

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 4)

Friday, September 15, 2005

APPEARANCES: (See Page 2)

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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 I N D E X

2	WITNESS:	Direct	Cross	Redirect	Recross	Further Redirect
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3	Government's:					
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4	Ted Wethje	774-N	787-S	860-N	863-S	--
5	Melvin Lewis	874-N	948-C 988-B	--	--	--

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8 EXHIBITS

9	EXHIBIT NO.:	MARKED FOR IDENTIFICATION	RECEIVED IN EVIDENCE
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10

11	Government's:		
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11

12	52 through 57	--	779
	231	--	938

13	Defendant Schiff's:		
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14	2000	789	--
	2001	822	--
15	2002	836	--
	2003	838	--

16

17	Defendant Neun's:		
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17

18	2505	--	981
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1 LAS VEGAS, NEVADA; FRIDAY, SEPTEMBER 15, 2005; 9:10 A.M.

2 --oOo--

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

4 THE CLERK: All rise.

5 THE COURT: Please be seated.

6 Do you have that curative instruction?

7 MR. IGNALL: Well, your Honor, we were still doing a
8 little bit of negotiating on that. But let me go through what I
9 think we've agreed on and maybe Mr. Leventhal, when he hears it,
10 might have a suggestion because we hadn't quite finished
11 discussing it with him.

12 But, uh, the -- the instruction we propose, I think,
13 would say: "You've heard evidence that Defendant Schiff has
14 been convicted of certain crimes. This evidence should not be
15 considered by the jury as propensity to have committed the
16 crimes alleged in the case before you. This evidence is not to
17 be considered at all in your determination of the guilty or
18 innocence as to Defendants Neun and Cohen."

19 And this is the part where we're still trying to work
20 it out.

21 THE COURT: Okay.

22 MR. IGNALL: "And, as to Defendant Schiff, you are to
23 consider this evidence only as it relates to his knowledge
24 of" --

25 And that's where I think we have not quite come to the

1 exact language we wanted.

2 But after that we were gonna say: "And you've heard
3 evidence that there was a judicial determination in a probation
4 hearing that Defendant Schiff's zero returns were not valid."

5 Now, maybe we could say the same thing that that is --
6 whatever language we come up with that you should only consider
7 that as to Defendant Schiff's knowledge of. And that's where I
8 think we're having a little bit of an issue just getting the
9 right language.

10 And then the last part of the stipulation I think we
11 all agree on is, "Furthermore, as to Government Exhibit 66, the
12 defendants and the Government agree that Defendants Neun and
13 Cohen have never seen that exhibit and it should not be
14 considered as evidence against them in your deliberations."

15 THE COURT: Okay.

16 MR. IGNALL: So I don't know. Mr. -- I don't want to
17 put Mr. Leventhal on the spot here. But if he has a suggestion
18 for...

19 (Discussion between Mr. Ignall and
20 Mr. Leventhal.)

21 MR. IGNALL: Maybe it could be something, you know,
22 knowledge of or notice of the Government's and the Court's
23 position or something.

24 THE COURT: Okay. Well --

25 MR. NEIMAN: Well --

1 THE COURT: I -- I don't wanna have -- I don't have the
2 Court's position in there. It's the -- it's the --

3 MR. SCHIFF: Your Honor, can I --

4 MR. IGNALL: Okay. Notice of -- I'm not -- notice of
5 what the -- what his legal requirements were and what his legal
6 objections were.

7 THE COURT: That sounds better.

8 MR. SCHIFF: May I, uh...

9 THE COURT: Go ahead.

10 MR. SCHIFF: Okay.

11 It dawns on me -- dawns on me yesterday that if the
12 witness was unaware of the documents in question I -- I just
13 couldn't ask him any questions. Now, it dawns on me that --
14 that Toni did know about those -- that lawsuit against me, which
15 I won on the appeal and I won at the trial. The appellate
16 judges made some comments. And, also, she was unaware, as I
17 was, of all those cases that allegedly, uh, that said a zero
18 return was not a return. She never saw the cases. So it seems
19 to me that the prosecutor got in that information somehow.

20 Now I want to say this: I never saw any of those zero
21 return cases that he referred to. As a matter of fact, I've
22 never seen a zero return case other than the, um -- the Long
23 case and the Ninth Circuit cases.

24 I would like -- I tried to, uh, get them, you know,
25 with my limited research ability -- I would like the Government

1 to pull down, because they have a facility, all the cases that
2 are mentioned that they said said that a zero return is invalid.
3 They didn't put them in.

4 Also, your Honor, I couldn't find, uh, the decision in
5 that case involving my offer of a hundred thousand. I thought I
6 had it. I would like the Government to get it so that I can
7 show that the lawyer in that case did not meet the terms of my
8 offer because as -- I offered to pay a hundred thousand to
9 anybody who can produce a law that says you're required to file
10 a tax return.

11 He cited about five different code sections: Section
12 1, which imposes a tax; Section 61, uh, which allegedly defines
13 income; Section 7203. The only section that came close was
14 Section 6012. And Section 6012 says "who shall file." So none
15 of the Code sections --

16 THE COURT: Well, you're just reading it the way you
17 want it to come out. If you have a certain level of income, you
18 are required to file --

19 MR. SCHIFF: That might be.

20 THE COURT: -- and there are court cases that say that.

21 MR. SCHIFF: But my offer was -- my offer
22 specifically -- he didn't meet the terms of my offer.

23 THE COURT: Which was that he call during the program.

24 MR. SCHIFF: No. Also, he -- none of the doc- -- none
25 of the statutes said you're required to file. I didn't say --

1 THE COURT: Well --

2 MR. SCHIFF: -- I'm gonna give you a hundred thousand
3 if you provide a statute that says "who shall file."

4 The point is --

5 THE COURT: Well, you -- that's just semantics. You're
6 just playing games. You're --

7 MR. SCHIFF: I wouldn't have -- I wouldn't have offered
8 a hundred thousand --

9 THE COURT: Listen, listen. Your actions were
10 deceitful. You're playin' on words and playing word games.
11 There is a statute that requires you to file if you have a
12 certain amount of income.

13 MR. SCHIFF: What statute is that, your Honor?

14 THE COURT: You just mentioned it.

15 MR. SCHIFF: I mean, I don't know of it.

16 THE COURT: You just mentioned it. There are plenty of
17 court cases that affirm it. You know it.

18 MR. SCHIFF: But Section 6012 says "who shall file" not
19 who is required.

20 THE COURT: You know it; you reject it. You ignore
21 those cases that --

22 MR. SCHIFF: Can I ask --

23 THE COURT: -- require you to file.

24 MR. SCHIFF: -- the Government to get those cases that
25 they've referred to but didn't produce?

1 THE COURT: No.

2 MR. SCHIFF: How about the cases on the zero return?

3 THE COURT: No. I'm not going to require them to
4 produce anything for you other than evidence to be used in this
5 case. And if they wanna -- they wanna put someone on the stand
6 to point it out to the jury, fine. If they don't, I'm going to
7 give the jury instructions of law on this very point.

8 MR. SCHIFF: Well, you can't. It's what I understand
9 the law to be.

10 THE COURT: You're just playing word games. That's
11 what you do. So go over and be seated. Your objection, if
12 that's what it can be called, is -- is overruled.

13 MR. BOWERS: Your Honor, if I may.

14 THE COURT: Yes.

15 MR. BOWERS: The -- I believe that there's an
16 instruction, uh, regarding Mr. -- the introduction to
17 Mr. Schiff's prior criminal history --

18 THE COURT: Yes.

19 MR. BOWERS: -- that's more or less being worked on or
20 been agreed to or something. I just want to put on the record
21 that I -- I will probably throw my consent into that.

22 THE COURT: Okay.

23 MR. BOWERS: However, I -- I think it's very important
24 that -- and the Government's not gonna agree and they don't have
25 to and the Court may not agree -- that an explanation be made

1 through this witness, uh, of what type -- the difference in the
2 standard in burden of proof and legal procedures from a
3 probationary to a criminal trial. I think that affects the
4 amount of notice Mr. Schiff has.

5 Um, that information can certainly be elicited, from my
6 understanding of this witness, through cross-examination. Um,
7 however, I -- I would be incredibly surprised if Mr. Schiff were
8 able to successfully do that. Um, I -- I will not probably
9 address those issues with my agent and I don't want to draw
10 undue attention to myself because I don't have anything -- my
11 client has nothing to do with this witness. And I'm not
12 renewing a motion to sever. I'm just pointing to another
13 example how I'm being prejudiced by Mr. Schiff's inability to
14 represent himself effectively.

15 Thank you.

16 THE COURT: All right. Thank you.

17 Well, do we have something pretty well hammered out or
18 do you want to wait off -- the reason I gave it last night is I
19 suspected we wouldn't have anything this morning. I didn't
20 wanna delay any further.

21 MR. IGNALL: I think we did. I think we -- do you want
22 me to try to read it again?

23 THE COURT: Pretty much -- well, why don't you hand it
24 to me so I can --

25 MR. IGNALL: Well --

1 THE COURT: -- I can read it.

2 MR. NEIMAN: Your Honor, good luck reading his
3 handwriting.

4 THE COURT: Are you writing in English or --

5 MR. IGNALL: Hold on.

6 THE COURT: -- some other language?

7 MR. IGNALL: It's gonna be -- a little bit of a
8 challenge. Let's see.

9 THE CLERK: You're used to challenges.

10 THE COURT: Well, yeah, I -- it's -- I'm the worst
11 offender of not writing in English.

12 MR. IGNALL: Yeah. That's why I was trying to read it.
13 May I approach the clerk?

14 THE COURT: You may. Thank you.

15 THE CLERK: It's not too bad.

16 MR. IGNALL: Some of its typed. That part you can
17 read.

18 THE CLERK: That's not too bad at all. I've seen much
19 worse.

20 (Document handed to the Court.)

21 MR. IGNALL: My mom told me I should have been a doctor
22 with that handwriting.

23 (Pause in the proceedings.)

24 THE COURT: Okay.

25 You have heard evidence that defendant -- that there

1 was -- okay -- you've heard evidence that Defendant Schiff has
2 been convicted of certain crimes. This evidence should not be
3 considered by the jury as propensity to have committed the
4 crimes alleged in the case before you. You have heard evidence
5 that there was a judicial determination in a probation hearing
6 that Defendant Schiff -- Schiff's zero returns... I see. Okay.

7 I think, uh, I'm just having a little bit of trouble
8 because this is out of order.

9 There is a further -- a further statement after the
10 conviction of crimes. This evidence is not to be considered at
11 all in your determination of guilt or innocence as to Defendants
12 Neun and Cohen. Further -- Government Exhibit 66 is the
13 probation hearing?

14 MR. IGNALL: Yes, your Honor.

15 THE COURT: Okay.

16 Furthermore, as to Government Exhibit 66, the
17 defendants and the Government agree that Defendants Neun and
18 Cohen have never seen that exhibit and it should not be
19 considered as evidence against them in your deliberations. That
20 evidence is not to be -- let's see -- and, as to Defendant
21 Schiff, you are to consider this order as it relates to his
22 knowledge of his legal obligations -- only as it relates to his
23 knowledge of his legal obligations.

24 MR. IGNALL: We'd agree to that, your Honor.

25 THE COURT: Okay. So let me number these in order.

1 Two, three, four, five. Okay. Let's give it a whirl. Oh.

2 MR. BOWERS: One real quick issue, Judge.

3 THE COURT: Okay.

4 MR. BOWERS: I anticipate this being an issue again
5 today based on the Government's witnesses that we discussed.
6 Um, the -- the balance of relevance or admissibility or whatever
7 else will come up when they come up with respect to Mr. Lewis.

8 I will -- I will in all likelihood request a sidebar
9 and the Court's, of course, free to grant or ignore that. I'm
10 not doing that for any other reason than I believe that is
11 material that I probably shouldn't talk about in front of the
12 jury.

13 And I guess the point is: If the Court ignores it, I
14 will assume the Court -- you know, I'm not gonna make as
15 detailed a proffer as I have to on -- in front of the jury or
16 not in front of the jury depending on the Court's decision.
17 That's it.

18 THE COURT: Okay.

19 MR. BOWERS: Thank you.

20 THE COURT: Cristalli.

21 MR. CRISTALLI: Just one final addition that I think
22 we've all spoke about.

23 In lieu of referring it to just as Government
24 Exhibit 66, we would ask for further instruction which says
25 Government Exhibit 66, the probation report of Irwin Schiff.

1 Only because it clarifies what the exhibit actually is.

2 MR. BOWERS: Probation order.

3 THE COURT: Well, it's --

4 MR. CRISTALLI: Yeah --

5 THE COURT: -- it's an --

6 MR. CRISTALLI: -- that's fine. It's a probation order
7 I guess.

8 THE COURT: It's an Order Regarding Probation for --

9 MR. CRISTALLI: That's fine.

10 THE COURT: -- Petition for a Probation Action.

11 MR. CRISTALLI: Yes.

12 THE COURT: A probation report is another -- as you're
13 well aware, another kind of document.

14 Okay.

15 MR. NEIMAN: Your Honor, may we bring in the witness?

16 THE COURT: Yes, please.

17 (Ted Wethje retakes the witness stand.)

18 THE CLERK: Ready?

19 (Jury enters the courtroom at 9:24 a.m.)

20 THE COURT: Please be seated.

21 I think before you begin I'll give the instruction as
22 requested.

23 Last night I gave you a legal instruction regarding,
24 uh, matters related to prior convictions. Counsel have agreed
25 to an additional follow-up instruction that repeats some of the

1 same things that I told you last night, which are a quotation
2 out of a section of the evidence Code. But the additional
3 instruction is as follows:

4 You have heard evidence that Defendant Schiff has been
5 convicted of certain crimes. This evidence should not be
6 considered by the jury as propensity to have committed the
7 crimes alleged in the case before you. This evidence is not to
8 be considered at all in your consideration of guilt or innocence
9 as to Defendants Neun and Cohen.

10 You have also heard evidence that there was a judicial
11 determination in a probation hearing that Schiff filed zero
12 returns that were not valid. As to Defendant Schiff, you are to
13 consider this at -- only as it relates to his knowledge of his
14 legal obligations. As to the exhibit which is, uh, Exhibit 66,
15 Government Exhibit 66, the Order Regarding Petition for a
16 Probation Action, you are to consider -- you are not to
17 consider -- the Government -- the defendants and the Government
18 agree that Defendants Neun and Cohen have never seen that
19 exhibit and it should not be considered as evidence against them
20 in your deliberations.

21 Does that accurately recite the --

22 MR. NEIMAN: Yes, your Honor.

23 THE COURT: -- instruction?

24 MR. CRISTALLI: Yes, your Honor.

25 THE COURT: Mr. Bowers?

1 MR. BOWERS: Yeah. Yeah.

2 THE COURT: Okay.

3 MR. BOWERS: Yes, it does --

4 THE COURT: Thank you.

5 MR. BOWERS: -- Judge.

6 THE COURT: Mr. Schiff?

7 MR. SCHIFF: Yes, I do.

8 THE COURT: Thank you.

9 You may now resume your examination of the witness.

10 MR. NEIMAN: Thank you very much, your Honor.

11

12 TED WETHJE,

13 called as a witness on behalf of the Government, having been
14 previously duly sworn, continues to be examined and testifies as
15 follows:

16

17 DIRECT EXAMINATION (Continued)

18 BY MR. NEIMAN:

19 Q. Good morning, Mr. Wethje.

20 A. Good morning.

21 Q. I believe yesterday we were discussing Government's
22 Exhibit 66. If we can direct your attention back to that
23 exhibit.

24 THE COURT: Ms. Clerk, do we have a copy for him --

25 THE CLERK: I do.

1 THE COURT: -- the witness? 66.

2 (Document displayed in open court.)

3 BY MR. NEIMAN:

4 Q. Real briefly, Special Agent Wethje, can you explain again
5 the circumstances surrounding this, uh, order revoking
6 Mr. Schiff's probation?

7 A. Yes. Uh, Mr. Schiff was required under the conditions of
8 his probation to file tax returns and pay the taxes due. He
9 failed to do that and this action was initiated -- this
10 probation action was initiated. And this is the ruling after a
11 two-day hearing by Judge Dorsey as a result of that.

12 Q. If I could direct your attention specifically to page 6, I
13 believe, there's a, uh, paragraph. And in the middle of the
14 paragraph it begins "Whatever his motivation." It's on the
15 screen which may be easier to directly refer you to what it is
16 that we're -- and there's a screen also on your left. I hope
17 it's working. Maybe.

18 A. It is not. But I have it here.

19 Q. Okay. If I could please read that section.

20 A. I can read it from here.

21 "Whatever his motivation, he has not complied with the
22 probation condition. He did not file valid tax returns for 1980
23 [through] 1988 even though he was clearly obligated to do so.
24 There can be no good faith in his assertion that he is not
25 obliged to do so for the views on which he relies are his own,

1 convoluted, distorted arguments that have been rejected by every
2 court to which they were presented. His reliance on Long is
3 opportunistic and not bona fide. There will be no further
4 tolerance of the blind disregard of his adjudicated tax
5 obligations."

6 Q. Special Agent Wethje, the reference to Long, do you know
7 what that is?

8 A. I believe that's one case that was, uh, contra to the other
9 five cases.

10 MR. SCHIFF: I didn't hear that.

11 THE WITNESS: I believe it is one -- one case that was
12 contra to the other cases that Judge Dorsey cited.

13 BY MR. NEIMAN:

14 Q. And this is a case that is cited by Mr. Schiff?

15 A. Yes. That's one he relies on.

16 MR. NEIMAN: If we could remove Government's
17 Exhibit 66, please.

18 Ms. Vannozzi, if we could also put the lights back on.

19 THE CLERK: Thank you.

20 MR. NEIMAN: I'm done for the time being with that.

21 BY MR. NEIMAN:

22 Q. Uh, did Mr. Schiff at some point during this, uh, probation
23 revocation hearing ever file additional tax returns or present
24 additional tax returns to either the IRS, yourself, or the
25 Court?

1 A. Yes, he did.

2 Q. And were you present when this happened?

3 A. Yes.

4 Q. What did Mr. -- can you explain, I guess, what Mr. Schiff
5 did with regard to these additional tax returns?

6 A. On the second day of this hearing, uh, just before the
7 hearing started -- I assume the hearing had started. But right
8 at the beginning of the hearing, in the second day in the
9 morning, Mr. Schiff addressed the Court, Mr. -- to Judge Dorsey
10 and said, Your Honor, I have tax returns and they have numbers
11 on 'em. And I'd like to submit them. And my recollection is
12 that Judge Dorsey said: Don't give them to me. Give them to
13 the IRS.

14 I was sitting at the table. They were handed to me,
15 and I turned and handed them to a revenue agent who was assigned
16 the civil closing of Mr. Schiff's tax liability. Revenue agents
17 accept the returns, and I turned and handed them to the revenue
18 agent. They were marked as exhibits, I believe, in the hearing
19 and they contained numbers 80 through 82, containing the numbers
20 that we had used in our previous trial, the criminal numbers, he
21 had put those on the tax returns. And the other years had
22 numbers also, but I'm not sure the source of those numbers.

23 MR. NEIMAN: And if I may approach the witness, your
24 Honor?

25 THE COURT: You may.

1 MR. NEIMAN: I'm approaching the witness, for the
2 record, with Government's Exhibits 52 through 57.

3 (Exhibits handed to the witness.)

4 BY MR. NEIMAN:

5 Q. Special Agent Wethje, do you recognize Government's
6 Exhibit 52 through 57?

7 A. Yeah -- yes. These are the, um -- these are the tax
8 returns -- copies of the tax returns that he submitted on that
9 second day of the hearing.

10 MR. NEIMAN: Your Honor, at this time the United States
11 would move Government's Exhibits 52 through 57 into evidence.

12 THE COURT: My recollection is that Defendant Neun and
13 Defendant Cohen had no objection to those exhibits.

14 MR. CRISTALLI: That's correct --

15 THE COURT: Is that still true?

16 MR. CRISTALLI: -- your Honor. I don't really think
17 they apply to us.

18 THE COURT: Thank you.

19 MR. BOWERS: I have --

20 THE COURT: Same --

21 MR. BOWERS: -- no objection at all, your Honor.

22 THE COURT: 50- -- the exhibits are 52 through 57. Do
23 you have any objection to those exhibits coming in?

24 MR. SCHIFF: None whatsoever.

25 THE COURT: 52 through 57 are received.

1 MR. NEIMAN: Thank you.

2 (Government's Exhibit Nos. 52 through 57,
3 received into evidence.)

4 MR. NEIMAN: Thank you.

5 BY MR. NEIMAN:

6 Q. If I could direct your attention to Government Exhibit 52.

7 If we could please put on just page 2 for scan
8 purposes. I believe page...

9 (Document displayed in open court.)

10 MR. NEIMAN: If we could blow up the top portion.

11 BY MR. NEIMAN:

12 Q. Whose return is this for 1980?

13 A. Irwin A. Schiff.

14 Q. And if we look on the -- on the face of the return, on the
15 right-hand side are numbers inserted into the --

16 A. Into the Total Income column --

17 Q. Total Income.

18 A. -- and then the Adjusted gross Income column.

19 Q. Okay. What is that figure if you could read it? It's
20 difficult I'm sure. At least for me it is.

21 A. Total Income is legible. \$241,703.

22 Q. All right. If we could go to the next page of the return.

23 A. Yes.

24 Q. What was Mr. Schiff's, uh, I guess, tax obligation or tax
25 due and owing for that year, if you know on --

1 A. \$36,414.

2 Q. And if I could direct your attention to the signature line,
3 "Please Sign Here."

4 A. "Irwin A. Schiff," and it's dated August 1st, 1999 [sic].
5 August 1st was the second day of the hearing.

6 Q. What -- what year?

7 A. Or 1991. I'm sorry.

8 Q. Thank you.

9 And if we could read the -- I guess, the first part of
10 the -- the oath under which Mr. Schiff signed these returns.

11 A. "Under penalties of perjury, I declare that I have examined
12 this return, [uh] including accompanying schedules and
13 statements, and to the best of my knowledge and belief, it is
14 true, correct, and complete." And then "Declaration of preparer
15 (other than taxpayer) is based on" -- I can't read the rest of
16 it.

17 Q. Special Agent Wethje, if I could direct your attention to
18 Government's Exhibit 53?

19 MR. SCHIFF: Objection.

20 MR. LEVENTHAL: What is your objection?

21 MR. SCHIFF: You didn't -- is that the returns that I
22 filed during the probation hearing?

23 THE COURT: Yes.

24 MR. SCHIFF: You didn't -- you didn't show the rest of
25 it.

1 MR. LEVENTHAL: That's for you to do.

2 THE COURT: Well, you can -- you can ask the exhibit be
3 shown again when you have your opportunity to examine the
4 witness.

5 BY MR. NEIMAN:

6 Q. We can go back to Government Exhibit 52 actually, Special
7 Agent Wethje.

8 (Document displayed in open court.)

9 BY MR. NEIMAN:

10 Q. Are there any attachments to the tax return?

11 A. Uh, a statement. He has a statement.

12 MR. NEIMAN: Okay. If we could show a portion of that
13 statement or that statement. I believe it's, hopefully, page 3,
14 Special Agent Steiner.

15 (Document displayed in open court.)

16 BY MR. NEIMAN:

17 Q. It's gonna be hard to read on the screen. If you could
18 please, I guess, read the --

19 A. I can read this copy.

20 Q. Okay. Please, if you could read us --

21 A. It's dated August 1st, 1991.

22 "While I that believe my return originally filed for
23 the year 1980 as shown by the original return correctly and
24 accurately reflected my taxable income for that year, I have
25 been informed by the U.S. Probation Department in New Haven,

1 Conn[ecticut], that despite my reliance in the holding in United
2 States v. Long, 618 F. 2d 74, (1980), U.S. v. Kimbal, No 87-1392
3 D.C. [um]"...

4 Q. You could skip over --

5 A. Okay.

6 Q. -- the cites and just read the case names.

7 A. -- "they do not consider the filing of such a return as
8 falling within the terms of the condition of my probation.

9 "In addition I have been informed by the government
10 (see attachment, page 3) that the government considers my gross
11 income for civil purposes to be \$241,703 for 1980; my 'Taxable
12 Income for Civil Purposes to Date' to be \$82,377; and my 'Tax
13 Liability for Civil Purposes to Date' to be \$36,413 for the
14 taxable year 1980.

15 "Therefore, not to be in violation of the conditions of
16 my probation I have decided to accept the government's
17 determination with respect to these amounts, since I do not have
18 any books [and] records with which to challenge these figures in
19 any way.

20 "Since I do not have any money to pay the some \$232,901
21 I owe for the years 1980 [to] 1989,, I trust that the government
22 will work with me to arrange a realistic payment schedule.

23 "Signed under penalty of perjury, Irwin A. Schiff."

24 Q. Special Agent Wethje, do you know whether or not the
25 government tried to enter into a realistic repayment schedule

1 with Defendant Schiff?

2 A. I know they attempted to work with him, yes.

3 Q. Was that successful?

4 A. No.

5 Q. If I could direct your attention to, uh, the next Government
6 exhibit, 53, I think.

7 (Document displayed in open court.)

8 BY MR. NEIMAN:

9 Q. Is this similar to the tax return we just went through for
10 year 1980?

11 A. Yes, it is.

12 Q. For which year is this tax return?

13 A. 1981.

14 Q. And did Mr. Schiff for his tax return 1981 report income to
15 the -- to the federal government?

16 A. Yes, he did.

17 Q. And is that return -- or what's the amount of that income?

18 A. Uh, the total income's a hundred and forty-two thousand
19 seven hundred and eleven with adjusted gross income of 27,417.

20 Q. All right. Is that -- is that document also signed by
21 Defendant Schiff on the second page?

22 A. Yes.

23 Q. And is there an attachment similar to the one we just looked
24 at for the 1980 return?

25 A. There's two attachments, yep. The same letter, just changed

1 the numbers for 1981.

2 Q. What's the second attachment?

3 A. The second attachment, um, is the tax computation. This
4 appears to be the tax computation that the Internal Revenue
5 Service did, uh, summarizing all his, um, liabilities for the
6 years 1980 through 1989. The first three years, '80 to '82, are
7 the figures that we used for the criminal investigation that I
8 conducted.

9 Q. All right. And was that attachment also -- was this
10 document also attached to the previous return which we looked --

11 A. Yes.

12 Q. -- at?

13 A. Yes.

14 Q. Going to the next Government exhibit, I believe Government
15 Exhibit 54 --

16 A. Yes.

17 Q. -- real quickly, what's Government Exhibit 54?

18 (Document displayed in open court.)

19 THE WITNESS: Uh, it's the 1982 tax return for Irwin
20 Schiff. Again, it contains the income for 1982 at \$623,620;
21 adjusted gross income, 296,300; with a tax due and owing of a
22 hundred and forty-two thousand four hundred and ninety-seven
23 dollars. The same --

24 BY MR. NEIMAN:

25 Q. You're moving a little too fast for the computer guy. I'm

1 sorry. If we could just slow it down a tad.

2 Uh, gross income -- taxable -- tax due and owing of how
3 much?

4 A. Uh, tax due and owing of a hundred and forty-two thousand
5 four hundred ninety-seven dollars.

6 Q. And this return, was that signed under the penalties of
7 perjury by Defendant Schiff?

8 A. Yes.

9 Q. And what's the date in which he signs this return?

10 A. August 1st, 1991.

11 Q. And that was the date of the second day of the probation --

12 A. Yes.

13 Q. -- hearing?

14 A. Has the same two attachments.

15 Q. All right. Not to beat a dead horse. But Government
16 Exhibit 55.

17 (Document displayed in open court.)

18 THE WITNESS: This is for the year 1983. It's the tax
19 return for Irwin Schiff. It contains total income of \$82,268
20 with adjusted gross income, \$62,631; second page shows a tax due
21 and owing of \$24,127; signed by Irwin Schiff on August 1st,
22 1991, under penalties of perjury and has the same two
23 attachments.

24 BY MR. NEIMAN:

25 Q. All right. The next Government exhibit, 56.

1 (Document displayed in open court.)

2 THE WITNESS: It's the tax return for Irwin Schiff for
3 1984. It shows income of \$27,756, adjusted gross of \$19,955,
4 tax due and owing of \$5,567, signed on August 1st, 1991, under
5 penalty of perjury by Irwin Schiff. It has the same two pages.
6 But the, um -- the page -- this time the page that has this
7 letter doesn't have any numbers filled in.

8 Q. It's just blank?

9 A. It's blank where he filled in the numbers.

10 Q. As far as for the year and the --

11 A. Yes.

12 Q. -- dollar amounts and all that?

13 A. Yes. But it has the attachment, that same page with the
14 computations.

15 Q. All right. And next Government exhibit, finally Government
16 Exhibit 57.

17 (Document displayed in open court.)

18 THE WITNESS: That's the tax return for 1985 for Irwin
19 Schiff; shows income -- total income of \$39,854; AGI of 54,224;
20 tax due and owing, \$7327; signed by Irwin Schiff on August 1st
21 under -- 1991, under penalty of perjury.

22 It has an attachment, the same attachment. This time
23 he filled in the numbers. And the computation attachment.

24 MR. NEIMAN: If I may just a moment, your Honor.

25 THE COURT: You may.

1 (Discussion between Mr. Neiman and
2 Mr. Ignall.)

3 BY MR. NEIMAN:

4 Q. Special Agent Wethje, do you know whether or not Defendant
5 Schiff has made any payments to the IRS with regards to these
6 tax liabilities for years 1979 through '85, I believe?

7 A. Up to the time that I retired he had not made any payments.

8 Q. And when did you retire?

9 A. Two years ago.

10 MR. NEIMAN: No further questions, your Honor.

11 THE COURT: Cross-examination?

12 MR. CRISTALLI: Your Honor, I defer to Mr. Schiff.

13 THE COURT: Okay.

14 MR. CRISTALLI: Reserve my right to cross.

15 THE COURT: Yes.

16 (Pause in the proceedings.)

17 MR. SCHIFF: May I approach the witness?

18 THE COURT: You may.

19

20 CROSS-EXAMINATION

21 BY MR. SCHIFF:

22 Q. Mr. Wethje --

23 A. Good morning.

24 Q. -- long time no see.

25 A. Yes.

1 Q. Are you familiar with that document?

2 A. (Reviewing document.)

3 THE COURT: Has it been marked?

4 MR. NEIMAN: Your Honor, the Government would also like
5 to know what it is that he's being shown.

6 THE COURT: Would you -- Mr. Schiff, would you show
7 this to the Government so they know what it is that you are
8 working with? And then, if it hasn't been marked, it needs to
9 be marked, if you wish --

10 MR. SCHIFF: It's marked from the old trial.

11 THE COURT: -- it to be marked.

12 It's marked from the old trial? Well, that won't work
13 for the new trial.

14 MR. NEIMAN: It's marked --

15 MR. SCHIFF: No, no. I didn't think you were gonna be
16 here so I didn't -- that's his testimony before the Grand Jury.

17 (Discussion between Mr. Neiman and
18 Mr. Ignall.)

19 MR. NEIMAN: Thank you, Mr. Schiff.

20 THE COURT: Do you wish it to be marked, Mr. Schiff,
21 marked by the clerk in this court?

22 MR. SCHIFF: I wasn't prepared for this. So I just...
23 you can mark it as -- I don't know.

24 THE COURT: It needs to be marked for identification if
25 you're going to show it to the witness.

1 THE CLERK: It's Exhibit 2000.

2 (Defendant Schiff's Exhibit No. 2000, marked
3 for identification.)

4 THE CLERK: And I'll go ahead and provide it to the
5 witness, Mr. Schiff.

6 MR. SCHIFF: Okay.

7 THE COURT: Go ahead with your question.

8 MR. SCHIFF: Yes.

9 BY MR. SCHIFF:

10 Q. Okay. Um, I would ask you, Mr. Wethje, to turn to what you
11 told the Grand Jury on page 3 starting on line 3.

12 A. "Yes. I interviewed Mr. Schiff in January of 1983 at his
13 residence."

14 Q. At the time -- you told the Grand Jury at the time --

15 THE COURT: How far do you want him to read?

16 MR. SCHIFF: Well, starting line 3 to -- finish your
17 statement, on line 3 to 11.

18 THE COURT: Lines 3 to 11. Go ahead.

19 Do you have an objection?

20 MR. NEIMAN: I -- I think maybe it would be easier --
21 maybe better serve the Court if maybe Mr. Schiff was asked to
22 ask Mr. Wethje whether or not he said to the Grand Jury lines 3
23 through 11. If we need to proceed this way, we could do it that
24 way as well.

25 THE COURT: Yes.

1 MR. SCHIFF: Well, your Honor --

2 THE COURT: What --

3 MR. SCHIFF: -- I mean, this is the actual --

4 THE COURT: -- what you need to do -- I don't know
5 where you're going with this -- but you need to -- you need to
6 ask the witness if he said so-and-so to the Grand Jury rather
7 than just having him --

8 MR. SCHIFF: Well, the reason I didn't do that is that
9 this is the transcript. He's --

10 BY MR. SCHIFF:

11 Q. All right. Did you make that statement to the Grand Jury?

12 THE COURT: Wait a minute. You need to read the
13 statement out yourself. You come and get it --

14 MR. SCHIFF: Okay. Got it.

15 THE COURT: -- read it out, and then ask him if he said
16 that.

17 MR. SCHIFF: Okay.

18 THE COURT: And then, if he says he didn't say it, you
19 can --

20 MR. SCHIFF: Okay.

21 THE COURT: -- show it to him.

22 BY MR. SCHIFF:

23 Q. Okay. Do you remember saying to the Grand Jury that "... he
24 told me he had not filed tax returns since 1973 and that it was
25 his intention never to file again. He told me [that] I could

1 tell that to the commissioner of the Internal Revenue Service"?

2 Do you recall saying that?

3 A. Yes.

4 Q. There was a transcript I saw -- in other words, you were
5 wired when you came -- when you came to my house, you knocked on
6 the door, and I invited you in with another agent; is that
7 correct?

8 A. Yes.

9 Q. And we sat at the kitchen table?

10 A. Yes.

11 Q. And you were wired?

12 A. Absolutely not.

13 Q. Well, there was a -- wasn't there a transcript made of that
14 hearing? I have a copy somewhere.

15 A. Of the interview?

16 Q. Yes.

17 A. I was not wired.

18 Q. Well, then how did -- how did we get the transcript so
19 accurately?

20 A. The -- this is the Grand Juror transcript.

21 Q. No. A transcript of the meeting that you and the other
22 agent and myself had at my kitchen table.

23 A. I'm not sure --

24 Q. I've seen --

25 A. -- I'm not sure what you're talking about.

1 MR. NEIMAN: Your Honor --

2 BY MR. SCHIFF:

3 Q. Wasn't there a transcript --

4 THE COURT: Hold on. We have an objection.

5 MR. NEIMAN: Your Honor, maybe it's just terminology.

6 There was probably a memorandum of interview that was

7 prepared --

8 THE COURT: Yes.

9 MR. NEIMAN: -- that is what he may be referring to.

10 THE WITNESS: Yes, there was a memorandum written.

11 Yes.

12 BY MR. SCHIFF:

13 Q. Okay. And didn't that memorandum say that I asked you at
14 least seven or eight times, I report in my book, to show me
15 where in the law I was required to file? Didn't I ask you that?

16 A. You asked me that question, yes.

17 Q. And didn't I ask it about seven times?

18 A. I can't remember how many. You asked me more than once,
19 yes.

20 Q. And didn't I put a Code book in front of you and say, "Show
21 me the Code where I'm required to file"?

22 A. You actually threw it in front of me, yes.

23 Q. Did you show me the section that required me to file?

24 A. No, I did not.

25 Q. But you didn't tell that to the Grand Jury, did you?

1 A. I don't -- I don't know if it's in here. But I don't
2 remember telling them --

3 Q. No. Well --

4 A. -- that.

5 Q. -- you didn't tell that to the Grand Jury?

6 A. No.

7 Q. That I only said to you that I didn't file because you
8 couldn't show me a statute that required me to file. Okay.

9 So all the jury understood from you is he didn't file.

10 Okay. Okay. Uh, on page 8 -- go to page 5 --

11 MR. NEIMAN: Your Honor, I'm gonna object to this line
12 of questioning since it's beyond the scope of what Mr. Wethje
13 said on direct examination.

14 MR. SCHIFF: I'm -- I'm --

15 MR. NEIMAN: And relevance as well.

16 MR. SCHIFF: -- he was responsible for my being --
17 he -- there's a tissue -- every statement he told to the Grand
18 Jury was misleading and false. And I have it right here.

19 They introduced him. And I think that I have a right
20 to go over his testimony and show where he made one false
21 statement after another which was responsible for my indictment.

22 THE COURT: Well, um, whether he did that or not he was
23 not the jury in your case. You were convicted. And that matter
24 is closed except for issues related to your knowledge of the tax
25 laws --

1 MR. SCHIFF: First of all --

2 THE COURT: -- that come from that.

3 MR. SCHIFF: First of all, I was persuaded by
4 ineffective counsel who didn't cross-examine him --

5 THE COURT: You cannot challenge --

6 MR. SCHIFF: -- and I was not -- didn't take the stand
7 in that trial.

8 THE COURT: You cannot challenge your conviction in
9 another case.

10 MR. SCHIFF: I'm not challenging it --

11 THE COURT: That's --

12 MR. SCHIFF: -- your Honor.

13 THE COURT: -- exactly what you're doing.

14 MR. SCHIFF: I have a document here that shows that he
15 committed perjury in front of the Grand Jury repeatedly. He
16 told the Grand Jury things that didn't occur. And I want to
17 confront him with it because my attorney didn't do it. These
18 are false statements.

19 BY MR. SCHIFF:

20 Q. Let me give you another example, the next one. Let me just
21 give you the next one.

22 THE COURT: No.

23 MR. SCHIFF: I'm not -- I'm not testifying.

24 THE COURT: You are testifying.

25

1 (Discussion between Mr. Leventhal and
2 Mr. Schiff.)

3 THE COURT: You are testifying. You just got through
4 testifying.

5 MR. SCHIFF: Can I ask him what he said to the Grand
6 Jury, whether it's true or false or not? I know I was
7 convicted. I'm not saying I wasn't.

8 THE COURT: You're -- you're not asking him; you're
9 telling him things. If you want to ask him if he said
10 something, go ahead.

11 MR. SCHIFF: Yes, yes. I'm asking him to go to page
12 5 --

13 THE COURT: No.

14 MR. SCHIFF: -- of the --

15 BY MR. SCHIFF:

16 Q. All right. Did you tell the Grand Jury that I was coming
17 out with a book, shortly, called The Federal Income Tax? This
18 is shown -- did you tell that to the Grand Jury, that I was
19 shortly coming out with a book called The Great Income Hoax?
20 It's shown on page 5. That I was shortly coming out with a
21 book.

22 A. Yes.

23 Q. Where -- you were aware, of course, that the book was
24 already out, came out about a month before or two months before,
25 and that I had made major radio and TV appearances, that I was

1 promoting a book called The Great Income Hoax, that it had
2 already come out?

