

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 THE HON. KENT J. DAWSON, JUDGE PRESIDING

4  
5 UNITED STATES OF AMERICA, )

)

6 Plaintiff, )

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

)

7 vs. )

)

8 IRWIN SCHIFF, CYNTHIA NEUN, )

and LAWRENCE COHEN, )

9 )

Defendants. )

10 )

11  
12  
13  
14  
15 REPORTER'S TRANSCRIPT OF JURY TRIAL (DAY 9)

16 Monday, September 26, 2005

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18  
19  
20 APPEARANCES: (See Page 2)

21  
22  
23  
24 Court Reporter: Felicia Rene Zabin, RPR, CCR 478  
Federal Certified Realtime Reporter  
25 (702) 676-1087

## 1 APPEARANCES:

2 For the Plaintiff:

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18 For the Defendant, Lawrence Cohen:

19 CHAD A. BOWERS, ESQ.  
20 Albert D. Massi, Ltd.  
21 3202 West Charleston Boulevard  
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24 Also Present:

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

## I N D E X

WITNESS:	Direct	Cross	Redirect	Recross	Further Redirect
Government's:					
James V. Dentice	2195N	2226S	2270N	--	--
Farooq Abdulla	2272I	2301C	2336I	2338S	--
		2311B			
		2311S			
Charles Earnest	2346I	2363S	2395I	2398S	--
Jason Cardiff	2403N	2429VD	--	--	--
	2430N	2446B			
Philip Parrinelli	2490I	--	--	--	--

## EXHIBITS

EXHIBIT NO.:	MARKED FOR IDENTIFICATION	RECEIVED IN EVIDENCE
Court's:		
1	2226	--
Government's:		
132	--	2492
133	--	2504
134	--	2504
135	--	2504
		2511
160	--	2353
161	--	2361
192, 192A, 193, and 194	--	2407
196, 197, and 198	--	2418
200	--	2426
201	--	2430
202	--	2432
203, 204, and 205	--	2201
207	--	2281
208	--	2287
209	--	2289
210	--	2293
211A	--	2279
211B	--	2299
212 through 237A	--	2516
328	2216	--

## EXHIBITS (Continued)

2	EXHIBIT NO.:	MARKED FOR IDENTIFICATION	RECEIVED IN EVIDENCE
3	Defendant Schiff's:		
4	2037	2251	--
	2040	2244	--
5	2042	2231	--
	2078	2242	--
6	2108	2375	--
	2109	2387	--
7	2110	2390	--
8	Defendant Cohen's:		
	2840	2402	
9	2844		2430
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1 LAS VEGAS, NEVADA; MONDAY, SEPTEMBER 26, 2005; 9:13 A.M.

2 --oOo--

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

4 THE CLERK: All rise.

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

6 THE CLERK: Mr. Bowers is in the hallway.

7 MR. NEIMAN: And so is Mr. Ignall.

8 THE COURT: Okay.

9 (Pause in the proceedings.)

10 MR. BOWERS: Good morning, your Honor.

11 THE COURT: Good morning.

12 MR. BOWERS: I'm sorry. I was outside.

13 THE COURT: That's all right. I was speaking with the  
14 Chief, so -- Chief Judge. So I'm a little bit late myself.

15 MR. BOWERS: Just very...

16 (Pause in the proceedings.)

17 MR. BOWERS: Just real quickly, your Honor.

18 It -- it appeared to me when we left Thursday afternoon  
19 that one of the alternate jurors was being escorted from the  
20 courthouse by marshals. I don't know if the Court is willing to  
21 comment or has any knowledge or --

22 THE COURT: I didn't have any knowledge of that.

23 MR. BOWERS: Okay. I -- I guess my only concern is, is  
24 if that's a result of --

25 THE COURT: I'll check into it.

1 MR. BOWERS: -- some association --

2 THE COURT: I didn't --

3 MR. BOWERS: -- with Mr. Schiff or something. I don't  
4 know.

5 MR. NEIMAN: Your Honor, we did ask the marshals after  
6 Mr. Bowers pointed it out to us Thursday. They didn't have any  
7 knowledge of it when we asked them Thursday afternoon. So it's  
8 possible it wasn't a marshal.

9 MR. BOWERS: Maybe she -- maybe she was just takin' a  
10 walk with some guys. I don't know. It just looked like  
11 somethin' more than that.

12 THE COURT: I'm not aware of it.

13 MR. BOWERS: Thank you, Judge.

14 THE COURT: Okay. Let's bring the jury in.

15 (Pause in the proceedings.)

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

17 THE COURT: Please be seated.

18 Will counsel stipulate to the presence of the jury?

19 MR. NEIMAN: Yes, your Honor.

20 MR. CRISTALLI: Yes, your Honor.

21 MR. BOWERS: Yes, Judge. Thank you.

22 MR. LEVENTHAL: Yes, your Honor.

23 MR. SCHIFF: Yes, your Honor.

24 THE COURT: Thank you.

25 Government may call its next witness.

1           MR. NEIMAN: Thank you, your Honor. The United States  
2 will call James Dentice to the stand.

3           (Xames Dentice takes the witness stand.)

4           THE CLERK: Please go up to the witness stand. Please  
5 raise your right hand.

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

9           THE WITNESS: I do.

10          THE CLERK: Please be seated.

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

13          THE WITNESS: James V. Dentice, D-e-n-t-i-c-e.

14          THE COURT: You made proceed.

15

16                                JAMES V. DENTICE,

17 called as a witness on behalf of the Government, having been  
18 first duly sworn, was examined and testified as follows:

19

20                                DIRECT EXAMINATION

21 BY MR. NEIMAN:

22 Q. Good morning, Mr. Dentice.

23 A. Good morning.

24 Q. Mr. Dentice, where do you currently reside? Where do you  
25 live?

1 A. San Diego, California.

2 Q. How long have you lived in San Diego?

3 A. Uh, since 1966.

4 Q. And how are you employed in San Diego?

5 A. I'm a doctor of chiropractic.

6 Q. Were you ever convicted of filing false tax returns?

7 A. Yes.

8 Q. When were you convicted of filing false tax returns?

9 A. Approximately 1999.

10 Q. The returns for which you were convicted of, who prepared

11 them?

