

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 THE HON. KENT J. DAWSON, JUDGE PRESIDING

4
5 UNITED STATES OF AMERICA,)

)

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

)

7 vs.)

)

8 IRWIN SCHIFF, CYNTHIA NEUN,)

and LAWRENCE COHEN,)

9)

Defendants.)

10)

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14
15 REPORTER'S TRANSCRIPT OF JURY TRIAL (DAY 5)

16 Monday, September 19, 2005

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20 APPEARANCES: (See Page 2)

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

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Sam Holland, Special Agent, IRS
Gary Modafferi, J.D.

I N D E X

WITNESS:	Direct	Cross	Redirect	Recross	Voir Dire
Government's:					
Melvin Lewis	--	1065B 1077S	1237N	1242S	1160N
William C. Thomas	1266	--	--	--	--

EXHIBITS

EXHIBIT NO.:	MARKED FOR IDENTIFICATION	RECEIVED IN EVIDENCE
Government's:		
78	1326	1327
86, 87, 87A, and 88	--	1265
89	--	1314
91	--	1279
92	1296	1297
Defendant Schiff's:		
2004	1085	--
2004A	--	1088
2009	1093	--
2096	1096	--
2097	1164	--
2099	1178	--
2099, page 1	--	1182
2100	1187	--
2101	1195	--
2102	1199	--
2103 and 2104	1204	1205
2105	1232	--
Defendant Cohen's:		
2810, 2816, 2817, and 2818	--	1065

1 LAS VEGAS, NEVADA; MONDAY, SEPTEMBER 19, 2005; 9:09 A.M.

2 --oOo--

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

4 THE CLERK: All rise.

5 THE COURT: Thank you. Please be seated.

6 Okay. We're waiting for one juror.

7 Uh, Mr. Bowers, did you have something you wanted to
8 discuss?

9 MR. BOWERS: Yeah, a couple items of evidence, your
10 Honor. I was going to withdraw my request or indication that I
11 made at the end of Thursday. There were a couple of documents I
12 was gonna seek to introduce into evidence. I'm gonna not seek
13 to introduce those at this time.

14 THE COURT: Okay.

15 MR. BOWERS: However, there are three exhibits of mine
16 that I -- I'm going to seek to admit. Um, the Government and I
17 discussed this. There's an objection on the grounds of
18 relevancy but not on authenticity or foundation.

19 Those exhibits are contained at 2810, which is the
20 instruction manual, uh, that pertains to the selected portions
21 of the instruction manual for the IRS 1040 form for year 2000
22 that pertain to foreign source income. I understand that the
23 Government's objection to these is based on the grounds of
24 relevancy. I believe these documents are relevant because
25 Mr. Melvin Lewis clearly testified that he relied on these

1 documents in conjunction with Mr. Cohen's advice, um, in
2 deciding to file a not liable return for that tax year. Along
3 the same lines, Defendant's Exhibit 2816, 2817, and 2818 are
4 documents Mr., uh, Lewis indicated he relied on in conjunction
5 with advice from Mr. Cohen in making a decisional -- decision to
6 file the 2001 not liable return.

7 (Pause in the proceedings.)

8 THE COURT: Okay. What is the Government's objection
9 to these?

10 MR. IGNALL: Government's objection is relevance, your
11 Honor. I think the issue here is did Mr. Lewis and Mr. Cohen
12 physically look at these documents together. I think it needs
13 to be tied into our defendants. If Mr. Lewis at some point on
14 his own looked at these documents, I'm not sure how that's
15 relevant to what any of our defendants did or what their state
16 of mind was when they were doing anything that was alleged in
17 the conspiracy or any other acts charged in the Indictment.

18 Our other, I think it's a smaller point, would be with
19 the instruction book. Obviously, we don't object to the
20 authenticity or the accuracy of any of these regulations. We'd
21 probably want, you know, a complete copy of the instruction book
22 because I believe there are only some selected pages in there,
23 if -- if the Court were inclined to admit those because our
24 other concern is about, you know, one regulation or one section
25 of a instruction book going in is the potential to confuse the

1 jury by not giving a complete picture of the law. And, given
2 the minimal relevance of these items, I think even on 403
3 grounds they are probably not admissible.

4 MR. BOWERS: Your Honor, first and more important than
5 the content of this exhibit, which we can resolve, I --
6 Mr. Lewis said that he and Larry talked about these documents
7 together; that he recognized the portion of this 1040 manual
8 that I'm seeking to admit based on their discussions about why
9 he did what he did with that tax return. So that's -- and it
10 sounded like to me that if that were the case the Government
11 even conceded that.

12 As far as admitting the entire exhibit, if for purposes
13 of this morning we could admit -- if we admitted the exhibit and
14 allow me to use these pages, we can handle it however you want.
15 I can print off the whole manual and put it in there. I can dig
16 up an old paper copy. Whatever the Government wants to do there
17 is fine.

18 THE COURT: Well, let's -- let's take a look at each
19 one of these.

20 2810 is the 1040 form for 2000. Is that --

21 MR. BOWERS: The form I can live without. I can use
22 Mr. Lewis's form. Behind the form was the cover page intended
23 to show where the document arrived from and then it's pages 20
24 through 20 [sic] which purports to be a discussion of income
25 under the -- explaining those lines of the 1040 form that

1 purport to -- relate to income. And, in there the bottom right
2 corner of page 20, uh, continuing on is a discussion of
3 Foreign-Source Income.

4 THE COURT: Yeah.

5 MR. BOWERS: Um, with the witness we discussed --
6 this -- this is where we get into this business that Mr. Lewis
7 had an understanding of this statute as a result of his
8 interaction with Mr. Cohen to mean this applies to those who
9 work outside the United States; reside in its territories, such
10 as Guam or Puerto Rico or what have you.

11 THE COURT: So what's the point, that only foreign
12 source income is taxable?

13 MR. BOWERS: I think that's exactly the point that
14 Mr. Lewis testified to as having gained from this instruction
15 and his discussion with Mr. Cohen.

16 THE COURT: Well, this is just a discussion of foreign
17 source income, not that that's the only kind of income that's
18 taxable.

19 MR. BOWERS: Well, I -- I don't submit to you that
20 Mr. Lewis's or my client's interpretation of the tax code is
21 accurate. I'm just saying this supported how they came up with
22 that determination.

23 THE COURT: Well, my concern is to admit something that
24 will confuse the jury. Uh, this -- this is not the -- as you
25 are well aware, this is not the only income that is taxable.

1 This is just to let you know what kinds of foreign income are
2 taxable.

3 MR. BOWERS: Well, again, your Honor, you -- you have
4 ample opportunity to instruct this jury. And I'm not arguing
5 nor will --

6 THE COURT: Well, I don't want -- I don't want to admit
7 something and have -- have it have the potential of confusing
8 the jury on what the law is because the law is absolutely clear.
9 And, if I admit it, I'm going to do it with an instruction as to
10 what the law is when I do it.

11 MR. BOWERS: Absolutely. I'm not in any way, Judge,
12 seeking to declare that this definition of income is the law.
13 Not at all. I -- I don't think it's the law; I don't think
14 anybody in the room thinks it's the law. I'm admitting it for
15 the limited purpose of demonstrating what -- what Mr. Lewis
16 believed in part relying on, you know, the -- the fact that
17 people in Guam have to pay their tax. I mean, I don't -- I
18 don't even follow it, but it's important.

19 THE COURT: Okay. So that's 10.

20 Now, going to 16 -- and I -- I do believe you're right.
21 The witness did testify that they looked at this. I remember
22 him testifying because I remember thinking what you're --
23 what --

24 MR. BOWERS: What is Mr. Bowers doing here?

25 THE COURT: No, no. Not necessarily what you're doing

1 but pointing out the -- this particular section of the
2 instructions which -- which goes to -- you know, explaining how
3 you -- how you arrive at income.

4 But the other -- the other thing that I want to make
5 sure we do is that we -- as pointed out by the Government, we
6 admit the entire, uh, booklet not just --

7 MR. BOWERS: Well --

8 THE COURT: -- the excerpt.

9 MR. BOWERS: -- and if I could, if I could have the
10 Court's permission to reference pages 20 and 21 on -- on the
11 ELMO this morning, I will get with the Government and either
12 replace 2810 with an entire paper, uh, bound newsprint
13 publication that the IRS does -- and I think I have one -- or
14 print out the entire IRS document from the IRS Web site,
15 whichever the Government is happy with or the Court or whoever
16 wants it.

17 THE COURT: Well, I'll allow the instructions to come
18 in with an appropriate instruction from the Court that this is
19 only one section of the, uh, instructions and the entire
20 instructions will be in.

21 MR. BOWERS: Okay.

22 THE COURT: And then the Government can have its
23 witnesses testify as to the other applicable instructions on
24 income.

25 MR. BOWERS: The other probably 99 percent of it.

1 THE COURT: Yes.

2 MR. BOWERS: It's a very limited draw.

3 THE COURT: So, anyway, that's going to be the ruling
4 on that.

5 MR. BOWERS: Thank you, your Honor.

6 THE COURT: Looking at 20- -- 2816 --

7 MR. BOWERS: Um, I may have misspoke, your Honor, I
8 think -- yes. No, that's right.

9 Uh, 2816 is 26 6011. 18 and 19 are the Code of Federal
10 Regulations that correspond to that statute. Um, this is in
11 connection with the discussion regarding the OMB numbers which
12 Mr. Lewis, frankly, acknowledged he didn't understand that well
13 but at the same time clearly indicated -- and I'd -- I'd note,
14 Judge, I'm not moving to admit 19, which is a further summary of
15 those because he -- he didn't rely on 19. But he clearly
16 indicated that he relied on these other three exhibits in coming
17 to his conclusion, uh, to file that 2001 return.

18 There's basically two theories that he acknowledged
19 discussing with Mr. Cohen and relied on documentation in
20 relation to the file that -- one, being the -- the definition of
21 income, which we just took care of; two, being the existence of
22 this OMB number on the actual tax form and the relationship to
23 these sections of the Code that I'm seeking to admit.

24 Again, with all curative instructions from the Court
25 saying this is not the law or what -- what purpose they are

1 using it for the Court does not believe to be the law. That's
2 fine. I have no problem with that. I -- I'm not trying to
3 argue this is the law. I'm simply trying to point out what
4 Mr. Cohen believed to be the law at the time. Or, more
5 accurately, what Mr. Cohen and Mr. Melvin Lewis discussed as
6 being the law at the time that he engaged in that particular
7 act.

8 MR. IGNALL: Your Honor --

9 THE COURT: Yes.

10 MR. IGNALL: -- may I briefly be heard?

11 We -- we still have a -- a -- somewhat of a 403 concern
12 here, although a curative instruction may take care of this,
13 that -- instructing the jury that this is just one section of
14 the Code and that the Court is gonna instruct the jury on
15 entirely what your obligations are to file income tax returns
16 and pay taxes. And perhaps we could all come together and agree
17 on some kind of an instruction that states that.

18 I don't -- with respect to Exhibit -- is it 2816? -- I
19 do recall a discussion with Mr. Lewis about how he's talking to
20 Mr. Cohen about that. And I may be mistaken. I don't remember
21 a discussion about them looking together at 2818. So I think
22 that's -- one distinction that concerns me is --

23 MR. BOWERS: Are you sure --

24 MR. IGNALL: -- if they didn't look --

25 MR. BOWERS: -- I'm sorry --

1 MR. IGNALL: -- I may be --

2 MR. BOWERS: -- to interrupt you.

3 I was just gonna suggest maybe it was 2819 because I
4 know that we didn't make that far with him, which is another --

5 THE COURT: No. It was 2818.

6 MR. BOWERS: Okay.

7 MR. IGNALL: And I don't recall that. I may be
8 mistaken. But that -- if they haven't talked about it -- if
9 Mr. Lewis and Mr. Cohen hadn't talked about that exhibit
10 together, I don't think there's any relevance to it at all. If
11 they have spoken about it, then I think we come up with, you
12 know, some very thin relevance and a -- a 403 concern about
13 confusing the jury about the province of the Court and
14 instructing the jury on what the law actually is and perhaps an
15 instruction that says this is relevant only to your
16 consideration of the defendant's state of mind and the Court's
17 gonna instruct the jury on the requirements to file tax returns
18 and pay taxes separately may cure that 403 concern.

19 MR. BOWERS: Your Honor, I -- I don't know that I agree
20 with the Government. I'll certainly accept the terms they are
21 requesting here. Um, if they want to limit it to 16 and 17
22 because that was the discussion they agreed that Mr. Lewis
23 indicated he had. And, you know, of course, whatever
24 instruction you want is fine.

25 I mean, I -- the instruction that this is not the law

1 is -- or, I mean, the way this was used is not in accordance
2 with the law is fine with me. I basically just need to be able
3 to talk about why Mr. Lewis did this as a result of his -- his
4 encounter with my client.

5 THE COURT: Okay. Well, the only concern I have about
6 2818 is it's -- you know, the -- the witness when he was
7 questioned about this document just kind of said, yeah, he
8 looked at it, but he didn't know what any of it meant. And, so,
9 he -- his body language and his responses all indicated that he
10 was dealing in something he had no understanding of or ability
11 to, uh, perceive.

12 I -- I think it is a little bit confusing. But you
13 did -- you did lay the connection that it was discussed between
14 he and Mr. Cohen as well as the other exhibits. The -- the
15 question is --

16 MR. BOWERS: If it helps your Honor --

17 THE COURT: -- do I want to put 2818 in which is about,
18 uh, 20 -- 39 pages of gobbledegook.

19 MR. BOWERS: If it helps your Honor in making this
20 decision at all, I do not intend to spend more than 10 minutes
21 with Mr. Lewis this morning.

22 THE COURT: Okay.

23 MR. BOWERS: And, with the admission of the documents,
24 the Court is not going to incur a long discussion regarding
25 those documents.

1 THE COURT: Well, I'm -- I'm inclined to allow them all
2 to come in subject to a -- an instruction to be agreed upon.

3 MR. BOWERS: Thank you, your Honor.

4 THE COURT: Do we have -- did the other member of the
5 jury come in yet?

6 THE CLERK: I will just walk out and check.

7 THE COURT: Okay.

8 Any other matters?

9 MR. BOWERS: No. Just can we formally admit those
10 exhibits at this time or do we need to wait for the jury?

11 THE COURT: We'll -- we'll admit them in the presence
12 of the jury and, uh, subject to -- subject to strike if -- if
13 you don't connect it up.

14 MR. BOWERS: And that's -10, -16, -17, and -18, your
15 Honor?

16 THE COURT: Yes.

17 MR. BOWERS: Thank you.

18 MR. NEIMAN: Your Honor --

19 THE COURT: Yes.

20 MR. NEIMAN: -- the only other issue the Government
21 would like to raise is if we just inquire of the jury to make
22 sure they haven't had any contact --

23 THE COURT: Yes.

24 MR. NEIMAN: -- with any parties as we normally do.

25 THE COURT: I can do that.

1 MR. NEIMAN: Thank you.

2 THE CLERK: Everyone's here. They are lining up.

3 THE COURT: Okay.

4 Can we get Mr. Lewis back on the stand, please.

5 (Melvin Lewis takes the witness stand.)

6 (Pause in the proceedings.)

7 THE CLERK: Ready?

8 (Jury enters the courtroom at 9:27 a.m.)

9 THE COURT: Please be seated.

10 Good morning, ladies and gentlemen of the jury, and
11 welcome back to court this morning.

12 There is one matter I want to take up with you before
13 we resume with the presentation of evidence and that is to
14 inquire whether any of you have run into any circumstance where
15 you did not adhere to my instructions over the weekend, that is,
16 to not discuss the case among yourselves or with others, allow
17 others to discuss it in your presence, or viewed or listen to
18 any media accounts of the trial, and also to inquire whether any
19 of you might have been contacted or attempted to be contacted.

20 If anyone has that -- a positive response please show
21 by raising your hand. (No hands raised.) Thank you.

22 We'll now proceed with the cross-examination that was
23 underway by Mr. Bowers when we recessed on Thursday.

24 The Court has admitted -- or will admit at this time
25 Government's Exhibit 2810, 2816, 2817, and 2818.

1 MR. BOWERS: Thank you, your Honor.

2 (Defendant Cohen's Exhibit Nos. 2810, 2816,
3 2817, and 2818, received into evidence.)

4
5 MELVIN LEWIS,

6 called as a witness on behalf of the Government, having been
7 previously sworn, resumed the stand, and was examined testified
8 further as follows:

9
10 CROSS-EXAMINATION

11 BY MR. BOWERS:

12 Q. Good morning.

13 A. Good morning.

14 THE CLERK: Mr. Bowers?

15 MR. BOWERS: Yes, ma'am.

16 THE CLERK: Could I just bring this screen down for
17 just a second?

18 MR. BOWERS: Yes.

19 (Pause in the proceedings.)

20 MR. BOWERS: I'm sorry. I -- I apologize to the Court.

21 BY MR. BOWERS:

22 Q. I'll be relatively brief here this morning.

23 Mr. Lewis, I wanted to show you one thing just real
24 quickly because you and I, um, got into a discussion about some
25 documents. I don't think the jury had an opportunity to see

1 those.

2 (Discussion between the clerk and
3 Mr. Bowers.)

4 BY MR. BOWERS:

5 Q. Okay. Mr. Lewis, I'm gonna --

6 (Pause in the proceedings.)

7 (Document displayed in open court.)

8 BY MR. BOWERS:

9 Q. I'm gonna show you a portion of this document here. Can you
10 see there in the lower right corner? I'm talking about right
11 here?

12 THE COURT: It needs to be turned or else the jury
13 needs to lie down to read it.

14 MR. BOWERS: There we go. That's a little easier to
15 figure out what's goin' on.

16 BY MR. BOWERS:

17 Q. This portion here where it says "Income," "Foreign" --
18 "Foreign Source Income" -- do you see that there, Mr. Lewis?

19 A. Yes, I can.

20 Q. You're able to read that; right?

21 A. Yes.

22 Q. Okay. All -- this -- this is part of the 1040 instruction
23 manual for the year that you filed the not liable return. There
24 were -- we had it admitted into evidence. And I -- this is one
25 page there and then this is the continuation of it up here.

1 (Document displayed in open court.)

2 BY MR. BOWERS:

3 Q. Does this look familiar to you? Does this look like the
4 material we talked about that you relied on in filing the 2001
5 return?

6 A. Which was the not liable --

7 Q. The not liable return, yes, sir. And under the discussion
8 of income you had with Mr. Cohen about whether you were a
9 resident of Puerto Rico or Guam or some other foreign territory?

10 A. Yes.

11 Q. Okay. That's it. I just wanna make sure we -- you and I
12 had the benefit of the documents; the jury didn't.

13 So this is a portion of the instruction manual where it
14 says "Income" -- there's a line that says "Income." It says
15 "Foreign Source Income." It goes on to talk about where --
16 where you lived, where you worked. If you worked abroad, you
17 have an obligation to pay your income. Is that correct?

18 A. Could I -- could I see that, uh, document up close?

19 Q. Yeah, absolutely.

20 MR. BOWERS: May I approach the witness, your Honor?

21 THE COURT: You may.

22 BY MR. BOWERS:

23 Q. It gets hard to see --

24 A. Yes, I can see them.

25 Q. -- there to there.

1 A. (Reviewing document.)

2 Okay. That's correct.

3 Q. Okay. Good.

4 One more thing and let me know if you can't see it and
5 I'll approach with this. This is what the Government had
6 admitted as Government's Exhibit 17. This is the not liable
7 return from 2000 that you filed.

8 Um, and you prepared this document; is that right?
9 Does that appear to be your handwriting?

10 A. Uh, can I take a look at that?

11 Q. Sure. Absolutely.

12 MR. BOWERS: If I can approach, your Honor?

13 THE COURT: You may.

14 BY MR. BOWERS:

15 Q. There's the official one in evidence somewhere.

16 A. It appears so, yes.

17 Q. Okay. All right let me -- I'm gonna ask you a question.

18 And, again, this is mainly because when you and I were
19 discussing these. The jury didn't have an opportunity to see
20 what I was talking about.

21 We -- we had a discussion about some Code sections that
22 you relied on in connection with an OMB number. Do you recall
23 that? You and I -- you and I talked about some documents that
24 you relied on in connection with an OMB number Thursday
25 afternoon?

1 A. Yes.

2 Q. And you said you basically couldn't articulate exactly what
3 it was, but that it had something to do with these Code sections
4 and a number from the Office of Management and Budget?

5 A. Yes. I'm so far removed from that point in time that I
6 can't really give you exactly --

7 Q. Sure.

8 A. -- the language and procedures and -- and exactly what code
9 it was that I relied on. But yes.

10 Q. Oh, absolutely. I understand.

11 And what I'm asking, I guess, specifically this morning
12 is: This section right here on that document, which is your
13 upper right, says OMB No. 1545-0074. Can you see that there?

14 A. Yes.

15 Q. To the best of your recollection, that was what was meant in
16 your discussions with Larry about an OMB number; correct?

17 A. Yes.

18 Q. That's all. I just -- again, the jury didn't have the
19 opportunity to see these documents. But I did. Let me turn
20 this off.

21 THE CLERK: Just hit the button on the lights. There
22 you go.

23 MR. BOWERS: Okay. Thank you.

24 BY MR. BOWERS:

25 Q. And is it fair to say the best understanding as we have, as

1 you sit here today, is there's that OMB number, there's some
2 regulations that go with it; and in -- in your and Larry's
3 conversation, your understanding at the time, that created --
4 that -- those Code sections and the interplay with that OMB
5 number made it such that there was no obligation to pay taxes.

6 Is that a fair understanding of the best recollection
7 you have about how you felt at the time?

8 A. Well, I was shown that -- those codes and, um, at that point
9 in time when I'm actually shown all that I believe it, yes.

10 Q. Yeah. That's all I'm asking.

11 And you had no reason -- you never saw Larry Cohen say
12 or do anything to led you to believe that he didn't also believe
13 it; is that correct?

14 A. That's correct.

15 Q. Okay. One -- one final question.

16 You testified before the Grand Jury in this matter at
17 some point in time obviously; right?

18 A. Yes.

19 Q. Okay. And, during your Grand Jury testimony, you -- you
20 discussed with the Government's attorney whether or not Irwin
21 Schiff was a persuasive individual. Do -- do you recall
22 anything to that effect?

23 A. I'm not sure exactly what the term that she used. Do you
24 have the transcript from...

25 Q. Yeah, and I could read it to you. But it's not -- it's not

1 really important because whatever question she asked you you had
2 a response in return that was slightly different. And -- and if
3 I -- I could refresh your recollection based on mine if it helps
4 or I can just ask you another question.

5 A. Okay.

6 Q. Um, I believe she said to you something to the effect of
7 he's a persuasive guy. And you said, well, you know, no, not
8 exactly. I -- I would use the term "convincing." And you
9 discussed how, it appeared from your answer, that you felt
10 Mr. Schiff had taken advantage of your notion of patriotism in
11 bringing you into this program.

12 Is that a fair characterization of how you felt?

13 MR. NEIMAN: Objection, your Honor. I think this is
14 improper impeachment of prior statement. There needs to be a
15 statement here on the stand to impeach with the Pretrial Grand
16 testimony.

17 THE COURT: Correct.

18 MR. BOWERS: I -- I'm not trying -- well, okay. Let me
19 ask this question --

20 THE COURT: Sustained.

21 MR. BOWERS: -- a different way.

22 BY MR. BOWERS:

23 Q. Do you feel that Mr. Schiff played on your sense of
24 patriotism to involve you in his program of Freedom Books?

25 A. I think the -- what I stated from the Grand Jury that Irwin

1 Schiff was a very angry person --

2 Q. Uh-huh.

3 A. -- and he was upset at the government --

4 Q. He was or you were?

5 A. Not me. He was.

6 Q. He was. Okay.

7 A. -- and that he, uh, you know -- he is persuasive.

8 Q. Okay.

9 A. I'll -- I'll give you that.

10 Q. Okay. Well, that's -- that's kinda my question. He is

11 persuasive.

12 A. Yeah. But I think that statement I made was that he was a

13 very angry person --

14 Q. Okay.

15 A. -- if I'm not mistaken.

16 Q. All right. I -- I -- I've asked the question so inartfully

17 that we've gone down a road I didn't intend to go down. So

18 we'll just leave that.

19 A. Okay.

20 Q. At the time or -- or at any time since then you -- you felt

21 Mr. Schiff was persuasive; is that correct?

22 A. That could be --

23 Q. Okay.

24 A. -- considered correct.

25 Q. Did -- did you feel that he was convincing as well, that he

1 could convince people to do things?

2 A. He convinced me. I wouldn't be here if he didn't.

3 Q. Okay. So you'd describe him as convincing as a result of
4 that?

5 A. Yes.

6 Q. You saw him convince other people?

7 A. Yes.

8 Q. Okay. Um, do -- do you recall that he played upon a sense
9 of patriotism with you in getting you to follow this program?

10 A. Yes. You can hear that through his radio programs also.

11 Q. Okay. Now -- and that's it. Again, I -- I'm sorry. The
12 way that I asked those questions took us down the wrong road.

13 You're square, as you sit here today, with the IRS; is
14 that correct?

15 A. That's correct.

16 Q. And you got square by paying money to the IRS; is that
17 correct?

18 A. Large sums of money.

19 Q. Okay. And is that all did for the I- -- to get square with
20 the IRS is pay large sums of money?

21 A. Well, I was -- I was fined for filing a bunch of frivolous
22 returns.

23 Q. Okay. And I'll get to that just real quickly. But, before
24 we do, I just want to make clear that part of you becoming
25 square with the IRS involved summary payment of moneys over some

1 terms over some times --

2 A. Paying --

3 Q. -- right?

4 A. -- paying back taxes, filing regular returns --

5 Q. Okay.

6 A. -- legal returns --

7 Q. Correct.

8 A. -- paying the taxes on those years that I, um, didn't file a

9 return that -- that I was following Irwin Schiff's material.

10 Q. And nothing else, though, that you had to do to the best of

11 your recollection as we sit here today?

12 A. No, I don't -- I mean...

13 Q. Okay.

14 A. You're not trying to trick me again --

15 Q. No, I --

16 A. -- are you?

17 Q. I know you -- I know since --

18 A. Because I know you --

19 Q. -- since early on you think that I've got somethin', but I

20 don't. I'm just tryin' to clarify answers. So no, I'm not

21 trying to trick you. That's what you get, to pay your taxes and

22 file regular returns like normal people to get square with the

23 IRS. Is that right?

24 A. Yes.

25 Q. Okay. And you had to pay some money back; right?

1 A. Of course, yes.

2 Q. Okay. All -- here's my only question: You had to pay back
3 a large sum of money; correct?

4 A. Yes.

5 Q. And it was well beyond what you probably would have had to
6 pay back had you not engaged in whatever nontraditional tax
7 practices you engaged in; right? I mean, there's some -- some
8 penalties, interest, things that you wouldn't have incurred;
9 correct?

10 A. That's correct.

11 Q. Okay. So -- so here's my only question.

12 Is the money that you had to pay back --

13 A. Okay.

14 Q. -- whatever -- whatever the dollar figure is, is all of it
15 directly attributable to the actions of these individuals or are
16 there -- there other tax theories or teachings by other people
17 that you followed for which some of that money --

18 A. Oh, no.

19 Q. -- is responsible?

20 A. No. No, that's not correct. See, all the money that I had
21 to pay was directly related to following -- following Irwin
22 Schiff. I think I got a \$500 penalty for filing the zero -- the
23 exempt -- not liable return --

24 Q. Not liable?

25 A. -- not liable return.

1 Q. Larry's not liable return?

2 A. Yes, because I did put that in and I think they sent me
3 somethin' back sayin', you know...

4 Q. Okay. So the -- I mean, we've agreed there's some other
5 tax-related things you did.

6 A. Those -- those things that you're talking about --

7 Q. Uh-huh.

8 A. -- there's not a law in this country that says I cannot ask
9 opinions from -- from different people and send those opinions
10 to the federal government trying to -- in the form of a Freedom
11 of Information request to get their viewpoint on it. There's no
12 law that says that, uh, uh, I can't do that. There's no law
13 that's saying that I can't file a copyright on the -- the -- the
14 pronoun named "Melvin Lewis" or --

15 Q. And let me --

16 A. -- other stuff like that.

17 Q. -- stop you for just minute. You're probably right. I'm
18 sure you know more about this area of the law than I do. And
19 that wasn't my question. So let me --

20 A. Okay.

21 Q. -- again, it's my fault; I asked a bad question. Plus
22 you're afraid I -- I keep tryin' to trick you and I'm not. But
23 let me just make it very direct.

24 Um, it's your understanding that these other activities
25 that you engaged in, uh, whatever they were, did not end up

1 resulting in you having to pay any additional money on your
2 taxes; that that was all related to what you decided to do
3 through Irwin Schiff and Larry's not liable return; is that
4 right?

5 A. That's correct.

6 Q. Okay. Thank you, Mr. Lewis. I'm sorry to have kept you so
7 long.

8 THE WITNESS: You're done?

9 MR. BOWERS: Well, done with me; not done yet.

10 THE COURT: Okay. Let's see. Mr. Schiff is next.
11

12 CROSS-EXAMINATION

13 BY MR. SCHIFF:

14 Q. Um, Mr. Lewis, before being exposed to any of my material, I
15 assume that you paid taxes, paid income taxes, for a number of
16 years; is that correct?

17 A. That's correct.

18 Q. Approximately how many years had you paid income taxes
19 before being exposed to my material? Approximately.

20 A. From the age of 18 till...

21 Q. I'm sorry. Excuse me.

22 Approximately. 10 years? 15?

23 A. Of my adult life until I met --

24 Q. Well, how many -- I don't know. How long would that have
25 been?

1 A. Probably about, uh, I think -- I'd have to count. Okay?

2 Hold on a second.

3 Q. Pardon me?

4 A. I have to count the number of years. 18, 20 --

5 Q. Okay. Was that 20 years? Would that be a ballpark?

6 A. A ballpark figure 20, 25 years --

7 Q. Okay.

8 A. Something like that.

9 Q. 20 years.

10 Now, are you familiar with the Internal Revenue Code?

11 A. Am I familiar with it?

12 Q. Yes.

13 A. In what aspects?

14 Q. The Internal Revenue Code, are you familiar with this

15 volume, this book. This is the Internal --

16 A. I've had -- I've owned a book like that before.

17 Q. Okay. You have the book.

18 So, uh, what does the Internal Revenue Code consist of?

19 A. Uh, codes.

20 Q. Well, what -- all of the laws covering income tax; is that

21 correct?

22 A. I don't -- I wouldn't say all the laws covering income taxes

23 are in that book. But it does have ways to administrate --

24 administer the Tax Code.

25 Q. Are there laws covering tobacco taxes in this book?

1 A. I'm sure there is.

2 Q. Liquor taxes?

3 A. Yes.

4 Q. Gun taxes?

5 A. Firearms, yes.

6 Q. Alcohol taxes?

7 A. Yes.

8 Q. Gasoline taxes. Presumably all of the taxing laws of the
9 United States.

10 A. Not all of the taxing laws of the United States.

11 Q. Is there -- well, is this also referred to as Title 20 --
12 uh, Title 26? It's also legally referred to as Title 26; is
13 that correct?

14 A. I take your word on it.

15 Q. Pardon me?

16 A. I take your word for it, yes.

17 Q. Well, do you know that this is referred to as Title 26?

18 A. Irwin Schiff, I'm not an expert on Internal Revenue Code. I
19 studied the code through your --

20 Q. So is it your testimony that you are unaware that this is
21 referred to as Title 26?

22 A. That book is referred to as Internal Revenue Code.

23 Q. And legally it's -- are you aware that we are charged with
24 violating Title 26, that the crimes that we are accused of --
25 of -- of largely because we violated in the Indictment

1 provisions of Title 26?

2 A. You?

3 Q. Yes.

4 A. I'm not sure exactly what you're being charged --

5 Q. You're not sure.

6 A. -- with.

7 Q. Okay. Title 26.

8 Now, you said that there were other laws governing
9 income taxes that are not in the Internal Revenue Code.

10 A. That's correct.

11 Q. What -- where would those laws be if they are not in the
12 Internal Revenue Code?

13 A. That's not a rhetorical question, is it?

14 Q. Pardon me?

15 A. That's not a rhetorical question, is it?

16 Q. I just -- you said that there are --

17 A. Okay.

18 Q. -- laws requiring you to pay income taxes that are not in
19 the Internal Revenue Code.

20 A. Well -- okay.

21 Q. I'm just asking you --

22 A. Yeah.

23 Q. -- where would they be if they are not in the Internal
24 Revenue Code?

25 A. Well, you look at the, uh, War Powers Act.

1 Q. Okay.

2 A. Okay?

3 Q. Okay. You said --

4 A. That's one of them.

5 Q. But you're saying that there are laws in the -- in the what?

6 In the War Powers Act. Is that -- is that what you said?

7 A. That's one of 'em, yeah. That's -- that's another way that

8 the --

9 Q. War Powers Act.

10 A. -- government can -- yeah -- government can collect on taxes

11 in time of war.

12 Q. So you believe that there are provisions in the War Powers

13 Act that require you to pay income taxes?

14 A. Also, yes.

15 Q. Did you ever hear that -- is there anything in any of my

16 material that suggests that there are laws in the War Powers Act

17 governing the payment of income tax?

18 A. I don't think that was the question you asked me --

19 Q. I'm --

20 A. -- just a second ago.

21 Q. -- I'm asking you: Did I persuade you -- you said I was

22 very persuasive -- did I persuade you that there were laws in

23 the War Powers Act that required the payment of income taxes?

24 A. I don't understand the question.

25 Q. The question as you just said, that you found that there

1 were laws in the War Powers Act.

2 A. That's one of the --

3 Q. All right. And you attributed --

4 THE COURT: Let him --

5 BY MR. SCHIFF:

6 Q. -- to me all the --

7 THE COURT: -- let him answer --

8 MR. SCHIFF: Yes, all right.

9 THE COURT: You didn't let him answer.

10 MR. SCHIFF: I'm sorry.

11 THE WITNESS: See, what -- you asked me a question. It
12 was outside of that book, called Title 26, was there other laws
13 that required that you pay income taxes. And I had mentioned
14 one of 'em was the Wars -- War Power Act.

15 BY MR. SCHIFF:

16 Q. All I asked you is -- you said a little while ago --

17 A. And then --

18 Q. -- that I was very persuasive.

19 A. -- and then you jumped on the fact that -- okay.

20 Q. Let me ask the question.

21 Did I ever persuade you that there were laws governing
22 income tax that could be found in the War Powers Act?

23 A. Uh, I don't think we ever discussed anything about that.

24 Q. I never told you anything about that.

25 A. No. That was research on my own with regards to --

1 Q. Okay. I never -- so you didn't get that from me, did you?

2 A. No.

3 Q. But that was a belief with respect to taxes that you came to
4 hold, apparently?

5 A. Yes, after --

6 Q. Okay. But there was --

7 A. -- after comin' in your doors.

8 Q. -- nothing in any of the Freedom Book literature -- there
9 was nothing in my books, in any literature that I ever put out,
10 that suggested for a moment that I believed that there was
11 anything in the War Powers Act that bore on the payment of
12 income tax; isn't that correct?

13 A. That made people liable at this point in time for payment of
14 income tax?

15 Q. Yeah. I mean -- yes.

16 A. I don't think there was --

17 Q. Okay.

18 A. -- anything in your --

19 Q. So I --

20 A. -- material.

21 Q. -- there's nothing in any --

22 THE COURT: Mr. Schiff --

23 THE WITNESS: How does that have to do with --

24 MR. SCHIFF: Okay.

25 THE WITNESS: -- why we're here today?

1 MR. SCHIFF: Okay.

2 THE COURT: Move on.

3 MR. SCHIFF: Okay.

4 THE COURT: You've asked it and it's been answered --

5 THE WITNESS: That has nothing to do with --

6 THE COURT: -- three or four times.

7 MR. SCHIFF: Okay, okay.

8 THE WITNESS: I'm sorry.

9 BY MR. SCHIFF:

10 Q. Now, during all the years when you were paying income

11 taxes -- oh, incidentally -- no. Forget it. Strike that.

12 Now, during all the years in which -- the 20 years that

13 you were paying income taxes, did you ever look into the

14 Internal Revenue Code during all those years?

15 A. No.

16 Q. No. Okay. So you never saw it.

17 So, during the years when you were paying income taxes,

18 you never saw a law that actually said you were required to pay

19 income taxes, did you?

20 A. I never saw a law. That's interesting you put it that way.

21 Um, I -- I guess you got me on that one. You know, I never

22 really -- I relied on the -- my attorney -- my -- my tax

23 attorneys --

24 Q. Well --

25 A. -- and my accountants.

1 Q. -- wouldn't you say you're no different than anybody else?
2 Very few people look into the Internal Revenue Code.

3 A. They're smart.

4 Q. And you -- and you didn't either --

5 A. I didn't either.

6 Q. -- is that correct?

7 So you paid just because you thought that such I law
8 existed; isn't that correct?

9 A. I knew in my heart and in my mind that I, you know, needed
10 to pay taxes.

11 Q. Yeah. You believed that there was a law requiring you to
12 pay taxes even though you never saw such I law.

13 A. I -- I guess you could say that's correct.

14 Q. Okay. However, when you purchased The Federal Mafia, that
15 was the first time you ever actually saw laws and court
16 decisions related to the federal income tax; isn't that correct?

17 A. Not then but now I saw a manipulation of the laws and -- and
18 documents that made people believe that they weren't liable for
19 tax on their income.

20 MR. SCHIFF: I would like at this time, therefore, to
21 introduce my book The Federal Mafia as exhibit -- I have it
22 marked as Exhibit 2004.

23 (Defendant Schiff's Exhibit No. 2004, marked
24 for identification.)

25

1 BY MR. SCHIFF:

2 Q. Now --

3 MR. NEIMAN: Your Honor, the United States would object
4 to the introduction of that book at this time.

5 THE COURT: What is the basis of the objection?

6 MR. NEIMAN: Relevance. Hearsay.

7 MR. SCHIFF: Well --

8 MR. BOWERS: Your Honor --

9 MR. SCHIFF: Well, the --

10 THE COURT: Hold on. We have some input.

11 MR. SCHIFF: Well, your Honor, the defendant said that
12 this is --

13 MR. BOWERS: Mr. Schiff --

14 THE COURT: I'll hear yours first.

15 MR. BOWERS: -- Mr. Schiff, maybe we can help you.

16 MR. SCHIFF: I'm sorry.

17 THE COURT: I'll hear yours first and then I want to
18 hear from counsel. Do --

19 MR. SCHIFF: Well, first of all --

20 THE COURT: -- unless you insist on speaking before
21 him.

22 MR. BOWERS: No. I mean --

23 MR. SCHIFF: Well, first of all --

24 MR. BOWERS: -- I tried.

25 MR. SCHIFF: -- he testified that this was the book

1 that misled him; this is the book that the Government said
2 caused people to erroneously -- I misled people with statements
3 from this book. So I'm sure they'd wanna cross-examine me with
4 it.

