
19 Doesn't take much. We -- we -- we have a -- we have a letter  
20 from John Ensign.

21 Now, remember when John Ensign wrote this letter, he  
22 was on the House Ways and Means Committee. That's the committee  
23 that writes tax legislation. So this is not based upon what  
24 John Ensign believes. I'm sure when he got the request from one  
25 of his constituents, you know, he didn't just write the letter.

1 I'm sure he went to the Chief Counsel. He asked, hey, listen.  
2 What law requires me to pay income taxes?

3 Usually when people wrote [sic] letters to  
4 Congressmen -- and a lot of my students did -- you know, they --  
5 they got letters just sent them, they'll say, well, look into  
6 this stuff, committee -- Congressional Research Report, and they  
7 refused to comment.

8 It is to the credit of John Ensign that he took a  
9 position. Look what John Ensign said. He says, "Let me start  
10 [off] saying I [can't] point to a specific place in law [which]  
11 says you must pay income taxes."

12 Well, if John Ensign can't find such a law, how can I  
13 find it? How can my students find it? Not that we weren't  
14 looking.

15 But listen to -- now, the government states, I didn't  
16 underline the whole letter. What more do you have to know?  
17 They didn't say that -- I didn't underline the whole letter.

18 But look at Ensign's next line, which I didn't bother  
19 to underline either. Ensign says, "However, as is pointed out  
20 below, the courts very determined they feel the laws on the  
21 books require you to pay income taxes."

22 Well, apparently federal judges are able to find things  
23 in the law that nobody else can find. That's what it sounds to  
24 me. I mean, if John Ensign can't find the law, how could  
25 federal judges find laws that he can't find?

1 I can't find it. Never been able to find it in 30  
2 years and neither do my students and neither do about ten  
3 witnesses, five of them Government witnesses, saying they  
4 couldn't find such a law either.

5 Now, the Government keeps saying notice to me, notice  
6 to me. The notice to you and I and to everybody else is --  
7 whoops -- here is the notice. The notice is in the 1040  
8 booklet. I think I have it there. Whoops. Oh, it's over  
9 there.

10 This is notice to you. How do you know you have to pay  
11 income taxes because some radio announcer said it's April 15th?  
12 You have to pay income taxes because your father told you you  
13 have to pay income taxes? No. There's a law. It's called the  
14 Privacy Act.

15 The government's supposed to tell you. You don't have  
16 to guess at it. You don't have to listen to some radio  
17 announcer. See what this says, Disclosure and Private --  
18 Notice. This is the official notice in a 1040 booklet.

19 And I have put on seminars with as many as seven -- 600  
20 people. I've never found anybody who read this. I'm sure none  
21 of you have read it either because, you know, the type is small  
22 and you think it has to do with government paperwork. Why read  
23 it?

24 Well, look what the government tells you right here.  
25 "Our legal right to ask for the information is Internal Revenue

1 Code sections 6001, 6011, and 6012...." And they say you must  
2 "file a return [and a] statement with us for any tax you are  
3 liable for." That's what the government's telling you.

4 Now, I realize that you're not sitting home with an  
5 Internal Revenue Code. Even if you had one, where -- where  
6 would you look? Where would you begin to look?

7 I think Jerry Brookins testified that before he had my  
8 Code he saw a Code; he didn't know where to look. It was  
9 nothin'. It meant nothin' to him.

10 So what are you supposed to do? The government tells  
11 you: Here, look at these three Code sections. Supposedly they  
12 tell you that you have to file a return for any tax you are  
13 liable for. They don't tell you the specific Code section that  
14 makes you liable, as they do in other Privacy Act Notices, like  
15 the wagering tax return. They want you go look for it. Well,  
16 if you don't have a Code, you can look for it. You can go to  
17 the Internet. You can pull down these three sections. You can  
18 go to the law library and look at these three sections.

19 Now, the government tells you that Section 1 imposes a  
20 tax and Section 61 defines income. How would you know that?  
21 What? Do you gotta go search this entire Code to figure out  
22 whether you owe a tax? No. The -- the government saves you a  
23 little time. Just a little time. You still got a lot of work  
24 to do. You gotta go to 6001, 6011, and 6012.

25 Now, to help my students, I put these sections where

1 they can see 'em. Here you go. When you go back in the jury  
2 room, you'll see my book. You can turn to Section 47 -- page  
3 47. Here they are, Section 6001, 6011, and 6012.

4 No other section that the government may state has  
5 anything to do with the payment of income tax. Because if it  
6 did, the government was duty bound to tell you about it.  
7 Otherwise, how would you know? These are the only three  
8 sections that the government tells you to look at.

9 Well, let's look at Section 6001. What does it say?

10 It says, "Every person liable for any tax imposed by  
11 this title." So you only have to file a return for any tax  
12 imposed by this title.

13 Dan Burton, another congressman, says he can't find --  
14 says, "You are correct ... the word 'liable' ... 'liability for  
15 income tax[]' is not included in any section of the Internal  
16 Revenue Code." He meant with respect to income tax.

17 So, you know what? "Every person liable." Well, that  
18 knocks out Section 6001. That can't apply to income tax.  
19 Because if you looked at the liability section, it's not there.

20 Now, let's go to the next section the government tells  
21 you about, Section 6011. "When required by regulations  
22 prescribed by the Secretary any person made liable." Uh-oh,  
23 there we get it again, "made liable." Is there any section of  
24 the Internal Revenue Code that makes you liable?

25 Now, the report that the Government wants you to look

1 at, the Congressional Research Report, says, well, the making of  
2 liable is really not important. It's -- it's an issue that we  
3 made up. No. It's an issue the government brought our  
4 attention to. The reason they say it's unimportant is because  
5 they can't find it.

6 What does the Research Report say is important?

7 Section 1 which imposes the tax, Section 61 which allegedly  
8 defines a tax, Section 6151. They cite five sections. They  
9 said being made liable is something that we made up. We didn't  
10 make it up. The government made it a condition. If you're not  
11 liable, you don't owe the tax. You don't have to pay it. And,  
12 if you were liable, the government should have put it in the  
13 Privacy Act and not have you look for it.

14 Just to show you how devious the government is -- this  
15 is your government. This is why my book is called The Federal  
16 Mafia, How The Government Illegally Imposes and Unlawfully  
17 Collects Income Taxes. And this is why in the back of my book I  
18 say, "Organized crime in the United States begins with the  
19 federal government."

20 The government doesn't collect income tax; they extort  
21 it. Let me prove it to you. I can prove to you very simple.  
22 You see this? This is the 1040 booklet. This booklet deals  
23 with income tax.

24 Look what -- look what they say here. Look what they  
25 say here. "You must file a return with us for any tax you are

1 liable for." Why any? We're talking about income tax, not any  
2 tax. Why does the government use the word "any"? Because they  
3 can't identify for you a law that makes you liable. So they are  
4 assuming if you're like one person out of a hundred thousand who  
5 happens to read it you'll assume since everybody pays income tax  
6 I must be liable. So you assume you're liable. They didn't  
7 tell you that. You're not gonna go into the Code and try to  
8 find it.

9           So, just to show you how sneaky your government is,  
10 they talk about any tax. Well, does that mean tobacco taxes,  
11 alcohol taxes, liquor tax, harbor maintenance tax, oil taxes --  
12 why don't they say income tax? Because they can't identify for  
13 you a law --

14           MR. IGNALL: Objection --

15           MR. SCHIFF: -- that makes you --

16           MR. IGNALL: -- your Honor.

17           MR. SCHIFF: -- that makes you liable.

18           MR. IGNALL: I believe Mr. Schiff is now trying to give  
19 a legal seminar instead of focusing on what the testimony he may  
20 have given --

21           MR. SCHIFF: I --

22           MR. IGNALL: -- us about what his good-faith belief or  
23 not is.

24           MR. SCHIFF: Well, I --

25           THE COURT: Sustained. The --

1 MR. IGNALL: I think it's inappropriate.

2 THE COURT: -- Court has already instructed the jury  
3 on --

4 MR. SCHIFF: All right.

5 THE COURT: -- what the law is.

6 MR. SCHIFF: Sustained. But --

7 THE COURT: You are not to argue the law; you are to  
8 argue --

9 MR. SCHIFF: Not to argue the law.

10 THE COURT: -- your belief.

11 MR. SCHIFF: Okay.

12 Okay. So -- so, uh, the Government mentions -- instead  
13 of coming back to me when I was rested and showing me where I  
14 was wrong concerning my understanding of the law --

15 MR. IGNALL: Objection, your Honor. That's  
16 mischaracterizing the point of the trial.

17 MR. SCHIFF: I'm -- I'm. The Govern- --

18 THE COURT: Sustained.

19 MR. SCHIFF: The Government mentioned four, five cases  
20 that I lost. Now, remember I'm supposed to write out questions  
21 for Mr. Leventhal. Uh, I asked the judge if I could testify in  
22 narrative and explain each of these cases, but he wouldn't let  
23 me do it. So I had to write out questions that he could ask me  
24 when he was totally unfamiliar with these cases.

25 Now, one of the cases he asked me about was that case

1 where the Second Circuit sustained my conviction when I was  
2 convicted -- let me see if I can get this -- I was convicted in  
3 1985 presumably for tax evasion. I'm lookin' -- I wanna get the  
4 judge a jury instruction.

5 Um, now, Judge Dawson's Jury Instruction No. 18, 18, in  
6 which Judge Dawson pointed out that in order to -- that "A jury  
7 in a federal criminal case cannot [be convicted] unless [the  
8 jury] finds that the government has proved each element." It's  
9 gotta prove each element of the -- of the crime.

10 Now, I was being charged in 1985 -- and when you go in  
11 the jury room you can look at page 227 -- I was charged with  
12 evading taxes by failing to file, failing to pay, and concealing  
13 my income. Those are all the elements. So, in order to be  
14 convicted, the jury would have had to find --

15 MR. IGNALL: Objection, your Honor. I think Mr. Schiff  
16 is trying to relitigate a case that was introduced purely for  
17 notice about his --

18 MR. SCHIFF: You -- the Government --

19 MR. IGNALL: -- tax position being rejected.

20 MR. SCHIFF: Now, your Honor, the Government -- the  
21 Government introduced a case and I was convicted without the  
22 element of -- of --

23 THE COURT: Mr. Schiff --

24 MR. SCHIFF: -- of concealing --

25 THE COURT: -- the objection --

1 MR. SCHIFF: -- being proven.

2 THE COURT: -- is sustained.

3 MR. SCHIFF: Well --

4 THE COURT: The objection is sustained. You will  
5 not --

6 MR. SCHIFF: I won't get --

7 THE COURT: -- attempt to --

8 MR. SCHIFF: -- into the case --

9 THE COURT: -- relitigate that case --

10 MR. SCHIFF: -- of my illegal conviction. All right.

11 THE COURT: You will not relitigate that case in this  
12 court.

13 MR. SCHIFF: Well, the Government brought up the case.

14 THE COURT: They brought it up for notice to you, sir.

15 MR. SCHIFF: But it's not notice to me when I was  
16 illegally convicted.

17 THE COURT: That's your opinion.

18 MR. SCHIFF: No, it's not only my opinion --

19 THE COURT: That is your opinion --

20 MR. SCHIFF: Okay. For those of you, when you take  
21 my -- my book back into the --

22 THE COURT: Mr. Schiff, I have sustained --

23 MR. SCHIFF: Well, my case was written up in the  
24 Journal of Taxation --

25 THE COURT: I sustained --

1 MR. SCHIFF: -- and even --

2 THE COURT: -- the objection.

3 MR. SCHIFF: -- they said I wasn't convicted.

4 THE COURT: Your view of what it's about is irrelevant.

5 MR. SCHIFF: Go to page 228 and see what the Journal of  
6 Taxation had to say about my conviction. Even they said I  
7 wasn't convicted.

8 THE COURT: Mr. Schiff --

9 MR. SCHIFF: All right.

10 THE COURT: -- sanctions --

11 MR. SCHIFF: Sanctions.

12 THE COURT: -- for disregarding the ruling --

13 MR. SCHIFF: That's another 20 --

14 THE COURT: -- of the Court.

15 MR. SCHIFF: How many days is that?

16 THE COURT: Sanctions again.

17 MR. SCHIFF: Sanctions again. I got 20 years, I guess.

18 THE COURT: Mr. Schiff.

19 MR. SCHIFF: The Government is bringing up cases and  
20 you won't let me show why these cases are invalid. Okay.

21 THE COURT: Mr. Schiff, you will not argue with the  
22 Court. You will give the closing argument --

23 MR. SCHIFF: All right.

24 THE COURT: -- and you will respect the rulings of the  
25 Court.

1 MR. SCHIFF: Okay. Okay.

2 You know, trials -- tax trials pose enormous difficulty  
3 for the federal judiciary. Suppose a federal judge found that  
4 he believed what I was saying was correct? Do you think he  
5 would rule tomorrow that there is no law requiring anyone to pay  
6 income taxes? He has to live with his colleagues; he has to  
7 look at possible reversals --

8 MR. IGNALL: Objection --

9 MR. SCHIFF: -- on appeal.

10 MR. IGNALL: -- your Honor. It's inappropriately  
11 impugning the integrity of the court system. It's not tied into  
12 his beliefs or any evidence that's --

13 THE COURT: It is.

14 MR. IGNALL: -- been admitted.

15 MR. SCHIFF: Do you recall --

16 THE COURT: Sustained.

17 MR. SCHIFF: Do you recall --

18 THE COURT: Sustained.

19 Mr. Schiff --

20 MR. SCHIFF: All right. I won't --

21 THE COURT: -- do not --

22 MR. SCHIFF: -- get into it.

23 THE COURT: -- continue on --

24 MR. SCHIFF: I'm try --

25 THE COURT: -- with that vein. The objection has been

1 sustained.

2 MR. SCHIFF: All right. All right.

3 Do you recall -- a Government witness was talking about  
4 going to Tax Court? And one of the issues you can raise in Tax  
5 Court was whether or not there was the existence of an  
6 underlying tax liability.

7 And I asked the Government's witness, Do you believe  
8 any federal judge -- Tax Court judge, rather, would ever hold  
9 that there was no law making you liable? And what did the  
10 Government witness say? No, no. That was a Government witness.

11 And when Noel Spaid, my attorney, who was supposed to  
12 just testify as to my character -- but, when the Government said  
13 to her, Isn't it a fact, Ms. Spaid, that you cannot advocate  
14 Schiff's beliefs -- implying my beliefs were wrong -- and he  
15 said, You can't advocate Schiff's beliefs because you can't.  
16 And her reply was, No, because no court would hold them valid or  
17 words to that effect.

18 And the U.S. Attorney stopped further cross-examination  
19 of her, uh, in this area. So you had two Government  
20 witnesses -- I mean, you had two witnesses -- one my own, a tax  
21 lawyer, and one the Government's witness -- who testified that  
22 in their belief no federal judge could rule concerning the  
23 validity of my beliefs.

24 Now, when -- when the Government said that I have to  
25 believe just because I lost trials that I must be wrong -- let

1 me see. I want to -- I wanna refer you to page -- oh, I wrote  
2 this down. (Pause.) Page... (Pause.)

3 Oh, son of a gun. Excuse me. I had the page written  
4 down.

5 (Pause in the proceedings.)

