

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 THE HON. KENT J. DAWSON, JUDGE PRESIDING

4
5 UNITED STATES OF AMERICA,)

)

6 Plaintiff,)

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

)

7 vs.)

)

8 IRWIN SCHIFF, CYNTHIA NEUN,)

and LAWRENCE COHEN,)

9)

Defendants.)

10)

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15 REPORTER'S TRANSCRIPT OF JURY TRIAL (DAY 24)

16 Monday, October 24, 2005

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20 APPEARANCES: (See Page 2)

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

1 APPEARANCES:

2 For the Plaintiff:

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24 Also Present:

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

1 LAS VEGAS, NEVADA; MONDAY, OCTOBER 24, 2005; 2:00 P.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 The Court has been informed that the jury has reached a
7 verdict.

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

9 THE CLERK: Yes, sir.

10 (Pause in the proceedings.)

11 (Jury enters the courtroom at 2:01 p.m.)

12 THE COURT: Please be seated.

13 Will counsel stipulate to the presence of the jury?

14 MR. NEIMAN: Yes, your Honor.

15 MR. BOWERS: Yes, your Honor.

16 MR. CRISTALLI: Yes, your Honor.

17 MR. SCHIFF: Yes, your Honor.

18 THE COURT: Thank you.

19 Will the foreperson of the jury please rise?

20 Ms. Foreperson, has the jury reached a unanimous
21 verdict?

22 THE FOREPERSON: Yes, we have.

23 THE COURT: Would you please -- have you filled in the
24 verdict form?

25 THE FOREPERSON: Yes, sir, we have.

1 THE COURT: Would you please hand it to the Court
2 Security Officer. Go ahead and be seated.

3 (Document handed to the Court.)

4 THE COURT: The clerk will read the verdicts.

5 THE CLERK: Yes, sir.

6 CR-S-04-119-KJD(LRL), United States of America vs.
7 Irwin Schiff, Cynthia Neun, and Lawrence Cohen.

8 "We, the jury in the above entitled case, upon our
9 oaths, do say:

10 "That we find the defendant, LAWRENCE COHEN, not guilty
11 of the offense charged in Count One of the Indictment herein.

12 "If your verdict on Count One is guilty," which it was
13 not, the blank needed to be filled in. That is blanked.

14 "That we find the defendant, LAWRENCE COHEN, guilty of
15 the offense charged in Count Thirteen of the Indictment herein.

16 "That we find the defendant, LAWRENCE COHEN, not guilty
17 of the offense charged in Count Fourteen of the Indictment
18 herein.

19 "That we find the defendant, LAWRENCE COHEN, not guilty
20 of the offense charged in Count Fifteen of the Indictment
21 herein.

22 "That we find the defendant LAWRENCE COHEN, not guilty
23 of the offense charged in Count Sixteen of the Indictment
24 herein.

25 "DATED this 24th date of October, 2005" and signed by

1 the foreperson of the jury.

2 CR-S-04-119-KJD(LRL), United States of America vs.
3 Irwin Schiff, Cynthia Neun, and Lawrence Cohen.

4 "We, the jury in the above entitled case, upon our
5 oaths, do say:

6 "That we find the defendant, CYNTHIA NEUN, guilty of
7 the offense charged in Count One of the Indictment herein.

8 "If your verdict on Count One is guilty, did you
9 unanimously agree upon at least one particular overt act made in
10 furtherance of the conspiracy?" The answer is yes.

11 "That we find the defendant, CYNTHIA NEUN, guilty of
12 the offense charged in Count Six of the Indictment herein.

13 "That we find the defendant, CYNTHIA NEUN, guilty of
14 the offense in Count Seven of the Indictment herein.

15 "That we find the defendant, CYNTHIA NEUN, guilty of
16 the offense in Count Eight of the Indictment herein.

17 "That we find the defendant, CYNTHIA NEUN, guilty of
18 the offense in Count Nine of the Indictment herein.

19 "That we find the defendant, CYNTHIA NEUN, guilty of
20 the offense in Count Ten of the Indictment herein.

21 "That we find the defendant, CYNTHIA NEUN, guilty of
22 the offense [charged] in Count Eleven of the Indictment herein.