5 But, more important, this shows my state of mind
6 eventually. This is what I believe to be true. And, secondly,
7 this is the book that Mr. Lewis said persuaded him to start
8 this, uh, venture of not paying income taxes. And this is the
9 book that persuaded him.

10 Now, true he testified he didn't read all of it. But
11 this is the book that he said -- first of all --

12 THE COURT: Okay. You've made your point. Now let me
13 hear from the other counsel on this.

14 Go ahead --

15 MR. CRISTALLI: Your Honor --

16 THE COURT: -- Mr. Cristalli.

17 MR. CRISTALLI: -- just briefly.

18 With regard to the introduction of The Federal Mafia,
19 the Government was the first to refer to The Federal Mafia. In
20 fact, I think they referred to it in their opening statement.
21 They have referred to it throughout the testimony of almost each
22 and every witness that has been presented at this particular
23 time. As such, I believe it is admissible, um, because they
24 referred to it.

25 THE COURT: Thank you.

1 Mr. Bowers.

2 MR. BOWERS: Extremely briefly, Judge.

3 The logic employed in admitting other documents that
4 have been admitted this morning was buried within this
5 discussion here by Mr. Schiff, which is, frankly, this witness
6 relied on it in engaging in acts that are alleged to be in
7 furtherance of the conspiracy. On those grounds, I believe this
8 Court's already ruled that it's gonna be a relevant document.

9 THE COURT: It will be received. 2004 is received.

10 THE CLERK: We already have a 2004.

11 THE COURT: Oh.

12 THE CLERK: So we'll designate this 2004A.

13 THE COURT: Thank you.

14 (Defendant Schiff's Exhibit No. 2004A,
15 received into evidence.)

16 MR. SCHIFF: Now, your Honor -- can I just say -- when
17 this was published, there was not an index. We had to publish
18 the index separately. But it was...

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

21 MR. SCHIFF: Can I put -- the index was not a part of
22 the book because we made the index later.

23 THE COURT: When did you make the index?

24 MR. SCHIFF: Well, it was -- we made it a long time
25 ago. It was available to anybody who wanted it.

1 THE COURT: Well --

2 MR. SCHIFF: So can they go in together?

3 THE COURT: No. Only if he says he saw the index --

4 MR. SCHIFF: Well, okay.

5 THE COURT: -- and relied on it.

6 MR. SCHIFF: All right.

7 THE WITNESS: Can I see the index?

8 MR. SCHIFF: All right. Okay.

9 THE COURT: Did you see an index?

10 THE WITNESS: No. I -- I don't recall an index being
11 with my Federal Mafia that I bought --

12 THE COURT: It doesn't --

13 THE WITNESS: -- back in 2000.

14 THE COURT: -- come in.

15 BY MR. SCHIFF:

16 Q. Okay. But this is the edition, the 2000- -- all right. All
17 right. So -- okay. So out of this book -- so -- all right. In
18 this book, as a matter of fact --

19 THE COURT: Don't testify.

20 MR. SCHIFF: No, no. I'm saying --

21 THE COURT: Question --

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

23 THE COURT: -- questions.

24 BY MR. SCHIFF:

25 Q. -- you just said -- isn't it a fact that in this book I

1 reproduced a number of sections from the Internal Revenue Code
2 and I reproduced them in this book?

3 A. Yes.

4 Q. So you can read them --

5 A. Yes.

6 Q. -- yourself?

7 A. That's correct.

8 Q. Without any comment from me?

9 A. Yes.

10 Q. Okay. Can you -- and isn't it a fact that you can then
11 verify what these sections say --

12 A. I actually --

13 Q. -- with the law itself?

14 A. -- did. I actually went --

15 Q. Okay.

16 A. -- to the library and looked at some of those.

17 Q. Now -- also, uh, Mr. Lewis, you said that you came to a
18 seminar that I put on; isn't that correct?

19 A. Several seminars.

20 Q. Yes.

21 A. Not "a" but "several."

22 Q. And at that seminar I put in -- I passed out documents; is
23 that correct?

24 A. Say that again?

25 Q. And at the seminar I always pass out documents that I go

1 over.

2 A. Yes, that's correct.

3 Q. And you read those documents?

4 A. I read though documents.

5 Q. And I referred to those documents?

6 A. Yes.

7 Q. And I discussed those documents?

8 A. Yes, you did. Yes, you did.

9 Q. And those documents had a bearing on your belief with
10 respect to my teaching?

11 A. That's correct.

12 Q. You said I was persuasive. Was I persuasive or were the
13 documents persuasive?

14 A. You and the documents.

15 MR. SCHIFF: Okay. Now, I would like to also admit as
16 an exhibit the -- the documents I -- I submit at my seminar. As
17 a matter of fact, the Government had an undercover agent there.
18 So he must have had them also.

19 THE COURT: Don't testify. Just --

20 MR. SCHIFF: I'm sorry.

21 THE COURT: -- tell me what it is --

22 MR. SCHIFF: So I wanna --

23 THE COURT: -- you're proposing.

24 MR. SCHIFF: -- I wanna submit the documents he would
25 have received at the seminar.

1 THE COURT: Well, first have them marked if you haven't
2 had --

3 MR. SCHIFF: Oh, yeah --

4 THE COURT: -- them marked already.

5 MR. SCHIFF: -- I had them marked. I have them marked
6 as --

7 THE COURT: Show them to the Government if you have
8 them marked already.

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

11 MR. SCHIFF: 2009.

12 THE COURT: Okay. Go ahead and ask the witness if
13 he --

14 MR. SCHIFF: 2009.

15 THE COURT: -- can identify them.

16 MR. SCHIFF: Okay.

17 BY MR. SCHIFF:

18 Q. So you would have read these.

19 THE COURT: Did you have a comment?

20 MR. NEIMAN: Your Honor, the United States would object
21 to the admission of these documents. If we could be heard maybe
22 at sidebar very briefly.

23 THE COURT: Well, it may -- it may be that the witness
24 can't identify them. So we'll go to that point before we take a
25 sidebar.

1 MR. SCHIFF: If I -- if I may, I'm not gonna go over
2 each and every document. I'm just --

3 THE COURT: Well --

4 MR. SCHIFF: -- may refer to one or two.

5 THE COURT: -- to get them in --

6 MR. SCHIFF: Yeah, I wanna --

7 THE COURT: -- and to discuss them --

8 MR. SCHIFF: -- get them in.

9 THE COURT: You have to have the witness identify them,
10 that he --

11 MR. SCHIFF: All right. So --

12 THE COURT: -- recollects receiving them.

13 MR. SCHIFF: So what do I do?

14 THE COURT: They are marked. So show them to the
15 witness is the next step if they are marked already.

16 Are they marked?

17 THE CLERK: No, sir.

18 THE COURT: Ms. Clerk.

19 THE CLERK: Uh, there's no sticker on -- on the -- on
20 the document. So I'll mark it.

21 (Defendant Schiff's Exhibit No. 2009, marked
22 for identification.)

23 (Document given to the witness by the clerk.)

24 THE WITNESS: It appears that, uh, some of these
25 documents were out of The Federal Mafia and, uh --

1 THE COURT: Well, here's the question: Do you remember
2 receiving any of those at the seminars?

3 THE WITNESS: I vaguely do.

4 THE COURT: Do you remember?

5 THE WITNESS: I vaguely do, yes. Uh, some of those;
6 not all of these. Some of those.

7 THE COURT: Okay. Well, sort the ones out that you
8 think you received --

9 MR. SCHIFF: Well --

10 THE COURT: -- if you can remember. I don't want you
11 guessing. I want you to -- you know, if you don't remember,
12 then they don't come in. That's basically the ruling. If you
13 have a memory of receiving them --

14 MR. SCHIFF: Your Honor --

15 THE COURT: -- then maybe.

16 MR. SCHIFF: Your Honor, can I make a comment on this
17 while he's doing that?

18 THE COURT: No.

19 THE WITNESS: I do not remember receiving all the
20 documents that are in this packet. Some of these documents are
21 familiar because, like I said, they were in The Federal Mafia.

22 BY MR. SCHIFF:

23 Q. That's correct. I can explain that.

24 THE COURT: They are not coming in. They are already
25 in under The Federal Mafia.

1 MR. SCHIFF: Well, the thing is, is that he went to a
2 one-day seminar.

3 BY MR. SCHIFF:

4 Q. And I think you said you we want to a one-day seminar, not
5 to a two-day.

6 A. A one-day seminar?

7 Q. Okay. Now, did --

8 A. Several.

9 Q. -- this -- this is the agenda for a one-day seminar. Most
10 of those are documents, but here's the actual documents. I'm
11 only gonna use one or two anyway. But --

12 A. Let me see the one or two that you're gonna use.

13 THE COURT: If it's marked, you can. Have you marked
14 it?

15 MR. SCHIFF: Can you mark this as an exhibit, the next
16 exhibit?

17 THE COURT: And show it to the Government.

18 MR. SCHIFF: I don't have this as an exhibit.

19 THE COURT: Well, then have it marked if you wish to --

20 MR. SCHIFF: I --

21 THE COURT: -- if you wish to use it, have it marked.

22 MR. SCHIFF: I was trying to look for the actual
23 documents and I couldn't find them. But I did find -- here,
24 mark this.

25 THE CLERK: What is the last number of your premarked

1 exhibits, Mr. Schiff?

2 MR. NEIMAN: Ms. Vannozzi, it's 2095.

3 THE CLERK: Thank you.

4 MR. NEIMAN: The next available number will be 2096.

5 THE CLERK: Thank you.

6 MR. SCHIFF: Okay.

7 THE CLERK: Would you like me to give it to --

8 THE COURT: Show it to --

9 THE CLERK: -- the witness?

10 THE COURT: No. Show it to the Government first.

11 (Document handed to Mr. Neiman.)

12 (Defendant Schiff's Exhibit No. 2096, marked

13 for identification.)

14 THE COURT: Mr. Schiff.

15 MR. NEIMAN: Mr. Schiff.

16 THE COURT: Okay. Go ahead and show it to the witness.

17 MR. SCHIFF: May I approach the witness?

18 THE COURT: You may.

19 MR. SCHIFF: These are the documents.

20 THE COURT: Well, strike. If there's a question, you
21 can ask it now. What is the question?

22 MR. SCHIFF: Okay.

23 THE COURT: What is the question?

24 BY MR. SCHIFF:

25 Q. Okay. My question is -- okay. So, um, this was the first

1 book of mine that you purchased, is that correct, The Federal
2 Mafia?

3 THE COURT: Hold on a minute.

4 BY MR. SCHIFF:

5 Q. This is the first --

6 THE COURT: You have a -- you have a document in front
7 of him --

8 MR. SCHIFF: Oh.

9 THE COURT: -- that you just walked up --

10 MR. SCHIFF: Oh, okay. So --

11 THE COURT: -- and handed to him.

12 BY MR. SCHIFF:

13 Q. So does that -- does that refresh your recollection of the
14 documents that were actually passed out at my one-day seminar?

15 A. This is a syllabus of -- of -- when was -- I have to ask:
16 When was this?

17 THE COURT: Well, no. You answer the question. Do you
18 remember -- does this refresh your recollection --

19 THE WITNESS: No.

20 THE COURT: -- as to documents that were handed out?

21 THE WITNESS: No, it doesn't, sir.

22 MR. SCHIFF: Okay.

23 THE COURT: Next question.

24 BY MR. SCHIFF:

25 Q. So there are no documents that you recognize there that

1 would have been passed out at my one-day seminar? You recognize
2 none of the documents?

3 A. (Shakes head.)

4 Q. May I --

5 THE COURT: Hold on a minute. Let him --

6 MR. SCHIFF: Now --

7 THE COURT: -- let him see if he can answer the
8 question.

9 THE WITNESS: You know, that would have been passed
10 out. I'm sure all of these would have been passed out at your
11 seminar. The seminars I went to had to do with, uh, role
12 playing with regards to the Tax Court and, um, due process
13 hearings.

14 Uh, this particular seminar I'm not familiar. I mean,
15 you did a lot of seminars here in Las Vegas and I didn't go to
16 every one of 'em. This might be a syllabus from --

17 BY MR. SCHIFF:

18 Q. Do you --

19 A. -- one of those seminars.

20 Q. -- do you recall how I started my seminar? How would I
21 start my seminar?

22 MR. NEIMAN: Your Honor, I -- I think the problem may
23 be terminology. I think Mr. Lewis never attend -- his testimony
24 is that he attended a role play with regards to the collection
25 due process hearing and Mr. Schiff is discussing a seminar which

1 Mr. Lewis didn't attend as a different product. And I think
2 that --

3 MR. SCHIFF: All right.

4 THE COURT: Well, the answer is he doesn't remember --

5 MR. SCHIFF: Okay.

6 THE COURT: -- anything about the documents received --

7 MR. SCHIFF: Okay.

8 THE COURT: -- he doesn't know --

9 MR. SCHIFF: Okay.

10 THE COURT: -- whether the ones that are on this list
11 were passed out at his seminar. So let's move on.

12 BY MR. SCHIFF:

13 Q. Do you have those documents that were an exhibit -- do you
14 have the original sheet? Do you have the original documents
15 that I gave you that you? You said not all the documents.

16 A. Oh, this one here?

17 Q. Yeah.

18 A. Yes, yeah. Here you go.

19 THE COURT: Hand them both back to Mr. Schiff.

20 THE WITNESS: Here you go.

21 BY MR. SCHIFF:

22 Q. Well, you say -- you never recall seeing this document where
23 I reported a news story in which IRS Commissioner Margaret
24 Miller Richardson --

25 THE COURT: No. Hold on.

1 BY MR. SCHIFF:

2 Q. You never --

3 THE COURT: No. You're testifying now.

4 BY MR. SCHIFF:

5 Q. -- saw that document?

6 A. I saw that in The Federal Mafia and some of the other
7 materials that you had --

8 Q. But --

9 A. -- at Freedom Books.

10 Q. -- but this would have been the first document I passed out
11 at my seminar.

12 THE COURT: Mr. Schiff --

13 BY MR. SCHIFF:

14 Q. It's always the first --

15 THE COURT: -- you are testifying.

16 MR. SCHIFF: No, no. It's --

17 BY MR. SCHIFF:

18 Q. You never saw that document?

19 A. Mr. Schiff, I'm sure that you passed that document out at
20 your seminars. But I have no recollection of seein' that
21 document at the seminars that I participated in.

22 Q. I mean certain documents...

23 THE COURT: Mr. Schiff --

24 MR. SCHIFF: Okay. Let's continue.

25 THE COURT: -- the answer is he doesn't --

1 MR. SCHIFF: Let's continue.

2 THE COURT: -- remember those documents.

3 MR. SCHIFF: Let's continue.

4 BY MR. SCHIFF:

5 Q. Now -- now, again, you also testified that it was me who got
6 you into all this trouble and because I was very persuasive;
7 right? Okay.

8 Now, you testified that you did not read the entire
9 book, only parts of it --

10 THE COURT: Which -- are --

11 BY MR. SCHIFF:

12 Q. -- is that correct?

13 THE COURT: -- you referring to, which book?

14 BY MR. SCHIFF:

15 Q. Didn't you -- didn't you testify that you didn't read the
16 whole book?

17 THE COURT: Which book are you referring to?

18 MR. SCHIFF: Federal Mafia.

19 THE WITNESS: I did not read that book from cover to
20 cover. I opened up the index and looked at the parts that was
21 applicable to me.

22 BY MR. SCHIFF:

23 Q. Well, wait a minute. You said -- you said you never saw the
24 index.

25 A. Well, I read the -- I read through the part of the book that

1 dealt with, uh, the W-4. You know, that type of stuff.

2 Q. All right. Let me ask you something, Mr. Lewis.

3 Did you read on the first page of this book? I said:

4 "This book is designed to provide the author's findings
5 and opinions, based on research and analysis of the subject
6 matter This information is not provided for purposes of
7 rendering legal or otherwise professional services, which can
8 only be provided by knowledgeable professionals on a fee basis."

9 And I further pointed out, "Further, there is always an
10 element of risk in standing up for one's lawful rights in the
11 face of an oppressive taxing authority backed by a biased
12 judiciary."

13 You didn't read that?

14 A. Two weeks ago I -- was the first time that I read that.

15 Q. But it was right there for you to read.

16 A. Two weeks ago was the first time.

17 Q. Okay. Did you read the dedication --

18 A. Where is that at?

19 Q. -- in which I dedicated the book to some four people:

20 One was to Earl Teeman, who was an electrician who fled
21 the United States and was murdered by Brazilian bandits after
22 having been convicted of failing to file a tax return.

23 I also dedicated it to Jack and Wanda Biggers of
24 Houston, Texas, who in February 1987 killed themselves after the
25 IRS seized their home and sold it.

1 And I also dedicated the book to Everett Lasher of
2 Seattle, Washington, who shot himself in Tax Court after being
3 told he was gonna be fined 5,000 for raising frivolous
4 arguments.

5 So did you read that --

6 THE COURT: You have --

7 BY MR. SCHIFF:

8 Q. -- dedication?

9 THE COURT: -- an objection.

10 MR. NEIMAN: Objection, your Honor. One, if he -- he
11 said he never read it. I -- I -- I think we can move on.

12 MR. SCHIFF: Well, the --

13 THE COURT: Sustained. Sustained.

14 BY MR. SCHIFF:

15 Q. But you didn't read that?

16 THE COURT: He didn't read any of it. He's already --

17 BY MR. SCHIFF:

18 Q. Okay. So --

19 THE COURT: -- testified to that.

20 BY MR. SCHIFF:

21 Q. -- certainly if you had read it, it would have warned you
22 that there's certain dangers in not paying income taxes in the
23 traditional manner.

24 Okay. Did you read the first chapter?

25 A. Could I take a look --

1 Q. The first chapter --

2 A. -- at the first chapter?

3 Q. -- of the book is entitled, "Surprise! The Income Tax Is

4 Voluntary." Did you read that chapter, the first chapter?

5 A. I think I read parts of that.

6 Q. You read parts of it.

7 Did you read the second chapter, which is entitled,

8 "Why An Income Tax Must Be Voluntary"? Did you read that

9 chapter?

10 A. Can I take a look at that?

11 Q. You looked at it. Okay.

12 A. Could I take a look at that?

13 THE COURT: He's asking to look at it.

14 Mr. Schiff, are you planning to go through the book

15 chapter by chapter?

16 MR. SCHIFF: No, I'm not. No, I'm not, your Honor.

17 THE COURT: You hadn't better be.

18 MR. SCHIFF: No, I'm not.

19 THE COURT: Come on up. You wanna show it to him.

20 MR. SCHIFF: Maybe just the first couple of chapters.

21 THE COURT: Step up.

22 THE WITNESS: Mr. Schiff, your book is very hard to

23 read because it jumps around a lot. And I read this book with

24 regards to, um --

25 THE COURT: Chapters 1 and 2. The questions is --

1 THE WITNESS: Okay.

2 THE COURT: -- Chapters 1 and 2 --

3 MR. SCHIFF: Okay. Go ahead.

4 THE COURT: -- did you read them?

5 THE WITNESS: (Reviewing book.) I do recall reading,
6 uh, Chapter 2.

7 BY MR. SCHIFF:

8 Q. Okay. That explains my view as to why I believe the income
9 tax must be voluntary. I won't get into the chapter itself,
10 but -- okay. So you read that.

11 Did you read Chapter 4, which said "Income Taxes Have
12 To Be Assessed"? Which that's the title of the chapter. Did
13 you read that chapter?

14 A. I think I read parts of that chapter.

15 Q. Okay.

16 A. Yeah. I --

17 Q. Chapter -- I'm sorry.

18 A. Could I say somethin'?

19 Q. Did you --

20 A. What I --

21 Q. -- read chapter --

22 A. -- did is -- with Chapter 4 is I -- the exhibits you have
23 here --

24 Q. Yeah.

25 A. -- I read those and your comments on those. And I went to

1 the, uh, Internal Revenue Code to see if those were actually in
2 the Codes.

3 Q. Okay. Did you read Chapter 6 which is entitled, "No Law
4 Establishes A 'Liability' For Income Taxes"? Did you read that
5 chapter?

6 A. What page is that on?

7 Q. Chapter 6. Very important chapter in my book. And you go
8 to page --

9 A. I think I -- I stopped at "Government Fail[ed] To Respond"
10 on chapter 6 because I remember --

11 Q. Would you go to page 83 where that chapter starts? You
12 wanna read just the title of that chapter?

13 A. "No Law Establish[] A 'Liability' for Income Tax[]."

14 Q. And what's the subtitle?

15 A. Well, "THE" --

16 Q. Right underneath is another --

17 A. -- "THE HEART OF THE ISSUE"?

18 Q. So it says, "THE HEART OF THE ISSUE." So this was the heart
19 of my belief. Okay.

20 A. You know what? Yeah, go ahead.

21 Q. Okay. So did you read that chapter?

22 A. I read part -- parts of it.

23 Q. Okay.

24 A. A good part of it.

25 Q. Okay. But you said you read Chapter 7; is that correct?

1 A. Chapter 7 is --

2 Q. You said you read Chapter 7. Okay. So you read Chapter 7.

3 THE COURT: Hold on. He's -- he hasn't answered that
4 yet.

5 THE WITNESS: I think this is the one that -- I know I
6 went to the one that dealt with the W-4, if that's...

7 BY MR. SCHIFF:

8 Q. That's the section that shows you how to claim exempt on the
9 W-4.

10 THE COURT: Go ahead. He's answered it.

11 BY MR. SCHIFF:

12 Q. I'm sorry. Chapter 8. It's Chapter 8. That's the -- I
13 think you testified that --

14 THE COURT: Hold on. Let him answer the question.

15 THE WITNESS: (Reviewing book.)

16 Yes. Yeah, Chapter, um, 7 is one that I read and --

17 BY MR. SCHIFF:

18 Q. I made a mistake on that. It's --

19 A. -- and in --

20 Q. -- Chapter 8 --

21 A. -- Chapter 8...

22 Q. -- which explains how to --

23 THE COURT: Hold on.

24 BY MR. SCHIFF:

25 Q. -- claim exempt.

1 THE COURT: Let him -- he's still trying to answer --

2 THE WITNESS: Now --

3 THE COURT: -- the question.

4 THE WITNESS: -- on Chapter 8 -- what page is Chapter 8

5 on, starts on?

6 BY MR. SCHIFF:

7 Q. Yeah, Chapter 8 starts on 155. You can read the cap- -- the

8 caption.

9 THE COURT: Well, the question is did you read that.

10 That's the question that's pending.

11 THE WITNESS: Yes, I --

12 BY MR. SCHIFF:

13 Q. 154.

14 A. -- I did -- yes, I did --

15 Q. You did --

16 A. -- I did read that.

17 Q. -- read it.

18 And what is the title of that chapter?

19 A. "How To Stop Paying Income Taxes."

20 Q. Okay. That's the chapter that shows you how you can stop

21 paying income tax; is that correct?

22 A. Yeah. I read this several times actually.

23 Q. You read it several times.

24 I want you go to page 167 which is included in that

25 chapter. And there's a paragraph -- or, I mean, a Footnote 1.

1 Have you read this chapter? Do you wanna read that paragraph --

2 A. The whole paragraph?

3 Q. -- which is -- yeah. Read it.

4 A. Uh, okay.

5 Q. Can you move closer the mic so we can --

6 A. "Unfortunately, some people who were persuaded by How Anyone
7 Can Stop Paying Income Taxes that they could legally stop paying
8 income taxes (they could) went" -- "(they could) went to it's
9 not."

10 Q. They went to jail.

11 So right there I pointed out that some people who
12 followed my advice in a prior book entitled How Any[body] Could
13 Stop Paying Income Taxes went to jail.

14 MR. SCHIFF: Is it all right if I finish reading the
15 paragraph?

16 THE COURT: No --

17 MR. SCHIFF: All right.

18 THE COURT: -- it's not okay.

19 MR. SCHIFF: "How many" -- I said, "How many" --

20 THE COURT: No --

21 MR. SCHIFF: -- "I don't know."

22 THE COURT: No, you can't. I said, no, you can't.

23 MR. SCHIFF: Oh, no, I can't. Oh, I thought you said I
24 can.

25

1 BY MR. SCHIFF:

2 Q. Well, you wanna -- do you wanna continue reading?

3 A. Well, this -- evidently, on your prior book, How Anyone Can
4 Stop Paying Income Taxes, uh, I -- I...

5 Q. No, no. It doesn't say you had to read the book. It
6 said -- just read the paragraph as I wrote it. I said,
7 Unfortunately, some people went to jail. Just continue. "How
8 many" -- you left -- "How many." Starting in the fourth line.

9 A. "How many, I don't know. But" --

10 Q. "I don't know."

11 A. Okay.

12 -- "But they and their families paid a terrible price
13 because of what they learned."

14 Q. Continue.

15 A. Okay.

16 Q. Continue.

17 A. "Not that any of it was wrong; on the contrary--it didn't go
18 far enough. And though the book carried the same warning that
19 appear[ed] in this one," -- okay -- "and cautioned about the
20 corruption of our courts, it is still painful to" -- "to
21 contemplate the degree of suffering that some experienced
22 because of the information I provided. I also thought I had
23 included material that would prevent what happened to myself (I
24 wrote of my having gone to jail" --

25 Q. No, no, no.

1 A. -- "for not" --

2 Q. "I wrote" -- in that book "I wrote" --

3 A. -- "filing)" -- huh?

4 Q. -- "of my having" -- go ahead. I wrote in that book --

5 continue with that parentheses.

6 A. Okay.

7 "And others for [sic] happening" -- "others from

8 happening to them. So, I must again warn you regarding the use

9 of this information. There is no question that it is" -- "that

10 it is all correct. Paying and filing income tax[] are, by law,

11 voluntary. The law, as you will now discover, also provides you

12 with a means of stopping the withholding of [the] tax" -- "that

13 tax; which, by any legitimate standard, you have a perfect right

14 to do. But, by doing so, you run the risk of going to jail!

15 That's just how it is in Amerika [whatever]!"?

16 Q. Yes. With a "K." So continue reading.

17 A. Humm. Okay. Evidently, that's not America. But...

18 -- "So, you have to consider whether or not it's worth

19 the risk. As I [wrote] this, [given the date] (June 6[th],

20 1989) the picture[] of what has happened in China are still

21 vividly in" -- "in mind-especially the ones showing a student

22 stopping a column of tanks with nothing but courage. This book

23 should have convinced you that the freedom[] Americans think

24 they possess are largely il-" -- "illuriously [sic]" --

25 Q. Illusory.

1 A. -- "illusory" -- "illusory. We may, indeed, be freer than
2 others in this world, but we are certainly not as free as
3 Americans once were and not as free as our Constitution
4 supposedly guarantees. We are losing more of our freedom (along
5 with our former economic superiority) each day. The question
6 is, what risk[] and stops [sic] can and should Americans
7 prudently take to recapture that freedom? Should Americans
8 simply cave in to the kind of government tyranny that is fully
9 documented in this book?"

10 Q. So in this paragraph I said while I believe the information
11 is correct, you run the risk using it.

12 MR. NEIMAN: Objection to the --

13 THE COURT: Sustained.

14 MR. NEIMAN: -- question.

15 BY MR. SCHIFF:

16 Q. How did you interpret that paragraph?

17 A. Well, I --

18 MR. NEIMAN: Objection. Relevance.

19 THE COURT: I'll allow that.

20 THE WITNESS: Answer the question?

21 THE COURT: You can answer.

22 THE WITNESS: Okay.

23 Well, I felt that this was wasn't gonna happen to me
24 based on this new information that's in this book.

25

1 BY MR. SCHIFF:

2 Q. Okay. Okay. Now, so -- and in -- in this book, the last
3 third of this book, I wrote while I was in jail, didn't I? So,
4 um --

5 THE COURT: You're testifying now.

6 MR. SCHIFF: I'm sorry.

7 THE COURT: Strike.

8 MR. SCHIFF: I'm sorry. Strike that.

9 BY MR. SCHIFF:

10 Q. Were you aware that a good portion of this book I wrote
11 while I was in jail and I wrote of my experiences in jail?

12 A. I think you had talked about that on your radio show.

13 Q. Was it in this book?

14 A. I'm sure it is if you say it is.

15 Q. Did this book show checks that Simon & Schuster turned over
16 to the IRS? Here. Turn to page 138.

17 A. 138?

18 Q. Yeah. I'm sorry. One thirty -- yeah, 138 and 139.

19 A. Okay. What am I lookin' at?

20 Q. Well, does that show that Simon & Schuster was sending the
21 IRS \$98,000 that it owed me from the sale of my book How Anybody
22 Could Stop Paying Income Taxes? Isn't that a letter from
23 Simon & Schuster to the IRS?

24 A. I -- I -- I'm -- I'm not familiar with this. It appears
25 that it is.

1 Q. Well, why don't you just read it. It's only three lines.

2 THE COURT: He's not familiar with it.

3 THE WITNESS: I'm not familiar --

4 MR. SCHIFF: All right. Forget it.

5 THE WITNESS: -- with if this is --

6 MR. SCHIFF: All right.

7 THE WITNESS: -- the actual --

8 MR. SCHIFF: It's not important.

9 THE WITNESS: -- letter or it's --

10 MR. SCHIFF: Okay.

11 THE WITNESS: -- it's a forgery --

12 MR. SCHIFF: Okay, okay.

13 THE WITNESS: -- or what. I mean, I can't --

14 MR. SCHIFF: Okay.

15 THE WITNESS: -- I don't have the --

16 MR. SCHIFF: Okay.

17 THE WITNESS: -- document --

18 MR. SCHIFF: Okay.

19 THE WITNESS: -- the original --

20 MR. SCHIFF: It's not important.

21 THE WITNESS: -- in front of me.

22 BY MR. SCHIFF:

23 Q. The point is: Throughout the book I explained going to

24 jail, having my property seized, the danger of not paying income

25 tax in a traditional manner. Isn't that so?

1 A. Yes.

2 Q. Okay. And you knew about that?

3 A. I heard it, yes.

4 Q. Okay. And you saw evidence of that in the book?

5 A. Evidently, I did.

6 Q. Okay.

7 A. I didn't pay attention to it.

8 Q. Now -- now, you also purchased, of course, the Internal
9 Revenue Code --

10 A. That's correct.

11 Q. -- which allowed you to check out all of the statutes --

12 THE COURT: You're testifying now.

13 MR. SCHIFF: All right.

14 BY MR. SCHIFF:

15 Q. What was the purpose of your buying the Internal Revenue
16 Code?

17 A. The purpose of buying an Internal Revenue Code was kind of a
18 twofold thing: just to make sure that everything that was in
19 here was in that actual Code and also to get familiar with your
20 procedures on -- on filing an exempt return and, uh, uh, the,
21 um, 1040.

22 Q. When you checked out the statutes as shown in my book with
23 what you discovered in the Internal Revenue Code, did you find
24 any mistakes? Did I misquote the law?

25 A. No, you didn't.

1 Q. Okay. Now, in addition, didn't you buy your own annotated
2 Code?

3 A. I bought that from you I think, yes.

4 Q. No, no.

5 A. What's you mean "annotated"?

6 Q. Well, you bought an annotated Code. Apart from having this
7 Code book, you purchased -- you told me -- did you tell me
8 that -- did you purchase an annotated code in addition to this
9 Code?

10 A. An annotated Code?

11 Q. Yeah. That is a code which shows the law and then it shows
12 all of the case law and court decisions that bear on the
13 statute.

14 A. You mean the Codes of Federal Regulations.

15 Q. No. You bought that too.

16 But you told me that you bought an annotated code. I
17 just assume you did.

18 A. Oh, I was able to get on the Internet and, uh, uh, look at
19 some of those statutes --

20 Q. Okay.

21 A. -- and see how they -- the reason behind why they came into
22 being.

23 Q. So -- so you're telling me now that you didn't buy the
24 annotated code which was -- which is an expanded --

25 A. No, I didn't buy that.

1 Q. Oh, you didn't buy it. Okay.

2 But you did purchase from me the Code of Federal
3 Regulations; is that correct?

4 A. Yes.

5 Q. Uh, so apart from buying the Internal Revenue Code book, you
6 purchased this five-volume set of regulations; is that correct?

7 A. Yes, I did.

8 Q. Let me just put these over here, if I can.

9 A. But I did not read every one of those books, no.

10 Q. No.

11 A. Just so you know.

12 Q. No. I assume you didn't -- I assume you didn't. Nobody has
13 I'm sure.

14 Anyway, what does the code -- what's the purpose of
15 the -- of the regulations that you purchased?

16 A. Um, I -- I guess those would be considered the implementing
17 regulations for --

18 Q. The statutes?

19 A. -- the -- yes.

20 Q. So that instructs the IRS, presumably, how to implement the
21 statutes themselves?

22 A. I would imagine so. See, I no longer study the Code. So I
23 wouldn't claim to be an expert on any of it anymore.

24 Q. But you not only purchased the code; you even purchased the
25 regulations?

1 A. Yes.

2 Q. As a matter of fact, didn't you tell me that your living
3 room looked like a law -- law library?

4 A. Yes. I collect books.

5 Q. Okay. So -- plus you did a lot of research at UNLV law
6 library, didn't you?

7 A. Yes, I did.

8 Q. You liked to do legal research, didn't you?

9 A. Yes, I did --

10 Q. So you liked --

11 A. -- actually.

12 Q. -- to do it.

13 As a matter of fact, didn't you tell me that you
14 actually litigated your own custody lawsuit?

15 A. Yes.

16 Q. And you even got your own attorney disbarred?

17 A. Yes.

18 Q. So you're very familiar with legal research. And you had
19 all the tools needed to do whatever research you had to do with
20 respect to the income tax.

21 A. Divorce and separation is a lot easier than litigating
22 Internal Revenue Code. Believe me.

23 Q. Okay.

24 A. You can do it with both hands tied behind your back.

25 Q. So the point I wanna make is you -- you kept telling that

1 I'm persuasive. Well, I couldn't be that persuasive because you
2 wanted to verify everything I said with both the law and the
3 regulations --

4 A. Irwin --

5 Q. -- is that correct?

6 A. Irwin --

7 Q. Okay.

8 A. -- I didn't say that was correct.

9 Q. Okay.

10 A. I said -- what I said in the -- in the light of the fact
11 that as people would use your material they would get in
12 trouble. And every time they would come in to ask your help you
13 would say: Well, do you have Series 6? Do you have the Code?
14 You don't even have the Code. I'm not gonna help you. So I
15 decided to buy everything that you had in your store so you
16 could not say that to me.

17 Q. But -- but the point is I make all this research available
18 right in Freedom Books so anybody can verify --

19 A. I bought everything.

20 Q. -- what's in my book by going to the laws and the
21 regulations. You don't have to take my word for anything. I
22 mean, you have the law and the regulations.

23 A. That's correct.

24 Q. All right. So, if I told you anything that you couldn't
25 check out accurately, you would know I gave you the wrong

1 advice, is that correct, and you would stop listening to me?

2 A. Right.

3 Q. Because that's clear, isn't it?

4 A. That's clear.

5 Q. Okay. So all this research available was available at
6 Freedom Books?

7 A. Yes.

8 Q. So nobody had to take my advice. I just led them to the
9 law. Before you -- before you read this book...

10 THE COURT: Is there a question?

11 BY MR. SCHIFF:

12 Q. Before you read this book -- yes, I'll just get -- before
13 you read this book, you never knew about of Section 6201 of the
14 Internal Revenue Code which says authority of the Secretary.
15 You didn't --

16 THE COURT: You can't testify.

17 BY MR. SCHIFF:

18 Q. -- know about that statute, did you?

19 THE COURT: You can't testify.

20 MR. SCHIFF: No. All right.

21 THE COURT: You just did.

22 BY MR. SCHIFF:

23 Q. You didn't know about that statute, did you?

24 A. I did not know about that --

25 Q. You didn't know about Section 6203, did you?

1 A. No, I don't --

2 Q. You didn't --

3 A. -- remember what it is.

4 Q. -- know about Section 6303, did you?

5 A. Before I -- no.

6 Q. No. You didn't know about any -- you didn't know about

7 Section 6204, did you?

8 A. No.

9 Q. You didn't know about Section 6212, did you?

10 A. Can I see that?

11 Q. No. You -- well, you didn't -- you didn't know --

12 A. No, I didn't know about it.

13 Q. -- about any of these sections. Isn't that a fact?

14 A. No, I didn't.

15 Q. So my book called your attention to these statutes which you

16 never saw before.

17 A. That's correct.

18 Q. And then you had an opportunity to check out the validity of

19 what was in my book, didn't you?

20 A. Yes.

21 Q. Okay. Now, in checking out the validity of my book -- on

22 June 5th, 2000, you signed under penalty of perjury an amended

23 return; is that correct?

24 A. Yes, I think -- yes.

25 Q. You signed an amended return. And I don't know -- that was

1 your amended return for 1997.

2 A. I signed that, and I paid dearly for it.

3 Q. Okay. You paid dearly for it.

4 A. Yeah.

5 Q. But you -- well, you paid dearly for it. Okay.

6 A. Well, I paid --

7 Q. All right. Okay.

8 A. -- penalties and interest --

9 Q. All right.

10 A. -- and fines to the court.

11 Q. All right.

12 MR. SCHIFF: Could somebody -- that's an exhibit
13 already; is that right?

14 THE WITNESS: You know, I'm embarrassed about it. So
15 I -- I don't wanna keep on --

16 MR. SCHIFF: Can you give him the exhibit of what he
17 filed?

18 THE CLERK: Is it Exhibit No. 9, Mr. Schiff?

19 MR. SCHIFF: Yes. That's Exhibit 9?

20 THE CLERK: I'm asking you. Is it numbered?

21 MR. SCHIFF: Well, that's the Government's exhibit.

22 THE CLERK: Yes.

23 MR. SCHIFF: It was his 1997 return.

24 BY MR. SCHIFF:

25 Q. Is that correct? That's your amended return?

1 A. Yes.

2 Q. Okay. So, presumably, you filed this return after you did
3 all your own independent research and you had the Internal
4 Revenue Code; you had the Code of Federal Regulations; you had
5 gone down to UNLV law library.