3 A. I wasn't aware that it had already --

4 Q. You weren't aware of it?

5 A. No.

6 THE COURT: Is that --

7 BY MR. SCHIFF:

8 Q. Even though --

9 THE COURT: -- is that your idea of a false statement?

10 MR. SCHIFF: Okay. You weren't aware of that. Okay.

11 THE COURT: You're wasting time.

12 MR. SCHIFF: Okay, okay.

13 BY MR. SCHIFF:

14 Q. Now, call your attention on page 16 -- I'm skipping over a
15 lot of minor misstatements -- uh, now, on page 16, you told the
16 Grand Jury that "... Mr. Schiff formed two trusts. He called
17 them the Irwin Schiff Family Spray Trust, and the first one he
18 put [in] his condominium, 144 Shepherd[s] Knoll [Drive] ..., ...
19 the second one he gave to Simon & Schuster and told them to
20 divert the royalties from his book to the trust. And that [he]
21 indicated to me ... he was trying to make the collection of
22 taxes which were forthcoming [uh, as] difficult [as possible]."

23 Did you tell that to the Grand Jury?

24 A. I believe so.

25 Q. Did I put any assets in any trust?

1 A. That's what I told the Grand Jury. Just what you said.

2 Q. The question is: Did I put any assets in any trust?

3 A. Exactly what I told the Grand Jury is what I knew.

4 Q. Yeah. But did I do that? You told the Grand Jury that I
5 put assets in a trust. Did I set up a trust and put assets in a
6 trust?

7 A. You set up the Irwin Schiff Family Spray Trust and put your
8 condominium in it and then you gave the second one to Simon &
9 Schuster and asked them to put your royalties --

10 Q. Okay.

11 A. -- into that.

12 Q. First of all, I set up a revocable testamentary trust
13 which --

14 MR. NEIMAN: Objection. He's testifying.

15 BY MR. SCHIFF:

16 Q. Well, were you aware that the trust you were referring to
17 would not take effect until my death and I didn't divest myself
18 of ownership. So those assets, like my home, would still be
19 available to all my creditors plus the government? No assets
20 went into any trust.

21 THE COURT: Don't testify.

22 BY MR. SCHIFF:

23 Q. Uh, were you aware -- you know what a revocable testamentary
24 trust is?

25 A. No.

1 Q. Suppose I told you that such a trust doesn't take effect
2 until death.

3 MR. NEIMAN: Objection, your Honor.

4 MR. SCHIFF: All right. He have doesn't know what it
5 is.

6 THE COURT: Sustained.

7 MR. NEIMAN: I move to strike it as well. Just it's --

8 THE COURT: Strike.

9 BY MR. SCHIFF:

10 Q. The point is I did not put any assets in any trust --

11 THE COURT: You are --

12 BY MR. SCHIFF:

13 Q. -- to -- to -- to --

14 THE COURT: -- you are testifying.

15 MR. SCHIFF: All right.

16 BY MR. SCHIFF:

17 Q. Was the impression that you gave the Grand Jury that I had
18 concealed assets so the IRS couldn't get at them?

19 A. I don't know what impression I gave the Grand Jury. I just
20 testified to the facts that I knew at the time.

21 Q. I said -- but wasn't the attempt that you were trying to
22 convey to the Grand Jury that I was attempting -- because I was
23 charged with concealing my income. So wasn't your attempt here
24 to convey to the Grand Jury that I was trying to conceal my
25 assets from the government?

1 A. My intent was to convey the facts that I had discovered in
2 my investigation to the Grand Jury.

3 MR. SCHIFF: I think he's being evasive.

4 BY MR. SCHIFF:

5 Q. But -- but the intent that I was trying to convey that I was
6 trying to conceal my assets was not true because I hadn't
7 concealed any of my assets.

8 MR. NEIMAN: Objection. Argumentative.

9 MR. SCHIFF: All right.

10 THE COURT: Sustained.

11 MR. NEIMAN: Maybe, your Honor, if --

12 MR. SCHIFF: All right. All right.

13 MR. NEIMAN: -- we approach at a sidebar. I know we
14 don't want to do that. But if we could maybe try and --

15 MR. SCHIFF: I won't be very long with this, your
16 Honor.

17 THE COURT: Well, we'll see.

18 MR. SCHIFF: If he gave me straightforward answers, it
19 would be easier.

20 BY MR. SCHIFF:

21 Q. Now, I call you attention -- did you tell the Grand Jury --
22 Michael Hartman [sic] said, "Did you find bank transactions or
23 currency transactions?"

24 And you said: "Yes. In the course of examining the
25 bank records, we found ... two occasions where he dealt with

1 banks in what we call countries governed by bank secrecy laws."

2 And you said, "In November . . . , he purchased a foreign
3 draft from his bank, and he bought 10,000 Swiss francs. . . . at
4 a cost of 5,900. That check ultimately went to a Swiss bank and
5 was negotiated, and because of the type of banking laws that
6 Switzerland has, [we were] unable to determine where the 5,900
7 went when it left the country. All we did know is [that it was]
8 negotiated" -- "he . . . [negotiated] a check for \$5,900."

9 Did you tell the Grand Jury that because of the secrecy
10 laws you didn't know where that check went?

11 A. I told them just what you read, yes.

12 Q. Wasn't it a fact that I purchased a mutual fund and the
13 check was made payable to a mutual fund, Caprimax (phonetic), so
14 you knew exactly where that check went? Wasn't the check made
15 payable to a mutual fund?

16 A. The check was made payable to Caprimax. That's all I
17 recall.

18 Q. That was a mutual fund. So you knew where it went.

19 A. I didn't know --

20 Q. So you mislead the Grand Jury --

21 THE COURT: Wait a minute. Let him finish his answer.

22 MR. SCHIFF: Okay.

23 BY MR. SCHIFF:

24 Q. So you knew where it went?

25 THE COURT: Wait a minute. Let him finish his answer.

1 MR. SCHIFF: I'm sorry.

2 THE WITNESS: We knew the check was made payable to
3 Caprimax. We did not know it was a mutual fund. We knew
4 nothing else about the check.

5 BY MR. SCHIFF:

6 Q. But you said in here that all you know is that he -- he
7 negotiated a -- what does -- what does that mean, "he negotiated
8 a check"? What did that mean to the Grand Jury [sic], "he
9 negotiated a check"?

10 A. You make -- write out a check, you prepare a check, and you
11 negotiate it. You give it to --

12 Q. Yeah. Weren't --

13 A. -- someone to --

14 Q. -- you trying to convey to the Grand Jury that I was using
15 foreign bank accounts to conceal my income when in fact the
16 check that -- that I wrote to that mutual fund was written right
17 in my checking account and you knew exactly where it went. And
18 the Swiss bankruptcy [sic] laws had nothing to do with your
19 inability to determine where that check went?

20 MR. NEIMAN: Objection as to what he conveyed and
21 argumentative just --

22 THE COURT: Sustained.

23 MR. NEIMAN: -- testifying.

24 THE COURT: You can ask the question better than that.

25

1 BY MR. SCHIFF:

2 Q. What was the purpose of your explaining this to the Grand
3 Jury when you in fact knew I had simply purchased a mutual fund
4 with that check? What was your purpose in talking about the
5 Swiss bankruptcy [sic] laws?

6 A. My purpose when I testified to the Grand Jury was to convey
7 the facts that we had investigated and uncovered during the
8 course of our investigation of your tax liability.

9 Q. You just said I had a tax liability? Did you ever --

10 A. Oh, investigation --

11 Q. -- see in the Internal Revenue Code the existence of a
12 tax -- I didn't want to get into this, of course.

13 THE COURT: You hadn't --

14 BY MR. SCHIFF:

15 Q. How much --

16 THE COURT: -- you hadn't better because you're
17 gonna --

18 MR. SCHIFF: I want to stick to this.

19 THE COURT: You --

20 BY MR. SCHIFF:

21 Q. The point is --

22 THE COURT: Wait a minute. Wait a minute.

23 He spoke about his investigation to convey the facts
24 regarding his investigation of your tax liability. That's the
25 word he used.

1 BY MR. SCHIFF:

2 Q. The fact is I knew if they ever want to investigate me the
3 IRS can very simply subpoena all my checks. Is that correct?

4 A. We could subpoena your checks --

5 Q. Yeah.

6 A. -- yes.

7 Q. Yes.

8 And I wrote that check, like I wrote any other check,
9 payable to a mutual fund which happened to be in Geneva.

10 MR. NEIMAN: Objection.

11 MR. SCHIFF: All right.

12 MR. NEIMAN: He's testifying again.

13 THE COURT: Well --

14 MR. NEIMAN: I'm at a loss.

15 THE COURT: I guess we've established it was --

16 MR. SCHIFF: Okay.

17 THE COURT: -- in Switzerland.

18 BY MR. SCHIFF:

19 Q. Now, incidentally, incidentally, isn't it a fact that since
20 the check was a deposit -- was a expenditure, outgoing, it would
21 have nothing to do with my taxable income? It was an
22 expenditure.

23 A. That's not the case, no.

24 Q. You say that by making that expenditure that constituted
25 income?

1 A. Without knowing the total details surrounding that check,
2 you couldn't make a determination if that was an investment that
3 ultimately earned income, if it was returned with a profit, you
4 couldn't tell unless you know the totality of that investment.

5 All we had was --

6 Q. But the --

7 A. -- initial investment, the initial check. We were unable to
8 get any other documents surrounding that investment.

9 Q. But it was --

10 A. -- and if it returned a profit. So you could not -- unless
11 we totally cover that expenditure, we couldn't treat it one way
12 or another.

13 Q. But it was an expenditure and it could not constitute
14 income. It was an outlay. How could an outlay constitute
15 income to any degree?

16 A. Because --

17 MR. NEIMAN: Objection. Relevance.

18 MR. SCHIFF: All right.

19 THE COURT: I'm allow him to answer it.

20 BY MR. SCHIFF:

21 Q. Continuing --

22 THE COURT: Let him answer.

23 MR. SCHIFF: Sorry.

24 THE WITNESS: Because it could have been an investment
25 that ultimately earned income.

1 BY MR. SCHIFF:

2 Q. Then the incoming checks would have been deposited. Then
3 you could have determined I had income.

4 A. We wouldn't know that they would have been deposited because
5 we were unable to get the records from Switzerland. So we
6 couldn't determine the totality of this investment.

7 Q. Okay, okay, okay. Now, about a year later, I liquidated
8 that investment and they sent me a check drawn on their bank --
9 well, you said --

10 THE COURT: Are you test --

11 BY MR. SCHIFF:

12 Q. -- you then said --

13 THE COURT: Are you testifying?

14 MR. SCHIFF: I'm sorry.

15 BY MR. SCHIFF:

16 Q. Did you say, "Then in October of 1981, he deposited to one
17 of his bank accounts in this country a" -- "to one of his bank
18 accounts" -- oh, yeah -- "a check on a bank in the Cayman
19 Islands, and the Cayman Islands also has bank secrecy laws. The
20 check was for \$5,519... And because of the secrecy laws in that
21 country, we were unable to determine the source of those funds,
22 but [that] we did ... [so] we eliminated [from these] bank
23 deposits and didn't charge him ... that as income."

24 So you're saying --

25 THE COURT: Wait a minute. Is there a question?

1 BY MR. SCHIFF:

2 Q. Okay. Did you say that to the Grand Jury?

3 A. Yes.

4 Q. You're saying to the Grand Jury that the IRS could not treat
5 that deposit as income because they didn't know the source. Is
6 that what you're saying?

7 A. Because, again, we didn't know the totality of this
8 investment.

9 Q. Are you saying that the IRS, if it wants to, cannot
10 determine any deposit as income, especially when I'm being
11 uncooperative and then it would be up to me -- you're saying
12 that the IRS cannot treat as income a check if it doesn't know
13 its source?

14 A. Not in a criminal investigation.

15 Q. Pardon me?

16 A. Not in a criminal investigation.

17 Q. Well, you determined my income.

18 A. I was doing a criminal investigation.

19 Q. Uh, let me just get the testimony.

20 (Discussion between Mr. Leventhal and
21 Mr. Schiff.)

22 (Pause in the proceedings.)

23 MR. SCHIFF: Okay. I thought I had two copies. I
24 should have two copies, one for you. I was rushing. Okay.
25 I'll show the Government this document.

1 MR. NEIMAN: What is it?

2 MR. SCHIFF: These are excerpts.

3 MR. NEIMAN: You can just hand it to me.

4 MR. SCHIFF: This document, your Honor, is an excerpt
5 from -- I went to Tax Court -- the Tax Court. I was in Tax
6 Court.

7 THE COURT: Well, wait a second. Have it -- show it to
8 the Government. Have it marked.

9 MR. SCHIFF: I had some...

10 MR. NEIMAN: Your Honor, we would object. Mr. Wethje
11 wasn't even at this hearing. He knows -- assuming he wasn't at
12 this hearing but -- as to the relevance to this witness.

13 THE COURT: He wasn't at the hearing?

14 MR. SCHIFF: No. But what I'm trying to put in here --
15 at the hearing the agent, Mr. Singo (phonetic), said --

16 THE COURT: No. Don't -- don't --

17 MR. SCHIFF: -- that the IR- --

18 THE COURT: Don't tell me. You can ask him a question.

19 MR. SCHIFF: Okay, okay.

20 THE COURT: But don't tell me --

21 MR. SCHIFF: Okay.

22 THE COURT: -- what it says.

23 MR. SCHIFF: Okay.

24 THE COURT: Let's see what your question is.

25 MR. SCHIFF: Okay.

1 BY MR. SCHIFF:

2 Q. This was a hearing. Mr. Singo, the government's --

3 THE COURT: No. Ask him a question.

4 BY MR. SCHIFF:

5 Q. Okay. The question is: Were you -- well, I think you
6 referred to me going to Tax Court.

7 A. No, I did not.

8 Q. Well, you referred to my 1979 tax -- didn't you refer to my
9 nine -- that I owed money for '79, '80, 81?

10 A. Did I refer to '79? I don't believe so.

11 THE COURT: I don't think so either.

12 BY MR. SCHIFF:

13 Q. Yeah. I was in Tax Court.

14 THE COURT: You were dealing with '80 --

15 BY MR. SCHIFF:

16 Q. Okay. Were you aware --

17 THE COURT: -- '80 on.

18 BY MR. SCHIFF:

19 Q. Yeah. Were you aware that at that hearing the revenue agent
20 said, "When money is deposited into an account, as long as it's
21 into the account you can treat it as gross income, is that
22 right, even if you don't know the source?"

23 And the agent said, "That is correct."

24 And I said to the agent, "is it possible" --

25 THE COURT: Now, are you reading from that transcript

1 and asking him a question from that --

2 BY MR. SCHIFF:

3 Q. Are you aware --

4 THE COURT: -- that he wasn't present?

5 MR. SCHIFF: Well, I don't know. Well, I'll testify
6 about this.

7 THE COURT: Why don't you ask him a question, are you
8 aware of testimony given such and such a date?

9 BY MR. SCHIFF:

10 Q. Were you aware that the IRS in determining an account states
11 that they can treat as gross income --

12 THE COURT: Give him -- give him the date. Don't show
13 it to him. Just ask him if he's aware of --

14 MR. SCHIFF: The date --

15 THE COURT: -- something that was said on such and such
16 a date by who.

17 MR. SCHIFF: The date of this hearing was 27th of
18 November 1990 --

19 THE COURT: And who --

20 MR. SCHIFF: -- in Hartford, Connecticut.

21 THE COURT: And who was the person that was being
22 examined?

23 BY MR. SCHIFF:

24 Q. You know Mr. Singo?

25 THE COURT: No. The question is: Who was being

1 examined?

2 MR. SCHIFF: Pardon me?

3 THE COURT: Who was being examined?

4 MR. SCHIFF: Uh, I was cross-examining Mr. Singo.

5 THE COURT: All right.

6 Are you aware of that?

7 THE WITNESS: I wasn't aware of that, no.

8 THE COURT: Okay.

9 BY MR. SCHIFF:

10 Q. You know Mr. Singo though?

11 A. I know who Mr. Singo is, yes.

12 Q. Okay.

13 THE COURT: So that's it. He's not aware of it.

14 That's the answer. No.

15 MR. SCHIFF: Okay. Okay.

16 BY MR. SCHIFF:

17 Q. In other words, however, you led the Grand Jury to assume
18 that if you didn't know where the check came from -- but you
19 knew that the check came from -- you knew the check came from my
20 liquidating a mutual fund. As a matter of fact, I lost money on
21 the fund. You knew that, didn't you?

22 A. No, I did not.

23 Q. No, you didn't know where it came from.

24 Incidentally, did I have any control over who that
25 bank's depository was?

1 A. We didn't know that. That was the point. We didn't know
2 anything about it.

3 Q. But I took the check and I deposited right in my bank
4 account; is that right?

5 A. Yes.

6 Q. So there's a record in my own bank account of the outgoing
7 money and the incoming money.

8 A. Well, there's -- not necessarily because we can't connect
9 them. We -- we didn't have all the records on these
10 transactions.

11 Q. There was only -- there was only two transactions.

12 A. One went to Switzerland and one came from back from the
13 Cayman. And we had no idea that the two were connected --

14 Q. Okay.

15 A. -- because we had --

16 Q. Okay.

17 A. -- records. An outgoing --

18 Q. Okay.

19 A. -- and an incoming --

20 Q. Okay.

21 A. -- check.

22 Q. But the bankruptcy [sic] laws of the Cayman Islands and
23 Switzerland had nothing to do with either transaction; isn't
24 that correct?

25 MR. NEIMAN: Objection. Relevancy.

1 MR. SCHIFF: Okay.

2 MR. NEIMAN: It has nothing to do with Mr. Wethje's
3 testimony either.

4 THE COURT: Well, I think --

5 MR. SCHIFF: Okay.

6 THE COURT: -- I think he said something else that's --

7 BY MR. SCHIFF:

8 Q. Okay. Now --

9 THE COURT: -- a question too.

10 BY MR. SCHIFF:

11 Q. Okay. Now --

12 THE COURT: I thought he said bankruptcy laws.

13 MR. SCHIFF: Okay.

14 THE COURT: Is that what he said?

15 MR. SCHIFF: Okay.

16 THE COURT: So it's irrelevant.

17 MR. SCHIFF: The bank- --

18 THE COURT: Objection is sustained.

19 MR. SCHIFF: -- the secrecy laws. I'm sorry.

20 BY MR. SCHIFF:

21 Q. As far as my booking was concerned, they were completely
22 open and recorded transactions. You didn't expect me to call
23 you by phone and tell you where those checks were going and
24 where the checks came from. Did expect me to do that?

25 A. Did I expect you to call me on the phone?

1 Q. Yeah. And tell you what those checks were for.

2 A. I wasn't expecting any phone calls.

3 Q. No. I treated both checks as I would treat any other
4 purchase and deposit.

5 A. But the fact is you dealt with countries which made it
6 difficult to determine the total circumstances surrounding those
7 checks as opposed to dealing with domestic financial
8 institutions where we could get the documents --

9 Q. Okay.

10 A. -- and make a full --

11 Q. Okay.

12 A. -- determination whether or not there was any investment
13 income loss or whatever.

14 Q. All right.

15 A. When you're dealing with countries where we can't get the
16 documents, that's an attempt, or can be viewed as an attempt, to
17 conceal.

18 Q. Okay. Now, I call your attention -- but now that I
19 explained what occurred, there was no attempt on my part to
20 conceal, was there?

21 THE COURT: You can't --

22 MR. SCHIFF: Okay.

23 THE COURT: All right.

24 BY MR. SCHIFF:

25 Q. Look on page 17, the bottom of page 17, you discuss the

1 United States Paper Exchange.

2 You said: "[It's] a company in St. Paul, Minnesota,
3 and it's a precious metal dealer, and there is presently an
4 investigation ongoing in St. Paul [of the] U.S. Paper Exchange,
5 and they have found them to be a warehouse bank. And ...
6 they ... use only numbered accounts. There is no record of
7 individuals by names. So ... if the records were obtained or
8 subpoenaed ... in any way ..., you wouldn't be able to trace the
9 transactions [of] all transactions [that] are numbered."

10 You then said, "... Mr. Schiff had a number of
11 transactions, I would say, at least, 8 or 10 ..., where he
12 [sic]" -- "where we found checks going to the U.S. Paper
13 Exchange or coming from, and what happens is you have no way of
14 determining how much of a precious metal he bought and what he
15 sold it for, and [whether] he [has] a capital gain or [not].
16 They're completely untraceable."

17 Now, wasn't it a fact that every time I purchased
18 silver I purchased it with a check drawn on my own account? So
19 all my transactions --

20 THE COURT: You're testifying again.

21 MR. SCHIFF: I'm sorry.

22 BY MR. SCHIFF:

23 Q. Isn't it a fact that you had no problem determining what I
24 purchased from the U.S. Paper Exchange?

25 A. No, that's not a fact.

1 Q. Pardon me?

2 A. No, that's not a fact.

3 Q. How -- how is it not a fact?

4 A. We were unable to get the records from U.S. Paper Exchange
5 because they were numbered accounts, they were not in your name,
6 and we were unable to determine what your particular account
7 transactions were. We were only able to get those where you
8 wrote a check. If you purchased --

9 Q. The --

10 A. -- made a purchase through a bank check or through currency
11 or some other source, we would be unable to determine that
12 because they were numbered accounts. That was the purpose of
13 the U.S. --

14 Q. And the fact is --

15 A. -- Paper Exchange.

16 THE COURT: Hold on. Let him answer.

17 Finish your answer.

18 THE WITNESS: The purpose of U.S. Paper Exchange, or
19 one of the purposes, was to treat their accounts as numbered
20 accounts, not identifying them by an individual's name. So we
21 couldn't contact U.S. Paper Exchange and ask for Irwin A.
22 Schiff's records. We'd have to know the particular numbered
23 account that you invested in. We had no way of knowing how much
24 you put into that account unless you wrote a check. If you
25 purchased --

1 BY MR. SCHIFF:

2 Q. And I check a wrote?

3 A. -- if you purchased or made an investment in U.S. Paper
4 Exchange with currency, we were unable to determine that.

5 Q. The fact of the matter is --

6 THE COURT: That's not a question.

7 MR. SCHIFF: I'm sorry.

8 BY MR. SCHIFF:

9 Q. Were you aware that U.S. Paper Exchange turned out to be
10 some kind of a ponzi scam and I lost all of the -- my investment
11 in U.S. Paper Exchange? I never -- I never liquidated any of
12 that silver. Were you aware of that?

13 A. No.

14 Q. The mere fact that some people might have used it --

15 THE COURT: Is that a question?

16 BY MR. SCHIFF:

17 Q. Were you aware that I had no knowledge of how other people
18 might have used the U.S. Paper Exchange?

19 A. Was I aware --

20 MR. NEIMAN: Objection, your Honor, to the relevance of
21 this line of questioning.

22 THE COURT: It is irrelevant.

23 MR. NEIMAN: We're getting way off track.

24 MR. SCHIFF: All right.

25

1 BY MR. SCHIFF:

2 Q. The point is all of my purchases of silver were done with
3 checks --

4 THE COURT: You're testifying --

5 BY MR. SCHIFF:

6 Q. -- drawn on my -- okay.

7 THE COURT: You're testifying.

8 MR. SCHIFF: Okay.

9 THE COURT: Strike.

10 BY MR. SCHIFF:

11 Q. All right. Now, on page...

12 (Discussion between Mr. Leventhal and
13 Mr. Schiff.)

14 BY MR. SCHIFF:

15 Q. On page 19 --

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

18 BY MR. SCHIFF:

19 Q. On page 19 -- on page 19 -- this is after you had told the
20 Grand Jury I was concealing my assets -- you told -- that "we
21 have now collected over 200,000 from Mr. Schiff within the last
22 two years [in] assessment[s]." It says, "I believe it's even
23 greater."

24 Did you say that to the Grand Jury?

25 A. Yes.

1 Q. So the Government had no trouble getting assets of mine
2 because none of 'em were secreted in trusts. Now --

3 THE COURT: Is that a question?

4 BY MR. SCHIFF:

5 Q. Are you --

6 THE COURT: Is that a question?

7 BY MR. SCHIFF:

8 Q. Are you aware the Government had no problem getting these
9 assets?

10 THE COURT: Because they were secreted in trusts,
11 question mark.

12 BY MR. SCHIFF:

13 Q. Because they were secreted. They weren't secreted anyway.

14 A. Well, the Government still had trouble. But they were able
15 to overcome the obstacles and levy some of your accounts and
16 collect \$200,000.

17 Q. Well, you went -- I'm gonna get there -- you went to Simon &
18 Schuster and they just turned over the money.

19 A. It wasn't that simple. But they --

20 Q. Well, right. All right.

21 A. -- they did get the money, yes.

22 Q. Okay, okay. Now, were you aware that after the government
23 took this 200,000 they -- they then attributed that 200,000 to
24 me as income and then wanted to tax it again?

25 A. I'm not sure what you're talkin' about. I am not aware --

1 Q. Well --

2 A. -- of any of that.

3 Q. -- in the gross income figures that you showed for '80, '81,
4 '82, they included this 200,000 as income to me even though they
5 had already seized it.

6 A. In the -- in the gross income figures that we used in the
7 criminal case against you, we used income that you earned from
8 the royalties from Simon & Schuster. That is income to you.
9 That income can then be applied to your tax liabilities if
10 that's what you're referring to.

11 Q. Yeah. But the point is --

12 A. And I believe when the government collects that assessment
13 they applied it to your tax liabilities.

14 Q. Okay.

15 A. That's what happens --

16 Q. So --

17 A. -- your income goes to pay your taxes.

18 Q. Okay. So I just want to clarify this --

19 MR. NEIMAN: Objection to him clarifying. If --

20 BY MR. SCHIFF:

21 Q. The two --

22 THE COURT: Yeah.

23 MR. NEIMAN: -- there's an inconsistent statement that
24 Mr. Wethje made in front of the Grand Jury, Mr. Schiff can
25 cross-examine about that inconsistent statement.

1 THE COURT: Correct.

2 MR. NEIMAN: To rehash this '80 --

3 THE COURT: Well --

4 MR. NEIMAN: -- 1980 case --

5 BY MR. SCHIFF:

6 Q. Okay. Now --

7 THE COURT: -- it's a little confusing because,
8 Mr. Schiff, you were not entitled to a deduction for payment of
9 taxes. You know that.

10 MR. SCHIFF: But I didn't have the money. All right.

11 BY MR. SCHIFF:

12 Q. Now, in connection with my civil case, Mr. Wethje, you
13 submitted a declaration; is that correct?

14 A. Oh. For the civil case that's pending?

15 Q. No, no, when the Government sued me civilly. This is
16 your --

17 A. That's my declaration, yes.

18 Q. That's your declaration?

19 A. Yes.

20 Q. Let me just read from your declaration.

21 In your Declaration, you point out that: In addition
22 to obtaining bank records concerning Schiff, we interviewed
23 numerous witnesses. After such interview, it was my practice to
24 make memorandum of interviews. I have refreshed my
25 recollections.

1 You point out you interviewed Frances Silberberg,
2 Schiff's sister and bookkeeper. She stated that she deposited
3 receipts for Freedom Books and -- and wrote checks at Schiff's
4 direction. Silberberg explained that all business receipts for
5 insurance business in Freedom Books were deposited with the
6 bank. She explained that cash -- checks to cash were never
7 cashed and redeposited, which would render them nontaxable.

8 So my sister told you that we never redeposited cash;
9 is that correct?

10 A. She told me that you never cashed a check --

11 Q. And redeposited it.

12 A. -- payable to cash and then redeposited the cash.

13 Q. Okay. Now, in your calculation of income for criminal
14 purposes, you show cash available for redeposit.

15 A. Yes.

16 Q. And this totalled \$25,000?

17 A. Yes.

18 Q. These represented cash deposits, didn't they? They were
19 cash deposits?

20 A. No.

21 Q. What were they?

22 A. I -- you've got the document. I really need to re- -- I
23 worked this case 20 years ago and you're asking me --

24 THE COURT: Hold on.

25 Is it marked?

1 THE WITNESS: -- a particular line.

2 THE COURT: Is it marked?

3 MR. SCHIFF: No.

4 THE COURT: Has it been marked? Has it been shown to
5 opposing counsel?

6 (Defendant Schiff's Exhibit No. 2001, marked
7 for identification.)

8 BY MR. SCHIFF:

9 Q. But before I give this to you --

10 THE COURT: Show it to opposing counsel first.

11 MR. SCHIFF: I'm sorry.

12 THE COURT: Opposing counsel.

13 MR. SCHIFF: Do you want to see it?

14 MR. NEIMAN: Please.

15 (Pause in the proceedings.)

16 THE WITNESS: And which line are you referring to?

17 THE COURT: Come up and show him.

18 MR. SCHIFF: (Pointing.)

19 THE WITNESS: (Reviewing document.) Yes.

20 BY MR. SCHIFF:

21 Q. Okay. Wasn't it a fact that at my trial -- I write about
22 this in my book, incidentally. So I'm reading from -- from my
23 book -- isn't it a fact that at my trial Michael Hartman, the
24 prosecutor, told my jury that I had made these redeposits of
25 cash and because of some mumbo jumbo they were not treating

1 these redeposits of cash --

2 MR. NEIMAN: Objection.

3 BY MR. SCHIFF:

4 Q. -- and they were not attributing this to me?

5 THE COURT: Hold on.

6 BY MR. SCHIFF:

7 Q. Why did you treat deposits of cash as redeposits of cash --

8 THE COURT: Hold on.

9 BY MR. SCHIFF:

10 Q. -- when you were told --

11 THE COURT: Hold on. There is an objection.

12 MR. NEIMAN: Objection. Again, your Honor, this is not
13 admissible. It's --

14 THE COURT: It is not admissible. You have asked a
15 compound question. You have asked him --

16 MR. SCHIFF: Okay.

17 THE COURT: -- about --

18 BY MR. SCHIFF:

19 Q. Let me ask you --

20 THE COURT: -- a closing argument in a case. These are
21 all things that are not --

22 MR. SCHIFF: I'm gonna be through --

23 THE COURT: -- not admissible.

24 MR. SCHIFF: -- with this. I'll be through.

25

1 BY MR. SCHIFF:

2 Q. Why --

3 THE COURT: I know. But, even if you are going to be
4 through, the objection is sustained to that question. So ask
5 your next question.

6 MR. SCHIFF: All right.

7 BY MR. SCHIFF:

8 Q. Now, you had evidence that I had deposits of cash of about
9 \$25,000. Didn't the fact that I deposited cash to my account
10 represent a problem for Michael Ham [sic]? How are they gonna
11 convince a jury that I'm concealing my income when I'm
12 depositing cash?

13 THE COURT: Okay. Again, that's a compound question.

14 MR. SCHIFF: All right.

15 BY MR. SCHIFF:

16 Q. Wasn't that a problem?

17 A. No.

18 THE COURT: Well, you need to ask the question again
19 and not ask --

20 MR. SCHIFF: Okay.

21 THE COURT: -- two questions at once.

22 MR. SCHIFF: Okay.

23 BY MR. SCHIFF:

24 Q. My bank records show that I deposited at least 25,000 --

25 THE COURT: You're testifying now.

1 MR. SCHIFF: I'm sorry.

2 BY MR. SCHIFF:

3 Q. You showed the deposits of cash which implied I take out
4 cash and then I redeposit it which to me makes no sense at all.
5 Explain --

6 THE COURT: That's --

7 BY MR. SCHIFF:

8 Q. -- to me why I would do something like that.

9 MR. NEIMAN: Objection. He can't testify as to why
10 Mr. Schiff did anything.

11 THE COURT: Sustained.

12 MR. SCHIFF: All right. But, your Honor, those were
13 cash deposits.

14 THE COURT: He can't get in your head. You asked him
15 to explain why you did something and he can't get in your head.

16 MR. SCHIFF: Okay.

17 BY MR. SCHIFF:

18 Q. When you --

19 THE COURT: So the objection is sustained.

20 BY MR. SCHIFF:

21 Q. -- calculated that statement -- you calculated that; is that
22 correct?

23 A. Yes.

24 Q. You calculated that I redeposited cash even though your
25 declaration said you were told I didn't do it. So why in your

1 calculations did you show redeposits of cash?

2 A. This is a benefit for you, Mr. Schiff. We eliminated these
3 cash available for redeposits from the gross deposits. I don't
4 think you understand this computation. But this particular line
5 reduces your income for criminal purposes. We actually lowered
6 your gross income --

7 Q. Okay.

8 A. -- for criminal purposes by giving you the benefit of the
9 doubt that you could have --

10 Q. I could have.

11 A. -- redeposited cash. This item here is not meant to
12 increase the numbers --

13 Q. Exactly.

14 A. -- it's meant to reduce the numbers for criminal purposes.
15 And that's a benefit to you because we can't prove what you did
16 with the cash.

17 Q. But it -- but it also hid from the jury that I was
18 depositing cash?

19 A. No. It was clearly listed that there were cash deposits on
20 this exhibit, the total amount. But they --

21 Q. The fact of the matter is --

22 THE COURT: You're now arguing --

23 BY MR. SCHIFF:

24 Q. -- when you --

25 MR. SCHIFF: All right.

1 THE COURT: You're now arguing --

2 MR. SCHIFF: All right.

3 THE COURT: -- with the witness.

4 MR. SCHIFF: Okay.

5 THE COURT: He's answered --

6 MR. SCHIFF: Okay.

7 THE COURT: -- your question.

8 MR. SCHIFF: Okay.

9 BY MR. SCHIFF:

10 Q. The fact of the matter is you weren't looking --

11 THE COURT: You are now arguing --

12 MR. SCHIFF: I'm sorry.

13 THE COURT: -- with the witness.

14 MR. SCHIFF: I'm sorry. I'll do it later.

15 BY MR. SCHIFF:

16 Q. Okay. So the government took straight deposits of cash,
17 represented to the jury, oh, these are redeposits of cash. We
18 don't know where they came from. So we'll just forget about
19 'em. And in that manner they were able to slip by the jury the
20 fact that I was making cash deposits and they would have a tough
21 time explaining to the jury why this guy who we're claiming is
22 concealing his income is depositing cash.

23 THE COURT: Now you're arguing.

24 MR. SCHIFF: All right. I'll get off that now.

25 THE COURT: Strike.

1 BY MR. SCHIFF:

2 Q. So all of these -- all of the -- your total -- your total
3 representations to the Grand Jury were basically a tissue of
4 lies from the beginning to end. I didn't do any of these
5 things.

6 THE COURT: Is that a question?

7 MR. SCHIFF: Yeah, I'm asking him a question.

8 THE WITNESS: No, they were not.

9 BY MR. SCHIFF:

10 Q. All right. They weren't. Okay.

11 Now, you said that I was convicted in 19- -- in 1985.
12 Do you recall what I was charged with?

13 A. I believe you were charged with income tax evasion for 1980,
14 1981, 1982 and failure to file a corporate tax return for the
15 fiscal year ending in 1982 for Irwin A. Schiff, Inc., four
16 counts.

17 Q. Failing to file is a misdemeanor; is that correct?

18 A. Yes, it is.

19 Q. Is there a difference between a misdemeanor and a felony?

20 MR. NEIMAN: Objection to relevance.

21 MR. SCHIFF: The relevance is he's talking -- well,
22 I'm --

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

24 BY MR. SCHIFF:

25 Q. The relevance is what is the difference -- isn't it a fact

1 that a mis- -- that a felony you gotta do something, you got to
2 perform some act --

3 THE COURT: What?

4 BY MR. SCHIFF:

5 Q. -- for it to be a felony. Failing to file is an omission,
6 not paying taxes is an omission. But, in order to be guilty of
7 a felony, there has to be an affirmative act of evasion. And
8 I'm asking you: What was the affirmative act that I was accused
9 of doing in my '85 trial?

10 A. What were the affirmatives acts --

11 Q. Yes.

12 A. -- in your trial for the evasion counts?

13 Q. I have -- I have the Indictment --

14 A. I'm not sure what your question is.

15 Q. I was indicted -- you know the three elements that went into
16 my --

17 THE COURT: Hold on a minute.

18 You're -- you're throwing one question after another at
19 him. He just said that he didn't understand your question.

20 Rephrase the question.

21 MR. SCHIFF: Okay.

22 BY MR. SCHIFF:

23 Q. How long -- how long have you been with the, um -- how long
24 did you work with the special -- as a special agent?

25 A. 31 years.

1 Q. Did you testify at other criminal trials?

2 A. Yes.

3 Q. Did you testify at tax evasion trials?

4 A. Yes.

5 Q. Did you testify, uh, in trials involving willful failure to
6 file?

7 A. I believe yours might have been the only --

8 Q. No, no. I'm just asking: Did you testify -- forgetting
9 about mine -- where people were charged with failing to file?

10 A. None other than yours.

11 Q. None other than mine.

12 A. For failure to file.

13 Q. Were you aware that there's a difference between a felony
14 involving income tax and a misdemeanor? Were you aware of that?

15 A. Yes.

16 Q. You were aware?

17 A. Yes.

18 Q. Well, what is the difference?

19 A. You want me to cite the penalties?

20 Q. No. What is the --

21 A. One --

22 Q. -- factual difference?

23 A. -- you face a year in prison, the other you face five years
24 in prison.

25 Q. Pardon me?

1 A. One has a penalty of a year in prison, the other has five
2 years.

3 Q. But what are the different elements? What is the element of
4 tax evasion?

5 MR. NEIMAN: Objection. This is invading the province
6 of the Court which will instruct this jury on the law pertaining
7 to this --

8 THE COURT: Sustained.

9 MR. NEIMAN: -- matter at the appropriate time.

10 THE COURT: Sustained.

11 BY MR. SCHIFF:

12 Q. The fact of the matter is in my trial I was accused of three
13 things: failing to file, failing to pay --

14 THE COURT: Testifying.

15 BY MR. SCHIFF:

16 Q. -- and concealing my income.

17 THE COURT: You are testifying.

18 BY MR. SCHIFF:

19 Q. Is that correct?

20 THE COURT: You're testifying.

21 MR. SCHIFF: All right.

22 BY MR. SCHIFF:

23 Q. Did you know the elements?

24 MR. SCHIFF: He's talking about my trial and he's going
25 to the Grand Jury. He has to know what I was being charged

1 with.

2 THE COURT: He already answered that question.

3 MR. SCHIFF: I didn't hear him then.

4 THE COURT: Well --

5 BY MR. SCHIFF:

6 Q. What was I charged with in my Indictment?

7 THE COURT: He's already answered that question. If
8 you didn't hear it, I'll allow him to answer it again.

9 BY MR. SCHIFF:

10 Q. And I was charged with?

11 A. You were charged with income tax evasion for 1980, 1981, and
12 1982 and failure to file a tax return for the corporation for
13 the fiscal year 1982 --

14 Q. Were you --

15 A. -- for Irwin A. Schiff, Inc.

16 Q. Were you aware of the basis for which I committed tax
17 evasion?

18 A. I conducted the investigation.

19 Q. Well, what was the basis -- you con- -- you conducted the
20 investigation. So what was the basis of my committing tax
21 evasion?

22 MR. NEIMAN: Objection to relevance. Again, we're way
23 outside the scope of --

24 MR. SCHIFF: No, no.

25 THE COURT: We are.

1 MR. SCHIFF: I must --

2 MR. NEIMAN: -- the direct examination.

3 MR. SCHIFF: -- object. This is not irrelevant. I
4 just want him to say what was I supposed to have done to warrant
5 being charged with tax evasion.