6 THE COURT: Move on, Mr. Schiff.

7 MR. SCHIFF: There's a page in here and I'll get to it.  
8 I wrote it down.

9 Anyway, there's a page in here. I was doing discovery  
10 in connection with civil litigation --

11 THE COURT: Mr. Schiff --

12 MR. SCHIFF: -- against the government --

13 THE COURT: -- you will not testify --

14 MR. SCHIFF: I'm not test- --

15 THE COURT: -- in closing argument.

16 MR. SCHIFF: -- here it is, on page 96. On page 96.

17 I asked -- I was in jail at the time -- and I asked --

18 THE COURT: You will not testify.

19 MR. SCHIFF: I'm not -- I'm -- the evidence is -- and I  
20 asked the Government, what law made me liable? And the attorney  
21 for the Government, Mr. Holly said:

22 "For 1974 and [ ]75 you were convicted of willful  
23 failure to file tax returns, sentenced to prison and later found  
24 liable for the civil fraud penalty. You are presently involved  
25 in refund litigation for 1976, 1997, and 1978 in United States

1 District Court. Your 1979 year is the subject of this  
2 litigation, and you are presently incarcerated for willful[]  
3 estimating to evade income tax in violation of Internal Revenue  
4 Code ... 7201 for 1980, []81, []82. I submit that your history  
5 of unsuccessful litigation proves ... there is such a thing as  
6 [an] income tax liability.

7           Instead of telling me what law makes me liable, the  
8 government, through government attorneys, say, well, gee, you're  
9 in jail. There must be a law that makes you liable. No, the  
10 fact that I was in jail and they can't find the law means that I  
11 was in jail illegally. That's what it means. So you can check  
12 out [sic]. It's on page 96. Okay. So, so much for me having  
13 to believe, uh, the government.

14           In addition, the Government has repeatedly indicated  
15 that I had money overseas or I had hidden money in order to hide  
16 it from the government. No. I had money there not because I  
17 was trying to hide, but because I knew IRS agents had no  
18 authority to seize it. And you'll notice every time I tried to  
19 prove that, every time there was a Government witness and I  
20 said, Well, do you take property legally or illegally? And they  
21 said legally. And then I would go, Well, have you ever seen a  
22 law? Whoops, I got stopped. Government wouldn't let me --

23           MR. IGNALL: Objection, your Honor.

24           MR. SCHIFF: -- Government would not --

25           MR. IGNALL: It's inappropriate. Again, it's the

1 province of the Court to instruct the jury --

2 MR. SCHIFF: Right.

3 MR. IGNALL: -- on what the law is and what the  
4 authority of the IRS is.

5 THE COURT: Sustained.

6 MR. SCHIFF: Okay. If you go to Figure 7-20, if you go  
7 to page 134, you will see where Simon & Schuster received a  
8 Notice of Levy from the government. But they told the  
9 government they were not gonna honor it. They were gonna wait  
10 for a court order.

11 And look what the IRS wrote to them:

12 "My understanding is that [the] funds are being held by  
13 Simon & Schuster in this regard and will be held until the  
14 question of payment of these funds is decided by the courts,"  
15 indicating that Simon & Schuster realized they did not have to  
16 honor a Notice of Levy.

17 Then Simon & Schuster writes two letters to me telling  
18 me that they are gonna take the money and put it in a bank and  
19 hold it at interest until the issue of whether or not the  
20 government -- who -- who the money belongs to until that issue  
21 is decided by the courts.

22 At that time, I was working on my other book on Social  
23 Security. And I figure, well, as long as Simon & Schuster is  
24 gonna hold the money, I'll get around to suing them and then  
25 we'll litigate this in court. However, Simon & Schuster was not

1 giving me any money from the sale of my book How Anybody Could  
2 Stop Paying Income Taxes, which sold 200,000 copies and was a  
3 best seller. So they weren't giving me any money, so I could  
4 not afford to promote the book. So I terminated my agreement  
5 with Simon & Schuster, relying on their promise to me of holding  
6 the money until it was decided by the courts.

7           The minute I terminated my agreement, which I had a  
8 right to do, and they were no longer making any money, they  
9 turned around -- and you can see on page 138 -- they sent the  
10 first check to Simon & Schuster [sic] for 98,000 without a court  
11 order; therefore, violating their promise to me, which was  
12 basically a contract. They then proceeded to turn over some  
13 hundred and fifty thousand without a court order.

14           So I sued the IR- -- I sued Simon & Schuster for breach  
15 of contract, clear breach of contract. They didn't have to turn  
16 over the money. A District Court Judge in Connecticut, Judge  
17 Eginton rules, summary judgment, no hearing before a jury. Do  
18 you think a jury would have allowed me to lose that case? No, I  
19 didn't get to a jury.

20           A judge, Warren Eginton, said, "As the defendant,  
21 Simon ..., has already paid a levy" -- no. They paid a Notice  
22 of Levy, not a levy -- "it has no further obligation to ...  
23 plaintiff."

24           (Ha, ha.) No further -- the fact that they breached  
25 the contract, plain and simple. Therefore, they're awarding a

1 summary judgment to Simon & Schuster. Oh, the government  
2 intervened.

3 So I appealed. The government -- to the Second  
4 Circuit. Judge Newman's affirming is shown on page 148 you can  
5 see it, the entire decision. And look what Judge Newman writes:

6 "The Internal Revenue Code requires that 'any person in  
7 possession of (or obligated with respect to) property or rights  
8 to property subject to levy" -- but they got a Notice of Levy,  
9 not a levy -- "upon which a levy has been made" -- but no levy  
10 was made here -- "shall, upon demand of the Secretary or his  
11 delegate, surrender such property or rights [to property and to]  
12 (... discharge such obligation) .... Compliance with the  
13 obligation to honor the levy extinguishes liability to the  
14 claimant of the property."

15 He ruled that way even though the evidence showed that  
16 the Government already acknowledged they had no obligation to  
17 turn over the money. That gives you a rough idea of the kind of  
18 justice you get in federal courts, especially in civil lawsuits.  
19 I've never been able to get in front of a jury on any matter  
20 involving the federal government civilly, even though I must  
21 have initiated about seven or eight.

22 So am I supposed to pay attention to losing in federal  
23 court? I mean, Appellate Court can say I had to turn over the  
24 money even though the evidence was right there that they didn't  
25 have to turn over the money, they told me they were gonna hold

1 my money in a bank account until a court order, and then they  
2 turn over the money in violation of that agreement and I can't  
3 do anything about it. What was I supposed to do, appeal to the  
4 Supreme Court?

5 Oh, talking about the Supreme Court, the Government  
6 likes to -- you to believe that I really think very little of my  
7 students, though they all testified how highly they regard me,  
8 and they check everything out which I want them to do. That's  
9 why I sell the Internal Revenue Code. Don't take my word for  
10 anything. That's why they go down to the library, read the Code  
11 book, read all these court decisions referenced in my book.

12 I don't hide the fact that I went to jail. I had  
13 property seized; I went to jail. The last one-third of my book  
14 was written while I was still in jail. So everybody knows, who  
15 reads my book, I went to jail. That's no secret. And I tell  
16 them there are dangers when you follow these procedures. There  
17 are dangers because I point out "there is an element of risk in  
18 standing up for one's lawful rights in the face of an oppressive  
19 taxing authority backed by a biased judiciary."

20 There are risks. But freedom entails risks. At least  
21 I'm not -- at least I don't have to go to, uh, a -- I'm not on  
22 the squad doing reconnaissance behind enemy lines. I think of  
23 American pilots during the Second World War flying over Germany,  
24 looking out the window, and seeing bombers [sic] dropping. I'm  
25 not taking that kind of a risk. But, if you're not gonna risk

1 something to preserve your freedom, then you don't deserve to  
2 have it.

3 Remember when Thomas Jefferson -- they finished the  
4 Constitution -- he says, Let us bind up government in the chains  
5 of the Constitution. Let us bind up government in the chains of  
6 the Constitution.

7 Well, who is gonna bind 'em up? Them? The  
8 government's gonna bind themselves up? No. They burst their  
9 chains. And it's up to you and I to put him back within the  
10 restrictions imposed by the Constitution. The government does  
11 not have an unlimited power to tax. The government is bound by  
12 certain restrictions in the Constitution.

13 The government -- do I have my Constitution? Do I have  
14 it? -- the government -- I thought I did. I might have taken  
15 it. The Constitution imposes limits and restrictions on the  
16 government's power to tax.

17 Excuse me for a moment.

18 MR. IGNALL: Again, your Honor --

19 MR. SCHIFF: That's why --

20 MR. IGNALL: -- we're gonna object insofar as this  
21 isn't summarizing evidence.

22 MR. SCHIFF: I'm summarizing the evidence.

23 MR. IGNALL: It's again making a legal conclusion  
24 that's contrary to the way the Court's instructed the jury.

25 THE COURT: Sustained.

1 MR. SCHIFF: I'm summarizing the evidence. I  
2 testified. And the CR- -- the Government put in the CRG Report  
3 [sic], the, uh, report that the Government put in --

4 THE COURT: I sustained the objection. Don't argue  
5 with me. Move on.

6 MR. SCHIFF: Okay.

7 Next the Government (ha, ha) -- the Government raised  
8 the fact that I didn't pay state sales tax, like I just didn't  
9 want to pay the tax. But there's a Constitution of the State of  
10 Nevada. And, if we don't force government to comply with the  
11 Constitution, then there's no limit. Then your freedom is gone.  
12 They'll grow like a cancer. Pretty soon -- right now you're  
13 giving 50 percent of what you earn to government. They won't be  
14 satisfied until they get it all.

15 But the Constitution of the State of Nevada says that  
16 persons shall be allowed to freely publish. That's what it  
17 says, "freely publish." And I pointed out that that means they  
18 can't put a sales tax and that means they can't force me to keep  
19 records on when I sell a book because publishing is very  
20 important. The public has to be made aware of what's going on.

21 It's not that I sell screwdrivers or vacuum cleaners.  
22 I make books and records especially directly towards government.  
23 And I have a right to freely publish. That's why I didn't pay  
24 the tax, not because, as the Government believes, I should like  
25 a robot do everything the government tells me. Yes, sir. No,

1 sir. Is that the kind of country you want to live under where  
2 you do everything the government tells you? They say jump; you  
3 say how high?

4 Unfortunately, this is no longer the land of the free  
5 and the home of the brave. It's the land of the indentured and  
6 the home of the meek. Well, let's change that. And you can do  
7 that by voting not guilty for all the defendants on all grounds  
8 because we're not guilty of anything but trying to bring the law  
9 to you.

10 Now, let us go for a moment to the jury instructions  
11 the government [sic] gave you. You'll notice Jury Instruction 2  
12 says you have to have proof beyond a reasonable doubt.  
13 Reasonable doubt. You can't just think we don't believe what we  
14 say; you gotta be convinced.

15 "[You're] firmly convinced that the Defendant is  
16 guilty."

17 It says, "A reasonable doubt is based on reason and  
18 common sense" -- common sense -- "and is not based ... on  
19 speculation."

20 "If after ... careful ... impartial consideration of  
21 all the evidence, you are not convinced beyond a reasonable  
22 doubt that the Defendant is guilty, it is your duty to find the  
23 Defendant not guilty."

24 Did the Government put on one witness, one witness,  
25 that said the information in my books are false? Did the --

1 when I -- when I put --

2 MR. IGNALL: Objection, your Honor. Again, I think  
3 this is imposing a burden on the Government that didn't exist.  
4 It's up to the Court to instruct the jury on what the law is.

5 MR. SCHIFF: But this is what his jury instruction  
6 says.

7 THE COURT: Sustained.

8 MR. SCHIFF: It says based on the evidence. It didn't  
9 say just on jury instructions.

10 THE COURT: Sustained.

11 MR. SCHIFF: When I subpoenaed -- when I questioned --

12 THE COURT: I sustained the objection.

13 MR. SCHIFF: All right.

14 When I questioned Mr. Holland --

15 THE COURT: Mr. Schiff --

16 MR. SCHIFF: All right.

17 THE COURT: -- are you moving on --

18 MR. SCHIFF: No.

19 THE COURT: -- or are you continuing to argue --

20 MR. SCHIFF: I'm not --

21 THE COURT: -- the same thing?

22 MR. SCHIFF: -- I'm not arguing that.

23 I said when I put on [sic] Mr. Holland on the witness  
24 stand and I gave him my zero return and I said show me where on  
25 the zero return there's any false statement -- I don't know how

1 they were able to manage it -- but he didn't point out any false  
2 statement on my zero return.

3 As a matter of fact, the Government has to prove three  
4 things before you can find me guilty. One, the law imposed a  
5 duty; I was aware of that duty -- does anybody here really think  
6 I'm aware of any duty to file and pay income taxes? -- and I  
7 violated that duty knowingly and willfully. That means -- that  
8 means I knew I had a duty to pay income taxes; I simply didn't  
9 even though I had a radio show for years in which I offered to  
10 pay \$5,000 to anybody who would call my show and cite any law  
11 that said you gotta pay income taxes. And Mr. Holland testified  
12 he heard that show for three years and never called in. Why?

13 Oh, he says there's some regulation that says he  
14 couldn't do it. I'm sure the government would have forgot about  
15 that regulation.

16 The U.S. Attorney could have called in. They knew I  
17 was calling. Nobody called in.

18 Remember, the jury instruction says that you have to  
19 weigh the evidence in the light of reason and common sense. Is  
20 it common sense to think I'm on the radio every Thursday  
21 offering 5,000 and no government official calls in, not only to  
22 claim the reward but to stop me from misleading the public?  
23 They had an obligation to do that.

24 You heard, uh, Matt, uh, uh -- you heard a couple of  
25 Government witnesses and one of my own saying he actually heard

1 me call the U.S. Attorney's Office. I tried to get them on --  
2 to come on the radio and to tell the public the law that made  
3 'em liable or required 'em to pay.

4 Mr. Holland testified that he heard me call the IRS  
5 itself asking them to call my show. There it was; there was my  
6 show. Why didn't they call?

7 Does it make sense, does -- doesn't it offend your  
8 common sense to say, well, gee, if there was a law requiring  
9 people to pay income taxes, why don't you call Irwin Schiff's  
10 show? It's on every week for a couple hours. We didn't screen  
11 our calls; took 'em as they came.

12 Is it also reasonable when -- I asked Mr. Holland when  
13 he was on the stand, isn't it a fact that the government always  
14 refers to -- to compliance with respect to income tax as  
15 voluntary? Don't they always refer to it as voluntary? He says  
16 yes. I said, do they ever refer to it as being compulsory? He  
17 said no.

18 Well, is it reasonable for you to believe that if there  
19 was a law requiring you to do something the government would say  
20 compliance is voluntary? All you have to do is look at the  
21 first chapter of my book. It says, "Surprise! The Income Tax  
22 is Voluntary."

23 Now, I don't say it's voluntary; the government says  
24 it's voluntary. There is document after document here in which  
25 the government says it's voluntary.

1           Now, for instance, just on page 13, exhibit [sic] 1-2,  
2 there is the mission statement of the IRS. Their mission  
3 statement. "The mission of the Service is to encourage and  
4 achieve the highest possible degree of voluntary compliance."

5           As a matter of fact, when I first saw these things, I  
6 was living in Miami and I called the IRS. And I said, is  
7 compliance really vol- -- I had just gotten out of the Army.  
8 And, of course, what do they teach you in the Army?

9           MR. IGNALL: Objection.

10          MR. SCHIFF: You don't volunteer.

11          MR. IGNALL: Commenting on facts not in evidence.

12          THE COURT: Sustained.

13          MR. SCHIFF: Well -- well, the objection to --

14          THE COURT: Sustained --

15          MR. SCHIFF: -- to what?

16          THE COURT: -- regarding your testimony regarding the  
17 military.

18          MR. SCHIFF: All right. I'm sorry. Well, I testified  
19 I was in Army finance.

20          So I said, Is the payment of income tax really  
21 voluntary? They said yes. I said, I don't to volunteer  
22 anymore. They said, well, you have to volunteer.