6 Okay. Now, in the amended return, you amended your
7 return shown on page 2. What did you say on your amended
8 return?

9 A. I copied word for word the, uh, from the information I got
10 from you --

11 Q. Stop right there.

12 A. -- on page 2 --

13 Q. Can I --

14 A. -- which is --

15 Q. -- can I just interrupt you for a moment?

16 MR. NEIMAN: If he can be allowed to answer the
17 question.

18 THE COURT: He will be allowed to answer.

19 MR. SCHIFF: All right. I'm sorry.

20 THE COURT: Copied word for word...

21 THE WITNESS: I copied --

22 MR. SCHIFF: I'm sorry.

23 THE WITNESS: -- word from word that was, uh, uh, on
24 page 2 --

25

1 BY MR. SCHIFF:

2 Q. Okay. But read what you wrote.

3 A. -- that was in --

4 Q. Just read what you wrote.

5 THE COURT: No. Stop interpreting him.

6 MR. SCHIFF: All right. I can't hear him.

7 THE WITNESS: I copied word from word that was in your

8 material and I wrote this on --

9 BY MR. SCHIFF:

10 Q. Okay. Just --

11 A. -- page 2 and 3.

12 Q. Just -- just read what you wrote.

13 A. Okay.

14 "Due to ignorance, we reported" -- that's a grammar

15 mistake. It should have been "I" -- "we reported as 'income',

16 sources of income as being 'income itself, when in fact, no

17 statutory income tax 'liability' for this year Also we had no

18 statutory income tax 'liability,'" and I copied the, um -- looks

19 like CFR's. And then, "my overpayment must be treated" --

20 Q. No, no, no. You went --

21 A. -- "as a refund so-" --

22 Q. Can I interrupt you? You cited specifically 26 CFR.

23 A. Yes.

24 Q. What does "CFR" --

25 A. 26 CFR --

1 Q. Can I -- what does -- what does "CFR" stand for?

2 A. Code of Federal Regulations.

3 Q. So you were quoting from that set of law books; right?

4 A. Yeah. But I didn't get that outta there.

5 Q. Okay.

6 A. I got this outta of --

7 THE COURT: No. He quoted it --

8 THE WITNESS: -- your material.

9 THE COURT: -- from your book.

10 MR. SCHIFF: Go ahead.

11 THE WITNESS: Uh, this was actually a packet, uh, that
12 I -- I got this information out of.

13 Anyway, it goes on to quote some other -- the 301.6401
14 [sic]. I'm not gonna read all these codes because that's not
15 important.

16 "My overpayment must be treated as a refund solely by
17 reason of the fact that no 'liability', exists I demand,
18 pursuant to 26 C F R. [Uh] 6402, that the Secretary refund all
19 of [my] money they are now holding for income taxes Also the
20 Government was involved in fraud in that the 1040 was
21 fraudulent" -- "fraudulently designed to mislead us into
22 reporting sources of income as being the equivalent of taxable
23 income itself In other words the form was designed to avoid our
24 being able to separate 'income' from the source so that a tax on
25 income would be separated 'from a -- (continue" --

1 You just told me to read number two. You want me to --

2 BY MR. SCHIFF:

3 Q. Okay.

4 A. -- read number three?

5 Q. So you would -- is it your testimony that the -- that
6 despite all of the research equipment that you had available
7 that you would cite these Code sections and these statutes
8 without checking them to see if it really said what you said
9 they said?

10 A. Well, I should have went to an attorney and -- and -- and
11 had him look at it. But I --

12 Q. I didn't hear --

13 A. -- I did the research. And -- and, um, it seemed like the,
14 uh -- what you had in your book I should copy it word for word
15 and it would work.

16 Q. But is it your testimony that like a vantril- -- that you
17 just wrote that's -- which you signed under penalty of perjury
18 without checking what you were sending in? Well, you have --
19 you --

20 A. Well, I checked it --

21 Q. -- want us to believe --

22 A. Yes.

23 Q. -- that you just sent this in with all of your research
24 material without checking what you were sending into the
25 government.

1 A. I believed what -- what you were doing. I believed in it
2 and I verified it in the book and from my understanding of the
3 Codes of Federal Regulations --

4 Q. Okay. Now --

5 A. -- and the Internal Revenue Codes as being true. And so I
6 sent it in.

7 Q. Now, you stated that you were reporting sources of income as
8 income itself. So --

9 THE COURT: Well, we need to take a break.

10 MR. SCHIFF: I'm sorry?

11 THE COURT: We need to take a break. One of our
12 attorney's needs to go to another courtroom.

13 Be in recess 15 minutes.

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

15 THE COURT: Go ahead, Mr. Leventhal.

16 (Recess from 10:35 a.m. to 11:02 a.m.)

17 THE REPORTER: All rise.

18 THE CLERK: Ready? Shall we bring them in?

19 THE COURT: Yes, please.

20 THE CLERK: Okay. Let's go.

21 (Jury enters the courtroom at 11:02 a.m.)

22 THE COURT: Please be seated.

23 The record will reflect the presence of the jury.

24 (Microphone feedback.)

25 THE COURT: Boy, this is really getting annoying.

1 BY MR. SCHIFF:

2 Q. Okay. I think we left off, in your amended return --

3 THE COURT: Hold on a minute.

4 BY MR. SCHIFF:

5 Q. -- you --

6 THE COURT: Hold on a minute.

7 Ms. Clerk, did something happen with the microphones
8 while we were out? I'm getting feedback on mine.

9 THE CLERK: I heard the feedback and I'm trying to --

10 THE COURT: I made a comment that made it onto the
11 record about annoying. I was referring to the microphone, not
12 the trial.

13 Go ahead.

14 BY MR. SCHIFF:

15 Q. Now, um, now, Mr. Lewis, I meant to ask you: When you
16 stated that you visited my office quite a bit, did you ever meet
17 a Jerry Oliver who was a former IRS employee who worked for me?
18 Did you ever meet him?

19 A. I don't recall I ever met that person.

20 Q. Okay. In any case, on your amended return, which you have
21 there, you talked about -- and you made a distinction between
22 sources of income and income itself. Well, why would you make
23 that distinction on this document? Was there any basis for that
24 distinction that you recall?

25 A. Well, I think in your material that I studied, uh, you

1 actually showed that there was a distinction between, uh, income
2 and what I received as compensation for services rendered.

3 Q. Now, did you recall at my seminar I spent a good deal of
4 time explaining the difference? Do -- do you know what the
5 distinction is between income and sources of income?

6 A. I may not be able to recall that right now. Can you refresh
7 my memory?

8 Q. Well, you bought this book also, The Great Income Tax --

9 A. Yes.

10 Q. -- Hoax.

11 MR. SCHIFF: I wanna submit this as Defense Exhibit 203
12 [sic]. It's on my list.

13 BY MR. SCHIFF:

14 Q. You bought this book?

15 A. Yes, I did.

16 Q. You had this book before you sent in the amended -- the
17 amended return?

18 MR. NEIMAN: Your Honor --

19 THE COURT: Hold on a minute.

20 MR. NEIMAN: -- the United States would object to the
21 admission of the book on hearsay basis.

22 THE WITNESS: I don't --

23 MR. NEIMAN: -- and relevance as well.

24 THE WITNESS: -- I don't --

25 MR. BOWERS: Your Honor --

1 THE WITNESS: -- think I bought that book before. I --

2 MR. SCHIFF: I want to -- this is a -- is there an
3 objection to this?

4 THE COURT: Hold on.

5 The Government has an objection. I want to hear --
6 I've already heard...

7 MR. NEIMAN: Hearsay, relevance, uh, 403 as well, your
8 Honor.

9 THE COURT: Okay.

10 MR. SCHIFF: Should I explain?

11 THE COURT: Hold on.

12 MR. SCHIFF: Well, this book --

13 THE COURT: Hold on a minute.

14 MR. SCHIFF: I'm sorry.

15 THE COURT: We have others that want to be heard on
16 this issue.

17 MR. SCHIFF: Okay.

18 THE COURT: Mr. Cristalli.

19 MR. CRISTALLI: Thank you, your Honor.

20 I think we had discussed this issue, which was similar
21 to, um, whether or not we could admit The Federal Mafia. We
22 made the same argument. In this particular case, obviously
23 hearsay doesn't go to the truth of the matter asserted. And
24 we're not asserting that those ideas that are in Mr. Schiff's
25 book are, um -- are accurate or not accurate. But it does go to

1 states of mind issues as they relate to the defendant in this
2 case.

3 MR. BOWERS: Your Honor, obviously 403 can provide a
4 curative instruction. I -- I speak on this because this is my
5 exhibit, Proposed Exhibit 2805. And, with respect to relevance
6 and hearsay, they are both covered by the fact this is like a
7 saying or a writing, uh, and the then affect on the hearer or
8 reader's state of mind is certainly relevant to what we're doing
9 here.

10 MR. CRISTALLI: Your Honor, one final point as well.

11 Um, the Government not only has referred to these --
12 these items during the course of their examination but the
13 Government has also introduced items from Freedom Books, for
14 example, the Desk Book which contains almost identical
15 information as outlined in the books written by Mr. Irwin
16 Schiff.

17 So, in terms of relevancy and hearsay, I don't think
18 it's made in good faith in light of the fact that they've
19 already introduced this information.

20 MR. SCHIFF: Also, if I can --

21 THE COURT: Hold on. Government has another --

22 MR. NEIMAN: Your Honor --

23 THE COURT: -- response.

24 MR. NEIMAN: -- first off, what Mr. Cristalli just said
25 with regard to the Desk Manual referencing these books, this is

1 completely different. This is Mr. Schiff's second book not
2 even -- not mentioned or charged in the Indictment. And what
3 this defendant relied on, if he relied on this, is not what's
4 before this jury here. What's important are what the defendants
5 relied on, again, not what Mr. Lewis. It's --

6 MR. SCHIFF: I can't --

7 MR. NEIMAN: -- similar to our issue from, I believe,
8 the second day of trial with what the witness's opinions and
9 thoughts were.

10 MR. SCHIFF: Okay. Can I comment on that?

11 THE COURT: Go ahead.

12 MR. SCHIFF: Okay. First of all, this is relevant to
13 my own state of mind. I'm not saying that all the information's
14 correct. If the Government wasn't to say it's incorrect, they
15 can do that.

16 But I wanna point out that before the Grand Jury --
17 there's a list of the material that they got. So the Government
18 has this book. And the Government must believe that there's a
19 lot of information in here that's incorrect because they got the
20 book before they indicted me and, secondly, Mr. Lewis relied on
21 it when he filed, um, his, um, amended return because there's
22 very little, as a matter of fact, in my book on this subject
23 because I already wrote this book. So there's a lot of
24 references in The Federal Mafia to The Great Income Tax Hoax.

25 So, frankly, um -- because I wrote this book in 1985

1 and this book in 1990. So I'm not gonna duplicate a lot of what
2 I wrote in this book. So there are a lot of references. And,
3 uh, let's see if he relied on what's in this book.

4 BY MR. SCHIFF:

5 Q. Because when you filed that motion saying that you made a
6 distinction --

7 THE COURT: Now, wait a minute.

8 MR. SCHIFF: I'm sorry.

9 THE COURT: We're still dealing with the admissibility
10 of this.

11 MR. SCHIFF: Oh, okay.

12 THE COURT: Don't ask --

13 MR. NEIMAN: Your Honor --

14 THE COURT: -- him any questions.

15 MR. NEIMAN: -- if the defendant is moving this book in
16 to show his state of mind, that's hearsay. Uh, secondly, we
17 haven't had the testimony that Mr. Lewis relied on this book in
18 preparing either the zero returns or the not liable returns.

19 THE COURT: Well, we're gonna find out in just a
20 minute.

21 MR. SCHIFF: Okay.

22 THE COURT: Wait a minute.

23 The question is: Did you rely on this book in
24 submitting the returns?

25 THE WITNESS: No, I did not.

1 THE COURT: All right.

2 MR. SCHIFF: Well --

3 THE COURT: So it won't be --

4 MR. SCHIFF: Okay. Won't be submitted.

5 THE COURT: -- received at this time.

6 MR. SCHIFF: Okay.

7 BY MR. SCHIFF:

8 Q. Well, then, what did you rely on, what did you rely on when

9 you wrote on your amended return and you created that there was

10 a distinction between sources of income and income itself? What

11 did you rely on?

12 A. I was able to obtain a packet from Freedom Books that dealt

13 with, uh, 1040X amended returns and it had the language --

14 Q. Okay.

15 A. -- in it, some --

16 Q. Okay. You --

17 A. -- not that book. It was like a binder with regards to,

18 uh -- that I bought from you guys.

19 Q. All right. But you bought this book?

20 A. I bought that book.

21 Q. Okay. Now, there are two chapters in this book --

22 THE COURT: You're not gonna go into it because it's

23 not --

24 MR. SCHIFF: All right.

25

1 BY MR. SCHIFF:

2 Q. But you bought --

3 THE COURT: -- received into evidence and --

4 MR. SCHIFF: Now, he said --

5 THE COURT: -- he didn't rely on it.

6 MR. SCHIFF: -- he's not relying on it.

7 THE WITNESS: I did not read that book.

8 BY MR. SCHIFF:

9 Q. You didn't read the book?

10 A. I bought that book, but I didn't read that book.

11 Q. All right. Let me ask you, though --

12 THE COURT: You can't ask about it is because he says

13 he has no --

14 BY MR. SCHIFF:

15 Q. So you bought --

16 THE COURT: -- knowledge of it.

17 BY MR. SCHIFF:

18 Q. -- this book and you didn't read any portion of it; is

19 that --

20 THE COURT: That's been --

21 THE WITNESS: No.

22 THE COURT: -- asked and answered. Don't do it again.

23 You're waiting time.

24 MR. SCHIFF: Okay. Oh, boy.

25

1 BY MR. SCHIFF:

2 Q. Okay. Now, the next thing you said is that you had no
3 statutory liability. You said on your amended, "[I] had no
4 statutory income tax 'liability.'" What would have prompted you
5 to make that statement?

6 A. According to the materials I read from Freedom Books, I had
7 no statutory liability.

8 Q. So, at the time you made that statement, did you believe you
9 had no liability?

10 A. Yes.

11 Q. You did?

12 A. Yes.

13 Q. How did you conclude you had no liability?

14 A. All the material that I purchased from your store --
15 store --

16 Q. Well --

17 A. -- well, the code; the, uh, uh, CFR's; talking with you
18 and -- and going to a couple of your seminars; talking with your
19 employees.

20 Q. Okay. When you -- when you purchased this Code book from
21 Freedom Books, there were tabs in it like this; right?

22 A. Yes, there were.

23 Q. Little tabs and there were big tabs --

24 A. Um-hum.

25 Q. -- so you could reference the various sections. Okay.

1 Did -- did you ever check these tabs out?

2 A. Yes, I did.

3 Q. Okay. One of the tabs -- you want to put this on? Here.

4 MR. NEIMAN: Your Honor, I'm not sure what it is that
5 we're...

6 THE COURT: Well, let's find out.

7 What is --

8 MR. SCHIFF: Well, this is the index.

9 BY MR. SCHIFF:

10 Q. What are the tabs? You can see --

11 MR. SCHIFF: Can I approach the witness?

12 THE COURT: You may.

13 MR. SCHIFF: This is just the index, your Honor. This
14 is not...

15 (Code book handed to the witness.)

16 MR. SCHIFF: Can we throw it on the screen?

17 MR. LEVENTHAL: You have to ask him.

18 MR. SCHIFF: Can I throw --

19 BY MR. SCHIFF:

20 Q. That is the -- from the index of the Code; is that right?

21 A. That -- that's correct.

22 Q. Okay. And that's an index entry entitled "Liability for
23 Tax" because that is the index where it directs you where you
24 can find Code sections with respect to a number of other taxes;
25 right?

1 A. That's correct.

2 Q. Now, what is that --

3 THE COURT: What's it being offered for?

4 BY MR. SCHIFF:

5 Q. What is that index called that you're lookin' at?

6 A. The particular one is, uh, "Liability for Tax."

7 Q. "Liability for Tax."

8 Approximately how many tax -- taxes are listed there?

9 A. Over 50.

10 Q. Do you want to read some of them?

11 THE COURT: No, we're not gonna do that. You need to

12 get your question more specific.

13 BY MR. SCHIFF:

14 Q. The question is -- is -- is -- in other words, there's

15 reference to tobacco taxes, alcohol -- is there any reference to

16 income tax?

17 A. (Reviewing document.) Not that I could tell there is no

18 reference to income tax.

19 Q. Well, do you think that could have influenced your belief

20 that there was no law making you liable because when you went to

21 the Code under "Liability for Tax" you could not see any

22 reference to income tax?

23 A. That's correct.

24 Q. So that could have influenced you?

25 A. Yes.

1 Q. So it's not that I influenced you; it's what you saw in the
2 Internal Revenue Code. Is that correct?

3 A. I guess you could -- well, you had some influence in it.
4 Believe me.

5 Q. All right. In addition, there are other tabs there; is that
6 correct?

7 THE COURT: Are you on the index?

8 MR. SCHIFF: That's the index.

9 THE COURT: All right.

10 MR. SCHIFF: We're not looking at the statutes
11 themselves, your Honor. Just the index.

12 THE WITNESS: Which -- which other tab?

13 BY MR. SCHIFF:

14 Q. Now, um, there's another tab, uh, I think I marked it there
15 "T" for "tobacco."

16 A. Yes.

17 Q. If you can go to tobacco.

18 THE COURT: Why are we dealing with tobacco?

19 BY MR. SCHIFF:

20 Q. Tobacco. If you run your finger down --

21 THE COURT: This case has nothing do with tobacco tax.

22 MR. SCHIFF: I know that. But, your Honor, what I'm
23 trying to do is establish why he would put on this amended
24 return that he had no liability.

25 THE COURT: Well, because he copied it from your

1 materials. That's why. He's been asked and he's answered that
2 many, many times.

3 MR. SCHIFF: But I am suggesting, your Honor, he --
4 he -- he persuaded himself by checking the index of the Code.

5 BY MR. SCHIFF:

6 Q. All right. Let me just say this: In every one of those
7 tabs, uh, if you checked, if you go to tobacco tax there's an
8 entry for liability --

9 THE COURT: No. Mr. Schiff, this is irrelevant.

10 MR. SCHIFF: All right.

11 THE COURT: It is irrelevant --

12 MR. SCHIFF: Okay.

13 THE COURT: -- and for many reasons, not the least of
14 which is the index to the Code is not part of the IRS
15 regulations. The -- this is put in by the publisher.

16 MR. SCHIFF: I am not putting it in for --

17 THE COURT: So are you attacking the -- is your case to
18 attack the index to the Code?

19 MR. SCHIFF: I'm not putting it in for that reason,
20 your Honor. I'm just putting it in to show what might have
21 influenced --

22 THE COURT: He already testified --

23 MR. SCHIFF: -- his putting this down. It's not --

24 THE COURT: He already testified that --

25 MR. SCHIFF: All right.

1 THE COURT: -- he said very clearly why he did it.

2 BY MR. SCHIFF:

3 Q. But I'm suggesting couldn't a reason why you would say
4 you're not liable for the tax because you could not find
5 anywhere in the code, anywhere where there was a provision for
6 liability for an income tax --

7 A. That's --

8 Q. Even though there was such provisions with respect to all
9 the other federal taxes? Could that have been the reason why
10 you wrote I'm not liable for the income tax?

11 A. My answer would be a two-part answer, if you will accept it.

12 THE COURT: Give your answer.

13 THE WITNESS: Okay.

14 BY MR. SCHIFF:

15 Q. I didn't hear your answer.

16 A. Well, part of it is, uh, I did verify that what you were
17 saying was true. And the other part I -- while I am able to
18 litigate child custody, I didn't have the verbiage or the
19 language to, uh, deal with, uh, the Internal Revenue Service or
20 the, uh, uh, Treasury Department. So I solely relied on
21 documents that I received from Freedom Books as to -- as to the
22 language that I needed to put on a 1040X, a W-4, a 1040. That
23 came from you.

24 Q. When you adopted my -- I agree --

25 A. Your -- yeah.

1 Q. -- when you adopted my language though, however, you adopted
2 what that language said as --

3 A. Exactly.

4 Q. -- to be your own beliefs.

5 A. Exactly.

6 Q. I mean, I didn't put a -- I didn't put a gun to your head
7 and say file this document, did I?

8 A. No, you didn't.

9 Q. You filed that document of your own free will, didn't you --

10 A. Yes, I did.

11 Q. -- after you supposedly verified everything on it?

12 Were you -- were you aware of my policy I would tell
13 people don't file anything unless you understand what you're
14 doing? Wasn't that my policy?

15 A. Evidently I didn't understand, uh, everything I was doing
16 and I think you might have said something with regards to that.

17 Q. All right.

18 A. You don't have -- if you don't have all my material, I'm not
19 gonna help you.

20 Q. Well, that's not -- the Code book is not my material.
21 That's the law.

22 A. Well, that's part of the --

23 Q. I didn't write --

24 A. -- stuff that you sell.

25 Q. -- the Code book, did I?

1 A. That's what you sell. And that's what I took it to mean
2 that -- buy everything in the store; then you can't say that.

3 Q. Mr. Lewis, I mean, this is -- this is a free country. I
4 can't force you to buy anything.

5 When you -- when you bought my first book, The Federal
6 Mafia, there must have been a ring of truth for you to be
7 persuaded to buy more material?

8 A. Well, that's -- there was a ring of truth in it.

9 Q. Okay. Okay. I mean, I never put a gun to your head to make
10 you buy anything.

11 A. Mr. Schiff, people --

12 Q. Okay.

13 A. -- speak the truth --

14 Q. Okay.

15 A. -- on certain --

16 Q. Okay.

17 A. -- subjects and then fill the rest of their conversation --

18 Q. Okay.

19 A. -- up with a bunch of lies.

20 Q. Okay. Now --

21 THE COURT: I didn't get your --

22 MR. SCHIFF: Okay, okay.

23 THE COURT: I didn't get your last answer. What was
24 it?

25 THE WITNESS: Well, people speak the truth on -- on

1 various topics. And then, when they continue on, they fill it
2 up with a bunch of lies. People do that all the time to get
3 people to believe in certain things that they want you to
4 believe in. They speak a little bit of truth and then add a
5 bunch of stuff or garbage or false or nontruths.

6 MR. CRISTALLI: Your Honor, I'm gonna object. That's
7 nonresponsive to --

8 BY MR. SCHIFF:

9 Q. Are you suggesting --

10 MR. CRISTALLI: That's nonresponsive.

11 THE COURT: It is.

12 MR. SCHIFF: Wait, wait.

13 BY MR. SCHIFF:

14 Q. Are you suggesting --

15 MR. CRISTALLI: It's nonresponsive and --

16 MR. BOWERS: Move to strike.

17 MR. CRISTALLI: -- and I move to strike.

18 MR. SCHIFF: I didn't hear.

19 BY MR. SCHIFF:

20 Q. Are you suggesting --

21 THE COURT: Wait a minute. There's a -- there's an
22 objection on the answer. Stop talking when there's an
23 objection.

24 Yes, it's -- it's responsive. "When you bought my
25 first book, The Federal Mafia, there must have been a ring of

1 truth for you to be persuaded to buy more material." And then
2 he answers what the ring of truth is.

3 The motion to strike is denied.

4 MR. BOWERS: Thank you, your Honor.

5 BY MR. SCHIFF:

6 Q. Now, Mr. Lewis, if I -- are you suggesting that when you
7 purchased material from us you were purchasing garbage? Is
8 that -- is that my understanding of what you just said?

9 A. At the time when I purchased it, I thought I was purchasing
10 a book that would actually lead me and guide me through the, uh,
11 uh, income tax law -- just like some of the books I have on
12 divorce and separation -- would guide me properly through the,
13 uh, uh -- how to not pay -- legally pay income tax and not get
14 in trouble.

15 Q. Mr. Lewis, didn't you tell -- didn't you -- didn't you
16 testify before that you liked doing legal research; that you
17 knew your way around a law library; that, uh, you -- you felt
18 confident that -- you bought the Code of Federal Regulations.
19 You bought the law? How could I have persuade you --

20 THE COURT: How many questions are you --

21 MR. SCHIFF: Well --

22 THE COURT: -- going to ask before you give him a
23 chance to answer?

24 MR. SCHIFF: I'm sorry.

25 THE COURT: One question --

1 MR. SCHIFF: Sorry.

2 THE COURT: -- at a time.

3 MR. SCHIFF: I'm sorry.

4 THE WITNESS: Okay. With regards --

5 BY MR. SCHIFF:

6 Q. Didn't you testify that you liked doing legal research?

7 A. The reason why I liked doing legal research is because I --

8 I've had wins, I've had major wins in the divorce and

9 separation.

10 Uh, and with regards to the -- the law library, that's

11 a easy thing. All you got to do is bring a box of donuts and

12 they are willing to help you.

13 Q. Well, based upon your testimony, you wouldn't just accept --

14 you wouldn't look at a document which cites various codes and

15 regulations and simply say, well, okay, I'll adopt that without

16 checking them out, would you?

17 MR. NEIMAN: Objection. Asked and answered.

18 THE COURT: Sustained.

19 BY MR. SCHIFF:

20 Q. Would -- would -- would --

21 THE COURT: You've already gone over all of this.

22 BY MR. SCHIFF:

23 Q. Would you --

24 THE COURT: You've asked him this question many times.

25 MR. SCHIFF: Okay.

1 THE COURT: You've gone over it.

2 MR. SCHIFF: All right.

3 THE COURT: Move on.

4 MR. SCHIFF: Okay. All right. Okay. Now -- all
5 right. I'm sorry.

6 BY MR. SCHIFF:

7 Q. Okay. Now, the next thing you said on your amended
8 return -- you said -- you cited -- you said, since I had no
9 statutory liability, uh -- income tax liability, uh, whatever I
10 paid is an overpayment to be treated as -- and it's supposed to
11 be "refunded" to me by reason of the fact that I had no
12 liability. And you cite as your authority 26 Code of Federal
13 Regulations 301.6401 and 26 CFR 301.6401-b [sic].

14 Is that correct?

15 MR. NEIMAN: Objection, your Honor. The defendant's
16 testified he copied this from -- from the -- from Mr. Schiff's
17 materials.

18 THE COURT: Sustained.

19 MR. NEIMAN: I think we've gone down this line --

20 THE COURT: Sustained. We've --

21 MR. SCHIFF: All right.

22 THE COURT: -- we've gone over it and over it.

23 MR. SCHIFF: But I wanted to put -- I wanted to put
24 those statutes in because they are not statutes. I want to
25 put --

1 BY MR. SCHIFF:

2 Q. Why would you have believed that those two regulations would
3 have, uh --

4 THE COURT: Asked and answered. Asked and answered.
5 Move on.

6 MR. SCHIFF: Okay.

7 THE COURT: They are there because that's what you put
8 down --

9 MR. SCHIFF: Okay.

10 THE COURT: -- in your materials.

11 MR. SCHIFF: Okay.

12 BY MR. SCHIFF:

13 Q. Now, so that -- that takes care of your '90 -- your '90 --
14 your amended return for , uh, '97.

15 Now, your amended return for '98, which the Government
16 put in, you said essentially the same thing; right?

17 A. Correct.

18 Q. Okay. And then your amended return for 1999 --

19 A. Yes, same thing.

20 Q. -- you said essentially the same thing.

21 A. Yes.

22 Q. Now, all these amended returns that you put in were prior to
23 2001. The, um -- your 1997 return was sent in at June 5th,
24 2000; uh, your 1998 was sent in June 21st, you know, a couple of
25 weeks later; and your 1999 return was sent in June 30th.

1 Now, you testified when you first met me. It was
2 sometime in the year 2000. Do you recall specifically when that
3 might have been?

4 A. I think it was before, uh, tax season.

5 Q. So it would have been in April.

6 A. March/April, yes.

7 Q. Okay.

8 A. Something like that.

9 Q. Okay. So, in April you met me; presumably were influenced
10 by my material; bought a lot of supporting material; came to my
11 seminar; and you filed those documents --

12 A. Yes. And you notice --

13 Q. -- is that correct?

14 A. -- I didn't fill out a return that year either, for that
15 2000.

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

18 BY MR. SCHIFF:

19 Q. However, on October 25th -- no. Let me see. No.

20 On... On February 9th -- I think this has already been
21 submitted as exhibit. I'm not putting it in as an exhibit.

22 MR. SCHIFF: Okay. This is already an exhibit.

23 THE COURT: What are you referring to?

24 MR. SCHIFF: Well, I think some -- somebody must have
25 put it in.

1 THE COURT: Well, what are you referring to?

2 MR. SCHIFF: But this is a Affidavit of Material Facts.

3 THE WITNESS: Can I see that?

4 BY MR. SCHIFF:

5 Q. On January 19th --

6 THE COURT: Hold on a minute. Show it to --

7 MR. NEIMAN: Your Honor --

8 THE COURT: -- the prosecution.

9 MR. NEIMAN: -- if I may...

10 (Discussion between Mr. Neiman and

11 Mr. Schiff.)

12 MR. NEIMAN: Your Honor, I believe this was something

13 that was --

14 MR. SCHIFF: He sent this in.

15 MR. NEIMAN: -- offered by Mr. Bowers and ruled upon by

16 the Court as to it's admissibility.

17 MR. BOWERS: To clarify, I -- I never believe I

18 requested the admissibility of this document. I think it may

19 have been something that Mr. Lewis and I discussed his reliance

20 upon. But I -- I can't be sure of that.

21 THE COURT: Is it marked?

22 MR. SCHIFF: It could either be -- if it's not in --

23 THE COURT: Is it marked?

24 MR. SCHIFF: -- I can put it in as an exhibit. I --

25 I've marked it up quite a bit.

1 THE COURT: Is it marked by the clerk, not by you?

2 THE CLERK: It's No. 2097.

3 (Pause in the proceedings.)

4 MR. SCHIFF: Okay.

5 (Document handed to the witness.)

6 BY MR. SCHIFF:

7 Q. Let me see. Okay. Oooh, before I do that. Um, did -- did
8 you state -- because I'm moving on to -- did you state that --
9 did I encourage you to -- was it your testimony yesterday that I
10 encouraged you to file an amended return? Did I encourage you
11 to file an amended return?

12 A. Uh, you showed me how to do it and your -- well, I guess
13 your --

14 Q. Well --

15 A. -- literature basically --

16 Q. -- there's no question --

17 A. -- you personally --

18 Q. -- how to file --

19 A. -- no, I don't think you personally told me that.

20 Q. Did you testify that you purchased Schiff Report Series 6?

21 A. I purchased all your series.

22 Q. Okay. So you -- so you purchased Series 6.

23 Now, there is no information in The Federal Mafia on
24 how to file an amended return; is that right?

25 A. There -- there's information in the -- you have a -- you

1 sold a packet with regards to this information.

2 Q. Well -- well, the information on how to file an amended
3 return is in Series 6.

4 A. Okay.

5 Q. 6-2 to be --

6 A. Okay.

7 Q. -- exact.

8 A. You know your material, yes.

9 Q. Okay.

10 A. I mean, I take your word for it.

11 Q. Did I lead you to believe that if you filed an amended
12 return you'd get a refund?

13 A. Yes.

14 Q. Yeah, I led you to believe that you would get a refund.

15 And is it your testimony that this is how I got people
16 into this program or system but by getting refunds?

17 A. Well, Irwin, there was -- you showed -- I mean, your
18 employees showed me, uh, refund checks.

19 Q. And did my employees tell you that that's the -- most people
20 get refund checks?

21 A. Yeah.

22 Q. That's what they told you?

23 A. Yeah. I believe it.

24 MR. SCHIFF: Now, I would like to play -- it's only a
25 five-minute piece -- from Series --

1 BY MR. SCHIFF:

2 Q. You would have discovered how to file a 1040X from 6-2, and
3 this is the tape from which I explain --

4 THE COURT: Wait a minute.

5 BY MR. SCHIFF:

6 Q. -- how I --

7 MR. SCHIFF: I got it all set up. It's only about five
8 minutes. Maybe less than that.

9 THE COURT: What are you proposing to play?

10 MR. SCHIFF: Pardon me?

11 THE COURT: What are you asking to play?

12 MR. SCHIFF: My instructions from 6-2 which is where he
13 would have gotten the information from.

14 THE COURT: Well --

15 MR. SCHIFF: How do I -- is there a --

16 THE COURT: Is that a tape? Series 6 is a tape?

17 THE WITNESS: I -- I think that's a tape out of the
18 series he's making reference to.

19 But we haven't even ans- -- answered the question with
20 regards to why he even brought this document up here --

21 BY MR. SCHIFF:

22 Q. Well --

23 A. -- and the -- the thing that's surrounding this document,
24 Mr. Schiff.

25 Q. Well, I can -- I can put the documents in. But, when you

1 bought a Series 6, it came with a tape and documents --

2 A. Okay.

3 Q. -- is that right?

4 A. Wait a minute.

5 Before Series 6 and what you're talkin' about, we need
6 to deal with this document, why I filled this document out and,
7 uh --

8 THE COURT: Well, hold on a minute.

9 MR. SCHIFF: But --

10 THE COURT: Hold on. There is no question pending. He
11 didn't put a question to you.

12 THE WITNESS: Okay.

13 THE COURT: So it's -- put it aside for now. He may
14 come back to it.

15 BY MR. SCHIFF:

16 Q. Mr. Lewis, when you got a tape --

17 MR. SCHIFF: Oh, incidentally, the Government -- the
18 Government received -- the Government received in the documents
19 from the people who were coming to the Grand Jury, uh, they show
20 here, um, Series 6, six tapes and supporting documents. So the
21 Government already knows what's on this tape and --

22 THE COURT: That's not the issue whether --

23 MR. SCHIFF: The point is this --

24 THE COURT: -- they know what's on the tape.

25 MR. SCHIFF: Can I just -- I would just like --

1 THE COURT: Well, hold on a minute. I want to hear if
2 there's an objection to playing the tape.

3 MR. NEIMAN: Yes, there is, your Honor. One, there
4 hasn't been a foundation established yet and --

5 THE COURT: Correct.

6 MR. NEIMAN: -- it's also hearsay.

7 THE COURT: Correct.

8 BY MR. SCHIFF:

9 Q. Well, Mr. Lewis, did you listen to this -- this is the tape
10 in which I instructed people on why they should or should not
11 file amended returns. And, therefore, you relied on what I
12 said, didn't you?

13 A. I relied on all your material, um. Things heard on the
14 tape; things, uh, in the packet written, um...

15 MR. SCHIFF: Your Honor, may I say this: He says he's
16 relied on all my material. Well, this is some of my material.
17 Those are his words. These are my words.

18 THE COURT: He's already testified that he didn't read
19 all of your material.

20 BY MR. SCHIFF:

21 Q. But you listened to this tape 6, didn't you?

22 THE WITNESS: Can I see that tape?

23 MR. SCHIFF: Can I just play a little segment?

24 THE COURT: No, you can't until we get a foundation.

25 MR. SCHIFF: The foundation is he didn't learn --

1 THE COURT: He asked to see the tape.

2 MR. SCHIFF: All right. All right.

3 THE COURT: He doesn't know. He doesn't know if --

4 BY MR. SCHIFF:

5 Q. Mr. Lewis --

6 THE COURT: -- he's listened to all of it.

7 BY MR. SCHIFF:

8 Q. -- there is nothing in my book, this book, on how to file an
9 amended return; is that right?

10 A. I would have to read -- go through page from page to page --

11 Q. But --

12 A. -- every page of the book. But if you say so.

13 Q. Well, there's nothing -- okay. So you got Series 6.

14 A. Yes, I did.

15 Q. When you get a tape series from me, there are documents and
16 there's my commentary on the documents. Uh, you wouldn't --

17 A. Okay.

18 Q. -- just take the documents by itself and not listen to my
19 commentary, would you?

20 A. I think I know what you're getting at. The documents back
21 up what you, uh, say on the tape. The tapes are sometimes hard
22 to understand. So that's why you put the documents.

23 Q. Okay. So -- but you would have listened to this tape?

24 A. I may have listened to that tape.

25 Q. Okay. So this is the tape that might have persuaded you to

1 file an amended return?

2 A. It may have been.

3 Q. It may have.

4 But you listened to it and it could have persuaded you,
5 couldn't it?

6 A. Uh, what persuaded me was the material, the written
7 material, and --

8 Q. But --

9 A. -- lectures.

10 Q. -- but isn't it a fact that the written material goes with
11 the -- my verbal instructions?

12 A. You'd think so. Yes.

13 Q. This -- it's part of the same package.

14 A. Right. I agree with that.

15 Q. I mean, it's part of the same package. By not putting the
16 whole package together, there could be some misunderstanding.

17 A. That's right.

18 MR. SCHIFF: So all I wanna do, your Honor, is put --

19 THE WITNESS: Your --

20 MR. SCHIFF: -- that package together.

21 THE WITNESS: -- your lecture is hard --

22 MR. SCHIFF: This goes with --

23 THE WITNESS: -- to understand.

24 MR. SCHIFF: -- what I --

25 THE WITNESS: Some of your lectures --

1 MR. SCHIFF: -- it's only five minutes --

2 THE WITNESS: -- are hard to understand.

3 MR. SCHIFF: -- not even that.

4 THE COURT: The question is did the witness rely on the
5 tape in submitting the amended returns. That's the question. I
6 don't think he's answered that yet.

7 Can you answer that question or did you rely on the
8 written materials or did you rely on both?

9 THE WITNESS: I relied on both. The tapes are very
10 hard to understand, to grasp. That's why the written
11 materials --

12 MR. SCHIFF: Okay.

13 THE WITNESS: -- need to be -- come with the tape.

14 BY MR. SCHIFF:

15 Q. Well, let's see if it's hard to understand.

16 A. Okay.

17 MR. SCHIFF: But he relied on both. And it's unfair to
18 me to just take one segment and not the other. So, I mean, the
19 Government played commercials, which to me were misleading. So
20 here -- how do I -- so there's no objection, can I play this?

21 THE COURT: Well, let's see if there's an objection.

22 MR. NEIMAN: Your Honor, there's just some concern
23 whether or not Mr. Lewis listened to this tape prior to filing
24 the returns or whether or not the returns were filed and then he
25 listened to the tape. It sounds like his testimony's been that

1 he -- and we can pose the question -- that he was instructed
2 somehow: through written materials, through someone at the
3 store. And I think that's the one question that I have.