6 THE COURT: The objection is sustained.

7 You are not testing his credibility. You are now
8 asking him to recite --

9 MR. SCHIFF: Do you have that article?

10 THE COURT: -- the details of a earlier conviction.
11 He's not required to do so.

12 (Discussion between Mr. Leventhal and
13 Mr. Schiff.)

14 BY MR. SCHIFF:

15 Q. Would it help your understanding --

16 THE COURT: Mr. --

17 BY MR. SCHIFF:

18 Q. -- of what I was charged with --

19 THE COURT: Mr. Schiff, he has already said what you
20 were charged with. I've sustained objections to further
21 questions about that.

22 BY MR. SCHIFF:

23 Q. Were you aware that in my trial the jury asked Judge
24 Dorsey --

25 MR. NEIMAN: I'm gonna object, your Honor, to this --

1 BY MR. SCHIFF:

2 Q. -- whether --

3 THE COURT: Sustained. We're not going to rehash --

4 MR. SCHIFF: All right.

5 THE COURT: -- the trial.

6 BY MR. SCHIFF:

7 Q. Were you at my trial --

8 A. Yes.

9 Q. -- Mr. Wethje?

10 A. Yes.

11 Q. Were you aware that after three days the jury --

12 THE COURT: We're not going to --

13 MR. NEIMAN: Objection, your Honor.

14 THE COURT: -- rehash the trial.

15 MR. SCHIFF: They are bringing it up.

16 THE COURT: No.

17 MR. SCHIFF: All right.

18 THE COURT: They brought up the conviction.

19 MR. SCHIFF: I was trying to see the nature of that
20 conviction. Okay.

21 BY MR. SCHIFF:

22 Q. Now, you talked about -- okay. Now, you talked about my
23 probation violation hearing; is that correct?

24 A. Yes.

25 Q. You also stated that I filed some returns during a

1 revocation hearing. Is that what you said?

2 A. During the probation hearing, yes.

3 Q. Yeah. But it was a revocation hearing you stated.

4 A. Well, ultimately your probation was revoked.

5 Q. Yeah. But you said --

6 A. So I refer to it at a revocation hearing.

7 Q. You specifically said that I filed my tax returns during a
8 revocation hearing.

9 A. That's what I said, yes.

10 Q. Yes.

11 Now, is there a difference between a probable cause
12 hearing and a revocation hearing?

13 A. I'm not sure.

14 Q. You're not sure?

15 A. I'm not a lawyer.

16 Q. Do you know what a probable cause hearing is?

17 A. I'm not sure.

18 Q. Would it affect [sic] your recollection --

19 MR. SCHIFF: Okay. I'd like to put this document -- if
20 someone can -- how do I put this document?

21 MR. NEIMAN: Why don't you show it to me to see if I
22 object.

23 MR. SCHIFF: Those are terms of my probation.

24 MR. NEIMAN: We would object to the terms of probation.
25 This is -- this is...

1 (Discussion between Mr. Neiman and
2 Mr. Schiff.)

3 MR. SCHIFF: Why would you object to this?

4 All right. What this is, your Honor --

5 THE COURT: Have it marked. Have it marked. So I can
6 identify it. Hand it to the clerk.

7 (Defendant Schiff's Exhibit No. 2002, marked
8 for identification.)

9 THE COURT: Hand it to me, Ms. Clerk.

10 THE CLERK: Yes, sir.

11 I'll give it to the witness.

12 MR. SCHIFF: For the record, I'd like to blow it up.

13 THE CLERK: It's Exhibit 2002.

14 THE COURT: Let me see it.

15 (Document handed to the Court.)

16 MR. SCHIFF: On the left hand is the conditions of my
17 probation, if I...

18 THE COURT: Go ahead. Question.

19 BY MR. SCHIFF:

20 Q. Doesn't one of the conditions say that I have to follow the
21 instructions of my probation supervisor?

22 A. Yes.

23 Q. That's what it says.

24 A. Yes.

25 Q. Okay. I have to follow the instructions of my probation

1 supervisor.

2 A. Yes.

3 Q. Okay.

4 MR. SCHIFF: Can I -- next exhibit.

5 (Document shown to Government counsel.)

6 MR. NEIMAN: I'm confused as to how it's relevant to
7 this witness.

8 MR. SCHIFF: The relevance is that my probation
9 supervisor was Patrick Walsh, who was attached to the United
10 States -- its relevance will become apparent with the next
11 exhibit. My -- my probation supervisor was Patrick Walsh,
12 attached to the Eastern District of New York.

13 THE COURT: And how does that make it relevant whether
14 he was from the Eastern District of New York --

15 MR. SCHIFF: The relevance --

16 THE COURT: -- or another district?

17 MR. SCHIFF: It's relevance --

18 THE COURT: It doesn't matter.

19 MR. SCHIFF: -- will become immediately apparent --

20 THE COURT: Well, I'm asking you --

21 MR. SCHIFF: -- with the next exhibit.

22 THE COURT: -- tell me the relevance now, not -- not
23 surprise me.

24 MR. SCHIFF: Well, laying a foundation -- your Honor,
25 in my clumsy way I'm trying to lay a foundation.

1 (Defendant Schiff's Exhibit No. 2003, marked
2 for identification.)

3 (Document handed to the Court.)

4 BY MR. SCHIFF:

5 Q. Now, he talked about my probation violation. I was
6 violated --

7 THE COURT: You're testifying.

8 BY MR. SCHIFF:

9 Q. I was violated --

10 THE COURT: You're testifying.

11 MR. SCHIFF: I'm sorry. This is the next -- he
12 talked -- maybe the jury doesn't understand it.

13 (Discussion between Mr. Leventhal and
14 Mr. Schiff.)

15 MR. SCHIFF: And this is very important. I was not
16 violated by my probation officer.

17 THE COURT: Well, then just ask him the question.

18 BY MR. SCHIFF:

19 Q. I was violated by my -- my probation -- I make a few
20 points --

21 THE COURT: Wait a minute.

22 BY MR. SCHIFF:

23 Q. My probation --

24 THE COURT: You're --

25

1 BY MR. SCHIFF:

2 Q. -- I was violated --

3 THE COURT: -- you're testifying.

4 MR. SCHIFF: All right. Here is the -- well --

5 (Discussion between Mr. Leventhal and
6 Mr. Schiff.)

7 BY MR. SCHIFF:

8 Q. Is it a fact that I was violated by Carmelo Medina
9 (phonetic), who violated me, and stated to the Court that --

10 MR. NEIMAN: Objection. Relevance as to what --

11 THE COURT: What is the relevance? What's your point?
12 Can you explain what you're trying to --

13 MR. SCHIFF: I was not violated by my own probation
14 officer who did not tell me I was in -- okay. Here we'll --

15 THE COURT: Probation -- probation departments are
16 pretty big and you're -- probation officers change all the time.

17 MR. SCHIFF: Okay.

18 THE COURT: That's not relevant.

19 MR. SCHIFF: Except, your Honor, this thing said that
20 it was based upon the conduct and attitude of Irwin Schiff and I
21 never spoke to this person in my life.

22 THE COURT: Well, he just represents the Probation
23 Department, Mr. Schiff. That --

24 MR. SCHIFF: Can I put this --

25 THE COURT: -- happens all the time. People get sick,

1 people leave to go somewhere else. That's not relevant. That's
2 not an important point.

3 MR. SCHIFF: Your Honor, can I tell you something? I
4 have spoken -- I was in jail --

5 THE COURT: You can at sidebar, but --

6 MR. SCHIFF: All right. You want to do it at sidebar.

7 THE COURT: -- unless it's related to my ruling you --

8 MR. SCHIFF: All right. I never met a person who was
9 violated by other than their own probation [sic].

10 THE COURT: Well, I can tell you that it happens all
11 the time.

12 MR. SCHIFF: Okay.

13 THE COURT: Probation officers --

14 MR. SCHIFF: Okay.

15 THE COURT: -- change and --

16 MR. SCHIFF: Okay.

17 THE COURT: -- supervisors sign things that's --

18 MR. SCHIFF: Okay.

19 THE COURT: -- you're not --

20 MR. SCHIFF: Now --

21 THE COURT: -- entitled to have --

22 MR. SCHIFF: -- now --

23 THE COURT: -- one probation officer.

24 BY MR. SCHIFF:

25 Q. Now, if you look -- can I take that again, please?

1 THE CLERK: Yes.

2 MR. SCHIFF: Okay.

3 BY MR. SCHIFF:

4 Q. I was initially violated because -- the Government stated
5 yesterday that I was violated for filing zero returns, the zero
6 returns he put in. That's not why I was violated. I was
7 violated for filing these returns.

8 (Document shown to Government counsel.)

9 THE COURT: Is that a question?

10 MR. SCHIFF: Well, I'll show you.

11 THE COURT: No. Is that a question? You'll have a
12 chance to testify when -- when --

13 MR. SCHIFF: No. Here's what happened --

14 THE COURT: -- when the Government concludes its case,
15 but you're testifying again.

16 MR. SCHIFF: Well, I was vi- -- I was not violated for
17 filing zero returns.

18 THE COURT: You're testifying.

19 MR. SCHIFF: All right.

20 MR. NEIMAN: Your Honor, the returns --

21 THE COURT: Can you put it in a question --

22 MR. NEIMAN: -- he gave me --

23 THE COURT: -- that this witness --

24 MR. NEIMAN: -- have zeros --

25 THE COURT: -- can answer?

1 MR. NEIMAN: -- on them also.

2 MR. SCHIFF: Okay.

3 BY MR. SCHIFF:

4 Q. The point is that...

5 (Pause in the proceedings.)

6 THE COURT: Well, we're getting pretty close to the
7 time to take a break, Mr. Schiff. Are you going to be much
8 longer?

9 MR. SCHIFF: Pardon me?

10 THE COURT: Are you going to be much longer? It's time
11 to take a break. Do you think you can finish up?

12 MR. SCHIFF: We can take a break if you want. Yeah, I
13 guess I -- I want to get a couple of the documents.

14 THE COURT: Okay. We're gonna take our mid-morning
15 break.

16 Please remember my prior admonitions. Anyone forgotten
17 them? (No hands raised.) All right. Thank you.

18 (Jury leaves the courtroom at 10:41 a.m.)

19 THE COURT: Okay. Be in recess for 15 minutes.

20 MR. CRISTALLI: Your Honor, we do have an issue, um,
21 that I want to put on the record. If you want to do it now,
22 that's fine. If you want to do it after the break, that's fine
23 as well.

24 THE COURT: Uh, we'll do it after the break.

25 MR. CRISTALLI: Okay. That's fine.

1 THE COURT: Let people have a chance to --

2 MR. CRISTALLI: Yes, sir.

3 THE COURT: -- go out for a couple of minutes.

4 (Recess from 10:42 a.m. to 11:07 a.m.)

5 THE COURT: Okay. Let's address that one matter.

6 Please be seated.

7 Mr. Cristalli.

8 MR. CRISTALLI: Thank you, your Honor.

9 Um, your Honor, you're probably going to be hearing
10 this quite often from me. But, once again, I'm going to have to
11 renew my motion for severance and it's based on my observations
12 of Mr. Schiff's cross-examination, once again, of this
13 particular witness. I think we've had three witnesses now and I
14 think my observations are consistent with, uh, almost each and
15 every one of 'em. I think, uh, Ms. Kennedy was not as bad but
16 at the end it was pretty bad.

17 MR. NEIMAN: Your Honor, just we have -- yeah.

18 MR. CRISTALLI: I'm sorry. I didn't recognize it
19 either. I apologize.

20 MR. NEIMAN: Sorry to interrupt.

21 MR. CRISTALLI: That's fine.

22 THE COURT: I didn't realize where we were going with
23 this.

24 (Witness leaves the courtroom.)

25 MR. CRISTALLI: I apologize. I didn't notice that the

1 witness was on the stand.

2 THE COURT: Go ahead.

3 MR. CRISTALLI: In any event, you know, my observations
4 are, you know, Mr. Schiff's physical actions and reactions when
5 he is unable to, uh, get questions out or get evidence in. Um,
6 it just is a complete display of pure confusion. He certainly
7 has, in my opinion, an inability to focus on any particular
8 singular point. He just absolutely does not understand the
9 simple differences, in my opinion, between asking a question and
10 testifying. Um, you know, he is troubled with fundamental
11 courtroom procedure and it's not getting any better. He cannot
12 handle any evidence what -- whatsoever. And the reason why
13 it's, uh -- it's relevant to me is because of the spill --
14 spillover aspect.

15 Well, what is the spillover aspect? Well, the
16 spillover aspect is my client, like thousands of other
17 individuals, followed his teachings. Um, and, if the jury
18 observe -- observes him, as the Government probably wants them
19 to, as a person that, um, is in -- is incoherent, is
20 unbelievable, um, it certainly flies in the face of my defense.
21 And I think it is inconsistent with this man's personality
22 generally in that in the normal course of his business he was
23 able to convey this message in a more clear, articulate manner
24 because we know this through all of the individuals that
25 prescribed to the teachings. And so that's my position.

1 THE COURT: Okay.

2 I assume you join in that, Mr. Bowers?

3 MR. BOWERS: I join in that, Judge. Any -- any motion
4 to sever at this point I -- I join. I'll add additional
5 information as necessary.

6 THE COURT: Well, the Court still believes that the
7 defense conduct can be separated from that of the -- Defendant
8 Schiff's conduct can be separated from that of the others
9 with -- with an appropriate instruction and, um -- and I
10 think -- I think the -- the jury is completely capable of -- of
11 judging --

12 MR. SCHIFF: Your Honor --

13 THE COURT: -- these parties separately.

14 No. Don't interrupt me.

15 MR. SCHIFF: I'm sorry.

16 THE COURT: So the motion for severance is denied.

17 The --

18 MR. SCHIFF: Well --

19 THE COURT: -- the reasons for having the parties, uh,
20 tried together have already been stated: the common issues, the
21 issues of law, the -- the common counts. And I see no reason to
22 change that.

23 I will say that Mr. Schiff is actually getting a little
24 better in his conduct. He -- he at least is now waiting and
25 listening to the rulings of the Court. It's improving. It's --

1 we're nowhere near there. Some of it stems from his inability
2 to -- to -- to stay on point. But at least he's -- he's more
3 respectful and less argumentative with the rulings of the Court.

4 Uh, he is entitled to represent himself. And I've done
5 some further research on that. And his conduct has not risen to
6 the point of obstructiveness which is what is required for me to
7 disqualify him from his own rep- -- representation. And -- and
8 he is following direction even though it's -- it's -- it's still
9 hard going.

10 MR. SCHIFF: Your Honor, I'll try to do better. But,
11 if I can't even at this stage, I'll be happy to be represented.
12 I'll pay for it. I'm not asking the Court to appoint because I
13 don't know who they are gonna appoint.

14 But could I search for, um, paid counsel?

15 THE COURT: If you wish to --

16 MR. SCHIFF: I have to find someone.

17 THE COURT: Yeah. I'm not going to give you a
18 continuance. We're -- we're mid trial. But if you -- if you
19 want to bring someone in that you hire, that's fine.

20 Mr. Bowers.

21 MR. BOWERS: Well, I would -- that's great. Yeah. I
22 would just encourage the Court to allow Mr. Schiff to -- to
23 bring any counsel in. It may be suggested that if there were a
24 very short delay it would be made up for by a qualified
25 attorney.

1 That's a wonderful plan, Mr. Schiff. Thank you.

2 THE COURT: Well, thank you.

3 We'll bring the jury in.

4 THE CLERK: And the witness, please.

5 THE COURT: And the witness.

6 THE CLERK: Come on in.

7 (Jury enters the courtroom at 11:14 a.m.)

8 THE COURT: Please be seated.

9 Will counsel stipulate to the presence of the jury?

10 MR. NEIMAN: Yes, your Honor.

11 THE COURT: Thank you.

12 Mr. Cristalli? Mr. Cristalli?

13 MR. CRISTALLI: Your Honor --

14 THE COURT: Stipulate to the jury?

15 MR. CRISTALLI: I'm sorry. Yes, we stipulate.

16 THE COURT: Stipulate to the presence of the jury?

17 MR. BOWERS: Yes, your Honor.

18 THE COURT: Mr. Schiff?

19 MR. SCHIFF: Yes, your Honor.

20 THE COURT: You may resume your examination of the
21 witness, Mr. Schiff.

22 MR. SCHIFF: Yes.

23 Can -- can I have the Government's exhibit of my Fifth
24 Amendment [sic] return?

25 THE COURT: Your Fifth Amendment return?

1 MR. SCHIFF: My Fifth Amendment, yeah. The one that
2 they allege was the subject of my violation.

3 THE COURT: I'm not --

4 MR. SCHIFF: It's about --

5 THE COURT: -- I'm not sure what a Fifth Amendment --

6 MR. SCHIFF: Zero return. I'm sorry. I used to file
7 Fifth Amendment returns long time ago.

8 THE COURT: Which -- which zero return are we speaking
9 of?

10 MR. SCHIFF: The -- um, the one that I was allegedly
11 violated for.

12 THE COURT: Oh, okay.

13 MR. NEIMAN: Your Honor, the Government will put on
14 Government's Exhibit 52 -- no, I'm sorry -- 23, I believe.

15 THE COURT: 43?

16 MR. NEIMAN: 23.

17 THE COURT: 23.

18 MR. NEIMAN: Which would be the 1980 return,
19 Mr. Schiff's zero return.

20 THE COURT: Okay. Is that the one you want --

21 MR. SCHIFF: Yes.

22 THE COURT: -- Exhibit 23, the 1980 --

23 MR. SCHIFF: Yes.

24 THE COURT: -- federal return?

25 Okay. Do you want it on the screen?

1 MR. SCHIFF: Yes. Yes.

2 (Document displayed in open court.)

3 MR. SCHIFF: Okay. Okay. The next -- I actually want
4 to get the wording that I attached to my return. Um, I think I
5 have it -- it would be easier if I -- yeah. I -- I --

6 (Discussion between Mr. Leventhal and
7 Mr. Schiff.)

8 MR. SCHIFF: Okay. Okay. I see. Can you adjust this
9 so it's darker? I can't see the type.

10 MR. NEIMAN: Your Honor, if Mr. Schiff would just let
11 the Government know what portion he wants blown up, we'd be
12 happy to blow it up for him.

13 MR. SCHIFF: You know, I -- can I have the exhibit?
14 Can I -- can I get the actual exhibit? Can I have -- because I
15 can't read that.

16 (Pause in the proceedings.)

17 MR. SCHIFF: No, no. I want... Okay. Okay. Okay.

18 BY MR. SCHIFF:

19 Q. Now, Mr. Wethje, looking at the return that I filed -- I
20 mean, I just didn't file a return and put zeroes. I -- I -- are
21 you familiar with this -- my return?

22 A. I have the document in front of me.

23 Q. Okay. It's not that I just put zeroes without trying to
24 explain why I put -- oh, incidentally, if a person files a
25 return -- and let's assume he says I earn a hundred dollars and

1 the Government believes he owes more than a hundred dollars,
2 what does the Government do in a case like that? Do you know --

3 MR. NEIMAN: Objection. Vague.

4 BY MR. SCHIFF:

5 Q. -- do you know what a deficiency assessment is?

6 A. I'm not sure. I wasn't in the civil side; I was in the
7 criminal side of the Internal Revenue Service.

8 Q. You have no idea that you go to Tax Court to litigate a
9 difference between what you put on a return and what the
10 government says you should put on a return? You're not familiar
11 with that at all?

12 A. I'm not familiar with the civil remedies. I -- I really
13 worked in the Criminal Investigation Division my entire career.

14 Q. How long were you with the IRS?

15 A. 31 years.

16 Q. You were with the IRS 31 years.

17 A. Yes.

18 Q. Did you ever hear of Tax Court?

19 A. Yes.

20 Q. What was the function of Tax Court?

21 A. To litigate tax cases.

22 Q. How does -- how does a tax case get to Tax Court?

23 A. Not through the Criminal Investigation Division.

24 Q. I know. But how does it get there? You mean you know
25 absolutely nothing about the civil side of the income tax?

1 A. I don't know the procedure to get a case to Tax Court.

2 Q. You don't know the procedure?

3 A. No, I do not. Not familiar with it.

4 Q. Okay. So you know absolutely nothing about civil --

5 THE COURT: Mr. Schiff --

6 MR. SCHIFF: All right. Okay.

7 THE COURT: -- Mr. Schiff, the question has been
8 answered three times now.

9 MR. CRISTALLI: Okay. I'm sorry.

10 BY MR. SCHIFF:

11 Q. Well, if you go down to my second page, I said -- in
12 addition to my letter, I cited the Ninth Circuit case of U.S. v.
13 Kimball.

14 THE COURT: Where are you reading from?

15 MR. SCHIFF: I'm reading from the fourth paragraph.

16 THE COURT: Of? Page?

17 MR. SCHIFF: U.S. v. -- yeah. My attachment to my zero
18 return.

19 THE COURT: Page 11140, Bates No. 11140? Do you have
20 it there?

21 BY MR. SCHIFF:

22 Q. Are you familiar with the U.S. v. --

23 THE COURT: All right. Hold on a minute. Wait a
24 minute.

25 THE WITNESS: What page -- are you referring to page 6?

1 MR. SCHIFF: 6 of 9, yes.

2 THE WITNESS: Yes.

3 BY MR. SCHIFF:

4 Q. Are you familiar with the case of U.S. v. Kimball?

5 A. I've heard the name. I'm not familiar with it. I've never
6 read it.

7 Q. If I showed it to you, could you read a portion of it,
8 slight portion of it?

9 A. Could I read it? Yes.

10 MR. SCHIFF: I think I made -- I think I made it an
11 exhibit, yeah.

12 MR. NEIMAN: What number?

13 MR. SCHIFF: Well, I -- I -- I've got a couple of them.
14 I -- U.S. v. Kimball.

15 BY MR. SCHIFF:

16 Q. The Government referred to U.S. v. Kimball when they -- the
17 Government's exhibit, uh, when they put in, um, um, Judge
18 Dorsey's final -- I forgot now. He mentions it, United
19 States v. Kimball. Could you read the -- just this couple of
20 paragraphs.

21 MR. SCHIFF: Can I approach the witness, your Honor?

22 THE COURT: You may.

23 (Document handed to the witness.)

24 BY MR. SCHIFF:

25 Q. Now -- now, this is the Ninth Circuit; is that right? We're

1 in Nevada. Presumably the Ninth Circuit establishes a
2 precedent. Is that correct?

3 A. I don't know that.

4 Q. All right. You don't know.

5 Do you want to read what I've highlighted in yellow?

6 MR. NEIMAN: Objection. It hasn't been admitted into
7 evidence. And, once again, the witness has testified that he
8 hasn't read this opinion. He only knows what portions have been
9 selected. We're goin' down a --

10 THE COURT: What is --

11 MR. SCHIFF: All right.

12 THE COURT: -- what is the question?

13 MR. SCHIFF: Well, just -- he can just read what --
14 what it says.

15 THE COURT: No, I'm not going to have him read
16 something that --

17 MR. SCHIFF: Okay.

18 THE COURT: That's -- that's not going to be permitted.

19 MR. SCHIFF: Okay.

20 Should I take it from him?

21 THE COURT: You may take it.

22 MR. SCHIFF: Can I put this into evidence?

23 THE COURT: At the appropriate time when you're
24 introducing evidence. You can't do it through this witness.

25 MR. SCHIFF: Okay.

1 THE COURT: If you're -- if you're -- are you speaking
2 of Exhibit 23, something in Exhibit 23? It's already admitted
3 into evidence.

4 MR. SCHIFF: Yeah. Well, there's -- well, okay. I'll
5 get to there. I'll finish with this.

6 BY MR. SCHIFF:

7 Q. In other words, I mentioned this case, but you're not
8 familiar with it. Okay.

9 Continue -- continuing further, um, I mentioned -- this
10 is U.S. v. Kimball -- I mentioned further -- in the third
11 paragraph, I mentioned U.S. v. Long that -- in filing this
12 return I did. I'm also relying on U.S. v. Long.

13 Are you familiar with that case?

14 A. I've heard the name; I've not read the case.

15 Q. Were you aware that that case involved a zero return?

16 A. I knew that the case involved zero returns, yes.

17 Q. Did you know what the Ninth Circuit ruled with respect to a
18 zero return?

19 A. No.

20 Q. You're not aware how they ruled?

21 A. No.

22 Q. Okay. Now, the next case I relied on, you'll notice, is a
23 Supreme Court case Merchant's Loan & Trust Company v. Smietanka.
24 Are you familiar that case?

25 A. No.

1 Q. You're not familiar that case either.

2 A. No.

3 Q. Okay.

4 (Discussion between Mr. Leventhal and
5 Mr. Schiff.)

6 BY MR. SCHIFF:

7 Q. Uh, okay. Uh, I can ask for a little conclusion, I think in
8 your -- would it be safe to say that when I filed my zero return
9 I relied on certain court decisions, even the ones that you're
10 not familiar with. But I relied on something?

11 A. That would not be safe to say, no.

12 Q. Well, I mention these three cases which you're unaware of.
13 But you don't know whether those cases supported the zero return
14 that I filed or didn't?

15 A. Well, I -- I knew that you had been instructed by Judge
16 Dorsey about the other cases also.

17 Q. Okay. Now, let's get -- let's get to -- to Judge Corsey
18 [sic] -- Judge Dorsey. Let's get to that exhibit of Judge
19 Dorsey's.

20 MR. NEIMAN: 66.

21 MR. SCHIFF: Do you want to put it on?

22 (Document displayed in open court.)

23 MR. SCHIFF: We got it on? Next slide is -- is he
24 mentions a slew of cases. Can you go to the next one? That's
25 it. Okay. Fine.

1 BY MR. SCHIFF:

2 Q. Now, can you see that? Now, Judge Horton [sic] -- Dorsey
3 mentions cases. But I'm on probation at the time I filed my
4 zero return. Now, I -- notice Judge Dorsey says "cited with
5 approval," cites Moore, Long, and Kimball.

6 THE COURT: Where are you? What page?

7 MR. SCHIFF: I'm on page 5.

8 BY MR. SCHIFF:

9 Q. Judge Dorsey says, uh, United States -- "cited with
10 approval ... Moore, 627 ...; contra United States v. Long."
11 What does that "contra" mean? Do you know?

12 A. I do not know.

13 Q. You don't know what it means?

14 A. No.

15 Q. Would it help you if I suggested that it means "contrary" or
16 something? No. You don't know what it means. All right.

17 But, anyway, he cites Kimball and Long and he says,
18 "vacated in part ... remanded [in part]." Do you know what that
19 means?

20 A. I do not.

21 Q. You don't know what it means. Okay.

22 Now, how long were you with the -- how long were you a
23 special agent?

24 A. 31 years.

25 Q. Pardon me?

1 A. 31 years.

2 Q. 31 years.

3 And what was your function as a special agent?

4 A. To investigate possible violations of the Internal Revenue
5 Code and related offenses.

6 Q. In connection -- so you -- you -- you investigated possible
7 violations of the Internal Revenue Code. In connection with
8 your duties, did you carry a weapon?

9 A. Yes.

10 Q. When you did this investigation, did you do it legally or
11 illegally?

12 A. Legally.

13 Q. You did it legally. Okay. So you carried a weapon.

14 Did you ever see a law that allowed you to carry a
15 weapon in connection with --

16 MR. NEIMAN: Objection --

17 BY MR. SCHIFF:

18 Q. -- with income taxes?

19 MR. NEIMAN: -- to relevance --

20 THE COURT: It's irrelevant.

21 MR. SCHIFF: Well -- well, he said he did it legally.
22 There must be a law that allowed him to carry a weapon.

23 THE COURT: All of this is irrelevant. What does this
24 have to do with this case and these charges?

25

1 BY MR. SCHIFF:

2 Q. Did you ever see a regulation that allows you to carry a
3 weapon?

4 THE COURT: Sustained. The questioning is irrelevant.

5 MR. SCHIFF: All right.

6 BY MR. SCHIFF:

7 Q. Did you ever see a statute --

8 THE COURT: Did you hear what I said?

9 MR. SCHIFF: Okay.

10 THE COURT: Leave it.

11 MR. SCHIFF: Well, I said "weapon." I didn't say...

12 THE COURT: Leave it. It's irrelevant.

13 BY MR. SCHIFF:

14 Q. So when you investigated these tax cases -- did you ever
15 look at the job description of a special agent, the job
16 description? Did you have a job description as a special agent?

17 A. Yes, we did.

18 Q. Did your job description allow you to investigate people who
19 live in the United States?

20 A. Yes it did.

21 Q. It did?

22 A. Yes.

23 Q. Son of a gun. (Pause.)

24 THE COURT: What are you looking for, Mr. Schiff?

25 MR. SCHIFF: The job description.

1 THE COURT: It's irrelevant to this case.

2 MR. SCHIFF: Can I --

3 THE COURT: What is your point? You're rehashing a
4 conviction --

5 MR. SCHIFF: All right. All right. Well --

6 THE COURT: -- is you're attempting to do.

7 MR. SCHIFF: All right.

8 THE COURT: It's irrelevant.

9 MR. SCHIFF: I -- I -- I thought I had it here.

10 THE COURT: His job description is irrelevant to this
11 case. Move on. It's irrelevant.

12 MR. SCHIFF: I have no further questions.

13 THE COURT: No further?

14 MR. SCHIFF: Well -- well, no. All right. I have a
15 few come to think of it.

16 BY MR. SCHIFF:

17 Q. Are you familiar with the Cheek decision?

18 A. No.

19 MR. NEIMAN: Objection. Relevance.

20 THE COURT: He's not familiar with it, so --

21 MR. SCHIFF: Pardon me?

22 THE COURT: He said he's not familiar with it.

23 BY MR. SCHIFF:

24 Q. You -- you said -- when you investigate people in connection
25 with -- what did you say? -- possible criminal activity?

1 A. Possible criminal violations of the Internal Revenue Code
2 and related offenses.

3 MR. SCHIFF: No further questions.

4 THE COURT: Thank you.

5 Lights up, please.

6 THE CLERK: Yes, sir.

7 MR. NEIMAN: Your Honor, just to confer with Mr. Bowers
8 and Mr. Cristalli whether -- they wanted to reserve the right to
9 cross-examine whether or not they --

10 THE COURT: Do you wish to cross-examine,
11 Mr. Cristalli?

12 MR. CRISTALLI: No, your Honor.

13 MR. BOWERS: I have no questions for this witness,
14 Judge.

15 THE COURT: Thank you.

16 Redirect.

17 MR. NEIMAN: Very brief, your Honor.

18

19 REDIRECT EXAMINATION

20 BY MR. NEIMAN:

21 Q. Special Agent Wethje, have you ever seen Mr. Schiff
22 represent himself in court before?

23 A. Yes.

24 Q. When did you see Mr. Schiff represent himself in court
25 before?

1 A. At the probation hearing.

2 Q. And what year was that?

3 A. In 1991.

4 Q. About 15 years -- 14 years ago?

5 A. Yes.

6 Q. Can you describe what Mr. Schiff's demeanor was like before
7 Judge Dorsey when he was representing himself 15 years ago?

8 MR. CRISTALLI: Objection. Relevancy.

9 THE COURT: What is the relevance?

10 MR. NEIMAN: Your Honor, it's to show that this is a
11 pattern; that he's been on notice; and this is how he has acted.

12 THE COURT: Overruled.

13 THE WITNESS: Well, same -- actually same as it is
14 today.

15 BY MR. NEIMAN:

16 Q. Can you elaborate a little more, please?

17 A. Well, the question was what was his --

18 BY MR. NEIMAN:

19 Q. His demeanor like in court in 1991.

20 A. It's basically the same. He fumbles with his papers and
21 asks the same question and a lot of questions that were not
22 relevant and...

23 MR. CRISTALLI: Objection as to his conclusion about
24 what was relevant or not. He's not a lawyer nor a judge.

25 THE COURT: Sustained without further -- unless further

1 foundation is laid.

2 BY MR. NEIMAN:

3 Q. Were similar objections made to the relevance of these
4 questions at that time?

5 A. Yes.

6 MR. CRISTALLI: Objection as to foundation on
7 similarity.

8 THE COURT: Well, I think the -- I can ask the Court
9 question and shorten this up.

10 Were objections based on relevance sustained by the --
11 by Judge Dorsey?

12 THE WITNESS: Yes, many times.

13 THE COURT: Thank you.

14 Go ahead with the next question. It is -- that is
15 relevant.

16 BY MR. NEIMAN:

17 Q. When -- when you had this meeting with Mr. Schiff in his
18 kitchen in the '80s regarding your investigation, did you make
19 him aware of what the violations of law he was under
20 investigation for were?

21 A. Yes.

22 Q. And did -- did Mr. Schiff --

23 MR. NEIMAN: Honestly, your Honor, I'm finished. I'm
24 sorry.

25 THE COURT: Thank you.

1 Anything -- any recross?

2 MR. SCHIFF: Yes.

3

4 RE CROSS-EXAMINATION

5 BY MR. SCHIFF:

6 Q. I missed -- did I hear you right when you said that, uh, I,
7 um, was fumbling with papers or something at my last trial or
8 something and I made the same, um, observations and --

9 THE COURT: Probation hearing.

10 MR. SCHIFF: Oh.

11 THE WITNESS: The probation hearing.

12 BY MR. SCHIFF:

13 Q. Were you familiar with the, um, regulations covering
14 probation hearings?

15 A. No.

16 Q. No.

17 Was I represented by a lawyer?

18 A. No. You represented yourself, I believe.

19 Q. Were you aware that I asked for a lawyer?

20 A. I believe we had a hearing in May of -- approximately two
21 months before and, uh --

22 Q. Were you --

23 A. -- first you asked and then you didn't -- then you didn't
24 want one and then you asked and then you didn't want one. I
25 believe that went back and forth and ultimately you represented

1 yourself.

2 Q. Excuse me. I have the hearing. I asked for an attorney.

3 As a matter of fact, were you aware that Judge Dorsey
4 appointed an attorney for me?

5 A. I don't remember if there was one sitting --

6 Q. Can you --

7 A. -- at the table or not.

8 Q. -- can you excuse me for a moment?

9 (Discussion between Mr. Schiff and
10 Mr. Leventhal.)

11 BY MR. SCHIFF:

12 Q. When you said that you informed me of a law I violated,
13 didn't I have the Internal Revenue Code in front of you?

14 A. I informed you of the law that you were being investigated
15 for, failure --

16 Q. Didn't I asked you to -- you said I --

17 THE COURT: Are we going back to something --

18 MR. SCHIFF: Well, he said --

19 THE COURT: -- on direct examination?

20 MR. SCHIFF: On cross-examine [sic], he said --

21 THE COURT: Wait a minute.

22 MR. SCHIFF: Oh.

23 THE COURT: I don't remember this coming up --

24 MR. SCHIFF: Okay.

25 THE COURT: -- on redirect.

1 MR. SCHIFF: Okay.

2 I have here the -- the transcript of -- of my probation
3 hearing. The first page -- I don't want to get into this, your
4 Honor, but --

5 THE COURT: You can't testify.

6 MR. SCHIFF: But he testified.

7 THE COURT: You can ask him questions.

8 MR. SCHIFF: He said -- he said -- I had an
9 opportunity -- this is what the U.S. Attorney said --

10 THE COURT: Don't read it. You're not allowed to read
11 it.

12 MR. SCHIFF: Pardon me?

13 THE COURT: You're testifying.

14 MR. SCHIFF: Well, should I give it to him to read?

15 THE COURT: You can ask him a question, if you wish,
16 using that.

17 MR. SCHIFF: Well, he was --

18 BY MR. SCHIFF:

19 Q. Were you at my probation hearing?

20 A. Yes.

21 Q. The first day?

22 A. Are you referring to the one where your probation was
23 revoked?

24 Q. No. That was the second or third day.

25 A. Well, no. I was there all the days.

1 Q. Okay.

2 A. If that's hearing you're talking to, yes.

3 Q. Okay.

4 A. Actually, that's in May prior to that.

5 Q. That's right. This hearing was -- this hearing was May
6 31st.

7 A. Yes, I believe that's the hearing.

8 Q. Okay. Did you hear the U.S. Attorney start off by saying,
9 It's the Government's understanding that Mr. Schiff does not
10 have counsel at this time. He indicated to me that he had a CJA
11 affidavit, that he wanted an attorney and couldn't afford one.

12 Did you hear me say that?

13 A. I remember the hearing, yes.

14 Q. Okay. Turning to page -- I'm not -- I'm -- did you hear --
15 this is from page 5 -- I say to Judge Dorsey, "I would like a
16 lawyer."

17 And Judge Dorsey said, "You would like a lawyer?"

18 I -- I repeat the fact that I wanted a lawyer.

19 Do you recall that?

20 A. I don't recall that particular statement.

21 Q. Okay.

22 A. But, if it's in the transcript, it happened that day and I
23 was there, yes.

24 Q. Okay. Was that a preliminary hearing or a revocation
25 hearing that first -- May 31st?

1 A. I don't know the title. I don't know the title of the
2 hearing.

3 Q. Do you know the difference between a preliminary hearing and
4 a revocation hearing?

5 A. No.

6 Q. Well, when Judge Dorsey would have said, uh -- when Judge
7 Dorsey said, as shown on page 8, "Well, that's not going to be
8 determined at the moment." Now, Court says, "This is a
9 preliminary hearing. It's premature for" --

10 THE COURT: Wait a minute. You're -- you're testifying
11 again.

12 Where are you reading from?

13 MR. SCHIFF: I'm reading from the transcript of that
14 hearing where Judge -- Judge Dorsey says --

15 THE COURT: Ask a question then rather than --

16 BY MR. SCHIFF:

17 Q. Did you recall him saying that this is a preliminary hearing
18 because you said you want a lawyer? Did you hear him say that?
19 Recall him saying -- I know it's 15 years ago.

20 A. Whatever's in the transcript occurred that day and I was at
21 the hearing.

22 Q. Did you recall Judge Dorsey saying -- and, again, I'm
23 reading from page 7 -- "This is a preliminary hearing. Simply a
24 question of whether there's some basis" -- well, I'm reading
25 from the transcript if it's okay. I'll give it to him to read

1 if he wants.

2 THE COURT: You can ask him if he remembers the judge
3 saying it.

4 BY MR. SCHIFF:

5 Q. Do you [sic] remember saying, "And then there will be a full
6 hearing on whether or not the Government proves that you have
7 complied with the terms of conditions."

8 So Judge Dorsey says over and over again: This is a
9 preliminary hearing. Then later we're gonna have a full
10 hearing. Do you recall him saying that?