23          MR. IGNALL: Objection; same objection.

24          THE COURT: Sustained. Testimony.

25          MR. SCHIFF: Red lights. All right.

1           When you ask -- now, if you look at these documents,  
2 you will see over and over again the government uses the word  
3 "voluntary compliance," voluntary compliance. If compliance was  
4 compulsory, would they say it's voluntary? Why confuse me?

5           But here's how the government answers the question if  
6 you ask them. They say, well, we don't have enough people to go  
7 down to make you file a return, so you do that voluntarily.  
8 See, you gotta voluntarily do that.

9           Well, when you're driving in a car, somebody from the  
10 state doesn't have -- is not sitting next to you making sure you  
11 don't go 70, 80 miles per hour. So is speed laws based on  
12 voluntary compliance?

13           The Justice Department doesn't have anybody following  
14 you so you don't sell drugs or they don't have anybody walking  
15 next to you so you don't shoot somebody. So does that mean that  
16 drug laws are based on voluntary compliance, that murder is  
17 based on voluntary compliance, that motor vehicles laws are  
18 based on --

19           MR. IGNALL: Objection. Again --

20           MR. SCHIFF: -- voluntary compliance?

21           MR. IGNALL: -- I think we're going down a road  
22 misstating the law and what requirements are of laws aren't in  
23 issue in this Indictment.

24           THE COURT: Sustained.

25           MR. SCHIFF: I am simply saying --

1 THE COURT: Sustained.

2 MR. SCHIFF: All right.

3 Well -- well, look at -- look at Chapter 1.

4 Now, Chapter 2 of my book explains why the income tax  
5 must be voluntary. I give you a number of reasons.

6 One of the reasons is -- remember, it's been testified  
7 in the CRG Report that the income -- that the Supreme Court  
8 declared an income tax in 1895 unconstitutional,  
9 unconstitutional, because the Supreme Court said that the tax  
10 Act of 1894 violated the apportionment provisions of the  
11 Constitution.

12 The only thing that the -- the Constitution of the  
13 United States says twice is that all direct taxes have to be  
14 apportioned.

15 MR. IGNALL: Objection, your Honor. Again, I think  
16 Mr. Schiff is gonna misstate the law or is beginning to misstate  
17 the law. This has to be tailored to the evidence in this case  
18 and summarizing them in connection with the jury instructions.

19 THE COURT: The Court is --

20 MR. SCHIFF: The evidence --

21 THE COURT: -- the Court --

22 MR. SCHIFF: -- the Government put in --

23 THE COURT: Mr. Schiff --

24 MR. SCHIFF: -- the -- yes.

25 THE COURT: Do not argue with --

1 MR. SCHIFF: You're sustaining the objection?

2 THE COURT: -- with Mr. Ignall.

3 The Court has instructed the jury on the law that is in  
4 force and to be applied in this case.

5 MR. SCHIFF: Yeah. But you also told 'em that you have  
6 to apply it to the facts in this case.

7 THE COURT: Well, then argue the facts that have been  
8 established --

9 MR. SCHIFF: All right.

10 THE COURT: -- in the evidence not --

11 MR. SCHIFF: All right. Let's continue --

12 THE COURT: -- your version --

13 MR. SCHIFF: -- with this.

14 THE COURT: -- of the law.

15 MR. SCHIFF: Let's continue with this.

16 But your -- but your -- your discussion has to be based  
17 on common sense. You don't leave your brains and common sense  
18 at home just because you're a juror. You know what's right from  
19 wrong and fact from fiction.

20 Oh, (ha, ha) the -- the -- Judge Dawson's Jury  
21 Instruction No. 4:

22 "In considering the testimony of any witness, [they say  
23 to you] ... take into consideration[s] [sic]:

24 "The ... interest in the outcome of the case and any  
25 bias or prejudice." Bias or prejudice.

1           Ask yourself: Does the U.S. Attorneys have any bias or  
2 prejudice in this case? Does Judge Dawson have any bias or  
3 prejudice in this case.

4           MR. IGNALL: Objection, your Honor, he's not commenting  
5 on witnesses. He's --

6           MR. SCHIFF: I'm --

7           MR. IGNALL: -- impugning the integrity --

8           MR. SCHIFF: Well, he's not a --

9           MR. IGNALL: -- of the U.S. --

10          MR. SCHIFF: -- witness, but he's --

11          MR. IGNALL: -- Attorney's office and the Court.

12          MR. SCHIFF: All right.

13          MR. IGNALL: It's inappropriate.

14          THE COURT: Sustained.

15          MR. SCHIFF: The reasonableness. You gotta take into  
16 consideration "the reasonableness of the witness' testimony in  
17 light of all the evidence; and

18                 "any other factors that bear on believability."

19 Believe [sic] on believability.

20                 Where is it? Where is it? Did it fall on the floor?

21 Oh, here it is.

22                 And you also heard Jerry Brookins. He bought this Code  
23 from me --

24           MR. IGNALL: Objection. I don't believe --

25           MR. SCHIFF: -- in 19- --

1 MR. IGNALL: -- this item was admitted into evidence.

2 MR. SCHIFF: Pardon me?

3 Well, it is. He testified that this was his Code book.  
4 I'm not putting it into evidence.

5 THE COURT: Well, you can't use it. I already told you  
6 that. You cannot use anything that has not been admitted into  
7 evidence. I told you that Mr. Schiff two or three times --

8 MR. SCHIFF: Well --

9 THE COURT: -- earlier. That is --

10 MR. SCHIFF: Okay.

11 THE COURT: -- the ruling.

12 MR. SCHIFF: Well -- well, obviously --

13 THE COURT: Don't argue with me. If it's not --

14 MR. SCHIFF: Well, I thought --

15 THE COURT: -- in evidence --

16 MR. SCHIFF: -- he had it --

17 THE COURT: -- you can't use it.

18 MR. SCHIFF: -- when he was testifying --

19 THE COURT: That's what I told you.

20 MR. SCHIFF: -- with it. Well, I wouldn't have  
21 bothered to put the Internal Revenue Code into evidence.

22 THE COURT: You're using a particular copy that is not  
23 in evidence.

24 MR. SCHIFF: Okay.

25 THE COURT: And the ruling stands, Mr. Schiff.

1 MR. SCHIFF: Okay. I'm sorry. I'm not a lawyer you  
2 understand.

3 THE COURT: Mr. Schiff --

4 MR. SCHIFF: Okay.

5 THE COURT: -- you can follow instructions, I hope --

6 MR. SCHIFF: Okay.

7 THE COURT: -- regardless of that fact.

8 MR. SCHIFF: Okay.

9 THE COURT: You are not allowed to use an item that has  
10 not been admitted into evidence.

11 MR. SCHIFF: Okay.

12 But you heard Jerry Brookins testify that he researched  
13 the law for two years before he claimed exempt.

14 And I want you to know all of my witnesses who came  
15 here, all who testified that they were not filing tax returns,  
16 took a risk. They were all given a Miranda warning. They were  
17 all told, you realize anything you say can be used against you.

18 MR. IGNALL: Objection, your Honor. There's no  
19 evidence of that and that's inappropriate even to comment on.

20 MR. SCHIFF: Well, they took a risk.

21 THE COURT: Mr. Schiff --

22 MR. SCHIFF: Uh...

23 THE COURT: -- Mr. Schiff, the objection is sustained.

24 MR. SCHIFF: All right.

25 THE COURT: You have commented on something that was

1 not presented to the jury.

2 MR. SCHIFF: Okay.

3 Well, some members -- the defendants were told that  
4 they were granted immunity. None of my witnesses were granted  
5 immunity.

6 Cindy Neun is being charged with failing to file. As a  
7 matter of fact, I'm supposedly charged with filing falsely. So  
8 the Government wants to charge her for not filing and me for  
9 filing. Something seems wrong about that. They can't get it  
10 both ways.

11 But, in any case, my witnesses who were not granted  
12 immunity took a risk to come here to tell you the truth. They  
13 went under oath. They said we're not filing. We can't find a  
14 law that says we got to file. We're not filing because we can't  
15 find a law that says we gotta pay. And they took a risk.  
16 Because even though they could find no such law, they realized  
17 that they could be charged with willful failure to file. So  
18 they took a risk to come here to tell you the truth.

19 Government witnesses don't take any risk by telling you  
20 things that are not true. So who are you gonna believe, people  
21 who take a risk, have no motive, no motive to lie to you? All  
22 of the other Government witnesses -- Mr. Sam Holland, all who  
23 work for the IRS -- do they have a motive for misleading you  
24 about the law? They earn a living from the law. They have a  
25 motive to mislead you. My witnesses take a risk and have no

1 motive to mislead you.

2 Now, you heard one of my witnesses -- oh, incidentally  
3 numerous Government witnesses. You heard, uh -- well, let --  
4 let -- let's continue with these jury instructions.

5 Jury instruction 27, um, a conspiracy, a conspiracy  
6 between Larry, Cindy, uh, and myself. There's no conspiracy.  
7 My employees and those who helped me, even my vol- -- did what I  
8 said. I don't ask Larry and Cindy what my position is.  
9 Everything that I did and all of the documents that went out I  
10 created. The Government is creating a phony conspiracy like  
11 they -- like I checked with them before I did anything. I had a  
12 turnover of employees because sometimes my employees did not  
13 convey what I believed was my position. When I found that out,  
14 I would terminate them.

15 However, you did hear -- I asked Bill Thomas, I said to  
16 him -- for five years he was shipping out material from Freedom  
17 Books -- I said, Did you believe that anything you shipped out  
18 violated the law? He shipped out Lien & Levy packages, Schiff  
19 Reports 3, my video seminar. And I said, Did you believe  
20 anything you shipped out encouraged people to violate the law?  
21 What did he say? He said no.

22 I asked Toni Mitchell and Carol Branigan, When you were  
23 taking orders, did you believe that anything you were shipping  
24 out encouraged people to break the law? They said no. I said,  
25 you know, in -- in conversations with people in the office, Did

1 you ever get the feeling that anybody who worked for me in the  
2 office believed that they were sending out material that caused  
3 anybody to violate the law? They said no. No.

4 And I said both to Carol and to Toni, I said, Have I  
5 ever given you any reason to believe that I don't hold my views  
6 on income tax sincerely and truthfully? And they said no.

7 Well, who are you gonna believe? People who don't work  
8 for me, don't talk to me day in and day out, and who see me as  
9 threat to their jobs and as a threat to the whole income tax  
10 system -- which the government wants do replace anyway.  
11 Congress is looking to replace it because they realize the  
12 destructive nature of the tax.

13 MR. IGNALL: Objection. Relevance and also --

14 MR. SCHIFF: All right.

15 MR. IGNALL: -- not facts in evidence.

16 THE COURT: Sustained on both grounds.

17 MR. SCHIFF: Okay.

18 Let's go to Jury Instruction No. 37, Defendant Irwin  
19 Schiff is charged in Counts 18, 23 with filing false federal  
20 income tax returns for 1997, 2002 in violation of Section 7206,  
21 et cetera, et cetera, et cetera.

22 I was on the stand and I said, show me anything in any  
23 of any my books, in my returns, that encouraged; that was  
24 unlawful. Did they do it?

25 When I asked Mr. Holland -- I gave him -- I said,

1 here's my return. Explain one thing on it that was false.

2 MR. IGNALL: Objection --

3 MR. SCHIFF: Did he do it?

4 MR. IGNALL: -- your Honor. I think it's invading the  
5 province of the Court and to instruct the jury on what the law  
6 is.

7 MR. SCHIFF: I'm not -- your Honor, I'm not instructing  
8 the jury on the law. I'm saying that Mr. Holland didn't say  
9 anything in my tax return was false.

10 MR. IGNALL: Objection, your Honor. I'm not sure  
11 that's actually correct. But, regardless, the jury's  
12 recollection will control. It's not up to Agent Holland to  
13 instruct the jury on what the law is either.

14 THE COURT: Sustained.

15 MR. SCHIFF: But he was the case agent. He -- he --

16 THE COURT: Sustained.

17 MR. SCHIFF: All right.

18 Now, here's what you have to -- in order to find me  
19 guilty, according to Judge Dawson, that I made and signed  
20 federal income tax returns that I knew contained false  
21 information. I believe that income tax is a corporate profit as  
22 held by the Supreme Court in Merchants' Loan & Trust Co. v.  
23 Smietanka and as held by the House and Senate Committee when  
24 they adopted the '54 Code and they said income is used in the  
25 constitutional sense.

1 I do not believe income in the ordinary sense is  
2 taxable under our laws. There has to be a difference between  
3 income in the constitutional sense. And you'll see the House  
4 and Senate Report because it's attached to my last tax return  
5 which is in evidence.

6 And you would have to believe in finding me guilty that  
7 I acted knowing I had a duty to file and pay. Now, let's assume  
8 for a moment the law required me to file and pay income taxes.  
9 Let's assume that for a moment. If I didn't believe it, if I  
10 believed 12 green monkeys told me I didn't have to pay income  
11 taxes and I believed it, then you can find me not guilty.  
12 There's no criminal intent. So it's not what I should have  
13 believed and not what courts told me to believe; it's what I did  
14 believe.

15 Now, I had a number of witnesses who were character  
16 witnesses say that I have a reputation for truth and honesty.  
17 Continually. I coulda had a whole slew of 'em here. Does  
18 somebody who believes, who is truthful, does he lie on a tax  
19 return? No.

20 The elements the -- the -- the, uh -- the element of --  
21 of, uh, tax evasion was fraud. You lie on your tax return.  
22 Well, normally when you lie you do it, you know, in darkness, in  
23 secret, in stealth. I wrote a book saying what I was doing; I  
24 said on the radio what I was doing. I asked on my radio show  
25 someone call the show and prove me wrong. Is that somebody

1 acting under the table, in stealth, in secret, this darkness?

2 No, it's not.

3 So it's not what I should have believed. How many  
4 people really believe that I believe I owe income taxes?

5 Now, let's look at Jury Instruction No. 38. They --  
6 they -- they refer to Mr. Lowder, I think, adding up my deposits  
7 in the bank. Adding up my deposits. What did he add up? He  
8 add up deposits. As I pointed out, is it -- is it a crime to  
9 make deposits? No. They are deposits. But I pointed out  
10 whether or not those deposits constitute income within the  
11 meaning of the law is another question.

12 MR. IGNALL: Objection, your Honor.

13 MR. SCHIFF: And the Government --

14 MR. IGNALL: Again, it's not going back to his  
15 thoughts; it's going to witness's income which, again, the  
16 Court's instructed on.

17 THE COURT: Sustained.

18 MR. SCHIFF: Well, this questioned my belief.

19 THE COURT: Sustained.

20 MR. SCHIFF: My belief is that deposits -- I'm sorry.  
21 I didn't hear your --

22 THE COURT: I sustained --

23 MR. SCHIFF: -- ruling.

24 THE COURT: -- the objection.

25 MR. SCHIFF: All right.

1 But the question is my belief. My belief.

2 I believe that income is a corporate profit. Maybe  
3 it's not. I believe it is. There are a number of Supreme Court  
4 cases that ruled in that way.

5 Okay. Jury Instruction No. 39 Judge Dawson says that  
6 "a person who willfully aids or assists or counsels or advises  
7 the preparation of" -- "in connection with any matter arising  
8 under, the internal revenue laws, ... [any] claim, or other  
9 document, which is fraudulent or ... false as to any material  
10 matter."

11 The only thing the Government ever said was my -- the  
12 people who filed zero returns they got a letter saying they were  
13 frivolous. They never said that they were illegal; they were  
14 false.