12 A. Irwin Schiff.

13 Q. Can you describe what the returns in which you filed looked

14 like?

15 A. Uh, they were 1040X forms with, um, a zero, uh, written in

16 the amount due and then an explanation below that.

17 Q. Do you have any animosity towards Mr. Schiff for preparing

18 these returns?

19 A. No.

20 Q. When did you first make contact with Mr. Schiff?

21 A. Uh, approximately, just a vague recollection, maybe nine to

22 ten months, a year before.

23 Q. And that was in 1998?

24 A. Approximately.

25 Q. Early part of '98; is --



1 A. I -- I don't recall the year, sir.

2 Q. Did Mr. Schiff ever tell you that he was convicted of --  
3 himself of filing false tax returns?

4 A. I don't know whether he told me, but I was aware of it from  
5 reading his materials.

6 Q. And what, if any, concern did you have after learning that  
7 fact?

8 A. Well, what do you mean by "concern"?

9 Q. Did you have any concern after hearing that Mr. Schiff  
10 himself had been convicted of tax crimes?

11 A. You mean insofar as by using his material I might have had  
12 problems?

13 Q. Yes.

14 A. Well, I was -- I was concerned throughout this whole  
15 process, as -- as everybody is that has dealings with the IRS.

16 Q. Prior -- can you explain what this whole process you're  
17 talking about is, please?

18 A. The whole process, of course, related, uh, to, uh, the --  
19 the process that we're here today relates to these 1040X  
20 files -- filing, um, returns in the course of, uh, obtaining,  
21 uh, returns for money that I didn't believe I owed the  
22 government.

23 Q. Did you have, uh, tax problems with the IRS prior to  
24 contacting Mr. Schiff in 1998?

25 A. Yes, I did.

- 1 Q. Can you please generally describe the nature of those  
2 problems?
- 3 A. Um, I was under, for lack of better word, investigation for,  
4 um, some unreported income for the years '91, '92, and '93.
- 5 Q. And is it this investigation that caused you to make contact  
6 with Mr. Schiff?
- 7 A. Yes, it was.
- 8 Q. How did you hear of Mr. Schiff?
- 9 A. Uh, I think I heard of him on the radio, but I'm not certain  
10 about this.
- 11 Q. And, after hearing him on the radio, what action, if any,  
12 did you take?
- 13 A. And, again, this is a vague recollection. I think I called  
14 him.
- 15 Q. And what did -- what did you tell Mr. Schiff on the  
16 telephone?
- 17 A. Um, I told him that, um, I was havin' these problems and is  
18 there anything that he could do for me.
- 19 Q. By "these problems," you mean the earlier 1040's for which  
20 you didn't report income --
- 21 A. That's right, sir.
- 22 Q. -- or were being --
- 23 A. Yes.
- 24 Q. And what did Mr. Schiff tell you in return?
- 25 A. He said -- and, again, this is -- this is a paraphrase -- he

1       said he could assist me.

2       Q.   All right.  Did he offer -- how did he offer to assist you?

3       A.   Well, through -- numerous ways through providing me with,

4       uh, um, material and, um, conversations with me and, uh, later

5       on by providing me with an attorney that he referred to me.

6       Q.   Well, what type of materials did he provide you?

7       A.   Oh, a whole host of materials:  videotapes, audiotapes,

8       pieces of paper, two or three books.  Actually, he has four or

9       five books; I think I have four of 'em.

10      Q.   Did he provide these for free or did you purchase those

11      products?

12      A.   I purchased those products.

13      Q.   Do you remember approximately how much you paid for all

14      these products?

15      A.   In sum total, I'm gonna say three or four hundred dollars.

16      Again, a vague recollection.

17      Q.   Do you remember what the name of any of the books that you

18      purchased from Mr. Schiff were?

19      A.   Yes, I do.  I have one of 'em with me today.  One was The

20      Great Income Tax Hoax and one was the -- excuse me -- The

21      Federal Mafia and, uh, another one was -- I can't recall the

22      exact description, something about the economy, a little --

23      little thin book; and, the U.S. Tax Code.

24      Q.   And did you read all these materials?

25      A.   I didn't read them fully.  I can't read the Tax Code; it's

1 way too thick.

2 Q. Did you read The Federal Mafia?

3 A. Yes, I did.

4 Q. Can you describe the general nature of what Mr. Schiff says  
5 in The Federal Mafia?

6 A. In The Federal Mafia, Mr. Schiff sets forth his -- his ideas  
7 about why the U.S. Federal income tax is illegal.

8 Q. And did these materials -- or, after reading The Federal  
9 Mafia, were you persuaded to follow his advice with regard to  
10 filing zero tax returns?

11 A. Yes, I was.

12 MR. NEIMAN: Your Honor, if I may approach the witness?

13 THE COURT: You may.

14 MR. NEIMAN: For the record, I'm handing the witness  
15 what has been marked as Government's Exhibits 203, 204, and 205.

16 BY MR. NEIMAN:

17 Q. Do you recognize those documents?

18 A. Yes, I do.

19 Q. Are these the returns in which you were testifying about  
20 earlier that Mr. Schiff prepared?

21 A. Can I look at the other ones, please?

22 Q. I'm sorry. I'll hold up and ask questions when the noise  
23 stops.

24 A. Yes, after a superficial inspection, they appear to be the  
25 same documents.

1 MR. NEIMAN: Your Honor, at this time the Government  
2 would move into evidence Exhibits 203, 204 and 205.

3 MR. CRISTALLI: No objection.

4 MR. BOWERS: I have no objection, Judge.

5 MR. SCHIFF: No objection.

6 What is the -- can I just find the exhibit numbers to  
7 those?

8 THE COURT: 203, 204, 205 --

9 MR. SCHIFF: 203...

10 THE COURT: -- are received.

11 MR. NEIMAN: Thank you, your Honor.

12 (Government's Exhibit Nos. 203, 204, and 205,  
13 received into evidence.)

14 MR. NEIMAN: If we may display Government's Exhibit 203  
15 to the jury. If we could blow up the top portion of the return.

16 (Document displayed in open court.)