11 A. If he said that, that's what happened that day, yes.

12 Q. He made that perfectly clear.

13 A. Yes.

14 Q. And then I said, all right -- because in his -- in that
15 motion that --

16 THE COURT: Mr. Schiff, is that marked as an exhibit?

17 MR. SCHIFF: I'll mark it as an exhibit.

18 THE COURT: Mark it now.

19 MR. NEIMAN: Your Honor, the Government, also, is
20 getting concerned that we're maybe beyond the scope of --

21 THE COURT: It is beyond the scope and it's not -- it's
22 not really relevant.

23 MR. SCHIFF: Well --

24 THE COURT: Again, you're -- again, you're -- I don't
25 know where you're goin' with this.

1 MR. SCHIFF: Well, your Honor --

2 THE COURT: I'm not sure you do. But the problem with
3 it is that you're trying to rehash a matter that occurred 14
4 years ago. There is an order in evidence, uh, that is No. 66
5 that lays all of this out. It talks about your history of -- of
6 appearing without counsel, waiving your right to counsel --

7 MR. SCHIFF: I --

8 THE COURT: -- then changing your mind. It's all here
9 in the footnote --

10 MR. SCHIFF: But that's not true.

11 THE COURT: -- in Exhibit 66.

12 MR. SCHIFF: Yeah, but that's not true. It's not
13 that --

14 THE COURT: But if it's not true, it has nothing to do
15 with this witness.

16 MR. SCHIFF: He was there.

17 THE COURT: Exhibit 66 is in evidence.

18 MR. SCHIFF: He -- he --

19 THE COURT: And you're not going to rehash it.

20 MR. SCHIFF: The reason I'm just saying this, your
21 Honor -- the reason I'm saying it's relevant --

22 THE COURT: Have that marked by the clerk.

23 MR. SCHIFF: The reason I'm saying it's relevant is
24 that he --

25 THE COURT: Hand it to the clerk.

1 MR. SCHIFF: -- is that he stated -- all right.

2 THE COURT: He stated --

3 MR. SCHIFF: He stated that -- that my probation was
4 revoked and he said at a revocation hearing and the Government
5 kept saying it's a revocation hearing. And the evidence shows
6 there was never a revocation hearing. I never got a revocation
7 hearing, and this proves it.

8 And Judge Dorsey said in that order -- remember it's
9 the same judge who told the jury that they can convict me.
10 Well, anyway, Judge -- this will show that Judge Dorsey
11 appointed a lawyer for me, but I never got it.

12 THE COURT: Well --

13 MR. SCHIFF: And this --

14 THE COURT: -- you -- you changed your mind --
15 according to Exhibit 66 you changed your mind --

16 MR. SCHIFF: No, not really, no, sir.

17 THE COURT: -- a few times. That's what 66 says.

18 MR. SCHIFF: No, no.

19 THE COURT: That's what it says.

20 MR. SCHIFF: I said I could represent myself at a
21 preliminary hearing because I said there is no probable cause.
22 I said -- here on page 9 I said, "All right. You want to
23 litigate the issue of probable cause." Do you want to see it,
24 your Honor? I said, "On the preliminary hearing, I can handle
25 it myself," your Honor, because there is no probable cause. So

1 I accepted -- I was willing to go forward because I know that
2 they didn't take into consideration my zero returns. So I said,
3 "On the preliminary hearing, I can handle it myself."

4 Do you want to put this on the screen? I never said --

5 THE COURT: No --

6 MR. SCHIFF: -- I would represent --

7 THE COURT: -- no, because it has nothing to do with
8 the testimony of this witness.

9 MR. SCHIFF: The reason it's relevant is that he stated
10 that at a revocation hearing my probation was revoked.

11 THE COURT: Well, Exhibit 66 speaks to that. It is in
12 evidence.

13 MR. SCHIFF: But here --

14 THE COURT: It speaks to that.

15 MR. SCHIFF: -- here is proof that there was no --

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

18 MR. SCHIFF: My -- my --

19 THE COURT: You're testifying is what you're doing.
20 You're arguing the law. And it's not permitted. You're here to
21 cross-examine this witness as to his --

22 MR. SCHIFF: He was at the hearing.

23 THE COURT: -- knowledge.

24 MR. SCHIFF: I'm cross-examining him and see whether he
25 recalls Judge Dorsey appointing a lawyer for me and saying

1 that -- we spent a whole --

2 THE COURT: Mr. Schiff, it is a collateral attack on --
3 your -- your presentation is a collateral attack on Exhibit 66.
4 We're not going to rehash it. You are not allowed to appeal
5 that order in this courtroom. That's not what this is about.

6 MR. SCHIFF: All -- all I can say is if I could just
7 say on page 29 Judge Dorsey says --

8 THE COURT: No, you can't say that.

9 MR. SCHIFF: All right. All right. All right.

10 BY MR. SCHIFF:

11 Q. Now, in connection with your investigation of crimes
12 involving income taxes, you're familiar that what makes an
13 income tax crime different than most other crimes is the word --

14 MR. NEIMAN: Objection. Beyond the scope of --

15 BY MR. SCHIFF:

16 Q. -- "willful"?

17 MR. NEIMAN: -- redirect.

18 THE COURT: Sustained.

19 MR. SCHIFF: All right. No further questions.

20 MR. NEIMAN: Your Honor, may the witness be excused?

21 THE COURT: Absent requests for examination.

22 Mr. --

23 MR. CRISTALLI: No, sir.

24 THE COURT: -- Cristalli?

25 MR. BOWERS: No such --

1 THE COURT: Mr. --

2 MR. BOWERS: -- request, your Honor.

3 THE COURT: -- Bowers?

4 The witness is excused.

5 Government's next witness.

6 MR. NEIMAN: Your Honor, the United States would call
7 Melvin Lewis to the stand.

8 (Melvin Lewis takes the witness stand.)

9 (Discussion between the Court and the clerk.)

10 THE COURT: Step right up here, sir. Remain standing
11 until you are sworn by the clerk.

12 THE CLERK: Please raise your right hand.

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

16 THE WITNESS: Yes, I do.

17 THE CLERK: Please be seated.

18 Please state for the record your full name and spell
19 your last name.

20 THE WITNESS: My name is Melvin Lewis. Last name is
21 spelled L-e-w-i-s.

22

23

24

25

1 Q. When did you meet Mr. Schiff?

2 A. I think it was back, uh, 2000, 2001. Something like that.

3 I'm not --

4 Q. Do you remember --

5 A. About 2000.

6 Q. Do you remember approximately what time of year it was?

7 A. Uh, it was a little bit before tax season.

8 Q. April --

9 A. Yeah --

10 Q. -- a little before April?

11 A. -- April or March. Something like that. Probably April.

12 Q. And how were you introduced to Mr. Schiff?

13 A. Well, I actually was out on a call with an AMR crew, which
14 is the emergency responding crew for --

15 Q. Mr. Lewis, I'm sorry to interrupt you. If you can pull the
16 microphone closer to your mouth and try and speak loudly and
17 clearly.

18 A. Okay.

19 Q. It's big courtroom. I apologize.

20 A. I was present -- I was out on a call workin' for, uh, City
21 of Las Vegas with the AMR crew, which is a emergency medical
22 response crew, and I was talkin' with one of the medics. And
23 what they -- we were talkin'. It was, you know, tax season. So
24 we were talkin' about taxes at that time. And they told me
25 that --

1 Q. Well --

2 A. -- they hadn't paid taxes in several years. And I go, "Yeah
3 right." And a little bit more further discussion and, uh, they
4 told me there was this guy in town that could actually help you
5 do that legally.

6 Q. They said he was an accountant?

7 A. They didn't say he was accountant. They --

8 MR. SCHIFF: Judge. Judge --

9 THE WITNESS: -- said he was --

10 THE COURT: Hold on.

11 MR. SCHIFF: I can't hear him. Is it me or --

12 MR. NEIMAN: Yeah, it is all muffled, I believe.

13 MR. SCHIFF: Is there something wrong with that mic or
14 is it me?

15 THE COURT: Speak a little slower.

16 THE WITNESS: Okay.

17 MR. SCHIFF: Could I sit --

18 THE WITNESS: How about that?

19 MR. SCHIFF: -- someplace else where I could hear
20 better or...

21 THE CLERK: It might help also if we do something of
22 this nature. Okay?

23 THE WITNESS: Okay.

24 THE CLERK: I think that'll be fine.

25 THE WITNESS: Is that better?

1 THE COURT: It's better.

2 Go ahead.

3 THE WITNESS: No, they didn't mention anything about
4 him bein' an -- an accountant or --

5 BY MR. NEIMAN:

6 Q. All right. That was me mishearing you then.

7 Okay. What -- what was your understanding of who this
8 person was or what this person could do?

9 A. Well, my understanding was that this person, uh, was either
10 an accountant or somebody that dealt with taxes and, you know,
11 prepared taxes for you. That's what my...

12 Q. And who was this person they were referring about?

13 A. Irwin Schiff.

14 MR. BOWERS: Judge, I'm sorry.

15 MR. SCHIFF: Can I ask --

16 MR. BOWERS: But, because we couldn't hear the first
17 part of his testimony, I have no idea who this -- where this
18 conversation about this person is. I -- I'm not objecting.
19 Just maybe we could clarify what's happening here because
20 it's --

21 MR. SCHIFF: I don't understand his answer either.

22 THE WITNESS: Let me back up.

23 BY MR. NEIMAN:

24 Q. Mr. Lewis, how did you first hear about Mr. Schiff?

25 A. I was on a call, emergency medical call. And, after we had

1 completed the call, uh, I was talkin' with one of the medics who
2 are responsible for transporting the patients -- they worked for
3 American Medical Service, AMR, basically -- and, uh, we were
4 talking about taxes -- how much you, uh, getting back or how
5 much you gonna pay this year -- and, um, they mentioned, this
6 couple mentioned, that they paid no taxes and that the person
7 that taught them how to do that was Irwin Schiff --

8 Q. And --

9 A. -- Freedom Books.

10 Q. And what was your reaction?

11 A. Kinda like yeah. Right. Sure.

12 Q. And -- and did you follow up on what they told you --

13 A. I followed up.

14 Q. -- in any way?

15 A. They told me, you know, where his office was and, um, I went
16 there.

17 Q. Where was his office located?

18 A. It's at -- it was his old office. I think it was, um -- I
19 wanna say, um, Sahara and, I think, it was Sixth Street next to
20 Marie Callendar's.

21 Q. Okay.

22 A. I don't know if the jury know that exactly.

23 Q. Can you describe what the actual physical building looked
24 like when you pulled up to it?

25 A. It looked like a typical office building for that particular

1 area. It wasn't fancy or nothin' like that, but, you know,
2 typical kind of a office building that needed a little bit of
3 repair.

4 Q. And what was the name of the business that you were going to
5 visit?

6 A. Uh, I think it was called "Freedom Books."

7 Q. Was there a sign or anything that displayed "Freedom Books"
8 or was this at a different- --

9 A. No. This was at the older location. I think there was some
10 stuff in the windows, writing on the window.

11 Q. What did you see when you walked into the office of Freedom
12 Books?

13 A. Uh, a lot of people doing things like -- like a office; you
14 know, people on the phone --

15 Q. Well, how many is a lot of people? I'm sorry to interrupt
16 you.

17 A. I would say there was at least, you know, eight to ten
18 people in the office. I don't -- I couldn't say how many of
19 those were employees. But there were, um, that and then there
20 was literature, uh, cassette tapes, books.

21 Q. What were these eight to ten people doing in the office?

22 A. Either talking on the phone, talking to each other, looking
23 at documents.

24 Q. All right. You just mentioned some tapes and literature.
25 What did you see on display as far as tapes and literature?

1 A. Well, I saw some tapes on a table that was -- I think it had
2 something to do with his weekly radio program and, um, of
3 course, The Federal Mafia; the CFR's, the Code of Federal
4 Regulations; the Internal Revenue Code; some of other -- some of
5 Irwin Schiff's other products that he sold.

6 Q. Were these products -- I guess you just kind of answered
7 this -- were they -- were the books available for purchase?
8 Were they free? How were they handled?

9 A. Oh, they were definitely available for purchase.

10 Q. Do you remember if you made any purchases on your initial
11 visit to Freedom Books?

12 A. Yes. I purchased -- I purchased The Federal Mafia and I
13 think he had a, uh -- a W-4 package. And that package was a
14 package that you used to go exempt, the wording -- the verbiage
15 that you put on your -- along with your W-4 when you give it to
16 your employer stating why you -- your -- you legally can go
17 exempt.

18 Q. And was this packet -- do you remember how much this packet
19 cost?

20 A. It's been a while. I don't. I, um -- no, I don't.

21 Q. Okay. Do you remember how much The Federal Mafia cost?

22 A. You know, something cost \$35. But I think it might have
23 been \$70. I'm not sure.

24 Q. Okay. When you --

25 MR. CRISTALLI: Objection. Foundation.

1 THE WITNESS: I'm not sure.

2 BY MR. NEIMAN:

3 Q. To the best of your recollection --

4 THE COURT: Sustained.

5 BY MR. NEIMAN:

6 Q. To the best of your recollection, do you remember
7 approximately how much these products cost?

8 A. Well, the --

9 MR. CRISTALLI: Asked and answered.

10 THE WITNESS: The Federal Mafia between --

11 THE COURT: He was --

12 THE WITNESS: -- 30 and 70 dollars.

13 THE COURT: -- talking about one book before. Now it's
14 a general question of other products.

15 THE WITNESS: I would say between --

16 THE COURT: Overruled.

17 THE WITNESS: -- 35 and 70 dollars. I mean, I bought a
18 lot of material there. So...

19 BY MR. NEIMAN:

20 Q. When you walked into, uh, Freedom Books, did you ask -- were
21 you approached by anyone?

22 A. Um...

23 Q. On this initial visit.

24 A. Yes, yes. I think I was approached by an employee that I
25 don't think no longer works there. Well, yeah, employee

1 disappeared. But, anyway, I was approached, uh, and showed
2 some -- a binder --

3 Q. What --

4 A. -- and some literature.

5 Q. Can you explain to me this binder that you were shown?

6 A. Well, this binder had some -- what it looked like, uh,
7 refund checks. And, uh, statements from individuals who have
8 used Irwin Schiff's techniques or literature and got back tax
9 returns [sic].

10 Q. Tax returns or tax refunds?

11 A. Tax refunds and -- you know, using his methods.

12 Q. And -- and what were you told with regards to this binder of
13 tax refund checks issued?

14 A. Those were, uh, refund checks that were issued by the, uh,
15 Treasury Department for following Irwin Schiff's procedures.

16 Q. And what was the impression this made on you when you saw
17 this binder?

18 A. I believed totally that he was telling the truth.

19 THE COURT: I'm sorry?

20 THE WITNESS: I totally believed that he was -- what --
21 what he was doing was legal.

22 BY MR. NEIMAN:

23 Q. Did this -- do you remember the name of the individual who
24 showed you this binder?

25 A. It's been a while.

1 Q. Was it a male or a female?

2 A. Male.

3 Q. All right. Was this male -- do you know what that male's
4 role was at the Freedom Books offices?

5 A. Probably a, um, um, product salesperson. I mean...

6 Q. Did this individual ever tell you about people who had
7 followed Mr. Schiff's advice and had been fined?

8 A. No.

9 Q. Did he ever tell you about people who had followed
10 Mr. Schiff's advice and been --

11 MR. CRISTALLI: Objection.

12 BY MR. NEIMAN:

13 Q. -- penalized?

14 MR. CRISTALLI: Foundation.

15 THE COURT: Well, it requires none.

16 MR. SCHIFF: I object.

17 THE COURT: The question is --

18 MR. SCHIFF: Objection. This is --

19 MR. CRISTALLI: Calls for speculation.

20 THE COURT: No. The question is: Did the person ever
21 tell you and he can answer that yes or no. That doesn't --

22 THE WITNESS: No.

23 THE COURT: -- require speculation.

24 THE WITNESS: No, not at that time.

25

1 BY MR. NEIMAN:

2 Q. Did the person who showed you this binder ever tell you that
3 individuals who had followed Mr. Schiff's advice had been
4 prosecuted?

5 MR. CRISTALLI: Objection. Leading.

6 THE COURT: Overruled.

7 MR. SCHIFF: Objection. Leading.

8 THE COURT: Overruled.

9 THE WITNESS: No, they never did.

10 BY MR. NEIMAN:

11 Q. After you purchased The Federal Mafia and the W-4 packet,
12 did you read the book?

13 A. I read, uh -- I -- I actually opened the book, I went to the
14 index, found the part of the book that applied to me with
15 regards to my W-4, and following that. That's what I was
16 primarily interested in.

17 And then later on, um, I kind of spot read some of his
18 documents and actually wanted to see if these documents were
19 true. And I filed some Freedom of Information requests trying
20 to obtain these same documents that were in his book.

21 Q. Upon whose advice did you do that?

22 A. I did that on my own --

23 Q. On your own.

24 A. -- just to verify and -- for, you know, part of my research.

25 Q. I -- I hate to go back to the binder, but there's one

1 question I forgot to ask you.

2 Did you notice anything about the dates on any of these
3 checks that were issued in the binder?

4 A. I want to say they were in the late '90s.

5 Q. The late '90s?

6 A. Yeah, like, um, '98 --

7 Q. Okay.

8 A. -- '99, maybe even 2000.

9 Q. You've also mentioned that you read the part of the book
10 about the W-4, the exempt W-4.

11 A. Um-hum.

12 Q. Did you file an exempt W-4 with the City of Las Vegas?

13 A. Yes. And I was very impressed.

14 Q. Explain to me why you were impressed.

15 A. Because I got all my money. I mean, I -- when I filed a
16 exempt W-4, I immediately had this extra income that I could do
17 things with: charities, support my family, pay off my debt.

18 Q. How much money are we talking, an extra -- each pay period?

19 A. Uh, if I didn't work overtime, about, um, four to five
20 hundred dollars about -- yeah, around there.

21 Q. What impression did this leave you with regard to the
22 validity of Mr. Schiff's program?

23 A. I -- at that point, I totally believed it and started out,
24 uh, doing some research to kinda help Irwin Schiff, you know,
25 going to the law library and stuff like that and -- and, you

1 know, comin' around and talking to people in his office, his
2 employees --

3 Q. Where --

4 A. -- and say, Look what I found. You know, I found this.
5 This was true. You know, I found this in the library, so this
6 goes along with what -- that document that's in the book. And
7 evidently they already knew that, but...

8 Q. And was this research that you -- or were these cases that
9 you found on your own or that you were referred to by
10 Mr. Schiff's materials?

11 A. Referred to by his material. I wanted to see if -- you
12 know, if these were actual court cases.

13 Q. Okay.

14 A. They were old court cases.

15 Q. They were what?

16 A. Very old court cases.

17 Q. What's "very old" mean?

18 A. 1920's; 19, um, 15's, 1915's; nine -- you know.

19 Q. Do you happen -- I'm sorry to interrupt you -- do you happen
20 to know what year the Sixteenth Amendment to the United States
21 Constitution which authorizes the imposition of the income
22 tax --

23 A. Yeah, I --

24 Q. -- was ratified?

25 A. Well --

1 MR. CRISTALLI: Objection.

2 THE COURT: Objection on what basis?

3 MR. CRISTALLI: Leading.

4 THE COURT: That doesn't suggest an answer, what year,
5 do you happen to know what year it was adopted. That's not
6 leading.

7 MR. CRISTALLI: No. Then he was gonna testify as to
8 what the amendment was.

9 THE COURT: No.

10 MR. CRISTALLI: He can't do that.

11 THE COURT: That is not the question.

12 THE WITNESS: Well, yeah. I mean, I know what year.

13 THE COURT: The question is --

14 THE WITNESS: Sorry.

15 THE COURT: -- does he know when the Sixteenth
16 Amendment was adopted.

17 MR. BOWERS: Is that the question, when the
18 Sixteenth --

19 MR. CRISTALLI: That's fine. But that wasn't --

20 MR. BOWERS: There's no objection to that.

21 MR. CRISTALLI: That wasn't objection -- that was not
22 objected to. It was the follow-up to that that was objected to.

23 THE COURT: Can you answer the question what year the
24 income tax was adopted?

25 THE WITNESS: It was -- actually, from my understanding

1 of that, it was 1913, the Federal Reserve Act.

2 BY MR. NEIMAN:

3 Q. I don't mean to give you a history -- history class,
4 Mr. Lewis.

5 Directing your attention back to Mr. Schiff's book The
6 Federal Mafia, did he have any advice in there as to what to do
7 with regards to the tax return?

8 A. Yes.

9 MR. SCHIFF: Can you repeat that question?

10 MR. NEIMAN: Any advice with regards to a tax -- your
11 advice with regard to a tax return.

12 BY MR. NEIMAN:

13 Q. What was his advice?

14 A. His advice was to file a zero return.

15 Q. And, prior to, uh, reading this book, what types of tax
16 returns did you file?

17 A. Traditional tax return where I paid, got some back, paid,
18 got some back dependin' how much I donated and stuff like that.

19 MR. BOWERS: Judge, I don't want to interrupt the
20 Government. We're really having problems hearing over here. I
21 don't know if there's some way --

22 THE WITNESS: Okay.

23 MR. BOWERS: -- we can fix this over lunch or -- I'm
24 sorry. I don't mean to interrupt. But I can't hear his
25 answers.

1 THE COURT: Well, um --

2 (Telephone ringing.)

3 THE COURT: -- if you would slow down and make sure you
4 pronounce your words deliberately, I think they'll have an
5 easier time hearing.

6 THE WITNESS: Yes, sir.

7 BY MR. NEIMAN:

8 Q. What was Mr. -- or I think we're talking about your prior
9 years' returns. If you could please explain again for the
10 benefits of everyone in the courtroom what -- prior to reading
11 The Federal Mafia, what types of returns you filed.

12 A. That was a normal return. I'd call it a traditional return
13 where you filed -- you stated all your income that you made and
14 you pay taxes on those.

15 Q. Who called them a traditional return?

16 A. That's the term that's coined, I guess, by Irwin Schiff.

17 Q. And did there come a time when you stopped filing
18 traditional returns?

19 A. Yes.

20 Q. Did you ever go to any, uh -- I'm sorry. Excuse me.

21 Did you file a zero return?

22 A. Yes, I did.

23 Q. What is a zero return?

24 A. That's a return, well -- where, uh, you put a -- a bunch of
25 zeroes where you normally would list your -- your income and I

1 guess where you do the calculations you just zero that out, no
2 payment. God. I'm gettin' kinda confused here. Let me think
3 here.

4 I actually filed a...

5 Q. Did you file a return or amended return?

6 A. I filed a amended return. Those weren't zero returns.

7 Those were amended returns with -- correcting my normal returns
8 putting, uh, zeros as my, uh, listed income.

9 Q. So you filed amended 1040X's?

10 A. 1040X's. That's what they call them, yes.

11 Q. For which years did you file these?

12 A. I think those were for, uh, 1997, '98, and '99.

13 Q. And whose advice was it to file a 1040X and seek -- and zero
14 out the income?

15 A. That was, uh, Irwin Schiff's.

16 Q. Did you ever have any discussions with Ms. Neun with regards
17 to the 1040X?

18 MR. CRISTALLI: Objection. Foundation.

19 Does he know Ms. Neun?

20 THE WITNESS: Yes, I know her.

21 THE COURT: Well, he's -- I think he's -- it is a
22 foundational question, did he ever speak with her. You can
23 establish foundation --

24 MR. NEIMAN: I'll be happy to.

25 THE COURT: -- however you wish. You do need further

1 foundation to ask him questions about discussions with her.

2 BY MR. NEIMAN:

3 Q. Do you know who Ms. Neun is?

4 A. Yes, I do.

5 Q. Who is Ms. Neun?

6 A. Ms. Neun is the lady sittin' there in the brown.

7 MR. NEIMAN: Will the record reflect --

8 THE COURT: Yes.

9 MR. NEIMAN: -- he's identified Ms. Neun?

10 BY MR. NEIMAN:

11 Q. What was Ms. Neun's role at Freedom Books while you were
12 there?

13 A. It appeared that she was --

14 MR. CRISTALLI: Objection. Foundation. Calls for
15 speculation.

16 THE COURT: Foundation. Sustained.

17 BY MR. NEIMAN:

18 Q. Have you been -- how many times have you been to Freedom
19 Books?

20 A. Quite a few times. Uh, 30 times.

21 Q. 30 times.

22 Was Ms. Neun -- of those times that you were there, how
23 many times was Ms. Neun present?

24 A. Um, I would say about half.

25 Q. All right. And, based upon your observations during those

1 15 or so visits, what -- what was your impression as to what
2 Ms. Neun's role was in the office?

3 A. It appeared --

4 MR. CRISTALLI: Objection. Calls for speculation. He
5 can -- he can talk about his observations --

6 THE WITNESS: Okay.

7 MR. CRISTALLI: -- but not his impressions.

8 THE COURT: Sustained.

9 BY MR. NEIMAN:

10 Q. What did you see Ms. Neun doing at the office during those
11 15 --

12 A. Filing papers; um, counseling people with regards to due
13 process hearings; uh, collecting funds for the sale of books.
14 Typical things that you would see a person that's probably the,
15 uh, front office person do in a business.

16 Q. Do you know what Ms. Neun's relationship was with
17 Mr. Schiff?

18 A. Worker, employee.

19 MR. CRISTALLI: Objection. Foundation.

20 MR. NEIMAN: It's a foundational question.

21 THE COURT: It is a foundational question. Overruled.

22 THE WITNESS: Uh, she was an employee of Irwin Schiff.

23 MR. CRISTALLI: Objection. Foundation.

24 THE COURT: I will sustain the objection pending
25 foundation.

1 BY MR. NEIMAN:

2 Q. Did you --

3 THE COURT: It is a conclusion. You need foundation
4 for it.

5 BY MR. NEIMAN:

6 Q. What did you observe specifically Ms. Neun do with regards
7 to her relationship with Mr. Schiff at the office of Freedom
8 Books?

9 A. I would say, uh, if I could name it, would be like a, uh,
10 executive secretary.

11 MR. CRISTALLI: Objection. Calls for speculation.

12 MR. NEIMAN: It's withdrawn, your Honor.

13 THE COURT: The question is --

14 MR. CRISTALLI: It's pure --

15 THE COURT: -- withdrawn.

16 MR. CRISTALLI: -- inference. The response will be
17 stricken.

18 MR. NEIMAN: If -- if I may approach the witness, your
19 Honor?

20 THE COURT: You may.

21 (Pause in the proceedings.)

22 MR. NEIMAN: Could I ask permission, your Honor, to --

23 THE COURT: You may.

24 BY MR. NEIMAN:

25 Q. Mr. Lewis, I've handed you what's been marked as

1 Government's Exhibit 9, 12, and 14.

2 A. Okay.

3 Q. Do you recognize the documents contained within those
4 folders?

5 A. (Reviewing documents.) Yes, I do. Yes.

6 Q. How do you recognize these documents?

7 A. These are -- are documents that I filed with the, uh,
8 Treasury -- Treasury Department after, uh, um, studying Irwin
9 Schiff's material.

10 MR. NEIMAN: Your Honor, at this time the Government
11 would move into evidence Government's Exhibit 9, 12 and 14.

12 MR. CRISTALLI: No objection.

13 THE COURT: Any objection, Mr. Bowers?

14 MR. NEIMAN: I'm told they are already in, your Honor.

15 MR. BOWERS: No. That's fine.

16 MR. NEIMAN: I apologize.

17 THE COURT: They are already in? I thought we had them
18 in.

19 MR. BOWERS: Yeah, they've been admitted. That's
20 not --

21 THE COURT: All right. Thank you.

22 MR. BOWERS: -- a problem.

23 MR. NEIMAN: I apologize.

24 BY MR. NEIMAN:

25 Q. If we could -- did -- prior to filing these returns, did you

1 have a meeting with anybody at Freedom Books?

2 A. Yes, I did.

3 Q. Who did you have a meeting with?

4 A. I talked with Neun. I think I -- I attended a seminar.

5 Q. Okay. What type of seminar did you attend?

6 A. Um, I think this one was a role play where people would,
7 uh -- who were going to due process hearings how to conduct
8 themselves in the due process hearing.

9 Q. Did you have to pay to go to the seminar or was that free?

10 A. Yes, I had to pay.

11 Q. And this conversation you had with Ms. Neun prior to filing
12 these returns, what did you ask Ms. Neun?

13 A. It was just about the material, you know, that I was, you
14 know, doin' it properly. That type of thing.

15 Q. And what did she tell you?

16 THE COURT: Wait a minute. You're mumbling.

17 THE WITNESS: Oh, I'm sorry.

18 It was about the material. Just checkin' to see if I
19 was doin' it properly and I understood exactly what was bein'
20 done with regards to the, uh, statements that you have to
21 accompany -- put with the returns.

22 BY MR. NEIMAN:

23 Q. And -- and what did she tell you?

24 A. Yeah, I was doin' it right.

25 Q. If I could show you -- or display Government Exhibit 9,

1 page 2.

2 (Document displayed in open court.)

3 MR. NEIMAN: I keep forgetting. If we could, I guess,
4 blow up the top portion.

5 BY MR. NEIMAN:

6 Q. Mr. -- Mr. Lewis, uh, is this your return?

7 A. Yes, it looks -- appears to be.

8 Q. And do you know what a 1040X is as opposed to a 1040?

9 A. Yes. A 1040X is a amended return.

10 What -- basically what that is is a return that you
11 file after you had already filed a regular return, a 1040. And
12 you're amending it.

13 Q. And for which year were you trying to amend your initial
14 1040 for?

15 A. On this particular one, um, 1997.

16 MR. NEIMAN: All right. If we could go back out and
17 highlight, I guess, the Income portion -- Income and Deductions
18 portion, including the language to the left, please. That's
19 good.

20 (Document displayed in open court.)

21 BY MR. NEIMAN:

22 Q. Can you explain what you were doing on this tax return
23 with -- with regards to, I guess, line 1, Adjusted Gross Income?

24 A. Okay. I was following Irwin Schiff's, uh, material hopin'
25 to be able to, uh, uh, get a -- a return of \$8,619.

1 Q. A -- a return or a refund?

2 A. Refund, I mean. Refund. Well, return of my money. But
3 anyway...

4 Q. So -- so on line 1 where it says a -- I know it's hard to
5 see -- column A, what's the heading on column A, if you could --

6 A. Oh, "Original amount."

7 Q. Okay. What is the original amount in column A, line 1?

8 A. Uh, \$60,696.

9 Q. And what is the language in column B?

10 A. Okay. Column B --

11 Q. Or --

12 A. -- it's "Net change."

13 Q. The -- what -- what is your understanding that that means,
14 the "Net change"?

15 A. Well, here what it represents is, um, either increase of
16 income, like you understated or you overstated your income.

17 Q. And what was Mr. Schiff's advice to put in column B of this
18 1040X?

19 A. His advice was basically that what you received wasn't
20 income so you could put that -- you know, you decrease it. That
21 was not income. That's what his advice was.

22 Q. Decrease it by how much?

23 A. The amount that you mistakenly had reported as being income.

24 Q. You say "mistakenly" like that. What -- why do you say it
25 in those...

1 A. Well, I've been through a lot with regards to income and
2 nonincome wages and stuff like that and I've done more research
3 on my own. And, anyway, I don't wanna get into that. But --

4 MR. CRISTALLI: I'm gonna have to lodge an objection.
5 I'm not quite sure if there was a question asked and -- I think
6 the question was in response to some type of movement that the
7 witness had done.

8 MR. NEIMAN: It was to the tone of the -- if he meant
9 anything by --

10 MR. CRISTALLI: Well, it's improper.

11 THE COURT: Well, I -- I'm not sure what you're
12 objecting to. The questions was were to increase -- it was not
13 income and he mistakenly reported it as income --

14 MR. CRISTALLI: Right.

15 THE COURT: -- based on advice from Mr. Schiff. And
16 that's where we -- where we got off track.

17 MR. CRISTALLI: Okay. I don't have an objection up to
18 that point.

19 THE WITNESS: I'm sorry about that, your Honor.

20 THE COURT: Well, let's go back. It sounded to me like
21 you were -- you were wandering in your response.

22 BY MR. NEIMAN:

23 Q. All right. Mr. Lewis, I guess let's go back to the tax
24 return.

25 If we could blow up the bottom portion.

1 You alluded to earlier you were seeking a refund?

2 A. Yes.

3 Q. What was the amount of the refund you were seeking?

4 A. I wanted a refund returned to me of \$8,619.

5 Q. Did you ever get that refund?

6 A. Far from it.

7 THE COURT: What was that?

8 THE WITNESS: No, I did not.

9 BY MR. NEIMAN:

10 Q. On -- and is this return signed by you under the penalties
11 of perjury?

12 A. Yes, it is.

13 Q. And what's the date in which you signed this return?

14 A. 6-5-2000.

15 MR. NEIMAN: Okay. If we could go to the next page of
16 the 1040X for year '97. If we could blow up the language on the
17 bottom under Part, I think it says, III.

18 (Document displayed in open court.)

19 BY MR. NEIMAN:

20 Q. Can you read this language -- or, I guess, where did this
21 language come from?

22 A. This came from, uh, Irwin Schiff's material.

23 Q. Do you remember which -- which material of his it came from?

24 A. I think this was -- it may have been in The, um, Federal
25 Mafia and -- and some other materials that I bought. But --

1 Q. Did you --

2 A. -- this is from Irwin Schiff. I didn't create this my
3 own -- from my own.

4 Q. All right. And did you file similar returns for years '98
5 and '99 as to what we're looking at for year '97?

6 A. Yes, I did.

7 Q. And are those Government's Exhibits 12 and 14?

8 A. (Reviewing documents.) That is correct.

9 Q. For year 1998, how much were you seeking back in a refund
10 for that year?

11 A. \$4,888.

12 Q. And did you get the \$4800 back for that year?

13 A. No, I did not.

14 Q. Was it your understanding -- or what was your understanding
15 after The Federal Mafia and seeking the advice of Freedom Books
16 as to what would happen when you filed a zero return -- or this
17 1040X?

18 A. I -- I thought that this was all legal and that I would, um,
19 be able to get my money back that I had paid.

20 Q. For year '99, what was the amount of the refund you sought
21 on that 1040X?

22 A. (Reviewing document.) \$5,141.

23 Q. And did you get that refund?

24 A. No, I did not.

25 Q. Were all three of those returns filed around the same time?

1 A. Yes. I -- they should have been filed all at once, same
2 mailing packet.

3 Q. And who -- whose advice, if any, was that to follow for back
4 years simultaneously?

5 A. That was Irwin Schiff's.

6 Q. Instead of getting a refund did you get anything from the --
7 did you get anything from the IRS?

8 A. Yes, I did.

9 Q. Uh, what did you get specifically shortly thereafter?

10 A. Uh, quite a bit of correspondence. But I think, um, it was
11 a letter that stated that, um, the Treasury Department was not
12 gonna accept, uh, these amended returns.

13 Q. And, after you received this letter, what did you do?

14 A. I took it to, uh, Freedom Books and I think I, uh, handed it
15 to Cindy.

16 Q. All right. And what did you say to Cindy when you handed
17 her this letter?

18 A. What's -- what's up with this? You know, what should I do?
19 I mean, I totally didn't expect that.

20 Q. And what did she tell you to do next?

21 A. I think it was, uh, that I had to -- there was a response
22 that was in another packet like a series that I had to buy that,
23 uh, other set of instructions.

24 Q. And how much did that series or set of instructions cost, if
25 you remember ballpark?

1 A. A lot of money.

2 MR. CRISTALLI: Objection. Objection.

3 THE COURT: Objection to what?

4 MR. CRISTALLI: Foundation. Speculation. "A lot of
5 money," I mean, how much? I mean --

6 THE COURT: Well, that's -- that's faulting his answer,
7 not the question. He said "a lot of money" --

8 MR. NEIMAN: I'll --

9 MR. CRISTALLI: Nonresponsive.

10 THE COURT: It is responsive. He doesn't know.

11 BY MR. NEIMAN:

12 Q. Approximately -- did you buy other products at Freedom Books
13 besides this first set of tapes?

14 A. That's correct. That's back to the first question. It was
15 a hundred dollars --

16 Q. Okay.

17 A. -- I think.

18 Q. Okay. Did you buy other products at Freedom Books?

19 A. Uh, yes, I did. I bought everything.

20 Q. Okay. Did you buy everything all at once or did you buy it
21 in stages?

22 A. I bought, um, all that I could at one point. And then, as
23 other things came out, I bought those too because I didn't want,
24 uh, Cindy or Irwin saying, you know, do you have Series 6,
25 Series 4, or what have you. I fear -- I felt that -- well, I

1 actually saw something happen in the, uh -- this office where a
2 person --

3 MR. CRISTALLI: Objection. Nonresponsive to
4 the question.

5 THE WITNESS: -- didn't have the series and --
6 BY MR. NEIMAN:

7 Q. And if you -- if you could stick to the product question
8 right now.

9 Explain the circumstances that led you to buy all the
10 products at Freedom Books?

11 A. Okay. I was in his office after I had received this letter
12 and another person that came in with similar circumstances and
13 was told that I can't help you. You don't have all my
14 documents. Had you bought my documents, you would have known
15 how to respond. So I bought everything.

16 Q. Who said -- who said --

17 MR. CRISTALLI: Your Honor, I'm sorry. I cannot hear
18 the responses. I apologize.

19 THE COURT: Okay.

20 MR. SCHIFF: I can't hear.

21 THE COURT: Did you say you can hear, Mr. Schiff?

22 MR. SCHIFF: I cannot hear him.

23 THE COURT: Oh, okay.

24 Repeat that last answer --

25 THE WITNESS: Okay.

1 THE COURT: -- starting with you were in his office
2 after you received the letter and another person...

3 THE WITNESS: I -- I, uh, was in the office at one
4 point and there was another gentleman in there who had received
5 some type of letter from the IRS and was somewhat upset that he
6 received that letter. Okay? And I remember hearing Irwin
7 Schiff say that, you know, you need to buy my material and
8 follow it. Do you have Series 4, 5? And evidently the
9 gentleman did not have that.

10 BY MR. NEIMAN:

11 Q. And what was Mr. Schiff's response to this gentleman who
12 didn't have --

13 A. Well, you --

14 Q. -- everything?

15 A. -- need to buy my material --

16 MR. SCHIFF: I don't understand.

17 THE WITNESS: -- and do it and follow it. And then,
18 you know, this would help you deal with this.

19 MR. SCHIFF: Your Honor, I couldn't hear that answer.

20 THE COURT: Let me read it back to you.

21 MR. SCHIFF: I could not hear that answer about the --
22 what this other gentleman told him, which seems to me hearsay
23 anyway. But I'm interested in what he has to say. What does
24 this gentleman tell him?

25 THE COURT: The gentleman -- he's overhearing a

1 conversation between you and another gentleman who has a problem
2 and he's received a letter from the IRS. And you ask if he's
3 bought your material, all of it, and he said he evidently had
4 not bought it. And your response to him was you need to buy my
5 material. That's the answer.

6 MR. SCHIFF: Okay.

7 BY MR. NEIMAN:

8 Q. And, Mr. Lewis, how did you respond after hearing Mr. Schiff
9 say this to this other individual?

10 A. The very first immediate response was -- to myself was I'm
11 not gonna let -- I'm not gonna allow that to happen to me, so
12 I'm gonna buy everything that I can buy --

13 Q. And did you --

14 A. -- so he couldn't say that to me.

15 Q. Excuse me.

16 Why did you say that? I cut you off there.

17 A. So, uh, anyone in the office could -- wouldn't be able to
18 say, well, do you have Series 6, Series 7, Series 8, or what
19 have you. I could say: I have all that. How do you deal with
20 this? What about this? So I can get help without having to go
21 out and buy some more, um, material and then waiting for the
22 help at a later date.