15 And, with respect to Robert Brown, he filed for a  
16 refund, but he didn't get it. I believed he was entitled to a  
17 refund because there was no assessment and I believe that you  
18 can't owe a tax unless it is assessed. And I believe that he  
19 had a right to a refund of the wage tax. So what we did is I  
20 helped prepare for him a refund lawsuit. Refund lawsuit. The  
21 court, without getting into specifics, denied it. They didn't  
22 say it was frivolous; they just denied it.

23 Then I helped prepare for him an appeal to the Second  
24 Circuit. They didn't say there was something illegal in what  
25 Robert Brown did. The government didn't even, um, recognize,

1 didn't even mention, uh, the fact that I talked about the wage  
2 tax as opposed to the withholding tax. Then what do we do when  
3 they denied it? Then we appealed to the Supreme Court. There's  
4 a lot of work involved in that. Do you know how much a typical  
5 lawyer would charge for all that work?

6 And I said to Robert Brown --

7 MR. IGNALL: Objection.

8 MR. SCHIFF: -- how much --

9 MR. IGNALL: -- commenting on facts that were never in  
10 evidence.

11 THE COURT: Sustained.

12 MR. SCHIFF: Well, this goes to show that I just don't  
13 abandon --

14 THE COURT: You don't testify now, sir. You --

15 MR. SCHIFF: I'm commenting on the evidence.

16 THE COURT: Mr. --

17 MR. SCHIFF: Robert brown said I went up to the Supreme  
18 Court on this issue and that was the letter that Cindy wrote  
19 about.

20 THE COURT: That wasn't the objection.

21 MR. SCHIFF: Pardon me?

22 THE COURT: Move on. The Government objected to your  
23 testifying.

24 MR. SCHIFF: Well, does that -- does that appear that I  
25 don't have confidence in my views? Can I just drop him?

1           (Ha, ha.) Take a look at Jury Instruction No. 15.  
2 "You have heard testimony from IRS Special Agents Kay Irely and  
3 Doug McEwen who were involved in the government's  
4 investigation.... Law enforcement officials are not precluded  
5 from engaging in stealth and deception," et cetera, et cetera.  
6 "The government may utilize a broad range of schemes and ploys  
7 to ferret out criminal activity."

8           So here the government had an agent, an undercover  
9 agent, for two days and also had an undercover agent in the  
10 seminar I put on in New York for one day. And isn't it strange  
11 the government did not play any portion --

12           MR. IGNALL: Objection, your Honor.

13           MR. SCHIFF: -- of the tape -- well, wait a minute.  
14 The jury instruction from the government --

15           THE COURT: What is the objection?

16           MR. IGNALL: The objection is he's commenting on facts  
17 that are not in evidence and facts that --

18           MR. SCHIFF: Wait a minute.

19           MR. IGNALL: -- I think are not admissible under the  
20 rules of evidence --

21           MR. SCHIFF: Wait a minute.

22           MR. IGNALL: -- and drawing an --

23           MR. SCHIFF: The judge's --

24           MR. IGNALL: -- inference from --

25           MR. SCHIFF: -- jury instruction --

1 MR. IGNALL: -- that's inappropriate.

2 MR. SCHIFF: -- the judge's jury instruction is that I  
3 can comment on the evidence and what was not -- here. The  
4 evidence which would decide -- no, no. Here's what you said,  
5 (ah) "of all the evidence or from lack of evidence." So you can  
6 take into consideration the lack of evidence.

7 MR. IGNALL: Objection, your Honor. That's not what  
8 this is.

9 MR. SCHIFF: Well, the judge's -- your Jury Instruction  
10 No. 2 says you can comment on the lack of evidence.

11 THE COURT: You can.

12 MR. SCHIFF: Pardon me?

13 THE COURT: You can.

14 MR. SCHIFF: We can?

15 THE COURT: You can comment on --

16 MR. SCHIFF: Lack of evidence.

17 THE COURT: -- lack of evidence.

18 MR. SCHIFF: Hey, I got one. Thank you, your Honor.

19 Well, isn't it strange that the government has an  
20 undercover agent at my seminar for two days because they are  
21 investigating --

22 MR. IGNALL: Objection --

23 MR. SCHIFF: -- criminal activity --

24 MR. IGNALL: Objection, your Honor.

25 MR. SCHIFF: -- and they don't play anything from that

1 two day seminar.

2 THE COURT: Hold on.

3 MR. SCHIFF: That means --

4 THE COURT: There's an objection.

5 MR. SCHIFF: That means they --

6 MR. IGNALL: Objection, your Honor.

7 MR. SCHIFF: -- didn't find any --

8 MR. IGNALL: That's exactly --

9 MR. SCHIFF: -- criminal activity.

10 MR. IGNALL: -- what's inappropriate, that inference as  
11 to what may or may not have been introduced is not commenting on  
12 the lack of evidence. And, again, I think it's up to the  
13 province of the Court to determine what evidence falls within  
14 the rules of evidence. He can say that there's no evidence that  
15 says "X." That's comment on this lack of evidence.

16 MR. SCHIFF: The jury --

17 THE COURT: Sustained.

18 MR. SCHIFF: -- can I say, your Honor, the jury can  
19 take into consideration that they had undercover agents at my  
20 seminar, taped it, and they didn't play anything from that  
21 seminar that indicated I was promoting criminal activity? What  
22 other inference can you take from that?

23 MR. IGNALL: Same objection. And he's --

24 THE COURT: Sustained.

25 MR. IGNALL: -- already said it. So kinda moot now.

1 MR. SCHIFF: All right.

2 THE COURT: Sustained.

3 Go ahead. Move on.

4 MR. SCHIFF: Okay.

5 Also -- also, I did a tape. This is also not in  
6 evidence.

7 MR. IGNALL: Objection, your Honor, to --

8 MR. SCHIFF: It's not in evidence.

9 MR. IGNALL: -- anything that's not in evidence.

10 MR. SCHIFF: Well, I can comment -- the jury  
11 instruction --

12 THE COURT: You cannot --

13 MR. SCHIFF: -- number 2 --

14 THE COURT: -- comment on --

15 MR. SCHIFF: -- says I --

16 THE COURT: -- specific pieces --

17 MR. SCHIFF: -- can comment --

18 THE COURT: -- of evidence that were already ruled on  
19 by the Court --

20 MR. SCHIFF: Yeah.

21 THE COURT: -- Mr. Schiff --

22 MR. SCHIFF: Pardon me?

23 THE COURT: -- as to their admissibility or relevance.  
24 Move on.

25 MR. SCHIFF: But, I'm gonna say, certainly if I

1 promoted tax evasion it certainly would be shown on that  
2 three-and-a-half-hour seminar.

3 MR. IGNALL: Objection, your Honor.

4 THE COURT: I've already sustained --

5 MR. SCHIFF: All right.

6 THE COURT: -- the objection.

7 MR. SCHIFF: You can't win 'em all.

8 You gotta take into consideration, according to Jury  
9 Instruction No. 4, the possible bias or prejudice of the  
10 witnesses. What kind of bias and prejudice could my witnesses  
11 have had? None whatsoever, except to convey the truth to you.  
12 All of the Government's witnesses had a motive not to tell you  
13 the truth.

14 Okay. Oh, Jury Instruction No. 27. We talked about  
15 conspiracy. There is no conspiracy here. I didn't -- I didn't  
16 confer with Larry and Cindy as to what my procedures are. All  
17 my books were written before they even got associated with  
18 Freedom Books. Most of my Schiff Reports were done. They took  
19 orders like anybody else. However, it's me. And the Government  
20 wants to create this conspiracy. Well, the conspiracy is wrong  
21 because we did not interfere with the IRS's collection and  
22 assessment of taxes because nowhere in the Code are they even  
23 mentioned, as you will see from looking at the statutes in my  
24 book.

25 Okay. Okay. A jury in a federal criminal trial cannot

1 convict unless it finds that the Government has proved each  
2 element, each element. If the Government hasn't proven each and  
3 every element you gotta dismiss that charge. I submit that the  
4 Government has not proved even one element in the entire  
5 Indictment.

6 Government hasn't proved that I knew the tax returns I  
7 filed were false. The Government hasn't proved that I believed  
8 the information I gave to others were false. The Government  
9 hasn't proved it. They haven't introduced any testimony. The  
10 closest thing they came is a report that's contrary to law  
11 itself.

12 Incidentally, I want you to take a look at that report,  
13 especially pages 3, 4, and 5 in which the report says the income  
14 is an excise tax. And then it says, what are excise taxes?  
15 Taxes are -- taxes are, uh, excise on, uh, the manufacture and  
16 production of products and on licenses and fees. Well, the  
17 income tax is not imposed like that. That's why it's voluntary.

18 Anyway, Jury Instruction No. 39 provides, "Any person  
19 who willfully" -- that means with knowledge and belief --  
20 "assists ... counsels, or advises the preparation ... [of any]  
21 document, which is fraudulent or ... false as to any material  
22 matter."

23 Well -- so two things have to be proven: A, the  
24 document is false; and, 2, I knew it to be false.

25 First of all, no document I prepared is false. And,

1 even if it was false, it's not a crime to be wrong. I certainly  
2 didn't believe it was false. No man of integrity and honesty  
3 would do such a thing. And I had seven or eight witnesses who  
4 said I have a reputation for integrity and honesty. So why  
5 would I deliberately mislead people? These are people who know  
6 me and have known me for a long time and have no interest in  
7 lying.

8 I already testified as to my understanding that there's  
9 a big difference between the '39 Code and the '54 Code and that  
10 the government is largely enforcing the '39 Code and not the '54  
11 Code. In the '39 Code, the definition of income included wages,  
12 salaries, and compensation for services and those items were  
13 specifically removed from the '54 Code.

14 But let's go to Jury Instruction -- very important --  
15 No. 48. No. 48. Very important jury instruction. "A defendant  
16 does not willfully violate the ... law[] if he or she believes  
17 in good faith that he or she is acting within the law."

18 And I believe I'm acting within the law. If I didn't,  
19 why would I sell it? I mean, use your common sense. Would I  
20 sell the law? Would I promote the law if I believed my  
21 information violated the law? Nobody would buy my books and  
22 tapes. They could tell that my books -- my books would be  
23 illegal.

24 And when I -- when I, uh, quote the law -- I mean, I  
25 quote extensive sections of the law. But I say, hey, look I

1 can't -- I can't reproduce the Internal Revenue Code in here but  
2 I quote significant sections. And I say, well, check out the  
3 rest.

4 Good faith. (Mumbling) "... within the law, or that  
5 [he] or she actions [complied] with the law, even if he or she  
6 is incorrect."

7 I believe I am not incorrect. I believe I am not  
8 incorrect. I believe my beliefs are correct. But, even if they  
9 are incorrect, if you believe I believe them in good faith, then  
10 you're to find me not guilty. If you believe that I'm a liar  
11 and a swindler and a thief and a liar, which is contrary to the  
12 character evidence, find me guilty.

13 A defendant does not willfully violate (mumbling) ...  
14 good faith if she is acting within the law, that his or her  
15 actions complied with the law, even if she is incorrect. "A  
16 good faith belief is one which is honestly and genuinely held."

17 Now, do you believe that I honestly and genuinely  
18 believe what I say I believe or I'm trying to con everybody,  
19 including my family and friends and people who come to my  
20 seminars?

21 I have sold over 500,000 books. Do you sell books that  
22 con people? Can't they see through it? You -- you've heard  
23 witnesses who were doctors; uh, who run businesses; computer  
24 programmers; uh, medical technicians. Did I con all these  
25 people? They can't see through it?

1           No. They've gone down to the IRS. They -- they --  
2 they hang up on 'em. They close the door on 'em. You show us  
3 the law. Never. You're in jail. That proves there's a  
4 liability. Does that prove it to you?

5           (Mumbling) ... In accord with the law -- "A belief need  
6 not be objectively reasonable." That means it's not what I  
7 should have believed; it's what I did believe. If every federal  
8 judge in this country told me I was wrong, do you think I'd  
9 believe it?

10           How many federal judges have written a book on taxes  
11 that have sold 200,000 copies and I'm gonna believe 'em? I've  
12 done more research on the income tax than any federal judge in  
13 this country. Why should I believe 'em? I've lectured at law  
14 schools where I've offered substantial amounts of money.  
15 Nobody's ever come forward.

16           "The burden of proof is not on the defendant." And I  
17 don't even have the burden of proof that I believe what I say I  
18 believe (ha, ha). The Government has the burden of proof that I  
19 don't believe what I say I believe.

20           Has the Government put on one witness who has testified  
21 that I don't believe what I say I believe that I could  
22 cross-examine? They wouldn't dare. That's why they don't put  
23 on anybody who is an expert on the law so I can cross-examine --

24           MR. IGNALL: Objection, your Honor. Again, he's  
25 commenting on court procedure. He's wrong. It's inappropriate.

1 MR. SCHIFF: Well --

2 THE COURT: Sustained.

3 MR. SCHIFF: All right.

4 Now, Judge Dawson is gonna read you a jury instruction  
5 that doesn't apply to me at all. It should shouldn't even be  
6 here. It said, "Neither a disagreement with the requirements of  
7 the law, nor a belief that the tax laws are unconstitutional" --  
8 I don't believe that at all. I believe the laws are  
9 constitutional because I believe that they are voluntary. I  
10 believe the payment is voluntary. Why would I believe that laws  
11 which are voluntary are unconstitutional? That didn't make any  
12 sense at all -- "no matter how earnestly held -- constitutes a  
13 defense of good faith."

14 "A" -- I'm not making any mistakes. I don't have any  
15 disagreement with the law. So, when you hear that jury  
16 instruction, it doesn't apply to me.

17 "A disagreement with the Internal Revenue Code, or a  
18 belief that the law should be other than what it is." No, I  
19 like it fine. It can stay just the way it is. I wouldn't make  
20 any changes in the law.

21 I don't say that the Sixteenth Amendment wasn't legally  
22 ratified. I don't say I'm a state citizen. I don't say I have  
23 the wrong zip code. I don't -- there's a lot of nonsense that  
24 circulates out there with respect to why believe people they  
25 don't have to pay income taxes. I don't subscribe to any of

1 those beliefs.

2 My belief is I believe I have no income within the  
3 meaning of the law; there's no law that makes me liable for the  
4 tax; and there's no law that says I gotta pay it; and there's no  
5 law that gives the IRS a right to seize property, which is why  
6 you got to hide it sometimes from the IRS because they have no  
7 authority to seize property without a court order. That's how  
8 they get it. Without a court order.

9 No matter -- "In other words, a good faith  
10 misunderstanding of the law may negate the willfulness ..., but  
11 a good faith disagreement of the law will not.

12 I don't disagree with the law. Got it? As a matter of  
13 fact, Cindy used to say the law is our friend. She used to say  
14 that over and over --

15 MR. IGNALL: Objection --

16 MR. SCHIFF: -- again.

17 MR. IGNALL: -- your Honor. Again, commenting on  
18 facts --

19 MR. SCHIFF: All right.

20 MR. IGNALL: -- that are not in evidence.

21 THE COURT: Sustained. Strike.

22 MR. SCHIFF: Now "In deciding whether a defendant had a  
23 good-faith belief, you are ... to consider any admissible  
24 evidence from any source showing the defendant was aware of  
25 their duty including evidence showing" -- uh, uh -- "[or] court

1 decisions rejecting or accepting their interpretation...."