23 "That we find the defendant, CYNTHIA NEUN, guilty of
24 the offense in Count Twelve of the Indictment herein.

25 "That we find ..., CYNTHIA NEUN, guilty of the offense

1 in Count Twenty-Four of the Indictment herein.

2 "That we find the defendant, CYNTHIA NEUN, guilty of
3 the offense in Count Twenty-Five of the Indictment herein.

4 "That we find the defendant, CYNTHIA NEUN, not guilty
5 of the offense in Count Twenty-Six of the Indictment herein.

6 "That we find the defendant, CYNTHIA NEUN, guilty of
7 the offense in Count Twenty-Seven of the Indictment herein.

8 "That we find the defendant, CYNTHIA NEUN, guilty of
9 the offense in Count Twenty-Eight of the Indictment herein.

10 "That we find the defendant, CYNTHIA NEUN, guilty of
11 the offense in Count Twenty-Nine of the Indictment herein.

12 "That we find the defendant, CYNTHIA NEUN, guilty of
13 the offense in Count Thirty-Two of the Indictment herein.

14 "That we find the defendant, CYNTHIA NEUN, guilty of
15 the offense in Count Thirty-Three of the Indictment herein.

16 "DATED this 24th day of October, 2005" and signed by
17 the foreperson of the jury.

18 CR-S-04-119-KJD(LRL), United States of America vs.
19 Irwin Schiff, Cynthia Neun, and Lawrence Cohen.

20 "We, the jury in the above entitled case, upon our
21 oaths, do say:

22 "That we find the defendant, IRWIN SCHIFF, guilty of
23 the offense charged in Count One of the Indictment herein.

24 "If your verdict on Count One is guilty, did you
25 unanimously agree upon at least one particular overt act made in

1 furtherance of the conspiracy?" And the answer is yes.

2 "That we find the defendant, IRWIN SCHIFF, guilty of
3 the offense in Count Two of the Indictment herein.

4 "That we find the defendant, IRWIN SCHIFF, guilty of
5 the offense in Count Three of the Indictment herein.

6 "That we find the defendant, IRWIN SCHIFF, guilty of
7 the offense in Count Four of the Indictment herein.

8 "That we find the defendant, IRWIN SCHIFF, guilty of
9 the offense in Count Five of the Indictment herein.

10 "That we find the defendant, IRWIN SCHIFF, guilty of
11 the offense in Count Six of the Indictment herein.

12 "That we find the defendant, IRWIN SCHIFF, guilty of
13 the offense in Count Seventeen of the Indictment herein.

14 "If your verdict on Count Seventeen is guilty, did you
15 unanimously agree upon at least one particular affirmative act
16 to evade the taxes owed?" The answer is yes.

17 "That we find the defendant, IRWIN SCHIFF, guilty of
18 the offense in Count Eighteen of the Indictment herein.

19 "That we find the defendant, IRWIN SCHIFF, guilty of
20 the offense in Count Nineteen of the Indictment herein.

21 "That we find the defendant, IRWIN SCHIFF, guilty of
22 the offense in Count Twenty of the Indictment herein.

23 "That we find the defendant, IRWIN SCHIFF, guilty of
24 the offense in Count Twenty-One of the Indictment herein.

25 "That we find the defendant, IRWIN SCHIFF, guilty of

1 the offense in Count Twenty-Two of the Indictment herein.

2 "That we find the defendant, IRWIN SCHIFF, guilty of
3 the offense in Count Twenty-Three of the Indictment herein.

4 "DATED this 24th day of October, 2005" and signed by
5 the foreperson of the jury.