17 BY MR. NEIMAN:

18 Q. Is this your tax return, Mr. Dentice?

19 A. Um, you know, I really -- I -- due to blurriness or  
20 somethin' I really can't see it. It appears to be. But I can't  
21 really read -- I can read it right here, yes.

22 Q. Okay. If you could just refer to the one in front of you --

23 A. Okay.

24 Q. -- if it's easier to read.

25 And for which tax year is this return?

- 1 A. Um, three tax years: '91, '92, '93.
- 2 MR. SCHIFF: That's an Amended Return, not a return.
- 3 BY MR. NEIMAN:
- 4 Q. Is that a 1040 or 1040X?
- 5 A. I believe it's a 1040X.
- 6 Q. And did Mr. Schiff prepare this return?
- 7 A. Yes, he did.
- 8 Q. What information did you provide Mr. Schiff in order to
- 9 assist him in preparing this return?
- 10 A. Um, I believe -- and I'm not certain about this -- I believe
- 11 I provided him my, um, other return, the one -- you know, my
- 12 regular return.
- 13 Q. Your original 1040?
- 14 A. I believe so, but I'm not certain about that.
- 15 Q. And did you report some income on this 1040?
- 16 A. Yes, I did.
- 17 MR. NEIMAN: If we could blow up column A, B, and C of
- 18 the top portion, I guess.
- 19 BY MR. NEIMAN:
- 20 Q. Uh, I guess the line with -- with the tax return -- I guess
- 21 we cut off the one portion -- to the left side of the tax
- 22 return, what is the entry where you entered the \$230,515?
- 23 A. Um, could you explain that a little bit, what you mean by
- 24 that?
- 25 Q. Let me ask this question a different way.

1           What does line 1 of the 1040X ask you for, what  
2 information?

3 A. Adjusted gross income.

4 Q. What did you put on your original 1040 that was filed --

5 A. Excuse me. 230,515.

6 Q. And what did Mr. Schiff do in column B?

7 A. Um, column B. Uh, minus 230,515.

8 Q. And, therefore, what was the correct amount according to  
9 this 1040X?

10 A. Uh, zero.

11 Q. Were you actually working as a -- as a chiropractor in this  
12 year?

13 A. Yes, I was.

14 Q. And did you actually have a earned income in the \$230,515 --

15 A. Well, the --

16 Q. -- or --

17 A. -- yeah. And what definition of "income" are you using?

18 Q. Well --

19           MR. SCHIFF: What was that answer?

20           (Attorney-client discussion.)

21           THE WITNESS: Income in the common -- common sense --  
22 common manner?

23 BY MR. NEIMAN:

24 Q. We're referring to income on line 1 of the tax return.

25 A. Okay. By what's stated here, yes, 230,515.

1 Q. And did Mr. Schiff know that you earned these wages or  
2 salary as a chiropractor in the amount of 230,000 in the year  
3 1991?

4 A. Well, I can't speak for him. But --

5 MR. SCHIFF: Your Honor, I object. He asked a question  
6 and the prosecutor never answered. He asked him how he was  
7 using the word "income" and he never answered the question.

8 THE COURT: The prosecutor?

9 MR. SCHIFF: Yeah, the prosecutor.

10 THE COURT: The prosecutor doesn't have to answer  
11 questions.

12 MR. SCHIFF: Well, it's relevant.

13 THE COURT: No -- well, it doesn't matter. The  
14 prosecutor is not on trial. He's not being examined; the  
15 witness is being examined.

16 MR. SCHIFF: I think it's significant.

17 THE COURT: Well, you can bring that out on  
18 cross-examination.

19 MR. SCHIFF: Okay.

20 BY MR. NEIMAN:

21 Q. Uh, Mr. Dentice, if we look down at line 22, were you  
22 seeking a refund in year -- tax year 1991?

23 A. Uh, yes.

24 Q. And what was the amount of the refund that you were seeking?

25 A. A hundred and fifty thousand three thirty-eight.



1           MR. NEIMAN: Special Agent Steiner, if we could  
2 highlight just the bottom portion.

3 BY MR. NEIMAN:

4 Q. And did you sign this return?

5 A. Yes, I did.

6 Q. And what is the date that return was signed?

7 A. Um, 3-25, uh, '98.

8 Q. Is that your wife's signature to the right of your  
9 signature?

10 A. Yes, it is.

11 Q. Where it says, uh, "Paid Preparer's Use Only" is there a  
12 signature there?

13 A. Uh, no, there is not.

14 Q. What does it say?

15 A. It says self-prepared.

16 Q. Was this return self-prepared?

17 A. In -- in what respect are you --

18 Q. Did Mr. Schiff prepare this 1040X?

19 A. Yes, he did.

20 Q. So was this return self-prepared?

21 A. No.

22 Q. Uh, if we could turn to the second page of the 1040X. If we  
23 can blow up the bottom portion beginning "Due to ignorance."

24           (Document displayed in open court.)

25

1 BY MR. NEIMAN:

2 Q. Did you write that language yourself?

3 A. No. This is Mr. Schiff's language.

4 Q. If we can go back to the first page.

5 (Document displayed in open court.)

6 BY MR. NEIMAN:

7 Q. Did you ever tell Mr. Schiff how much you made as a  
8 chiropractor during year 1991?

9 A. I think we've been over that before, haven't we? Isn't that  
10 amount here that -- in line 1?

11 Q. Well, now I'm asking you, sir, whether or not you told  
12 Mr. Schiff that you made that amount.

13 A. You mean besides givin' him a tax return?

14 Q. You said you provided him a tax return?

15 A. Right. I -- I think that's -- I think that's where his  
16 knowledge of what I earned, his sole source of that.

17 Q. And is this one of the returns from which you were convicted  
18 of a filing a false return?

19 A. Yes, it is.

20 Q. Did you ever ask Mr. Schiff to sign this tax return as a  
21 return preparer?

22 A. Uh, no, I did not.

23 Q. If I could direct your attention to Government's  
24 Exhibit 204.

25

1 (Document displayed in open court.)

2 BY MR. NEIMAN:

3 Q. Is this your 1040X for year 1992?

4 A. Yes, it is.

5 Q. If we can look at line 1, "Adjusted gross income." What was

6 the amount of income reported on your original 1040?