23 Q. How much of this back and forth was there between you and
24 the employees at Freedom Books prior to --

25 MR. CRISTALLI: Objection.

1 THE COURT: I'm sorry?

2 MR. NEIMAN: Let me finish the question and then --

3 MR. BOWERS: Vague --

4 MR. CRISTALLI: Vague.

5 MR. BOWERS: -- what's back and forth?

6 THE COURT: What is the objection?

7 MR. CRISTALLI: This dialogue between him and the
8 employees, what employees? Foundation.

9 THE COURT: He didn't finish the question. Let him
10 finish the question.

11 MR. CRISTALLI: Okay.

12 BY MR. NEIMAN:

13 Q. How many times did you go to Freedom Books with
14 correspondences from the IRS and were given advice to buy a
15 product before you bought all of the products at Freedom Books?

16 A. I think it was once.

17 Q. Okay. And how much did you spend on all of these products
18 at Freedom Books?

19 A. Conservatively speakin', uh, anywhere from nine [sic] to a
20 thousand dollars conservatively speaking.

21 THE COURT: Did you say nine hundred?

22 THE WITNESS: Anywhere from nine hundred to a thousand
23 dollars conservatively -- conservatively speaking.

24 THE COURT: Thank you.

25 I think we'll take our break right now. We'll be in

1 recess until 1:30 p.m.

2 The jury is instructed not to discuss the case among
3 themselves or with others or allow others to discuss it in their
4 presence and further to avoid any media accounts that might be
5 published and further not to form any conclusions until the
6 matter has been form- -- formerly submitted to you for
7 deliberation. Thank you.

8 (Jury leaves the courtroom at 12:24 p.m.)

9 THE COURT: You can go. We need you back at 1:30.

10 Lights, please.

11 Watch your step right there, Mr. Lewis. That is a bad
12 spot.

13 Anything before we recess?

14 MR. CRISTALLI: Your Honor, one brief matter.

15 Um, the Government had continuously attempted through
16 this witness to elicit information from him that Cynthia Neun --
17 that he in someway knew that Cynthia Neun was an employee and
18 even asserting that, um, in -- in -- in his questioning. And I
19 have to tell ya no matter how hard they try this witness does
20 not have direct knowledge that she is an -- she is or was an
21 employee of Freedom Books.

22 Now, what they can do is elicit information about what
23 his observations were when he went in there in terms of what
24 her -- what she was doing. But to solicit the language of an
25 employee from him is not proper, your Honor, because he does not

1 have that information.

2 THE COURT: Well, he -- he's talking of employee -- the
3 witness, using the term "employee" as his impression as a
4 layperson. And you're certainly willing and able to -- to bring
5 out on cross-examination the -- the technical aspects of that
6 term.

7 However, given the fact that he [sic] was filing -- he
8 said she was there, she was filing papers and counseling people
9 and selling books and doing the things that a typical, uh,
10 person would do in an office it was certainly enough for him to
11 conclude in his mind based on a layman's perception that she was
12 employed in -- in that -- in that business. So --

13 MR. CRISTALLI: Your Honor --

14 THE COURT: -- the objection is overruled.

15 MR. CRISTALLI: -- that --

16 THE COURT: You can bring it out on cross and --

17 MR. CRISTALLI: Yeah. And, for the record, that's, in
18 my opinion, completely improper. An employee is defined in the
19 IRS Code as something very different from -- you --

20 THE COURT: You can certainly bring that out on
21 cross-examination. But, if you're saying that you don't like
22 this witness's response or conclusion that she was an
23 employee --

24 MR. CRISTALLI: It's a legal conclusion. He can't
25 conclude as to whether or not my client is an employee. My

1 client could be a volunteer. That's improper. It goes directly
2 to the counts for which they are trying to convict my client of
3 in terms of the Social Security fraud issues and they can't get
4 it out of this particular witness. It's going --

5 THE COURT: Well --

6 MR. CRISTALLI: -- that's the province of the jury to
7 make in assessment, not this particular witness.

8 THE COURT: Well, he made -- he made his conclusion as
9 a layman not as a legal conclusion and he had grounds for -- for
10 his opinion, as I've already stated, based on what he observed.

11 MR. CRISTALLI: Then there should be a curative
12 instruction then advising the jury that he -- his -- his
13 statement, if any, that she was an employee is not based on
14 any --

15 THE COURT: Well, you --

16 MR. CRISTALLI: -- information other than his
17 observations and should not be concluded that she is actually a
18 legal employee of Freedom Books.

19 THE COURT: You can -- you can certainly propose an
20 instruction on the definition of employee if you wish.

21 MR. BOWERS: Judge, just briefly I wanna make the
22 Court -- or go ahead.

23 MR. NEIMAN: No. Go ahead.

24 MR. BOWERS: Just briefly. I wanna make the Court
25 aware I've worked with the Government to resolve some of the

1 problems I anticipated having with respect to Mr. Lewis's
2 cross-examination at whatever point this afternoon I'm -- I'm
3 guessing it will happen. Some of the those issues we resolved,
4 some of them we haven't.

5 Um, I -- this is getting back to the issue of if I --
6 if I request a sidebar with respect to these things it's only in
7 the interest of, you know, being able to make a detailed
8 argument and, if not, I'll have no choice but to proceed with my
9 proffer in front of the jury.

10 THE COURT: We're in recess until 1:30.

11 (Lunch break, 12:29 p.m. to 1:38 p.m.)

12 THE COURT: Any matters of business before we bring the
13 jury in?

14 Please be seated.

15 None? Okay.

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

17 MR. CRISTALLI: No, your Honor.

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

19 THE COURT: Thank you.

20 MR. SCHIFF: Nothing.

21 THE COURT: Thank you.

22 Any time you're ready.

23 (Jury enters the courtroom at 1:39 p.m.)

24 THE COURT: Please be seated.

25 Will counsel stipulate to the presence of the jury?

1 MR. NEIMAN: Yes, your Honor.

2 MR. BOWERS: Of course, your Honor.

3 MR. CRISTALLI: Yes, your Honor.

4 MR. SCHIFF: Yes, yes, I will, your Honor.

5 THE COURT: Thank you.

6 Go ahead.

7 MR. NEIMAN: Thank you, your Honor.

8 BY MR. NEIMAN:

9 Q. Mr. -- Mr. Lewis, prior to going to lunch, I think we were
10 talking about some correspondences you received from the IRS.
11 If I could direct your attention to Government Exhibit 10.

12 MR. NEIMAN: Ms. Clerk, if you could dim the lights --

13 THE CLERK: Sure.

14 MR. NEIMAN: -- and attempt to show this.

15 THE CLERK: I may have turned the projector off. I'll
16 turn that back on.

17 BY MR. NEIMAN:

18 Q. Mr. Lewis, while we're waiting for the projector, what is
19 Government Exhibit 10?

20 A. This actually looks like a letter from the Internal Revenue
21 Service that's dealing with the question of the 1040X for the
22 years 1997 and 1998.

23 Q. And who was this letter addressed to?

24 A. Addressed to Melvin Lewis, Jr.

25 Q. Is that you?

1 A. Yes.

2 (Document displayed in open court.)

3 BY MR. NEIMAN:

4 Q. Okay. Mr. Lewis, if we could read the first paragraph of
5 this letter?

6 A. Okay.

7 "This letter is your legal notice that we have
8 disallowed your claim(s). We cannot allow your claim(s) for
9 refund or credit for the period(s) shown above for the reason
10 shown below."

11 Q. And is this letter referencing the zero return that we
12 talked about also before the lunch break for years 1997 and '98,
13 the 1040X that you filed?

14 A. That's correct.

15 Q. Okay. If we can look at the second paragraph. If you can
16 please read that.

17 A. "The claim is based on your view that wages and salary [do
18 not] constitute taxable income. The [United States] Tax Court
19 and other federal courts have rejected this argument repeatedly
20 and have held that wages and salar[ies] are taxable income
21 reportable at the full amount received."

22 Q. And, after you received this letter, what did you do?

23 A. I immediately became concerned and went to Freedom Books.

24 Q. And is that when the conversation between -- you need to buy
25 products -- or you were referred to certain products occurred?

1 A. Yes, a response to this letter.

2 Q. Okay. If I could direct your -- I'm sorry -- did you
3 receive any other correspondences from the IRS?

4 A. Yes.

5 Q. Could I direct your attention to, uh, Government's
6 Exhibit 13?

7 (Document displayed in open court.)

8 BY MR. NEIMAN:

9 Q. Uh, who is this letter addressed to?

10 A. Melvin Lewis Jr.

11 Q. And what year is this letter related to?

12 A. This is related to 1998.

13 Q. And your 1040X for that year?

14 A. Correct.

15 Q. Okay. If we could blow up the, uh, I guess, first two
16 paragraphs.

17 If you could read what these letters say --

18 A. Okay.

19 Q. -- or this letter says.

20 A. "We have determined that the document(s) referred to above
21 is frivolous and your position has not" -- "has no basis in law.
22 Claims, such as yours, have been considered and rejected
23 repeatedly as without merit by the federal courts - including
24 the [United States] Supreme Court. We will not respond to
25 future correspondence concerning these issues.

1 "We encourage you to seek advice from competent tax
2 counsel or [a] attorney qualified to practice in your state to
3 assist in answering your tax questions."

4 Q. Mr. Lewis, did this letter continue to -- if you continue
5 reading it, did this letter assess or fine you for filing what
6 the IRS deemed to be a, quote, "frivolous" tax return?

7 A. That's...

8 Q. I'm sorry?

9 A. Yes, they did.

10 Q. Okay. And how much were you fined for filing the frivolous
11 1040X?

12 A. If I'm not mistaken, there was a total of \$3,000 --

13 Q. How much were you --

14 A. -- on this one.

15 Q. -- fined for this one --

16 A. This particular one 500.

17 Q. \$500?

18 A. Um-hum.

19 Q. And what did you do after you received this letter?

20 A. Again, I, um, went to Freedom Books, um, more upset.

21 Q. Okay. When -- when you went to Freedom Books more upset,
22 who would you -- who -- did you ever encounter any of the
23 defendants when you went over there?

24 A. Um, I talked with Cindy about this. I even mentioned
25 something in passing to Irwin Schiff about it. And I talked to

1 Larry Coleman [sic] about it and some other employees that
2 were --

3 MR. CRISTALLI: Objection.

4 THE WITNESS: -- there.

5 MR. CRISTALLI: Same --

6 THE WITNESS: That's what I did.

7 MR. CRISTALLI: -- same objection.

8 THE COURT: You can -- you can cross on it. I can't
9 stop him from answering the way he believes.

10 THE WITNESS: Can you repeat the question, please?

11 MR. NEIMAN: Sure.

12 THE COURT: That's okay. No. The question has been
13 answered. The -- the objection was after he had given his
14 answer.

15 BY MR. NEIMAN:

16 Q. So when you would speak to these other people -- or to the
17 defendants at Freedom Books, what were you told in return or in
18 response?

19 A. To send a letter in response to this that was, uh...

20 MR. BOWERS: Objection.

21 THE COURT: I'm sorry?

22 MR. BOWERS: I'm sorry, your Honor. I have a late
23 objection to that question.

24 THE COURT: The question was -- what's the basis of the
25 objection?

1 MR. BOWERS: The basis of the objection is foundation
2 because we're -- we're mixing, uh, times that he --

3 THE COURT: I -- I think that's fair. We need -- we
4 need to put some time on it to make it --

5 BY MR. NEIMAN:

6 Q. Approximately --

7 THE COURT: -- adequate foundation.

8 MR. NEIMAN: I'm sorry, your Honor.

9 BY MR. NEIMAN:

10 Q. How soon after receiving these letters would you go to
11 Freedom Books?

12 MR. BOWERS: Again, your Honor, I apologize. I'm not
13 being semantic. This is an issue.

14 "These letters," I'm not sure if Mr. Neiman's asking
15 did you go in every two days, but there's -- there's different
16 time frames. So if we could pick a letter and a response, it
17 would be helpful.

18 THE COURT: Sustained.

19 MR. NEIMAN: I apologize.

20 BY MR. NEIMAN:

21 Q. Government Exhibit 13, I believe, is the frivolous letter?

22 A. Yes.

23 Q. How soon after receiving the frivolous letter would you go
24 into Freedom Books?

25 A. Just a second. Either the same day or the very next day.

1 Q. Do you remember --

2 A. Do you want a date?

3 Q. I'm sorry.

4 A. Do you want a date?

5 Q. No, I don't need a date. That -- that's -- that's fine.

6 After receiving this frivolous letter, do you remember
7 who you spoke to at Freedom Books?

8 A. I think my initial, uh -- initial person I spoke to was
9 Cindy.

10 Q. And what did Cindy tell you?

11 A. Um, there was a response in my packet, somethin' like that,
12 or in the book.

13 Q. I think you testified earlier that you went to Freedom Books
14 around 30 times?

15 A. Yeah.

16 Q. Were there always the same people at the bookstore or at
17 Freedom Books when you were there?

18 A. Uh, no, there -- there weren't. As it went on, they just
19 stopped -- people stopped workin' there for whatever reason.

20 Q. Were there some people who were consistently --

21 A. Yes.

22 Q. -- there dur- --

23 Who was consistently at Freedom Books?

24 A. Irwin Schiff, Cynthia Neun, and Larry.

25 MR. BOWERS: Again, your Honor, I'm sorry for the late

1 objection. But we're gonna have to specify time frames because
2 this encompasses a long period of time as I understand.

3 THE COURT: It's -- it's -- it's been asked once before
4 who was there, um, in general. So I think you've covered the
5 question already. You do need to be more specific if you are
6 now focusing in on one -- one or more particular visits.

7 Sustained.

8 BY MR. NEIMAN:

9 Q. With your 30 visits, how long of a time period would you say
10 there was that you would go to FreedomBooks?

11 A. I would say three years.

12 MR. SCHIFF: What was his answer?

13 THE COURT: Three years.

14 MR. SCHIFF: Three years? What was that?

15 THE WITNESS: That's a guess.

16 MR. SCHIFF: From what -- what would those dates be?
17 From when to when?

18 BY MR. NEIMAN:

19 Q. From what period to what period would these years be?

20 A. Say 2000, year 2000, um, uh, March/April, to around two --
21 beginning of 2003. Somethin' like that.

22 Q. Mr. Lewis, do you know what a collection due process hearing
23 is?

24 A. Yes.

25 Q. What is a collection due process hearing?

1 A. That is a, uh, hearing that you, um, can attend to discuss
2 with the Internal Revenue Service, uh, your taxes, whether
3 returns or penalties.

4 Q. Did you ever have a collection due process hearing?

5 A. I never did.

6 Q. Okay. Are you -- were you ever told about the collection
7 due process hearings by Defendant Schiff?

8 A. Yes.

9 Q. What did Mr. Schiff tell you to do with regard to these
10 collection due process hearings?

11 A. Follow his material. Um, certain things that, uh -- well,
12 just follow the material basically. I did attend some of the
13 role plays with regard to the due process hearings.

14 Q. Did Mr. Schiff give any advice with regards to whether or
15 not to bring a witness to these collection due process hearings?

16 A. Yes, he recommended that you do.

17 Q. Do you know whether or not Freedom Books offered to send a
18 witness with someone to a collection due process hearing?

19 A. There were people that they -- names of people that they
20 would give you if you needed help. Cindy would be one. I'm not
21 sure if Larry ever went, but I know he was one of those people
22 too.

23 Q. Would Ms. Neun charge to go as a witness to one of these
24 collection due process hearings?

25 A. I'm sure she did.

1 MR. CRISTALLI: Objection.

2 BY MR. NEIMAN:

3 Q. Either you --

4 MR. CRISTALLI: Speculation.

5 THE WITNESS: Yes.

6 BY MR. NEIMAN:

7 Q. -- know --

8 A. Yes.

9 Q. -- or you don't know.

10 A. Yes.

11 MR. CRISTALLI: Move to strike.

12 THE COURT: Overruled.

13 BY MR. NEIMAN:

14 Q. Do you know how much Ms. Neun would charge for these
15 collections -- and go as a witness to these collection due
16 process hearings?

17 A. I really can't say because it varied over --

18 Q. What was the range, if you know?

19 A. Anywhere from 70 to maybe 300 dollars.

20 Q. And how --

21 A. I'm not sure.

22 Q. And how do you know this to be the range?

23 A. I do recall talking to, uh -- no. I do recall hearing
24 something about the price --

25 MR. CRISTALLI: Objection. Hearsay.

1 THE WITNESS: -- while I was in the office.

2 MR. NEIMAN: Withdrawn, your Honor.

3 THE COURT: Move on.

4 BY MR. NEIMAN:

5 Q. Did you ever see Mr. Schiff at Freedom Books, in your visits
6 there, hand out, uh, envelopes?

7 A. Yes, I have.

8 Q. Explain to me what you saw -- or, first, when did you see
9 this take place?

10 A. It was on what appeared to be a payday.

11 Q. Okay. Explain to me what you saw.

12 MR. CRISTALLI: Objection. Foundation.

13 THE COURT: Sustained.

14 MR. CRISTALLI: Appeared to be a pay date?

15 THE COURT: Sustained.

16 BY MR. NEIMAN:

17 Q. What did you see?

18 A. I see -- saw him handing out their compensation -- his
19 employees their compensation for work.

20 Q. How do you know that this was --

21 MR. CRISTALLI: Objection. Foundation. Calls for
22 speculation.

23 THE WITNESS: The...

24 THE COURT: The -- the -- the question does not call
25 for speculation. He's asking him what he saw. He's -- he's

1 giving his impression. If you're objecting to the answer, uh,
2 you need to -- you need to do more than just object to the
3 answer.

4 BY MR. NEIMAN:

5 Q. How do you know it was compensation?

6 A. Because I was told that it was and -- and -- and also that
7 it wasn't enough.

8 Q. What do you mean you were -- I -- I don't understand what
9 you just said.

10 First, who told you this?

11 A. Uh, I think Larry once told me that. Um, Toni.

12 Q. Do you know what Toni's last name is?

13 A. I forget. It's been a long time.

14 MR. SCHIFF: Objection. It's hearsay.

15 Who told you it wasn't enough? Was there a specific
16 employee that said that?

17 THE COURT: He's mentioned them.

18 MR. SCHIFF: Who?

19 THE COURT: Toni and Larry.

20 BY MR. NEIMAN:

21 Q. And what do you mean by "it wasn't enough"? What were you
22 told with regard to that?

23 A. They were receiving minimum wage.

24 Q. Did you file a tax return for year 2000?

25 A. Event- -- eventually I did --

1 Q. Okay. When did --

2 A. -- a legal one.

3 Q. -- you file a tax return for the year 2000?

4 A. The legal one or the -- oh, um. I don't recall.

5 Q. Okay.

6 MR. SCHIFF: What was his answer?

7 BY MR. NEIMAN:

8 Q. Did you file a tax return in the year 2000 on time?

9 A. No. Um, let me think here for a second. I think I might
10 have filed a not liable tax return.

11 Q. If I could direct your attention to Government Exhibit 17.

12 (Document displayed in open court.)

13 BY MR. NEIMAN:

14 Q. What is a not liable tax return?

15 A. This is a tax return that I was instructed by Larry Cohen to
16 file. It basically states that I'm not liable for taxes on the
17 money that I made as far as wages is concerned.

18 Q. What did Mr. Cohen tell you with regards to this not liable
19 return -- with regards to why to file this not liable return?

20 A. Uh, he showed me a Nevada Revised Statutes that -- if I'm
21 not mistaken -- I don't have the statute in front of me, but
22 this particular statute, uh, if I'm not mistaken, defines the
23 definition of income.

24 Q. Was a not liable return consistent with the advice of
25 Mr. Schiff?

1 A. No, it wasn't. And Schiff didn't know about it.

2 Q. Did Mr. Cohen ever say anything to you about whether or not
3 to tell Mr. Schiff about these not liable returns?

4 A. He did. He instructed me not to let him know that I was
5 doing this.

6 Q. Do you know -- did Mr. Cohen ever indicate to you why you
7 were not to tell Mr. Schiff about these not liable returns?

8 A. Apparently he -- yes. He would get fired.

9 Q. Did Larry -- or Mr. Cohen ever tell you whether or not the
10 not liable returns were successful?

11 A. Yes.

12 Q. What did he tell you?

13 A. He actually told me that it was successful and that there
14 was a gentleman that, uh, received, um, all the money that he
15 paid that year in taxes back with this return.

16 Q. Did you ever get any taxes back for this -- was this return
17 processed by the IRS?

18 A. I never got taxes back and it was definitely processed by
19 the IRS.

20 MR. BOWERS: I'm sorry. It was processed?

21 THE WITNESS: It was. It was.

22 BY MR. NEIMAN:

23 Q. Mr. Lewis, I -- we -- you testified earlier about W-4's.
24 Did you ever follow the advice of Mr. Schiff with regard to
25 following an exempt W-4?

1 A. Yes, I did.

2 Q. And did there come a time when that exempt status was
3 challenged by your employer, the City of Las Vegas?

4 A. That is correct.

5 Q. And what did you do once your employer challenged your
6 exempt status?

7 A. I went to Irwin Schiff -- and I think it was Larry at his
8 office -- talked with him about it and I was told to file
9 another statement. And I did that and that worked out to a
10 certain point.

11 Q. All right.

12 MR. SCHIFF: I didn't hear that.

13 THE WITNESS: It worked out up and to a certain point.
14 In other words, I was -- the City Finance Department challenged
15 my W-2 exempt status and --

16 MR. SCHIFF: Can I --

17 THE WITNESS: -- I went to Freedom Books with regards
18 to this challenge. I filed another letter based off of the
19 material --

20 BY MR. NEIMAN:

21 Q. Did you prepare --

22 A. -- they allowed it. And then there came a point when they
23 stopped --

24 Q. When they --

25 A. -- allowin' it.

1 Q. -- when they stopped honoring the exempt status?

2 A. Yes.

3 Q. And what was -- did you seek the advice of Mr. Schiff at
4 that point?

5 A. Yes.

6 Q. And what was his advice then?

7 A. Two things, twofold, um, you need to sue the IRS and you
8 need to sue your employer.

9 Q. Did you follow his advice?

10 A. Half of it.

11 Q. Which half did you follow?

12 A. I sued my employer.

13 Q. Your employer being --

14 A. City of Las Vegas --

15 Q. -- City of Las Vegas?

16 A. -- Finance Department. Three individuals.

17 Q. Who -- who prepared the legal paperwork with regards to this
18 lawsuit against the City of Las Vegas?

19 A. I did some of the research on [sic] myself. I, um, went
20 back and forth and got ideals [sic] from Freedom Books. But
21 most of that was, uh, research that I, uh, uh, came up with
22 myself in some information I got from some of the, uh, customers
23 of Freedom Books and some of the employees. Just, you know,
24 formulating the format; what to put in it, the language.

25 Q. And how did that lawsuit work out?

1 A. After a year of going back and forth in court, I was
2 dismissed. My case was dismissed.

3 Q. The lawsuit was dismissed?

4 A. Yes. And I was fined.

5 Q. Was Mr. Schiff aware of whether or not you lost that
6 lawsuit?

7 A. Yes. I came directly to him.

8 Q. Have you ever heard Mr. Schiff on the radio?

9 A. Yes.

10 Q. Tell me, uh, what -- in what format or where did you hear
11 Mr. Schiff on the radio?

12 A. If I'm not mistaken, he was on the radio, 720, um, AM. Um,
13 It came on once a week. I think it was on a Thursday, if I'm
14 not mistaken. Thursday, 5:00 o'clock, 6:00 o'clock, something
15 like that, in the afternoon.

16 Q. And did Mr. Schiff -- what year did you hear Mr. Schiff on
17 the radio?

18 A. When did I start listening? Let's see. From 2000, I think
19 I stopped listening around, um, 2002 --

20 Q. And from that --

21 A. -- something like that.

22 Q. -- period from 2000 to 2002, how often would you listen to
23 the show?

24 A. It was sporadic. Um, I would try to listen to the radio
25 program at least, uh, once or twice a month if I was off and I

1 wasn't working.

2 Q. Did Mr. Schiff have a cohost on this radio show?

3 A. Normally, yes.

4 Q. Who was that cohost?

5 A. Cindy.

6 Q. What would you hear Irwin and Cindy talk about on the radio?

7 A. Uh, basically the, uh -- buy another book. That was the
8 primary thing, The Federal Mafia. Uh, uh, it always started off
9 with how you could give yourself a raise, improve your sex life,
10 stuff like that, by filing -- going exempt.

11 Q. Did the -- on the radio show, were there commercials for
12 Schiff products?

13 A. Yes, there was.

14 Q. And have you heard some of these commercials?

15 A. Yes, very convincing. Yes.

16 MR. NEIMAN: If I may approach the witness with
17 Government's Exhibit 18A and B. You may or may not find it, but
18 hopefully you have it.

19 (Discussion between Mr. Neiman and the
20 clerk.)

21 MR. NEIMAN: Your Honor, if I may have a moment --

22 THE COURT: You may.

23 MR. NEIMAN: -- of the Court's indulgence.

24 THE COURT: Yes.

25 THE CLERK: Do you want the lights on, Mr. Neiman?

1 MR. NEIMAN: I should be all right. If I can't find
2 them...

3 (Pause in the proceedings.)

4 MR. CRISTALLI: Your Honor --

5 THE COURT: Yes.

6 MR. CRISTALLI: -- can we have a sidebar? It relates
7 directly to this very issue.

8 THE COURT: Okay.

9 (Sidebar conference was held as follows:)

10 MR. CRISTALLI: Um, the concern I have with what the
11 Government's going to do, which I believe they are going to play
12 a portion of, um, the radio program but they are only gonna play
13 a portion of it, um, which, in my opinion, is going to be
14 something to the effect where Cindy, um -- I don't know -- is
15 being seductive or sensual or whatever she may be doing. It has
16 nothing to do with the teachings or practices of Freedom Books,
17 but rather -- okay -- well, rather the marketing aspect of it.

18 And I'm not quite sure that's relevant in that we're
19 not -- I'm not gonna get into the substance of what the radio
20 show consisted of. But, I mean, we're gonna have to, I guess,
21 to a certain extent because there's more than just a snippet.

22 MR. NEIMAN: I --

23 MR. CRISTALLI: I don't think that's relevant.

24 THE COURT: Is he anticipating you correctly?

25 MR. NEIMAN: Yes and no.

1 Your Honor, obviously Mr. Schiff had a two-hour radio
2 show --

3 THE COURT: Okay.

4 MR. NEIMAN: -- every Thursday. The Government is not
5 going to play an entire two-hour show, let alone lots of them.

6 What we do think is important is to show -- on the
7 radio they had commercials which pushed Schiff product after
8 Schiff product after Schiff product after Schiff product. And
9 what we've done is we've assembled snippets of those commercials
10 which we'd like to publish for the jury.

11 MR. BOWERS: I think --

12 MR. SCHIFF: Can I make a comment?

13 THE COURT: You don't --

14 MR. BOWERS: In their entirety --

15 THE COURT: -- have any --

16 MR. BOWERS: -- correct?

17 THE COURT: -- segments of Cindy being seductive?

18 MR. NEIMAN: One of the commercials --

19 MR. CRISTALLI: If that's possible.

20 MR. NEIMAN: One of the commercials --

21 THE COURT: Strike.

22 MR. NEIMAN: -- one of the commercials is Cindy saying
23 if you start following my advice, you're going to have more
24 money to treat your wife well and she does it in a seductive
25 voice and she talks about slippers and she talks about --

1 MR. BOWERS: So he did say you'd have better sex as a
2 result of this program? That's really what the witness just
3 said?

4 MR. NEIMAN: That is what he said and that --

5 MR. BOWERS: And this is offered in support of that?

6 MR. NEIMAN: It's -- no, not --

7 MR. SCHIFF: Can I make a comment on this?

8 THE COURT: Just a second.

9 Is that it?

10 MR. SCHIFF: No. Let me --

11 MR. NEIMAN: That's the substance of it.

12 MR. SCHIFF: -- comment.

13 THE COURT: Okay.

14 MR. SCHIFF: First of all --

15 MR. BOWERS: Please.

16 MR. SCHIFF: -- we were probably one of the few shows
17 that don't screen calls. That's number one.

18 Secondly, we got two hours. We have to entertain the
19 people who listen to our shows. It's an entertainment show.
20 But anybody can call and -- and complain.

21 But a second thing. We use very few commercials. If
22 you heard the two hours show, if we use three or four
23 commercials sometime -- so if you hear commercials -- but we
24 talked a lot about the economics, the state of the Union. Some
25 people used to complain that I didn't use enough commercials.

1 But if you -- if you're gonna play -- I don't care if
2 you don't play two hours; play an hour. Play something.

3 MR. BOWERS: No. Just play all the commercials.

4 MR. SCHIFF: I would like you to play the whole show
5 because the show -- when he says I sell products, I had to pay
6 for the show. They don't give me the time for nothing. We
7 gotta sell product. What does he expect me to do? Have a show
8 and not sell product?

9 MR. CRISTALLI: And here's the bigger concern. If you
10 just play the portion that is the marketing portion portraying
11 my client as this -- you know, in this voice where she's telling
12 people that, you know, your wife's gonna have your cigar ready
13 for you and your slippers ready for you and you're going to have
14 a fluffy pillow when you went into the house and it's gonna be
15 all perfumed up, you know, I think that's really not relevant to
16 these proceedings.

17 THE COURT: Oh, it is.

18 MR. CRISTALLI: I think it's inflammatory. But --

19 THE COURT: It cuts both ways. First of all, it's --
20 you know, no one would believe that. So let him play it. You
21 could benefit from that.

22 MR. SCHIFF: But I --

23 MR. CRISTALLI: But the only other concern I have is
24 that there was more -- it was more than that. The show also
25 consisted of discussions about the issues that were espoused by

1 Freedom Books.

2 THE COURT: Well, you can bring that out on cross.

3 MR. SCHIFF: Can I --

4 THE COURT: You can bring it out on cross.

5 MR. CRISTALLI: I just don't wanna, you know --

6 THE COURT: It's a segment of a two-hour show. That's
7 all stuff you can bring out on cross.

8 MR. SCHIFF: Would you believe I did a two-hour show on
9 how not paying income taxes improves your sex life?

10 This was with a radio show in Detroit. They knew I was
11 coming to Detroit. A women -- we used to did a one-hour show
12 eventually on CNN. Her name was -- she was very popular. And
13 she said to me, well, I'd like to have you on, but it's a show
14 for women. It's a psychological show. What can you talk about
15 taxes?

16 I said, how about doing two hours on how not paying
17 income tax improves your sex life? Because you don't have --
18 you don't have to work. And so I did it. But -- but -- but --
19 but on my show that was very small. It was --

20 THE COURT: You can break that out. This is a small
21 part of it. All right.

22 MR. CRISTALLI: So my objection on relevancy is noted?

23 THE COURT: It's noted.

24 MR. CRISTALLI: Thank you.

25 MR. SCHIFF: Are we gonna play more than a little

1 snippet?

2 MR. BOWERS: I'm sorry. We're gonna play the whole
3 commercial, though; correct?

4 MR. NEIMAN: The whole commercial.

5 THE COURT: We're gonna play --

6 MR. BOWERS: The whole commercial.

7 THE COURT: But you can bring out --

8 MR. SCHIFF: That's fine.

9 THE COURT: -- that it's only a part of it and question
10 the witness as to other things he might have heard.

11 MR. CRISTALLI: I would --

12 MR. SCHIFF: Put the whole show in.

13 MR. CRISTALLI: I would like, though -- and I will
14 certainly not use the entire tape -- but I would like to at
15 least refer maybe five minutes --

16 THE COURT: Okay.

17 MR. CRISTALLI: -- of the show.

18 THE COURT: Okay.

19 MR. CRISTALLI: Okay. Do you have that?

20 MR. NEIMAN: Your Honor, with this witness the
21 Government is prepared just to play commercials. Through
22 another witness we were going to play additional segments of the
23 radio show.

24 MR. CRISTALLI: But I can do that on cross-examination?

25 THE COURT: He can do it on cross-examination.

1 MR. NEIMAN: Okay.

2 (Sidebar conference concluded and the
3 following is held in open court:)

4 BY MR. NEIMAN:

5 Q. Mr. Lewis, we were talking about the radio show. If you
6 could explain to me what you would hear on a standard Irwin
7 Schiff radio -- two-hour radio show.

8 A. Okay. Um, he would -- it would come on with a commercial,
9 basically, uh, trying to sell his material. Uh, he would talk,
10 uh, about a lot, uh -- I remember about his experience with
11 Gridis (phonetic). James Gridis is --

12 Q. Who is James Gridis?

13 A. A former Internal Revenue employee.

14 -- about the due process hearing. He would also talk
15 about, you know, the zero return, uh, filing exempt statuses;
16 would talk a little bit about the economy. He would talk about
17 how the Internal Revenue Service is -- was ruinin' the country
18 and doin' things -- some things illegal.

19 Q. All right.

20 A. Along that lines.

21 Q. In a average two-hour show, how many commercials would
22 Mr. Schiff have?

23 A. I -- four.

24 MR. NEIMAN: Your Honor, I believe Government's
25 Exhibit 18A and --

1 MR. IGNALL: Yeah.

2 MR. NEIMAN: Excuse me. If I may have a moment.

3 THE COURT: Yes.

4 (Discussion between Mr. Ignall and
5 Mr. Neiman.)

6 BY MR. NEIMAN:

7 Q. Mr. Lewis, have you heard a tape recording of -- of various
8 commercials, uh, played from Mr. Schiff's radio show?

9 A. Yes. Probably all of them.

10 Q. Okay.

11 A. I don't remember if all of them, I mean. But I'm sure all
12 of them.

13 Q. And whose voices, if you know, are on these commercials?

14 A. Irwin Schiff for one and Cindy Neun.

15 MR. NEIMAN: Your Honor, are Government's Exhibit 18A
16 and B in evidence?

17 THE CLERK: They are, yes.

18 THE COURT: 18A and B?

19 THE CLERK: Yes, sir.

20 (Discussion between Mr. Neiman and
21 Mr. Cristalli.)

22 MR. NEIMAN: And, your Honor, the Government would also
23 offer Exhibit 231.

24 THE COURT: Let's check on -- I don't have an 18A and
25 B. I have an 18.

1 THE CLERK: Um, on the Exhibit list, however, there is
2 an 18A and B because I believe they are probably the tapes
3 themselves.

4 THE COURT: Oh, my 18 is -- is a copy of a --

5 THE CLERK: Should be a copy of a letter from the IRS
6 to Melvin Lewis.

7 THE COURT: It's a 1040X response.

8 THE CLERK: Yes, that's what 18 is.

9 THE COURT: And there is an 18 --

10 THE CLERK: And there is an 18A and B in the
11 exhibit list itself --

12 THE COURT: Okay.

13 THE CLERK: -- which indicates that it's radio show
14 commercials.

15 THE COURT: Okay. I don't know that we stipulated to
16 those, did we? Does your --

17 THE CLERK: They are part of the stipulation --

18 MR. NEIMAN: Your Honor, I think we've run into a bit
19 of a problem here. What 18A and B are is they are actually
20 snippets or portions of the radio show containing commercials,
21 which is Government's Exhibit 231. What we could do on the
22 request of Mr. Cristalli is move in, assuming there's no
23 objection to the full radio show from -- which is Government's
24 Exhibit 231; however, the Government would just like to play
25 portions of the radio show at this time.

1 THE COURT: Any objection to 231 coming in?

2 MR. CRISTALLI: No. I have no objection to 231.

3 My objection, though, as I have indicated to the Court,
4 relates to 18 and the portion that's going to be read.

5 THE COURT: Okay.

6 MR. BOWERS: Your Honor --

7 THE COURT: Any objection to 231?

8 MR. BOWERS: I don't believe so. Just so I'm clear,
9 the commercials and the portions thereof are 18A and B and the
10 agreement is that in conjunction with those 231 comes -- I have
11 no objection to any of that. That's fine. Thank you.

12 MR. SCHIFF: No objection.

13 THE COURT: 231 will be received and the -- the
14 objection is noted as to the excerpts being played.

15 (Government's Exhibit No. 231, received into
16 evidence.)

17 MR. NEIMAN: Your Honor, at this time the Government
18 would like to play a portion, I guess, of Government's
19 Exhibit 231 which we're going to call just 18A or we can call it
20 however the Court wishes.

21 THE COURT: 18A and B.

22 (Pause in the proceedings.)

23 (Audio played.)

24 BY MR. NEIMAN:

25 Q. Mr. Lewis, have you heard those commercials before?

1 A. Yes.

2 Q. And, when you hear them on the radio show, are -- are they
3 one after each other? How are they played actually on the
4 radio? I realize --

5 A. Um, they are actually played not drawn out like that but,
6 uh, in sections, you know. You might even get half of what was
7 played at the top of the hour and one at the bottom of the hour,
8 15 minutes after the hour.

9 Q. And this immediate pay raise referenced in the commercial,
10 did -- do you know what he's referring to there?

11 A. Yes. That was what's referring -- what's referred -- it
12 refers to your filing exempt on your W-4.

13 MR. NEIMAN: If, your Honor, we could play Government
14 Exhibit 18B --

15 THE COURT: You may.

16 MR. NEIMAN: -- now.

17 (Audio played.)

18 MR. NEIMAN: If we could -- I'm sorry.

19 THE COURT: Hold on a minute.

20 Are you missing a video portion?

21 MR. NEIMAN: Actually, your Honor, there is no
22 transcript to this one.

23 THE COURT: Okay.

24 MR. NEIMAN: We probably should start it again and
25 having that addressed that...

1 THE COURT: There's no transcript.

2 MR. NEIMAN: There's no transcript to this one.

3 MR. BOWERS: Your Honor, I'm not objecting to anything.
4 I have no idea what's been said. That's not an objection. It's
5 just if there's a way to clarify it. I can't understand the
6 tape.

7 MR. NEIMAN: Is the audio -- could we try it again and
8 see if it's...

9 (Pause in the proceedings.)

10 (Audio played.)

11 BY MR. NEIMAN:

12 Q. Mr. Lewis, do you recognize the voice from that first
13 commercial?

14 A. Yes.

15 Q. Whose voice is that?

16 A. Cindy Neun.

17 (Document displayed in open court.)

18 BY MR. NEIMAN:

19 Q. If I could direct your attention to Government's Exhibit 19,
20 which hopefully is in front of you. It should be --

21 A. No.

22 Q. -- I believe.

23 MR. NEIMAN: I think, Ms. Vannozzi, that's one of the
24 ones that we -- well, maybe not.

25 THE WITNESS: I just have 18.

1 THE CLERK: Sir.

2 BY MR. NEIMAN:

3 Q. Do you recognize Government's Exhibit 19?

4 A. Yes, I do.

5 Q. And, uh, just if you could tell us what is in Government's
6 Exhibit 19?

7 A. Okay. This is actually, um, someone -- Irwin -- Irwin
8 Schiff's description of his material and pricing also in this.
9 It lists, uh, the pricing, uh, with regards to these packages to
10 these selling out of his store like you can get them à la carte
11 or in a bundle.

12 Q. What -- what are the names of some of the packages
13 Mr. Schiff offered?

14 A. Okay. One is The Freedom Packet. It has such things as The
15 Federal Mafia; uh, How The Government Illegally Imposed Unlawful
16 Collection of Taxes. Another one is Business Owners Special.
17 Again, it has The Federal Mafia, uh, uh, sequence video.
18 Another one was a Secret [sic] Combo, The Truck Drivers Special,
19 The Tool [sic] Package.