4 THE COURT: All right. Well --

5 MR. SCHIFF: Your Honor, if I can respond to that.

6 THE COURT: You can take the witness on voir dire and
7 ask that question.

8 MR. NEIMAN: Thank you, your Honor.

9 MR. SCHIFF: I think he testified --

10 THE COURT: The Government is gonna ask the question,
11 unless you want to be heard before they do.

12 MR. SCHIFF: I think he --

13 THE COURT: Don't tell me what he testified to. The
14 Government has asked to take the witness on voir dire. And I'm
15 gonna let him unless there's some reason that you have that the
16 Government shouldn't be able to do that.

17 MR. SCHIFF: I -- I'm not -- I don't understand what
18 you just said.

19 MR. LEVENTHAL: May I?

20 MR. SCHIFF: As I understand it --

21 THE COURT: Go ahead.

22 MR. LEVENTHAL: Excuse me. One moment.

23 (Discussion between Mr. Leventhal and
24 Mr. Schiff.)

25 THE COURT: Go ahead.

1 VOIR DIRE EXAMINATION

2 BY MR. NEIMAN:

3 Q. Mr. Lewis, prior to filing the amended returns, the 1040X's,
4 for years '97, '98, '99 -- I believe those are the years -- or
5 the not liable return, did you listen to this -- did you listen
6 to the tape, which I don't know if it has a number yet, in your
7 reliance in preparing those returns?

8 A. I -- I may have listened to that tape. But, uh, with
9 regards to filing these returns, it was basically off of the
10 stuff that I've read and copied to put on my returns. I'm -- I
11 bought all of his material and I listened to as many tapes as I
12 could understand. But the bulk of my, um, filing documents was
13 based off the written material. Because if you were to listen
14 to -- listen to that tape, sometimes it's -- what he's saying
15 it's hard to understand unless you have him there pointing to
16 different things of the Code.

17 So I'm sure I probably listened to that tape. But that
18 wasn't -- the tape is not what led me to do it. It's the
19 research; his written material; the verbiage, how to put the
20 verbiage out of the material onto the, um -- um, the returns.
21 So I don't see how relevant that is. I mean, I'm sure I've
22 listened to it.

23 MR. CRISTALLI: Objection. Nonresponsive. Move to
24 strike as to what he deems relevant or not.

25 MR. NEIMAN: The Government would concede that last

1 part was nonresponsive.

2 THE COURT: Strike.

3 MR. NEIMAN: The Government would also object that
4 it's -- the -- or the witness has testified that he relied on
5 the written materials, not on this tape prior to filing his
6 1040X. And, therefore, it's --

7 MR. BOWERS: Your Honor --

8 MR. NEIMAN: -- hearsay.

9 MR. BOWERS: Judge --

10 MR. NEIMAN: -- inadmissible hearsay.

11 MR. SCHIFF: I think -- I think the Government just
12 mischaracterized what Mr. Lewis said. He said a little while
13 ago that he relied on both the tape and the written material
14 because this is a package. You get the tape and documents. I
15 don't know.

16 BY MR. SCHIFF:

17 Q. You would have listened to the tape as a guide to how to use
18 the documents, wouldn't you have?

19 A. I'm -- I'm sure that's correct. Yes.

20 Q. I mean, when --

21 THE COURT: All right. That's enough.

22 MR. SCHIFF: So --

23 THE COURT: Let me hear from Mr. Cristalli.

24 MR. CRISTALLI: Uh, your Honor, only that, um, in terms
25 of the particular -- this tape, the witness has indicated that

1 he, um, before he did anything digested as much material as he
2 possibly could from Freedom Books.

3 It's not hearsay. It doesn't go to prove the truth of
4 the matter asserted. Um, there's no question -- whether or not
5 he relied on it a little bit or not a lot or maybe just listened
6 to it, that's enough to establish relevancy. He listened to it.
7 He had other documentation in support of what was on the tape.
8 That's sufficient to have this introduced into evidence.

9 THE COURT: Do you have anything different to say to
10 that, Mr. Bowers?

11 MR. BOWERS: Only that at a minimum this witness should
12 be afforded an opportunity to see if the contents of this
13 particular tape refresh his recollection regarding his reliance.

14 THE COURT: Okay. We're going to play it. It's
15 relevant. It will be received, but not for the truth of the
16 matter or matters asserted therein.

17 MR. BOWERS: Thank you, your Honor.

18 MR. NEIMAN: The Government would just ask to reserve
19 the right to play additional portions of the tape --

20 THE COURT: That will be reserved.

21 MR. NEIMAN: -- if they see fit.

22 MR. SCHIFF: I have no objection. You can play the
23 whole tape.

24 How do I play this thing?

25 THE COURT: You got a tape player?

1 MR. SCHIFF: Well --

2 THE COURT: Have you got a tape player?

3 MR. SCHIFF: I don't have it. I thought the Government

4 played those commercials. So I thought there would be a tape

5 player.

6 THE CLERK: We do not have an audiotape player.

7 There's no audiotape player here in the courtroom.

8 THE COURT: Oh, okay. We don't have a tape player here

9 in the courtroom.

10 MR. SCHIFF: Can I reserve my -- well, what was the --

11 how did we play the tape of the commercials?

12 THE COURT: Get a tape player and bring it in.

13 MR. NEIMAN: Your Honor, the commercials were played

14 because they were digitized and put on a computer. We can go up

15 and have one of our agents --

16 THE COURT: No. You don't have to do that.

17 MR. SCHIFF: I can send someone --

18 THE COURT: We don't have a tape player. You can go

19 get a tape player.

20 MR. SCHIFF: I can send --

21 THE COURT: You're gonna have another 18 minutes and

22 it'll be the noon hour.

23 MR. SCHIFF: Okay. I'll go to my office and get a tape

24 player.

25 THE COURT: All right.

1 MR. SCHIFF: Okay. So we'll go -- we'll play the tape
2 later. Thank you, your Honor. Okay.

3 THE CLERK: Your Honor, that will be marked as 2097.

4 MR. SCHIFF: Okay. Okay.

5 (Defendant Schiff's Exhibit No. 2097, marked
6 for identification.)

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

9 BY MR. SCHIFF:

10 Q. Okay. So, Mr. Lewis, I gave you a document that you
11 filed -- let me see where I am. Um, let me see. Uh, hold --
12 what is the date of that document?

13 THE COURT: Which one?

14 MR. SCHIFF: The one that I just gave you.

15 THE WITNESS: Oh, the Affidavit -- Affidavit of
16 Material Facts?

17 BY MR. SCHIFF:

18 Q. Yeah. Affidavit of...

19 A. It was, uh -- the day that I signed it was 1-19-01.

20 Q. Okay.

21 A. The date is -- oh...

22 Q. Okay. Uh, now, on that document, you indicated --

23 MR. NEIMAN: Objection. The document's not in
24 evidence, your Honor.

25 MR. SCHIFF: Okay.

1 THE COURT: Sustained.

2 MR. SCHIFF: Well, I'll put the document into evidence.
3 I thought we marked it.

4 MR. NEIMAN: Same objection to the document, your
5 Honor, to -- as the document Mr. Bowers was showing.

6 BY MR. SCHIFF:

7 Q. Well, let me say this -- now, I found my place.

8 That document is dated January 19th. Approximately
9 nine to ten months after you first indicated you met me, which
10 was in April of the year 2000. So, on January 19th, you filed a
11 document entitled "Affidavit of Material Facts." Is that
12 correct?

13 A. Yes.

14 Q. Okay. Now, in the attachment you indicated -- and I marked
15 it --

16 MR. NEIMAN: Objection, your Honor. The document again
17 is not in evidence.

18 THE COURT: It is not in evidence yet.

19 MR. SCHIFF: Well, then, I move, your Honor, to put it
20 in evidence. It's very significant.

21 THE COURT: What is its relevance?

22 MR. SCHIFF: It's relevant. It's relevant to whether
23 or not he relied upon my information or not.

24 MR. NEIMAN: Your Honor, it's dated after the returns
25 were filed.

1 MR. SCHIFF: That is correct.

2 THE COURT: So how is it relevant if it was filed
3 afterwards?

4 MR. SCHIFF: Because the document shows that as of that
5 date, which is seven or eight months after he met me, he left
6 the influence of my instruction. He adopted philosophies that
7 have nowhere near what I, uh, teach. So all of his testimony
8 that he relied on my teachings is refuted by that document.
9 It's refuted --

10 THE COURT: No, it isn't --

11 MR. SCHIFF: -- by that document.

12 THE COURT: -- because it happened after he filed
13 the -- the returns in question.

14 MR. SCHIFF: Yeah, there's no question about that. I
15 just said all the amended returns that I just went over were
16 filed in the year 2000. As a matter of fact, if I may say, I --
17 I take full responsibility for them, although he checked them
18 out and I think they are entirely accurate. But that's besides
19 the point.

20 The point is this document that he filed on January
21 19th reveals that as of January 19th he embraced another
22 philosophy of income tax. Had nothing to do with me.

23 THE COURT: Okay. So what's so astounding about that?

24 MR. SCHIFF: Well, let me -- let me go over the
25 document, your Honor.

1 THE COURT: Yes.

2 MR. NEIMAN: If Mr. Schiff wants to ask Mr. Lewis if at
3 some point he stopped following his advice and began following
4 the advice of somebody else --

5 THE COURT: Ask the --

6 MR. NEIMAN: -- the Government --

7 THE COURT: -- ask the question.

8 MR. NEIMAN: -- won't object to that.

9 THE COURT: He hasn't asked that question.

10 MR. SCHIFF: I will get to that question.

11 THE COURT: No. Get -- no. Look. It's not coming in
12 until you establish --

13 MR. SCHIFF: All right.

14 THE COURT: -- some relevance.

15 BY MR. SCHIFF:

16 Q. On that document do you -- do you refer -- could I just ask
17 him?

18 THE COURT: No, you can't.

19 MR. SCHIFF: All right.

20 BY MR. SCHIFF:

21 Q. Does that document show that you embraced another theory
22 with respect to the income tax other than what I teach? And, as
23 a matter of fact, the theory that I tried to refute for the last
24 five years.

25 THE COURT: Okay. Now, that is -- that is a speech --

1 MR. SCHIFF: All right.

2 THE COURT: -- not a question.

3 MR. SCHIFF: All right.

4 BY MR. SCHIFF:

5 Q. Does that document show that as of January 19th -- there are
6 only seven or eight months after you met me -- you abandoned
7 totally my teachings and embraced another theory of the income
8 tax? Doesn't that document show that?

9 A. For the record, uh, this document --

10 Q. Yes.

11 A. -- I did this document because of a radio program I heard
12 after yours from a Bill Young -- Richard Young, actually. And,
13 when I called him, he told me that I could be in for trouble if
14 I didn't file this with the Government using your material.

15 Q. But --

16 A. So I did.

17 Q. -- Mr. Lewis, this has nothing to do with my material.

18 How --

19 THE COURT: He just testified. Whether you like it or
20 not, that's what he testified. If you don't like the answer --

21 MR. SCHIFF: All right.

22 THE COURT: -- ask him another question.

23 BY MR. SCHIFF:

24 Q. Doesn't that document show that you indicated no less than
25 ten times 861, that you relied on something having do with the

1 861 argument?

2 MR. NEIMAN: I object to the document.

3 THE COURT: Sustained.

4 BY MR. SCHIFF:

5 Q. Doesn't it say that?

6 THE COURT: Sustained.

7 Don't answer the question. The objection is sustained.

8 MR. SCHIFF: All right. Can I say was he -- was he
9 aware that there was another theory called "861 argument"? All
10 right.

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

13 THE COURT: Not relevant.

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

16 BY MR. SCHIFF:

17 Q. Okay. Mr., uh, Lewis, did you ever hear of the 861
18 argument?

19 A. No.

20 Q. You never heard of the 861 argument?

21 A. I don't -- I've never heard of the eight --

22 Q. You were unaware that that argument had been embraced by --

23 THE COURT: Mr. --

24 THE WITNESS: What type of --

25 THE COURT: -- Mr. Schiff --

1 THE WITNESS: -- argument is it?

2 THE COURT: -- Mr. Schiff --

3 MR. SCHIFF: Okay.

4 THE COURT: Sustained.

5 MR. SCHIFF: Okay.

6 THE COURT: Asked and answered.

7 BY MR. SCHIFF:

8 Q. But, in any case, none of the statements on that four-page

9 document had anything whatsoever to do with what I teach?

10 MR. NEIMAN: Objection.

11 BY MR. SCHIFF:

12 Q. Is that correct?

13 MR. NEIMAN: I feel like -- objection on the same

14 grounds.

15 THE COURT: Yeah. And it misstates the answer.

16 MR. SCHIFF: Okay.

17 THE COURT: Sustained.

18 MR. SCHIFF: Okay.

19 (Discussion between Mr. Leventhal and

20 Mr. Schiff.)

21 MR. SCHIFF: Play the tape, please. Oh, we have the

22 tape.

23 (Pause in the proceedings.)

24 (Audiotape played in open court.)

25 MR. SCHIFF: No, that's not the tape.

1 MR. NEIMAN: Is it the other side?

2 MR. SCHIFF: No, that's not my tape.

3 THE COURT: That's your voice on the tape.

4 MR. SCHIFF: That's not the tape.

5 MR. IGNALL: Do you want to flip it over?

6 MR. SCHIFF: They got side B. Here. This is what you
7 want to play right here. We may have to go back a little bit.
8 (Audiotape played in open court.)

9 MR. SCHIFF: Sorry. Listen.

10 MR. NEIMAN: Is that it?

11 (Audiotape played in open court.)

12 BY MR. SCHIFF:

13 Q. Okay. So on my instructions with -- with the tape, I
14 suggested that you don't file amended returns and seek to get a
15 refund, didn't I?

16 THE COURT: There's an objection.

17 MR. NEIMAN: Objection, your Honor. I'm sorry. I
18 think maybe one of the first questions should be of Mr. Lewis
19 whether or not he remembers hearing this tape and then -- prior
20 to filing the return.

21 THE COURT: Do you remember hearing -- listening to
22 that tape?

23 THE WITNESS: Yes, sir.

24 THE COURT: Next question.

25

1 BY MR. SCHIFF:

2 Q. And the tape was pretty clear?

3 A. Yes, sir.

4 Q. So on that tape, on the verbal part of the tape, I suggested
5 that I did not recommend filing amended returns?

6 A. You suggested not filing amended return. But, if you did
7 file amended return, we can take care of it with these other
8 things, you know, the frivolous penalty or what have you. So
9 I -- I felt that I could get my money back. If they sent me a
10 \$500 penalty, Freedom Books could handle it.

11 Q. But on that tape I suggested very few refund checks were
12 received by filing amended returns. I think on the tape I
13 mentioned two or three.

14 A. You may have suggested that, and that's correct. But I saw
15 a lot more returns -- I mean checks -- return checks. People
16 that got their money back from the Government in your office.
17 So I figured that people were getting --

18 Q. Now, you --

19 A. -- refund checks.

20 Q. But I didn't recommend filing amended returns. And I
21 cautioned people that they could get a frivolous penalty.
22 But --

23 A. That's correct.

24 Q. -- that's something they could handle if they wanted to?

25 A. That's correct.

1 Q. Okay. Now, you testified, also, that you listened to my
2 show which was on every Thursday?

3 A. Yes, I did. I didn't listen to every one. But I listened
4 to...

5 Q. Were you aware that somebody had called my show and reported
6 filing an amended return and getting a refund? Do you recall
7 that or know about that?

8 A. I don't know, but I'm sure someone did. I mean, I don't --
9 I don't remember hearing anything like that.

10 Q. Okay. But there's nothing in this book that talks about
11 amended returns?

12 A. You asked me that question earlier --

13 Q. Okay.

14 A. -- and --

15 Q. The point is --

16 THE COURT: That question is asked and answered.

17 BY MR. SCHIFF:

18 Q. -- were you aware that as a result of that phone-in call we
19 started to get inquiries from --

20 MR. NEIMAN: Objection. He said he wasn't aware of the
21 phone-in call.

22 THE COURT: Sustained.

23 MR. SCHIFF: Okay.

24 BY MR. SCHIFF:

25 Q. So my tape and instructions were -- were provided for those

1 people who wanted to file an amended return --

2 THE COURT: You're --

3 BY MR. SCHIFF:

4 Q. -- over my suggestion that I wouldn't do it?

5 THE COURT: You're now testifying --

6 MR. SCHIFF: Okay.

7 THE COURT: -- and repeating.

8 MR. SCHIFF: Okay. So -- all right.

9 THE COURT: How much more time do you have?

10 MR. SCHIFF: Okay. I'll drop it.

11 THE COURT: How much more time?

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

13 THE COURT: How much more time?

14 MR. SCHIFF: 15 minutes.

15 THE COURT: All right. We're going to take our noon
16 recess.

17 We'll be in recess until 1:00 p.m.

18 MR. IGNALL: I'm sorry, your Honor. 1:00 p.m.?

19 THE COURT: 1:00 p.m.

20 MR. IGNALL: All right. Thank you, your Honor.

21 (Jury leaves the courtroom at 11:57 a.m.)

22 THE COURT: You go ahead and go, Mr. Cristalli, if you
23 need to get up to...

24 MR. CRISTALLI: Thank you, your Honor.

25 THE COURT: -- Judge Hicks.

1 MR. CRISTALLI: I appreciate that.

2 THE COURT: We're in recess.

3 MR. BOWERS: Your Honor, after lunch -- and just spoke
4 to Mr. Cristalli and Mr. Leventhal -- I might ask the Court if
5 maybe one designated day a week we could take an hour and a half
6 instead of an hour for lunch just to get, you know...

7 THE COURT: Okay.

8 MR. BOWERS: Thank you.

9 (Lunch break, 11:58 a.m. to 1:05 p.m.)

10 THE CLERK: All rise.

11 (Jury enters the courtroom at 1:05 p.m.)

12 THE COURT: Please be seated.

13 Will counsel stipulate to the presence of the jury?

14 MR. NEIMAN: Yes, your Honor.

15 MR. CRISTALLI: Yes, your Honor.

16 MR. BOWERS: Yes, Judge.

17 THE COURT: Thank you.

18 MR. SCHIFF: Yes.

19 THE COURT: Mr. Schiff, go ahead.

20 BY MR. SCHIFF:

21 Q. Okay. Okay. So -- so, uh, we were looking at a document --
22 let me see where I am here. Let me get my notes.

23 Okay. So -- so we were just --

24 MR. SCHIFF: That -- that document he's looking at,
25 that didn't go in; right? That's the document with all that 861

1 stuff on it.

2 THE COURT: The Affidavit of Material Fact --

3 MR. SCHIFF: Affidavit.

4 THE COURT: -- did not go in.

5 MR. SCHIFF: So he still has it; right?

6 THE WITNESS: It's right here, yes.

7 MR. SCHIFF: So we're all through with that document?

8 Did this document go in as an exhibit?

9 THE COURT: It doesn't come in. Not -- not with --

10 MR. SCHIFF: Can I make --

11 THE COURT: -- what you have.

12 MR. SCHIFF: -- that as an exhibit, then, if that

13 hasn't gone in?

14 THE COURT: It hasn't gone in.

15 MR. SCHIFF: Well, I would like to make it a defense

16 exhibit.

17 THE COURT: Well, he said it had nothing to do with the

18 returns. So you've made it an exhibit by having it marked, but

19 it's not going in --

20 MR. SCHIFF: Okay.

21 THE COURT: -- based on the present --

22 MR. SCHIFF: All right.

23 THE COURT: -- present state of the evidence.

24 MR. SCHIFF: Okay. Okay. Okay.

25

1 BY MR. SCHIFF:

2 Q. Okay. I don't know if this has gone in because, uh...

3 Now, on February 12th, 2001 [sic], do you recognize
4 this document that I sent to the District Director of the IRS?

5 THE COURT: We need to know what it is, Mr. Schiff.
6 Have you shown it to opposing counsel? You need to do that
7 first.

8 MR. SCHIFF: Excuse me.

9 (Document shown to Government counsel.)

10 MR. NEIMAN: I'll reserve my objection until they
11 actually --

12 THE COURT: Okay.

13 MR. NEIMAN: -- get...

14 MR. SCHIFF: There has been some reference made to this
15 document, but I'm not going to use it for the purposes of which
16 it was referred to earlier.

17 THE COURT: Is it marked yet? Has the clerk marked it?

18 MR. BOWERS: Could we have some description of this
19 document just so we know what this is?

20 THE COURT: Let's get it marked and then we'll describe
21 it.

22 (Pause in the proceedings.)

23 THE COURT: What's the number?

24 THE CLERK: 2099, your Honor.

25

1 (Defendant Schiff's Exhibit No. 2099, marked
2 for identification.)

3 THE COURT: Let's have a description of it for opposing
4 counsel. Let me take it.

5 (Documents handed to the Court.)

6 THE COURT: Letter from Melvin Lewis, Jr., to District
7 Director IRS mailed 2-9-01; some exhibits, A, B --

8 MR. BOWERS: Your Honor, are there discovery Bates
9 stamps on that document?

10 THE COURT: -- C.

11 Uh, the Bates numbers are DS010501 through -39 --

12 MR. BOWERS: Thank you, your Honor.

13 THE COURT: -- with some pages missing: 3, 4, 5, and 6
14 are missing; one page inserted without a number on it, a Bates
15 number.

16 (Pause in the proceedings.)

17 (Document handed to the witness.)

18 THE COURT: Go ahead with your question.

19 MR. SCHIFF: Okay. And I'm gonna -- my question.

20 Okay. Okay.

21 BY MR. SCHIFF:

22 Q. Uh, in that letter which you sent to the District Director,
23 you were saying to him that that document you were sending
24 him --

25 MR. NEIMAN: Objection, your Honor. The document's not

1 in evidence. If Mr. Schiff just wants to ask Mr. Lewis --

2 MR. SCHIFF: Well --

3 THE COURT: You can ask a question; you can't tell him
4 what it says.

5 MR. SCHIFF: Well, it's...

6 THE COURT: It's not in evidence.

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

9 MR. SCHIFF: Okay. Well, has that document gone in as
10 an exhibit?

11 THE COURT: No.

12 BY MR. SCHIFF:

13 Q. Okay. Do you recognize that document as being a document
14 that you sent in to the District Director?

15 A. This first page, I recognize that. This -- this opinion, I
16 got from a Dr. Joe Sweet. I recognize that which is further
17 back. I don't recognize this nor...

18 THE COURT: Identify what it is you don't recognize.

19 THE WITNESS: Okay.

20 MR. NEIMAN: If we could have them identified by the
21 number on the bottom of the page.

22 THE COURT: Page.

23 THE WITNESS: Okay. Oh, yeah. DS010502.

24 BY MR. SCHIFF:

25 Q. Okay. Can I write this down? What don't you recognize?

1 Tell me what you don't --

2 A. DS010 --

3 Q. Pardon me?

4 A. -- 0502.

5 Q. "CS" what?

6 A. "D" as in David, "S" as in Sam, 01 --

7 Q. It might be simpler if you just show me the document.

8 A. Okay. This one here.

9 Q. Okay. You don't recognize that?

10 A. I don't recognize that.

11 Q. Okay. I think to save time you recognize --

12 A. I recognize that one --

13 Q. Okay. Let me --

14 A. -- yes.

15 Q. That's all really.

16 A. Then what's the rest of this stuff --

17 Q. Okay.

18 A. -- about?

19 Q. I can ask you questions --

20 A. Okay.

21 Q. -- and you can answer anyway you want.

22 A. Do you have another copy of that?

23 Q. Yeah. Okay.

24 A. Okay.

25 Q. And can I make a -- here. Okay. It'll be very simple.

1 A. Good.

2 Q. The reason that this is important is that, uh, I think you
3 had testified that you relied upon me and my persuasive powers
4 that got you in trouble. Now, in this letter that you sent to
5 the District director, you said --

6 MR. NEIMAN: Objection to him reading from the letter,
7 your Honor.

8 MR. SCHIFF: I'll read it. All right.

9 MR. NEIMAN: If Mr. Schiff just wants to inquire
10 whether or not Mr. Lewis got these from Mr. Schiff which -- to
11 establish the relevancy or irrelevancy, the Government obviously
12 has no objection to that.

13 MR. SCHIFF: But can I give it to him to read from --
14 it's simpler if I read from it.

15 THE COURT: No. You can -- you need to ask him
16 questions. I'm not going to have you reading from it.

17 MR. SCHIFF: Well, okay.

18 THE COURT: You can ask him questions about it.

19 MR. SCHIFF: Okay. He said he recognized --

20 THE COURT: He recognized --

21 MR. SCHIFF: -- he recognized --

22 THE COURT: -- recognized it. But --

23 BY MR. SCHIFF:

24 Q. Could you just read paragraph 1, 2, 3?

25 MR. NEIMAN: Your Honor, I object to him reading from

1 the document. It's not in evidence.

2 THE COURT: Page -- page 1 he has identified as a
3 letter he signed. So it will be received. Page 1 only.

4 MR. SCHIFF: Well --

5 THE WITNESS: Okay.

6 (Defendant Schiff's Exhibit No. 2099, page 1,
7 received into evidence.)

8 THE COURT: Now you can ask him questions --

9 BY MR. SCHIFF:

10 Q. Read that --

11 THE COURT: -- from the document.

12 THE WITNESS: Okay.

13 "I sincerely believe that I am not a person required to
14 file a federal Income Tax Return. This belief is a result of
15 extensive, independent research that I have done."

16 Okay. And then another highlighted one is --

17 BY MR. SCHIFF:

18 Q. No, no, no. I just want you to read here where it says you
19 had told him -- here. Here.

20 A. Oh, that one.

21 Q. "I have sought competent legal"... Just read this, this
22 whole paragraph. It's only three lines.

23 A. Okay.

24 "To be sure that my position is absolutely correct and
25 lawful, I have" -- "I have sought competent legal counsel and

1 professional advice, IEU [sic]" -- "advice on this issue. The
2 professional advice that I received and for which I paid seems
3 to [be] confirm[ed by] legal position[s]."

4 Q. Okay. So in that letter you informed the Commissioner that
5 you sought competent legal advice from professionals for which
6 you paid money; is that correct?

7 A. Yes.

8 Q. How much did you pay for this -- for this legal advice?

9 A. How much did I pay? Well, that stack of papers you have in
10 your hand there's a document in the back that I requested
11 opinion from a gentleman I paid, I think, 50 bucks.

12 Q. You paid 50 dollars.

13 A. Yeah.

14 And I -- at one point, I felt that you were a
15 competent, professional person that I could get legal advice
16 from until I found --

17 Q. Okay.

18 A. -- found otherwise.

19 Q. So --

20 A. So you could put yourself in that category too.

21 Q. So is it a fact that in this package you included the
22 letters from those legal professionals; is that correct?

23 A. Yes, because I saw at least one of them in there.

24 Q. Okay. And one letter was from an attorney?

25 A. I don't know if that's one's in there, but one was from a

1 Dr. Sweet. I don't know if --

2 MR. NEIMAN: Your Honor --

3 THE WITNESS: -- he was an attorney.

4 MR. NEIMAN: -- I'm gonna object to the relevance of
5 the whole line of questioning.

6 MR. SCHIFF: Well --

7 MR. NEIMAN: This is referring to the letter from
8 Nebraska attorney and --

9 THE COURT: All right. They've already been ruled
10 inadmissible --

11 MR. SCHIFF: Well, let me --

12 THE COURT: -- on grounds they don't accurately state
13 the law, misleading, confusing, prejudicial.

14 The -- you've got to have a point that he got legal
15 advice from someone, including yourself. So that's -- that's
16 about it on this document.

17 MR. SCHIFF: Well, in this -- I'm not gonna get into
18 the letters themselves. The point is the reason it's relevant
19 is that he's led the jury to believe, and certainly the Grand
20 Jury to believe, that all of his advice came from me and that he
21 didn't get any outside verification, no outside confirmation.
22 Here he is saying and he sends to the IRS --

23 THE COURT: He's already answered yes, he did.

24 MR. SCHIFF: Okay.

25 THE COURT: How many times do you want to go over it?

1 MR. SCHIFF: Well, the point is there is a -- a letter
2 from an accountant. I mean --

3 THE COURT: How many times do you want to go over it?
4 He's already acknowledged --

5 MR. SCHIFF: Well, I didn't hear it. All right.

6 THE COURT: -- that he --

7 MR. SCHIFF: All right. So --

8 THE COURT: -- he sent the letters.

9 BY MR. SCHIFF:

10 Q. So, without getting into the specific letters, do you recall
11 reading these letters from these -- from these competent legal
12 researchers?

13 A. I, uh, recalled reading those -- some of those letters, yes.

14 Q. Now, without getting into the specifics of each of those
15 letters, did all of the letters basically say that they could
16 find no law that made you liable for income taxes?

17 MR. NEIMAN: Objection.

18 THE COURT: Sustained.

19 THE WITNESS: Sustained?

20 THE COURT: The objection is sustained.

21 MR. SCHIFF: All right.

22 THE WITNESS: Also, I can answer that; right?

23 MR. SCHIFF: Okay.

24 THE COURT: You don't have to answer.

25 THE WITNESS: Okay. Thank you.

1 BY MR. SCHIFF:

2 Q. Oh, incidentally, one of these letters --

3 THE COURT: Now you're testifying.

4 MR. SCHIFF: I recognize -- your Honor, I recognize one
5 name here as being the head of a tax resist- --

6 THE COURT: You are testifying. Don't --

7 MR. SCHIFF: Can I ask him --

8 THE COURT: No --

9 MR. SCHIFF: -- the question?

10 THE COURT: -- you can't. You're attempting to
11 testify.

12 MR. SCHIFF: Okay.

13 THE COURT: And I'm not going to let you do it.

14 MR. SCHIFF: Okay.

15 THE COURT: And, if you keep it up, I'm going to -- I'm
16 gonna instruct the jury --

17 MR. SCHIFF: Okay.

18 THE COURT: -- on the law early.

19 MR. SCHIFF: Can I ask him --

20 THE COURT: Do you understand?

21 MR. SCHIFF: -- who this letter is from? Can I ask him
22 who this letter is from?

23 THE COURT: He's already said, Joe Sweet.

24 MR. SCHIFF: Yeah. Well --

25 THE COURT: All right. That's enough.

1 MR. SCHIFF: -- can I ask him who Joe Sweet is?

2 THE COURT: No.

3 MR. SCHIFF: Okay. All right.

4 So can I take these back, is that it?

5 THE WITNESS: That.

6 MR. SCHIFF: Oh, this is a --

7 THE COURT: That is received into evidence. You can't

8 take that back.

9 MR. SCHIFF: Okay.

10 THE COURT: You can take the other stuff back.

11 MR. SCHIFF: Okay.

12 Now, I'm gonna -- I -- I don't know if this -- we put a

13 lot of exhibits in. I don't know. I don't know if this --

14 THE COURT: Wait a minute. You know the procedure by

15 now. You hand it to the clerk to mark it and then you show it

16 to --

17 MR. SCHIFF: Okay.

18 THE COURT: -- opposing counsel. All of them.

19 MR. SCHIFF: Here. You mark this.

20 THE CLERK: No. 2100.

21 (Defendant Schiff's Exhibit No. 2100, marked

22 for identification.)

23 THE COURT: Show it to counsel, all of them.

24 (Documents shown to counsel.)

25 MR. NEIMAN: Your Honor, the Government's gonna object

1 to the relevance of the whole line of questioning to these
2 letters. They are all dated -- this one's dated a year after --
3 more than a year after the returns were filed which are in
4 question in this case.

5 MR. SCHIFF: Your Honor, the relevance of these
6 documents shows that he's not relying on -- on my material as he
7 claimed to have been relying on it.

8 THE COURT: This is after the fact. Did he admit he
9 wasn't relying when he filed them or what does it say?

10 MR. SCHIFF: Well, first of all --

11 THE COURT: Let me see it. Hand it to the clerk --

12 MR. SCHIFF: He amended --

13 THE COURT: -- hand it to the clerk.

14 (Document handed to the Court.)

15 THE COURT: It's after the date of the amended return,
16 1040X, dated 12-21-01; the letter's dated 12-18-01.

17 MR. SCHIFF: Your Honor, if I can point something out.
18 He's -- he's already testified that he relied on my material for
19 some two or three years. I specifically asked him. And that
20 document is within that time frame.

21 THE COURT: Your statement has nothing to do with
22 whether this is admissible or not. The question is did he send
23 this letter.

24 THE WITNESS: That's correct. I did send this letter.

25 THE COURT: And then you filed an amended return?

1 THE WITNESS: What's that?

2 THE COURT: You filed an amended return and dated it
3 after that date?

4 THE WITNESS: After this?

5 THE COURT: Yes.

6 MR. SCHIFF: Yeah. He...

7 THE COURT: Okay. Your next question.

8 BY MR. SCHIFF:

9 Q. The point is: In that document, which you sent -- okay. I
10 have a copy.

11 A. May I ask what's on that amended --

12 Q. Okay. The point is --

13 A. -- return after this date?

14 Q. Who was that letter sent to? Who did you sent that letter
15 to?

16 A. The Commissioner, Charles, uh, Rossetti.

17 THE COURT: Next question.

18 BY MR. SCHIFF:

19 Q. Well, did you send a copy of that letter also to the Chief
20 Justice Rehnquist of the Supreme Court?

21 A. Is that --

22 THE COURT: Stand back. You can ask him that question
23 without coming up to the bench.

24 MR. SCHIFF: Here's the letter.

25

1 BY MR. SCHIFF:

2 Q. Incidentally --

3 THE COURT: Let him answer the question.

4 MR. SCHIFF: Okay.

5 THE COURT: The question is: Did you send one to
6 Justice Rehnquist?

7 THE WITNESS: Uh, it appears that I may have. I
8 just -- that particular letter, um, I need to -- just need to
9 see if -- if my signature's on it.

10 MR. NEIMAN: Your Honor, the -- the returns -- the
11 1040X was filed upon the reliance of Mr. Schiff, regardless of
12 Exhibits 9, uh, 12, and 14 which were filed in June of 2000.
13 There were -- there are subsequent 1040X's that Mr. Lewis did
14 file, but those were not -- his testimony has been those were
15 not based upon the reliance of Mr. Schiff's advice. These go
16 toward the subsequent 1040X's.

17 THE COURT: I understand.

18 MR. NEIMAN: And the Government would just argue that
19 they are irrelevant.

20 MR. SCHIFF: Your Honor --

21 THE COURT: I understand. They are relevant -- they
22 may be relevant to the amended 1040X's because --

23 MR. SCHIFF: Your Honor, if I could --

24 THE COURT: -- they are three days after the date of
25 the letter.

1 MR. SCHIFF: There's two things that I believe are
2 relevant here. He already testified that he relied upon my
3 material for two or three years. And I think the evidence will
4 show he only relied upon my material for about six months. But
5 also he had talked about the amended returns. He amended those
6 amended returns. I didn't get to that yet.

7 THE COURT: Well, that's the only way it's relevant is
8 if he amended the returns. So you better get to that --

9 MR. SCHIFF: Well --

10 THE COURT: -- or I'm going to --

11 MR. SCHIFF: -- your Honor --

12 THE COURT: -- admit it as relevant.

13 BY MR. SCHIFF:

14 Q. All right. Now, could you read the -- the caption of this
15 document?

16 A. I don't have that document in front of me.

17 Q. "Declaration of Non-Juristic" -- no, no. Just read the --

18 A. Oh, okay.

19 Q. -- because the two documents are the same except they are
20 addressed to two different people. Just read the caption of
21 that document.

22 A. "Declaration of Non-Juristic Status." Is that it?

23 Q. No. Read the whole caption.

24 A. "And Formal Constructive Notice."

25 Q. Formal what?

1 A. Constructive -- Constructive Notice.

2 Q. Could you just read the, um, second paragraph. It's only
3 three lines.

4 MR. NEIMAN: Objection, your Honor. The document is
5 not in evidence.

6 THE COURT: It is not.

7 MR. SCHIFF: Well, can -- can I make an exhibit, a
8 defense --

9 THE COURT: Not yet because you haven't established the
10 relevance of it.

11 MR. SCHIFF: Well, the relevance is, is that he's not
12 using my material. His testimony --

13 THE COURT: For what?

14 MR. SCHIFF: -- he used my material for two or three
15 years. This document was dated December 18th, 2001. He left
16 the area of my instruction. This has absolutely nothing to do
17 with I [sic] teach. He testified --

18 THE COURT: Then what does --

19 MR. SCHIFF: -- that he was --

20 THE COURT: -- have to do with this case? You're --

21 MR. SCHIFF: Pardon?

22 THE COURT: -- on trial. You're on trial for doin'
23 certain things. If it has nothing to do with you, then what is
24 the relevance of it?

25 MR. SCHIFF: Well, the relevance is he led certainly

1 the Grand Jury and the jury to believe that he only used --

2 THE COURT: I don't care what he led the Grand Jury to
3 believe. Those issues have already been addressed --

4 MR. SCHIFF: All right.

5 THE COURT: -- and the Indictment has been upheld.

6 MR. SCHIFF: Let me -- let me ask you. Can he just
7 read the third -- also, he said I was very persuasive. I wanna
8 know if I persuaded him to file this document. He said I was
9 very persuasive.

10 THE COURT: It's irrelevant whether you persuaded him
11 or not because that's not the issue.

12 MR. SCHIFF: You're not gonna let him read from this
13 document? I mean, I -- I think it's relevant --

14 THE COURT: No.

15 MR. SCHIFF: -- to whether or not he was following my
16 procedures.

17 THE COURT: I've already ruled it was irrelevant to the
18 charges. So --

19 MR. SCHIFF: Okay. So --

20 THE COURT: -- let's move on.

21 MR. SCHIFF: -- he's not gonna read from it?

22 THE COURT: That's what I would --

23 MR. SCHIFF: Okay.

24 THE COURT: -- take from my ruling.

25 MR. SCHIFF: Okay.

1 So do I get the document back? Is that it?

2 THE COURT: If it's marked, you don't get it back.

3 MR. SCHIFF: I mean, I don't know.

4 THE COURT: It goes to the clerk.

5 THE WITNESS: It's marked.

6 MR. SCHIFF: I mean, I don't want it.

7 I'll show the defense -- the pros- -- another document

8 which he sent to, um, Social Secur- -- "Security Agreement," the

9 Social Security Administration.

10 Your Honor, I got so many of these documents I couldn't

11 keep them straight.