7 A. Um, 255,000 dollars, um, and eighty-eight dollars [sic].

8 Q. And did you provide that original 1040 to Mr. Schiff for

9 year 1992?

10 A. Yes, I did.

11 Q. And what is the amount on the 1040X for "Adjusted gross

12 income"?

13 A. Uh, zero.

14 Q. If we can look at the amount of refund requested, how much

15 of a refund did you request for that year?

16 A. (Reviewing document.)

17 Could you direct me to the line on that?

18 Q. I'm sorry, sir. Line 22.

19 A. Oh. \$73,982.

20 Q. Are you self-employed?

21 A. Yes, I am.

22 Q. Looking at the signature, is that your signature signed

23 under penalties of perjury?

24 A. Yes, it is.

25 Q. And, again, it says "Paid Preparer's Signature." Does it

- 1 say "self-prepared"?
- 2 A. Yes, it does.
- 3 Q. Did Mr. Schiff prepare this return as well?
- 4 A. Yes, he did.
- 5 Q. Looking at the second page of the return, the same language,  
6 "Due to ignorance," did Mr. Schiff write that information on  
7 your return as well?
- 8 A. Yes, he did.
- 9 Q. If I could direct your attention to Government's  
10 Exhibit 205, is that your 1040X for tax year 1993?
- 11 (Document displayed in open court.)
- 12 THE WITNESS: Yes, it is.
- 13 BY MR. NEIMAN:
- 14 Q. The amount of adjusted gross income on line 1 on -- on your  
15 original 1040?
- 16 A. A hundred and sixty-nine thousand seven hundred and seven  
17 dollars.
- 18 Q. And did you provide that return to Mr. Schiff?
- 19 A. Yes, I did.
- 20 Q. And the amount that you reported on the 1040X as -- as  
21 adjusted gross income?
- 22 A. Could you direct me --
- 23 Q. Line 1, column C.
- 24 A. Okay. Zero.
- 25 Q. What was the amount of the refund you sought in year 1993,

1 line 21?

2 A. Uh, \$46,411.

3 Q. And is that your signature at the bottom?

4 A. Yes, it is.

5 Q. And what's the date of that signature?

6 A. Uh, 3-25-98.

7 Q. And is this one of the returns for which you were convicted

8 of filing a false tax return for?

9 A. Yes, yes, it was.

10 Q. What was your defense at trial?

11 A. My defense at trial? My -- my attorneys didn't --

12 MR. CRISTALLI: Objection.

13 MR. BOWERS: Calls for legal concussion.

14 MR. CRISTALLI: Relevancy.

15 Could we --

16 MR. SCHIFF: No objection.

17 MR. CRISTALLI. -- have a sidebar on this issue?

18 MR. NEIMAN: Your Honor, I'll withdraw the question.

19 THE COURT: Question is withdrawn.

20 MR. NEIMAN: If I may have a moment, please.

21 (Discussion between Mr. Ignall and

22 Mr. Neiman.)

23 JUROR: May I be excused for a moment, please?

24 THE COURT: Sure. Yes.

25

1 (Pause in the proceedings.)

2 MR. CRISTALLI: Your Honor --

3 THE COURT: Yes.

4 MR. SCHIFF: -- while the juror is excused, could we  
5 have a quick sidebar?

6 THE COURT: We can.

7 (Sidebar conference was held as follows:)

8 MR. CRISTALLI: The only concern --

9 THE COURT: Wait for Schiff.

10 MR. CRISTALLI: Um, the Government proposed a question  
11 to the witness with regard to his -- him being convicted. Um,  
12 I -- I didn't object at that particular time. Um, but I think  
13 that, um, I do have an issue with regard to it in terms of its  
14 being relevant.

15 The fact that he was convicted for following Irwin's  
16 material, I think, is a significant spillover to this jury, an  
17 inference that may cause them to convict, um, the defendants in  
18 this case, uh, other than Mr. Schiff, the two other defendants  
19 that remain in this case.

20 That's the concern. I'm not quite sure that it's  
21 relevant as relates to my client.

22 MR. NEIMAN: Two things, your Honor: The Government  
23 would not object to an instruction to the jury --

24 MR. CRISTALLI: Yeah.

25 MR. NEIMAN: -- that they are not to use the fact that

1 Dr. Dentice or Mr. Dentice was convicted against these  
2 defendants. Secondly, it's relevance is notice.

3 THE COURT: Yeah.

4 MR. NEIMAN: This happened in early 1998 and Mr. Schiff  
5 continued on his march --

6 MR. CRISTALLI: To --

7 MR. NEIMAN: -- to impede and impair the IRS.

8 MR. SCHIFF: First of all, I want it noted I have no  
9 objection to anything he says and to anything the Government  
10 puts in with respect to this witness.

11 MR. CRISTALLI: Okay.

12 MR. BOWERS: And the last issue, maybe we could add to  
13 that, it needs to be clear to this jury that this process of his  
14 conviction for tax fraud started with just makin' up numbers  
15 totally unrelated to any ideology.

16 MR. NEIMAN: It was a Superseding Indictment is what  
17 happened, your Honor, so the Court's aware.

18 THE COURT: Yeah.

19 MR. SCHIFF: This had nothing to do with filing a zero  
20 return; it had to do with filing an amended return.

21 MR. NEIMAN: Well, in a bit of irony, he was actually  
22 acquitted of the 1040's and convicted of the 1040X's.

23 MR. CRISTALLI: So we could have a curative on -- for  
24 our clients -- my client?

25 THE COURT: Humm?

1 MR. CRISTALLI: A curative --

2 THE COURT: Yeah.

3 MR. CRISTALLI: -- for my client?

4 MR. SCHIFF: Okay. Let everything come in on this

5 witness. It's okay --

6 MR. CRISTALLI: It's up to him --

7 MR. SCHIFF: -- with me.

8 MR. CRISTALLI: -- because they -- it's a notice issue

9 for him.