20 Q. And what was the price of The Freedom Package?

21 A. Wow. \$795.

22 Q. And what other packages did he offer?

23 A. He offered the, uh, Business Owners Special.

24 Q. And how much was The Business Owners Special?

25 A. 295.

1 Q. All right. What other documents do you have in Government's
2 Exhibit 19?

3 A. Okay. Uh, there's another one marked, um, Freedom Books,
4 Irwin Schiff's research material with regard to Lien and Levy
5 Packet, also a compact disk. And this should have some of the
6 other documents of filings with regards to lien and levy that
7 you could, uh, download to your computer.

8 Uh, Backyard Role Play. This should have been -- this
9 should be the cassette tapes, audiocassette tapes.

10 Irwin Schiff's Due Process Tool Kit. This is a package
11 you can buy if you're getting ready to go to the due process
12 hearing or if you wanna be a witness or help someone at a due
13 process hearing.

14 Q. And what's the cost of that one?

15 A. \$200.

16 Q. All right. The next item on the list?

17 A. Power to Destroy. It's a book by a sen- -- senator.

18 Q. All right.

19 A. Uh, Internal Revenue Code.

20 Q. Mr. -- Mr. Schiff sold the Internal Revenue Code?

21 A. Yes, he did.

22 Q. And explain to me -- did you buy an Internal Revenue Code
23 from Mr. Schiff?

24 A. Oh, yeah.

25 Q. And was -- did anything get done to your Internal Revenue

1 Code prior to you purchasing it?

2 A. Uh, yes, there was.

3 Q. What was done?

4 A. Um, there were tabs put into the Code highlighting certain
5 sections of the Code that Irwin Schiff thought was relevant with
6 regards to the rest of his material.

7 Q. All right. What else -- what else was for sale at Freedom
8 Books?

9 A. Uh, the Code of -- the Code of Federal Regulation for a
10 hundred and twenty-five dollars.

11 Q. Okay. What other documents do you have in Government's
12 Exhibit 19?

13 A. Oh, Freedom Foundation.

14 Q. What is the Freedom Foundation?

15 A. If I'm not mistaken, this is a foundation that Irwin Schiff
16 set up to help him with his legal fund or something. I
17 donated... oh, never mind.

18 MR. CRISTALLI: Objection. It's nonresponsive and move
19 to strike.

20 THE COURT: He said: If he's not mistaken, this is a
21 foundation that Irwin Schiff set up to help him with his legal
22 fund or something. That's his answer. I -- I don't see that
23 it's nonresponsive. He's answered the question to the best of
24 his ability.

25 Overruled.

1 BY MR. NEIMAN:

2 Q. Did you contribute to the Freedom Foundation?

3 A. Yes, I did.

4 Q. And how much did you contribute to the Freedom Foundation?

5 A. I think it was a -- a hundred dollars.

6 Q. Did you get anything for that hundred dollars?

7 A. No.

8 Q. Okay. What else is in Government's Exhibit 19?

9 A. It's a document showing that you could purchase a T-shirt,
10 which I purchased.

11 Q. Did you buy a T-shirt?

12 A. Oh, yeah.

13 Q. Could you describe what the T-shirt said and what it looked
14 like?

15 A. This T-shirt had a picture -- a picture -- well, pictures of
16 a bunch of clowns laughing, holding their stomach, and basically
17 sayin' -- they are laughin' at citizens who filed a legal
18 return.

19 Q. Filed?

20 A. A 1040 --

21 Q. Okay. Legal 1040.

22 A. -- who pay taxes and, you know. I bought that one.

23 Q. You bought a T-shirt?

24 A. That was funny.

25 Q. How much did you pay for the T-shirt?

1 A. Okay.

2 Q. Sir, sir, how much did you pay for the T-shirt --

3 A. \$20.

4 Q. -- if you remember? \$20? Okay.

5 A. Yes.

6 Q. Okay. What else did you have in the Government's
7 Exhibit 19?

8 A. Also a flier for a workshop seminar.

9 Q. Okay. Did you ever go to a workshop seminar?

10 A. I went to several.

11 Q. Did you ever go to the, uh, two-day seminars or a one-day
12 seminar? What type of seminar did you go to?

13 A. It was a one-day seminar here in Las Vegas.

14 Q. Do you remember where in Las Vegas it was?

15 A. Um, let's... I'm thinkin' it was off of -- I don't remember
16 the name of the place, but I know it's off of Tropicana.

17 Q. Off of Tropicana?

18 A. Yeah, in a convention room off of one of the hotels.

19 Q. All right. If we could blow up just the bottom portion of
20 this seminar language.

21 What does Mr. Schiff write on the bottom of --
22 Mr. Lewis, if you could -- it's also on the screen to your left
23 if it's --

24 A. Okay.

25 Q. -- easier for you to see.

1 A. Okay. "This is the" -- oh.

2 Q. Sorry.

3 A. "This is the only seminar of it's [sic] kind in the country.
4 Irwin Schiff will show you how to get the IRS off your back and
5 out of your life forever! He will show you how to file a
6 totally honest tax return in under 15 minutes requesting a
7 refund of all your tax" -- "all the taxes you paid last year,
8 regardless of how much money you may have earned in [salary],
9 commission[], [uh] gambling wages [sic], stocks and all other
10 kinds of trade" -- "trading profit. [Okay] GIVE YOURSELF AN
11 IMMEDIATE PAY-RAISE!"

12 Q. Mr. Lewis, do you still follow the advice of Mr. Schiff?

13 A. No.

14 Q. Why not? Or did it work, I guess I should ask.

15 A. It did not work. And you asked why not? Because there --
16 according to my own understanding, there is laws that make us
17 all liable for taxes, income tax, on your wages.

18 Q. Mr. Lewis --

19 MR. BOWERS: I'm sorry. Your Honor --

20 THE COURT: Is there an objection?

21 MR. BOWERS: No, no. There's no objection at all. But
22 I -- I couldn't hear the specific phrasing of that last phrase.
23 I think that's important.

24 THE COURT: Can I read it back from the --

25 MR. BOWERS: Yes.

1 THE COURT: It did not work. And you asked why not?

2 MR. BOWERS: Right.

3 THE COURT: Because there -- according to my own
4 understanding, there is laws that make all -- make us all liable
5 for taxes, income tax, on your wages.

6 MR. BOWERS: So I came to the understanding that there
7 are laws that make us all liable. Is that what he said?

8 THE COURT: There is laws that make us all liable for
9 taxes --

10 MR. BOWERS: Thank you, your Honor.

11 THE COURT: -- comma income tax on your wages.

12 MR. BOWERS: Thank you.

13 BY MR. NEIMAN:

14 Q. Mr. Lewis, as a result of filing the amended returns and
15 the -- with zeroes and the not liable return, were you fined by
16 the IRS?

17 A. Yes, I was.

18 Q. Was Defendant Schiff aware that you were fined by the IRS?

19 A. Oh, yes.

20 Q. Was Defendant Neun aware that you were fined by the IRS?

21 A. Yes.

22 Q. Was Defendant Cohen aware that you were fined by the IRS?

23 A. Yes.

24 Q. How much were you fined or penalized by the IRS for filing
25 those returns?

1 A. Oh, penalties and fines, um, amounted up to over 13, 14
2 thousand dollars.

3 Q. Does that include interest and tax as well?

4 A. Yes. I -- I actually have to look at some more doc- --
5 because it may have been somewhat more. But it was a lot of
6 money.

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

8 THE COURT: Cross-examination. Who is going to --

9 MR. CRISTALLI: Your Honor --

10 THE COURT: -- first?

11 MR. CRISTALLI: -- I guess I will go.

12 THE COURT: Okay.

13 MR. CRISTALLI: Okay?

14 THE COURT: Yes.

15

16 CROSS-EXAMINATION

17 BY MR. CRISTALLI:

18 Q. Good afternoon, Mr. Lewis.

19 A. Good afternoon.

20 Q. Uh, Mr. Lewis, let's start, first of all, when you, uh,
21 first heard about, um, the, uh -- Irwin's teachings that you
22 don't have to legally pay income tax. You were -- you were
23 given that information by, um, some friends of yours; correct?

24 A. Yes.

25 Q. Okay. And, um, it sounded good to you, obviously. Correct?

1 A. Yes, it sounded good to me.

2 Q. So you went and inquired a little bit further about it and
3 you actually went to Freedom Books. True?

4 A. Yes.

5 Q. I'm sorry?

6 A. Yes.

7 Q. Okay. And -- and, when you went to Freedom Books, um, for
8 the first time, the first material that you purchased was The
9 Federal Mafia?

10 A. Yes.

11 Q. Okay.

12 A. That's what I purchased, yes.

13 Q. Okay. When you first went to Freedom Books in addition to
14 The Federal Mafia, did you acquire any other documentation
15 and/or material provided by Freedom Books?

16 A. What do you mean?

17 Q. What else besides The Federal Mafia did you get?

18 A. Oh. The W-4 packet.

19 Q. Okay. Is that it at the time?

20 A. At -- at -- at first, like the first, say, week.

21 Q. And that was in 2000?

22 A. Yes.

23 Q. Okay. April 2000?

24 A. Yeah, around that time.

25 Q. Okay. Um, at the first meeting, uh, did you have an

1 opportunity to interact with anybody there? I don't know -- I
2 don't recall whether or not you said at the first meeting you
3 had an opportunity to interact with anybody.

4 A. Yes, I -- I -- Cindy Neun.

5 Q. Okay.

6 A. Uh, there was a guy that looked familiar [sic] to Larry, but
7 he's no longer there. I think he died of cancer. But different
8 employees than what was there.

9 Q. Um, do you recall an individual by the name of Mr. Kennedy?
10 Does that ring a bell to ya as an individual that suffered from
11 the illness?

12 A. That -- that might have been it.

13 Q. Okay.

14 A. I'm not sure. But it's been a while.

15 Q. Okay. Would it be safe to say that, um, the first
16 interaction with Freedom Books was basically acquiring the
17 material?

18 A. No.

19 Q. Okay. You acquired the material; correct?

20 A. I did.

21 Q. And then you talked to somebody there?

22 A. Well, let me back up.

23 I went into Freedom Books, talked to the individuals,
24 you know, like -- kinda like, "where's the proof."

25 Q. I'm sorry?

1 A. Where is the proof type of inquiry.

2 Q. Okay. So you went in there and said: Listen. You guys are
3 saying that you don't have to file -- legally file income tax.
4 What do you have to support that position. True?

5 A. I didn't say it like that. But, uh, somewhat like that.

6 Q. Okay. Do you remember who, um, you had that dialogue with?

7 A. I think it was Cindy and --

8 Q. You think --

9 A. -- one of the other employees. Well, Cindy and one of the
10 other employees --

11 Q. Okay.

12 A. -- which is no longer there.

13 Q. Now, let's talk about that a little about.

14 You say "employees." When you say "employees," you
15 mean that -- those individuals that appeared to be -- that were
16 in Freedom Books; correct?

17 A. Those were the people who were employed by Freedom Books.

18 Q. Okay. You -- I want to talk about that a little bit.

19 A. Okay.

20 Q. Okay. You keep sayin' that they were employed by Freedom
21 Books. I want to talk about that a little bit. All right?

22 Um, when you go into Freedom Books, you see individuals
23 that appear to be working; correct?

24 A. Yes.

25 Q. And by "working," I mean they appear to be answering the

1 telephone. True?

2 A. Well, yeah. Talkin' to people about the material.

3 Q. Okay. I'll get there.

4 Talking to people about the material; correct?

5 A. Yes.

6 Q. Okay. Doing legal research; right?

7 A. Yes.

8 Q. Generating documentation; correct?

9 A. Receipts, yes.

10 Q. Okay. Consistent with individuals as you defined working
11 there; correct?

12 A. Yes.

13 Q. Okay. Now, in terms of being an employee or not being an
14 employee, would you agree with me that, um, an employee gets
15 paid?

16 A. That's correct.

17 Q. Okay. And, Mr. Lewis, you don't know whether or not Cindy
18 Neun got paid for doing anything at Freedom Books; correct?

19 A. I never -- I don't understand the question. Can you...

20 Q. You don't know whether or not Cindy ever got paid for
21 anything she did at Freedom Books. True?

22 A. I'm not privy to her checking account, so I don't know.

23 Q. All right. As far as -- as far as you're concerned, she
24 could have volunteered her services at Freedom Books; right?

25 A. What do you mean?

1 Q. Well, you've never -- you never saw her getting compensated
2 for her time spent -- spent at Freedom Books. True?

3 A. Are you asking me to say whether I know if she received
4 compensation for what she was doing?

5 Q. Yes, sir.

6 A. Whether I know for a fact that she did or not?

7 Q. Yes, that's correct.

8 A. No, I don't know for a fact.

9 Q. Okay. Then you don't know whether or not she was an
10 employee or not an employee of Freedom Books; correct?

11 A. That's incorrect.

12 Q. I'm sorry?

13 A. That's incorrect. She worked for Freedom Books.

14 Q. Sir, you just told me that you don't know whether or not she
15 ever was compensated for her services at Freedom Books.

16 A. Does that -- what you're saying is that, um -- it's what
17 you're using to say that she worked for Freedom Book [sic] or
18 she didn't work for Freedom Book [sic] that she received cash or
19 a check from Freedom Books? Is that what you...

20 Q. What I'm -- what I'm trying to say is that an individual can
21 do the tasks of an employee and could do them for free and
22 appear as an employee but not be compensated for those services.
23 Would you agree with me on that?

24 A. Uh, I'm not sure I understand the question.

25 Q. Okay. Would you, um, agree with me that there are

1 individuals at Freedom Books that you were volunteering their
2 services?

3 A. I don't think I could say that.

4 Q. Okay. Do you know whether or not -- you couldn't say it
5 either way. There could have been; correct?

6 A. That's correct.

7 Q. And, um, so there could have been people volunteering and
8 there could have been people getting paid for their services.
9 True?

10 A. That could be correct.

11 Q. And that could be said for Cindy Neun because you don't know
12 whether or not she was ever compensated; correct?

13 A. Whether she was volunteering or getting paid?

14 Q. Correct.

15 A. Yeah.

16 Q. Would you agree with me on that?

17 A. I can agree with you on that.

18 Q. Okay. Um, now, you also stated that -- okay. Let's --
19 let's talk about -- so you go -- you get into Freedom Books.
20 You get the material. You have some dialogue with some people
21 that, um, are doing work at Freedom Books. And then there come
22 a time when you went home, correct, or wherever you went? You
23 didn't stay at Freedom Books. True?

24 A. That's true.

25 Q. Okay. And you read the material. You read, um, Federal

1 Mafia. Right? You read this book?

2 A. I didn't read the whole book, no.

3 Q. Okay.

4 A. I read the part that pertained to what I was trying for
5 accomplish.

6 Q. Okay. So in terms of, um, the areas that you were trying to
7 accomplish, that would be what legal support did I have to -- to
8 legally not have to pay income tax; correct?

9 A. Yes. Actually finding the documentation to see if it was
10 legal in the book and what I had to do to file an exempt W-4.

11 Q. Okay. And, in your readings of The Federal Mafia, there
12 was, um, case law; correct?

13 A. Yes.

14 Q. Legal decisions; right?

15 A. Yes.

16 Q. Okay. There was citations from the United States
17 Constitution; correct?

18 A. Yes.

19 Q. There was discussions and citations of the Internal Revenue
20 Code. True?

21 A. Yes, that's -- yes, yes.

22 Q. There is -- that a "yes"?

23 A. Yes.

24 Q. There's probably correspondence between individuals and, um,
25 employees of the Internal Revenue Service with regard to the

1 filings of certain returns; correct?

2 A. Could you clarify that a little bit?

3 Q. Um, was there, for example, letters from Irwin Schiff to,
4 uh, Congressmen --

5 A. Yes.

6 Q. -- with regard to income tax?

7 A. Yes.

8 Q. And, uh, him inquiring with certain congressional people as
9 to, um, the legality of federal income tax?

10 A. Are you talking about Freedom of Information Acts?

11 Q. Okay. That's one of 'em. Was that contained in there?

12 A. Yes, there -- I think there was --

13 Q. Okay.

14 A. -- something in there.

15 Q. Mr. Lewis, did you also -- did you also receive -- to
16 purchase a -- an IRS Code?

17 A. The, uh, the Internal Revenue Code --

18 Q. Yes.

19 A. -- or the CFR's?

20 Q. Internal Revenue Code. And the CFR's are what? The...

21 A. Code of Federal -- Federal Regulations.

22 Q. And you received those as well -- you purchased --

23 A. I purchased those.

24 Q. -- those as well? Okay.

25 So it would be safe to say that that in response to

1 what you heard from your friends and in response to what you
2 heard when you went into Freedom Books you gathered as much
3 information and documentation, um, to support, uh, your
4 position, support what you were going to do; correct?

5 A. That's not correct. I also saw things.

6 Q. The -- the returns, the refunds?

7 A. Yes.

8 Q. Okay. And you -- so you saw the refunds. And you said, if
9 somebody else is gettin' refunds, there's a good chance that I
10 can get refunds too and I wanna try to do that?

11 A. No.

12 Q. Okay.

13 A. That's incorrect.

14 Q. Okay. You saw the refunds; right? You saw the refunds;
15 right?

16 A. That's what I -- I wasn't thinkin' what you just said about
17 what -- what -- you're tryin' to say like I was thinking but
18 not -- that's not what I was going through my mind when I saw
19 that.

20 Q. Well, are we talking about this refunds now?

21 A. The refunds, um, going out and file an exempt W-4 --

22 Q. Okay.

23 A. -- that wasn't what was going through my mind at that time.

24 Q. Okay. Let me just be clear.

25 I mean, you went to Freedom Books in an effort to

1 gather information to begin implementing the procedures that
2 they recommended, correct, in order to get money back and in
3 order to not legally have to file income tax?

4 A. Okay. I think this is what you want. I went in there, into
5 Freedom Books, to, uh, get a refund of all the moneys that I was
6 told that was illegally taken [sic] and get a refund on money
7 that was actually owed to me.

8 Q. Okay. And, um, you basically prescribed to Mr. Schiff's
9 teachings. True?

10 A. Prescribed? Could you define that?

11 Q. Prescribed, um, believed or --

12 A. I believed it was true, yes.

13 Q. Okay. So, in fact, I think you testified on direct
14 examination that you totally believed that what he, Mr. Schiff,
15 was doing was legal; correct?

16 A. I believed it was legal and moral thing to do.

17 Q. It was legal and the moral thing to do.

18 And -- and you came to that basis because of the -- the
19 things that you read on -- you read; correct?

20 A. Yes.

21 Q. And, in fact, you'd went to the UNLV law library and did
22 your own research as it related to these issues?

23 A. With regards to the information that was listed in the
24 book -- before I bought the Codes of Federal Regulations, I had
25 to go to the law library to look them up because I didn't have

1 'em.

2 Q. Right.

3 A. So...

4 Q. What I'm trying to get at is you did, um, your due diligence
5 in terms of going to the library and doing legal research to
6 support the position that you were taking. Correct?

7 A. I went and did legal research to see if the -- the cases,
8 the codes that were listed in The, uh, Federal Mafia, in the
9 Internal Revenue Code that I bought from Freedom Books were
10 actually codes that were filed with the -- the Congress, the
11 Library of Congress, the documents actually existed. So that's
12 why I did the Freedom of Information Act trying to get those
13 same documents. It's -- did I answer it?

14 Q. Yeah. I mean, basically you went to validate the
15 information and content that was in the material that you
16 purchased from Freedom Books?

17 A. Yes, I actually went and looked up only those things that
18 were in his books to a certain point.

19 Q. Would it be safe to say that you e- -- researched this area
20 to the point of exhaustion to a certain extent?

21 A. No.

22 Q. Did your immersion in this issue cost you -- cost you your
23 marriage?

24 A. It cost me, um -- it cost me a falling out with my fiancée.
25 Let's put it that way.

1 Q. Okay.

2 A. I'm gettin' ready to get married to -- in November.

3 Q. Okay. And -- and I want to just get into that a little bit.

4 This was before you got in trouble with the IRS. This
5 was your diligence in putting hours and hours and hours in in
6 researching the law and the material that was given to you at
7 Freedom Books or you purchased at Freedom Books; correct?

8 A. When you use the word "this," what are talking about?

9 Q. I'm sorry?

10 A. When you use the word "this" --

11 Q. Right.

12 A. -- what -- what -- what is "this"? It's a pronoun.

13 Q. Okay. What I'm trying to get at is: Your devotion -- your
14 devotion and your due diligence in terms of researching the
15 validity of this philosophy cost you your fiancée?

16 A. It cost me a relationship with my fiancée. It cost me a
17 relationship with, uh, a religious organization.

18 Q. Well, is -- is the --

19 A. Yes.

20 Q. -- the issue in terms of the religious organization, didn't
21 that come later when you got in trouble with the IRS and not
22 when you were --

23 A. It come midstream. Midstream.

24 Q. In midstream?

25 A. Yeah, not when I -- you know, no one knew, um, when I first

1 walked into Freedom Books that I was actually doin' this.

2 Q. But -- but specifically the problem with your fiancée was
3 that you were just puttin' too much time into this subject?

4 A. No.

5 Q. No. Okay.

6 The problem with your fiancée was -- and I don't wanna
7 get into your personal life. I'm just trying to get a
8 chronology of when this all went down. Um, I'm trying --
9 here's -- here's the distinction I'm trying to make.

10 Um, you immersed yourself in the legal research aspect
11 of this whole thing before you got in trouble with the IRS?

12 So --

13 A. Yes.

14 Q. -- did the problems arise with the fiancée when you were
15 immersing yourself in the legal research or when you got in
16 trouble with the IRS?

17 A. Uh, a little bit, uh, before --

18 Q. Okay.

19 A. -- I got in trouble.

20 Q. With the IRS?

21 A. She -- yes, yes.

22 Q. Because she thought you were spendin' too much time with
23 this dedication?

24 A. No.

25 Q. Okay. Do you want to tell me?

1 THE COURT: Do you want to ask him?

2 THE WITNESS: What are you asking?

3 BY MR. CRISTALLI:

4 Q. I'm just trying to get a time frame because --

5 A. Oh. Okay.

6 Q. -- there's a --

7 A. Two --

8 Q. -- difference -- I mean, I don't --

9 A. -- I'll give you a year.

10 Q. -- I don't know if your relationship broke up as a result of
11 being in trouble with the IRS or if it broke up because you were
12 spendin' hundreds of hours in the law library.

13 A. The relationship went sour because of her viewpoint with
14 regards to what I was doing.

15 Q. Okay. Fair enough. Fair enough. Thank you.

16 So what you believed she didn't believe?

17 MR. NEIMAN: Object to relevance.

18 THE COURT: I'll allow it.

19 THE WITNESS: What?

20 THE COURT: You can answer if you are able.

21 THE WITNESS: She had the correct viewpoint of the
22 whole tax issue.

23 BY MR. CRISTALLI:

24 Q. Okay. And I'm not disagreeing with you with regard to that.

25 But, at the time you were having a dispute with her,

1 you did not agree with that position. You believed you had the
2 right -- you had the right position. Correct?

3 A. Uh, I didn't have the information she had, of course. Yes.
4 Correct.

5 Q. I'm just -- okay.

6 Now, um, you filed your 10 -- you filed your 1040. You
7 asked for -- you not only filed zero but you also asked -- you
8 amended it and asked for returns on previous 1040 filings.
9 Correct?

10 A. Yes.

11 Q. And you didn't get anything back; right?

12 A. Could you hold on just a second?

13 Q. Sure.

14 A. (Reviewing documents.) It's been a while since I've filed
15 these. So I just --

16 Q. That's okay.

17 A. -- I'm not giving you some incorrect answer.

18 I filed 1040X's and --

19 Q. Okay. Now, is the 1040X -- is that an amended tax return
20 because that's to get the money back; right?

21 A. Yeah, a 10 -- 1040X's and one not liable return.

22 Q. And that --

23 A. No zero returns.

24 Q. That's the vehicle to get money back from prior years of
25 filing --

1 A. Prior years of filing.

2 Q. -- the traditional returns?

3 A. Yes, legal return.

4 Q. Now, when you filed those documents you didn't get a
5 favorable response; correct? And meaning -- favorable response
6 would be meaning getting a check in the mail for your previous
7 years.

8 A. No, I did not.

9 Q. And you in fact got another document from the IRS saying
10 that -- what, that your return was frivolous?

11 A. We covered that earlier.

12 Q. Well, I actually didn't. But the Government may a little
13 bit -- have a little bit.

14 A. Okay. Sure.

15 Q. I just want to make sure we're clear.

16 A. Yes.

17 Q. So you got some frivolous letter -- you got a doc- -- you
18 got letters from the IRS saying that those were deemed
19 frivolous; correct?

20 A. Yes. Yes.

21 Q. Okay. And, um -- and despite that fact, despite not getting
22 a favorable result from your initial filings, you continued to
23 try to implement the process. Correct? You did it again, filed
24 a zero return again; correct?

25 A. I don't understand the question.

1 Q. Okay. You file zero returns. You file amended returns.
2 You get a letter back from the IRS saying that they are
3 frivolous. And then you again file a zero return.

4 Would that be the correct chronology of things?

5 A. I was told to file a response to that and that's what I did.

6 Q. Okay. You were told to file a response to the frivolous
7 letter; correct?

8 A. Yes.

9 Q. Based on the information that was provided in the package --
10 packages from Freedom Books?

11 A. That's correct.

12 Q. Okay. So you did that; right?

13 A. Yes.

14 Q. Yes?

15 A. Um-hum.

16 Q. And, in addition to that, you also continued to implement
17 the zero return policy. Basically you filed another return with
18 zeroes on it. Right?

19 A. Uh, amended return.

20 Q. An amended return.

21 A. A -- a -- if I'm not mistaken, I filed two batches. One --
22 and there is on the 1040X's, the amended returns -- off of what
23 I learned from Freedom Books and that was 6-5 of 2000 and I
24 might have filed a -- and I filed the, um, not liable later on
25 that year. I did not file a, uh, uh, zero return -- I mean, I'm

1 thinkin' a return you're talking about just the 1040, not the
2 1040X. That's probably why I'm confused.

3 Q. Let me just simplify it.

4 What I'm -- what I'm trying to get at is basically --
5 despite the fact that you got this frivolous letter from the
6 IRS, you didn't stop doin' what you learned through the material
7 that was provided in Freedom Books or your independent research?

8 A. Oh, okay. I did not stop my independent research. And, uh,
9 I was told that that letter was a computer generated letter that
10 you always get. So just file this document and that'll take
11 care of it.

12 Q. Yeah. And so basically you didn't abandon the teachings at
13 this particular time or abandon the, uh, belief that you had
14 with regard to your responsibility of having to legally file
15 returns?

16 A. I totally believed what Irwin Schiff was sayin'.

17 Q. Okay. Now, there was, um -- and, also, were you involved in
18 some type of organization wherein you were on the Board of
19 Directors?

20 A. What do you mean?

21 Q. Were you...

22 Did it have to do with the Tenth Amendment Group?

23 A. Yes.

24 Q. And you were on the Board of Directors with regard to the
25 Tenth Amendment Group?

1 A. Yeah, I think so. Yes. I was a member of that board and I
2 had a function -- member of that group and I had a function.
3 Sorry.

4 Q. And that was a group that dealt with constitutional issues,
5 local and federal government?

6 A. Yes.

7 Q. Okay. And, in addition to discussing constitutional issues
8 it also dealt with public interest issues. For example, I think
9 you guys dealt with, um, issues relating to children and tryin'
10 to do good for the public?

11 A. Those were -- those were the issues that I brought to the
12 table that were not listened to.

13 Q. Okay.

14 A. But, uh...

15 Q. And you testified in front of the Grand Jury; correct?

16 A. Say it again.

17 Q. You testified in front of the Grand Jury?

18 A. Now?

19 Q. No, not right now. You're testifying in front of a jury
20 right now.

21 You had -- you had an opportunity prior to you
22 testifying today to testify before a Grand Jury; correct?

23 A. You mean earlier with regards to this same material?

24 Q. That's correct.

25 A. Uh, yes.

1 Q. And, during your testimony at the Grand Jury, you talk about
2 being involved in the, uh, Tenth Amendment Group; correct?

3 A. She -- yes, I was asked that. Yes.

4 Q. You were involved; right?

5 A. Yes.

6 Q. You participated; correct?

7 A. Yes.

8 Q. Okay. And there were other -- during the course of the --
9 during the course of your testimony with the Grand Jury, you
10 said there were a number of things that were discussed, um,
11 during the Tenth -- Tenth Amendment or -- Tenth Amendment Group:
12 cases, issues as it related to public interest. Correct?

13 A. I -- I don't think I said those words. But I, you know,
14 kinda, I think, gave a general idea of what was talked about,
15 discussed.

16 Q. Right. I'm just paraphrasing.

17 A. Okay. That's fair enough. Yes.

18 Q. It would be safe to say that you dealt with those issues;
19 correct?

20 A. I didn't deal with those issues, but those were discussed.

21 Q. You --

22 A. Again, my viewpoint on it.

23 Q. You said you brought to the table those issues, some of
24 those issues relating to public interest issues.

25 A. Yeah. And that was with regards to local community with

1 regards to kids being put on Ritalin when they don't need to be
2 put on Ritalin but need counseling or talking to --

3 Q. Okay.

4 A. -- stuff like that. Those were the issues I brought to the
5 table.

6 Q. Okay. You said --

7 A. As a firefighter, I'd see that a lot.

8 Q. Right.

9 A. And that's what I was concerned about and that's what I --

10 Q. Okay.

11 A. -- was able to talk about, dealing with the school systems
12 puttin' kids on Ritalin.

13 Q. Right. And you just said that, right now here today, that
14 nobody listened to you. Is that what you just said?

15 A. Yeah.

16 Q. Okay. But you didn't tell the Grand Jury that. You said
17 that -- that you --

18 A. I -- I mentioned to -- read the --

19 Q. Okay.

20 A. -- read what was, uh -- because that was one of the reasons
21 why I stopped going to the -- the group. I brought a legitimate
22 thing that was goin' on in the community and I had a solution to
23 it and they wanted to deal with the farmers losin' their
24 property up in Northern Nevada. They wanted to deal with other
25 issues that I had no interest in. So it was like I was there

1 but invisible.

2 Q. And -- and you said that -- you stated in the Grand Jury
3 testimony that -- that no -- that they didn't listen to you or
4 the group wasn't --

5 A. I need to --

6 Q. -- amendable --

7 A. -- I need to see that, whatever you're reading.

8 Q. Okay.

9 MR. CRISTALLI: May I approach, your Honor?

10 THE COURT: You may.

11 (Discussion between Mr. Cristalli and
12 Mr. Neiman.)

13 THE WITNESS: Because I need to -- I mean, I don't
14 remember exactly what I stated.

15 MR. NEIMAN: That's fine.

16 THE WITNESS: But I just need to see what, you know...

17 (Handed to the witness.)

18 THE COURT: We're gonna go ahead and take our
19 mid-afternoon break. Be in recess 15 minutes.

20 If you'd like, Mr. Lewis, you may read through that
21 while we're --

22 MR. CRISTALLI: Sure.

23 THE WITNESS: Thank you.

24 THE COURT: -- on the break.

25 Same admonition applies.

1 (Jury leaves the courtroom at 3:01 p.m.)

2 (Recess from 3:02 p.m. to 3:21 p.m.)

3 THE CLERK: All rise.

4 THE COURT: Are we ready to bring the jury?

5 MR. IGNALL: Your Honor --

6 THE COURT: Yes.

7 MR. IGNALL: -- one matter --

8 THE COURT: Please be seated.

9 MR. IGNALL: -- one matter I mentioned to Ms. Vannozzi
10 is that Mr. Lewis, a firefighter who is scheduled to go to
11 New Orleans on Monday, I believe. I don't know if there's any
12 way that the Court can inquire of the jury if they might be
13 willing to stay a little past 4:30 if that would allow us to --

14 THE COURT: Depends on how far.

15 MR. IGNALL: Okay.

16 THE COURT: I'll ask them. But I don't want to go any
17 more than 10 -- 10 -- 15 minutes.

18 MR. IGNALL: All right.

19 MR. CRISTALLI: That's between Chad and --

20 MR. IGNALL: Well --

21 MR. CRISTALLI: I think it's impossible.

22 MR. IGNALL: I just thought I'd raise that. I
23 understand it is what it is.

24 MR. CRISTALLI: It's --

25 THE COURT: It's not possible?

1 MR. CRISTALLI: I'm thinking that there's quite a bit
2 of material maybe that I'm not gonna get into that I know that
3 Mr. Bowers probably will get into and I don't know what
4 Mr. Schiff has.

5 THE COURT: Well, let's focus on something more
6 important than --

7 MR. BOWERS: You know, your Honor --

8 THE COURT: -- whether he complained to the Grand Jury
9 about Ritalin.

10 MR. CRISTALLI: I'm movin' on.

11 THE COURT: All right.

12 (Pause in the proceedings.)

13 (Jury enters the courtroom at 3:24 p.m.)

14 THE COURT: Please be seated.

15 Will counsel stipulate to the presence of jury?

16 MR. NEIMAN: Yes, your Honor.

17 MR. BOWERS: Absolutely, Judge.

18 THE COURT: Thank you.

19 Mr. Cristalli.

20 MR. CRISTALLI: Yes, your Honor. Thank you.

21 THE COURT: Go ahead.

22 BY MR. CRISTALLI:

23 Q. Mr. Lewis, I'm gonna now move to, um, the time when you --
24 you began, um -- or you made a request to file exempt on your
25 W-4's basically. Correct? You basically told your employee --

1 -er who was the -- is it the City?

2 A. Yes.

3 Q. -- that -- not to take withholdings out of your paycheck.

4 A. That's correct.

5 Q. In fact, that, um, escalated to the point that you had to
6 sue your employer -- employer; correct?

7 A. That's correct.

8 Q. Okay. And, um, you went through that process for a period
9 of time until, um, your job was in jeopardy. Would that be safe
10 to say?

11 A. Till it was this -- the case was dismissed.

12 Q. Okay. So you litigated it up and to the point where
13 ultimately a court decided to dismiss the case?

14 A. (Nods head affirmatively.)

15 Q. Now, with regard to your studies and your research, you also
16 had an opportunity to inquire about the legality of your belief
17 system with -- with a lawyer, with a licensed attorney; correct?

18 A. I was directed to a person that, uh, uh -- an attorney or
19 accountant that could write a legal letter that, uh -- that
20 would have more weight than me writing a letter to the
21 government or given to my employer. So I -- I basically sought
22 this person out and -- and, uh, um, wanted him to write a
23 letter. And he did. You know, it cost me 50 bucks to get the
24 letter written.

25 Q. Okay.

1 MR. CRISTALLI: May I approach, your Honor?

2 THE COURT: You may.

3 BY MR. CRISTALLI:

4 Q. I'm gonna approach with my Proposed -- Defendant's Proposed
5 [sic] -- Proposed Exhibit 2504. I'm sorry.

6 MR. BOWERS: For the Court's attention and the clerical
7 matter, it's also 2843. It doesn't need to be admitted twice,
8 but I don't know how to handle it.

9 BY MR. CRISTALLI:

10 Q. Without commenting on it, Mr. Lewis, I just want to have you
11 take a look at it and tell me whether or not you recognize that.

12 A. (Reviewing document.) Yes, I do.

13 Q. And, uh, Mr. Lewis, that is a letter written to you from,
14 uh, a law firm out of, uh, Imperial, Nebraska, specifically an
15 attorney by the name of Guy Curtis; is that correct?

16 A. It appears that he was an attorney, and that's correct.

17 Q. Okay. And you did recognize the document. True?

18 A. Yes.

19 MR. CRISTALLI: Your Honor, I'd like to move for it's
20 admission.

21 THE COURT: Any objection?

22 MR. NEIMAN: Yeah. We would object. It's hearsay
23 primarily.

24 THE COURT: What is the purpose of the document?

25 MR. CRISTALLI: Uh, your Honor, this is a -- an opinion

1 from a licensed attorney, um, giving Mr. Lewis advice, legal
2 advice, and recommendations as it relates to --

3 THE COURT: Let me see it.

4 MR. CRISTALLI: Yes, sir.

5 MR. BOWERS: Your Honor, I need to join [sic] in that
6 objection because it's my exhibit offered for a similar purpose
7 and there's a hearsay exception to the effect that this had on a
8 listener or -- in this case, since it's a written statement, as
9 the reader of the letter.

10 MR. SCHIFF: I also would like to offer an objection
11 because I got this from the Government which shows that he's
12 going to other sources than myself for information.

13 (Discussion between Mr. Leventhal and
14 Mr. Schiff.)

15 THE COURT: So you're joining in the objection of the
16 Government, both of you?

17 MR. BOWERS: Yeah. And I -- I have additional thoughts
18 on the Court's concern about other objections. But we'll wait.

19 MR. NEIMAN: Mr. Bowers, I believe, is opposing the
20 Government's objection.

21 MR. BOWERS: Yes, that's correct.

22 THE COURT: Oh, I thought --

23 MR. BOWERS: I'm sorry. I misspoke, your Honor. I am
24 in agreement with Mr. Cristalli regarding this letter.

25 THE COURT: Oh, I see.

1 MR. BOWERS: And, in response to the Government's
2 objection that it's hearsay, I am offering that it is offered
3 for the effect on the reader or hearer of the letter as an
4 exception to the hearsay rule.

5 THE COURT: Okay.

6 MR. NEIMAN: Your Honor, we haven't heard whether or
7 not Mr. Lewis did in fact -- did in fact rely on this or -- all
8 he said is he paid 50 bucks and this letter came and what he
9 used it for, more or less.

10 THE COURT: Well, this is a -- is a hearsay document
11 and it's -- it's -- it's -- I can see by reading it -- you can
12 get an attorney to -- to say almost anything. But this -- this
13 is just -- to admit this would be to confuse the -- the jury
14 because it's an incorrect --

15 MR. BOWERS: Well --

16 THE COURT: -- statement. And I'm not allowing it in.
17 I will allow you to question him as to whether he relied on it.
18 But this is -- without characterizing how -- how I really feel
19 about it, is not coming in.

20 MR. BOWERS: Just for the record, your Honor --

21 MR. CRISTALLI: Your Honor --

22 MR. BOWERS: -- it's not being offered in any way to
23 demonstrate what the law is. It's simply being offered for the
24 purpose of showing what materials Mr. Lewis had available to him
25 with respect --

1 THE COURT: Well --

2 MR. BOWERS: -- to the law.

3 THE COURT: -- he can certainly say what his response
4 was to this letter. But it's not coming in as an item of
5 evidence --

6 MR. SCHIFF: Your Honor --

7 THE COURT: -- because its prejudicial --

8 MR. SCHIFF: -- may I --

9 THE COURT: -- aspects are far overcoming any probative
10 value than it has. So that's the ruling.

11 MR. CRISTALLI: And, your Honor, just --

12 MR. SCHIFF: Your Honor -- I'm sorry. Can I offer a
13 comment on this?

14 THE COURT: No. I've ruled.

15 MR. CRISTALLI: Your Honor, just in response to the
16 Court's statement in terms of lawyers being able to write almost
17 anything. I certainly think lawyers have not only ethical but
18 legal responsibilities to abide --

19 THE COURT: They certainly do.

20 MR. CRISTALLI: -- by the law.

21 THE COURT: They certainly do. And, uh, I wonder about
22 this one. But it's not coming in.

23 MR. BOWERS: Your -- one final thought, your Honor.
24 Um, I'll address this another time. Thank you, Judge.

25 THE COURT: You may ask the witness about the letter.

1 It's not coming into evidence.

2 MR. CRISTALLI: Yes, sir. Thank you. Um, you said I
3 can ask him about it?

4 THE COURT: You can ask him if he relied on it; you
5 can't ask him to quote from it. You can ask him if he relied on
6 it.