12 THE COURT: Well --

13 MR. SCHIFF: Take a look at this.

14 MR. NEIMAN: The Government would have the same

15 objection to all these documents.

16 THE COURT: Have it marked and shown to the other side.

17 (Document shown to Government counsel.)

18 MR. SCHIFF: Is this marked? I want to show this to

19 the witness.

20 THE COURT: Show it to Mr. Bowers and Mr. Cristalli.

21 THE CLERK: Yes.

22 Did you show it to Mr. Bowers and Mr. Cristalli yet?

23 MR. SCHIFF: No.

24 THE CLERK: Okay. Please do.

25 MR. SCHIFF: I don't think so.

1 (Defendant Schiff's Exhibit No. 2101, marked
2 for identification.)

3 (Document shown to counsel.)

4 MR. SCHIFF: These documents, your Honor, are being
5 submitted to impeach the witness with respect to prior
6 statements he made under oath.

7 THE COURT: What statement are you referring to?

8 MR. SCHIFF: Well, these statements on here, your
9 Honor.

10 THE COURT: No. Which prior statement?

11 MR. SCHIFF: Well, the statement is that he relied upon
12 my material for a period of three years. I specifically asked
13 him how -- he met me in April of nineteen eight -- nine -- of
14 2000. And I specifically asked him how long he relied upon my
15 material, and he said three years. And all these documents are
16 within that time frame. And all these documents were supplied
17 to me by the Government in discovery. I didn't know about these
18 documents.

19 THE COURT: Show him the document.

20 (Document handed to the witness.)

21 THE CLERK: Your Honor, that's marked 2101.

22 THE COURT: And, when you finish with it, show it to
23 me.

24 THE WITNESS: Okay. (Reviewing document.)

25

1 BY MR. SCHIFF:

2 Q. Now, do you recognize that document?

3 THE COURT: Wait a minute. We're going to see if it's
4 relevant.

5 THE WITNESS: This document has nothing to do with
6 taxes. This is something completely --

7 THE COURT: Send it up to me.

8 (Document handed to the Court.)

9 THE COURT: What is your -- the Court rules the matter
10 inadmissible. You can ask him a question if you wish.

11 BY MR. SCHIFF:

12 Q. Well, who did you send that document to? I couldn't figure
13 it out.

14 A. Okay. Um, what I used this document for is to, like, put a
15 lien against the --

16 Q. Excuse me. Unresponsive to my -- I just said: Who did you
17 send that document to?

18 A. I sent this document to the, um -- the state.

19 Q. Who?

20 A. The state.

21 Q. The state?

22 A. Yes.

23 THE COURT: Of Nevada?

24 THE WITNESS: Yes.

25

1 BY MR. SCHIFF:

2 Q. What was the purpose of the document?

3 MR. NEIMAN: Objection. Relevance.

4 THE COURT: It's -- it's irrelevant.

5 MR. SCHIFF: Well --

6 THE COURT: Irrelevant.

7 MR. SCHIFF: Well, suppose it was -- all right.

8 THE WITNESS: This has nothing to do with it, your
9 Honor. This has nothing to do with this. It's completely
10 different.

11 BY MR. SCHIFF:

12 Q. Well, would that document have anything to do with
13 protecting your assets from creditors?

14 A. Has to do with copyrighting and protecting my assets from,
15 um, illegal, um, lawsuits, like renters.

16 Q. Also the IRS who had a claim against you at that time?

17 A. Could be. But I don't -- I doubt it would...

18 Q. In other words, that document could have been filed to
19 protect -- by your own research, protecting your assets from
20 what you perceived to be a potential IRS claim against you.

21 A. It could have been. But, remember, Irwin Schiff, you wasn't
22 givin' me any help when I went to...

23 Q. You already embraced the 861 -- all right.

24 A. What's that?

25 Q. So I had nothing to do with persuading you to file a

1 document, such as that; is that --

2 A. This is after I started realizing that --

3 Q. Okay.

4 A. -- you weren't providing me with any help.

5 Q. Okay. So I had nothing to do with a document where you made
6 an agreement among yourself?

7 MR. NEIMAN: Objection. Asked and answered.

8 THE WITNESS: What?

9 THE COURT: Sustained.

10 MR. SCHIFF: Can that go in as an exhibit?

11 THE COURT: No.

12 MR. SCHIFF: Again --

13 THE COURT: It's irrelevant.

14 MR. SCHIFF: -- it's just to impeach prior testimony
15 that he was relying upon me for three years.

16 THE WITNESS: Mr. Schiff, I'd like to see those other
17 amended returns that you talk about.

18 MR. NEIMAN: Objection to --

19 MR. CRISTALLI: Objection. Nonresponsive.

20 THE COURT: Sustained.

21 MR. SCHIFF: All right. So I take this back; is that
22 right?

23 THE COURT: No. It's the clerk's. It's marked.

24 MR. SCHIFF: Oh, it's marked. All right.

25 THE COURT: It goes to the clerk.

1 MR. SCHIFF: I won't be very much longer.

2 THE COURT: Well, you'd promised me 15 minutes.

3 MR. SCHIFF: Well --

4 THE COURT: And it's been -- it's been 35.

5 MR. SCHIFF: Well, I just thought if he was more
6 responsive it would have take- -- okay, okay. Let me just see.
7 All right.

8 Now, your Honor, you [sic] referred to the fact that he
9 amended returns for the years, um, 1997, 1998, and 1999.

10 (Document shown to Government counsel.)

11 MR. SCHIFF: I would like to admit this document.

12 MR. NEIMAN: Your Honor, the Government would have the
13 same objection as...

14 MR. SCHIFF: Do you want to stamp this?

15 THE CLERK: Number 2102.

16 THE COURT: Have you shown it to Mr. Cristalli and
17 Mr. Bowers?

18 MR. SCHIFF: Okay. I'll show it to them.

19 (Defendant Schiff's Exhibit No. 2102, marked
20 for identification.)

21 (Document shown to Mr. Bowers and
22 Mr. Cristalli.)

23 (Document handed to the witness.)

24 THE COURT: Before you comment on it, let me see it.

25 THE WITNESS: Okay. (Reviewing document.)

1 BY MR. SCHIFF:

2 Q. Mr. Lewis, do you recognize that document?

3 THE COURT: Just a minute. I'm going to take a look
4 and see if it has any relevance.

5 (Document handed to the Court.)

6 THE COURT: Your question.

7 BY MR. SCHIFF:

8 Q. Well, in that document -- didn't you seek in that
9 document -- I don't have it in front of me -- to amend -- you
10 amended all the amended returns that you filed based upon my
11 information and you used other information to amend those
12 returns? So what is the date of that document?

13 THE COURT: Why don't you ask a question.

14 BY MR. SCHIFF:

15 Q. What is the date of that document?

16 A. The date that's listed on the document is 9-5-01.

17 Q. 9-5.

18 What was the purpose of that document?

19 A. Uh, I sent this to the Internal Revenue Service. Uh, there
20 seems to be a mixture of some of your material and someone
21 else's material.

22 Q. Would you -- I don't have the document, so I don't know.
23 Can I just -- show me the document.

24 MR. SCHIFF: Can I enter this document, your Honor, as
25 a defense exhibit?

1 THE WITNESS: It's a combination of yours and others.

2 BY MR. SCHIFF:

3 Q. Okay. Would you just read this line, "So on the 6th day of
4 June"? Just read this paragraph. Just read starting here.

5 MR. NEIMAN: Your Honor, I would object to the reading
6 of the document.

7 MR. SCHIFF: Your Honor, the relevance of this is --
8 because you -- you talked about the amended returns he filed
9 using my information. On this date, he amended all those
10 amended returns. That's the point.

11 THE COURT: I didn't talk about --

12 MR. SCHIFF: Well, here.

13 THE COURT: Wait a minute. Wait a minute.

14 This is the second time you have put words in the mouth
15 of the Court that weren't spoken by the Court; second time on
16 this -- on this very subject.

17 First you said I identified the years that he filed
18 amended returns, which I did not. And now you're saying I said
19 that he used information from your book in filing the amended
20 returns, which I did not.

21 MR. SCHIFF: Well, your Honor, I apologize. He said
22 it. Somebody said it.

23 THE COURT: Ask your question and ask one question at a
24 time.

25 MR. SCHIFF: Okay.

1 BY MR. SCHIFF:

2 Q. Did you send this letter saying that you were amending the
3 1997, 1998, and 19 [sic] tax returns that you had filed using my
4 information? You were amending those returns.

5 A. (Reviewing document.) Apparently so.

6 Q. That -- that -- that's what that says, doesn't it?

7 A. Yes.

8 Q. I'm not asking you the basis of how you amended it. But the
9 purpose of this was to notify Mr. Rossetti and the IRS that you
10 were amending and changing the amended returns that he had
11 discussed earlier.

12 A. Yes.

13 Q. Okay. And the date of that was September --

14 A. Yeah.

15 Q. -- 26th?

16 A. Yes.

17 Q. And one of the reasons that you were changing it -- why
18 don't you just read the first couple lines.

19 THE COURT: No. I'm not admitting it. So you can ask
20 him -- you can ask him questions from it, but you can't --

21 MR. SCHIFF: All right.

22 THE COURT: -- can't have him read it.

23 MR. SCHIFF: Okay. All right. I can't ask him
24 questions about it. Okay.

25 THE COURT: You can ask him questions about it; you

1 can't ask him to read it.

2 MR. SCHIFF: All right.

3 THE COURT: That's the ruling.

4 MR. SCHIFF: Okay.

5 THE COURT: So ask him a question about it, if you
6 wish.

7 MR. SCHIFF: Okay.

8 BY MR. SCHIFF:

9 Q. Didn't this letter state that the reason that you were
10 amending your returns that you filed using my information is
11 that you stated: I sought out qualified persons in the field,
12 (attorneys, tax accountants, and CPA's) whom I paid to make sure
13 I was reading the Code right. So on the 6th day of June of the
14 year two -- I corrected the 1997 and 1998 and 1990 [sic]
15 returns.

16 So, based upon somebody else's advice, you amended the
17 returns that you filed based on my advice?

18 A. Apparently it -- it seems so.

19 Q. Okay. Okay. Now...

20 MR. SCHIFF: If I can just show you these two
21 documents.

22 MR. NEIMAN: Are there anymore additional --

23 MR. SCHIFF: I -- I'll -- you gave me so many documents
24 I don't --

25 MR. NEIMAN: Are there any --

1 MR. SCHIFF: -- but those -- those are very relevant.
2 I won't go through anymore.

3 MR. NEIMAN: These are the last two?

4 MR. SCHIFF: Okay.

5 THE COURT: Ms. Clerk.

6 MR. SCHIFF: Your Honor, these are copies of -- of his
7 amended returns that he filed.

8 THE COURT: Well, those are already in evidence.

9 MR. SCHIFF: No, no. No, no. No, no. These are --
10 no, not these. These are amended returns he filed 3-21-01. And
11 these are too.

12 (Document handed to the Court.)

13 THE COURT: These aren't amended returns; these are
14 Claims for Refund.

15 MR. SCHIFF: Well, Claims for Refund. Whatever they
16 are.

17 THE WITNESS: I got that from your office. One of your
18 employees showed me how to do that.

19 MR. SCHIFF: Well, I'll ask you questions.

20 THE COURT: Mark it. Then you can ask your question
21 from it.

22 MR. SCHIFF: These will be the last two documents.

23 THE CLERK: 2103 and 2104.

24 (Defendant Schiff's Exhibit Nos. 2103 and
25 2104, marked for identification.)

1 MR. SCHIFF: Can these go in as defense exhibits?

2 THE COURT: Show them to the witness.

3 Any objection to 2103, 2104?

4 MR. NEIMAN: No objection.

5 THE COURT: Any objection, Mr. Cristalli?

6 MR. CRISTALLI: No, sir.

7 MR. BOWERS: Absolutely not --

8 THE COURT: Mr. Bowers?

9 MR. BOWERS: -- your Honor.

10 THE COURT: 2103 and 2104 are received.

11 (Defendant Schiff's Exhibit Nos. 2103 and
12 2104, received into evidence.)

13 BY MR. SCHIFF:

14 Q. Do you recognize those documents as something you filed?

15 A. Yes.

16 Q. Okay. Now, you stated that you got the forms from Freedom
17 Books because we have the forms available.

18 A. (Nods head.)

19 Q. But the wording on the forms is something that you put on
20 yourself.

21 A. Let me see.

22 Q. Okay. So you were filing a Claim for Refund for the year
23 1997; is that correct?

24 A. (Reviewing document.) Yes. I got this information from
25 your office.

1 Q. Well, we'll -- that's debatable.

2 MR. NEIMAN: Your Honor --

3 BY MR. SCHIFF:

4 Q. Here --

5 A. This is -- this is from one of your employees that showed me
6 that I should do that instead of yours.

7 Q. Do you wanna read --

8 THE COURT: Mr. Schiff, listen. You're not gonna stand
9 right up next to the witness and argue with him, so --

10 BY MR. SCHIFF:

11 Q. Well, just read what it says.

12 A. Okay. This information I received from an employee in your
13 office.

14 And what do you want me to read?

15 THE COURT: Do you want him to read the whole Claim for
16 Refund?

17 MR. SCHIFF: Just read -- I'm gonna get off, your
18 Honor.

19 BY MR. SCHIFF:

20 Q. Just read those three lines.

21 THE COURT: Which three lines?

22 MR. SCHIFF: He has the Claim for Refund. I want him
23 to read why he's claiming a refund.

24 THE COURT: Which lines do you want him to read?

25 MR. SCHIFF: Read the first -- the three little

1 paragraphs.

2 THE COURT: Well, you can ask him if the form says
3 so-and-so. But --

4 BY MR. SCHIFF:

5 Q. Does the form -- I don't have the form.

6 THE COURT: All right. Come up and show him which
7 lines you want him to read.

8 MR. SCHIFF: This will be simpler if I could do it this
9 way.

10 THE COURT: But I'm not gonna allow you to stand there
11 and argue with him and --

12 MR. SCHIFF: I'm not gonna argue with him.

13 THE COURT: Show him the lines you want him to read.

14 MR. SCHIFF: Okay.

15 BY MR. SCHIFF:

16 Q. Just -- you gave three reasons as to why you want a refund;
17 is that right?

18 A. These are three reasons that I was told to put on this form.

19 Q. That's unresponsive.

20 Who told you to put them on there?

21 A. Uh, one of your employees.

22 Q. Who?

23 A. I think it was Larry.

24 Q. Larry.

25 Did I tell you to do it?

1 A. No.

2 THE COURT: All right. Now, Mr. Schiff --

3 MR. SCHIFF: Okay.

4 THE COURT: -- if you're gonna question him, step back
5 to the podium.

6 BY MR. SCHIFF:

7 Q. Read the first --

8 THE COURT: Don't get in his face. Step back to the
9 podium.

10 MR. SCHIFF: I'm sorry. I'm sorry, your Honor.

11 BY MR. SCHIFF:

12 Q. Read the first reason.

13 A. "The W4 withholding form, is listed under [um] 'True Tax
14 Class 5'. Tax Class 5 is [estimated] Gift [tax]."

15 Q. An estimated gift tax.

16 Okay. Read the second reason.

17 A. "Since I am not under district" -- no -- "distrainment to make
18 a gift to the United States Treasury Department [I am, um]" --
19 "in the last decade, I have not knowingly and intentionally
20 contributed or contracted to contribute money, property or other
21 assets to the Treasury of the United States."

22 Q. And read the third reason.

23 A. "I have not known" -- well, "I have not knowingly or agreed,
24 to enter into an estate agreement for giving or receiving gift
25 from ... the United States Treasury Department ... District of

1 Columbia, or any [other] territor[y] ... insulary [sic]
2 possessions of the United States."

3 Q. Now, is there anything in any of the books that I have
4 written or in any of the Schiff Reports that says anyone can
5 base a claim for refund for those reasons?

6 A. Well, Irwin Schiff, um, I -- while it's not in your books,
7 your employees -- some of your employees and customers were
8 usin' this --

9 Q. Suppose he told you --

10 A. -- unbeknownst to you.

11 Q. Suppose he told you you could claim a refund because you
12 were a midget or you had a grandfather who was half Indian and,
13 therefore, you're entitled to a refund. Would have used that
14 information too?

15 A. I think the --

16 MR. NEIMAN: Objection. Relevance. Argumentative.

17 THE COURT: It is.

18 MR. SCHIFF: Well, it's relevant because I don't know
19 what my employees tell them.

20 THE COURT: It's -- it's argumentative --

21 MR. SCHIFF: All right.

22 THE COURT: -- and it's not relevant.

23 MR. BOWERS: I'm sorry. Can I have, for the Court, the
24 exhibit number we're discussing at this point?

25 THE COURT: 2103 and 2104. I think they are --

1 BY MR. SCHIFF:

2 Q. Let me ask you something.

3 THE COURT: -- both the same.

4 MR. BOWERS: Thank you, your Honor.

5 BY MR. SCHIFF:

6 Q. Sometimes I have employees that come and go.

7 A. Okay.

8 MR. NEIMAN: Your Honor, he's test- -- the --

9 THE COURT: Sustained.

10 MR. SCHIFF: I'm sorry.

11 THE COURT: Strike.

12 BY MR. SCHIFF:

13 Q. Did you see new employees and people -- suddenly employees
14 are not there?

15 A. Yes.

16 Q. Who sets the policy in Freedom Books as to what I believe
17 and what I recommend?

18 MR. BOWERS: Objection. Calls for speculation.

19 THE COURT: Sustained.

20 BY MR. SCHIFF:

21 Q. Okay. But I never told you to use those reasons, did I?

22 A. You personally, no.

23 Q. Okay. And, in claiming a refund for 1997, you said the same
24 thing, "I have not knowingly [or agreed to enter" --

25 MR. NEIMAN: Objection to relevance now. He says that

1 this didn't come from Mr. Schiff himself.

2 THE COURT: Sustained.

3 MR. SCHIFF: I'm gonna get off, your Honor.

4 (Document handed to the witness.)

5 THE WITNESS: (Reviewing document.)

6 BY MR. SCHIFF:

7 Q. So... So, uh, you filed a Claim for Refund for '98 using
8 this same information?

9 A. Using the --

10 Q. Yeah.

11 A. -- 843 form?

12 Q. Yeah.

13 A. I would -- it would appear so.

14 Q. Incidentally -- just one more question -- with all of your
15 research material, and the Code of Federal Regulations, the
16 Internal Revenue Code, did you check out what you were saying
17 there as to whether or not that would legally qualify you for a
18 refund? I mean, for someone who does -- who likes legal
19 research, did you check out the basis of your claim?

20 A. Yes.

21 Q. You did?

22 A. I mean --

23 Q. So you believed that. It wasn't --

24 A. I believed that too.

25 Q. -- based on what Larry told you then?

1 A. I believed this and I believed what, uh, I learned from your
2 material. I mean, you helped me with my documents to sue the
3 City of Las Vegas. I mean...

4 Q. No, no. But you -- but I never taught you anything like
5 that. There's nothing like that in my books nor in any of the
6 Schiff Reports.

7 MR. NEIMAN: Objection. Asked and answered.

8 MR. SCHIFF: All right.

9 THE COURT: Sustained.

10 BY MR. SCHIFF:

11 Q. Did you ever find anything remotely connected to that
12 statement in any of my Schiff Reports or in any of my books?

13 A. I can't answer that because I didn't read every single page
14 of your book.

15 MR. BOWERS: Move to strike as nonresponsive. That's
16 not the question.

17 THE COURT: Sustained. Strike.

18 BY MR. SCHIFF:

19 Q. Now, did I -- did I get an answer to --

20 MR. SCHIFF: Now, your Honor, just to save time, I
21 have, I don't know, 20 documents that Mr. Lewis filed which I --
22 I won't go over if the Government wants to stipulate. In
23 none -- none of these documents --

24 THE COURT: You're not gonna make a speech.

25 MR. SCHIFF: But --

1 THE COURT: You're not gonna make a speech.

2 MR. SCHIFF: -- should I try to put all these in? I
3 mean, I don't want to put 'em all in.

4 THE COURT: You just got through tellin' us that was
5 your last --

6 MR. SCHIFF: All right.

7 THE COURT: -- I heard you talk to the prosecutor.
8 And, besides that, Mr. Schiff, you know the rules of
9 the Court.

10 MR. SCHIFF: Okay.

11 THE COURT: These exhibits should be marked --

12 MR. SCHIFF: All right. So --

13 THE COURT: -- before we started trial.

14 MR. SCHIFF: Okay.

15 THE COURT: And I warned you that if you didn't get
16 them marked the penalty was they might not be admitted.

17 MR. SCHIFF: All right.

18 BY MR. SCHIFF:
19 Q. So in the final --

20 THE COURT: That's the pretrial order.

21 BY MR. SCHIFF:
22 Q. -- analysis, Mr. Lewis, after you filed the amend -- oh, one
23 other thing. I'm sorry.
24 You testified -- I just forgot about this, your
25 Honor -- you testified that you claimed exempt on a W-4; is that

1 correct?

2 A. Yes.

3 Q. Okay. Is -- so I -- I forgot completely about this. But
4 I -- what I've done is I've taken care of the amended returns.

5 Um, so you claimed exempt on the W-4. And did that
6 stop the withholding of taxes being taken from your pay?

7 A. For a short time.

8 Q. You also, I believe, testified that you filed the affidavit
9 that was in The Federal Mafia in order to stop the withholding
10 of your pay. Did I understand you to say you filed the
11 affidavit?

12 A. I think I got it out of -- out of the W-4 pack. There's
13 a --

14 Q. All right.

15 A. -- a packet that you --

16 Q. In any case -- this won't take long -- in any case, you
17 claimed exempt on the W-4 to stop the withholding of taxes from
18 your pay.

19 A. Right.

20 Q. What made you believe that you could stop the withholding of
21 taxes from your pay? You claimed exempt; is that right?

22 A. Yes. I mean --

23 Q. Well, what was the basis of your claim that you were exempt?

24 A. The material that, uh -- well, actually, the material that I
25 studied, um, had me to believe that I was exempt.

1 Q. Well, why were you exempt?

2 A. Uh, based on the fact that, uh, I had made no income.

3 Q. What?

4 A. Based on the fact that I had made no income.

5 Q. Well, would -- would it re- -- would it refresh your
6 recollection -- did you ever see -- this is a page from what has
7 already been admitted -- page 155 of How to Stop -- of The
8 Federal Mafia.

9 Would this refresh your recollection as to why you
10 claimed exempt? There's a statute there.

11 A. (Reviewing document.) Do you want me to read the statute --

12 Q. Yeah, you can read it.

13 A. -- the one that's in parentheses?

14 Q. What does the statute say?

15 MR. NEIMAN: We would object to just the reading of the
16 statute, your Honor. He's testified that he did this upon the
17 reliance of the defendant and -- and --

18 MR. SCHIFF: Well, no, no, no.

19 I object to that. He -- he -- he's claimed exempt
20 because he relied on the statute, not on me.

21 THE WITNESS: Well, all the information you gave me,
22 yes, and your interpretation of it.

23 THE COURT: That's not coming in.

24 MR. SCHIFF: Well --

25 THE COURT: And the reason it's not is because --

1 BY MR. SCHIFF:

2 Q. How did you understand --

3 THE COURT: It's a --

4 BY MR. SCHIFF:

5 Q. -- that statute?

6 THE COURT: -- misrepresentation of the law.

7 MR. SCHIFF: I'm sorry?

8 THE COURT: It's a misrepresentation of what the law
9 is.

10 MR. SCHIFF: Well, all I'm asking him, your Honor, is
11 how he interpreted the statute because --

12 THE COURT: He's already testified that --

13 BY MR. SCHIFF:

14 Q. Well, how did you --

15 THE COURT: He did it based on your advice.

16 MR. SCHIFF: Your Honor, I -- I have to resent that
17 because he didn't do it based on my advice.

18 THE COURT: That's what he's testified to.

19 BY MR. SCHIFF:

20 Q. But did you -- in other words, if I told you you could rob a
21 bank, you would go and rob a bank. Is that what you're telling
22 me?

23 A. You told me I should sue the City of Las Vegas, and I did
24 that.

25 Q. I told you to read the --

1 A. And I asked for your help --

2 Q. Isn't it a fact --

3 A. -- with regards to that and you gave it to me.

4 Q. Isn't it a fact, Mr. Lewis --

5 THE COURT: Let him answer the questions.

6 MR. SCHIFF: Okay.

7 THE COURT: Stop interrupting him with questions.

8 BY MR. SCHIFF:

9 Q. Isn't it a fact --

10 THE COURT: Let him finish.

11 BY MR. SCHIFF:

12 Q. I'm sorry.

13 THE COURT: Go ahead and give your answer.

14 THE WITNESS: It depends on what it is.

15 BY MR. SCHIFF:

16 Q. Pardon me?

17 A. It depends on what you're asking me to do.

18 Q. Well, in my book there was a statute which I suggested to
19 you might allow you to stop the withholding of taxes from your
20 pay.

21 A. I believed everything you told me up to a certain point.

22 Q. When you took your W-4, which is shown there, you stated on
23 it that you were not liable for income tax. Is that what you
24 said?

25 A. I don't have my W-2 [sic] in front of me. But I'm sure I

1 said that.

2 Q. Well, the W-4 --

3 A. W-4, I mean. Yes.

4 Q. -- you said -- you said you relied -- isn't there a copy of
5 the W-4 in my book?

6 A. Yeah, I think there is.

7 Q. Okay. And there's a copy of the statute in my book.

8 A. There should be, yes.

9 Q. Yes.

10 And you could check out the statute --

11 A. Yes.

12 Q. -- if you wanted to.

13 And doesn't the statute say --

14 THE COURT: You're not going to read it.

15 MR. SCHIFF: Well -- all right.

16 THE WITNESS: Well --

17 BY MR. SCHIFF:

18 Q. What does the statute say that led you to believe that you
19 could claim exempt? What is there in the statute that led you
20 to believe that you could claim exempt?

21 A. At that time my interpretation or understanding of the
22 statute through -- with, uh, the way that we understood the
23 statute was that, uh -- that I was not liable for the income
24 tax.

25 Q. So the statute said if you believed you were not liable for

1 income taxes you could claim exempt; is that right?

2 MR. NEIMAN: Objection. He's --

3 THE WITNESS: Well --

4 MR. NEIMAN: -- misconstruing --

5 THE WITNESS: -- I don't know. Go ahead.

6 BY MR. SCHIFF:

7 Q. Well, read the statute if you want.

8 A. Well, whether that was true or not is besides the point. I

9 believed it.

10 Q. The point is at the time you claimed exempt you read the

11 statute?

12 A. Yes.

13 Q. And you believed that under the terms of that statute --

14 A. The way I interpreted it, yes.

15 Q. -- claim exempt --

16 A. Yes.

17 Q. -- is that right?

18 A. The way I interpreted it, yes.

19 Q. Okay. Why did you interpret it that way?

20 A. Because that's the way I understood it.

21 Q. What was there in the -- in the law that allowed you to make

22 that interpretation?

23 A. I -- I -- I don't understand the question obviously.

24 Q. What -- what was there in the law that allowed you to assume

25 you could claim exempt?

1 A. The wording.

2 Q. What wording?

3 A. In the law.

4 Q. Well, what was the wording in the law that persuaded you you
5 could claim exempt? I mean, it's not a very big statute.

6 A. You gotta remember, Schiff, I run into burnin' buildings for
7 a living. So I'm not very bright. So it's -- you gotta keep
8 the --

9 MR. CRISTALLI: Objection. Nonresponsive. Move to
10 strike.

11 MR. BOWERS: I join in that objection.

12 THE COURT: Sustained. Strike.

13 BY MR. SCHIFF:

14 Q. You said earlier --

15 A. Okay. No. 1, it says --

16 Q. -- you liked legal research.

17 A. -- incurred no liability for income tax imposed under
18 subtitle A of this, uh -- for his, uh -- for the proceeding
19 year -- I think that's one of the statutes that I looked up
20 usin', uh, this book similar to this -- and anticipate no --
21 incurring no liability. And then I checked to see if that was
22 a -- what I saw in The Federal Mafia was true, so I looked it up
23 in here --

24 Q. Okay.

25 A. -- and it state that.

1 Q. So the sole criteria in the law, as you just read, was
2 that --

3 MR. NEIMAN: Object to the forming of the question.

4 THE COURT: Sustained.

5 BY MR. SCHIFF:

6 Q. All right. So --

7 THE COURT: Sustained.

8 BY MR. SCHIFF:

9 Q. All right. So you believed that the law would allow you to
10 claim exempt if you believed you had no income tax liability for
11 that particular year?

12 A. Based on my new-found information --

13 Q. Okay. Some --

14 A. -- that's what I believed.

15 Q. -- I'm saying at the time you claimed exempt, you -- at the
16 time you claimed exempt, not when you new found, at the time you
17 claimed exempt you believed that by claiming exempt you
18 fulfilled the conditions of the law.

19 A. Yes.

20 Q. And what were the conditions of the law in order to claim
21 exempt?

22 MR. NEIMAN: Objection. Asked and answered.

23 MR. SCHIFF: No. I -- I -- he didn't answer it.

24 THE COURT: I'm gonna allow it.

25 Go ahead and answer the question.

1 THE WITNESS: I -- I think I explained it in -- that I
2 incurred no liability.

3 BY MR. SCHIFF:

4 Q. Okay. So, at the time you filled it out -- I'm not saying
5 what you learned subsequent --

6 A. Okay.

7 Q. -- you believed that if you believed you had no income tax
8 liability the law permitted you to claim exempt; is that right?

9 A. That's correct.

10 Q. And that's why you claimed exempt?

11 A. Right.

12 Q. Not because I told you to claim exempt but the law persuaded
13 you that you could claim exempt.

14 A. I'm not gonna, uh, respond to that because, uh, you had a
15 major part in this.

16 MR. BOWERS: Move to strike as nonresponsive.

17 MR. SCHIFF: That --

18 THE COURT: No. It is responsive and --

19 BY MR. SCHIFF:

20 Q. You claimed --

21 A. I would --

22 Q. All right. Let me continue with this.

23 THE COURT: No, you're not going to continue with it
24 because it's already been asked and answered.

25 MR. SCHIFF: All right.

1 BY MR. SCHIFF:

2 Q. Now, at some point you said that it didn't work. Oh, then
3 after that did you file --

4 A. Wait a minute. Listen. You asked me two questions.

5 Q. Okay.

6 A. Let's deal with the first one.

7 Q. You said something about claiming exempt worked for a while
8 but then it didn't work.

9 A. Yes.

10 Q. Why didn't it work? Oh, hold it.

11 You believed -- strike that.

12 Did you believe when you claimed exempt that you were
13 complying with the law as you understood it then?

14 MR. NEIMAN: Objection. Asked and answered.

15 THE COURT: Sustained.

16 MR. SCHIFF: Okay.

17 BY MR. SCHIFF:

18 Q. Now -- but you then testified that your claiming exempt
19 didn't work. Isn't that what you testified to?

20 A. Yes.

21 Q. Why didn't it work?

22 A. My withholdings was changed.

23 Q. Pardon me?

24 A. My withholdings were changed.

25 Q. Your withholding was changed.

1 Well, who changed it?

2 A. City of Las Vegas.

3 Q. Who?

4 A. City of Las Vegas.

5 Q. The City of Las Vegas changed it?

6 A. Yeah. The Finance Department.

7 I mean, I brought that to you and you told me, well, I

8 need to sue 'em; I should sue 'em. And that's what I did. And

9 you helped me with some of those documents too.

10 Q. Is there anything in the statute that says your ability to

11 claim exempt is dependent upon what the City of Los -- City of

12 Las Vegas believes?

13 MR. NEIMAN: Objection. Relevance.

14 THE COURT: Sustained.

15 MR. SCHIFF: Well, it's relevant. It is relevant.

16 THE COURT: I've ruled it's not.

17 Go ahead. Next question.

18 BY MR. SCHIFF:

19 Q. So did you believe -- oh, then when -- when they didn't want

20 to honor it, did you then file an affidavit that was in my book?

21 A. Yes, I did.

22 Q. Okay.

23 MR. CRISTALLI: Your Honor --

24 THE COURT: Yes.

25 MR. CRISTALLI: -- may we have sidebar?

1 THE COURT: You may.

2 (Sidebar conference was held as follows:)

3 MR. CRISTALLI: Your Honor, I just have to renew my
4 motion for severance, um, in light of the fact that it doesn't
5 appear, um, that Mr. Schiff is going to be able to conclude with
6 this witness --

7 MR. SCHIFF: Well --

8 MR. CRISTALLI: -- and is consistent, once again, with
9 the reports of Mr. Hayes in that, um, I don't think Irwin's
10 gonna be able to focus here. I don't -- I really don't think
11 he's gonna ever get off of this witness.

12 MR. SCHIFF: This witness -- can I say? -- one of the
13 elements of the indictment is that I caused the people to --
14 to -- to -- to erroneously claim exempt on --

15 MR. BOWERS: No, that's not an element of the --

16 MR. SCHIFF: It's in here.

17 MR. BOWERS: -- allegation of my defense against you.

18 MR. CRISTALLI: Pardon me?

19 MR. BOWERS: It's not an element of the Indictment.

20 MR. SCHIFF: Yes, it is.

21 MR. BOWERS: It's raised in my defense against you.

22 MR. SCHIFF: Defense against me?

23 The point is, uh, he believed when he claimed exempt
24 that the law permitted him to claim exempt.

25 THE COURT: All based on your stuff.

1 MR. SCHIFF: No. It's not -- all right. I'm gonna get
2 off this witness.

3 THE COURT: I'm being kind.

4 MR. SCHIFF: All right.

5 MR. BOWERS: I'm gonna join in that motion.

6 THE COURT: Go ahead.

7 MR. SCHIFF: I'm gonna get --

8 MR. NEIMAN: Your Honor, the Government's concerned
9 that what Defendant Schiff is trying to do here through the
10 Government witness is litigate the validity of his claims and --

11 MR. SCHIFF: No.

12 THE COURT: Yes.

13 MR. NEIMAN: -- and we're gettin' --

14 THE COURT: I know where he's goin'.

15 MR. SCHIFF: Wait a minute.

16 THE COURT: He's playin' dumb, but I know where he's
17 goin'.

18 MR. SCHIFF: I mean --

19 THE COURT: That's enough. Get on with your questions.

20 MR. SCHIFF: All right. I'll get off and --

21 THE COURT: You're an hour over already.

22 MR. SCHIFF: All right. I forgot about his claiming
23 exempt.

24 What are you talkin' about? He said...

25 MR. BOWERS: Shhh.

1 (Sidebar conference concluded and the
2 following is held in open court:)

3 BY MR. SCHIFF:

4 Q. Mr. Lewis, did you file that doc- --

5 THE COURT: Wait a minute.

6 THE WITNESS: No.

7 THE COURT: Let me see.

8 THE WITNESS: No, I didn't --

9 THE COURT: Has this even been marked?

10 MR. SCHIFF: Okay. Okay. If he didn't file it, he
11 didn't file it.

12 THE COURT: You know the procedure. You show the
13 document --

14 MR. SCHIFF: I'm sorry.

15 THE COURT: -- to opposing counsel and then you have it
16 marked and then you show it to the witness. And then, if I
17 don't have a problem with it, you ask the witness a question.
18 And you --

19 MR. SCHIFF: Your Honor --

20 THE COURT: -- you know, you're not following the
21 procedure.

22 MR. SCHIFF: But I -- I -- I misunderstood the witness.
23 I thought he said he filed the affidavit and then they started
24 to withhold tax again. So I heard him wrong.

25 THE WITNESS: Well, that -- that document you just gave

1 me doesn't have a name on it; doesn't have a signature. It's a
2 piece of paper.

3 BY MR. SCHIFF:

4 Q. It's from my book. It's not completed.

5 I mean, I thought you said either here or before that
6 you filed the affidavit which was in my book. If you didn't,
7 I'm not --

8 THE COURT: He did. He did say that and he said this
9 is not it.

10 MR. SCHIFF: Well, that's just a copy of what was in my
11 book.

12 THE COURT: Well, if you would have had it marked --

13 MR. SCHIFF: All right.

14 THE COURT: -- and followed procedure --

15 MR. SCHIFF: All right.

16 THE COURT: -- we wouldn't be in this spot right now.

17 BY MR. SCHIFF:

18 Q. I'm just asking: Did you file the affidavit in addition to
19 the W-4 as shown in my book?

20 A. Yes.

21 Q. You did?

22 A. Yes.

23 Q. Okay. That's the point.

24 So, when you filed the affidavit, did that help? Did
25 it...

1 A. Yes.

2 Q. Oh, okay. So, when you filed the affidavit, they, again,
3 began to withhold taxes from your pay?

4 A. Yes.

5 Q. Yes. Okay.

6 A. I don't remember what -- what the time line was. I think
7 that was the next year, um, in March or April or somethin' like
8 that.

9 THE COURT: Wait a minute. The question was: When you
10 filed the affidavit, it helped because they begin to withhold
11 taxes from your pay.

12 THE WITNESS: Again, yes, that was -- yeah.

13 THE COURT: They began to withhold after you filed the
14 affidavit or they stopped withholding?

15 THE WITNESS: They continued to withhold for a time.

16 BY MR. SCHIFF:

17 Q. Okay. So if I understand this: You filed the normal W-4
18 claiming exempt, they honored it --

19 A. Yes.

20 Q. -- and stopped withholding taxes from your pay. But there
21 came a point where they did not honor your W-4.

22 A. Yeah. They wrote me a letter sayin' that they were gonna
23 change my withholdings.

24 Q. So then I suggested to you that maybe if you filed the
25 affidavit it might be of some help.

1 A. Yes.

2 Q. And you did that.

3 A. Yes.

4 Q. And they again stopped withholding taxes from your pay.

5 A. That's correct.

6 Q. Okay.

7 THE COURT: Mr. -- hold on a moment.

8 I just asked you a moment ago if after you filed the
9 affidavit they stopped withholding. And your answer was that
10 they continued to withhold. Now you're saying they stopped
11 withholding after you filed the affidavit.

12 THE WITNESS: Your Honor, at one point James Gridis
13 (phonetic), uh, sent a letter, uh, to the City of Las Vegas.
14 And I tried filing more documents and they would not withhold.
15 I'm sorry. I might have mistaken the timeline. Um...

16 THE COURT: Well, the question is very simple: After
17 you filed the affidavit from his book, did they continue to
18 withhold or did they stop withholding?