10 MR. IGNALL: Well, I think there are two issues here.

11 One is --

12 MR. CRISTALLI: Right.

13 MR. IGNALL: -- jury shouldn't consider his conviction.

14 THE COURT: Right.

15 MR. IGNALL: But, secondarily, I think we agree that

16 this is just -- and it's only related to Mr. Schiff --

17 MR. CRISTALLI: Right. That's what I would like.

18 THE COURT: Yeah.

19 MR. IGNALL: Okay.

20 MR. NEIMAN: Well, I don't -- I don't know if I agree

21 with that.

22 (Discussion between Mr. Neiman and

23 Mr. Ignall.)

24 MR. MODAFERRI: Unless they can prove that there's

25 notice to --



1 MR. CRISTALLI: I'm sorry?

2 MR. MODAFERRI: But you can't prove notice --

3 MR. CRISTALLI: You can't have notice on my client when  
4 my client wasn't even -- have --

5 MR. IGNALL: But they knew about it later.

6 MR. NEIMAN: Later.

7 MR. BOWERS: Well, how --

8 MR. IGNALL: Maybe the instruction can be --

9 MR. CRISTALLI: My client knew about it a lot later.

10 MR. IGNALL: -- at the time -- the evidence -- the  
11 evidence is gonna come out that Mr. Schiff was at his trial. So  
12 that evidence is admissible only against Mr. Schiff. Whether  
13 someone learned of that later could be noticed to the other  
14 defendants. So...

15 MR. SCHIFF: I don't even --

16 MR. BOWERS: How --

17 MR. SCHIFF: -- think the other two defendants were  
18 around --

19 MR. IGNALL: No, no.

20 MR. SCHIFF: -- when this all happened.

21 MR. CRISTALLI: They weren't.

22 THE COURT: Okay.

23 MR. CRISTALLI: Okay.

24 THE COURT: All right.

25 MR. IGNALL: I think in this moment we can say...

1 MR. CRISTALLI: All right.

2 (Sidebar conference concluded and the  
3 following is held in open court:)

4 THE COURT: Why don't you write something out --  
5 Mr. Ignall, why don't you write something out. Pass it by the  
6 other attorneys.

7 Why don't you go ahead with your examination. I'll  
8 give the curative instruction when it's ready.

9 MR. NEIMAN: Thank you, your Honor.

10 BY MR. NEIMAN:

11 Q. Uh, Mr. Dentice, I believe we were on the 2003 tax return.

12 The amount of income that you reported was zero, is that  
13 correct, on the 1040X?

14 A. Yes. In that definition of the term "income," yes.

15 Q. If I could direct your attention to the amount of refund --  
16 and I don't remember if I did this already, but...

17 A. Yeah, I think you've done it already.

18 Q. What was the amount of refund you requested for year 1993?

19 A. (Reviewing documents.)

20 THE COURT: It's right there on the screen to your  
21 left.

22 THE WITNESS: Oh, okay.

23 Oh, I see. 46,411.

24 BY MR. NEIMAN:

25 Q. And that is your signature, sir?

- 1 A. Yes, it is.
- 2 Q. Signed under the penalties of perjury?
- 3 A. Yes, it is.
- 4 Q. And was this return self-prepared or did Mr. Schiff prepare  
5 this return as well?
- 6 A. Mr. Schiff prepared this return.
- 7 Q. Do you remember approximately when your trial took place?
- 8 A. Um, I'm -- I'm speculating, but I think sometime in 1999.
- 9 Q. Was it early 1999?
- 10 A. I don't -- I don't recall.
- 11 MR. NEIMAN: Your Honor, if I may approach the witness  
12 with a, uh -- witness to refresh his recollection.
- 13 THE COURT: You may.
- 14 BY MR. NEIMAN:
- 15 Q. Handing you what's been marked as Government's Exhibit 206,  
16 without reading the contents of 206, if you could please refer  
17 to that and if that refreshes your memory whether or not it was  
18 the early part of 1999 or the later part of 1999.
- 19 A. Um, the early part of 1999.
- 20 Q. Do you remember -- do you remember what month now?
- 21 A. January according to this document.
- 22 Q. And is that consistent with your memory as well?
- 23 A. Uh, again, there's been so much that's gone on. I'm just  
24 gonna accept this.
- 25 Q. Is that a "yes"?

1 A. Would you ask the question again?

2 Q. Is that consistent with your memory as well?

3 A. I still don't have a memory. I'm just going off of this  
4 document.

5 Q. All right. Did Mr. Schiff appear at your trial?

6 A. Yes, he did.

7 Q. In what capacity did Mr. Schiff appear?

8 A. Well, you're asking me, um, uh -- I might phrase this wrong  
9 legally. I anticipate that would have been as a laywitness,  
10 but...

11 Q. And --

12 A. Go ahead.

13 Q. -- did you call him or was he called by the prosecution?

14 A. You know, I don't recall, uh, who called him. If you could  
15 refresh my memory. I anticipate that my attorneys called him,  
16 but I don't know.

17 MR. NEIMAN: Your Honor, if I may approach the  
18 witness --

19 THE COURT: You may.

20 MR. NEIMAN: -- again?

21 If I could get this marked. I'm sorry.

22 (Government's Exhibit No. 328, marked for  
23 identification.)

24 (Document shown to Mr. Schiff and  
25 Mr. Bowers.)

1           MR. NEIMAN: Your Honor, I'm approaching the witness  
2 with what's been marked as Government's Exhibit 328 for  
3 identification purposes only.

4           THE COURT: Thank you.

5           MR. NEIMAN: I'm sorry. I should have asked for  
6 permission to approach. I apologize.

7 BY MR. NEIMAN:

8 Q. Mr. Dentice, do you recognize Government Exhibit 328 by any  
9 chance?

10 A. (Reviewing document.)

11 I -- I imagine it's a court transcript, you know.

12 Q. And, by looking at who conducted the direct examination of  
13 Mr. Schiff, is your memory refreshed as to who conducted the  
14 direct examination?

15 A. Uh, could you refer me to the page on that?

16           MR. NEIMAN: Your Honor, if I may approach the witness  
17 again?

18           THE COURT: You may.

19           (Pause in the proceedings.)