7 MR. CRISTALLI: Just a minute.

8 May I approach to get the document back?

9 THE COURT: You may. And I order you not to quote from
10 it.

11 MR. CRISTALLI: Yes, sir.

12 BY MR. CRISTALLI:

13 Q. Um, Mr. Lewis, it's safe to say you did inquire with a
14 lawyer who was licensed, uh, not only in the State of Nebraska
15 but in other jurisdictions, specifically the Ninth Circuit, uh,
16 United States Court, um, in regard to what you were doing and
17 procedures you were taking with regard to it.

18 Um, did you rely on that document in continuation of
19 the procedures that you were implementing, what you were doing?
20 Did you rely on that piece of, uh, material?

21 A. No. Mostly on Irwin Schiff's material.

22 Q. Okay. Uh, sir, you also -- not only -- not only did you
23 prescribe to the tax beliefs that were taught at Freedom Books
24 but you also prescribed to other unconventional tax ideas.
25 Would that be safe to say?

1 A. What do you mean?

2 Q. Well, um, do you, um -- did you prescribe to something by
3 the name of Lynne Meredith, Vultures in Eagles Clothing, How to
4 Cook a Vulture? Do you recall that?

5 A. No.

6 Q. What about Thurston Bell? Do you recall that?

7 A. No.

8 Q. How about are Larkin Rose?

9 A. No.

10 Q. Do you recognize those as other unconventional tax ideas
11 that are not related to Mr. Irwin Schiff?

12 A. I think those are Internet sites.

13 Q. I'm sorry?

14 A. I think those are people that run Internet sites.

15 Q. And you prescribed to those Internet sites?

16 A. I didn't buy any of their products, no.

17 Q. But you researched them?

18 A. I looked at them, yeah.

19 Q. Okay. Other -- other individuals like Eddie Kahn?

20 A. Yes.

21 Q. Peymon Freedom Law School -- do you recall that?

22 A. I don't -- I don't recall that. I look at a lot of sites, a
23 lot of Web sites.

24 Q. Those are Web sites unrelated to Mr. Schiff; correct?

25 A. That's correct.

1 Q. Ed Rivera, Reliance Defense -- do you recognize that?

2 A. I've heard that.

3 Q. Okay. So there was a number of other citations, material
4 that you prescribed to that were unrelated to Mr. Schiff's --
5 Mr. Schiff's teachings; correct?

6 A. I looked at and studied it.

7 Q. You also read -- wrote a letter to the United States Supreme
8 Court; correct?

9 A. Yes.

10 (Pause in the proceedings.)

11 MR. CRISTALLI: And, your Honor, the Government does
12 not have an objection to this proposed Defendant's exhibit. If
13 your Honor wants to take a look at it, obviously, before I
14 approach the witness with it.

15 THE COURT: Let me -- what is the number?

16 THE CLERK: 2505, your Honor.

17 THE COURT: 2505.

18 MR. NEIMAN: Your Honor, for the record, the Government
19 will cover this on redirect if --

20 THE COURT: It's a letter from -- it's a letter from
21 the witness. Why wouldn't it come in?

22 MR. NEIMAN: Yeah, Government doesn't object.

23 THE COURT: Received.

24 MR. CRISTALLI: Thank you, your Honor.

25

1 (Defendant Neun's Exhibit No. 2505, received
2 into evidence.)

3 MR. CRISTALLI: If Mr. Lewis could take a copy of that,
4 I would appreciate it.

5 BY MR. CRISTALLI:

6 Q. Uh, and, Mr. Lewis, you recognize that writing, that
7 document?

8 A. Yes. This is kinda -- kinda like a pieced-together letter,
9 ys.

10 Q. That was generated by yourself; correct?

11 A. Yes, I actually put this letter together.

12 Q. I'm sorry?

13 A. Yes, after the -- I was requested to do this, yes.

14 Q. You were requested to write this letter?

15 A. Yes.

16 Q. Okay. You wrote this on your own accord. True? Nobody
17 wrote it for you; correct?

18 A. No one wrote it for me. I put it together from -- I mean,
19 if you look at the language, I don't normally write like that.
20 But I put this together.

21 Q. Okay.

22 MR. CRISTALLI: May I have the...

23 THE CLERK: Sure. You want the ELMO?

24 MR. CRISTALLI: Yes.

25 THE CLERK: It is actually on. You need to just touch

1 the button to turn the lights on.

2 MR. CRISTALLI: Okay.

3 And, your Honor, I probably should move to its -- move
4 to have this exhibit entered into evidence before I put it on
5 the screen.

6 THE COURT: I already admitted it.

7 MR. CRISTALLI: Thank you.

8 (Document displayed in open court.)

9 BY MR. CRISTALLI:

10 Q. And, sir, this is a letter that you sent to the United
11 States Supreme Court; correct?

12 A. That's correct.

13 Q. And, uh, basically you cited in there specifically that "The
14 rulings of the lower courts, show them to be a suppressive
15 court, and a court that is trying to prevent the Browns along
16 with every other American from flourishing and prospering";
17 correct?

18 A. Yes. That was something I got from another document.

19 Q. Okay. And you are writing this --

20 A. I wrote that.

21 Q. You are writing this letter in response to a case,
22 specifically Brown v. US?

23 A. I was requested to do this letter, yes. I don't know very
24 much about the case, but I was requested to write a letter to
25 help.

1 Q. Well, you wrote -- you wrote the letter, though --

2 A. Correct.

3 Q. -- correct?

4 Nobody forced you to write the letter. True?

5 A. No one had a gun to my head, no.

6 Q. Correct.

7 And let me go a little further with regard to it.

8 (Pause.)

9 And on the bottom here, right here at end, you say that

10 "The truth is not determined by its appeal but the evidence. So

11 as an American wage earner I respectfully request that this

12 Court grant [cert] in the case of Brown v. US..." And it says,

13 "It involves a tax that affects every working American, the

14 Federal 'wage tax'; yet no court has ever considered the

15 legality of this tax. Therefore, the Supreme Court must

16 consider it now." Right?

17 A. Yes, that's correct.

18 Q. And then you signed off on that document --

19 A. Yes.

20 Q. -- true?

21 A. I think Freedom Books have a copy of this.

22 Q. And you're saying that that's part of the Freedom Books

23 package?

24 A. No. I wrote this after -- I think it was Cindy that

25 requested -- I just -- the Browns where, I guess, a client of

1 theirs.

2 Q. I'm sorry?

3 A. -- the Browns --

4 Q. Correct.

5 A. -- was a client of Freedom Books. And they had, like, a
6 letter-writing campaign for some of the people that, uh, were
7 associated with Freedom Books to write this letter and send it
8 to the court. If you look at the date, it was like a month
9 after I filed my 1040X's. I really believed that what I was
10 putting in this letter was correct and true.

11 Q. Okay. So would it be safe to say, sir, then you were doing
12 a little bit more in terms of your participation with Freedom
13 Books than just acting as a customer or as a client of Freedom
14 Books?

15 A. I wouldn't, no.

16 Q. I'm sorry?

17 A. I couldn't judge what other people -- I have no idea.

18 Q. I'm asking you specifically.

19 You were doing a little bit more in terms of your
20 involvement with the movement than just be a customer and filing
21 your own returns; correct?

22 A. What do you mean?

23 Q. Well, you were participating directly in soliciting the
24 United States Supreme Court; correct?

25 A. I guess you could say that, yes.

1 Q. Um, you were representing individuals in due process
2 hearings, were you not?

3 A. I represented one person --

4 Q. Okay.

5 A. -- one. The people that got me into Freedom Books.

6 Q. You represented --

7 A. Wait a minute. Two people, two groups of people.

8 Q. You represented in a due process --

9 A. Yes.

10 Q. -- hearing; correct?

11 A. Yes, I did. Without getting paid, of course.

12 Q. Okay. So, for a period of time, you were actually involved
13 in Freedom Books and the teachings in Freedom Books; correct?

14 A. I was actually involved in researching, yes.

15 Q. And you also went outside of Freedom Books and Freedom
16 Books's teaching to try to gather other information as it
17 related to nontraditional tax ideas; correct?

18 A. Uh, the research to validate everything I was doing.

19 Q. I'm sorry?

20 A. Yes. The research was to validate everything I was doing.
21 I went outside lookin' at law cases, opinions, and stuff like
22 that.

23 Q. And --

24 A. I did do that.

25 Q. And, at that particular time in your life, you believed that

1 you found, uh, information and documentation and research to
2 support your position?

3 A. I felt, uh --

4 Q. You believed in your position?

5 A. I believed in Irwin Schiff's position --

6 Q. Well, you --

7 A. -- in Freedom Books.

8 Q. -- adopted -- you adopted --

9 A. I adopted it, yes.

10 Q. Um, and that cost you a lot. It cost you your belief,
11 correct, in that you can't -- can't interact with your church
12 any longer?

13 A. I'm in good standings with them. I'm square with the
14 Internal Revenue Service and --

15 Q. And --

16 A. So --

17 Q. -- and, sir, wasn't it -- in terms of, um, getting back
18 involved in your church -- and that's the Church of Scientology;
19 correct?

20 A. Yes.

21 Q. -- in terms of getting back involved in your church, one of
22 the conditions was that you square everything up with the IRS?

23 A. Yes. Stop participating in this whole...

24 Q. Correct.

25 And part of squaring up with everything with the IRS is

1 testifying here today. True?

2 A. Yes.

3 Q. Okay.

4 MR. CRISTALLI: Court's indulgence.

5 THE COURT: Yes.

6 MR. CRISTALLI: I have no further questions, your
7 Honor.

8 THE COURT: Thank you.

9 Mr. Bowers, are you going next or...

10 MR. BOWERS: No, your Honor. Mr. Schiff can go on.

11 THE COURT: Okay.

12 (Pause in the proceedings.)

13 THE COURT: Mr. Bowers, how much time do you think your
14 examination will take?

15 MR. BOWERS: Quite a while. I -- I don't anticipate
16 that even with a short examination from Mr. Schiff that I would
17 be able --

18 THE COURT: Yours is gonna take more than a half hour?

19 MR. BOWERS: At or about that amount of time, possibly
20 more.

21 THE COURT: All right.

22 Mr. Schiff, I need you to move along. We're waiting
23 for you.

24 MR. SCHIFF: Okay. I had -- I had it right here.

25 THE COURT: Okay. Mr. Bowers, you go ahead.

1 MR. SCHIFF: I'm sorry.

2 MR. BOWERS: Court's indulgence for just a moment, your
3 Honor.

4 MR. SCHIFF: I'm sorry. I apologize. I have so many
5 documents.

6 (Pause in the proceedings.)

7

8 CROSS-EXAMINATION

9 BY MR. BOWERS:

10 Q. Good afternoon, Mr. Lewis.

11 A. Good afternoon.

12 Q. I'm Chad Bowers. I'm Lawrence Cohen's attorney.

13 Um, did you say, did I hear you correctly, that, uh,
14 Mr. Cohen explained about not being paid enough money at one
15 point working at Freedom Books?

16 A. Yes.

17 Q. And indeed I believe, if I'm correct -- and I'm trying to
18 clarify this -- you stated that Larry told you he was being paid
19 minimum wage; is that correct?

20 A. That's correct.

21 Q. And so did you draw any inferences about Larry's financial
22 motivations at Freedom Books when he made that statement to you?

23 MR. NEIMAN: Objection. Speculation.

24 MR. BOWERS: I'm asking if the conclusions were drawn,
25 not what they were.

1 THE COURT: Well, I'll allow the question. Is it --

2 BY MR. BOWERS:

3 Q. Would you like me --

4 THE COURT: -- for --

5 BY MR. BOWERS:

6 Q. -- to ask it a different way?

7 THE COURT: -- for --

8 BY MR. BOWERS:

9 Q. Do you understand, Mr. Lewis?

10 THE COURT: -- his impression only it comes in.

11 MR. BOWERS: Thank you, your Honor.

12 THE WITNESS: From what I heard from Larry, I thought
13 that everybody was paid minimum wage, the whole staff --

14 MR. BOWERS: Okay.

15 THE WITNESS: -- Larry and everyone else.

16 BY MR. BOWERS:

17 Q. Okay. Let -- let -- let me ask this a different way.

18 Did the statement Larry made leave you with the
19 impression that he was involved with Freedom Books for --
20 because it was lucrative for him, that he was happy about that
21 amount of money?

22 A. It made it sound like he was upset that he wasn't getting
23 more money.

24 Q. It wasn't worth the money. Is that -- is that a fair
25 characterization? He wanted more?

1 A. See, I don't know how much he -- I mean, no, I can't say
2 that.

3 Q. Let me clarify.

4 We're not talking about what Larry made or didn't made
5 [sic] or had or didn't have. What we are talking about is -- is
6 the reference between -- that he had made to you at some point
7 about his money at Freedom Books, if any, and what impression
8 you got from that. And -- and I have understood your testimony
9 to believe that -- that you were left with the impression that
10 he really wasn't makin' very much and it wasn't worth it. But
11 I'm trying to clarify that. Was I --

12 A. Not from Freedom Books, no.

13 Q. Okay. Okay. And did you -- you also, I believe, referenced
14 the fact that a Toni, an employee named Toni, had a discussion
15 with you about money at one point. Was that correct or I'm
16 mistaken there?

17 A. I believe that was mistaken. I mean, I knew that they got
18 paid. I didn't see the actual money in the checks.

19 Q. Let me ask the question --

20 A. But I --

21 Q. I'm sorry to cut you off.

22 A. I don't know how much each individual got because, you know,
23 not everybody complained.

24 Q. Okay.

25 MR. BOWERS: I'm gonna -- I'm gonna move to strike that

1 as nonresponsive, but...

2 THE COURT: The -- the question was: And you also, I
3 believe, I referenced the fact that a Toni, an employee, had
4 discussion with you about money at that point. Am I correct?

5 "I think that was mistaken" is his response. "I mean,
6 I knew that they got paid. I didn't see the actual money in the
7 checks."

8 And the next thing you did was move to strike his
9 answer as unresponsive. It was responsive.

10 MR. BOWERS: Okay.

11 BY MR. BOWERS:

12 Q. Do you recall Toni complaining about money or not?

13 A. No, not --

14 Q. Okay. Thank you. My fault. I just want to clarify.

15 Mr. Cristalli addressed with you a little bit of your
16 feelings about what your involvement with Mr. Schiff had cost
17 you and he discussed your -- your relationship. And I don't --
18 I don't want to go back into that again other than to say that
19 there are some documents I've seen that talk about a divorce and
20 a fiancée. There's -- there's only one individual we're talking
21 about; correct?

22 A. Yes, um, yes. Actually, I think, um, prior -- yeah, at the
23 Grand Jury, I should -- I should have said it cost me a marriage
24 with -- with regards to getting married, uh, during that process
25 when I was involved with Irwin Schiff, uh, and, uh, I might have

1 been mistaken --

2 THE COURT: He's saying --

3 THE WITNESS: -- with regards --

4 THE COURT: -- he didn't get --

5 THE WITNESS: -- to the divorce.

6 THE COURT: -- married then.

7 BY MR. BOWERS:

8 Q. It's the same person though. That's all I'm really --

9 THE COURT: Yeah.

10 BY MR. BOWERS:

11 Q. -- asking.

12 A. Yeah.

13 THE COURT: He said that.

14 THE WITNESS: I am -- I am divorced but not with this
15 person.

16 BY MR. BOWERS:

17 Q. To another person totally unrelated to you being involved
18 with them during this time frame we're talking about; right?

19 A. Right.

20 Q. Okay. You also had mentioned in the past that, um,
21 something about this process had interfered with your
22 relationship with your son; is that correct?

23 A. Yes.

24 Q. And, just so I'm clear, because I don't quite understand,
25 are you saying that your involvement with Freedom Books was

1 the -- and Irwin's teachings or the amount of research and time
2 you had devoted to this topic in general was the problem?

3 A. He was living -- living with me when I got involved with
4 Freedom Books. I actually -- actually won a court case where I
5 got custody of him. And he saw -- saw what I was doing. He was
6 afraid for me.

7 Q. I'm sorry. You had custody of him at or about -- at some
8 point along the way --

9 A. Um-hum.

10 Q. -- and he became afraid of what you were doing --

11 A. Yes.

12 Q. -- after that?

13 A. Yes.

14 Q. Okay. And was he afraid of what you were doing with Irwin
15 Schiff or was he afraid of what you were -- the other things
16 that you were involved in that -- that involved some
17 nontraditional ideas?

18 A. He was afraid that, uh, our house would be taken [sic] away
19 from us because I was, uh, following Irwin Schiff's material.

20 Q. Okay. But you were also -- well, I understand that. But
21 here's my question: You were also following a number of
22 other --

23 A. Yes.

24 Q. -- nontraditional tax things; is that correct?

25 A. Exactly.

1 Q. Did that --

2 A. That's what he's saying.

3 Q. -- did that cause him any concern?

4 A. Um, I'm sure it did. But I don't think he knew that -- you
5 know, that I was studying -- researching a large thing. All he
6 knew was Irwin Schiff because he heard some of the radio
7 programs and he saw some of the literature around there. A lot
8 of the research I did was either off the Internet or in the
9 library so he wasn't preview [sic] to that.

10 Q. Okay. And that's --

11 A. So he was concerned as a son would be. He was concerned
12 because, you know, he's listened to the radio programs and he's
13 heard a few things that he talked about.

14 Q. Well, he's a young man and he can identify Irwin Schiff in
15 connection with whatever you're doing even if there's other
16 things he doesn't know about. That's what you're saying; right?

17 A. That's all he --

18 Q. That's fair.

19 A. -- yes.

20 Q. Okay.

21 A. So I wouldn't say that he -- you know.

22 Q. Okay. Well, that -- that's fair. I'm not -- I'm just
23 trying to clear these things up. I'm not trying to trick you.
24 I think that's absolutely fair.

25 You -- you attended a CPD, meaning "collection due

1 process" hearing --

2 A. Um-hum.

3 Q. -- with the Riveras; is that correct?

4 A. Yes.

5 Q. And the Riveras, one or the other of the Riveras, they were
6 a couple. One or the other of them was a person initially
7 introduced you into the -- uh, the teachings of Irwin Schiff;
8 correct.

9 A. Yes.

10 Q. Okay. And you had made a statement to the Grand Jury that
11 you felt, uh, you had gathered such a command of -- of the
12 materials of Irwin, uh, that you -- you were capable of
13 representing these people in front of the collection due process
14 hearing even though, um, you -- you had not been involved in --
15 in Irwin's program as long as they have; correct?

16 A. Yeah. I felt that I was, uh -- I knew enough about, uh, the
17 due process hearing from what I had purchased that I could, uh,
18 represent them. They -- they personally asked me; they wanted
19 me to do it. And I had --

20 Q. Sure.

21 A. -- felt that I -- and they -- you know, they felt that I
22 could, too, articulate myself, you know.

23 Q. But -- and my question doesn't go to them. I'm just asking
24 you -- you felt that; right?

25 A. I felt that.

1 Q. Okay. And you went?

2 A. Yes.

3 Q. Okay. And, uh, you -- you didn't get any compensation or
4 trade for your services in going; is that correct?

5 A. No, I did not.

6 Q. Okay. Um, now, you -- you -- you mentioned that you were
7 doing, um, research into a number of different areas; is that --
8 is that right?

9 A. Yes.

10 Q. Okay. And so -- just so we're clear, there -- there's
11 Irwin's sort of program or Irwin's teachings and then there's
12 other things that you researched; is that right?

13 A. There's two things. There's -- one is lopsided, his showing
14 you that -- uh, how you're not liable for income tax --

15 Q. Um-hum.

16 A. -- and the other research that I did was, okay, let's see if
17 you're liable. I that that research also trying to find
18 documents that could prove the government's side.

19 Q. Okay. So what you're telling me is --

20 A. The first part of the research was all lopsided, was not
21 paying taxes.

22 Q. Okay. So --

23 A. Do you understand?

24 Q. -- so you did some research on how one might not pay taxes?

25 A. Um-hum.

1 Q. You did some research on why the government might require
2 you to pay taxes?

3 A. Um...

4 Q. Is that what you're testifying to?

5 A. Yes. But, uh, first of all, when I first got in Irwin
6 Schiff's movement or went to Freedom Books, all my study was
7 with regards to his material and materials like that. As it
8 went on, as I started getting things from the Internal Revenue
9 Service and talkin' with other people, I started looking to see
10 there has to be a law somewhere, a document or -- because I
11 could not find it using the research line that Freedom Book
12 [sic] offered.

13 Q. Well, and I -- I guess that's what I want to talk about is
14 your -- your comment that you relied on Irwin Schiff's materials
15 or materials like that. I want --

16 A. Um-hum.

17 Q. -- I want to be a little more --

18 A. Like that.

19 Q. Yeah.

20 A. Like that.

21 Q. That's the part I'm -- wondering about.

22 For example, the Government's provided me with a number
23 of documents, um, that -- that I believe you cited. We -- we
24 can go through them as needed. But --

25 A. Okay.

1 Q. -- they talk about some terms that appear to me to be
2 related to this notion of nontraditional tax but not part of
3 Mr. Schiff's program. Um, specifically, for example, like I
4 have -- and I can show the Government, but they are the ones who
5 provided it to us originally -- a, um, Affidavit of Specific
6 Negative Averment, which is signed and dated by you, uh,
7 September 17th, 2001.

8 A. That -- that was from a Richard Young who was a former --

9 THE REPORTER: I'm sorry. "A former" what?

10 THE WITNESS: Student of Irwin Schiff, a customer.

11 BY MR. BOWERS:

12 Q. Okay. But when you -- and this document was --

13 A. What date?

14 Q. -- notarized --

15 A. What date --

16 Q. -- as well --

17 A. -- what date was it?

18 Q. -- right?

19 A. What date was that notarized?

20 Q. This was notarized on August 30th by a Karen Blalock. I
21 can -- I can show you the document if that would --

22 A. What year?

23 Q. -- refresh your recollection.

24 A. What year?

25 Q. I'm sorry. What's that?

1 A. I'm not saying that I didn't do it. I want to know what
2 year that was done.

3 Q. Uh, 2004.

4 A. 2004? Are you sure?

5 Q. That's what the Notary says.

6 MR. NEIMAN: Your Honor, I'm gonna object to these
7 questions as being irrelevant.

8 THE COURT: What is the relevance?

9 MR. BOWERS: I'd absolutely like to address that
10 objection, your Honor.

11 THE COURT: What is the relevance?

12 MR. BOWERS: This witness in the Government's own words
13 is being offered as evidence of furtherance of the conspiracy
14 counts that my clients [sic] are charged with -- or all of us
15 are charged with. He is specifically stating that in addition
16 to Mr. Schiff's writings, at the time that he made these
17 decisions with respect to the -- his approach to the IRS, he had
18 researched and studied other programs.

19 I think I have a right to question the witness about
20 his beliefs and which of those are attributed to the alleged
21 conspiracy my client's involved with and which of those are
22 contributed to things that are wholly unrelated. And this
23 isn't -- this isn't just one thing. There are -- there are a
24 number of different items of these that have been adopted and
25 signed by the witness, uh, that espouse radically different, or

1 at least substantially different, approaches, uh, to these --
2 these taxation issues that are well apart from Freedom Books.
3 And I think we should have the opportunity to explore that with
4 this witness.

5 THE COURT: Well, I don't remember him saying that he
6 had investigated or researched other programs.

7 MR. BOWERS: Well --

8 THE COURT: I don't remember the word "programs" at
9 all. Is that what he said?

10 MR. BOWERS: With all --

11 THE COURT: Did you say you researched other programs?

12 THE WITNESS: Oh, God. Your Honor, I did a lot of
13 research back then. And I'm not proud of what I did. I looked
14 at a lot of different stuff and brought it to Cindy and brought
15 it to, uh, Larry. And they filed it in -- in their doc- -- in
16 their cabinet, their filing cabinet. And, um, some of them
17 said, "I'm gonna show this to Irwin Schiff." And, um -- you
18 know.

19 THE COURT: Did you buy materials or just look on the
20 Internet --

21 THE WITNESS: I looked --

22 THE COURT: -- for things?

23 THE WITNESS: I looked on the Internet. I bought the
24 things from the -- that thing from the attorney. Um, I --

25 THE COURT: Which attorney?

1 THE WITNESS: That one, um, that your not gonna allow.

2 THE COURT: Nebraska?

3 THE WITNESS: Yeah, Nebraska.

4 MR. BOWERS: Your Honor --

5 THE COURT: He was selling things?

6 THE WITNESS: I -- I didn't sell anything. I didn't
7 make no money off this deal.

8 THE COURT: No. The attorney sold you something?

9 THE WITNESS: Yes.

10 THE COURT: Okay. All right. Well, why don't we
11 just -- let's get on with this and ask him specifics. You're --
12 you're -- you know, you're --

13 MR. BOWERS: Well, that's what I was asking.

14 THE COURT: -- spending a lot of time on --

15 MR. NEIMAN: What's the date, Chad, of that document?
16 It's possible, also, your Honor, this is relating to something
17 post --

18 MR. CRISTALLI: Your Honor, I think we need sidebar on
19 this issue to be quite honest with you.

20 MR. BOWERS: Perhaps -- I -- I would agree with that
21 because the -- it would give me the opportunity to demonstrate
22 to the Court exactly what I'm talking about.

23 THE COURT: All right.

24 (Sidebar conference was held as follows:)

25 MR. CRISTALLI: Your Honor -- is everybody hear? --

1 first of all, with regard to, um, the letter that I was trying
2 to discuss with Mr. Lewis as related -- it was the opinion
3 letter from the lawyer in Nebraska -- what -- what it was is
4 basically he -- it was an opinion letter that he received and
5 then he attached it to a letter that he sent to the IRS.

6 Um, and I'm not sayin' that it -- it should be admitted
7 for truth of the matter asserted.

8 MR. BOWERS: Absolutely not.

9 MR. CRISTALLI: But it certainly has to do with, um,
10 um, with notice, um, and the information he relied on in --

11 THE COURT: You can ask him about it. I'm just not
12 gonna admit it to evidence because it's garbage as far as his
13 opinion of what the law is and the problems with the IRS. And
14 it's not going in because, as I said, its prejudicial effect and
15 it's -- it has a tendency to usurp the Court's instructions of
16 law that will be given.

17 MR. BOWERS: And I'll just add for the record: I
18 think, Judge, if you look at the actual law that the --

19 MR. SCHIFF: Can I --

20 MR. BOWERS: -- this is exactly what your instruction
21 will end up being.

22 MR. SCHIFF: Can I --

23 MR. BOWERS: That's it.

24 MR. SCHIFF: -- make a comment on that? Because that
25 was one of -- one of three letters and he said he paid for it.

1 Now, if you look in the Grand Jury testimony of Mr. Lewis, he
2 claimed -- he blames everything on me. Here he said that he
3 paid for these opinion letters. That was only one letter he --

4 THE COURT: He said that you sent them to this guy too.

5 MR. SCHIFF: I didn't -- I sent him to who?

6 MR. BOWERS: Whether there's evidence of that --

7 MR. SCHIFF: I didn't --

8 MR. BOWERS: There's a bunch of other stuff --

9 MR. SCHIFF: Hold it. Let me hear that again.

10 MR. CRISTALLI: You sent him to this lawyer.

11 MR. SCHIFF: I didn't send him to that lawyer.

12 MR. BOWERS: You can cross about that. But there's
13 more, Judge. There's --

14 MR. SCHIFF: That's nonsense.

15 MR. BOWERS: There's letters written to --

16 MR. SCHIFF: He said that?

17 THE COURT: He said that Freedom Books referred him to
18 the lawyer.

19 MR. SCHIFF: That's not true because he said --

20 THE COURT: Well, that's what he testified.

21 MR. CRISTALLI: You can --

22 THE COURT: Don't argue with me whether it's true or
23 not.

24 MR. SCHIFF: Well, I didn't --

25 THE COURT: That's what he said.

1 MR. SCHIFF: I didn't hear him.

2 MR. CRISTALLI: But there is --

3 THE COURT: I did. I heard him say Cindy sent him.

4 MR. CRISTALLI: There's additional documentation that
5 he has not -- he also has --

6 MR. BOWERS: All kinds of stuff.

7 MR. CRISTALLI: -- we have through the Government, by
8 the way, that basis supports our position that he not only
9 prescribed to the Freedom Books's philosophy but he prescribed
10 to a lot of unconventional philosophies as it relates to tax
11 and --

12 THE COURT: When? When in time?

13 MR. BOWERS: All of this -- all of this happens from
14 the appearance of the documents -- and we haven't had a chance
15 to ask him -- all this happens in 2001 after his initial
16 involvement with Freedom Books while he continues to be
17 involved --

18 THE COURT: After he sent the -- after he sent the
19 1040X's?

20 MR. BOWERS: -- but before, before he sent the alleged
21 return that -- the return that my client allegedly advised him
22 to send with the not liable.

23 MR. NEIMAN: If that was in reliance, that's fine.
24 The --

25 THE COURT: Yeah.

1 MR. NEIMAN: -- the issue -- the witness is testifying
2 here as to what he did in furtherance of this conspiracy.

3 THE COURT: Right.

4 MR. NEIMAN: If they want to attack that from any which
5 way, they can.

6 MR. BOWERS: That's all I'm trying to do.

7 MR. SCHIFF: So he said that Cindy sent him to this
8 Mr. -- Mr. --

9 MR. BOWERS: Please, Irwin. Irwin, just a moment.
10 Let's try to get through this here for a second.

11 Go ahead, Jeff. What were you saying?

12 MR. IGNALL: It seems -- if any of these documents he
13 can testify about that he relied on them or some reason that he
14 sent in the tax return that Larry suggested, then I think
15 that's --

16 THE COURT: Let's focus on it.

17 MR. IGNALL: -- I think that's relevant.

18 THE COURT: We're losing focus.

19 MR. IGNALL: But if it hasn't --

20 THE COURT: Focus on 'em.

21 MR. IGNALL: -- it doesn't involve why he did something
22 that we've alleged --

23 THE COURT: It's already --

24 MR. IGNALL: -- part of this conspiracy --

25 THE COURT: It's already --

1 MR. IGNALL: -- I don't see what the relevance is.

2 THE COURT: You know, that's the whole thing. It's --

3 MR. CRISTALLI: The whole --

4 THE COURT: -- not relevant unless it relates to
5 furtherance of the conspiracy and that means sending in the,
6 uh --

7 MR. NEIMAN: The 1040X --

8 THE COURT: -- not liable --

9 MR. NEIMAN: -- and the not liable.

10 THE COURT: -- return.

11 MR. CRISTALLI: And, then, the only other --

12 THE COURT: I'm trying to remember the terminology.

13 MR. CRISTALLI: The only other issue is this --

14 THE COURT: I didn't pick that up in law school. I'm
15 having trouble remembering it.

16 MR. CRISTALLI: This -- this contradicts the
17 Government -- the documentation that we were gonna present in
18 terms of other unconventional tax theories contradicts the
19 Government's position that the only reason he held these beliefs
20 is because Irwin swindled him into it.

21 THE COURT: Well, he got him started down the path
22 and --

23 MR. BOWERS: Well, I know. But should we --

24 THE COURT: The fact this he --

25 MR. BOWERS: He --

1 THE COURT: -- wondered off the path a little bit to
2 check the --

3 MR. SCHIFF: Little bit?

4 MR. BOWERS: A little bit --

5 MR. SCHIFF: Little bit -- he makes a contract with
6 himself. Did you see that contract?

7 MR. BOWERS: I cannot believe --

8 THE COURT: It doesn't matter how wild he went
9 unless --

10 MR. BOWERS: -- I'm about to agree within Irwin in
11 matter of furtherance.

12 THE COURT: -- it relates to furtherance of the
13 conspiracy.

14 MR. SCHIFF: You know what he told the Grand Jury, your
15 Honor?

16 THE COURT: I don't care.

17 MR. SCHIFF: When he came to me with some of these
18 ideas, I wouldn't listen to him. And he inferred that the ideas
19 he got was how to pay taxes.

20 MR. BOWERS: Your Honor, this -- with all due respect,
21 there's nothing about this that reflects a little bit.

22 MR. SCHIFF: It's way out.

23 MR. BOWERS: He's testified that he lived the life.
24 Every -- his exact quote is "every waking moment."

25 MR. SCHIFF: And you got that when he makes a contract

1 with himself?

2 MR. IGNALL: Your Honor --

3 MR. CRISTALLI: I mean, that's just fair.

4 MR. IGNALL: -- going into anything that he's done that
5 we've alleged as part of this conspiracy.

6 MR. BOWERS: We don't know.

7 THE COURT: That's the question.

8 MR. BOWERS: That's the --

9 MR. IGNALL: You can ask him that.

10 MR. BOWERS: Well, I've been trying to ask him, but
11 I -- I need -- he doesn't acknowledge the existence of these
12 documents.

13 THE COURT: You need to move faster.

14 MR. SCHIFF: Well, he signed them. He signed them.

15 THE COURT: Only if it relates to furtherance of the
16 conspiracy, which means --

17 MR. CRISTALLI: The 1040.

18 THE COURT: -- if this is something he did before X, Y,
19 and Z --

20 MR. BOWERS: Okay. Well, let me -- let me ask him what
21 X, Y, and Z are so we can answer that question right here. X,
22 Y, and Z, his 1040 returns, these are done after --

23 THE COURT: Right.

24 MR. BOWERS: -- but X, Y, and Z --

25 THE COURT: Right.

1 MR. BOWERS: -- are also not liable returns, which
2 these are all done before.

3 THE COURT: He only about did one not liable.

4 MR. BOWERS: Well --

5 MR. SCHIFF: If I had known that Larry --

6 MR. BOWERS: Your Honor, if I were to say my client
7 only did one act --

8 THE COURT: Yeah.

9 MR. BOWERS: -- in furtherance of the conspiracy --

10 THE COURT: But he only did one.

11 MR. BOWERS: -- is that a legal defense?

12 THE COURT: You don't say -- he only did one not label
13 return. I --

14 MR. BOWERS: I agree.

15 THE COURT: -- understand that.

16 MR. CRISTALLI: I think --

17 MR. BOWERS: But he did it after --

18 MR. CRISTALLI: -- I think he's being a little--

19 THE COURT: Then ask him if he relied on that.

20 MR. BOWERS: If he relied on it -- well, then that's
21 it. Just let me ask him if he relied on it.

22 MR. NEIMAN: To do the not liable or to do the zero
23 return?

24 THE COURT: You gotta focus on that. I'm gonna hold
25 you to it.

1 MR. BOWERS: Okay. So you're gonna let me do exactly
2 what? Did you rely on these materials --

3 THE COURT: In doing --

4 MR. BOWERS: -- to make a decision about --

5 THE COURT: -- X, Y, and Z or you. "You" as the...

6 MR. BOWERS: Okay.

7 (Sidebar conference concluded and the
8 following is held in open court:)

9 THE COURT: What you can do to save time is you can
10 hand them all up to him and ask him, uh, as a group if he relied
11 on any of those in doing the 1040X's or the --

12 MR. BOWERS: May I -- may I approach with these
13 documents, your Honor --

14 THE COURT: Not liable return.

15 MR. BOWERS: -- and just stand next to him while we do
16 this?

17 THE COURT: Sure.

18 MR. BOWERS: All right.

19 BY MR. BOWERS:

20 Q. Mr. Lewin [sic] --

21 THE COURT: Mr. Lewis.

22 BY MR. BOWERS:

23 Q. Go ahead and put your glasses on there.

24 I'm going to hand you a series of documents that --
25 that contain your signature or somehow indicate they are

1 addressed to you and I'm gonna ask you the following question
2 about each of them.

3 A. Okay.

4 Q. Okay? And the question is: Did these documents affect your
5 opinion, uh, in one way or another, uh, regarding the filing of
6 either the not liable return that you filed with Mr. Cohen in
7 2001 allegedly or the 1040X returns that you filed in 2000? Do
8 you understand my question?

9 A. The, uh, if I understand your question, these, uh -- this
10 one did affect it. It kinda validated the, uh -- the, uh, uh --
11 the 1040X's. I --

12 Q. Okay.

13 A. -- particularly after Irwin Schiff might not -- anyway.

14 Q. For the time being -- I don't wanna argue with ya. I just
15 wanna be very clear -- it's my understanding that the letter
16 here addressed to you from Floyd Wright had an influence, that
17 you relied on this to some extent in other in making decisions
18 about filing either the 1040X's or the 2001 amended --

19 A. To continue on with Irwin Schiff.

20 Q. Okay. Now, number two is a document I have here --
21 actually, I probably can't show you that one because I need to
22 show it to the Government first.

23 Number two, I have a document dated December 13th, 2005
24 [sic], entitled, "Declaration of Expatriation and Repatriation,"
25 which is signed by you. Now, again, the only question for the

1 time being is: Did you rely on this in any way in making
2 decisions about either electing to file the 2001 not liable
3 alleged return or the 1040X, uh, amended returns of -- of
4 Mr. Schiff before this date?

5 A. No. This -- I -- I actually got this from other student.
6 But anyway... No, I didn't -- I didn't rely on this to file the
7 amended returns and the, uh --

8 Q. And you didn't rely on it at all in your decision regarding
9 the not liable return?

10 A. (Reviewing documents.)

11 THE COURT: Are we talking -- according to what I've
12 just heard, you said December --

13 THE WITNESS: In part --

14 THE COURT: -- 13th, 2005, Mr. Bowers.

15 MR. BOWERS: No. That was incorrect, your Honor.
16 2001. I misspoke.

17 THE COURT: All right.

18 BY MR. BOWERS:

19 Q. Okay. So --

20 THE COURT: Okay.

21 BY MR. BOWERS:

22 Q. -- if I understand what you just told me correctly, you said
23 in part you relied on this document entitled, "Executive Office
24 of the President Expatriation/Repatriation" as it relates to
25 your decision to file the returns that Mr. Cohen talked to you

1 about; is that right? Just in part.

2 A. Well, in -- in part. I --

3 Q. Okay.

4 A. -- I did pay for this too.

5 Q. Okay. Well, that's fine. I just want to make sure that
6 we're on the same page.

7 Now, there's another document labeled December 18th,
8 2001. Your -- your name's at the top of this. Like the last
9 document, it bears your signature. And it states, uh, mainly,
10 you know, "Declaration of Nonterrestic (phonetic) Status and
11 Formal and Constructive Notice."

12 Now, again, for the time being, the limited question
13 is: Did this document in any way, um, affect your decision to
14 either file 1040 returns or the not liable return in 2001? And
15 this may be part of it. I -- I'm not sure, this other paper
16 here.