19 THE WITNESS: Okay. They continued to withhold, uh,
20 after the initial exempt.

21 THE COURT: After the affidavit from his book.

22 THE WITNESS: Yes, they, uh -- they stopped
23 withholdin'. But there came a time when they -- they changed my
24 withholding again after --

25 THE COURT: A second time.

1 THE WITNESS: Yes.

2 THE COURT: All right. Well, you didn't listen very
3 carefully to my question because my question was: After the
4 affidavit, did they continue to withhold? You said yes. And,
5 in fact --

6 THE WITNESS: I'm sorry.

7 THE COURT: -- they stopped withholding after the
8 affidavit for a time.

9 THE WITNESS: The first time --

10 THE COURT: Is that right?

11 THE WITNESS: -- yes, that's correct. I'm sorry.

12 THE COURT: You need to listen.

13 THE WITNESS: Okay.

14 THE COURT: You need to listen because your testimony
15 is -- is -- on that point was very confusing because you --
16 you're not listening to the questions.

17 THE WITNESS: Okay.

18 BY MR. SCHIFF:

19 Q. So if I can clarify this, you --

20 THE COURT: It's already been clarified.

21 MR. SCHIFF: Well --

22 THE COURT: Move on.

23 MR. SCHIFF: Okay.

24 Now, could I have that document, the affidavit?

25

1 (Document handed to Mr. Schiff.)

2 BY MR. SCHIFF:

3 Q. So --

4 THE COURT: No, you're not gonna question him from
5 that.

6 MR. SCHIFF: So -- so -- so -- okay.

7 THE COURT: It's not marked.

8 MR. SCHIFF: Is this an exhibit? Is this gonna be
9 entered as an exhibit?

10 THE COURT: No. It's not marked.

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

12 Can you mark this as an exhibit?

13 THE CLERK: Your Honor, do you want this marked as an
14 exhibit?

15 THE COURT: You can mark it. When you get it marked
16 we'll address it.

17 THE CLERK: 2105.

18 (Defendant Schiff's Exhibit No. 2105, marked
19 for identification.)

20 THE COURT: Have you shown it to opposing counsel?

21 MR. SCHIFF: Yeah. Well, you saw it already.

22 MR. NEIMAN: I've seen it, your Honor.

23 THE COURT: All right.

24 MR. SCHIFF: I'll be two minutes.

25

1 (Document handed to the witness.)

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

4 THE COURT: Your question.

5 MR. SCHIFF: Yes.

6 BY MR. SCHIFF:

7 Q. Question is: So -- I wanna see if I can get my copy of the
8 affidavit.

9 (Pause in the proceedings.)

10 BY MR. SCHIFF:

11 Q. I just -- okay.

12 So can I -- so in my affidavit I simply reproduced the
13 law, is that correct, in the second -- bottom half of the
14 affidavit?

15 THE COURT: Okay.

16 BY MR. SCHIFF:

17 Q. Can you read the bottom half --

18 THE COURT: Hold on for the objection.

19 MR. NEIMAN: Objection. He's testifying, relevance.

20 We're...

21 MR. SCHIFF: Okay.

22 THE COURT: All of the above. Sustained.

23 MR. SCHIFF: Okay.

24 BY MR. SCHIFF:

25 Q. What is the purpose of the affidavit as you understand it?

1 MR. NEIMAN: Same objection, your Honor.

2 THE COURT: Sustained.

3 BY MR. SCHIFF:

4 Q. When you filed this and it stopped the withholding of taxes
5 from your pay, why -- why -- did it do -- what was [sic] the
6 affidavit consist of? What does the affidavit consist of?

7 A. It consists of, uh, language that, uh, basically showed your
8 employer that, um, you can file an exempt W-4 and the statute or
9 the section in the code that you were using.

10 Q. Okay. So, in other words, when you filed the regular W-4,
11 the statute doesn't appear on a regular W-4, the statute itself.

12 A. No, it --

13 MR. NEIMAN: Objection to relevance, your Honor.

14 Again, Mr. Lewis has testified that he was following the advice
15 of Mr. Schiff with regards to this. I...

16 THE COURT: Sustained.

17 MR. SCHIFF: All right. Well, your Honor, the
18 relevancy is this: The -- the Government's W-4 stopped working
19 for Mr. Lewis. And the reason it may stop working is that the
20 law itself is not on the W-4. On my affidavit, I reproduced the
21 entire Section 3402[n] so the employer can see it.

22 BY MR. SCHIFF:

23 Q. Isn't that -- that says Internal Revenue Code, Section
24 3402[n]. Isn't the entire statute reproduced there on your
25 affidavit?

1 A. Yes --

2 Q. Isn't it?

3 A. -- it appears so.

4 Q. But the -- the statute isn't on a regular W-4.

5 A. I think you're correct.

6 Q. Okay. So, on the affidavit, we reproduced the statute?

7 THE COURT: Quit asking him the same question --

8 MR. SCHIFF: Okay.

9 THE COURT: -- over and over.

10 BY MR. SCHIFF:

11 Q. And then above that, above that you make -- do you want to

12 read what you stated on that affidavit?

13 THE COURT: If that's yours.

14 THE WITNESS: No, it's not mine.

15 BY MR. SCHIFF:

16 Q. Yeah. Well, it was my wording. But you signed it under

17 penalty of -- it says you notarized it --

18 THE COURT: We don't have one signed by him and --

19 BY MR. SCHIFF:

20 Q. When you filed --

21 THE COURT: -- that one is a blank.

22 BY MR. SCHIFF:

23 Q. -- when you filed the affidavit, you took my outline; filled

24 it in; and went to a Notary and swore that this was correct.

25 Okay.

1 And what did you say on the affidavit? "This is my
2 sworn affidavit." Do you want to read it, please?

3 THE COURT: Do you --

4 THE WITNESS: I don't have --

5 THE COURT: -- have your sworn affidavit?

6 THE WITNESS: No, I don't have my sworn affidavit.

7 THE COURT: It's not his affidavit.

8 MR. SCHIFF: Well, your Honor, I don't have his
9 affidavit. But --

10 THE COURT: Well, then you can't get it in.

11 MR. SCHIFF: But this is -- he said he used my
12 affidavit --

13 THE COURT: No.

14 MR. SCHIFF: -- from the book.

15 THE COURT: No.

16 MR. SCHIFF: He would have used --

17 THE COURT: He doesn't know what he signed because you
18 don't have in front of him what he signed. You have a blank.
19 You're asking him to accept your word for it that that's what he
20 signed.

21 MR. SCHIFF: Well, all I'm saying is that he testified
22 that he got the affidavit from my book. I'm assuming this is
23 what he filed.

24 THE COURT: He doesn't --

25 MR. SCHIFF: If he turned --

1 THE COURT: -- he doesn't have what he filed and your
2 assumption is not good enough.

3 MR. SCHIFF: Okay.

4 THE COURT: So let's move on.

5 BY MR. SCHIFF:

6 Q. Okay. So, in the final analysis, Mr. Lewis, you did a lot
7 of outside research. You embraced theories of why you don't
8 have to pay income taxes that were not mine --

9 MR. NEIMAN: Objection. Compound question.

10 MR. SCHIFF: All right.

11 THE COURT: Sustained.

12 MR. SCHIFF: I'm all through with this witness.

13 THE COURT: Redirect?

14 MR. SCHIFF: There are a lot of other documents I can
15 go over, but...

16 THE COURT: Strike. You're through.

17 (Pause in the proceedings.)

18

19 REDIRECT EXAMINATION

20 BY MR. NEIMAN:

21 Q. Mr. Lewis, if I could direct your attention back to your
22 cross on Thursday. You were being cross-examined by
23 Mr. Cristalli. He was asking you about -- do you recall being
24 cross-examined by Mr. Cristalli?

25 A. Yes.

1 Q. And do you remember when he was asking you about a
2 frivolous -- the frivolous letter you received for filing the
3 amended zero return?

4 A. Yes.

5 Q. And I believe you said something to him with regards to the
6 letter was -- you were told the letter was computer generated?

7 A. Yes.

8 Q. Who told you that the frivolous letter was computer
9 generated?

10 A. Mr. Schiff.

11 (Document displayed in open court.)

12 BY MR. NEIMAN:

13 Q. If I could direct your attention to Defense Exhibit 2810,
14 which I believe was discussed during Mr. Bowers'
15 cross-examination.

16 Remember when he directed your attention to the
17 portions titled "Income"?

18 A. Yes.

19 Q. If I could direct your attention to -- on Defense
20 Exhibit 2910 [sic] underneath "Income," line 7, it says --

21 MR. BOWERS: Your Honor, I'm just gonna object. It's
22 outside the scope of my examination.

23 MR. NEIMAN: Your Honor, Mr. Bowers, through his
24 questioning, only asked about a portion of this document. This
25 entire document is relevant as are the instructions. And, in

1 fairness to not let mislead the jury, it's --

2 THE COURT: 2810. It did -- it did --

3 MR. BOWERS: It's up there now. The jury's gonna see
4 it. I don't have a problem with that.

5 THE COURT: But it was brought up -- absolutely this
6 was discussed on -- on cross-examination.

7 MR. BOWERS: Okay. Thank you, Judge.

8 THE COURT: Yeah. The -- the -- we're talking about
9 part of the instructions that define foreign income?

10 MR. NEIMAN: Yes.

11 THE COURT: Yeah. It --

12 BY MR. NEIMAN:

13 Q. Under the section titled "Income" --

14 THE COURT: Yeah. Clearly -- clearly discussed on
15 cross.

16 BY MR. NEIMAN:

17 Q. Underneath that heading is a section that says, "LINE 7."

18 The line that says -- or it says:

19 "Wages, Salar[y], Tips, etc.

20 Enter the total of your wages, salaries, tips, etc. If
21 a joint return, also include your spouse's income. For most
22 people, the amount to enter on this line should be shown box 1
23 of their Form(s) W-2."

24 Did you see that in the instruction booklet?

25 A. Yes.

1 Q. Did you ever discuss that with Mr. Cohen?

2 A. Yes.

3 Q. And what did Mr. Cohen tell you with regard to whether or
4 not to put your W-2 income on line 7?

5 A. That that was, uh, income from foreign sources.

6 Q. The headline -- the title of this document is what?

7 A. Well, it's "LINE 7." But it goes on -- it falls under --
8 what is the next -- previous page? -- under Income from foreign
9 sources. In other words, that's the sub- -- like a subtitle or
10 something...

11 Q. Aren't there other subtitles, Mr. Lewis, as well, like
12 "Community Property State"?

13 A. Um-hum.

14 Q. And "Rounding off Whole Dollars," is that a subtitle as
15 well?

16 A. Yeah, I think so.

17 Q. All right. If I could direct your attention to Government's
18 Exhibit 9. This is a amended 1040X for year 1997, is it not,
19 Mr. Lewis?

20 A. Yes.

21 Q. If we could go to the second page as well.

22 Who did you rely on or where did you get the
23 information required to file this return?

24 A. I got that information from Freedom Books, Irwin Schiff.

25 Q. If I could direct your attention to Government Exhibit 12.

1 It's your 1040X for the year 1998.

2 Who did you rely on or where did you get your
3 information with regards to your 1040X for year 1998?

4 A. Mr. Schiff.

5 Q. If I could direct your attention to Government Exhibit 14,
6 1040X for year 1999.

7 From whom did you get information for -- prior to
8 filing this return?

9 A. It appears Freedom Books, Irwin Schiff.

10 Q. Where did you get the information to file an exempt W-4?

11 A. Freedom Books.

12 Q. And how about the 2000 not liable tax return, who did you
13 get that information from?

14 A. An employee of Freedom Books.

15 Q. And what was the name of that employee?

16 A. Larry Cohen.

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

18 (Pause in the proceedings.)

19 MR. SCHIFF: Can I cross?

20 THE COURT: Mr. Cristalli?

21 MR. CRISTALLI: Nothing on behalf of Ms. Neun, your
22 Honor.

23 THE COURT: Mr. Bowers?

24 MR. BOWERS: I have nothing further at this time of
25 this witness, your Honor.

1 THE COURT: Mr. Cohen [sic].

2

3

RE CROSS-EXAMINATION

4

BY MR. SCHIFF:

5

Q. So, as I understand it, you're absolving yourself totally of

6

checking anything that anybody ever told you with respect to

7

what you filed under penalty of perjury? Is that your

8

testimony?

9

A. That's not correct. I take full responsibility for

10

following your material and other material and suin' the City of

11

Las Vegas after you advised me to do that. The whole nine

12

yards. And I paid penalties and interest --

13

Q. All right.

14

A. -- for following your...

15

Q. No, no.

16

You paid other people for information. You embraced

17

the 861 argument. You got opinion letters from lawyers,

18

accountants --

19

A. That was after --

20

Q. -- other people.

21

A. -- after you wouldn't -- you wouldn't give me the help that

22

I needed to fix what I -- I mean, you know...

23

Q. In other words --

24

A. You're trying to absolve yourself of a crime that you

25

committed against a lot of people.

1 MR. BOWERS: Objection.

2 MR. CRISTALLI: Objection.

3 MR. BOWERS: Move to strike as nonresponsive.

4 THE COURT: Sustained. Strike.

5 BY MR. SCHIFF:

6 Q. Now, there's one thing that I didn't cover -- but the
7 Government brought it up -- about income.

8 When you read The Great Income Tax Hoax, did you read
9 the two chapters, um, in which I discussed the meaning of
10 income? Did you read those two chapters?

11 MR. NEIMAN: Objection. Beyond the scope and the
12 witness also testified he never read The Great Income Tax Hoax.

13 MR. SCHIFF: Your Honor --

14 THE COURT: Sustained.

15 MR. SCHIFF: -- he was talking about income.

16 THE COURT: Well --

17 MR. SCHIFF: -- all during --

18 THE COURT: -- you brought up The Great Income Tax
19 Hoax. He already testified he didn't read it.

20 MR. SCHIFF: Okay.

21 THE COURT: So the objection is sustained.

22 MR. SCHIFF: All right. Now, there's something else
23 which I didn't cover and that he...

24 THE COURT: You're not gonna cover --

25

1 BY MR. SCHIFF:

2 Q. When you --

3 THE COURT: Wait a minute.

4 You're only allowed to inquire into things that were
5 brought up on redirect.

6 MR. SCHIFF: I know that. He discussed --

7 THE COURT: The last 10 minutes.

8 MR. SCHIFF: He discussed income.

9 THE COURT: He discussed income as it relates to the
10 instructions --

11 MR. SCHIFF: Right. And --

12 THE COURT: -- that are on --

13 MR. SCHIFF: And he said --

14 THE COURT: -- the exhibit, 2810.

15 MR. SCHIFF: -- he referred on the 1040 booklet that
16 there was a provision for reporting wages.

17 THE COURT: Right.

18 MR. SCHIFF: Okay. Good. So he talked about that.

19 However, when Mr., um, Lewis sent in his W-4 -- I mean,
20 his -- he referred to a 1040. He referred -- the 1040 was
21 fraudulently designed to mislead us into reporting sources of
22 income as being the equivalent of taxable income.

23 BY MR. SCHIFF:

24 Q. Now, when you wrote that -- because this has to do with his
25 understanding of income -- why did you state that a 1040 was

1 fraudulently designed to get you to report sources of income as
2 being income itself?

3 MR. NEIMAN: Objection. Beyond the scope.

4 MR. SCHIFF: No. It's --

5 THE COURT: It is beyond the scope.

6 MR. SCHIFF: Well, your Honor, he raised the question
7 of the 1040, asking you to report --

8 THE COURT: No. He discussed income with reference to
9 line 7 and the -- line 6 that --

10 MR. SCHIFF: Of a 1040?

11 THE COURT: -- are on 28- -- the instructions. So, if
12 you want to go into the instructions and the definition of
13 "income," then you can. But you can't talk about anything in
14 the world related to income.

15 MR. SCHIFF: Well, I'm not gonna discuss the meaning of
16 "income." It's too complicated. But I will talk about the 1040
17 because the 1040 doesn't ask you to report wages, salaries, and
18 tips. So that was a mischaracterization.

19 THE COURT: You're testifying now and so --

20 MR. SCHIFF: Well --

21 THE COURT: -- and it's improper.

22 MR. SCHIFF: -- this is what I want to clarify with
23 Mr. Lewis.

24 THE COURT: Well, you're testifying. And I think
25 you're --

1 MR. SCHIFF: Okay.

2 THE COURT: -- I think you're making a misstatement --

3 MR. SCHIFF: Okay.

4 THE COURT: -- to characterize it kindly.

5 THE WITNESS: I'm not gonna take that.

6 MR. SCHIFF: Here's --

7 THE COURT: What do you have?

8 MR. SCHIFF: This is a 1040. This is a 1040.

9 THE COURT: Show it to me.

10 MR. SCHIFF: It's just a 1040.

11 THE COURT: And?

12 MR. SCHIFF: Well -- well, I covered this in my

13 seminar.

14 THE COURT: I don't care if you covered it in your

15 seminar or not. That's not what was up for discussion during

16 redirect. There was --

17 MR. SCHIFF: I'm sorry.

18 THE COURT: -- no discussion of your seminar.

19 MR. SCHIFF: But the -- the U.S. Attorney suggested

20 that Mr. Cohen misled him somehow because --

21 THE COURT: He didn't mislead him. He asked him a

22 question --

23 MR. SCHIFF: All right.

24 THE COURT: -- about the instructions --

25

1 BY MR. SCHIFF:

2 Q. Does the --

3 THE COURT: -- 2810.

4 BY MR. SCHIFF:

5 Q. -- the 1040 -- as you understood it, does the 1040 ask you
6 to report wages?

7 THE COURT: You can answer that.

8 THE WITNESS: I have to take a look at the form again.

9 BY MR. SCHIFF:

10 Q. Well, I gave it to you.

11 THE COURT: That's a 2003. But if that refreshes your
12 recollection. Line 7.

13 THE WITNESS: It says, uh, wages, tips, salary.

14 BY MR. SCHIFF:

15 Q. But what is the outside...

16 A. This one here?

17 Q. Doesn't it say income -- it wants you to report wages,
18 salaries, and tips derived from income. It doesn't simply say
19 report wages, salaries, and tips. There's an outside -- it's
20 asking you to report wages, salaries, and tips derived from
21 income; isn't that right?

22 A. Through, uh, discussion with Larry, that's supposed to be --
23 I mean, we -- I thought that was foreign -- from foreign
24 sources. Incomes: wages, tips, salaries.

25 Q. Well, if you happen to believe that income is a corporate

1 profit or from outside sources, then that's -- was that what you
2 would have meant when you indicated --

3 A. Well --

4 Q. -- on your Claim for Refund that the 1040 misleads you into
5 reporting?

6 A. Schiff, we have two philosophies here: one dealin' with
7 income as a corporate profit and one, uh, dealin' with income
8 wages and tips from, um, a foreign source that I got from Larry
9 and yourses [sic] dealing with income as a corporate profit.

10 So which one are you talkin' about?

11 Q. Well, I'm talkin' about me.

12 A. Okay.

13 Q. You never got from me, from any of my books that I -- that
14 this foreign source income -- I didn't believe it. I --

15 A. Okay.

16 Q. -- I -- have you been to my Web site in the last five years?

17 MR. NEIMAN: Objection. Beyond the scope.

18 MR. SCHIFF: Well, we're --

19 THE COURT: It is sustained.

20 MR. SCHIFF: -- talking about income. All right.

21 THE COURT: Sustained.

22 MR. SCHIFF: I don't believe in the 861 --

23 THE COURT: Listen.

24 MR. SCHIFF: All right.

25 THE COURT: I don't want you testifying.

1 MR. SCHIFF: Okay.

2 BY MR. SCHIFF:

3 Q. The point is the Government tried to infer that the 1040
4 asks you to report wages, salaries, and tips. That's what he
5 said.

6 A. Yes.

7 Q. Now, technically, it was my view and this is what I taught
8 and --

9 THE COURT: You're not going to testify.

10 MR. SCHIFF: -- this is -- all right.

11 BY MR. SCHIFF:

12 Q. Did you derive -- would it have been the reason that you put
13 that on your Claim for Refund, the fact that you were of the
14 opinion that what a 1040 asked you was not reporting wages,
15 salaries, and tips but wages, salary, and tips derived from
16 income and then it was important to know what income was.

17 A. On my, uh, 1040X's, these amended returns in the year 2000,
18 that would be correct.

19 Q. Pardon me?

20 A. Did I...

21 Q. All I'm saying is this: I think, um --

22 THE COURT: You ask the questions.

23 MR. SCHIFF: All right.

24 THE COURT: Don't you say anything.

25 MR. SCHIFF: All right.

1 BY MR. SCHIFF:

2 Q. The point is --

3 MR. NEIMAN: Objection on what Mr. Schiff thinks the
4 point is as well.

5 THE COURT: Sustained.

6 MR. SCHIFF: All right. I'm -- I'm gonna get off.

7 BY MR. SCHIFF:

8 Q. But, um, the suggestion of the prosecutor --

9 MR. NEIMAN: Objection.

10 THE COURT: Listen, listen. The form clearly says you
11 report as income "Wages, salaries, tips, etc." That's the form.

12 MR. SCHIFF: I agree.

13 THE COURT: Quit arguing with it.

14 MR. SCHIFF: I'm not --

15 THE COURT: Quit splitting hairs.

16 Wages, salaries, and tips are defined as income or part
17 of income on the income tax return that you have provided the
18 witness.

19 MR. SCHIFF: Okay.

20 BY MR. SCHIFF:

21 Q. Um, but the point is --

22 THE COURT: No, no. The point --

23 MR. SCHIFF: I'm just gonna ask --

24 THE COURT: -- is not.

25 MR. SCHIFF: -- I'm not gonna get that. I'm not gonna

1 ask him that.

2 BY MR. SCHIFF:

3 Q. The point is --

4 THE COURT: No.

5 BY MR. SCHIFF:

6 Q. -- did you amend --

7 THE COURT: You're testifying.

8 BY MR. SCHIFF:

9 Q. -- did you -- subsequent to filing the Claims for Refund --
10 based upon my information, did you subsequently amend all those
11 amended returns?

12 MR. NEIMAN: Objection. Beyond the scope.

13 THE COURT: Sustained.

14 MR. SCHIFF: Well, your Honor, he asked him if he got
15 all this information from me. He specifically said isn't it a
16 fact --

17 THE COURT: That's on the 1040X, not on the --

18 MR. SCHIFF: Well --

19 THE COURT: -- amended.

20 MR. SCHIFF: Yeah, I agree with that. But -- but then
21 he subsequently repudiated those ten -- those amended returns.

22 THE COURT: I don't think he did.

23 MR. SCHIFF: Well, he amended them all out. I mean, I
24 don't understand.

25 THE COURT: It's beyond the -- beyond the scope of

1 redirect.

2 MR. SCHIFF: Okay. No further questions.

3 THE COURT: Anything further?

4 MR. NEIMAN: Not from the United States, your Honor.

5 THE COURT: Mr. Lewis --

6 THE WITNESS: Yes, sir.

7 THE COURT: -- in your research of the Tax Code, did

8 you get to Section 1 of the Internal Revenue Code, "Tax Imposed,

9 Heads of household"?

10 THE WITNESS: Yes, I did.

11 THE COURT: "There is hereby imposed on the taxable

12 income of every" --

13 MR. CRISTALLI: Your Honor --

14 THE COURT: -- "head of household ... a tax determined

15 in accordance with the following table"?

16 THE WITNESS: That's correct.

17 THE COURT: Were you head of a household?

18 THE WITNESS: Yes.

19 THE COURT: Did you get to 61 that defines "income"?

20 "Section 61, Gross Income Defined."

21 THE WITNESS: Yes.

22 THE COURT: When you read those things, did you think

23 you understood them?

24 THE WITNESS: Back then I did. Um, lookin' at it now,

25 I -- I didn't understand them.

1 THE COURT: Why didn't you understand them?

2 THE WITNESS: 'Cuz I was being, uh, led to view them as
3 different than what they really supposed to --

4 THE COURT: By whom?

5 THE WITNESS: Mr. Schiff and his -- and his people with
6 various other arguments too. He should have been aware of what
7 other people were doing in his -- his organization because not
8 everyone -- everyone was goin' by what he was, um, telling
9 them -- telling them to do.

10 I also was advised that I needed to sue the City of
11 Las Vegas back in --

12 THE COURT: Don't want do get back into that. I don't
13 want to go back through your testimony.

14 THE WITNESS: Okay. But that -- okay. Your Honor,
15 that was later on too. So, I didn't perjure myself.

16 THE COURT: The witness is excused.

17 THE WITNESS: Thank you.

18 MR. BOWERS: Your Honor, I ask that we have the right
19 to -- he remain under subpoena for purposes later.

20 THE COURT: You'll be -- you'll remain under subpoena
21 for later purposes.

22 You'll give him reasonable notice --

23 MR. BOWERS: Absolutely.

24 THE COURT: -- of any need and that means at least 48
25 hours.

1 MR. BOWERS: 48 hours, your Honor?

2 THE COURT: Yes.

3 MR. BOWERS: Thank you.

4 THE COURT: The witness is excused.

5 Thank you, Mr. Lewis. Watch your step.

6 Okay. Looks like we're getting pretty close to the
7 time to take a break.

8 Mr. Cristalli?

9 MR. CRISTALLI: Your Honor, I'll wait till the jury
10 leaves. I do have an issue I'd like to address with the Court.

11 THE COURT: Okay. Let's let the jury go and then we
12 can address it.

13 Be in recess about 15 minutes.

14 (Jury leaves the courtroom at 2:40 p.m.)

15 THE COURT: Please be seated.

16 Do you want to address it at sidebar?

17 MR. CRISTALLI: No. I could address it right here.

18 THE COURT: Okay. Go ahead.

19 MR. CRISTALLI: Your Honor, I just wanted to lodge an
20 objection in terms of the Court's inquiry with regard to this
21 particular witness. Um, and it goes again into my motion for
22 severance. It appears, obviously, that Mr. Schiff through his
23 examination ad nauseam with regard to this particular witness it
24 has, uh, ruffled the Court's feathers to a certain extent and
25 then we were now engaging in a battle of legality in terms of

1 definitions in the IRS Code. My whole defense is not whether or
2 not this is -- that the beliefs were legitimate or illegitimate.
3 My whole defense is whether or not my client believed in this in
4 good faith.

5 The Court did make a comment with regard to the
6 defin- -- definition of income being clear to the jury that
7 concerns me a little bit only because the word "clear" suggests
8 that there is no issue for disbelief. Um, and, obviously, that
9 is an inherent concern of mine because my whole argument is
10 about the belief system.

11 MR. BOWERS: I'm sorry, your Honor. I have to join in
12 that as well. It -- it's clear that the Court is doing its best
13 to deal with what is a frustrating situation to the Court with
14 some of Mr. Schiff's techniques and tactics.

15 I think the questioning -- I've got to object to the
16 questioning of Mr. Lewis. I think the Court's point is there
17 are certain views on income. I would request that in lieu of
18 doing t this way in the future, if we have to do anything, that
19 we agree to an early set of instructions for this jury, if
20 anything because, um, doing it this way is -- is going to cause
21 us more harm than it is good.

22 And -- and I understand that, uh, this isn't intended
23 to be focussed at either myself or Ms. Neun, but it's spilling
24 over from what Mr. Schiff is doing.

25 THE COURT: Well, the request for severance is denied

1 for the reasons already stated.

2 With respect to the Court's examination of the witness,
3 as you know, that is perfectly permissible under the rule of
4 criminal procedure for the Court to ask a witness questions.
5 And I don't have to allow counsel to -- to have to allow counsel
6 to, uh, reexamine the witness after I've asked the questions,
7 although you could have if -- if you had asked to do so.

8 With respect to the statement on the law, I've already
9 warned Mr. Schiff many, many times that if he continued on
10 with -- with incorrect statements of the law or trying to
11 buttress his position in his numerous attempts to give speeches
12 to the jury that I would instruct correctly on the law. And
13 that's what has happened.

14 And the -- the Code does provide a definition. It is
15 clear, as I stated, that wages are included in Income, just
16 looking at the form itself. And, uh, and -- and we already
17 talked about giving an instruction on -- on this at the
18 beginning of the day, on -- on what the correct -- correct law
19 is. So, uh, the -- the objection is -- is overruled.

20 MR. BOWERS: Thank you, your Honor.

21 MR. CRISTALLI: Thank you, your Honor.

22 MR. SCHIFF: Can I make a comment on this?

23 Well, I've written books on this, your Honor. And the
24 Court's have ruled that income is not defined in the Internal
25 Revenue Code. I mean, the definition is not that clear cut. So

1 I just can't sit here and accept the fact that income is defined
2 in the Internal Revenue Code when the courts have already ruled
3 U.S. v. Ballard and U.S. v. --

4 THE COURT: So you're saying that wages are not clearly
5 income. Is that what --

6 MR. SCHIFF: No --

7 THE COURT: -- you're saying?

8 MR. SCHIFF: -- wage is not even mentioned in the
9 Internal Revenue.

10 Your Honor, look, I will take the stand. They can
11 cross-examine me. But my position is no, wages are not covered.

12 You can look up Section 61. Income isn't defined in
13 Section 61. You show me where income is defined and I'll plead
14 guilty right now.

15 THE COURT: "Gross income defined," Section 61.

16 MR. SCHIFF: All right. Read it. Read the definition,
17 please.

18 THE COURT: I don't have to argue the law with you.
19 This is the law and --

20 MR. SCHIFF: It says, "Gross income means all income."
21 But income itself is not defined. It says, "Gross income means
22 all income."

23 THE COURT: Well, the --

24 MR. SCHIFF: It doesn't --

25 THE COURT: -- next section --

1 MR. SCHIFF: -- define income.

2 THE COURT: -- covers "Adjusted gross income defined."

3 MR. SCHIFF: And if you look in Section 61 --

4 THE COURT: And income defined includes "Compensation
5 for services."

6 MR. SCHIFF: Continue with that line. Does it say
7 wages and salary?

8 THE COURT: It says, "Compensation for services." That
9 is by definition wages. You're just playin' semantics games.

10 MR. SCHIFF: I'm not playin' seman- -- I wrote -- I
11 asked him if he -- there's two chapters in this book that says
12 income was defined by the Supreme Court to -- to mean the same
13 thing as the corporate profit. Income is separate from its
14 source. I mean, I don't want to argue with you.

15 THE COURT: You -- don't say you don't want to do argue
16 and then do it. It's --

17 MR. SCHIFF: Well, I just can't sit and -- listen, your
18 Honor, here I have -- if I could just have a minute. From
19 United States Supreme Court Digest -- I'll give it to you if you
20 want --

21 THE COURT: Mr. Schiff, I have had experience with your
22 citation to Supreme Court cases and you take out bits and pieces
23 wherever it pleases you. The law is very, very clear. I have
24 read the law to you over and over again. And the fact that you
25 don't want to accept it or that you want to split hairs and go

1 off on some tangent doesn't make that the law. The law is going
2 to be given to this jury --

3 MR. SCHIFF: You can give the --

4 THE COURT: -- as -- as -- as I have said it and you're
5 not going to throughout this trial try to -- try to confuse
6 things and create a lot of dust and smoke to obscure the issues
7 in this case, which is what you've been doing.

8 MR. SCHIFF: Uh, let me just say -- and this is -- I
9 believe I comply with the law.

10 Now, let me see if I can give you one quote --

11 THE COURT: Mr. Schiff, you are not going to argue the
12 law.

13 MR. SCHIFF: All right.

14 THE COURT: The Magistrate has ruled against you. I
15 have ruled against you. All the courts have ruled against you.

16 MR. IGNALL: Your Honor --

17 THE COURT: Yes.

18 MR. IGNALL: -- may I raise one --

19 MR. SCHIFF: What I was trying to say here --

20 MR. IGNALL: -- one unrelated point?

21 THE COURT: Yes.

22 MR. IGNALL: I just want to read off -- we never
23 actually introduced the exhibits that we agreed to by
24 certification. If I could read those off now so counsel can
25 hear them. And then when we get back from the break, I'd

1 like --

2 THE COURT: Go ahead.

3 MR. IGNALL: -- to introduce them in the presence of
4 the jury.

5 THE COURT: Go ahead.

6 MR. IGNALL: Exhibits 86, 87, 87A, 88, 247, 248, 249,
7 250, 250A, 201, 202A, 202B, 253, 254, 259, 259A, 260, 261, 262,
8 263, 264, 265, 266, and 267. And I believe there were two
9 others: 286, 287, and 288.

10 THE COURT: And, when you say "counsel has agreed," are
11 you referring to all counsel including Mr. Schiff?

12 MR. IGNALL: Yes. I understood that -- it's -- now, I
13 don't know what day it was last week -- we agreed that all the
14 evidence that we had proposed to admit by certification Rule
15 902(11) and 803(6) would be admitted. I just want to identify
16 which exhibits those certifications apply to and confirm that
17 counsel agree that those are indeed the proper --

18 THE COURT: Mr. Cristalli --

19 MR. IGNALL: -- exhibit numbers.

20 THE COURT: -- do you agree?

21 MR. CRISTALLI: Your Honor, I don't know that I won't
22 agree. Ms. Neun has a couple issues with regard to a few of the
23 exhibits that she'd like to discuss with me during the break
24 and --

25 THE COURT: Okay.

1 MR. CRISTALLI: -- in all likelihood we'll be able to
2 resolve it and I'll have an answer to you.

3 THE COURT: Mr. Bowers.

4 MR. BOWERS: Your Honor, I -- I don't have an objection
5 other than those went way too fast for me to know what they are.
6 I mean, I've told the Government that --

7 THE COURT: Take a look during the break.

8 MR. BOWERS: Okay.

9 Can I add somethin' to the record about evidence and
10 stipulations with the Government?

11 THE COURT: Sure.

12 MR. BOWERS: Or do you want to do that later?

13 THE COURT: Go ahead.

14 MR. BOWERS: Well, it's just my position that I think
15 I've told the Government that I -- I don't object to the
16 introduction of any evidence. But I -- I reserve my right to
17 rely on my Fourth Amendment argue for -- argument for
18 suppression without waiving it. And the Government's agreed
19 that I don't have to raise that in front of the jury, that
20 that -- whatever that might apply to that -- that argument's
21 preserved.

22 MR. IGNALL: And the Government has agreed to that.

23 THE COURT: Okay.

24 MR. IGNALL: These are admitted subject to any Fourth
25 Amendment complaints that I believe the Court's already ruled on

1 but may be preserved for appeal.

2 MR. BOWERS: Well, and I don't -- I don't think these
3 implicate that. But, just whatever documents might implicate
4 it, I -- I preserve that right.

5 Agreed, Government?

6 MR. IGNALL: We agree to that, that they are admitted
7 under the Rules of Evidence, not necessarily for suppression
8 purposes.

9 THE COURT: All right.

10 MR. BOWERS: Thank you.

11 THE COURT: Mr. Schiff.

12 MR. SCHIFF: I don't understand what we're discussing
13 here, your Honor.

14 THE COURT: Exhibits -- certifications on several of
15 the exhibits that have been mentioned by the Government are
16 going to come in without the custodian being present to, uh --
17 to present them.

18 MR. SCHIFF: What -- what are -- I can't keep these
19 exhibits straight.

20 MR. BOWERS: Well, counsel will help you.

21 THE COURT: He just went through them. He listed them
22 all.

23 Do you have them?

24 MR. LEVENTHAL: Yes, Judge. We'll go through them at
25 the break and after the break is over.

1 THE COURT: All right.

2 Anything else before we take our break?

3 MR. IGNALL: Nothing from the Government, your Honor.

4 THE COURT: We're in recess.

5 MR. IGNALL: Thank you.

6 MR. BOWERS: Thank you.

7 (Recess from 2:50 p.m. to 3:12 p.m.)

8 THE COURT: Jury's coming in.

9 While they're doing that -- let's be seated -- do you
10 have an objection, Mr. Cristalli, to any of the --

11 MR. CRISTALLI: Your Honor --

12 THE COURT: -- certificated documents?

13 MR. CRISTALLI: Yeah, I think we're gonna be able to
14 resolve all these. Of immediate concern or at issue, um, I
15 believe are Exhibits 86, 87, 87A, and 88 if I'm not mistaken.

16 MR. IGNALL: Your Honor, what we've agreed to is we'll
17 move those in as soon as the jury comes in. Mr. Cristalli had a
18 substantive concern about one of the other exhibits that he
19 wouldn't address today anyway. And hopefully overnight we
20 should be able to resolve that. Maybe we can agree to introduce
21 a slightly excised version of that exhibit as well as the other
22 certified records.

23 MR. CRISTALLI: So we just want to table all the other
24 exhibits aside --

25 THE COURT: Okay.

1 MR. CRISTALLI: -- from those that we just mentioned.

2 THE COURT: All right.

3 Any objection -- Bowers, you said --

4 MR. BOWERS: No --

5 THE COURT: -- you have no objection?

6 MR. BOWERS: -- that's all fine, your Honor.

7 THE COURT: Schiff, no objection?

8 MR. IGNALL: And the agreement -- I don't know if your
9 Honor wants to put this on the record -- is that we agree that
10 defendants are not, by agreeing with the admission of these
11 records, waiving any Fourth Amendment claim they might have that
12 they've already raised presumably.

13 THE COURT: Subject to reservation of a Fourth
14 Amendment claim.

15 Mr. Schiff?

16 MR. SCHIFF: Correct.

17 THE COURT: Okay. Bring in the jury.

18 (Jury enters the courtroom at 3:13 p.m.)

19 THE COURT: The record will reflect the presence of the
20 jury. Please be seated.

21 Government's next witness.

22 MR. IGNALL: Government calls William Thomas, your
23 Honor.

24 And, while Mr. Thomas is coming into the courtroom, the
25 Government moves for the admission of Exhibits 86, 87, 87A, and

1 88.

2 THE COURT: The Court having heard no opposition from
3 opposing counsel receives those exhibits subject to the
4 conditions previously mentioned.

5 MR. IGNALL: And, your Honor, just to be clear, I'm
6 gonna hand three of those exhibits to the clerk right now.

7 Exhibit 87 is a voluminous exhibit of bank records, and
8 we're --

9 THE COURT: Okay.

10 MR. IGNALL: -- bringing those up right now.

11 (Government's Exhibit Nos. 86, 87, 87A, and
12 88, received into evidence.)

13 (William C. Thomas takes the witness stand.)