20 BY MR. NEIMAN:

21 Q. Is your memory refreshed, sir?

22 A. Uh, yes, sir.

23 Q. Who called Mr. Schiff as a witness?

24 A. Uh, Mr. Conners, my attorney.

25 Q. So you did, as a defense witness, called Mr. Schiff?

1 A. As a defense witness? Yes, I assume that if it's direct  
2 examination he's called by your attorney. Is that correct?

3 THE COURT: That'd be correct.

4 THE WITNESS: Okay. Yes, your Honor.

5 BY MR. NEIMAN:

6 Q. Well, what did Mr. Schiff say as a witness in your trial  
7 generally?

8 A. You want my opinion on that?

9 Q. I want to know what Mr. Schiff said, not your opinion.

10 A. Well, I don't -- I -- you know, he said a lot of things.

11 Q. Did he put forth his positions about the income tax?

12 A. Uh, he attempted to put forth his position; he wasn't fully  
13 able to.

14 Q. Why wasn't he able to?

15 A. Because from what I understand, his documents weren't  
16 introduced by my attorney.

17 Q. And after hearing Mr. Schiff's testimony -- well, did  
18 Mr. Schiff testify whether or not he gave you the advice to file  
19 these 1040X's?

20 A. I believe he did. Uh, I believe he did. But I'm not  
21 certain.

22 Could you refer me to the page in here? You know,  
23 you're asking me to recollect a lot of things --

24 Q. I understand, sir.

25 A. -- from a long time ago.

1 Q. Sir, did the Government ask to meet with you prior to today?

2 A. Yes.

3 Q. And did you agree to meet with the Government prior to  
4 today?

5 A. No.

6 MR. NEIMAN: If I may approach?

7 THE COURT: Yes.

8 (Pause in the proceedings.)

9 MR. SCHIFF: Can I see that testimony?

10 THE COURT: The witness has it.

11 THE WITNESS: Can you rephrase your question?

12 BY MR. NEIMAN:

13 Q. Did Mr. Schiff testify that he gave you the advice to file  
14 these 1040X's?

15 A. (Reviewing document.)

16 I believe he did. I think he accepted full  
17 responsibility for it. I don't see that here. But I had it in  
18 another document somewhere.

19 Q. And you were convicted?

20 A. Yes.

21 Q. Did you appeal your conviction?

22 A. Yes, I did.

23 Q. Who did you appeal your conviction to?

24 A. The Ninth Circuit.

25 Q. Did Mr. Schiff assist you with the appeal of this

1 conviction?

2 A. Yes, he did.

3 Q. First off, I should ask -- first question: Was Mr. Schiff  
4 aware that you were convicted for following his advice?

5 A. Yes.

6 Q. And this was in the early part of 1999?

7 A. Mr. Schiff was at the trial, so he was aware of the  
8 conviction. Yes.

9 Q. And, once he became aware of the conviction, did he assist  
10 you in the appeal?

11 A. Yes, he did.

12 Q. In what --

13 A. Well, I had two attorneys that did the appeal. He on his  
14 own did an amicus brief for me.

15 Is that what you're referring to?

16 Q. Is that the capacity in which Mr. Schiff assisted in your  
17 appeal process?

18 A. Yes, it is. I mean, what other way would you do that?

19 Q. Do you know what an amicus brief is?

20 A. It's a friend of the court brief. It's for additional  
21 information. Yes.

22 Q. So Mr. Schiff filed a brief in support of your own  
23 attorneys' appeal of your conviction?

24 A. That I'm not -- I'm not certain whether it was their appeal  
25 or whether it was for the information and his beliefs.



- 1 Q. What type --
- 2 A. I'm not certain of that.
- 3 Q. What type of information was in his amicus brief, if you
- 4 recall?
- 5 A. I don't recall.
- 6 Q. Was that appeal denied?
- 7 MR. CRISTALLI: Objection. Relevancy.
- 8 MR. NEIMAN: Your Honor, this goes to notice --
- 9 THE COURT: Notice. Overruled.
- 10 MR. NEIMAN: -- of Defendant Schiff.
- 11 BY MR. NEIMAN:
- 12 Q. Was your appeal denied?
- 13 A. Yes.
- 14 Q. Did Mr. Schiff know that the appeal was denied?
- 15 A. I believe he did, yes.
- 16 Q. Do you remember approximately when that appeal was denied?
- 17 A. No, I don't.
- 18 Q. As a result of your, uh, conviction, did you have to make
- 19 any penal- -- did you have to make any payments to the federal
- 20 government?
- 21 A. I believe, uh, \$5,000.
- 22 Q. Did you have to pay any back taxes?
- 23 A. Uh, yes, I did.
- 24 Q. And penalties?
- 25 A. Yes.

1 Q. And fines?

2 A. Yes.

3 Q. Did Mr. Schiff know that you had to pay penalties, fines and  
4 back taxes?

5 A. I believe he did, yes.

6 Q. Approximately how much did you have to pay in back taxes,  
7 penalties, and fines?

8 A. Well, originally we posted a bond for \$98,000. And then,  
9 through the efforts of another attorney of mine, it was reduced  
10 down to -- I'm gonna say 45,000 or so, you know. But that's --  
11 that's speculation on my part.

12 Q. Do you still follow the advice of Mr. Schiff?

13 A. Do I still follow it? In what regard?

14 Q. Do you still file zero tax returns?

15 A. No, because the Government told me they'd take me back to  
16 jail if I do.

17 MR. NEIMAN: I have nothing further, your Honor.

18 THE COURT: Cross-examination?

19 Do we have a curative instruction --

20 MR. IGNALL: Well --

21 THE COURT: -- ready?

22 MR. IGNALL: -- your Honor, may we approach briefly  
23 about that --

24 THE COURT: You may.

25 MR. IGNALL: -- because I don't think we've quite

1 agreed on it.

2 (Sidebar conference was held as follows:)

3 MR. IGNALL: I don't think we all agree.

4 MR. BOWERS: Excuse me, your Honor. Can I -- thank  
5 you.

6 MR. IGNALL: Your Honor, if everyone's here, I think  
7 the issue that Mr. Cristalli and the Government disagree on is  
8 the end here, that we agree that the instruction should say that  
9 you shouldn't consider the evidence if someone else was  
10 convicted of a crime as proof that some other defendant is  
11 guilty. But we do think that it's appropriate to consider  
12 Mr. Dentice's conviction to show the state of mind of the  
13 defendant who was aware of that.