2 I can find no Supreme Court case that has rejected --  
3 oh, there are lower court cases that reject it. Yeah, lower  
4 court cases, appellate courts. But even the IRS is not bound by  
5 lower court decisions. The Supreme Court in the most important  
6 of all case, Brushaber v. Union Pacific Railroad, said the  
7 income tax in the Sixteenth Amendment did not amend the income  
8 tax and income --

9 MR. IGNALL: Objection --

10 MR. SCHIFF: -- must be --

11 MR. IGNALL: -- your Honor. Again, I don't think --

12 MR. SCHIFF: -- separated from --

13 MR. IGNALL: -- couched in terms of --

14 MR. SCHIFF: -- its source.

15 MR. IGNALL: -- what he believes.

16 THE COURT: Sustained.

17 MR. SCHIFF: I believe --

18 MR. IGNALL: He's now --

19 MR. SCHIFF: -- in that.

20 MR. IGNALL: -- misstating the law.

21 MR. SCHIFF: Okay.

22 THE COURT: Sustained.

23 MR. IGNALL: It's inappropriate.

24 THE COURT: Commenting on the law.

25 MR. SCHIFF: Now somewhere in here --

1 THE COURT: Mr. Schiff --

2 MR. SCHIFF: Yeah.

3 THE COURT: -- how much longer are you going to be?

4 MR. SCHIFF: No, I won't be much longer.

5 THE COURT: How much is "not much longer"?

6 MR. SCHIFF: About 15 minutes.

7 THE COURT: 15 minutes?

8 MR. SCHIFF: That's it. Okay.

9 I just want to very [sic] comment on the Indictment,  
10 pointing out that the Government didn't prove one element in the  
11 Indictment. Not one.

12 Oh, before I go to the Indictment, though, I would like  
13 to point out that one of my witnesses pointed out he claimed  
14 exempt and he was exempt for a number of years. Two witnesses  
15 pointed this out. Then their employer got an unsigned letter  
16 from the government telling the employer to disregard their  
17 exempt W-4 and telling them to take one-third -- oh, and the  
18 government took one-third out of their pay without a court  
19 order, without a hearing based upon an unsigned --

20 MR. IGNALL: Objection, your Honor. Again, this is  
21 disagreeing with the law as the Court's instructed. I don't  
22 think it's commenting on the evidence.

23 MR. SCHIFF: The evidence is the government took  
24 one-third of this individual's pay without a court order based  
25 on an unsigned document --

1 THE COURT: Sustained.

2 MR. SCHIFF: -- from the Government.

3 THE COURT: Sustained.

4 MR. SCHIFF: I can't comment on the significance of  
5 that?

6 THE COURT: I sustained the objection.

7 MR. SCHIFF: Okay.

8 Okay. Count 1, of course, has to do with, uh, the  
9 conspiracy which has nothing to do with Cindy and Larry. I'm --  
10 I'm Freedom Books. And everything that goes on in there I  
11 created and they just sell it and distribute it. And, if they  
12 don't like it, they can get a job someplace else.

13 And you heard testimony that everybody who worked for  
14 me believed what we were sending out was lawful. Even if we  
15 didn't leave under the best of terms, they understood that.

16 And Count 1 accuses us of interfering with the IRS's  
17 ability to ascertain, compute, assess, and collect taxes. Now  
18 my belief is the IRS has no authority to do any of those four  
19 things. And all authority in the Internal Revenue Code is give  
20 to the Secretary of the Treasury and he's never delegated his  
21 authority to the IRS and it has never been published in the  
22 Federal Register.

23 Uh, I could comment. If you go to page 264 of The  
24 Federal Mafia, you'll see I wrote to the people who keep charge  
25 of the Federal Register and they say they have no record of any

1 delegation of authority --

2 MR. IGNALL: Objection, your Honor.

3 MR. SCHIFF: -- being published. It's --

4 THE COURT: Court has --

5 MR. IGNALL: The Court has --

6 THE COURT: -- instructed the jury --

7 MR. IGNALL: -- already instructed the jury --

8 THE COURT: -- on this matter.

9 MR. IGNALL: -- on this. It's inappropriate.

10 THE COURT: You will not argue with the instructions.

11 MR. SCHIFF: Which is just in the book.

12 THE COURT: The instructions contradict what you're  
13 saying.

14 MR. SCHIFF: Okay.

15 THE COURT: So move on.

16 MR. SCHIFF: Okay. Okay. Okay.

17 So (ha, ha) the, uh, -- Count 1 also accuses me of  
18 conducting seminars across the United States contending that  
19 attendees would learn how to legally stop paying income taxes.  
20 Well, you heard a number of people said that they learned just  
21 that. Uh, you heard one of -- one of the last witnesses said  
22 that he claimed exempt and he's been exempt for five years. No  
23 problem. Hasn't paid income taxes.

24 Now, the significance of Cal -- 41K Cal, he got a  
25 refund of 41,000. Now, suppose he got that refund using fraud.

1 The government has -- it was six years ago. The government  
2 knows he got 41,000. Why haven't they attempted to get it back?  
3 Because he got it legally. If he didn't get it legally they'd  
4 go after him.

5 I know a lot of people who got refunds. I never said  
6 you're gonna get a refund because the people who did get refunds  
7 were a small percent. You were entitled to the refund for a  
8 variety of grounds. But, when people called me enthusiastically  
9 about getting refunds, I said: Wait a minute. Chances of your  
10 getting a refund is slim. But it could happen. It's like  
11 getting a raffle ticket. But you don't do this to get a refund.  
12 That's why I wanted the entire attachment and I was very angry  
13 with any of my employees who changed the type of return I wanted  
14 people to file, if they wanted to file them at all.

15 Now, when the Government said I instructed attendees to  
16 file false W-4's, they said I filed false W-4's, on page 155 of  
17 The Federal Mafia I reproduced the law that allows people to  
18 claim -- to stop the withholding of taxes from their pay.

19 And you heard the witnesses testify by heart Section  
20 340 [sic] -- 3402(n) says, Notwithstanding any other provision  
21 any employer -- an employer shall not be required to deduct and  
22 withhold any tax under this provision if an employee gives the  
23 employer a statement claiming they had no income tax last year  
24 which --

25 MR. IGNALL: Objection, your Honor. Again, commenting

1 on the law; province of the Court.

2 THE COURT: Sustained.

3 MR. SCHIFF: Well, the point is under the law, as  
4 explained in my book, if you believed you had no income --

5 THE COURT: Sustained.

6 MR. IGNALL: Objection, your Honor. Same objection.

7 MR. SCHIFF: Well, I'm not -- I'm not citing the law.

8 THE COURT: You are -- you are. Sustained.

9 MR. SCHIFF: Well, I put the law in the book and  
10 anybody can read it and decide if the law allows them to claim  
11 exempt or not. And I put in my book -- as far as the other  
12 provision -- so, if you understand this, so if you understand  
13 what the law says, if you understand it, you, in my belief, can  
14 do it.

15 But I also warned the reader at the tail end of this  
16 chapter that "So, I must ... warn you [again] regarding the use  
17 of this information. There is no question that it is all  
18 correct. Paying and filing in- . . . [is] voluntary. The law,  
19 as you will now discover, also provides you with a means for  
20 stopping the withholding of [the] tax; which, by any legitimate  
21 standard, you have a perfect right to do. But, by doing so, you  
22 run the risk of going to jail! That's just how it is in  
23 Amerika!"

24 So you have to consider whether or not it's worth the  
25 risk. Some people, a lot of people, have told me: Irwin, I

1 believe this information, but I'm afraid. I'm afraid to adopt  
2 these procedures, not that I think it's wrong. But you're right  
3 about our government. What do they care about the law? They  
4 want all our money. We work for them.

5 One of these days you'll get a 1040, how much do you  
6 earn? Send it in.

7 Anyway, nowhere has the Government -- the Government  
8 never cross-examined any of my witnesses who said they claimed  
9 exempt and tried to point out to them whether they were wrong,  
10 where it was -- as a matter of fact, you heard one of the  
11 witnesses testify, who worked for GE, that when the government  
12 tried to get his employer to stop withholding the tax he pointed  
13 out to his employer that nowhere in Section 3402(n) or --  
14 nowhere does it say his ability to claim exempt --

15 MR. IGNALL: Objection, your Honor. I think --

16 MR. SCHIFF: -- is dependent --

17 MR. IGNALL: -- we're still --

18 MR. SCHIFF: -- on IRS approval.

19 MR. IGNALL: -- going into a legal discussion that's  
20 inappropriate.

21 THE COURT: Sustained.

22 MR. SCHIFF: Well, I'm just commenting on why he  
23 stopped GE from taking taxes out of his pay.

24 THE COURT: Commenting on the law. Sustained.

25 MR. SCHIFF: Okay. So...

1           Now, the Government says, between 1999 and 2003, Irwin  
2 Schiff and Cindy Neun did a weekly radio show throughout  
3 Las Vegas and this says callers were given false and misleading  
4 tax advice.

5           Did you hear any of that? Did you hear any -- any  
6 reproduction of any -- oh, the Government played a commercial in  
7 which I said you can file a zero return and claim a refund, not  
8 that you'll get one. But -- but did they reproduce? There's no  
9 income tax li- -- he says stop living an income tax -- there was  
10 no income tax liability? Well, that's confirmed in the letter  
11 from Dan Burton. I'm not saying anything that Dan Burton didn't  
12 say.

13           But the, uh, the information that I had money in my  
14 offshore accounts to conceal my income is nonsense. I wanted to  
15 use, uh, Bob Ehler's -- I think I commented on -- I assigned --  
16 when I went to jail in '85, he bought my insurance agency and I  
17 assigned --

18           MR. IGNALL: Objection, your Honor. I believe these  
19 are also facts not in evidence.

20           THE COURT: Sustained.

21           MR. SCHIFF: Well, it --

22           THE COURT: Testifying.

23           MR. SCHIFF: -- would have been in --

24           THE COURT: Sustained.

25           MR. SCHIFF: -- evidence, but you didn't allow me to

1 have him as a witness.

2 THE COURT: Sustained.

3 MR. SCHIFF: Also, Judge Dawson refused, at least three  
4 or four times -- this is why it's not evidence in --

5 MR. IGNALL: Objection, your Honor. It's inappropriate  
6 to comment on counsel or the Court, including or excluding  
7 evidence. That's a job we all have, and that's not appropriate  
8 in closing argument. This should be --

9 THE COURT: It is not.

10 MR. IGNALL: -- summarizing facts as applied to the  
11 law.

12 THE COURT: It is not. Sustained.

13 MR. SCHIFF: Uh, I could have put in evidence that  
14 showed that IRS agents had no authority to --

15 MR. IGNALL: Objection, your Honor.

16 THE COURT: Mr. Schiff --

17 MR. SCHIFF: What?

18 THE COURT: -- I have warned you over and over again on  
19 this point.

20 MR. SCHIFF: Okay. Well, I was -- I was prevented from  
21 doing it.

22 THE COURT: Mr. Schiff.

23 MR. SCHIFF: I didn't hide my money to prevent the  
24 government from taxes I believe were legally owed.

25 Now, all of these people, like Mr. Allin -- I think

1 Mr. Cristalli handled that very well. I don't have to go over  
2 it -- all the people that I spoke to -- when I -- even when I  
3 prepared a zero return for somebody, they knew what it was gonna  
4 look like. It's not like they went to an accountant and he  
5 calculated their tax and they didn't know what it was gonna be.  
6 The only reason why I did it is because sometimes they didn't  
7 know where the zeroes went, not that they were surprised. All  
8 of them knew that they were gonna report zero income and I  
9 explained why, the meaning of income. And, when they signed it,  
10 they believed it.

11 And you heard every one of the -- even Matt, the --  
12 the -- the fellow who has the court -- Matt -- I can't think of  
13 his last name -- he believed it. And I said -- and the  
14 Government says, You pay your income taxes now? And he said  
15 yes. And I asked him, How come? He says, Well, I'm afraid not  
16 to, not that he didn't believe it. But he knows what can  
17 happen. He says, I don't want to be in your boots or somethin'  
18 to that effect. People who went by -- back to paying taxes did  
19 so because they were intimidated by the government.

20 I mean, how can you -- the government is this big  
21 awesome power. They have all kinds of lawyers. You know what  
22 it means to fight them and till be able to work at your job?  
23 They wear you down. Now, if they don't give you have a refund,  
24 oh, you don't got a refund. What are you supposed to do? Now,  
25 you're supposed to sue 'em.

1           Suppose they don't give you \$3,000? You gonna sue 'em  
2 in federal court and initiate a civil lawsuit? You know how to  
3 do that? Of course you don't. You're talking about judicial  
4 blackmail here.

5           They take your money and say, if you don't like it,  
6 leave the country. You don't have enough money to hire a  
7 lawyer; you can't do it yourself unless we help you. That's why  
8 they wanna put us outta business --

9           THE COURT: You have one --

10          MR. SCHIFF: Because there's no one else that's gonna  
11 help you.

12          THE COURT: Mr. Schiff, you have --

13          MR. SCHIFF: All right.

14          THE COURT: -- one minute left --

15          MR. SCHIFF: One more minute --

16          THE COURT: -- of the 15 --

17          MR. SCHIFF: -- left.

18          THE COURT: -- that you said you'd take.

19          MR. SCHIFF: The final analysis is this: Ladies and  
20 gentlemen of the jury, you can do a big favor to the rest of the  
21 workers who now hold down two and three jobs to make ends meet.

22                 Before the Second World War -- I was still a kid, but I  
23 remember it -- women didn't work in this country. If you were a  
24 milkman and you made 50 bucks a week, your wife stayed home --  
25 not -- if you wanna go out to work, do. But there's no woman

1 who has a child one-year-old who has to get up and bundle her  
2 and bring her to a daycare center. She works because if she  
3 didn't work they wouldn't meet the mortgage payments. Before  
4 the war, if you made 50 bucks a week you could buy a house for  
5 \$5,000.

6 MR. IGNALL: Objection --

7 MR. SCHIFF: All right.

8 MR. IGNALL: -- your Honor. Again, this is nothing to  
9 do the evidence or any of the facts or law in this case.

10 MR. SCHIFF: Well, I am simply --

11 THE COURT: Sustained.

12 MR. SCHIFF: -- saying that you can do everybody a good  
13 favor in this country. We're not -- we're not slaves of the  
14 United States Government. Our -- our wages don't belong to  
15 government at all levels. Before the Second World War, only 6  
16 to 8 percent of the GNP went for taxes. Now between property  
17 taxes, sales taxes, excise taxes, gasoline taxes, income  
18 taxes -- they put out figures. The average American works from  
19 January --

20 MR. IGNALL: Objection, your Honor.

21 MR. SCHIFF: -- to June --

22 MR. IGNALL: Again, facts not in evidence.

23 MR. SCHIFF: -- for government.

24 THE COURT: Sustained.

25 MR. SCHIFF: We can now send a message --

1 THE COURT: Mr. Schiff, do you --

2 MR. SCHIFF: All right.

3 THE COURT: -- do you hear?

4 MR. SCHIFF: Yeah.

5 THE COURT: Sustained.

6 MR. SCHIFF: Sustained. Okay.

7 Well, it's in your hands. It's in your hands. Who are  
8 you gonna believe? Witnesses like Jerry Brookins and -- and my  
9 other witnesses who have no interest, only in telling you the  
10 truth. They researched the law. They went to the IRS. They  
11 couldn't find any law that says you gotta pay income taxes. Who  
12 are you gonna believe? You gonna believe them, who have no  
13 interest in misleading you and telling you what is not true? Or  
14 are you gonna believe the government, who believes they can take  
15 50 percent of your wages without a court order?

16 Is that the kind of country you wanna live in? Is the  
17 government any different than Genghis Khan if the government can  
18 do that or Attila the Hun without a court order, without --

19 MR. IGNALL: Objection, your Honor. Again --

20 MR. SCHIFF: -- due process of law? I want to --

21 MR. IGNALL: -- invading the --

22 MR. SCHIFF: -- thank you very much --

23 MR. IGNALL: -- province of the Court.

24 THE COURT: Sustained.

25 MR. SCHIFF: -- for your time. I hope you learned

1 something. And the workers of this country are looking to you  
2 for relief. Give it to 'em by voting everybody not guilty on  
3 all counts. Thank you very much.