14 THE CLERK: Okay.

15 Could the witness please stand and raise your right
16 hand.

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

20 THE WITNESS: Yes, I do.

21 THE CLERK: Please be seated.

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

24 THE WITNESS: Uh, my name is William C. Thomas,
25 T-h-o-m-a-s.

1 WILLIAM C. THOMAS,
2 called as a witness on behalf of the Government, having been
3 first duly sworn, was examined and testified as follows:

4

5 DIRECT EXAMINATION

6 BY MR. IGNALL:

7 Q. Good afternoon, Mr. Thomas.

8 A. Hello.

9 Q. Have you been subpoenaed to appear here today?

10 A. Yes, sir.

11 Q. Okay. What do you do for a living, Mr. Thomas?

12 A. I'm retired.

13 Q. What are you retired from?

14 A. The, uh, military.

15 Q. How long were you in the military?

16 A. Uh, 25 years, almost 26.

17 Q. Where do you live today?

18 A. Evansville, Indiana.

19 Q. How long have you lived in Indiana?

20 A. Since, uh, 1992.

21 Q. While you've been living in Indiana, did you ever have
22 occasion to meet Irwin Schiff?

23 A. Yes, sir.

24 Q. When did you first meet Mr. Schiff?

25 A. Uh, I met Irwin Schiff over the phone in 1995.

1 Q. How did you come to meet Mr. Schiff over the phone?

2 A. Uh, he had a -- a business in Evansville, Indiana, and it
3 was owned by some members of my family. And he had an employee
4 who hadn't shown up for work; wasn't doin' a good job; and they
5 asked me to take over -- come to the office and work for --
6 temporary for a half a day, maybe a couple days.

7 MR. SCHIFF: Um, can I clarify something I didn't hear?

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

10 MR. SCHIFF: Can I just check and see if I heard him
11 right?

12 THE COURT: Well --

13 MR. SCHIFF: Can you repeat -- Mr. Thomas, can you
14 repeat the answer about --

15 THE WITNESS: I can't hear you. Sorry.

16 MR. SCHIFF: Did you say that --

17 MR. IGNALL: Your Honor, I think --

18 THE COURT: Hold on a minute.

19 MR. IGNALL: -- I think --

20 MR. SCHIFF: Could you just please repeat your answer?
21 I didn't hear it.

22 MR. IGNALL: Your Honor, can I -- if I ask one or two
23 more questions, that may clarify it.

24 THE COURT: All right. Go ahead.

25 MR. IGNALL: If it doesn't --

1 THE COURT: Then we'll go back.

2 MR. IGNALL: -- we can read back.

3 BY MR. IGNALL:

4 Q. What business was Mr. Schiff in?

5 A. Uh, selling tax books.

6 Q. And you said -- I believe you said something about a
7 business owned by your relatives. Did you mean the business was
8 or the building was --

9 A. Oh, I'm sorry.

10 Q. -- the building --

11 A. The building --

12 Q. -- was owned by your relatives?

13 A. -- the building. The real estate.

14 Q. Where the business was located?

15 A. Yes, sir. I'm sorry. Real --

16 Q. Who owned the business itself?

17 A. Who?

18 Q. Who owned the business?

19 A. My father.

20 Q. No. I'm sorry. The -- the business that Mr. Schiff was
21 involved in.

22 A. My father owned the real estate that Mr. Schiff's business
23 rented. Mr. Schiff owned Freedom Books.

24 Q. And the name -- and that was the name of the business?

25 A. Right.

1 Q. When you first heard about this potential opening at Freedom
2 Books, what did you do? Did you agree to do anything?

3 A. Answered the phone.

4 Q. After agreeing to answer the phone, did you ever take on any
5 greater responsibilities at Freedom Books?

6 A. Yes, sir. I started filling sales -- sales orders and
7 shippin' 'em all over the country.

8 Q. Explain to me what that meant. How did you do that?

9 A. Well, it was a shipping center and orders would come into
10 Freedom Books in Indiana. They had a warehouse there. And they
11 all -- all the books that were sold in their TV radio or by his
12 seminars, uh, or 800 number, were processed, the orders were
13 processed in Evansville; the money collected; and the items were
14 sent to the, uh, people that purchased 'em.

15 Q. So you actually had some responsibility for collecting
16 money?

17 A. Yes, sir.

18 Q. And what was your responsibility for collecting money?

19 A. Uh, I took credit card numbers and processed the credit
20 cards through the bank and shipped the orders.

21 Q. How -- how did the orders come in to you in Indiana?

22 A. They came over the fax machine.

23 Q. From where?

24 A. From Las Vegas.

25 Q. Did customers call you directly to order anything?

1 A. No, not -- they never -- they didn't call Indiana directly.

2 Q. Do you -- let me rephrase that.

3 Did Freedom Books have a bank account in Indiana when
4 you started working there?

5 A. Uh, when I -- when I first started workin' there, they did
6 not have a banking account.

7 Q. Did that change while you were working there?

8 A. It changed while I was employed there.

9 Q. How did that change?

10 A. Well, the business got -- had got to where it picked up and
11 got better and we needed -- we needed moneys to -- uh, for rent,
12 utilities, and expenses and payroll to run -- to run his
13 business.

14 Q. Had Mr. Schiff been using any kind of a bank account in
15 Indiana when you started working there?

16 A. Uh, not to my knowledge.

17 Q. The first bank account that you're aware of, in whose name
18 was that bank account opened?

19 A. The banking name?

20 Q. The bank account, banking name, yes.

21 A. Citizens, I believe.

22 Q. I'm sorry. The name -- the name of the accountholder.

23 A. Uh, it was under -- when I first went to the bank was -- the
24 banking account number was under, uh, Tree Top Communications.

25 Q. What is Tree Top Communications?

1 A. It was a magazine publishing company.

2 Q. Okay. If I could turn your attention to Exhibit 88, which I
3 believe we already had admitted. If we could pull it up.

4 (Document displayed in open court.)

5 (Exhibit handed to the witness.)

6 BY MR. IGNALL:

7 Q. Do you recognize Exhibit 88?

8 A. Yes, sir. It's a -- it's a bank statement.

9 Q. Okay. If you can look at the upper left-hand corner, it
10 says "Tree Top Communication."

11 A. Right.

12 Q. Do you see an address under there?

13 A. Yeah. 40- -- 4908 Tippy Canoe Avenue. That -- that is the
14 address for the property.

15 Q. Thank you.

16 When it came time to open up a -- let me rephrase that.

17 Did you ever open up an account in the name of Freedom
18 Books itself?

19 A. Yes, sir.

20 Q. When was that?

21 A. Oh, I think 19- -- late, maybe, 1995.

22 Q. Did you ever have discussions with Mr. Schiff about the need
23 to open up a bank account?

24 A. I -- I did.

25 Q. What did you tell him that you needed to do?

1 A. Well, Tree Top Communications came to me and said that they
2 wanted him to open his own account; that they no longer wanted
3 to have a joint for business reasons. So we had no choice to...

4 Q. Did you -- did you relate that -- relay that to Mr. Schiff?

5 A. Yes, I did.

6 Q. And what did he tell you when you said that he needed to
7 open up a new bank account?

8 A. He agreed to open up an account.

9 Q. Did you have a discussion about having a bank account in his
10 name?

11 A. Uh, yes.

12 Q. What was that discussion?

13 A. Uh, at -- at -- at the time that it was discussed, he -- he
14 was not able to open an account, a merchant's account, a
15 business account, in his name.

16 Q. Did he tell you why?

17 A. He said it was for IRS reasons, for past business reasons.

18 Q. Did he say anything more about what those IRS reasons were?

19 A. I believe at one time he mentioned that they had some
20 problems, uh -- he had some problems with a lien or levy or they
21 are watchin' his account -- his moneys or something like that.

22 Q. Did you open up a bank account in a name other than Irwin
23 Schiff in Indiana?

24 A. I didn't understand the question.

25 Q. You said -- we just talked a little bit about whether to

1 open an account in Mr. Schiff's name. I'm saying: Did you ever
2 open an account in a name other than Mr. Schiff?

3 A. We opened the account in the name of Freedom Books --

4 Q. Okay. And what bank --

5 A. -- with --

6 Q. -- was that? I'm sorry.

7 A. -- with -- I believe it was Civitas or Citizens. The -- the
8 bank changed four -- four time names while I worked for Irwin
9 while we had an account there. It was the same company; they
10 just changed their logo a number of times.

11 Q. Did the bank ever ask you for some sort of taxpayer ID
12 number for the bank account?

13 A. Yes.

14 Q. Did you ever have a discussion with Mr. Schiff about that?

15 A. I did.

16 Q. And what was the substance of that discussion?

17 A. He said he wasn't able to provide a tax ID number.

18 Q. Did he tell you why?

19 A. Uh, not specifically. But I'm sure it was related all along
20 that --

21 Q. We -- we don't want you to guess.

22 A. Okay.

23 Q. Did he tell you generally why he couldn't give you a tax ID
24 number?

25 A. That he -- that he couldn't.

1 Q. Okay. Did you ever provide the bank with a tax ID number?

2 A. Not while I was employed there.

3 Q. How long were you employed at Freedom Books?

4 A. Uh, from '95 to 2001. Almost six years.

5 MR. IGNALL: If I could pull up Exhibit 86.

6 (Document displayed in open court.)

7 (Exhibit handed to the witness by the clerk).

8 BY MR. IGNALL:

9 Q. Do you recognize Exhibit 86?

10 A. Yes, sir.

11 Q. What is Exhibit 86?

12 A. I'm sorry?

13 Q. What is Exhibit 86?

14 A. Oh. This is a signature card, who's authorized to do
15 business -- sign checks.

16 Q. And who is authorized to sign checks on that card?

17 A. The owner, Irwin Schiff, and the warehouse manager, Bill
18 Thomas, myself.

19 Q. Thank you.

20 MR. SCHIFF: Excuse me. What is the date of that? Is
21 there a date on that?

22 THE COURT: Turn around and look.

23 MR. SCHIFF: I can't see it.

24 THE COURT: Behind you.

25 THE CLERK: It should be on the screen.

1 MR. SCHIFF: 10-13-97.

2 MR. IGNALL: All right. Thank you.

3 BY MR. IGNALL:

4 Q. After you started working there -- or when you started
5 working there -- let me try that one more time.

6 After you started in 1995, did business at any time
7 pick up or get better or get worse?

8 A. It got -- it got better, a lot better.

9 Q. And when did the business start to get better?

10 A. Probably '96. It got better every year while I was employed
11 there.

12 Q. Was there anything in particular that happened in '96 that
13 was correlated with business picking up? Did you ever -- I'll
14 rephrase it -- did you ever notice that anything Mr. Schiff did
15 had any correlation with the number of orders you were getting?

16 A. Well, we hired additional help.

17 Q. But do you know if there's any publicity or any advertising
18 that Mr. Schiff did that you know -- that led to an increase?

19 MR. BOWERS: Objection. Leading.

20 THE WITNESS: He -- he was on the road a lot. He did
21 seminars. He went on television and national radio and
22 newspaper. And he was -- is that your --

23 BY MR. IGNALL:

24 Q. Yeah.

25 A. -- question?

1 Q. After Mr. Schiff was on national radio, for example, did you
2 notice an upsurge in orders?

3 A. Oh, yeah, definitely.

4 Q. What responsibility did you have for keeping track of the
5 orders that you were processing in Indiana?

6 A. Well, when I -- when I -- when I hired on there was no
7 record keeping in Evansville. None whatsoever. And I -- I
8 wrote a computer program to keep track of every sale, every --
9 every business transaction. Everything. Everything -- every
10 fax that came in was documented on a computer. Uh, I kept -- I
11 kept good records.

12 Q. All right. You said "every fax that came in." Did you keep
13 a copy of those?

14 A. Yes, I did.

15 Q. All right. If I could turn your attention -- or one moment.

16 MR. IGNALL: Court's indulgence.

17 THE COURT: Yes.

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

20 BY MR. IGNALL:

21 Q. All right. I'd like to turn your attention to what we've
22 marked as Exhibit 91 and these are many boxes.

23 MR. IGNALL: With the Court's indulgence, can we move
24 those up closer to the witness --

25 THE COURT: Yes.

1 MR. IGNALL: -- and perhaps give him an opportunity to
2 look at them?

3 BY MR. IGNALL:

4 Q. I'm gonna hand you what we've marked as Exhibit 89. And is
5 there a box number on there?

6 AGENT STEINER: 91, Dave.

7 BY MR. IGNALL:

8 Q. I'm sorry. Exhibit 91. And I believe there are 10 boxes.

9 AGENT STEINER: This is 9 of 10.

10 BY MR. IGNALL:

11 Q. I'm gonna show you what's marked 9 of 10.

12 MR. IGNALL: And may Agent Steiner approach the
13 witness, your Honor?

14 THE COURT: You may.

15 MR. BOWERS: Your Honor, just for clarification, is
16 each box an independent exhibit or what are we doing here?

17 THE COURT: It's all part of 91.

18 MR. BOWERS: Okay. Thank you.

19 BY MR. IGNALL:

20 Q. If you could look at what we've marked as Box 9 of
21 Exhibit 91, please.

22 A. (Complies.)

23 Q. And do you recognize any of the documents in there?

24 A. These -- these are fax -- faxes that I received in
25 Indiana -- orders, these are orders that I filled. These are

1 the faxes that ordered me to send the item out to the customer.

2 Q. And these -- these are the faxes that you maintained?

3 A. This -- this particular top item is -- was sold in

4 Las Vegas. This is not something that I sent because I

5 recognize the code. It's "N" and it also says "picked up."

6 This was picked up in person here in Las Vegas at Freedom Books.

7 Q. But you got a record of that in Indiana?

8 A. Yes, sir.

9 Q. And you maintained those --

10 A. Yes, sir.

11 Q. -- at part of your --

12 A. Right.

13 Q. -- ordinary business?

14 A. Yes, sir.

15 Q. Have you looked through the other nine boxes that are marked
16 as Exhibit 91 at any point?

17 A. Yes, sir.

18 Q. And what's in those other nine boxes?

19 A. They are all copies of faxes, the original -- my fax that
20 came over to me in Indiana.

21 Q. And you kept -- you maintained those --

22 A. They are orders.

23 Q. -- in the ordinary course of business?

24 Did you maintain those in the ordinary course of
25 business?

1 A. Yes, I did. They are all in order by date and the way I
2 filled them.

3 MR. IGNALL: At this point, Government moves Exhibit 91
4 in evidence.

5 MR. CRISTALLI: No objection, your Honor.

6 MR. BOWERS: Your Honor, I don't -- I don't object to
7 these documents at all. I -- I mean -- and the Government's
8 free to examine him any way they want. It's my understanding
9 there's different procedures for Mr. Thomas's collection of
10 these. Some orders were faxed to be filed; some were just faxed
11 to him and he kept records. I don't know if the Government
12 would elaborate on that.

13 I'm not objecting to any of the documents.

14 THE COURT: Okay.

15 MR. BOWERS: They can come into evidence, but --

16 THE COURT: We'll deal with that --

17 MR. BOWERS: That would be helpful.

18 THE COURT: -- in a minute. Thank you.

19 Mr. Schiff, any objection to Exhibit 91?

20 MR. SCHIFF: Well, only for the objection that we
21 indicated earlier, Fourth and Fifth Amendment.

22 THE COURT: Okay. 91 is received.

23 (Government's Exhibit No. 91, received into
24 evidence.)

25

1 BY MR. IGNALL:

2 Q. And to clarify, did you keep every fax that you got from
3 Las Vegas?

4 A. Yes, sir.

5 Q. Every order form?

6 A. Every --

7 Q. Is that what those faxes -- what are those faxes? What are
8 the faxes that are contained in all these boxes here?

9 A. I apologize to the Court. But I've got a cold and I was --
10 I've been flying. And my -- my head is stopped up. And I'm
11 just a little hard of hearing. I'm not avoiding your question.

12 Q. I wouldn't think so.

13 The faxes that you've maintained that are in these 10
14 boxes, what are those faxes?

15 A. They are orders.

16 Q. All -- all of the faxes are orders?

17 A. Right.

18 Q. Thank you.

19 I want to go back to something we skipped over. When
20 Freedom Books was using the Tree Top's bank account, do you know
21 what tax identification number Freedom Books was using on that
22 account?

23 A. They were usin' Tree Top Communications's ID tax number,
24 federal tax ID number.

25 Q. Did that have any other name beyond -- other than Tree Tops

1 [sic]?

2 A. Well, Tree Top was the parent company of Media Bypass
3 magazine.

4 Q. And were there any other companies associated with that?

5 A. No, sir --

6 Q. Thank you.

7 A. -- not that I'm aware of.

8 Q. All right. Thank you.

9 Now, you mentioned earlier that you maintained a
10 database. Am I right?

11 A. Right.

12 Q. And where did you maintain that database?

13 A. In the -- in the office in Evansville.

14 Q. Was it on a computer?

15 A. On a computer.

16 Q. Okay. At any point, did you download that data --

17 A. I --

18 Q. -- to any other media?

19 A. I downloaded it every Friday.

20 Q. Into what format?

21 A. To a disk, a backup, in case the building burned or theft or
22 something.

23 Q. Did anyone from Freedom Books ask you to maintain this
24 database?

25 A. No, sir.

1 Q. Did you have any discussion with anyone at Freedom Books
2 about maintaining records in general?

3 A. Well --

4 MR. SCHIFF: I didn't hear the answer about -- can you
5 repeat the last question and answer?

6 THE COURT: "Did anyone from Freedom Books ask you to
7 maintain this database?"

8 Answer, "No, sir.

9 Question, "Did you have any discussion with anyone
10 about" -- "at Freedom Books about maintaining records in
11 general?"

12 THE WITNESS: I -- I did have a discussion with various
13 employees of Irwin's.

14 BY MR. IGNALL:

15 Q. All right. Who in particular?

16 A. Anyone in particular?

17 Q. If you could name the people in particular, as far as you
18 remember.

19 A. I can name -- I can name several.

20 Q. Please.

21 A. The first -- the first office manager that Irwin employed in
22 Las Vegas told me not to maintain any records.

23 Q. Who was that?

24 A. Uh, Ms. Linda Hicks.

25 MR. CRISTALLI: Could we have some foundation as to

1 time.

2 BY MR. IGNALL:

3 Q. When was that?

4 MR. SCHIFF: Hearsay. Objection. That's hearsay.

5 MR. IGNALL: Your Honor, it's a statement in
6 furtherance of the conspiracy. I don't know what if we want to
7 have a sidebar about that.

8 THE COURT: Pardon? Do you need a sidebar?

9 MR. IGNALL: I don't know if we want to have something
10 outside the hearing of the jury because there may be a couple
11 other items like this. We might want to address that briefly at
12 a sidebar.

13 THE COURT: Does anybody wish to address it at sidebar?

14 MR. CRISTALLI: Yes, your Honor, we might as well.

15 THE COURT: Very well.

16 (Sidebar conference was held as follows:)

17 MR. SCHIFF: Can I explain my objection?

18 MR. CRISTALLI: Well, I think the Government was gonna
19 address something first.

20 THE COURT: Yeah, Government will go first.

21 MR. IGNALL: In this case, I think this is admissible
22 for the jury since, one, there's an agency agreement between
23 Mr. Schiff and, I believe, it's Ms. Hicks who made the
24 statement. But that's not the basis upon which we've introduced
25 it against all of the defendants.

1 We're introducing it as a statement in furtherance of
2 the conspiracy made by Ms. Hicks, who worked for Freedom Books.
3 I believe that would require a preliminary finding by the Court
4 that there is at least some evidence of the existence of a
5 conspiracy. And the conspiracy is charged at the beginning --
6 in the beginning of 1995. I can get the exact date from the
7 Indictment here. I'm sorry. July 13th, 1995.

8 MR. BOWERS: Are you acknowledging, then, that
9 Ms. Hicks is an unindicted coconspirator?

10 MR. IGNALL: She does not need to be for a statement
11 she made in furtherance of conspiracy.

12 MR. BOWERS: She doesn't need to be part of the
13 conspiracy?

14 MR. IGNALL: As long as her statement is made in
15 furtherance of the conspiracy --

16 MR. SCHIFF: Okay.

17 MR. IGNALL: -- she need not be. She may well be. But
18 I don't believe the Court needs to make that finding.

19 MR. SCHIFF: Can I make a statement here?

20 I think his memory is a little clouded. First of all,
21 we had to keep a database for people who wanted refunds, if
22 somebody said they didn't get their material. As a matter of
23 fact, when we finally terminated him for various reasons, you
24 know, he brought me a database. Of course, I wanted a database
25 for all kinds of reasons, uh, we knew what people bought.

1 One of the advantages of Bill is he knew how to use a
2 computer. The people -- so I don't know what's the matter with
3 his memory. But, um, he had to keep a database. I was -- I was
4 pleased that he could. And, as a matter of fact, we had a
5 database.

6 Uh, as -- as I said, sometimes people -- sometimes
7 people would ask for their money back. Well -- or they didn't
8 get the material. He had to know when they ordered, when it was
9 sent out. I mean, it's ridiculous to say that I didn't want a
10 database.

11 THE COURT: I don't think --

12 MR. SCHIFF: I don't know --

13 THE COURT: -- he said that.

14 MR. SCHIFF: -- why he's saying -- but, in any case,
15 it's hearsay. I don't know what Linda Hicks told him. I -- I
16 certainly never told him any such thing. I mean -- and I think
17 he'll retract that on cross-examination.

18 THE COURT: Okay. Well, we'll see on
19 cross-examination.

20 MR. CRISTALLI: I'm sorry.

21 MR. BOWERS: No. I'm sorry. I -- hey.

22 MR. CRISTALLI: Well, I would -- I do think it is
23 hearsay. It does go to prove the truth of the matter asserted.
24 So we would lodge an objection in terms of what Ms. Hicks would
25 say.

1 I -- I was, though -- I have another issue, your Honor,
2 that -- I was looking at the Indictment that I did have some
3 concern with because you have an amount that is alleged, um,
4 from Freedom Books generating gross -- and I think the relevancy
5 as it relates to this witness is that I think they are gonna
6 get -- I think this is the material where they get this number
7 from. So I think -- it says, "Freedom Books generated gross
8 business receipts of \$3,726,000." And that was from January 1,
9 1997, until December 31st, 2002.

10 The problem I have, if you go down into the body of the
11 language in the conspiracy, the conspiracy begins, "On or about
12 December 9th, 1999, until February 3rd, 2003." So there's a
13 difference between the January 1st, 1997, until the December
14 9th, 1999. So this is gonna definitely affect the gross
15 business receipts of approximately \$3,726,000. And I don't know
16 what the Government's position is with regard to that, but I do
17 have some concern because I just noticed this.

18 MR. IGNALL: That's not an element of the offense. I'm
19 not sure why it makes a difference. But...

20 MR. BOWERS: You're saying the amount of loss isn't an
21 element of the --

22 MR. IGNALL: The amount --

23 MR. BOWERS: -- offense?

24 MR. IGNALL: -- of the loss is not an element of the
25 offense. It's simply a fact that we could --

1 THE COURT: Right.

2 MR. IGNALL: -- otherwise introduce.

3 THE COURT: May go to sentencing, but --

4 MR. SCHIFF: When did he say he stopped working for me?

5 Sorry.

6 MR. BOWERS: He said he stopped working for you in

7 2001.

8 MR. SCHIFF: One. That's five years ago. He's

9 testifying to statements allegedly --

10 MR. BOWERS: Well, then his memory isn't so good.

11 MR. SCHIFF: Five years ago.

12 MR. BOWERS: Yeah, well, so. That's what cross is for,

13 you know.

14 MR. SCHIFF: I mean, you know, you -- you think you

15 hear something and then you're not sure.

16 MR. BOWERS: Well, if you can't --

17 MR. SCHIFF: I'll cross-examine him.

18 MR. CRISTALLI: Your Honor --

19 MR. IGNALL: Upon further reflection, I'm gonna -- one

20 second, your Honor.

21 THE COURT: Okay.

22 MR. BOWERS: Your Honor, while we have a moment,

23 Mr. Schiff repeatedly seems to indicate he can't hear. I don't

24 know how we accommodate him. That -- that seems, for all of my

25 frustrations with what's happening here, particularly important

1 to address. I mean, he should be able to hear these
2 proceedings. I don't know how we fix that.

3 MR. SCHIFF: Well, I'm -- I'm getting it all right.

4 MR. IGNALL: Your Honor, if I may, upon further
5 reflection if we could ask the witness one more question as to
6 when Ms. Hicks made that statement because I believe the way the
7 conspiracy is charged is that the actual conspiracy that's
8 charged here started in 1999.

9 THE COURT: Okay.

10 MR. IGNALL: If she made that statement earlier, we
11 would introduce that as an agency relationship statement that
12 would only be admissible against Mr. Schiff.

13 MR. SCHIFF: Well, first of all, I object to that.
14 It's five years ago. It's hearsay. I can't -- I don't even
15 know where she is. I could subpoena her. I don't know why she
16 would make such a statement.

17 THE COURT: Your response.

18 MR. IGNALL: And, if we did that, we'd agree to a
19 cautionary --

20 MR. CRISTALLI: Cautionary.

21 THE COURT: Okay.

22 MR. IGNALL: -- cautionary instruction.

23 MR. BOWERS: Yeah, I'll take that.

24 MR. CRISTALLI: Thank you.

25 MR. IGNALL: But, your Honor -- sorry.

1 THE COURT: Well --

2 MR. IGNALL: There is gonna be a question -- we'll ask
3 it later -- that it's -- we are definitely going to introduce as
4 a coconspirator statement. And, at that point, could I ask for
5 a ruling --

6 THE COURT: Yeah.

7 MR. IGNALL: -- from the Court that there is some
8 evidence of the conspiracy?

9 THE COURT: Yeah. Thank you.

10 MR. BOWERS: Wait. Well --

11 MR. CRISTALLI: What is that?

12 MR. BOWERS: Well, you're gonna ask -- you're gonna ask
13 in front of the jury to have the judge admit there's some
14 evidence of a conspiracy?

15 THE COURT: Well --

16 MR. IGNALL: No. I'm gonna ask if whether -- you'll
17 lodge an objection. Or do you want --

18 MR. BOWERS: Well, if and when this happens, it needs
19 to happen at sidebar.

20 THE COURT: Well --

21 MR. BOWERS: -- that's inappropriate --

22 MR. CRISTALLI: -- who's --

23 MR. BOWERS: -- to explain to the jury.

24 MR. CRISTALLI: Okay. Well, let's talk about that.

25 So you're gonna say that -- what's the evidence that's

1 gonna come in?

2 MR. IGNALL: If you give me a sec.

3 MR. CRISTALLI: Well, I saw it already in the Grand
4 Jury --

5 MR. IGNALL: Yeah.

6 MR. CRISTALLI: -- testimony, to be perfectly honest
7 with you. So, I mean, it has to do with, um...

8 MR. IGNALL: Well, he's gonna say Mr. Schiff told him
9 that Cindy said that he had too much money in Indiana and too
10 much authority in all the records and that she wanted everything
11 here in Las Vegas.

12 MR. SCHIFF: That's all hearsay. I don't know what she
13 said.

14 MR. IGNALL: Okay. Well, that what he -- that's what I
15 believe Mr. Thomas's testimony is gonna be.

16 THE COURT: He's gonna testify that Schiff said that?

17 MR. IGNALL: Yeah.

18 MR. SCHIFF: Hold it. He's gonna testify --

19 MR. BOWERS: Your Honor --

20 MR. SCHIFF: -- that what?

21 MR. BOWERS: -- that she said that, Irwin.

22 MR. SCHIFF: That I said what?

23 THE COURT: That the records are -- he had too much
24 authority, the witness, and the records --

25 MR. CRISTALLI: Cindy said that.

1 THE COURT: -- needed to be in Las Vegas.

2 MR. SCHIFF: No, I don't have any records in Las Vegas.

3 All right, all right, all right.

4 THE COURT: Well, your denial of it, you know, that's
5 not the evidentiary --

6 MR. CRISTALLI: Well, I have an objection. But I don't
7 want a finding by the Court in front of the jury.

8 MR. BOWERS: That's my only concern.

9 MR. IGNALL: I would just --

10 MR. BOWERS: That -- that can't be on the record.

11 MR. IGNALL: Should we have another sidebar at that
12 point?

13 THE COURT: We'll have to have another sidebar.

14 MR. IGNALL: Okay. That's fair.

15 THE COURT: Yeah. And I -- you know, be prepared to
16 address what the evidence of conspiracy is. I mean, you know --

17 MR. BOWERS: All right.

18 MR. IGNALL: Okay.

19 THE COURT: -- the fact they are all workin' there and
20 they are, you know, doin', you know, some of these returns,
21 everybody's give their input.

22 What else?

23 MR. IGNALL: Okay.

24 THE COURT: All right.

25 MR. CRISTALLI: Thanks.

1 (Sidebar conference concluded and the
2 following is held in open court:)

3 BY MR. IGNALL:

4 Q. Mr. Thomas --

5 MR. IGNALL: I'm sorry. Are we back on the record,
6 your Honor?

7 THE COURT: We are.

8 MR. IGNALL: All right.

9 BY MR. IGNALL:

10 Q. Mr. Thomas, a moment ago you mentioned that Linda had told
11 you something -- or I'm sorry -- the office manager told you
12 something?

13 A. Yes, sir.

14 Q. Do you remember when that happened?

15 A. When she --

16 MR. SCHIFF: Your Honor, I have to put another
17 objection in here. That's hearsay.

18 MR. IGNALL: The question's when.

19 THE COURT: The question's when, when he was told.

20 MR. SCHIFF: When were you told this by the --

21 THE COURT: Well, you're not asking the questions.
22 Listen to the answer.

23 Go ahead.

24 THE WITNESS: I believe it was when -- I'm not sure
25 when she came on board. But when your -- your question a while

1 ago when you said "records" -- can I elaborate or --

2 BY MR. IGNALL:

3 Q. Well, we'll --

4 A. -- no?

5 Q. -- get to that in a second.

6 A. All right.

7 Q. Do you know -- you mentioned that you had a conversation
8 with -- with -- is her name Linda? Am I correct?

9 A. Linda? Linda Hicks.

10 Q. Yes.

11 Do you remember what year that was to the best of your
12 recollection?

13 A. I thought it was '96.

14 Q. Okay.

15 A. She was there for quite a while as...

16 Q. All right?

17 MR. IGNALL: Given that, your Honor, we would offer
18 that solely against Mr. Schiff under Rule 801(d)(2)(E) and we
19 would agree to a limiting instruction.

20 THE COURT: The statement is a statement -- you're
21 asking for under 2(E) which is -- you're not asking as agency.
22 You're asking it as -- under (E) as a...

23 MR. IGNALL: No, no. Given the date of that, we're
24 asking for it admissible against Mr. Schiff alone under
25 subsection (D).

1 THE COURT: Section (D). And that is -- what part
2 of -- of (D)?

3 MR. IGNALL: "A statement by the party's agent or
4 servant concerning a matter within the scope of the agency or
5 employment, made during the existence of the relationship." And
6 I could ask another foundational question.

7 THE COURT: (D). Okay. Go ahead and lay the
8 foundation.

9 BY MR. IGNALL:

10 Q. Who -- who -- who was Ms. Hicks?

11 A. Who what?

12 Q. What was Ms. Hicks's role at Freedom Books?

13 A. Linda's?

14 Q. Yes.

15 A. She was the office manager.

16 Q. And how do you know that?

17 A. She said she was.

18 Q. Did you ever have any dealings with her while you were
19 working there?

20 A. Any what?

21 Q. Dealings with her while you were working there? Did you
22 talk to her, see her in the office?

23 A. I talked to her a couple years on the phone before I had --
24 I had -- I eventually met her in person.

25 Q. But, when you spoke to her on the phone, was that part of

1 your employment?

2 A. Yes. Yes, sir.

3 Q. All right.

4 MR. IGNALL: With that foundation, we'd move it under
5 801(d)(2)(D).

6 THE COURT: The statement will be admitted under
7 801(d)(2)(E) -- or 2(D) -- I'm sorry -- 2(D) as a statement of
8 the party's agent or servant concerning a matter within the
9 scope of the agency or employment made during the existence of
10 the relationship and against Schiff only.

11 BY MR. IGNALL:

12 Q. Now, what -- what did Linda tell you about keeping records
13 in Indiana?

14 A. The records -- there's -- these are records, fax copies.
15 There's computer records. She told me to destroy the fax
16 records.

17 Q. Did you ever have any discussion with Mr. Schiff about
18 keeping records in general?

19 A. Yes, sir.

20 Q. What -- what discussions did you have with Mr. Schiff about
21 keeping records in general?

22 MR. CRISTALLI: Foundation as to time.

23 THE COURT: Sustained. Further foundation.

24 THE WITNESS: Can I answer?

25

1 BY MR. IGNALL:

2 Q. No, no, no.

3 When did you have your first discussion with Mr. Schiff
4 about maintaining records in Indiana?

5 A. When I first came on board.

6 Q. What discussion did you --

7 A. I couldn't --

8 Q. I'm sorry. I didn't mean to cut you off.

9 What discussion did you have with somebody about
10 keeping records when you first came on board?

11 A. That we needed a system. We needed to keep records, good
12 records, to keep track of orders. And it was important that
13 people -- we were gettin' complaints that people had -- they say
14 that they'd ordered things; they never got 'em. And there was
15 nowhere for me to look when I came on board to see that they'd
16 even purchased it or that they'd even received it or what it
17 was.

18 Q. Did you have a discussion with Mr. Schiff about this?

19 A. Oh, yeah, sure.

20 MR. IGNALL: All right. I'd like to, um -- if I may
21 approach the witness?

22 THE COURT: You may.

23 (Document handed to the witness.)

24 (Government's Exhibit No. 92, marked for
25 identification.)

1 BY MR. IGNALL:

2 Q. Mr. Thomas, I've just handed you what we've marked as
3 Government Exhibit 92. Could you take a look at that? Do you
4 recognize this?

5 A. That's -- that's -- that's my handwriting.

6 Q. What -- what is Exhibit 92?

7 A. I'm sorry?

8 Q. What is that that you're holding?

9 A. It's an envelope, Exhibit 92. And inside I presume it's my
10 backup -- it's the database that we'd run up to this particular
11 date.

12 Q. Do you recognize the disk that's inside that envelope?

13 A. Yes. It's got my name -- it's got my name and address on
14 it.

15 MR. IGNALL: At this point, Government moves Exhibit 92
16 into evidence.

17 THE COURT: Any objection to 92?

18 MR. CRISTALLI: No, your Honor.

19 MR. BOWERS: No, Judge.

20 MR. SCHIFF: No objection.

21 THE COURT: 92, no objection? 92 is received.

22 (Government's Exhibit No. 92, received into
23 evidence.)

24 MR. CRISTALLI: Your Honor, the only concern I have is
25 the time frame of the database.

1 BY MR. IGNALL:

2 Q. What is the time frame of the database that's maintained on
3 that disk?

4 A. I don't know. There's a -- there is a sticker missing that
5 I would have put on giving the fax number up to that point and
6 date.

7 MR. IGNALL: One moment, your Honor.

8 THE WITNESS: Unless it's in here.

9 (Discussion between Mr. Ignall and
10 Mr. Neiman.)

11 MR. IGNALL: Court's indulgence. If we can get back to
12 that in a moment.

13 THE COURT: Okay.

14 MR. IGNALL: I'm sorry.

15 And is that the basis of the objection? Just so I --

16 MR. CRISTALLI: Yes.

17 THE COURT: He didn't really object. He just asked,
18 after thinking about it, for more foundation.

19 MR. IGNALL: And if we --

20 MR. CRISTALLI: Your Honor, and I would have no
21 objection other than, um, having a contingency that we establish
22 some time frame.

23 MR. IGNALL: All right. We'll do that.

24 BY MR. IGNALL:

25 Q. When you started working at Freedom Books, how were you

1 paid? In what form did you receive your payment?

2 A. Um, I was paid in check.

3 Q. How -- how was that? Explain that to me.

4 A. I paid -- I wrote a check to myself and paid myself in check
5 every week for five years.

6 Q. Did you have a discussion with Mr. Schiff about how you were
7 gonna get paid?

8 A. The -- we were supposed to have been paid in cash.

9 Q. Who told you that?

10 A. Um, Irwin, Mr. Schiff.

11 MR. CRISTALLI: Could I have some foundation as to time
12 frame?

13 BY MR. IGNALL:

14 Q. And when you first started working there?

15 A. I'm sorry?

16 Q. Was that when you first started working there?

17 A. I believe so, yes.

18 MR. CRISTALLI: Is that a year?

19 MR. IGNALL: He's already testified to that, your
20 Honor.

21 THE COURT: He did. He testified that he started
22 working in 1995 or thereabouts.

23 MR. CRISTALLI: Thank you.

24 BY MR. IGNALL:

25 Q. And explain to me why you say you wrote yourself a check.

1 A. I wrote a check so I would have some way of provin' how much
2 money I made at the end of the year.

3 Q. All right. Let me back up a second.

4 When you started working at Freedom Books, did you ever
5 fill out a Form W-4?

6 A. I filled out -- we all filled out a form, and I believe I
7 filled out a form sayin' I was exempt from paying federal taxes.

8 Q. Who did you give that form to?

9 A. I sent it to the office manager.

10 Q. Who -- who told you to fill out the form like that?

11 A. Linda Hicks.

12 Q. Did Freedom Books withhold any taxes from your paycheck?

13 A. Freedom Books didn't -- didn't withhold any funds from me at
14 all.

15 Q. Did -- did Freedom Books ever issue you a W-2 at the end of
16 the year?

17 A. No, sir.

18 Q. And so now we'll go back to: Why were you writing yourself
19 a check?

20 A. So I could have a record -- so I could prove how much money
21 I made at the end of the year.

22 Q. Prove to whom?

23 A. I'm sorry?

24 Q. Prove to whom?

25 A. I -- to the -- to the bookkeeper.

1 Q. Did you -- how did you handle your own taxes when you were
2 working at Freedom Books?

3 A. How did I pay?

4 Q. Or handle them at all. Did you pay any taxes?

5 A. I paid -- the only way that I could legally pay taxes since
6 I couldn't have a W-2 was the bookkeeper, professional service,
7 told me I had to file, uh, as a goin' into business for myself.