6 THE COURT: Thank you, Ms. Clerk.

7 Does either side wish to have the jury polled?

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

9 MR. CRISTALLI: Yes, your Honor.

10 THE COURT: All right.

11 Ms. Clerk, will you please pole the jury.

12 THE CLERK: Yes.

13 Beginning at the top, please:

14 Juror No. 1, is this your true verdict?

15 JUROR NO. 1: Yes.

16 Number 2, is this your true verdict?

17 JUROR NO. 2: Yes.

18 Number 3, is this your true verdict?

19 JUROR NO. 3: Yes.

20 Number 4, is this your true verdict?

21 JUROR NO. 4: Yes.

22 Number 5, is this your true verdict?

23 JUROR NO. 5: Yes.

24 Number 6, is this your true verdict?

25 JUROR NO. 6: Yes.

1 Number 7, is this your true verdict?

2 JUROR NO. 7: Yes.

3 Number 8, is this your true verdict?

4 JUROR NO. 8: Yes.

5 Number 9, is this your true verdict?

6 JUROR NO. 9: Yes.

7 Number 10, is this your true verdict?

8 JUROR NO. 10: Yes.

9 Number 11, is this your true verdict?

10 JUROR NO. 11: Yes.

11 Number 12, is this your true verdict?

12 JUROR NO. 12: Yes.

13 Your Honor, the jury has been polled.

14 THE COURT: Thank you.

15 Ladies and gentlemen of the jury, I wish to thank you
16 for your service. You are now discharged. If you would return
17 to the jury room and await further instruction I'll be with you
18 in just a few moments.

19 (Jury leaves the courtroom at 2:08 p.m.)

20 THE COURT: Thank you. Please be seated.

21 Sentencing date, Ms. Clerk.

22 THE CLERK: For Mr. Schiff, January 20, 2006, at 10:30

23 a.m.

24 MR. SCHIFF: What's the date?

25 THE CLERK: January 20, 2006, at 10:30.

1 For Ms. Neun, January 27, 2006, at 9:00 a.m.;

2 Mr. Cohen, January 27th at 9:30.

3 THE COURT: Court has, uh, recommendations from
4 Pretrial Services with respect to, uh, release of the defendants
5 Neun and Cohen pending sentencing. The recommendations are for
6 release with conditions.

7 Does the Government wish to address that
8 recommendation?

9 MR. NEIMAN: Your Honor, with regard to Ms. Neun the
10 Government would like to ask the Court to remand her into
11 custody. We do have some evidence that we could put on, if
12 necessary, regarding Ms. Neun's recently acquiring a significant
13 sum of money. Uh, there is some concern that now that she is
14 facing a significant jail time that there is the chance that she
15 may not appear.

16 THE COURT: I will set a hearing for this in the next
17 two days.

18 Uh, Defendant Cohen is released with conditions. The
19 conditions for Mr. Cohen are any imposed by the Office of
20 Pretrial Services together with the additional requirement that
21 he not associate with any codefendant, witness, or victim,
22 including adherence of the philosophies of Irwin Schiff, pending
23 sentencing.

24 MR. BOWERS: I'm sorry, your Honor. Could you please
25 repeat that last sentence? I wasn't able to hear that, just the

1 end of the conditions there.

2 THE COURT: Do not associate with any codefendant,
3 victim, including adherence of the tax philosophies of Irwin
4 Schiff, or witnesses in this case.

5 MR. NEIMAN: Your Honor, has Mr. Cohen surrendered his
6 passport? If not, we would ask that be an additional condition
7 of his release.

8 THE COURT: I don't know whether he has -- do you have
9 a passport?

10 DEFENDANT COHEN: Yes, sir.

11 THE COURT: Have you surrendered it?

12 DEFENDANT COHEN: They never asked me. I'll be more
13 than happy to.

14 THE COURT: All right. That will be a further order of
15 the Court, surrender the passport.

16 MR. BOWERS: Thank you, your Honor.

17 THE COURT: With respect to Defendant Neun, she is
18 remanded pending a hearing.

19 MR. CRISTALLI: Your Honor, if I may address the
20 Court --

21 THE COURT: You may.

22 MR. CRISTALLI: -- with regard to that, certainly we
23 would ask that she remain at liberty pending the hearing. I
24 know for certain that the money that the Government is referring
25 to with regard to a considerable amount of money is \$25,000 she

1 inherited from her father's estate for which the majority of
2 that has been -- huh?

3 MR. MODAFFERI: All of it.

4 MR. CRISTALLI: -- all of it has been claimed, uh,
5 by -- with regard to child support arrearages. Um, she --
6 she --

7 THE COURT: Is it claimed or disbursed?

8 MR. CRISTALLI: It's been -- I don't know yet.

9 (Attorney-client discussion.)