14 Dr. Dentice's evidence shows that Mr. Schiff was aware  
15 of it. But if other evidence should tie in --

16 MR. CRISTALLI: Where --

17 MR. IGNALL: It may come.

18 MR. NEIMAN: It may come.

19 MR. CRISTALLI: How can you -- I'm not gonna accept an  
20 instruction --

21 THE COURT: It's close enough.

22 MR. CRISTALLI: -- on that.

23 THE COURT: This is close enough.

24 MR. CRISTALLI: Well, your Honor --

25 THE COURT: You're gettin' your clients mentioned as

1 not to be considered --

2 MR. IGNALL: Well, now wait.

3 THE COURT: -- in your determination of guilt or  
4 innocence of Defendants Neun and Cohen.

5 MR. IGNALL: I don't --

6 THE COURT: What do you want?

7 MR. IGNALL: -- want that.

8 MR. CRISTALLI: I don't want this imposed.

9 MR. IGNALL: See, we -- we didn't agree to that because  
10 that may indicate --

11 THE COURT: Oh, okay.

12 MR. IGNALL: -- that if there's later evidence.

13 THE COURT: All right.

14 MR. IGNALL: Now, if we want --

15 MR. BOWERS: Can we have --

16 MR. IGNALL: -- to limit it to --

17 THE REPORTER: I'm sorry. I can only hear one person  
18 at a time.

19 THE COURT: Well, it may come in later.

20 MR. CRISTALLI: But, your Honor --

21 THE COURT: This is fine --

22 MR. CRISTALLI: -- with all due respect --

23 THE COURT: -- the way it's written.

24 MR. CRISTALLI: -- I don't have any -- there's no  
25 evidence to suggest that there's gonna be information that she

1 knew of this conviction ever.

2 THE COURT: Well --

3 MR. CRISTALLI: If they know -- they are gonna know it.

4 They know their case. There know whether or not it's gonna --

5 THE COURT: Depends on --

6 MR. CRISTALLI: -- come in or not.

7 THE COURT: -- depends on if your client takes the

8 stand.

9 MR. CRISTALLI: Your Honor, this is not gonna come

10 in --

11 THE COURT: This is okay.

12 MR. CRISTALLI: -- with all due respect.

13 THE COURT: This is okay the way it is. I don't see a

14 problem.

15 MR. IGNALL: Okay. Thank you, your Honor.

16 MR. CRISTALLI: I want to make that part of the

17 record --

18 MR. BOWERS: Just -- just...

19 (Sidebar conference concluded and the

20 following is held in open court:)

21 THE COURT: Court is going to give an instruction at

22 this time.

23 You have heard evidence that Witness Dentice had been

24 previously convicted of filing false tax returns. This evidence

25 is not to be considered in your determination of guilt or

1 innocence of defendants, except to show the state of mind of a  
2 defendant who was aware of this conviction. It is... And that  
3 is the end of the instruction.

4 Thank you.

5 MR. CRISTALLI: Your Honor, could we make that  
6 particular document a part of the record?

7 THE COURT: It's part of the record now. I just read  
8 it.

9 MR. CRISTALLI: Yeah. But there -- that document  
10 itself I'd like to be -- have marked as part of the record.

11 THE COURT: Clerk will mark it --

12 MR. CRISTALLI: Thank you.

13 THE COURT: -- as the exhibit.

14 (Court's Exhibit No. 1, marked for  
15 identification.)

16

17 CROSS-EXAMINATION

18 BY MR. SCHIFF:

19 Q. Good morning, Dr. Dentice.

20 A. Good morning, Mr. Schiff.

21 Q. Just to clarify a few things, when you first called me  
22 saying you had a problem, potential problem with the IRS, I  
23 suggested you come to my office for an appointment. And we  
24 didn't discuss what your problem was over the phone.

25 THE COURT: You're testifying again, Mr. Schiff.

1 BY MR. SCHIFF:

2 Q. Well, but do you recall --

3 THE COURT: You need --

4 MR. SCHIFF: I mean, the testimony was --

5 THE COURT: You need to put it --

6 MR. SCHIFF: All right.

7 THE COURT: -- in the form --

8 MR. SCHIFF: All right.

9 THE COURT: -- of a question.

10 BY MR. SCHIFF:

11 Q. Isn't it a fact that when you called me we just set up an

12 appointment? So you came down to my office?

13 A. I don't really recall, Mr. Schiff.

14 Q. Pardon me?

15 A. I say I don't really recall, um, whether that's the case or

16 not. I knew we had several conversations, but I don't --

17 Q. But -- but you don't recall your coming to my office --

18 A. Oh, I recall --

19 Q. -- with your wife?

20 A. -- coming to the office. But that's not the question you're

21 asking me.

22 Q. But when you came to my office the first time we had a

23 discussion on your problem.

24 A. Yes.

25 Q. Okay. And you told me at that time that you believed that

1 the Government might be indicting you for tax evasion.

2 A. I did.

3 Q. Isn't that what you told me?

4 A. I -- I could have told you that. But it's been so long ago

5 that I -- that I -- that I don't remember honestly. I don't

6 remember if I told you that and when I told you that. We're

7 talkin' goin' back now, uh, you know, 10 years with a lot of

8 problems in between.

9 Q. Well -- well -- well, why did you come to my office? You

10 hadn't filed -- you had none of my books at the time.

11 A. Well, I coulda had a problem. But that doesn't mean that I

12 told you about it, I mean, ahead of time. I -- I don't know

13 what I told you. Is that important?