4 THE COURT: We'll now be in recess for lunch. We'll  
5 take an hour for that.

6 The jury's instructed not to discuss the case among  
7 yourselves until it has been submitted to you for deliberation,  
8 which will be at the conclusion of the summations of counsel.

9 (Jury leaves the courtroom at 1:07 p.m. )

10 THE COURT: 1:15 we will -- or --

11 MR. BOWERS: 2:15?

12 THE COURT: -- I'm sorry -- 2:15 we will resume.

13 (Lunch break, 1:08 p.m. to 2:19 p.m.)

14 THE CLERK: All rise.

15 THE COURT: Thank you. Please be seated.

16 Ms. Clerk, will you bring in the jury?

17 THE CLERK: Yes, sir.

18 (Pause in the proceedings.)

19 THE CLERK: Ready?

20 (Jury enters the courtroom at 2:21 p.m.)

21 THE COURT: Please be seated.

22 Will counsel stipulate to the presence of the jury?

23 MR. IGNALL: Yes, your Honor.

24 MR. CRISTALLI: Yes, your Honor.

25 MR. BOWERS: Yes, your Honor.

1 THE COURT: Thank you.

2 MR. SCHIFF: Yes, your Honor.

3 THE COURT: Mr. Bowers.

4

5 DEFENDANT COHEN'S CLOSING STATEMENT

6 MR. BOWERS: Your Honor, may it please the Court.

7 Ladies and gentlemen, with all due respect to

8 Mr. Schiff, this -- this trial is not about sending a message.

9 It's not about the Tax Code. It's not about section

10 such-and-such of the Tax Code. The judge is gonna give those to

11 you. What this trial is about is much simpler than that.

12 This trial is about -- technical perhaps on my

13 behalf -- um, this -- this trial is very much about what these

14 defendants believed about the Tax Code, not what it actually may

15 or may not say, specifically Larry Cohen.

16 It's all right. We're good.

17 Instruction No. 48 contains the law of the case and it

18 talks about willfulness. And you've gone through it with

19 other -- with Mr. Schiff at some point and we're gonna quote

20 some parts from it. But what it says is if you're not willful

21 then you're not guilty of these offenses; you didn't form the

22 requisite mental state of mind. You didn't do -- intend to do

23 something wrong. And, if you have a good-faith belief, then

24 you're not willful. It's -- it's really that straightforward.

25 What is a good-faith belief? Well, it's given to you

1 in Instruction 48. But it says a good-faith belief is one  
2 that's honest and genuine and one that's subjective. It's not  
3 an objective standard. You don't look and say, well, do I think  
4 that they are right or wrong? That's not what it's about. The  
5 question is what do these defendants believe. And it could be  
6 wrong. The issue isn't whether they are right or wrong about  
7 the Tax Code. The judge is gonna instruct you. The issue --  
8 the issue is simply whether they believed what they were doing  
9 was right.

10 The Government has the burden of proving that. That  
11 has to be proven to show the criminal intent necessary to  
12 convict these defendants of a crime in a particular area.

13 I've quoted part of Instruction 8 [sic] and I've done  
14 that because you have the whole thing. There's a part in there  
15 near the bottom. It's about the third line up from the first  
16 paragraph. And it says, "If ... defendant actually believed  
17 that what he ... was doing was in accord with [his understanding  
18 of] the tax statutes, he ... cannot be said to have the criminal  
19 intent to [do something willful]." And that's where the inquiry  
20 ends.

21 Now, these other things that have been discussed in the  
22 trial may be relevant to what people are thinking, but that's  
23 not the ultimate issue: whether they are right or wrong,  
24 whether -- whether this statute applies or that statute applies.  
25 We're not arguing with that.

1           The way that you determine -- or the way that I suggest  
2 you determine what Larry's beliefs are is by what he did.  
3 There's a jury instruction that comments on the fact, and the  
4 prosecutor referenced the fact, that we don't have a  
5 mind-reading machine. There's no way to open Larry Cohen's head  
6 and see what he believed. So you have to look to what it is  
7 that he did.

8           Prior to his association with Freedom Books, he  
9 filed -- many of the other governmental witnesses and Irwin's  
10 witnesses also filed -- regular traditional tax returns.  
11 There's no evidence of an ongoing dispute with the government;  
12 there's no evidence of years of tax disagreements. He filed his  
13 regular taxes. His returns are included.

14           There's clearly no evidence demonstrated that Larry was  
15 a partner or shared in the profits of Freedom Books. Irwin's  
16 made -- Mr. Schiff's made it absolutely clear that he's Freedom  
17 Books. And that isn't up for dispute.

18           Melvin Lewis was one of the first witnesses we heard  
19 from and he was an important witness. He was the fireman who  
20 had gone to some lengths to research these notions of  
21 nontraditional taxation. He said his -- his living room looked  
22 like a law office and he had a number of different theories that  
23 he subscribed to. But one of the things that's important for us  
24 is he testified me and Larry would talk about the Code in detail  
25 on a regular basis, that Larry had some additional theories

1 about the Code, and that Larry and he would always talk about  
2 the Code.

3 Uh, Mr. Schiff talked about how Larry did his own  
4 independent research. Like many of the people who have  
5 testified here he studied on his own. In Larry's case, that led  
6 to him coming up with some additional ideas that he talked to  
7 people about. And Irwin testified if he'd have known about that  
8 Larry would have been fired. And Melvin Lewis testified that he  
9 knew it would have cost him his job way back when and they kept  
10 it between themselves, or at least it wasn't something that went  
11 back to Irwin.

12 These additional ideas involve bootleg documents and  
13 the OMB number that Irwin apparently subscribed to at one point  
14 in time but didn't want people teaching; they involved portions  
15 of the 1040 manual. The substance of those beliefs, again,  
16 whether they are right or wrong or the details of 'em, aren't  
17 critical, which critical is the sincerity of those beliefs.  
18 That's the issue here.

19 As a result of this process, Larry developed the "Not  
20 Liable" return, which you saw that he filed on behalf of  
21 Mr. Cardiff. Uh, and Irwin -- Mr. Schiff said this isn't part  
22 of Freedom Books and there's been no other evidence of this.

23 Again, what's important is not whether the "Not Liable"  
24 return is correct or not; what's important is the process that  
25 Larry went through to develop the "Not Liable" return. And the

1 fact that this wasn't simply copied from somewhere else, but  
2 this was a result of his independent study and belief; that he  
3 spent the time and energy pursuing things, whether wrong or not,  
4 to develop his theory on his own accord.

5 One of the things the Government has proposed suggests  
6 that Larry's beliefs may be less than sincere is this mention of  
7 a red flag to Agent -- I kept calling her Agent Dalton. I don't  
8 mean to. I know it's Agent Irely, but I -- I confuse those two,  
9 I guess, because of the undercover role. That -- the -- even  
10 the portion of the tape they played -- now, remember the whole  
11 tape's admitted into evidence. If your concerned about it, you  
12 can listen to it -- but, even the portion of the tape that the  
13 Government played, I submit doesn't stand for what they claimed  
14 it does.

15 They claim it stood for the fact that Larry knew that  
16 the zero return wasn't okay because he indicated there was a red  
17 flag. Well, in just the little snippet that was just up here on  
18 the board this morning, he confirmed his independent research  
19 with her. He had told her: You're not gonna get a return.  
20 You're not gonna get a refund. If you're lucky, maybe 50/50,  
21 you get a refund. That isn't what this is about.

22 He mentioned there's problems with the current  
23 attachment and the current way they were doing things. But he  
24 also says: I'm working on my own way. I have my own  
25 independent research. I have a different way to try to get this

1 done that I believe is more successful, that can help people.

2 Now, what -- what's also important to note is in those  
3 conversations he's not trying to sell Agent Irey on something.  
4 She is coming to him and she's saying will you do this or you do  
5 that and Larry says, you know, you can fill in the zeroes on  
6 your own. You don't need me to do this. She said, I want  
7 someone to do it for me.

8 She testifies that in October of the same year that she  
9 went and saw him she buys the W-4 Packet to claim exemption.  
10 Listen to those tapes. There's not one mention of additional  
11 products by Larry. He doesn't suggest to her that you need a  
12 W-4 Packet. And, in fact, she called and says, I had to ask the  
13 store. No one called me. That was the end of the conversation.

14 Larry says give her -- here's my card. If there's any  
15 problems, you call me. We can work it out. And that's the end  
16 of it. She's the one who calls back to the store and says I  
17 need a W-4 packet. No one tried to sell that to her; Larry  
18 didn't try to sell that to her.

19 The other thing that's important is, much like the  
20 other defendants, Larry's actions are wide open. This is not  
21 secret. This is not furtive. The things that he does do not  
22 indicate he's concerned or worried or feels bad or is trying to  
23 hide his actions in any way. He files and gives advice to  
24 Virginia Olen, who is a friend of his. But, more important, is  
25 a good friend of his wife's, as she's testified to.

1           And he on -- in the process of giving that advice to  
2 her, he signs her return. It's Exhibit 192 -- or 149. I'm  
3 sorry. He signs a zero return for her. And we've seen a number  
4 of these. And they have the standard attachment attached to 'em  
5 that we've heard about where they fill in the blanks and they  
6 write in the year and people may or may not adopt those or  
7 testified that they do or don't understand them.

8           But what is particularly important about this return  
9 from Ms. Olen is on the second page Larry signs it. You can  
10 read it: Lawrence Cohen, it's dated, and it's got his Social  
11 Security number there. He's not trying to hide this. If you --  
12 I am the preparer of this return is what he says on that  
13 document. If this is wrong, here's my Social Security number.  
14 You know where to find me. This is out in the open. This isn't  
15 hidden; this isn't secret. Much like both Mr. Schiff and  
16 Ms. Neun, this is out there. Come get me. If this is wrong,  
17 come get me. I believe this.

18           The other thing is he calls in the radio show. Now, he  
19 doesn't host it. But when he calls in, again, he's not furtive  
20 or secret or hiding anything. It's Larry. This is the package  
21 we're selling this week. He's happy to do it. He's not acting  
22 like someone who has concerns about the legality of their  
23 actions. And, again, we're not disputing what they did was  
24 right or wrong; we're talking about how they felt about it, did  
25 they that believe what they were doing was right or wrong.

1           A perfect example, and it's a small thing, Agent  
2 Holland testified briefly that when he served the search warrant  
3 and came into the Freedom Books office with guns drawn and --  
4 and uniforms, what's Larry's response? It's not to run. It's  
5 not to hide. It's, Would you like some bagels? These are not  
6 the actions of someone who believes they are doing something  
7 wrong. And this is all we have to look at with Larry.

8           The Government's also insinuated that evidence of this  
9 conspiracy stems from the money, the money involved with this  
10 project. Larry's not been charged with evasion or avoidance.  
11 He's not been charged with failing to pay any money that he owes  
12 or doesn't owe. Other than Jason Cardiff, who we'll talk about  
13 shortly, there has not been any testimony from any of the 35  
14 Government witnesses -- or 34 Government witnesses or any of the  
15 other witnesses that Larry kept money for himself. Every time  
16 somebody talked about money or talked about a service or talked  
17 about a product the money went to Freedom Books. There's no  
18 evidence that Larry charged anybody other than Jason Cardiff,  
19 which we'll talk about shortly.

20           There's no evidence that Larry enjoyed any kind of  
21 lavish lifestyle. Hasn't been discussed at all. There's been  
22 nothing shown that Larry had -- had a fancy house or a fancy car  
23 or threw cash around. In fact, the only evidence regarding at  
24 all what Larry made or didn't make came from Virginia Olen who  
25 said he had a telemarketing job or -- prior to his association

1 with Freedom where she believed he made 15, 16 dollars an hour  
2 and from Melvin Lewis who said he was unhappy about making  
3 minimum wage or entry-level wages at Freedom Books. That's it.  
4 There's been no other discussion, no other evidence presented of  
5 what Larry's income is or was.

6 There's also Mr. Lowder and all of the other witnesses  
7 associated with anything financial. That had nothin' to do with  
8 Larry. Nothin' to do with his bank accounts, cash deposits  
9 method, P.I.L.L. none of that stuff. That has nothing to do  
10 with Larry. It's not charged. There's no evidence to that  
11 effect. There's no evidence of financial incentive to Larry  
12 other than with Jason Cardiff.

13 The other thing that's important to talk about is that  
14 much like Mr. -- or Mr. Schiff and Ms. Neun there's been no  
15 evidence presented of anything directly inconsistent with  
16 Larry's beliefs. Not one witness has stood up here and said,  
17 yes, on this occasion Larry told me he didn't believe this or  
18 Larry did something to indicate that he didn't believe this.  
19 That has never happened, not once in this trial. And it hasn't  
20 happened for any of the defendants, but I -- I know it hasn't  
21 happened for Larry.

22 Much like Mr. Cristalli talked about, a number of the  
23 Government witnesses testified that -- that they still believe  
24 this to today and all of them testified that they believed their  
25 actions were legal when they were doing them.

1           Now, sitting back from a distance, one may wonder how  
2 that could be the case. But that's not the question. The  
3 question isn't is that a rational belief, is that a correct  
4 belief. The question is did they really believe it.

5           Ms. Mitchell, Mr. Diamond both went through bankruptcy.  
6 That didn't indicate they had changed their beliefs as a result  
7 of that process. Um, Dr. Dentice had gone to jail. Um,  
8 Mr. Parrinelli.

9           Now, some of them indicated that today they were filing  
10 traditional tax returns because they felt like they had to, the  
11 government had somehow forced them to. But they never said that  
12 they thought that they were wrong at the time they did whatever  
13 they did.

14           Even Melvin Lewis, who was an interesting witness  
15 because he made it very clear that he was trying to get right  
16 with the IRS -- he made that absolutely clear. And I'm not  
17 challenging that assertion. But what I found interesting is  
18 when he talked about Larry's "Not Liable" return he accidentally  
19 said -- or I believe it was an accident. I don't know -- he  
20 said that was the way I should have done it all along. That was  
21 right. And he corrected himself and said, well, no. I need to  
22 pay my taxes. But back then that's what I should have done all  
23 along.

24           These people -- these -- all of these witnesses,  
25 Mr. Schiff's witnesses, all -- none of them have said that they

1 didn't believe what they were doing at the time was legal. And  
2 many of 'em who volunteered the testimony said that they still  
3 believe, as we sit here today, it's legal even if they are not  
4 following it.

5           Why is that? Well, different people have given  
6 different reasons. But we're heard on repeated occasions that  
7 the openness of Mr. Schiff's practices is part of that reason,  
8 that the radio show's out there and people listen to it. People  
9 like Vickie Driscoll [sic] who today are not happy with the  
10 program, who are clearly dissatisfied customers, testified to  
11 the fact that it was out and in the open and ongoing led her to  
12 believe that in fact it was okay.

13           Um, people would who attended seminars that opened,  
14 signs -- all of these things suggested to people that this was  
15 okay, or that presumably the government would have done  
16 something to stop them and they didn't. Now, ultimately some of  
17 those people changed their minds. But nobody you've heard from  
18 said at the time that they didn't believe this.

19           And a lot of these people have testified that they took  
20 what Irwin told 'em and then they went and developed it on their  
21 own further. Some of 'em said, yeah, I -- I got this material  
22 and I just did whatever it said and I never really took any  
23 effort to understand it. But a lot of people used it as a base  
24 and went their own direction.