10 MR. CRISTALLI: It's been liened. She cannot get to
11 it. She cannot get to that money.

12 And there is nothing to suggest that she, um -- there's
13 no evidence whatsoever to suggests that she's not going to show
14 up for any future court appearances. Um, she doesn't, to the
15 best my knowledge, have a passport. She hasn't done anything to
16 suggest that she is not going to make her court appearance. At
17 the very least, give her the next two days out so she can get
18 her affairs out together. If at the time of her hearing the
19 Court determines that, um, she is either a flight risk or danger
20 to the community, then the Court can make the appropriate
21 determination at that time. But, at the very least, right now
22 she would have an opportunity to get her affairs together.

23 Additionally, your Honor, I think the record, um, that
24 was generated during the course of this trial is significant in
25 terms of Ninth Circuit, uh, review -- uh, review, especially as

1 it relates to Ms. Neun and the issue of severance, uh, from
2 Mr. Schiff. And we're gonna continue to argue that. So, um --
3 and I -- I was anticipating arguing for bail pending the appeal
4 as well. We'd urge the Court to -- in light of the fact that --
5 of the charges in this case urge the Court to allow her, uh,
6 some time at the very least prior to the hearing on this, uh,
7 uh, this matter.

8 THE COURT: Thank you.

9 Government.

10 MR. NEIMAN: Your Honor, the Government would obviously
11 oppose any bail pending appeal as well.

12 The Government -- I could proffer just briefly the
13 evidence the Government has. We do know that she did receive
14 \$25,000 from her inheritance. We also know that she gave
15 instructions to not -- to give her this money or not to let her
16 take control of this money until after the outcome of this case.
17 What the reasoning is we're not sure. The burden in this under
18 3143 -- Title 18, United States Code, 3143, is on the defense to
19 show that she's not a flight risk. The Government does have
20 some concern with --

21 THE COURT: I'm going set the hearing for tomorrow
22 afternoon, give each side an opportunity to brief. She will be
23 remanded in the meantime.

24 MR. CRISTALLI: Your Honor, just so the Court is aware,
25 the attorney handling that matter is in the court today if the

1 Court wanted to address it.

2 THE COURT: I do not. I do not have time. But I will
3 set it for tomorrow so that the -- the period is as minimum as
4 it can be allowing both sides to adequately prepare.

5 MR. NEIMAN: What time tomorrow, your Honor?

6 THE COURT: In the afternoon, Ms. Clerk.

7 THE CLERK: Your Honor, I'm in CM-ECF training
8 tomorrow --

9 THE COURT: Oh.

10 THE CLERK: -- from 1:30 to 4:00.

11 THE COURT: Am I in that?

12 THE CLERK: I don't know if you are or not.

13 THE COURT: All right.

14 THE CLERK: We can set it for 4:00 o'clock if you like.

15 THE COURT: Set it for 1:00 o'clock.

16 THE CLERK: 1:00 o'clock, yes, sir. 1:00.

17 MR. CRISTALLI: 1:00 o'clock tomorrow?

18 THE COURT: 1:00 p.m., yes.

19 MR. CRISTALLI: Your Honor, just before we, um, depart
20 we would renew all previous motions, including Rule 29 motion.

21 THE COURT: Those -- those are denied.
22 With re- -- yes.

23 MR. NEIMAN: Your Honor. Okay. We're --

24 THE COURT: -- with respect to Mr. Schiff --

25 MR. SCHIFF: Yeah.

1 THE COURT: -- the order is for remand.

2 MR. SCHIFF: Your Honor, I have two civil matters that
3 I'm fighting. One, I have an appeal on the summary judgment in
4 front of the Ninth Circuit which I'm looking forward to
5 responding to plus I'm supposed to have a hearing on the, um --
6 the permanent injunction, both of which civil matters have been
7 postponed pending this trial.

8 Now, I'm not gonna -- now, you set a bond for me. I'm
9 gonna fight the conviction on numerous grounds. I've been
10 convicted numerous times, and I've always appeared. I'm not
11 fleeing anywhere at 77. But, in order to effectively do my
12 appeal in this matter, uh -- what, do you think I'm gonna flee?
13 Where? I'm gonna stay here and I'm gonna fight the, uh -- the,
14 uh, conviction. But I have two civil matters that I would like
15 to pursue and I can't pursue them in jail.