17 A. Well, um, when you consider the timeline on these documents,
18 um, I was, uh, I hadn't filed the not liable.

19 Q. Right.

20 A. So, um, this was not Irwin Schiff's stuff. So I --

21 Q. Sure.

22 A. Um...

23 Q. So --

24 A. My reasoning, yeah, on --

25 Q. So the question is: Did -- did this -- the opinions

1 expressed or your thoughts about this document in any way affect
2 your decision to file -- or follow Larry's alleged advice --

3 A. Well --

4 Q. -- regarding writing that -- that not liable return?

5 A. Uh, this is hard. Your questions are hard.

6 Q. That's okay. We've got time.

7 A. I -- I don't -- I don't think so. I mean --

8 Q. Okay. Well, that's fair.

9 A. -- I mean, I didn't -- you know, I'm tryin' to figure out
10 the state of mind -- remember the state of mind that I was in.
11 And it wasn't good. I was afraid that, you know, I may have --
12 I don't know. Go ahead.

13 Q. Well, no. That's fine. I just want to be clear that
14 whatever this document is, uh, it -- it did not, in your opinion
15 as we sit here today, affect your decision to file the 2001 not
16 liable return; is that right?

17 A. Did it affect my decision not to file this document?

18 Q. Or to file that document. Whatever you did with that
19 document --

20 A. I don't think --

21 Q. -- this wasn't --

22 A. No.

23 Q. -- part of it.

24 A. No, no.

25 THE REPORTER: One at a time, please.

1 MR. BOWERS: Sorry.

2 THE WITNESS: No.

3 BY MR. BOWERS:

4 Q. Okay. Set that aside.

5 Now, I have another document here labeled, which
6 apparently purports to have been received by the Internal
7 Revenue Service on March 21st, 2001. It's labeled, "Affidavit
8 of Material Facts." Do you recognize this at all?

9 A. Yes, I do.

10 Q. Okay. And it's dated 1-19-01. So, again, just -- just the
11 limited question of: To the best of your recollection, do you
12 believe that you relied on the ideas or the materials in this
13 document in making a decision to either file the 1040X returns,
14 fight the process of the 1040X returns, or file the 2001 tax
15 return?

16 A. I -- looks like I was grasping at straws. No.

17 Q. No, you don't -- you don't believe that had any affect on
18 that?

19 A. It was part of that whole one-sided kind of not paying
20 taxes. So I don't think this -- what I did with Irwin Schiff --
21 this is all stuff I got from his former students who no longer
22 used his material.

23 Q. Okay. And -- and, again, I'm just tryin' to be clear. Some
24 of these things you say have affected your opinions; some of
25 them haven't.

1 So is it your testimony that this particular line of
2 reasoning did not have an impact on your decision to file a not
3 liable return?

4 A. Lawrence Conan [sic] did --

5 Q. Well --

6 A. -- not liable. This --

7 Q. -- we know that.

8 A. I don't think this did, no.

9 Q. Okay. So it didn't.

10 A. I -- I don't think -- yes. No, it didn't.

11 Q. Okay.

12 A. He convinced me to file that.

13 Q. Okay.

14 A. And then the other statement where I said that, uh, it did
15 convince me, I...

16 Q. Okay. We got some more.

17 A. Okay.

18 Q. And, remember, this -- this pertains to the 1040X's as well
19 as the 2001 return.

20 A. Anything after...

21 THE REPORTER: I'm sorry. I'm not hearing you,
22 Mr. Lewis.

23 THE WITNESS: Oh.

24 Anything after -- any document you've been producing
25 that's after the date that I filed the 1040X I can say, you

1 know, literally if -- if I filed a 1040X on this date and I
2 filed this document after, evidently this document that I filed
3 after has nothin' to do with my decision to file the 1040X's or
4 my decision to file the, uh -- the not liable. That's when you
5 look at the timeline.

6 See, I'm gettin' kinda confused with regards to certain
7 documents when I filed them.

8 MR. BOWERS: Um-hum.

9 THE WITNESS: I'm trying to reflect back what I was I
10 thinkin' when I was filing this. Was I at that point where I'm
11 thinkin', Jesus Christ, this is -- this is all -- excuse the
12 language -- bad crap that I got myself involved in and I need to
13 find someone to help me get out of it legally as opposed to
14 going to attorney, talkin' to my church, going to the IRS and --
15 and -- and getting straight. I was still on that, you know,
16 one-sided viewpoint of it.

17 BY MR. BOWERS:

18 Q. Sure. And --

19 A. So, anyway, I filed these documents, uh, looks like I filed
20 the 1040X's --

21 Q. Um-hum.

22 A. -- and some of them I filed before I filed the, uh, not
23 liable return with Larry -- with Larry Conan [sic].

24 Q. Okay. When do you believe you filed the not liable return?
25 Sometime in 2002?

1 A. Yes, according to the -- the date on here. I mean, I don't
2 know -- yeah, it's 2012 [sic] --

3 Q. What?

4 A. -- 2002, yes.

5 Q. Mr. Lewis, I don't -- I don't wanna confuse you, I don't
6 wanna trick you. I'm not judging what you're thinking. I'm
7 just trying to get to the bottom of --

8 A. Okay.

9 Q. -- the concepts as memorized in these documents if they had
10 a bearing on your decision to be involved in this process.
11 That's it. And, if you need time, you got it. I just wanna
12 show 'em to you and see what you think about them. Okay?

13 A. Okay.

14 Q. All right.

15 A. They are confusing.

16 THE COURT: What I suggest, Mr. Lewis, is you put
17 the -- put the not liable return there where you can see the
18 date on it.

19 THE WITNESS: Okay.

20 THE COURT: Open it up. There you go. See the date on
21 it.

22 And the 1040X's, do you have those?

23 THE WITNESS: Yeah.

24 THE COURT: And you put those out where you can see the
25 date and then you just look at those as you answer the questions

1 to -- to each document that Mr. Bowers is going to show you.

2 That'll make it a little less confusing --

3 THE WITNESS: Thank you, your Honor.

4 THE COURT: -- less confusing.

5 There you go. You probably filed them all the same day
6 I would assume --

7 THE WITNESS: Yes. Okay. So --

8 THE COURT: -- the 1040X's.

9 THE WITNESS: Yes.

10 BY MR. BOWERS:

11 Q. Okay. So what's your understanding of the date for the
12 1040X's?

13 A. Well, the 1040X's, um, the year 2000, mid -- midyear.

14 Q. June 2000?

15 A. Yes.

16 Q. Okay. How about the -- the not liable return? What's your
17 stamp there?

18 A. Uh, December 2002.

19 Q. December 2002?

20 A. Yes.

21 Q. Okay. We'll remember this.

22 So this next document falls within the time frame. It
23 is a letter to the Department of Treasury and it's informing
24 them that you've unearthed irrefutable evidence that criminal
25 fraud and -- and so forth is happening with the IRS; is that

1 right?

2 A. That's what that letter states. And I --

3 Q. Okay. And that's --

4 A. -- that's my signature on it.

5 Q. Okay. And, now, you signed it.

6 Did you rely on this letter at all in -- in forming
7 your opinion? It's filed after the 1040X's but before the 2001
8 not liable.

9 A. This is completely separate from Irwin Schiff's.

10 Q. Oh, I understand --

11 A. I didn't rely on it to -- to, uh, uh, file the not liable.

12 Q. Okay.

13 THE COURT: Did not?

14 THE WITNESS: I did not.

15 Now, I'm beginning to understand what -- what you're
16 trying to get --

17 THE COURT: Okay. Go ahead.

18 BY MR. BOWERS:

19 Q. Okay. Let's talk these jurats documents. These are all in
20 some sort of, um, script-type printing and they all appear to
21 discuss sort of the same thing, this Affidavit of Specific
22 Averment. Um, the timeline of your signature's correct.

23 Did you rely on those in any way?

24 THE COURT: Could we have the dates of those?

25 THE WITNESS: August of 2004.

1 THE COURT: 2004?

2 MR. BOWERS: Your Honor, the Affidavit -- the Notary is
3 August of 2004; however, the -- the signature on the letter are
4 dated 9 of 2001. So I --

5 THE COURT: 9 --

6 MR. BOWERS: -- I think if he has a recollection that's
7 a better indication.

8 THE COURT: Okay. September of 2001.

9 The question is: Did you rely on -- did he rely on any
10 of those in doing the not liable return?

11 THE WITNESS: No, sir.

12 THE COURT: Is that the question?

13 MR. BOWERS: Did he ask --

14 THE WITNESS: No, I --

15 MR. BOWERS: -- for it before --

16 THE WITNESS: -- no, I didn't.

17 MR. BOWERS: -- or the 1040X.

18 THE WITNESS: I didn't read my own...

19 THE COURT: It was after the 1040X.

20 MR. BOWERS: Okay.

21 THE WITNESS: I didn't rely on this.

22 THE COURT: Okay.

23 BY MR. BOWERS:

24 Q. Okay. I -- I'm not trying to trick you. If your answer's
25 no, it's no and we can move on to another -- another document.

1 A. Okay.

2 Q. Okay. Thank you, Mr. Lewis.

3 Um, this document here I don't know how to describe it.
4 It's undated.

5 Is that a document that you recognize as having been
6 part of your thought process at some point in time? Do you know
7 what that is, what that means?

8 A. (Reviewing document.) I've seen this at Freedom Books.
9 This was some, um -- I don't -- without seeing the whole thing,
10 whole document, uh, I can't tell you when, who, or -- you know,
11 I mean, the -- the codes look familiar.

12 Q. Uh-huh. That -- as far as I understand it, that's not a
13 portion of a document. That -- that's the document. So I guess
14 the question is: Do you recognize it in some way? And you're
15 telling me you do and that it's in association with Freedom
16 Books. Is that -- is that what I understand?

17 A. Yeah, because I'm -- and the, uh, Internal Revenue Code
18 he -- he should have, uh, Sections 6702 marked --

19 Q. Uh-huh.

20 A. -- as a tab. So -- you know what I'm saying?

21 Q. Sure.

22 A. Because I looked at the tabs.

23 Q. Yeah, absolutely.

24 A. Um, I bought the Code of Federal Regulations. Code Sections
25 7214 is -- I'm sure is tabbed.

1 MR. NEIMAN: Objection, your Honor. He hasn't --

2 THE WITNESS: But I don't -- you know, I don't -- some
3 of these things are -- I've seen 'em --

4 THE COURT: Hold on.

5 THE WITNESS: -- in the research.

6 BY MR. BOWERS:

7 Q. No, I understand that. I -- I'm just trying to ask you --

8 THE COURT: Hold on a minute.

9 What's the objection?

10 MR. NEIMAN: If he relied on it, that's one thing.
11 He's now equivocally going back and forth. Are we reading the
12 document --

13 THE COURT: Did you rely on it --

14 MR. NEIMAN: -- into the record?

15 THE COURT: -- is the question.

16 THE WITNESS: I -- I don't know. I -- this one I don't
17 know.

18 THE COURT: Do you think it's somethin' out of Freedom
19 Books?

20 THE WITNESS: It looks familiar, but it could -- I've
21 done -- you know, I've dabbled in different stuff tryin' to --

22 THE COURT: He doesn't know.

23 THE WITNESS: -- understand it.

24 MR. BOWERS: Okay.

25 THE WITNESS: If it had my signature on it, I could

1 say, yeah, okay, obviously, you know, I...

2 THE COURT: Do you have --

3 BY MR. BOWERS:

4 Q. Well --

5 THE COURT: -- anything else, Mr. Bowers?

6 MR. BOWERS: Yeah, yeah, unfortunately --

7 THE COURT: Okay.

8 MR. BOWERS: -- yeah, I do, your Honor.

9 THE WITNESS: I'm really trying here.

10 MR. BOWERS: We appreciate that.

11 BY MR. BOWERS:

12 Q. Now, um, this is a document -- actually, you know what?

13 I -- I probably can't show this to you because I haven't shown
14 it to the Government.

15 Can you give me just a moment, Mr. Lewis? Thank you.

16 (Discussion between Mr. Bowers and
17 Mr. Neiman.)

18 MR. BOWERS: Thank you, your Honor.

19 BY MR. BOWERS:

20 Q. Sorry, Mr. Lewis.

21 This document here is a -- a IRS publication talking
22 about not liable and the 10 -- and the 1040 form. Is that
23 something that you recognize at all?

24 A. Uh, yes.

25 Q. Yes?

1 Did that, to the best of your recollection, in any way,
2 um, affect your ability or your decision to rely on, um,
3 anything in connection with the 2001 not liable return?

4 A. Um, yes.

5 Q. Okay.

6 A. You mean 2002 not liable return.

7 Q. You tell me.

8 A. 2002 --

9 Q. I'm sorry.

10 A. -- not liable.

11 Q. I misspoke.

12 A. That's it.

13 Q. It's actually a 2000 return, but it's signed in 2002.

14 A. Yes --

15 Q. Okay.

16 A. -- yes.

17 Q. We're on the same page.

18 All right. I don't think I have anything else to show
19 you right now. And I'm --

20 A. Thank God.

21 Q. -- and I'm gonna -- sorry -- gonna take these, but -- but
22 we'll probably see them again.

23 Um, oh, I'm sorry. There's -- there's one more here,
24 Mr. Lewis. I apologize.

25 This falls within the time frame too. It's from a

1 Dr. Joe Sweet (phonetic). Are you familiar that name?

2 A. Okay. All right.

3 Q. Did -- I'll limit the question -- did that affect your
4 decision to file the not liable return in any possible way that
5 you filed in 2002?

6 A. What was my prior answer?

7 Q. To -- well, we haven't asked you this question yet.

8 A. With regards to the one that you showed me just like that
9 attorney.

10 Q. Uh, I don't know that I was able to ask you that question
11 about the attorney.

12 A. No. This is separate from Irwin Schiff's. So it had no
13 bearing on the, uh, 1040X and the not liable.

14 Q. Okay. Thank you.

15 Um, did I understand your testimony correctly -- or --
16 correctly, early -- earlier, Mr. Lewis, that, um -- that you had
17 met with Cindy -- let me ask it a different way.

18 Were you saying that you met with Larry after you
19 received the -- the -- what's been marked as Government's
20 Exhibit 13, which was the notice that, uh, the IRS wasn't buying
21 these returns you had sent in?

22 A. The 1040X's?

23 Q. Yes, sir. And I'll -- I'll refresh your recollection.

24 The letter, I'll represent to you, says July 24th and
25 your prior testimony, as I understood it, was you went down to

1 Freedom Books that day or the next day with concerns about this.
2 And I wasn't clear. Did you -- did you testify that you had met
3 with Cindy or Larry or both? I...

4 A. I -- I -- through the whole process, from the first filing
5 of the -- the 1040X's through the, uh, um, not liable, I talked
6 with, uh, Cindy and Larry. Larry was kinda goin' off doing
7 something a little different, doing some researches -- research
8 on his own. And, you know, I...

9 Q. Um, if I may, let me -- would your -- if a represented to
10 you that Larry was not working at Freedom Books or he wasn't
11 there --

12 A. Okay.

13 Q. -- at all at Freedom Books when this first letter -- in July
14 of 2000, does that affect your ability to say whether or not you
15 met with Larry at that point in time?

16 MR. NEIMAN: Objection. The defense attorney --

17 THE WITNESS: He wasn't working there?

18 THE COURT: I'm sorry. Hold on a minute.

19 MR. NEIMAN: The defense attorney's --

20 THE WITNESS: I don't --

21 MR. NEIMAN: -- testifying about facts --

22 THE WITNESS: I have no idea if he was...

23 MR. BOWERS: No. I suggested a hypothetical to the
24 witness, your Honor.

25 MR. NEIMAN: A hypothetical would be inappropriate as

1 well, your Honor. He needs to testify as to what he knows
2 and...

3 THE WITNESS: He -- he -- he may not been workin'
4 there --

5 THE COURT: Sustained.

6 THE WITNESS: -- but --

7 THE COURT: It was testimony if -- if you suggested
8 that he wasn't --

9 BY MR. BOWERS:

10 Q. Okay. Let me ask you --

11 THE COURT: -- working there.

12 BY MR. BOWERS:

13 Q. -- this: Are you sure that Mr. -- that Mr. Cohen met with
14 you about, um, the letter you received in response to your
15 request for a return?

16 A. To my best recollection, I think he was Larry. It's a...

17 THE REPORTER: I'm sorry?

18 THE WITNESS: To my best recollection, I think it was
19 Larry --

20 BY MR. BOWERS:

21 Q. Okay. And that --

22 A. -- if I was --

23 Q. I'm sorry to cut you off.

24 And, to the best of your recollection, you're -- you're
25 talking about this time frame of July 2000?

1 A. Yeah. Yeah. I don't know when he started working. But,
2 uh, I -- I talked to a gentleman that, I mean, looks like that
3 guy there.

4 Q. Okay. But, just so we're on the same page, this exhibit
5 from July of 2000 you testified earlier --

6 A. Um-hum.

7 Q. -- you testified earlier that's when you got it. You went
8 in within a day or two. Right?

9 A. Well, I -- yeah.

10 Q. Okay. And your testimony now is you -- to the best of
11 recollection, you believe it was Larry you met with about this?

12 A. Well, Larry, Cindy. The people that was -- you know, I
13 talked to everybody in there about that.

14 Q. On that -- on that occasion, though, is what I'm talking
15 about.

16 A. On several occasions, yes.

17 Q. All right. All right. Thank you.

18 A. Are you saying Larry wasn't employed with Irwin Schiff back
19 then?

20 Q. I can't say anything.

21 A. You can't say nothin'.

22 Q. I'm sorry.

23 MR. BOWERS: Your Honor, I have to get into some rather
24 specific documentary issues, um, regarding the discussion
25 between him and -- and Mr. Cohen about the 2001 return. Um, I

1 guess I'm asking permission to approach the witness again
2 with --

3 THE COURT: You may.

4 MR. BOWERS: -- my exhibit book.

5 THE COURT: You may.

6 THE WITNESS: 2001 or 2000?

7 MR. BOWERS: 2000 return. I'm sorry, sir. It was
8 signed in 2002. I keep...

9 THE WITNESS: Well, the two -- so it's a 2000 1040X not
10 liable return. Is that what you're talking about?

11 BY MR. BOWERS:

12 Q. Yeah, that's what we're talking about.

13 A. Okay.

14 Q. Okay. I'm gonna show you some things here to -- to see,
15 what, if any, reliance you had on them.

16 Let me show you what's been marked as 2806. Okay?

17 This -- actually, that's --

18 MR. NEIMAN: What's the number, your Honor?

19 THE COURT: He said 2806, but I'm --

20 MR. BOWERS: I meant twenty-eight 0 -- well, let me be
21 more specific.

22 BY MR. BOWERS:

23

24

25

1 Q. Uh, um, let me refer you to 2810. Okay? And 2810 is the
2 2000 form.

3 A. Yes, I see that.

4 Q. Okay. And -- and it's the cover page of what was the --
5 the -- the, um, instruction manual that year.

6 A. Okay.

7 Q. And then it's page 20 out of that book and it's page 21 out
8 of that book.

9 A. Okay.

10 Q. Okay? And it -- in particular, do you remember anything
11 about this?

12 A. Yes. Larry and I talked about, uh, this part where it says
13 "Income" --

14 Q. What's your understanding of that?

15 A. -- from foreign sources.

16 My understanding, uh, it's still kinda cloudy.

17 Q. Granted.

18 A. That's why --

19 Q. Yeah.

20 A. -- these --

21 THE REPORTER: I'm sorry. Can you speak to the
22 microphone?

23 THE WITNESS: My understanding with regards to the
24 definition -- well, they got income in the 1040, uh, um, booklet
25 with regards to showing you how to fill out the 1040. And it

1 says, "Income Foreign-Source[s] Income."

2 And, basically, you must report, uh, unearned income,
3 such as -- so I'm thinkin' it's under Income when I was talking
4 with Larry, uh, back then and I filed this not liable was from
5 foreign sources, uh, whether it's out of the country, foreign
6 sources from the District of Columbia. You know, we -- we went
7 through all that.

8 Q. Okay. Let me -- let me make it easier for you.

9 As I understand your testimony, when you were
10 consulting with Mr. Cohen about whether to file a not liable
11 return or not, you -- you recall discussing this; right?

12 A. Yes, I do.

13 Q. Okay. And when I say "this," I mean the -- the definition
14 of income, or at least one portion of that definition, provided
15 in the 1040 manual; is that correct?

16 A. Yes.

17 Q. Okay. And, in particular, we're talking about the part of
18 the 1040 manual where it says "Income" and then "Foreign-Source
19 Income"; is that correct?

20 A. Yes.

21 Q. Okay. And, based on your conversations with Mr. Cohen, uh,
22 what I understand you to be saying is that as a result of those
23 conversations you left with an understanding that, um, this
24 provision, which is the instruction regarding income, related
25 only to income earned overseas or the District of Columbia or

1 Guam or -- or other --

2 A. We -- we had a discussion. And, based off of what he showed
3 me far as actual check, I -- you know, again, I believed what he
4 said.

5 Q. Sure. Well -- and I'm not criticizing you in any way. I'm
6 just trying to understand what your recollection is of what he
7 said.

8 A. That's correct.

9 Q. Okay. And, um, is -- is there anything else that you recall
10 about this instruction manual in your discussions with Mr. Cohen
11 that you relied upon?

12 A. No.

13 Q. Okay. All right. Um, I'd like to show you some more
14 things. Um, and these have been marked as 2816 through 2819.
15 Okay? So -- actually, that's incorrect.

16 Hold on just a moment, your Honor. That's all right.

17 Um, this is United States Code 26, 611 [sic]. Do you
18 recall in any way having a discussion with Larry or relying on
19 this in a way that affected your decision?

20 A. Yes, I -- I, um -- I discussed this with, yeah, Larry and --

21 Q. Okay. And I'm -- I'm gonna show you a few more because I
22 think they might relate. But I don't --

23 THE COURT: Hold on. I think miscited that. You said
24 26, 611.

25 MR. BOWERS: 6011. I'm sorry, your Honor.

1 THE COURT: Thank you.

2 BY MR. BOWERS:

3 Q. This next document, what's been marked as 17, is -- is
4 26 CFR 611-1 [sic].

5 Does that ring any bell to you?

6 A. Yes.

7 Q. Okay. And I -- and I -- the next section is 26 CFR 602.101.
8 Does this look familiar to you in any way?

9 A. OMB numbers.

10 Q. Yeah --

11 A. Yeah, it's for --

12 Q. -- well --

13 A. -- government informants. Yeah, I --

14 Q. Okay.

15 A. Yeah.

16 Q. So let me ask you one more question.

17 Um, 26, 602.101, this -- you know what I'm talking
18 about; is that correct or not?

19 A. I think this --

20 MR. NEIMAN: Objection, your Honor, to this whole line
21 of questioning, the way he's goin' about it.

22 THE COURT: What is this about?

23 MR. BOWERS: This is --

24 MR. NEIMAN: It's misleading --

25 MR. BOWERS: -- all about --

1 MR. NEIMAN: -- it's confusing.

2 MR. BOWERS: -- Mr. Lewis's understanding of his
3 conversations with Mr. Schiff -- or Mr. Cohen about the filing
4 of a not liable return. Uh, he's talked about what he
5 understood his relation of foreign-source income. He's talked
6 now about the documents that relate to OMB numbers, uh....

7 THE WITNESS: Your Honor?

8 THE COURT: Yes.

9 THE WITNESS: My understanding -- I'm not a person that
10 deals with this stuff legally -- I mean, like, my profession --
11 so my understanding may not be correct. You know what I'm
12 sayin'? So I'm -- you know, so go ahead and ask your questions.

13 BY MR. BOWERS:

14 Q. And, you know, frankly, Mr. Lewis, I'm not asking -- all I'm
15 asking for is what your understanding is of -- first -- first
16 I'm trying to establish whether or not you recognize this thing.

17 A. I recognize it and I don't understand this.

18 Q. Okay. But you -- you've mentioned earlier -- do you
19 recognize these in connection with OMB numbers? Does that mean
20 anything to you?

21 A. Yeah.

22 Q. The four documents we just looked at.

23 A. Yes. I think it stands for Office of Budget and Management.

24 Q. Okay. What -- what understanding, if any, do you have
25 relating to how Office of Management and Budget, uh, had

1 anything to do with you filing a not liable return?

2 A. I don't understand.

3 Q. Okay. So you don't know what this is?

4 A. I don't -- I don't personally understand the question of
5 what you're tryin' -- point you're tryin' to make. Um, this was
6 discussed and -- and, obviously, I don't have a correct
7 understanding --

8 Q. Okay.

9 A. -- of any of this material.

10 Q. Okay. I guess all I'm trying to find out is what you recall
11 about the discussion and what you recall, if -- if any
12 understanding that you had about it.

13 A. That somehow -- the discussion that I was discussing with,
14 uh, Larry somehow this made his, um, filing of a not liable
15 return legal.

16 Q. Okay.

17 A. And I couldn't duplicate that again --

18 Q. Sure.

19 A. -- because I -- I just don't even wanna look at a Internal
20 Revenue Code or...

21 THE REPORTER: I'm sorry?

22 THE WITNESS: I don't even wanna look at a Internal
23 Revenue Code. I -- you know, I -- I have no desire to pick up a
24 Code. I let my tax attorney deal with my taxes. And I just --
25 you deal with that 'cause -- you know, I mean I've -- I've

1 gotten so much different viewpoints of -- of the tax -- paying
2 taxes and -- and stuff like that that I don't wanna even look at
3 it no more because it's -- it's too confusing. I did find
4 things that showed where you're liable for taxes, but they are
5 not in the Internal Revenue Code. They are in the Federal
6 Reserve Act. They are in different documents that shows that
7 you're liable. So I stick with that and that's all I know.

8 So I've seen this. We've talked about it. I don't
9 remember what was said.

10 Q. Okay. So, just so we're clear, the last four documents I
11 showed you that relate to this statute, to the best of your
12 understanding, involve some theory that Mr. Cohen discussed with
13 you about OMB numbers and the tax return; is that correct?

14 A. Yes, that's correct.

15 Q. Okay. And I wanna -- I wanna ask you one last thing.

16 There -- there is an OMB number on the tax return right
17 here?

18 MR. NEIMAN: Objection. He already says he doesn't
19 understand how any of this works. The document's not in
20 evidence.

21 THE COURT: I'll allow the question.

22 MR. BOWERS: Thank you, your Honor.

23 THE COURT: Go ahead.

24

25

1 BY MR. BOWERS:

2 Q. Do you know what I'm talking about here?

3 A. Okay. Yeah, there's a OMB number there.

4 Q. Okay. Does that refresh your recollection at all as to what
5 this possibly meant when you -- when you -- these OMB number
6 theories you had with Larry?

7 A. (Reviewing document) Something about the document --

8 Q. Yeah. No. I mean...

9 A. -- you know.

10 Q. Okay.

11 A. I guess the document tracking number or something like that
12 has to do with either the history of this document or what.

13 I...

14 Q. Okay. Somehow it tied into this business though?

15 A. Yeah, a lot of confusing --

16 Q. Okay.

17 A. -- stuff.

18 Q. All right. So these four documents and -- and the other,
19 um -- oh, the definition of income and the 1040 manual, uh, and
20 the OMB numbers, whatever that was. You -- you recall those
21 discussions, uh, with Larry, um, and in your recollection they
22 somehow, um, justified, uh, filing a return not with zeroes but
23 with the notion that you were not liable for the income tax. Is
24 that correct?

25 A. Yes, I definitely believe that that was the way I should

1 have filed it in the beginning, yes. And I really -- yes.

2 Correct. Correct.

3 Q. Okay. I'm sorry.

4 Do you --

5 A. That's correct.

6 Q. -- do you think that, um, you should have filed not liable
7 all along? Is that what you just said?

8 A. When I filed this, that's what I believed in, that was
9 the -- you know, that I should -- I -- I shouldn't have never
10 filed the 1040X's and --

11 Q. Okay.

12 A. -- and that this was the, you know...

13 Q. That's the way to go.

14 A. Yeah.

15 Q. Yeah.

16 A. Well...

17 Q. And that was a different theory than you'd been operating
18 under previously; right?

19 A. I was operatin' under so many different theories.

20 Q. I understand.

21 A. Yeah.

22 Q. I understand. And they are not necessarily easy to keep
23 straight I'm sure.

24 But this particular -- OMB numbers, foreign-source
25 income out of the 1040 manual -- those are things that you

1 associate only with Larry's not liable theory which is the
2 way --

3 A. Right.

4 Q. -- way to go; right?

5 A. Yes.

6 Q. Or you thought at the time was the way to go?

7 A. Yes.

8 Q. Which is unrelated to the other Freedom Books's material; is
9 that correct?

10 A. I would imagine, yes. I'm -- you know, I mean, I don't know
11 Irwin Schiff's viewpoint on this --

12 Q. Well, let me ask it a different way.

13 It was unfamiliar -- it was -- it was different than
14 your understanding of what Freedom Books's program was at the
15 time?

16 A. Yes. It was different.

17 Q. Okay. And I -- I believe -- and if I'm incorrect just tell
18 me so -- I -- I believe you stated that at some point you
19 thought, um, Larry had mentioned, uh -- or you had stated that
20 Larry would be terminated or there was some concern about Irwin
21 finding out he was doing this or something like that?

22 A. That's what he told me.

23 Q. Tell me exactly what it is because I'm unclear.

24 A. I don't remember the exact words. But it was somethin'
25 that -- don't let Irwin Schiff know that I'm doin' this.

1 Q. Because?

2 A. Well, because he could fire me.

3 Q. It'll be bad in some way?

4 A. Yeah, it'll be bad or somethin' like -- I mean, like -- I
5 don't remember the exact words.

6 Q. You mentioned, um, a Nevada Revised Statute Larry discussed.
7 Do you recall that?

8 A. It's on the, uh, not liable return that he -- that he
9 instructed me to put that on line 60b, the --

10 Q. Is it on that one?

11 A. Yes, it is.

12 Q. Tell me what it says. Would you read that to me?

13 A. It goes -- you mean the line, not --

14 Q. No, no, no, I'm not worried about the line. Tell me what --

15 A. NRS --

16 Q. Uh-huh.

17 A. -- uh, the statute is 608.112.

18 Q. And what's your understanding or recollection of Larry's
19 understanding of why that would be there?

20 A. I would have to look at the code. But I...

21 Q. You don't have a recollection?

22 A. I don't have a recollection --

23 Q. Okay.

24 A. -- no. I -- you know, I...

25 Q. Um, you -- had -- had -- at some point or another in one

1 form or another requested that, uh, the IRS show you where there
2 was a law requiring you to file or pay your income tax; is that
3 correct?

4 A. What do you mean?

5 Q. Did you ever at any time write a letter or adopt a position
6 with the IRS that they needed to show you where you had an
7 obligation to pay the income tax?

8 A. I'm sure I did.

9 Q. Okay. And, again, I'm not trying to trick you.

10 Does the -- was that question ever answered while you
11 were involved with these nontraditional tax ideas?

12 A. Yes and no.

13 Q. Okay. Feel free to explain.

14 A. Uh, the, uh, yes part is, you know, through my more recent
15 research and when I decided not to, uh, listen to all this
16 stuff. And -- and early on, uh, I did some Freedom of
17 Information requests. I actually went down to the office; I
18 talked to Gridis.

19 And, you know, Gridis really didn't wanna meet with me.
20 He just -- he did somethin' that -- that now I thank him for
21 doin'. But he didn't give me the code or the law that made me
22 liable. He just changed my withholdings which actually saved my
23 butt. But, um, I never got, um, a response that, uh -- that I
24 understood from the federal government.

25 Q. So if I understand what you're saying correctly is

1 ultimately that you abandoned these views, uh, and -- and came
2 up with a -- at least a -- an approach that made some sense to
3 you that complies with your understanding of the IRS?

4 A. Yeah, particularly when I started getting the letters and
5 seein', well, evidently -- and hearin' the fact that, uh, people
6 are being shredded [sic] -- or going to court gettin' fined, and
7 some other disturbing things that I've, uh, heard while I was
8 visiting in his office and I decided to walk out. You know,
9 what have I got myself into? And so I...

10 Q. Okay. And the other -- the other part of your answer, as I
11 understood it, was that while you -- while you were sort of into
12 this belief system, uh, the fact that you didn't get an answer
13 that you understood meant something to you; is that right?

14 A. Yeah. It was confusing because -- yeah, because, uh, you
15 don't go out and -- and study something and -- and try to study
16 both sides and -- and weigh what side is correct, you know,
17 the -- pro-taxes/antitax. You don't do that because you'd just
18 get confused and that's -- you know.

19 Q. I'm sorry. I -- I don't mean to be short or hostile with
20 you.

21 But, as I understand it, the fact that the IRS never
22 answered that question to your satisfaction meant something to
23 you during this time?

24 A. Well, I was concerned that why they -- you know -- I've
25 actually met with IRS agents and the people that actually helped

1 me, or the city attorneys and a couple of people at my church
2 that knew more about taxes than I did. So...

3 Q. Okay.

4 A. They actually sat down and showed me. So it's like wow.

5 MR. BOWERS: Um, your Honor, we've identified some
6 documents that he's relied on. I -- I would like to, um, admit
7 those and/or show them to the jury. I've asked him about those.
8 I know the hour's at least --

9 THE COURT: Again? You want to ask them about them
10 again?

11 MR. BOWERS: Well, I would like -- as I understand it,
12 we've -- we've established that these somehow related to his
13 beliefs.

14 THE COURT: Right.

15 MR. BOWERS: I would like to admit them into evidence
16 and talk briefly about some of the specifics.

17 THE COURT: Well, show the -- show the Government the
18 ones that you requesting to admit into evidence and we'll
19 address them.

20 (Documents provided to the government.)

21 MR. BOWERS: And I apologize for the lateness of the
22 hour.

23 THE COURT: Well, it's time to let the jury go home.
24 It looks like you're gonna have to come back on Monday --

25 THE WITNESS: Okay. Um...

1 THE COURT: -- Mr. Lewis.

2 THE WITNESS: If I could get something from the Court
3 that I can give to my employer.

4 THE COURT: Okay.

5 MR. SCHIFF: What is he saying?

6 MR. NEIMAN: Your Honor, we make the same 403 objection
7 to these documents as we would to the -- it's along the same
8 lines as the attorney's.

9 THE COURT: I'll take a look at them after we excuse
10 the jury.

11 We are in recess until Monday. I admonish you not to
12 discuss the case among yourselves or with others or to read any
13 or listen to or view any media accounts that may be published
14 during the process of the trial, not to form any conclusions
15 concerning the evidence until the case is submitted to you for
16 deliberation.

17 Uh, we'll start at --

18 THE CLERK: 9:00 o'clock.

19 THE COURT: -- 9:00 a.m. on Monday morning. Thank you.

20 (Jury leaves the courtroom at 4:45 p.m.)

21 THE COURT: Okay. Let's deal with the objections
22 document by document. What is it that you -- which ones are
23 they? You can identify them by exhibit number.

24 MR. BOWERS: Uh, your Honor, I -- I have not had an
25 opportunity to mark these. I didn't know Mr. Lewis would, um,

1 head this direction today. So I would have to copy them and
2 mark them. But they would be 2844 and 2845, the Floyd Wright
3 letter, and the, uh...

4 THE COURT: I already ruled on the Floyd Wright letter,
5 didn't I?

6 MR. BOWERS: No. You -- you -- he doesn't present to
7 be an attorney. He's an income taxes author and lecturer.

8 THE COURT: Oh. This is not the guy from Nebraska?

9 MR. BOWERS: Right. That's the lawyer.

10 THE COURT: Okay.

11 MR. BOWERS: This I can only refer to --

12 THE COURT: Still?

13 MR. BOWERS: -- as the expatriation document or
14 repatriation document.

15 MR. NEIMAN: Your Honor, the Government would object to
16 that. The relevance is very, very limited in that they are
17 confusing -- one is a letter to Bush, President Bush, talking
18 about declarations of expatriations. They cite all sorts of
19 cases which the Government hasn't had a chance to look at to say
20 whether or not they are being cited properly --

21 MR. BOWERS: Well --

22 MR. NEIMAN: -- but judging on past experience...

23 THE COURT: Well, let me do this. Let's have the clerk
24 make a copy of them for me and I'll hear your --

25 MR. BOWERS: We can talk about them Monday.

1 THE COURT: Talk about them on Monday.

2 MR. BOWERS: Sounds good, your Honor.

3 THE COURT: We only have two that are in issue?

4 MR. BOWERS: That's it. There are only about 10 pages
5 there. Maybe she can make -- make -- make -- well, do you have
6 these? Are they accessible?

7 MR. NEIMAN: If I can find them.

8 MR. BOWERS: Maybe...

9 (Pause in the proceedings.)

10 MR. CRISTALLI: Your Honor --

11 THE COURT: Yes.

12 MR. CRISTALLI: -- um, we -- we had Defendant's
13 Proposed Exhibit 2505 which we were trying to get into evidence
14 through Mr. Lewis. Um, it is a letter written by Mr. Lewis to
15 the District Director of the IRS and then they have attachments
16 to that, a number of attachments to it, including the legal
17 opinion from Curtis & Curtis for which the Court precluded us
18 from entering into as an exhibit. All I'm requesting is that we
19 make it part of the record.

20 THE COURT: Oh. I have no problem. Once it's marked,
21 it's part of the record.

22 MR. CRISTALLI: Yes, sir. Thank you.

23 THE COURT: Yeah.

24 THE CLERK: Thank you.

25 MR. BOWERS: Your Honor, do we need to remove all of

1 our materials from the courtroom tonight or put them out of the
2 away or... They are voluminous.

3 THE COURT: I don't enjoy looking at 'em. But the
4 question is are they gonna get messed up tomorrow. What do we
5 have tomorrow? Do we have hearings?

6 THE CLERK: We have a full day. We are in court from
7 9:00 a.m. --

8 MR. BOWERS: Could I place my boxes against the wall?

9 THE COURT: You can.

10 MR. BOWERS: Would that be okay with the Court?

11 THE COURT: It's okay.

12 MR. BOWERS: You wouldn't be reminded of this pleasant
13 trial?

14 MR. NEIMAN: It's not going away, your Honor.

15 The Government is concerned about --

16 THE CLERK: Prop them against the wall, Mr. Schiff.

17 MR. NEIMAN: -- obviously, the -- the pace. We have
18 witnesses who came in from all over the place and they're
19 sitting here and now we're gonna have to send them back. I --
20 I'm not sure if I have a suggestion. But I just -- we -- we are
21 concerned.

22 MR. BOWERS: The defense is also concerned about the
23 case and open to suggestions.

24 THE COURT: Well, I don't know how much more we can do
25 to speed it up. I -- I'm concerned as well, but don't know how

1 we can move it any faster.

2 We're in recess until --

3 MR. IGNALL: Thank you, your Honor.

4 MR. NEIMAN: Thank you, your Honor.

5 MR. BOWERS: Thank you, your Honor.

6 MR. CRISTALLI: Thank you, your Honor.

7 THE COURT: -- until Monday, 9:00 a.m.

8 (Proceedings adjourned at 4:50 p.m.)

9 --oOo--

10 I hereby certify that pursuant to Section 753, Title 28, United
11 States Code, the foregoing is a true and correct transcript of
12 the stenographically reported proceedings held in the
13 above-entitled matter.

14

15 DATED:

FELICIA RENE ZABIN, RPR, CCR NO. 478

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