25           I have to talk for a minute about Jason Cardiff because

1 he's the only witness who gives direct testimony against Larry  
2 that -- that we haven't heard from. And I don't think we need  
3 to belabor Mr. Cardiff's, uh, problems with -- with the truth.  
4 He clearly indicated he lied repeatedly in front of the Grand  
5 Jury while he was under oath. He indicated he lied on his tax  
6 returns. He indicated, perhaps worst of all, that when he was  
7 here testifying about this he still hadn't informed his spouse  
8 that it was his greed that had started this whole process.

9 He -- he admitted he solicited Larry in an effort to  
10 get Irwin's business and make money from Larry. He claimed to  
11 not acknowledge that the money that he had paid to Larry was for  
12 anything more than just filing these returns. And -- and I  
13 guess that's one place we have to look at his credibility  
14 because he denied that. But, in fact, he admitted to making  
15 upwards of 30 phone calls to Larry. He admitted Larry filed  
16 these returns -- or prepared these returns on his behalf. He  
17 admitted that, um, Larry went to the audit for him. He admitted  
18 that at some point Larry was no longer involved and Larry  
19 arranged for somebody else to take over at no expense. He  
20 admitted that all of those things happened, but he didn't  
21 acknowledge whatever the arrangement was in terms of fees. And  
22 I raise this not to -- to show that Larry didn't receive any  
23 money. I raise it to show that the Government leads you to  
24 believe he got \$2,000 for simply preparing three returns. There  
25 was a lot more that went into it.

1           The Government's shown you a business card, some  
2 letterhead from Larry's briefcase. Look at what's in Larry's  
3 briefcase. There is a number of "Not Liable" returns prepared  
4 on behalf of other people. But there's no evidence presented at  
5 trial that he charged any of those people money. That hasn't  
6 been presented at all. There's evidence he's doing this. We're  
7 not disputing that.

8           Larry's made it very clear what his beliefs are and  
9 that he believes that the "Not Liable" return is valid and he's  
10 prepared it for people. But there's no evidence he charged  
11 anyone other than Jason Cardiff. And there's no -- and the  
12 interesting thing is even if we believe what Jason Cardiff says,  
13 which is -- is, you know, maybe up for debate, even Jason  
14 Cardiff doesn't say that Larry ever did anything to lead him to  
15 believe he wasn't sincere. In fact, when Jason stood [sic]  
16 there and said I've maybe read 10, 15 percent of The Mafia. I  
17 don't believe it. I just did this for greed. I just signed  
18 whatever somebody put in front of me.

19           And I asked him, Well, was -- was Larry not willing to  
20 talk to you about this? Did you do this because Larry wanted to  
21 charge you more money? No. Larry was always willing to talk  
22 about this. Larry always wanted to talk about his "Not Liable"  
23 and his 1040. He did it with Mel Lewis. He was willing to do  
24 it with Jason Cardiff. He did it with Toni Mitchell.

25           So even Jason Cardiff -- who the Government gives

1 immunity to to offer this testimony and the immunity is limited  
2 to what he says in court but he can say whatever's truthful in  
3 court and it can't be used against him -- even Jason Cardiff  
4 doesn't provide evidence that Larry intended to break the law;  
5 argue with the law; disagree with the law; or otherwise didn't  
6 believe these theories he had developed. In fact, he -- he  
7 provides evidence to the contrary; that Larry was more than  
8 happy and always willing to discuss these things.

9 I have to address reasonable doubt. I think  
10 Mr. Cristalli did an excellent job of explaining that concept.  
11 And, as a jury in American society, everybody has some notion of  
12 what that is. And your jury instruction tells you -- and I  
13 don't wanna pretend to be an expert or go beyond that jury  
14 instruction, but this isn't a civil case. This is a different  
15 standard. This is a criminal case. The -- the instruction  
16 tells you what reasonable doubt is. What I want you to  
17 understand is this is a felony prosecution against these people  
18 and that that means something.

19 You, as jurors, have been here a long time. And, as  
20 jurors, you have a substantial responsibility and a substantial  
21 duty which is to follow the instructions from the judge and --  
22 and follow what's in your heart. And I -- I have no reason to  
23 believe any of you aren't doing that. But I -- I have to point  
24 that out to you because it's an important role you play. And  
25 you've come a long way and you've paid attention and we're

1 almost there. But I want to encourage you to continue with  
2 doing what you've done.

3           It's the Government's burden to prove these things.  
4 Like Mr. Cristalli, again, did an excellent job of explaining  
5 this. I don't have to give you an opening statement. I don't  
6 have to give you a closing argument. I don't have to ask a  
7 witness a question. I don't have to call anybody. The  
8 Government has to show that Larry was willful, that Larry didn't  
9 have a good-faith belief. I don't have to show they did.  
10 That's an important concept to understand.

11           Larry has a good-faith belief in his understanding of  
12 the law regarding income tax. That -- that's the proposition.

13           The Government's demonstrated that, uh, Irwin had gone  
14 to prison and Larry shoulda known that. Government's  
15 demonstrated that copies of the Congressional Research opinion  
16 were found at Freedom Books. Uh, the Government's demonstrated  
17 that the IRS Appeals officer gave people various forms that  
18 talked about some or all legal arguments and that that should  
19 put Larry on notice somehow that what he thought was wrong.

20           Those things don't amount to negating Larry's  
21 good-faith belief that what he's doing is correct. That's not  
22 the same thing. It's -- it's notice of the fact that this case  
23 is here and this -- or this document's here and it may talk  
24 about some theory, may suggest that potentially Larry may have  
25 seen this. Doesn't talk about what he thought about it.

1 Doesn't talk about what he did about it. Doesn't talk about  
2 whether this document specifically addresses the issue that he  
3 has built his theory on. That's a huge leap. That's a huge  
4 leap the Government's asking you to make. There's no direct  
5 evidence of this with Larry. And that's where we get back to  
6 the burden and that's where we get back to proof beyond a  
7 reasonable doubt.

8           There's one other issue I wanted to address. The  
9 Government has represented that Larry was a top salesperson for  
10 Mr. Schiff. Now, we've heard Larry wasn't doing things the way  
11 that Mr. Schiff wanted to. If Larry had been -- that if  
12 Mr. Schiff had been aware of what Larry was doing Larry would  
13 have been fired.

14           I'm not sure what evidence we've heard that Larry was  
15 the top salesperson. We've heard from Carol Branigan who was  
16 there before Larry but had a similar job to Larry, although she  
17 did more than Larry did by her own testimony. We heard from  
18 Toni Mitchell who testified that she had a position of more  
19 importance than Larry did. We've heard that Larry's name  
20 appears on some of these forms.

21           These -- all these boxes here, these -- these are the  
22 order forms that Mr. Thomas kept in Indiana. They were sent off  
23 to Tennessee and turned into material, uh, for Mr. Lowder to use  
24 in his summary of what went on financially. There was no  
25 preparation of who made what sale.

1           And you can look through there and -- and what you'll  
2 find is in -- in certain years, depending on the number of  
3 people that are acting as salespeople, there'll be that number  
4 of reports. In other words, at the time Larry worked there,  
5 there was another guy named "Woody" who acted as a salesperson;  
6 another guy named "John." So you'll see reports from all of  
7 those people. Larry was only a top salesperson to the extent  
8 that there were only a few salespeople available. Again, I  
9 submit that the Government has not met their burden on that  
10 claim.

11           I don't think the Government's demonstrated that Larry  
12 intended to commit any crime. They haven't shown anything to  
13 negate that Larry had a good-faith belief in what he was doing.  
14 They haven't shown a financial incentive. They haven't shown  
15 direct statements. They've asked you to infer some sort of  
16 notice but haven't shown anything directly. On the other hand,  
17 Larry's -- their own defense demonstrates that Larry's taken a  
18 pay cut to go be associated with Freedom Books; that he went  
19 from making 15, 16 dollars an hour in Virginia Olen's mind down  
20 to minimum wage. And then he -- he goes there and he does that  
21 and he talks to people about this constantly and he develops his  
22 own theories.

23           And why is it that he's doing that? I submit that  
24 that's circumstantial evidence of his belief in this process.  
25 That's ultimately for you to decide. That -- that's your job

1 here. Is it evidence of that or is it evidenced of something  
2 else?

3 I appreciate your patience through these weeks. I -- I  
4 believe you guys as a group have listened and paid attention.  
5 And I -- I extort you to continue with that for as long as you  
6 need to do what you feel is right in this case. Thank you.

7 THE COURT: Government's response, if any.

8 MR. IGNALL: I'm sorry, your Honor. Can we have about  
9 a minute to --

10 THE COURT: Yes.

11 MR. IGNALL: -- reorganize the plugs there?

12 (Pause in the proceedings.)

13 MR. IGNALL: Is it all right if I get started?

14 THE COURT: Okay.

15 MR. IGNALL: I don't think we need to show anything  
16 quite yet.

17

18 GOVERNMENT'S REBUTTAL ARGUMENT

19 MR. IGNALL: All right. Ladies and gentlemen, we're  
20 really almost to the end. Again, I appreciate your patience,  
21 just as all the parties here do. It's been a long trial, but  
22 we're near the end. And I appreciate the time and the attention  
23 you've given to this case.

24 You just heard from all three defendants. And a lot of  
25 what you heard I'm gonna describe as fog and things that really

1 aren't relevant to your considerations. Ultimately, it's up to  
2 you, ladies and gentlemen. It's up to your recollection of the  
3 facts as you've heard them. It's up to you to read the judge's  
4 instructions again and to apply those facts to the law. It's up  
5 to you to decide what's relevant and what's not. But ultimately  
6 what this case boils down to is willfulness.

7           You heard all three defendants talk about how they all  
8 believed that what they were doing was legal, that they believed  
9 that they weren't violating the law. But a belief is not  
10 enough. Simply saying "I believe" -- the same way that  
11 Mr. Schiff taught people to do back in the early '90s -- isn't a  
12 license to violate the law because that belief has to be held in  
13 good faith.

14           But the beliefs you heard about are not really beliefs;  
15 they're disagreements. And there's a jury instruction that  
16 you've read and that you've seen says a disagreement with the  
17 law, or a hope that the law is some other way than it is, is not  
18 good faith. That shows that you know what your legal  
19 obligations are, you disagree with them, and you choose to  
20 disregard them.

21           They've gotten notice. Every time they get a frivolous  
22 letter, like Larry Cohen got even before he started working  
23 there, every court case, every letter from the IRS, every time  
24 someone explains the Code to them -- that's notice. That's more  
25 and more notice. And that notice negates good faith. Once you

1 know what the law is, you can't continue to violate it and claim  
2 it's an accident, it's a mistake, or it's some sort of a  
3 good-faith misunderstanding of the law.

4           These defendants are not acting by mistake or action.  
5 They know full well that every time they've raised these  
6 arguments in court the courts have ruled against them. That's  
7 notice and that notice negates good faith.

8           You also heard some more fog about witnesses, what  
9 these witnesses believed when they were doing their research on  
10 Mr. Schiff's programs. What these witnesses believe is not  
11 relevant. What's relevant is what these three defendants knew.  
12 Did they know that their position was rejected? Some of these  
13 witnesses may have been acting in good faith; some of them may  
14 not have been.

15           You even heard some talk about Matt Diamond, Toni  
16 Mitchell, and Chuck Earnest who still believe Mr. Schiff. But  
17 the difference between them and these three defendants is that  
18 they know what the contrary argument is. They know what the law  
19 is. They may still disagree with it. They may not like it.  
20 But, unlike these three defendants, they've changed their  
21 behavior. They are now filing what they call "traditional  
22 returns." They are not openly violating the law. They are not  
23 disregarding their obligations. They can disagree all they  
24 want. They know what the law is and they are following the law.  
25 These three defendants aren't.

1           These three defendants are stubborn. No one's gonna  
2 dispute that. They are open about their beliefs. But, as  
3 Mr. Bowers even mentioned, that openness helps sell products.  
4 People hear, whoa, these guys are talking about it on the radio?  
5 It must be good to go. You can't be furtive and secretive and  
6 sell products. You can't be furtive and try to get customers to  
7 try to overwhelm the IRS, to try and impede the IRS, to try and  
8 prevent the IRS from collecting taxes. But stubbornness is not  
9 a defense. Stubbornness shows that you know what the law is and  
10 you just disagree with it. You don't like it. You think you  
11 know better and you're not gonna listen to anyone.

12           Cindy Neun never wanted anyone to show her the law  
13 because she saw it dozens of times at the IRS. Mr. Cristalli  
14 mentioned something about the IRS people perhaps not being nice  
15 and perhaps not telling her what the law was every time. The  
16 question for you to ask, ladies and gentlemen -- ask yourselves  
17 is: Were Toni Aguiar, Donna Fisher, Tom Menaugh lying when they  
18 said that they went over the law multiple times with Cindy Neun  
19 present? Were they lying when you heard the tape where Tom  
20 Menaugh starts at Section 1 of the Code to explain to Cindy Neun  
21 and Matt Diamond what's goin' on, where the law comes from.

22           Matt Diamond didn't wanna listen to it then either.  
23 But eventually he obviously got it and he knows that's what the  
24 law is. He doesn't like it; he doesn't agree with it. But  
25 that's the law. That's the same law that the judge has

1 instructed you on.

2 This is all notice. Notice that negates good faith.  
3 That is lack of good faith, shows that Cindy Neun is willfully  
4 violating the law. Indeed, the letter that Mr. Cristalli showed  
5 you and read from extensively, the letter she wrote to the  
6 Supreme Court, is about the only evidence we have of what her  
7 belief is, that letter shows her disagreement.

8 Mr. Brown lost and was fighting all the way to the  
9 Supreme Court about getting his wage refund. Cindy Neun knows  
10 that Mr. Brown lost right here in the Ninth Circuit. She knows  
11 he lost. She disagrees. She wants the Supreme Court to change  
12 it. You heard from Mr. Brown [sic] that in fact the Supreme  
13 Court didn't. She knows what --

14 MR. CRISTALLI: Objection --

15 MR. IGNALL: -- the law is.

16 MR. CRISTALLI: -- objection. It's not in evidence.  
17 The result of the Brown decision is not in evidence.

18 THE COURT: Well, the jury will trust its own  
19 recollection --

20 MR. IGNALL: Yeah.

21 THE COURT: -- on that.

22 MR. IGNALL: Again, ladies and gentlemen, your  
23 recollection is what controls here, not what any of us say.  
24 You've heard all the evidence. You can review the documents.  
25 You can listen to the tapes.

1           The other issue for you to decide is whether Cindy Neun  
2 was working at Freedom Books. You heard Mr. Schiff call both  
3 Irwin [sic] -- uh, call both Cindy and Larry "employees." He  
4 said, "people who work for me." They're working there.

5           You heard Michelle Degrosellier testify about Cindy  
6 working there in 1992 and 2000. Those are two of the four  
7 counts she's charged with in willfully failing to file tax  
8 returns. After that, witnesses saw her working there. And she  
9 kept charging for her services and she kept on spending money.  
10 Those are the expenditures. She's spending money. Where is  
11 that coming from? It's coming from working at Freedom Books and  
12 it's coming from the Social Security fraud that she's  
13 committing.

14           You also saw that she was a signature [sic] on the bank  
15 accounts. In fact, we're gonna pull up Exhibit 240. I hope.

16           (Document displayed in open court.)

17           MR. IGNALL: Cindy Neun's one of the signatories on  
18 that bank account because she's the office manager and because  
19 she's working there.

20           The claim that a gift from her boyfriend is not taxable  
21 and doesn't have to be reported, all true. But, if you're  
22 getting that gift in return for working at your boyfriend's  
23 store and performing services for your boyfriend, that's  
24 working. You can't just change the word "work" to "gift" and  
25 get out of your obligations, obligations she's aware of and that

1 she's disagreed with since 1987.