16 THE COURT: Thank you.

17 MR. SCHIFF: Pardon me?

18 THE COURT: Thank you. Is that all you had to say?

19 MR. SCHIFF: Well, I mean, there's no reason -- set a
20 bond for me. I mean, I'll -- I'll try to meet the bond. I'm
21 not goin' anyplace. By -- by going anyplace I won't be clearing
22 my name and I won't, uh -- but I think I have a lot of issues
23 for appeal. There's no reason to put me in jail. I'm not a --
24 you got my passport. I'm not goin' anyplace. I don't have any
25 money to go anyplace. So just set up a bond. I mean, I think I

1 have plenty of issues for appeal. So -- I mean, I'm not a
2 flight risk at all. And -- and -- and I wouldn't flee. I would
3 much rather use the time to appeal the verdict and to litigate
4 these other two civil matters. So I would ask the Government to
5 reconsider.

6 Also, you know, I -- I have plenty of medical problems
7 that -- I have doctors -- oh, incidentally, my sister did pass
8 away, uh, Sunday. The funeral is Wednesday. And I'd like to be
9 able to go to New York and attend the funeral and come back, if
10 that is possible.

11 THE COURT: Government.

12 MR. SCHIFF: So you can post [sic] the bond and I'll
13 meet the bond.

14 MR. NEIMAN: Your Honor, the Government would seek the
15 detention of Mr. Schiff pending sentencing. Uh, we saw evidence
16 at this trial regarding Mr. Schiff placing assets offshore
17 outside the control or outside where the United States would be
18 able to take them. We don't know what the Government -- we know
19 what the Government's aware of; we don't know what the
20 Government's unaware of. And I think Mr. Schiff is now staring,
21 again, at significant jail time. And, if -- if his basis is
22 that he has a legitimate grounds for appeal, I -- I -- I think
23 that there needs to be clear and convincing evidence of that as
24 well. And that has not been demonstrated either. We would
25 seek --

1 MR. SCHIFF: You could check the P.I.L.L. account.
2 There's maybe 2,000 in that account. I don't have any assets
3 offshore. Maybe there's 2,000 in the P.I.L.L. account. You
4 have the account number; check with P.I.L.L.. I think I have
5 2,000 in that account now.

6 THE COURT: Please be seated, sir.

7 The defendant stands convicted of numerous felonies
8 which, in his words, are tantamount to a life sentence. He is a
9 flight risk. He has considerable assets that are unaccounted
10 for. Some of those, by his own admission, are concealed to
11 avoid, uh, the government collecting and those are overseas.

12 He has been unmanageable in the courtroom. He is a
13 danger to the community. He has throughout the course of this
14 trial fomented threats to the safety of the Court and its
15 personnel. He has no respect to the Court's rulings or those of
16 the Courts of Appeals or the other courts who have addressed
17 these issues already. The Court finds that no conditions can be
18 reasonably fashioned which would assure the defendant's
19 appearance for sentencing or adequately protect the public.

20 The matter of sanctions for numerous contempts of court
21 citations are still pending.

22 With respect to the issue -- issues for appeal, the
23 defendant has evidenced that he does not respect the rulings of
24 the Appellate Court. In his own words, all federal court judges
25 are corrupt.

1 With respect to his medical problems, the Court is
2 familiar with the Bureau of Prisons and -- and is aware that it
3 can treat any of the conditions that the defendant, uh, now has.

4 Accordingly, the request for detention is granted. The
5 defendant will be detained pending sentencing.

6 MR. SCHIFF: Your Honor, if I can just say, I do not
7 have substantial assets overseas. That's a fiction. That's --

8 THE COURT: Mr. Schiff, I have ruled.

9 MR. SCHIFF: But that's a fiction.

10 THE COURT: That is only one of the many reasons that I
11 have given for detention.

12 We are now in recess.

13 MR. BOWERS: Your Honor, I'm sorry. Just for the
14 record, may I preserve any motions that I've made pursuant to
15 Rule 29 and otherwise --

16 THE COURT: You may.

17 MR. BOWERS: -- throughout the trial? Thank you.

18 (Proceedings adjourned at 2:21 p.m.)

19 --oOo--

20 I hereby certify that pursuant to Section 753, 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