8 Q. Did you do that?

9 A. I did that.

10 Q. Did you have a discussion with Mr. Schiff that you were
11 doin' that?

12 A. No.

13 Q. You and Mr. Schiff ever -- ever have a discussion about
14 whether you should pay taxes?

15 A. I -- I don't think -- no. I -- I -- Irwin Schiff assumed
16 that anybody -- that I didn't --

17 MR. SCHIFF: Objection.

18 THE WITNESS: -- pay taxes.

19 MR. SCHIFF: Objection. He can't testify to what I
20 assumed.

21 THE COURT: Sustained.

22 BY MR. IGNALL:

23 Q. Did you have any discussion with Mr. Schiff about paying
24 taxes?

25 A. I never told him that I paid federal and state taxes, no, if

1 that's your question.

2 Q. Did he ever talk to you about whether you should?

3 A. No.

4 Q. Did you have a discussion with anyone else at Freedom Books
5 about whether you should?

6 A. Did I?

7 Q. Yes.

8 A. My -- my employees.

9 Q. But no one in Las Vegas?

10 A. There was -- there was -- yes, there was a person there who
11 I -- that I told that I paid taxes.

12 Q. But did anyone talk to you about whether you should or
13 should not pay taxes?

14 A. No.

15 Q. All right. Did you ever ask anyone for a Form W-2?

16 A. I did.

17 Q. Who did you ask for that?

18 A. I asked the office manager.

19 Q. Anyone else?

20 A. No.

21 Q. Did you ever get a W-2?

22 A. No.

23 Q. Let me go back to the credit cards.

24 When -- when you got a credit card order, how did you
25 actually get the money from the credit cards?

1 A. We -- we had a -- we had a credit card machine, a merchant's
2 account, with our bank. And we -- every order that came in with
3 a credit card we ran it and if it was good it went right to our
4 checking account. The funds went to the checking account.

5 Q. When did you open that merchant account?

6 A. I believe it was 1996.

7 Q. And at what bank did you open that?

8 A. At our -- at our local -- where we had a checking account,
9 Citizen's Bank.

10 Q. And, when the money went through that merchant account, I'm
11 sorry, where did it go? What account?

12 A. It went -- went to our checking account.

13 Q. All right. Is that the account we showed you earlier where
14 you had some signature authority?

15 A. Yes, that's right.

16 Q. Did you have any responsibility for keeping track of sales
17 from Las Vegas rather than from Indiana?

18 A. I -- yes, I did.

19 Q. What responsibility did you have?

20 A. Well, I needed -- I needed to know -- I needed to know what
21 was sold in Las Vegas for our database, our computer database.

22 Q. Did you get information regarding every sale from Las Vegas
23 to go into your computer database?

24 A. I got -- sometimes I did; sometimes I didn't.

25 Q. And how do you know that you didn't?

- 1 A. I'm sorry?
- 2 Q. How do you know that you didn't get records of every sale
3 from Las Vegas?
- 4 A. Well, there were time -- time lapses for months that -- that
5 there was no sales.
- 6 Q. Okay. Did you ever ask for sales from Las Vegas?
- 7 A. I asked for every -- every -- I asked for everything that
8 went on in that office that was purchased so I could keep it on
9 a database because there were tapes that were owed -- you know,
10 that were upcoming and there was no way for me to mail the next
11 tape if I didn't get the first order to begin with.
- 12 Q. Did you -- did you get the records that you were asking for
13 from Las Vegas?
- 14 MR. CRISTALLI: Your Honor, I have to object on a
15 foundational basis. I really need to know what time frame we're
16 dealing with here.
- 17 THE COURT: Time frame.
- 18 BY MR. IGNALL:
- 19 Q. Uh, when -- when did you first ask for records from
20 Las Vegas?
- 21 A. Well, it was an ongoing -- there were tapes bein' sold when
22 I first started.
- 23 Q. So when did you first ask for records from the Las Vegas
24 sales?
- 25 A. Uh, 1995.

- 1 Q. Did you get records from Las Vegas?
- 2 A. I got -- I did get records from Las Vegas, yes, sir.
- 3 Q. How often did you ask for records from Las Vegas?
- 4 A. It was an ongoing, head-butting procedure. But I did -- I
- 5 did get records.
- 6 Q. Who did you butt heads with?
- 7 A. Everybody.
- 8 Q. Do you remember anyone in particular?
- 9 A. Um, office manager.
- 10 Q. Is that Ms. Hicks? Who was the office manager?
- 11 A. Linda Hicks.
- 12 Q. Anyone else you remember the name of?
- 13 A. Uh, well, we went through so many people...
- 14 Q. If you don't remember, that's fine. But if there's anyone
- 15 you remember.
- 16 A. I -- I -- I don't remember.
- 17 Q. Anyone you remember being particularly cooperative when you
- 18 asked for records from Las Vegas?
- 19 A. There was an individual who was very cooperative that worked
- 20 with me real well.
- 21 Q. Who was that?
- 22 A. Uh, her name was Michelle, and I'm not sure of her last
- 23 name.
- 24 Q. Do you know if she was related to anyone at Freedom Books?
- 25 A. It was Cindy Neun's daughter.

1 MR. CRISTALLI: Your Honor, I would like, in terms of
2 foundation, a time frame when he had a dialogue with Michelle.

3 THE COURT: Foundation.

4 BY MR. IGNALL:

5 Q. Do you recall when you had these conversations with Michelle
6 who was being helpful?

7 A. I don't know. When she took a previous office manager's
8 position and then she came on board, she was office manager.
9 But I don't know the date or time.

10 Q. Was it near the beginning, middle, or the end of your
11 employment?

12 A. Her whole employment.

13 Q. No, no. Your employment. You said --

14 A. Oh. It was during the middle. Probably '97, '98.

15 Q. Okay. What did you do with the money that went into this
16 checking account that you had some responsibility for in Indiana
17 in terms of disbursing it?

18 A. I wrote checks.

19 Q. On whose instruction?

20 A. On the, um, office manager and Irwin Schiff.

21 Q. Did you ever send any money to Mr. Schiff?

22 A. Did I send money to Mr. Schiff?

23 Q. Yes. Or -- let me -- let me withdraw that question, your
24 Honor.

25 Did you ever send any money to Las Vegas?

1 A. Oh, yeah. Yes. Yes, sir.

2 Q. Upon whose instructions?

3 A. Um, a number of people: office manager, Irwin himself.

4 Q. Anyone else?

5 A. Linda Hicks, Cindy Neun, Michelle, and some of the employees
6 picked -- requested money.

7 MR. CRISTALLI: Your Honor, I have to lodge another
8 objection in terms of foundation as to time. It's important in
9 the terms of this conspiracy that we know what time frames we're
10 dealing with.

11 THE COURT: Well, he's answered in general. And the
12 requested further detail of these individuals.

13 MR. CRISTALLI: Well, each individual started and ended
14 at a different time. To cluster them, I think --

15 THE COURT: I know. I know. I'm just repeating what
16 you're asking.

17 MR. CRISTALLI: Yes, sir.

18 MR. SCHIFF: Can I get a question [sic] and repeat of
19 that last question? Send money based on who? What of what was
20 that last question and answer?

21 THE COURT: The question was, "Did you ever send money
22 to Las Vegas?"

23 The answer was yes.

24 "Upon whose instruction?"

25 Answer, "A number of people: office manager, Irwin

1 himself."

2 Question, "Anyone else?"

3 Answer, "Linda Hicks, Cindy Neun, Michelle, and some of
4 the employees picked -- requested money."

5 BY MR. IGNALL:

6 Q. During what time period that you worked there did Mr. Schiff
7 instruct you to send money to Las Vegas? Was it during the
8 whole time --

9 A. Yeah, yeah.

10 Q. -- part of the time?

11 A. I was authorized to send it the whole time.

12 Q. He asked you --

13 A. Well --

14 Q. -- to send --

15 A. -- well, at -- sometimes we didn't have it. But the whole
16 time, yes.

17 Q. When Mr. Schiff first asked you to send money to Las Vegas,
18 in what form did you send those funds?

19 A. Money orders and cashier's checks.

20 Q. Did you originally send money orders and cashier's checks or
21 did you send money in a different format or funds in a different
22 form initially?

23 A. Well, I sent all kinds of formats. But at first it was just
24 money orders and cashier's checks.

25 Q. Why did you send money orders and cashier's checks?

1 A. Because they could go overnight -- why did I send that?

2 Q. Yes, instead of sending a check for --

3 A. It was the easiest way to send it.

4 MR. SCHIFF: Objection. Objection. It's speculation.

5 THE COURT: No, he doesn't have to speculate why he
6 sent it or the method or mode he sent it in. That's something
7 within his providence. Overruled.

8 BY MR. IGNALL:

9 Q. I'm sorry. I may have been unclear in that question. I
10 apologize.

11 Why did you send cashier's checks and cash as
12 opposed -- or --

13 MR. SCHIFF: Objection.

14 BY MR. IGNALL:

15 Q. -- money orders as opposed to --

16 MR. SCHIFF: Objection. He never said to send cash.

17 THE COURT: He just --

18 MR. SCHIFF: I didn't --

19 THE COURT: -- withdrew the question.

20 MR. SCHIFF: -- hear him say it.

21 THE COURT: He misstated. He's rephrasing the
22 question.

23 Go ahead and repeat your question.

24 BY MR. IGNALL:

25 Q. Why did you send cashier's -- I'm sorry. Did you say

- 1 cashier's checks and money orders?
- 2 A. I said money orders and cashier's checks.
- 3 Q. Okay. Why did you send money orders and cashier's checks
4 instead of just a bank check, you know, a check written off the
5 Freedom Books's accounts?
- 6 A. I was told that a money order --
- 7 Q. Who told you that?
- 8 A. -- they could hold -- office manager --
- 9 Q. Okay.
- 10 A. -- Linda Hicks.
- 11 The money order could be held up. It's not instant.
12 It could take 72 hours or whatever for it to clear. A cashier's
13 check they can go to the bank and they can get the money
14 instantly.
- 15 Q. Did you have any discussion with Mr. Schiff about sending
16 cashier's checks or money orders instead of a check written to
17 the Freedom Books account?
- 18 A. Well, it would -- yes, it was -- it was more cost-effective
19 to send a personal check from the office written on our checking
20 account.
- 21 Q. Did you have a discussion with Mr. Schiff about that?
- 22 A. Uh, I believe so, yes.
- 23 Q. About whether to send a check or a money order?
- 24 A. Right.
- 25 Q. And what did he tell you?

1 MR. SCHIFF: Can I object? He's already answered the
2 question that it was -- that it was quicker. We could use the
3 money if he sent a cashier's check. He answered that question.

4 THE COURT: He said it was more cost-effective to send
5 a check. The next question is why.

6 MR. IGNALL: Your Honor, I believe the question is what
7 did -- regarding what Mr. Schiff himself said in conversation
8 with Mr. Thomas.

9 THE COURT: Go ahead.

10 THE WITNESS: Well, a personal check would have taken
11 more time to clear as opposed to a cashier's check.

12 BY MR. IGNALL:

13 Q. Is that what Mr. Schiff told you?

14 A. Right.

15 Q. All right. Did you and Mr. Schiff have any discussions
16 about what Linda's role was at Freedom Books?

17 A. Uh, yes, sir.

18 Q. What were those discussions about? Let me -- let me back it
19 up.

20 Did you have any discussions with Mr. Schiff about what
21 Linda's authority was when it came to --

22 A. I --

23 Q. -- money?

24 A. -- I had occasion to get -- to question Irwin Schiff about
25 Linda's role.

1 Q. And what did Mr. Schiff say?

2 A. That she was his voice, just to do what she said.

3 Q. And on whose instructions did you send various amounts of
4 money -- or funds to Las Vegas? I'm sorry. I've asked that
5 already. I apologize.

6 MR. IGNALL: If we could pull up Exhibit 87. Do we
7 have -- one moment, your Honor.

8 (Pause in the proceedings.)

9 MR. IGNALL: I'm sorry. If we could bring up
10 Exhibit 89. I'm sorry. No, no, it's not -- it's a box.

11 THE CLERK: Sorry.

12 MR. IGNALL: May Agent Steiner approach, your Honor?

13 THE COURT: You may.

14 (Exhibit 89 placed before the witness.)

15 BY MR. IGNALL:

16 Q. Mr. Thomas, and if you can look in Exhibit 89, do you
17 recognize the contents of Exhibit 89?

18 A. These are our UPS logs from Freedom Books in Indiana.

19 Q. And in whose handwriting are those logs?

20 A. This -- they are in my -- my handwriting.

21 Q. And what are logs? Can you describe what those are?

22 A. What are what?

23 Q. The UPS logs, can tell me --

24 A. Yeah.

25 Q. -- what those were --

1 A. This one --

2 Q. -- how you --

3 A. -- here is --

4 Q. -- maintained them?

5 A. -- is a -- this book is a two-day air receipt, shipping
6 receipt.

7 Q. Did you maintain these logs?

8 A. I maintained the log, yes, sir.

9 Q. How did you -- how did you maintain these logs?

10 A. These are daily -- every time I sent something to
11 Las Vegas -- whether it be ground, three-day, two-day, or
12 one-day -- I kept a log, a runnin' log. This is the book. And
13 we also had a computer disk backup of the same information.

14 Q. Did you maintain those records at or about the time you sent
15 something off to Las Vegas?

16 A. Yes, sir.

17 MR. IGNALL: At this point, the Government moves
18 Exhibit 89 into evidence.

19 MR. CRISTALLI: No objection, your Honor.

20 THE COURT: No objection to 89?

21 MR. BOWERS: No objection, your Honor.

22 THE COURT: No objection, Mr. Schiff?

23 MR. SCHIFF: No objection.

24 THE COURT: 89 is received.

25

1 (Government's Exhibit No. 89, received into
2 evidence.)

3 MR. IGNALL: May I approach, your Honor?

4 THE COURT: You may.

5 MR. IGNALL: If you could --

6 THE CLERK: Press the button.

7 MR. IGNALL: Oops.

8 THE CLERK: Shut the lights. There you go.

9 MR. IGNALL: There. We're good to go.

10 BY MR. IGNALL:

11 Q. If I can turn your attention -- does anyone --

12 MR. IGNALL: Your Honor, may I ask if anybody objects
13 if I show this on the screen because there's only one copy and
14 ask the witness to look at it on the screen?

15 THE COURT: Well, it's admitted so you can publish it.

16 MR. IGNALL: Okay.

17 (Pause in the proceedings.)

18 (Document displayed in open court.)

19 BY MR. IGNALL:

20 Q. All right. If I can ask you to look on the screen at the
21 first entry under number 2, what does that say there? I may
22 have to focus that a little bit for you.

23 A. What are you asking me?

24 Q. Whoops. If you look at the address on the first entry under
25 number 2, what does that say?

1 THE COURT: Do you want to look at the screen there?

2 THE WITNESS: Oh. Roy --

3 BY MR. IGNALL:

4 Q. Check on your screen there too.

5 A. Number 2 down here?

6 Q. Yes.

7 A. That's Roy -- Roy Gibbs.

8 Q. No, no. The first entry under number 2.

9 A. Okay. That's -- that's Freedom Books here in Las Vegas.

10 Q. All right. And, if you look -- I'll slide it over a little

11 bit here -- under number 8 -- see if I can't zoom in on that a

12 little bit -- do you recognize the handwriting under number 8?

13 A. That's -- that's my printing.

14 Q. Now, what does that mean?

15 A. That was -- this was sent out overnight, UPS, on the date

16 above and inside the envelope there was a cashier's check for

17 \$10,000 made out to P.I.L.L. and also in the envelope there was

18 \$1,000 in cash.

19 Q. We'll come back to P.I.L.L. in a moment. But let me turn

20 your attention to another page of this exhibit. I'm sorry.

21 What's the date on -- on this document here?

22 A. December 10th, 1998.

23 Q. Thank you.

24 (Document displayed in open court.)

25

1 BY MR. IGNALL:

2 Q. All right. And, if I could turn your attention to, uh, the
3 page I have up here. The second item under number 2, can you
4 read the address there?

5 A. Uh, yes, sir. That was also sent to Las Vegas to Freedom
6 Books.

7 Q. How do you know that that went to Freedom Books?

8 A. That's -- that's the address.

9 Q. All right. If I could -- and that's the date of this
10 insofar as we can see here?

11 A. Looks like July 6th, 1999.

12 Q. And is this all in your handwriting?

13 A. Is it what?

14 Q. Whose handwriting is this?

15 A. That's my handwriting.

16 Q. If we could go to what's in the bottom right-hand portion
17 was that entry number 2 under 2 --

18 A. All right.

19 Q. -- the handwriting there, whose handwriting is that?

20 A. That's mine.

21 Q. And what does that say there?

22 A. That it was a four-pound package and the package contained
23 Rebel guides, an item that was sold out of Freedom Books in
24 Las Vegas, and an envelope with \$2,000 cash.

25 Q. Thank you.

1 MR. IGNALL: Your Honor, may I place these with the
2 other exhibits that have been admitted? Put it down here.

3 BY MR. IGNALL:

4 Q. You mentioned, uh, P.I.L.L. a minute ago. What is P.I.L.L.?

5 A. That's Prosper International League Limited.

6 Q. How did you first learn about P.I.L.L.?

7 A. From, uh, Freedom Books in Las Vegas.

8 Q. From whom?

9 A. I -- I don't remember where I first heard it. But...

10 Q. Did you have a discussion with Mr. Schiff about P.I.L.L.?

11 A. Yes. It was a...

12 Q. What did he tell you it was?

13 A. Well, we had a -- a copy of an application for -- that we
14 were supposed to put in every customer's order. It was an
15 application for membership.

16 Q. All right.

17 (Discussion between Government counsel.)

18 BY MR. IGNALL:

19 Q. Let me back up a second to clarify something.

20 A. Okay.

21 Q. At some point, you said you were sending cashier's check and
22 money orders. And I think you mentioned something about cash
23 with -- in those records, those UPS records.

24 At what point did you start sending cash to Las Vegas?

25 A. I -- I'm not sure of the date, but it was after the Freedom

1 Books was raided in Las Vegas.

2 Q. Who told you -- did anyone tell you to send cash?

3 A. Well, the office manager.

4 Q. Who was that?

5 A. Linda Hicks.

6 Q. What did -- what did she tell you?

7 MR. SCHIFF: Can I -- can I have an objection here? I
8 don't think -- we were raid- -- were you working for me when we
9 were raided?

10 MR. IGNALL: Objection, your Honor.

11 THE COURT: Yeah. You can't ask him questions.

12 MR. SCHIFF: Well, what is the time frame? What --
13 what month are you suggesting that that started?

14 THE COURT: Well, you can raise an objection on
15 foundation if you wish and then I'll --

16 MR. SCHIFF: Foundation.

17 THE COURT: -- ask further foundation.

18 Is that your objection?

19 MR. SCHIFF: Yeah, I guess so.

20 THE COURT: Okay.

21 BY MR. IGNALL:

22 Q. Do you recall when this conversation with Ms. Hicks took
23 place when --

24 A. Where or when?

25 Q. When.

1 Given that you worked there you said from '95 to 2000,
2 2001, do...

3 A. No. But there'll be a record on my UPS log when it started.

4 Q. When you started sending cash?

5 A. When I started sending cash. Right.

6 Q. Would you like to take a look at that? Would that help
7 refresh your recollection?

8 A. Would it what?

9 Q. Would that help your -- refresh your recollection as to when
10 you started sending cash?

11 A. Well, sure. It would --

12 Q. All right.

13 MR. IGNALL: May I approach the witness, your Honor?

14 THE COURT: You may.

15 THE WITNESS: And then if -- if it's complete. I -- I
16 don't remember if everything is here.

17 BY MR. IGNALL:

18 Q. If you could look through that and if that refreshes your
19 recollection, let us know.

20 A. (Reviewing Exhibit 89). '97.

21 Q. You started sending cash in about '97?

22 A. '97 is where I see the first cash record. In '95 were
23 cashier's check.

24 Q. What conversation did you have with Ms. Hicks about sending
25 cash?

1 A. What?

2 Q. Conversation did you have with Ms. Hicks about sending cash.

3 A. I -- I just voiced my opinion. I wanted it on the record
4 that I was opposed to it.

5 Q. Did -- who first raised the idea of sending cash?

6 A. The office manager, Linda Hicks.

7 Q. Did she tell you why?

8 A. She gave me a reason that Irwin's office was raided and --
9 the first time I sent cash I sent it -- I sent the items --
10 their -- their place was locked up. They chained up the doors,
11 I believe. And I sent it to Linda's personal residence.

12 Q. But you had a discussion with her about sending cash as
13 opposed to a money order or cashier's check?

14 A. Oh, yeah, I told them it was not good business.

15 Q. What did she --

16 A. If it was lost, it's not insured; we can't --

17 Q. What --

18 A. -- we can't prove it. And if --

19 Q. What did she say?

20 A. -- it fell open, we would be -- we would look like drug
21 smugglers or somethin'.

22 Q. What did she tell you?

23 A. Told me that she -- she told me that that's what the boss
24 wants and that's what she'll do.

25 Q. Did she say why?

1 A. But you'll have to remember that I was fired three times by
2 her. So...

3 Q. Okay.

4 MR. SCHIFF: Objection. Now this is all hearsay. This
5 is all hearsay.

6 MR. IGNALL: Your Honor, this is admissible under
7 801(d)(2)(D) and we would --

8 THE COURT: It is admissible as a statement of your
9 agent.

10 BY MR. IGNALL:

11 Q. Did you ever have a discussion with Mr. Schiff himself about
12 sending cash?

13 A. I had a discussion with Irwin one time before I was to lock
14 up the door and go home for good about her giving orders. And I
15 wanted to hear -- they weren't comin' from the boss; they
16 were -- somebody was speaking for him. And I didn't -- I didn't
17 believe it.

18 Q. But -- I'm sorry -- while you were working there, did you
19 have a discussion with Mr. Schiff about sending cash back to
20 Las Vegas?

21 A. I did.

22 Q. What conversation did you have with Mr. Schiff while you
23 were working there?

24 A. Well, I just -- I was opposed to it. It's -- it's his --

25 MR. SCHIFF: Objection. It's --

1 THE WITNESS: -- it's his office. It's his money.

2 It's his business.

3 BY MR. IGNALL:

4 Q. But did he ever tell you anything about his desire to send
5 cash?

6 MR. SCHIFF: Object --

7 THE COURT: Foundation. Foundation. Time.

8 MR. SCHIFF: Foundation?

9 THE COURT: Approximate time. He said it's -- says
10 when he --

11 MR. SCHIFF: When did this occur?

12 BY MR. IGNALL:

13 Q. When did you have your first conversation with Mr. Schiff
14 about sending cash from the Indiana bank account back to
15 Las Vegas?

16 A. I -- I don't know the date. I'm sorry. I don't know the
17 date.

18 Q. Roughly when during your employment?

19 A. Oh, '97/'98.

20 Q. Okay. And what was the first discussion you had with
21 Mr. Schiff about sending cash?

22 A. The same reason I gave you, it's -- it's not -- if it's
23 lost...

24 Q. Did he tell you why he wanted cash?

25 A. The cash -- he -- they told me it was --

1 Q. I just want --

2 A. -- it was --

3 Q. -- what Mr. Schiff --

4 A. -- for payroll.

5 Q. I'm sorry?

6 A. I was told it was for payroll, that they didn't pay in
7 check; they paid in cash.

8 Q. Who told you that?

9 A. The office manager.

10 MR. CRISTALLI: Foundation.

11 BY MR. IGNALL:

12 Q. What did --

13 MR. CRISTALLI: Time.

14 BY MR. IGNALL:

15 Q. When you first had a conversation with Mr. Schiff about
16 paying cash, did he tell you why he wanted you to send cash?

17 A. Well, there wouldn't -- there wouldn't be a bank record.

18 Q. Who said that?

19 A. Uh, the office manager and --

20 Q. I just want to know what Mr. Schiff told you.

21 A. Well, she was speaking --

22 Q. I'm sorry.

23 A. -- for Mr. Schiff.

24 Q. At the moment just what Mr. Schiff told you directly.

25 A. Well, he agreed with it.

- 1 Q. He told you that he agreed with what?
- 2 A. With her statement.
- 3 Q. And which statement was that?
- 4 MR. CRISTALLI: And "her" being Mrs. -- Ms. Hicks;
- 5 correct?
- 6 BY MR. IGNALL:
- 7 Q. Is that Ms. Hicks?
- 8 MR. IGNALL: I think we've gotten a little confused
- 9 here. And I apologize, your Honor.
- 10 BY MR. IGNALL:
- 11 Q. Did you ever have a discussion while you worked at Freedom
- 12 Books with Mr. Schiff about why he wanted you to send cash back
- 13 to Las Vegas?
- 14 A. He -- Mr. Schiff didn't instruct me to send cash.
- 15 Q. I -- I understand that --
- 16 A. He -- he --
- 17 Q. -- that Ms. Hicks did.
- 18 A. -- he was speaking, I assume, through her --
- 19 Q. I --
- 20 A. -- because I brought it up why and it wasn't changed. So --
- 21 Q. You brought it up to Mr. Schiff that --
- 22 A. Yes, sir.
- 23 Q. What did you bring up to Mr. Schiff?
- 24 A. About sending cash to Las Vegas.
- 25 Q. Did he -- what did he say when you brought that up to him?

1 A. Well, he said he would look into it. Can we elaborate more?
2 There's more to the -- some of these -- I was worried about
3 this -- this money. Definitely worried.

4 Q. Okay.

5 A. And so I started tracking who was -- who was accepting this
6 money. Irwin told me -- he called me --

7 MR. CRISTALLI: Objection. Foundation.

8 THE WITNESS: He was --

9 MR. CRISTALLI: Time.

10 THE WITNESS: He was callin' me sayin' he didn't get
11 the cash --

12 MR. CRISTALLI: Objection.

13 THE WITNESS: -- the funds. Never got it.

14 THE COURT: Wait a minute.

15 When you're talking about a conversation, you need to
16 try and tell us the time that it happened. When.

17 THE WITNESS: Well, it was when I first started sendin'
18 cash, and it must have been 1997 --

19 THE COURT: 1997 --

20 THE WITNESS: -- '97 --

21 THE COURT: -- 1998.

22 THE WITNESS: -- I don't know the month.

23 THE COURT: All right.

24 BY MR. IGNALL:

25 Q. Mr. Thomas, we'll get off this in a moment. I just wanna

1 know: Did you have a discussion with Mr. Schiff about why he or
2 Linda wanted you to send cash to Las Vegas?

3 A. So there wouldn't be a record of it.

4 Q. Did Mr. Schiff tell you that himself?

5 A. No. Linda told me that.

6 Q. Did you discuss your conversation with --

7 A. I told him that's what she told me.

8 Q. And what did he say when --

9 A. He said --

10 Q. -- you told him that?

11 A. -- he would straighten it out and look into it.

12 Q. All right. Thank you.

13 (Government's Exhibit No. 78, marked for
14 identification.)

15 BY MR. IGNALL:

16 Q. Gonna hand you what we've marked -- if I may approach? --

17 THE COURT: You may.

18 BY MR. IGNALL:

19 Q. -- as Exhibit 78.

20 (Document placed before the witness.)

21 BY MR. IGNALL:

22 Q. Do you recognize Exhibit 78?

23 A. Yes, sir.

24 Q. What is Exhibit 78?

25 A. It's an application for Prosper International League Limited

1 for --

2 Q. I'm sorry. Exhibit 78. I think I misspoke.

3 A. 78.

4 Q. Yeah. What is Exhibit 78?

5 A. It's a application for membership in P.I.L.L.

6 Q. Is that the -- the document you mentioned earlier that you
7 sent out with applications?

8 A. Yeah, right. Yes.

9 MR. IGNALL: At this point, the Government moves
10 Exhibit 78 into evidence.

11 THE COURT: 78?

12 MR. CRISTALLI: No objection, your Honor.

13 THE COURT: Bowers?

14 MR. BOWERS: No, your Honor. I'm sorry. No objection.

15 THE COURT: Schiff?

16 MR. SCHIFF: No objection.

17 THE COURT: 78 is received.

18 (Government's Exhibit No. 78, received into
19 evidence.)

20 MR. IGNALL: If we could pull it up on the big screen.

21 (Document displayed in open court.)

22 BY MR. IGNALL:

23 Q. Mr. Thomas, who told you to send out this document with
24 every order?

25 A. Everyone in Freedom Books in Las Vegas.

1 MR. CRISTALLI: Objection.

2 BY MR. IGNALL:

3 Q. Did Mr. Schiff --

4 MR. CRISTALLI: Foundation.

5 BY MR. IGNALL:

6 Q. -- ever tell you that?

7 MR. CRISTALLI: Objection --

8 THE WITNESS: Yes.

9 THE COURT: Foundation.

10 MR. CRISTALLI: -- foundation, please.

11 BY MR. IGNALL:

12 Q. Did Mr. --

13 A. Irwin Schiff.

14 Q. -- Schiff ever tell you to send this out with every --

15 A. Irwin Schiff told me to send out -- in every order to send
16 this application form.

17 Q. When did he first tell you that?

18 A. '90- -- '96.

19 Q. Did he tell you that at any point after '96?

20 A. We did it the whole time for years.

21 Q. Did you have a discussion with Ms. Neun about sending the
22 P.I.L.L. brochure?

23 A. With who?

24 Q. With Cindy -- Cynthia Neun.

25 MR. CRISTALLI: Objection. Foundation.

1 THE COURT: Well, the question -- he -- the first
2 question is: Did you ever have a conversation? Yes or no.

3 THE WITNESS: I -- I don't recall discussin' it with
4 Ms. Neun, no.

5 BY MR. IGNALL:

6 Q. The brochure. Okay. Thank you.

7 And what discussion did you have with Mr. Schiff about
8 what -- what P.I.L.L. was? What did he tell ya?

9 A. It's a -- it's a company in Belize.

10 Q. Did he tell you what this company did?

11 A. It's an offshore investment company.

12 Q. Did he say what that meant?

13 A. It's a -- it's a -- it's a banking account where you could
14 send your savings to -- and it won't be -- there's no record of
15 it in the United States.

16 Q. Did he tell you that, Mr. Schiff tell you that?

17 A. Uh, I think so, yes.

18 Q. Did Mr. Schiff tell you if he was using P.I.L.L.?

19 A. Did he what?

20 Q. Did Mr. Schiff ever tell you if he himself had an account at
21 P.I.L.L.?

22 A. Yes, uh-huh.

23 Q. He did.

24 When did he tell you that?

25 A. Early on in my employment. I think he was -- belonged to it

1 before I ever came on board.

2 Q. Did he tell you if he had actually sent money to this
3 P.I.L.L. account?

4 A. Yeah. He had his own -- he had his own account there.

5 Q. Did he tell you why he sent money to that account?

6 A. Not -- not -- not exactly, no. I mean, he never sat down
7 and told me verbatim --

8 Q. Did he tell --

9 A. -- why he did anything.

10 Q. Did he tell you generally why he set this account up?

11 A. It's just -- it's an investment to membership. And, if he's
12 in it, ever -- he wanted all the customers at Freedom Books to
13 join.

14 Q. Did you ever have any discussion with him about -- I think
15 you mentioned something about there are no records in the U.S.?
16 Did he mention that before?

17 A. Yes.

18 Q. Did you have a discussion with Mr. Schiff about that?

19 A. Other than just what we just talked about. It doesn't have
20 to be turned in.

21 Q. I'm sorry. Doesn't have to be turned in...

22 A. To the -- to the state or federal.

23 Q. Did he tell you that, Mr. Schiff tell you that?

24 A. I -- I don't -- I don't know. I don't -- I don't know if he
25 did or not. I don't recall.

1 Q. If we could turn to the second page of Exhibit 78.

2 (Document displayed in open court.)

3 BY MR. IGNALL:

4 Q. And it says, "Application for Prosper League Membership and
5 Trust Activation." Do you see that section?

6 A. Right.

7 Q. Okay. Can we blow that up there?

8 Do you see a number written in, sponsor's ID number?

9 A. There's a handwritin' -- handwritten number in there.

10 Q. Do you recognize the handwriting?

11 A. Do I recognize the handwriting?

12 Q. Yes.

13 A. No.

14 Q. Okay. Do you know what that number is?

15 A. 1040.

16 Q. Did you have a discussion with Mr. Schiff about an account
17 number at P.I.L.L.?

18 A. That's -- that's Irwin Schiff's personal account number.

19 Q. How do you know that?

20 A. He told me.

21 Q. Was that number included on the brochures that you sent out
22 with each order?

23 A. It's just like it is here. They were already filled in
24 before I sent 'em.

25 Q. Did Mr. Schiff ever tell you why that number was filled in?

1 A. Uh, I remember that he told me that if they join a certain
2 percentage of the application fee would go to -- go to him.

3 Q. Did you ever have any discussion with Mr. Schiff about how
4 he got money back from this P.I.L.L. account?

5 A. They -- they issued a -- a debit -- a Visa card, a debit
6 card --

7 Q. Okay. Did he discuss --

8 A. -- for their accountholders.

9 Q. -- how they used that?

10 A. But I don't know how -- I don't know what the minimum
11 balance would be.

12 Q. But did he tell you he could use that debit card here in the
13 U.S.?

14 A. Yes, yes.

15 Q. Did you have a discussion with Mr. Schiff about what records
16 P.I.L.L. maintained or where?

17 A. Uh, some people -- not Mr. Schiff but people in the office
18 when these -- when these applications -- some people joined paid
19 through their credit card.

20 Q. Yes.

21 A. Am I answering your question?

22 Q. No, no, no.

23 Did you have a -- you said something about the account
24 being out of the United States. Did you have a discussion with
25 Mr. Schiff about records that P.I.L.L. kept and where they were

1 kept?

2 A. I had discussions not with Mr. Schiff but with other
3 personnel.

4 Q. With whom?

5 A. With the office manager.

6 Q. And when did you have this conversation with the office
7 manager?

8 A. Early on in my -- '90- -- '95 -- 1995, I presume.

9 Q. And did she talk to you about Mr. Schiff's account in
10 particular?

11 A. No.

12 Q. Just P.I.L.L. in general?

13 A. Right.

14 THE COURT: It's time for us to take our break. Are
15 you pretty close to a good time for you to break or do you want
16 to ask a few more questions?

17 MR. IGNALL: It's actually a pretty good time, your
18 Honor.

19 THE COURT: All right.

20 We'll take a recess. We do have several matters on
21 calendar tomorrow morning at 9:00 o'clock. So we'll resume at
22 9:30.

23 Jury's instructed not to discuss the case among
24 themselves or with others, to view any media accounts, or to
25 allow themselves to be influenced in any way regarding this and

1 to not form any conclusions until the matter is submitted to you
2 for deliberation. 9:30.

3 (Jury leaves the courtroom at 4:30 p.m.)

4 MR. BOWERS: Your Honor, is the jury clear?

5 THE COURT: Now, they are.

6 MR. BOWERS: Can we excuse the witness?

7 THE COURT: Go ahead. You can step down, sir.

8 MR. BOWERS: Your Honor, I --

9 THE COURT: Watch your step as you go over here. Watch
10 your step right there, sir.

11 Okay.

12 MR. BOWERS: I -- I have grave concerns about this
13 trial being completed any time in the foreseeable future. I'm
14 wondering if the Court would entertain, you know, longer days,
15 any plan we might be able to come out with to figure this out
16 because I -- I mean -- amongst ourselves and present it to you
17 if the Court would be willing because this -- this is...

18 THE COURT: Well, you're asking earlier today for a
19 longer --

20 MR. BOWERS: Well, I asked for --

21 THE COURT: -- lunch hour.

22 MR. BOWERS: -- a period. I mean, I guess what I'm
23 saying is if we just continue doing this at the pace we're
24 going, I have no idea when we're ever gonna finish this.

25 MR. CRISTALLI: I think it is what it is and we're

1 stuck with it.

2 MR. BOWERS: Okay. Well, then the answer would be no.
3 So I won't bother.

4 THE COURT: I'm hurrying it along as fast as I can.
5 And, you know, you saw that earlier today. I'm not -- I'm
6 not --

7 MR. BOWERS: I --

8 THE COURT: -- I'm not becoming exasperated, as you
9 said. I'm just trying to shorten up the process by --

10 MR. BOWERS: Well, I don't -- I don't think the
11 Court's --

12 THE COURT: -- by telling, you know --

13 MR. BOWERS: -- doing anything to delay.

14 THE COURT: -- by telling --

15 MR. BOWERS: I've got my answer.

16 THE COURT: -- telling --

17 MR. BOWERS: I'm sorry to bother you.

18 Who are the Government's --

19 THE COURT: -- telling you that you --

20 MR. BOWERS: -- witnesses tomorrow?

21 THE COURT: -- can't ask questions that have already
22 been asked over and over again. Not you in particular but, uh,
23 Mr. Schiff, for example, this morning.

24 MR. IGNALL: Your Honor, we had one discussion. I'd
25 like to do a little more research on it to determine what the

1 parameters of it might be. But we might be amenable to making a
2 suggestion that I think would apply to all parties, some sort of
3 a flexible time limit both for direct and cross-examination to
4 the effect of that if we got to the edge of the time limit the
5 Court could reasonably inquire as to what areas we were gonna
6 get into and then make a determination then as to -- whether to
7 allow it and how much.

8 MR. CRISTALLI: I mean --

9 MR. IGNALL: So I wanna do a little bit more research
10 on that. I found one case, but --

11 MR. CRISTALLI: Yeah. I can make a commitment to, you
12 know, my cross-examination. But I don't know if that's gonna be
13 consistent --

14 THE COURT: I --

15 MR. CRISTALLI: -- with everybody.

16 THE COURT: -- you know, I reminded Mr. Schiff over and
17 over again of his commitment to take 15 minutes and an hour and
18 15 minutes later he was still not done. So....

19 MR. SCHIFF: Well, your Honor, if I can comment, if he
20 had been more direct, more forthcoming, it would have been
21 easier.

22 THE COURT: Well, you were --

23 MR. SCHIFF: He was hedging everything he was saying.

24 THE COURT: And you were asking the same questions over
25 and over again, if you want --

1 MR. SCHIFF: -- I'll try not --

2 THE COURT: -- to take some responsibility yourself.

3 MR. SCHIFF: -- to do that.

4 THE COURT: We're in recess until 9:30.

5 MR. IGNALL: Thank you, your Honor.

6 MR. CRISTALLI: Thank you.

7 (Proceedings adjourned at 4:34 p.m.)

8 --oOo--

9 I hereby certify that pursuant to Section 753, Title 28, United
10 States Code, the foregoing is a true and correct transcript of
11 the stenographically reported proceedings held in the
12 above-entitled matter.

13

14 DATED:

FELICIA RENE ZABIN, RPR, CCR NO. 478

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