2           And the Social Security fraud comes down to one phone  
3 call basically. Cindy Neun filled out that form that Social  
4 Security sent her and she did a lot of self-serving things in  
5 there explaining a little about what she's doing here and there.  
6 But a week later she gets a phone call, a phone call giving her  
7 the opportunity to explain what's going on, is she working there  
8 or not.

9           She doesn't continue to say, well, I'm -- you know, I  
10 don't really like workin' there. I'm not gettin' paid that  
11 much. She flat-out lies to Gail Loschen. And why is she lying?  
12 Because she knows right then and there if she admits that she's  
13 working there, admits that she's getting paid, she's not gonna  
14 continue getting her Social Security benefits.

15           Listen to -- recall what happened in that phone call.  
16 She lied, said she's not working there. She goes in there a few  
17 hours a week. Trust your recollection of the evidence about  
18 whether she was getting paid, whether she was in there more than  
19 a few hours a week.

20           And you heard Mr. Schiff talk about the law a lot,  
21 trying to give yet another seminar on why he thinks he's right  
22 and every court, including this court, is wrong.

23           We don't dispute that Mr. Schiff is stubborn. He still  
24 disagrees with Judge Dawson's instructions to you in this case.  
25 But, if you look at paragraph 40- -- uh, Jury Instruction 48,

1 disagreement with the law is not good faith.

2 It's the same law he's heard over and over again.

3 Mr. Schiff asked you, am I supposed to pay attention to losing  
4 in federal court? The answer to that is a simple yes. Just as  
5 the judge instructed you in Jury Instruction 48, one way that  
6 people can learn about the law is from court decisions. He's  
7 aware of dozens of them. Every single one of them he loses, yet  
8 he doesn't want to agree with that.

9 That's not acting in good faith. That's not someone  
10 who wants to understand the law and try to do his best. That's  
11 someone who's willfully disagreeing with the law. He's got  
12 notice that he's wrong and that notice negates good faith.  
13 Instead, he chooses to believe Jerry Brookins or some other  
14 witnesses who do some haphazard research based on what  
15 Mr. Schiff gives them. But he won't listen to every federal  
16 court that's addressed his claims; he won't listen to them when  
17 they tell him he's wrong.

18 Once he's gotten that notice, he can't continue to act  
19 in good faith. Again, the first time someone does it that might  
20 be good faith. But, once you get that first frivolous letter,  
21 you get that first court decision, get that first explanation  
22 from the IRS, you're not acting in good faith the next time.

23 Mr. Schiff talked a little bit about, you know, The  
24 Federal Mafia. Who knows where all the information that came  
25 from that Federal Mafia came from. Who knows where he picks and

1 chooses and cherry picks the things to put in there and cite and  
2 misconstrue.

3           What you do know is that he's raised these very  
4 arguments about taxes. The very arguments that Judge Dawson has  
5 told you are wrong he's raised them time and time again in court  
6 and he's lost. He can't still continue to pick and choose and  
7 cobble stuff together and claim that he has a misunderstanding  
8 of the law. He flat-out has a disagreement with the law.

9           We also talked a little bit about the conspiracy.  
10 Mr. Schiff said, I'm the boss at Freedom Books. It's all me.  
11 That may well be true. But Cindy Neun and Larry Cohen were  
12 workin' there and they were working with Mr. Schiff for the  
13 common objective. They don't have to share in the profits and  
14 they don't have to make the same amount of money. They are all  
15 working for that common goal: to impair and impede the IRS, to  
16 defraud the United States. Whether they make a little bit of  
17 money at it or a lot of money at it, doesn't matter.

18           Although you did hear that Jason Cardiff paid Larry  
19 Cohen \$2,000 to prepare those zero returns. In fact, if you  
20 look at the bill that's Exhibit 200, that's what the bill says.  
21 And Larry Cohen's coming up with the "Not Liable" return is just  
22 another way to further that conspiracy to try and impair and  
23 impede the IRS. He's gettin' paid for it. But, regardless of  
24 that, it's furtherance of that conspiracy and it's also the  
25 substantive counts that I believe are charged in Counts 13 to 16

1 of the Indictment.

2 Mr. Schiff spent a lot of his closing argument making  
3 these same rejected legal arguments that he's been making for  
4 years. He says he's never advocated to anyone that they break  
5 the law. But, in the end when he asks you to do him a favor,  
6 that's exactly what he was doing. He was asking all of you to  
7 break the law. He was asking you to disregard the oath that you  
8 took at the beginning of this case, to following the judge's  
9 instructions. He did that because he doesn't agree with the  
10 judge's instructions on the law, just as he hasn't agreed with  
11 any judge in the last 30 years. But this disagreement shows his  
12 notice. It negates his good faith. It shows his willfulness.

13 Ladies and gentlemen, go back to the jury room; recall  
14 all the evidence, look at all the exhibits; listen to all the  
15 tapes. Listen to the notice. Listen to every time and recall  
16 every time that each of these three defendants learned that the  
17 zero return is nonsense, learned that taxes aren't optional,  
18 learned that what they were doing was illegal.

19 Again, learning that once is enough to constitute  
20 notice, enough notice to defeat good faith and enough notice to  
21 prove that these defendants are willful. When you review all  
22 the evidence, I'm confident that you will return one verdict and  
23 that verdict is guilty on all counts against all defendants.

24 Thank you, again, for your attention. I appreciate  
25 your time.

1 THE COURT: Ladies and gentlemen of the jury, now that  
2 the attorneys and Mr. Schiff have completed their closing  
3 statements, the case is submitted to you for deliberation.  
4 We'll be in recess -- let me say this: You are allowed to  
5 deliberate on into the evening if you decide to do so. If that  
6 is the case, would you please let us know how late you want to  
7 go.

8 Thank you.

9 THE CLERK: Your Honor, swear in the bailiff?

10 THE COURT: Yes. The Court Security Officer will come  
11 forward and take the oath.

12 THE CLERK: You do solemnly swear to keep this jury  
13 together in some private and convenient place, that you will not  
14 permit any person to speak to or communicate with them nor do so  
15 yourself unless by order of the Court or to ask them whether  
16 they have agreed upon a verdict and that you will return them  
17 into court when they have agreed upon a verdict and that you  
18 will return them into court when they have so agreed or when  
19 ordered by the Court, so help you God?

20 THE MARSHAL: I do.

21 THE CLERK: Thank you.

22 THE COURT: Thank you.

23 And the two alternates will remain outside of the jury  
24 room until I have an opportunity to address you.

25 MR. IGNALL: Your Honor, may we address an issue on

1 that outside the presence of the jury?

2 THE COURT: Yes. With regard to the alternates?

3 MR. IGNALL: Yes.

4 THE COURT: All right. Well, just wait out in the  
5 hall, both of you, until I get a chance to speak with you.

6 And the jury will return to the jury room to commence  
7 deliberations.

8 (Jury leaves the courtroom at 3:01 p.m.)

9 THE COURT: Go ahead.

10 MR. NEIMAN: Your Honor, we would just ask -- I  
11 wasn't -- not sure if you were gonna dismiss the two of them or  
12 not.

13 THE COURT: No.

14 MR. NEIMAN: Okay. I just wanted to ask that they be  
15 asked not to discuss the case with each other, just in case we  
16 need to plug one in during deliberations.

17 THE COURT: That's what I intend to do.

18 MR. NEIMAN: Okay. Sounds good.

19 MR. CRISTALLI: Um, your Honor, the only other concern  
20 with regard to the alternates -- I know the Court indicated that  
21 the Court may have some discussions with the alternates -- um, I  
22 would assume, you know, obviously it doesn't have anything to do  
23 with the substance of the case since --

24 THE COURT: No.

25 MR. CRISTALLI: -- they may have to come back and

1 deliberate if there's --

2 THE COURT: No.

3 MR. CRISTALLI: -- a circumstance --

4 THE COURT: What I'm going to tell them is that they  
5 are to not discuss the case among themselves or with others, to  
6 continue on with my admonition until such time as they have been  
7 informed that the case has been decided.

8 MR. CRISTALLI: Yes, Judge.

9 MR. IGNALL: Thank you, your Honor.

10 MR. CRISTALLI: Thank you, your Honor.

11 THE COURT: Thank you.

12 Make sure, Counsel and Mr. Schiff, that the clerk has  
13 all of the phone numbers at which you can be reached.

14 MR. NEIMAN: Thank you.

15 MR. IGNALL: Thank you, your Honor.

16 (Pause in the proceedings.)

17 THE COURT: Let's see. Where is Mr. Cristalli?

18 THE CLERK: He left.

19 THE COURT: They left? All right.

20 Well, we won't do anything on the record then. The  
21 verdict form was handed out earlier. I haven't heard any  
22 objections to it, so we'll use the one we have.

23 (Recess from 3:08 p.m. to 4:29 p.m.)

24 (Telephone call placed to counsel.)

25 THE CLERK: All right, Counsel. It's Peggie. Can you

1 hear me?

2 MR. NEIMAN: Yes. This is Jeff.

3 THE CLERK: Okay.

4 Shall I go get the jury.

5 THE COURT: Have them make their appearances first.

6 THE CLERK: Counsel, make your appearances, please.

7 MR. NEIMAN: Jeffrey Neiman on behalf of the United  
8 States.

9 MR. MODAFFERI: Your Honor, it's Gary Modafferi on  
10 behalf of Mr. Cristalli who left the office early.  
11 Unfortunately I wasn't able to.

12 THE COURT: Thank you.

13 MR. MODAFFERI: Thank you, sir.

14 MR. LEVENTHAL: Todd Leventhal on behalf of Mr. Schiff.

15 THE CLERK: I believe I've forgotten one person and  
16 that's Mr. Bowers. One moment.

17 (Telephone call placed to Mr. Bowers.)

18 MR. BOWERS: Hello?

19 THE CLERK: Mr. Bowers, it's Peggie. I've got everyone  
20 on conference.

21 MR. BOWERS: Yes.

22 THE CLERK: All right. Mr. Bowers?

23 MR. BOWERS: Yes, I'm here.

24 THE CLERK: Mr. Modafferi?

25 MR. MODAFFERI: Yes, ma'am.

1 THE CLERK: Mr. Leventhal?

2 MR. LEVENTHAL: Yes, I'm here.

3 THE CLERK: Mr. Neiman?

4 MR. NEIMAN: Yes, I'm here.

5 THE CLERK: Very good.

6 THE COURT: The jury wants to go home for this evening  
7 and resume tomorrow morning. I think it would be advisable to  
8 inform them that they are not to discuss the case again until  
9 they resume deliberations in the morning. That's what I want to  
10 tell them.

11 Does anyone have any objection to that?

12 MR. MODAFFERI: No, your Honor.

13 MR. NEIMAN: No objection on --

14 MR. BOWERS: I have no objection.

15 MR. NEIMAN: -- no objection on behalf of the United  
16 States either.

17 MR. BOWERS: Sorry about that, Jeff.

18 MR. NEIMAN: That's all right.

19 The only other thing is also maybe to admonish them not  
20 to pay any attention to any media reports, if any appear.

21 THE COURT: Okay. Would --

22 MR. BOWERS: Are the Marshals still involved with them,  
23 Judge?

24 THE COURT: The Marshals are still with the -- well,  
25 it's the CSO that's with the jury right now and I haven't

1 brought them in yet.

2 But the next question is: Do you want to be present on  
3 the telephone while I bring the jury in or would you prefer that  
4 I inform them in writing of this?

5 MR. MODAFFERI: Whatever's best for the Court, your  
6 Honor. Whatever's most convenient. We really don't have a  
7 preference as to that.

8 THE COURT: Well, I'd like --

9 MR. NEIMAN: I agree with that.

10 THE COURT: -- I'd like to have a record of it. So I  
11 can either put it in writing or I can bring them in.

12 MR. MODAFFERI: If it's easier just to bring them in,  
13 Judge, that's fine with us.

14 THE COURT: Okay. We'll do that.

15 MR. MODAFFERI: Okay.

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

17 THE CLERK: Yes, sir.

18 THE COURT: Also, Counsel, while Ms. Vannozzi is out  
19 doing that, I have a request from the jury for a listing of the  
20 exhibits by number. I'm just going to tell them they already  
21 have that list in the jury room.

22 MR. NEIMAN: Have they been provided with an exhibit  
23 list?

24 THE COURT: They have.

25 MR. NEIMAN: Okay.

1 MR. MODAFFERI: There'll be no objection from Defendant  
2 Neun, your Honor.

3 THE COURT: Thank you.

4 MR. NEIMAN: Your Honor, that is a redacted -- excuse  
5 me -- exhibit list only mentioning the exhibits that were  
6 admitted into evidence?

7 THE COURT: Yes.

8 MR. NEIMAN: Okay.

9 THE COURT: Do you know where it is, Peggie, in the --

10 THE CLERK: Yes. It's tucked into the first box.

11 THE COURT: In the first box?

12 THE CLERK: Yeah, in front of the first exhibit,  
13 Government exhibit. And then each, um -- and in the package for  
14 each -- that's marked with each defendants' exhibit, their  
15 redacted exhibit lists are in each of the packages.

16 THE COURT: Okay.

17 So the Government's exhibits are listed in the front of  
18 Exhibit 1 and the other -- the defendants' exhibits that have  
19 been admitted are listed in the front of their --

20 THE CLERK: Of each individual package.

21 THE COURT: -- package. Okay.

22 Are they lining up?

23 THE CLERK: Yes. I told him to bring them in as soon  
24 as they were lined up.

25 THE COURT: Okay.

1 (Jury enters the courtroom at 4:34 p.m.)

2 THE COURT: Please be seated.

3 The record will reflect that the jury is present, uh,  
4 without the alternates.

5 The Court has been informed that you wish to, uh,  
6 discontinue your deliberations for this evening and to return  
7 tomorrow morning. And that is fine.

8 I do want to caution you before you go that you are not  
9 to discuss the case among yourselves or with others until you  
10 resume your -- until you resume your deliberations as a jury  
11 tomorrow morning and also that you not view or listen to or read  
12 any media accounts now that you are in deliberation.

13 Also, you had requested a listing of the exhibits by  
14 number. There is a list of the exhibits that have been received  
15 into evidence in front of the first exhibit of each of the  
16 parties. So the Government's Exhibit 1 has in front of it a  
17 list of all the Government's exhibits and each of the defendants  
18 have a similar list in front of their first exhibit that was  
19 received into evidence.

20 We do have -- we do have the attorneys and other  
21 representatives of the attorneys on the telephone listening  
22 to -- to this instruction.

23 Is there anything further from anyone?

24 MR. NEIMAN: Not on behalf of the United States, your  
25 Honor.

1 MR. MODAFFERI: Not on behalf the Ms. Neun, your Honor.  
2 Good evening. Thank you.

3 MR. BOWERS: Nothing from Mr. Cohen, your Honor.

4 THE COURT: All right.

5 Thank you very much.

6 MR. MODAFFERI: Thank you.

7 THE COURT: Oh, Mr. Modafferi --

8 MR. MODAFFERI: Yes, sir.

9 THE COURT: -- or, Mr. Leventhal, anything on behalf of  
10 Mr. Schiff? Did he drop off?

11 THE CLERK: I think he might have dropped off.

12 THE COURT: Okay. He was on earlier.

13 Okay. Thank you very much.

14 MR. MODAFFERI: Thank you, Judge.

15 THE COURT: We are in recess.

16 MR. BOWERS: Thank you.

17 MR. NEIMAN: Thank you.

18 (Proceedings adjourned at 4:37 p.m.)

19 --oOo--  
20 I hereby certify that pursuant to Section 53, Title 28, United  
21 States Code, the foregoing is a true and correct transcript of  
22 the stenographically reported proceedings held in the  
23 above-entitled matter.

24 DATED:

FELICIA RENE ZABIN, RPR, CCR NO. 478

25