14 Q. The fact -- yes, it is important because at that time you

15 said to me --

16 THE COURT: Now, you're testifying.

17 BY MR. SCHIFF:

18 Q. Do you recall --

19 THE COURT: Sir, you're --

20 MR. SCHIFF: Okay.

21 THE COURT: -- testifying again.

22 MR. SCHIFF: All right.

23 BY MR. SCHIFF:

24 Q. Do you recall me tell -- all right. Do you recall me

25 suggesting -- did you recall me -- my suggestion to you that I



1 don't believe that they could use your tax return -- I asked you  
2 if you had filed those returns voluntarily. Do you recall me  
3 asking you -- for the years that you believed the government was  
4 gonna prosecute you, did you believe that you filed --

5 THE COURT: Okay. Mr. Schiff --

6 BY MR. SCHIFF:

7 Q. -- those tax returns --

8 THE COURT: Mr. Schiff --

9 BY MR. SCHIFF:

10 Q. -- voluntarily?

11 THE COURT: Mr. Schiff --

12 MR. SCHIFF: Yes.

13 THE COURT: -- that question is so convoluted that even  
14 I can't follow it.

15 MR. SCHIFF: All right.

16 BY MR. SCHIFF:

17 Q. Do you recall me asking you for the years that the  
18 government anticipating prosecuting you did you file those  
19 returns voluntarily? Do you remember me asking you that  
20 question?

21 MR. NEIMAN: I'm gonna object to the relevance, your  
22 Honor.

23 THE COURT: What is the relevance?

24 MR. SCHIFF: All right. The relevance -- well, your  
25 Honor, I sent him to an attorney.

1 BY MR. SCHIFF:

2 Q. Did I send you to an attorney by the name of Barbara Beard?

3 A. Yes, you did, Mr. Schiff.

4 Q. Okay. Why did I suggest you go to Barbara Beard?

5 A. Well, because I was havin' trouble, um, obtaining an

6 attorney that would, uh, uh, follow your beliefs.

7 Q. Was it because that I thought that Barbara Beard could do a

8 brief showing why those returns could not be used against you?

9 A. Well, that's probably part of your beliefs --

10 Q. Okay.

11 A. -- yes.

12 Q. So we discussed at my office why I believed the returns

13 could not be used against you; is that correct?

14 A. At some point in time we discussed that, yes.

15 THE COURT: What was the name of the attorney?

16 MR. SCHIFF: Barbara Beard.

17 BY MR. SCHIFF:

18 Q. As a matter of fact --

19 THE COURT: Will you spell it, please, for the record.

20 MR. SCHIFF: Her name is Barbara Beard.

21 THE COURT: Spell "Rebeard" or whatever it is.

22 MR. SCHIFF: Yes.

23 BY MR. SCHIFF:

24 Q. As a matter of fact --

25 THE COURT: Don't give us a speech. Just spell the

1 name.

2 MR. SCHIFF: B-e-a-r-d.

3 And I would introduce as Exhibit 2042 a letter to  
4 Dr. Dentice referring to me from Barbara Beard.

5 (Pause in the proceedings.)

6 (Defendant Schiff's Exhibit No. 2042, marked  
7 for identification.)

8 (Document handed to the Court.)

9 BY MR. SCHIFF:

10 Q. So you -- do you recall -- oh, he's...

11 (Pause in the proceedings.)

12 (Document handed to the witness.)

13 THE COURT: What is the question?

14 THE WITNESS: Okay, Mr. Schiff.

15 (Pause in the proceedings.)

16 MR. SCHIFF: All right. Oh, excuse me.

17 (Pause in the proceedings.)

18 BY MR. SCHIFF:

19 Q. So, um...

20 THE COURT: Your question, Mr. Schiff.

21 BY MR. SCHIFF:

22 Q. So I -- I -- at the time, among other things, I directed you  
23 to see Barbara Beard?

24 A. That's correct, Mr. Schiff.

25 Q. Do you recall why I told you to see Barbara Beard, who was

1 an attorney that didn't live too far from you?

2 A. Well, I don't think that was a primary criterion. And I  
3 think the criterion is that we both believed she was somebody  
4 that would, uh, put forth your beliefs in front of the, uh,  
5 court.

6 Q. Can you speak a little louder, Doctor? I'm having trouble  
7 hearing.

8 A. I say, I -- I believe the primary reason that, um -- that,  
9 uh, I obtained her and you recommended her was that she was  
10 someone that would, uh, propose and set forth, uh, your beliefs  
11 in front of the court.

12 Q. Okay. So the other thing -- do you recall me suggesting to  
13 you that whatever taxes you paid you overpaid on your taxes?

14 MR. NEIMAN: I'm gonna object to the relevance of these  
15 questions, your Honor.

16 MR. SCHIFF: Well, I -- this --

17 BY MR. SCHIFF:

18 Q. Do you recall -- well, do -- do you recall me suggesting to  
19 you at that initial hearing that I believe that you -- whatever  
20 you paid you overpaid? Do you recall me saying that?

21 A. Mr. Schiff, are you referring with the initial hearing with  
22 Ms. Beard or with you?

23 Q. No, with me. When you initially came down to my office.

24 A. Again, Mr. Schiff, I -- we have spoken on numerous occasions  
25 about the -- the tax being overpaid. But whether it was on that

1 first hearing I'm not gonna sit here in front of this court and  
2 tell them that because I can't recollect that and I don't  
3 want -- I don't want to misspeak.

4 Q. Okay. Now, if we could put one of his returns on the -- you  
5 said on your -- you said on the -- your Amended return you said,  
6 "Due to ignorance, we reported sources of 'income' as being  
7 'income' itself, when in fact, we had no statutory 'income' to  
8 report."

9 Do you recall writing that on your...

10 A. I recall it being on there. Actually, as the prosecutor  
11 said, um, you're the one that prepared the return. So I didn't  
12 put it on there; you did.

13 Q. Yes. But you --

14 A. Yeah.

15 Q. -- didn't I explain --

16 A. Yes.

17 Q. -- why -- let me -- let me say something.

18 Would -- would you just put on a sworn statement  
19 something I just told you?

20 A. No.

21 Q. -- without verifying?

22 A. No. But that wasn't the question you asked me. You asked  
23 did I put it on there.

24 Q. No, no. Did you -- I asked you what did you mean when you  
25 wrote -- or when you -- when you signed this amended return, you

1 said, "Due to ignorance, we reported sources of 'income' as  
2 being 'income' itself, when in fact, we had no statutory  
3 'income' to report."

4 Wouldn't you have asked me, well, what did you mean by  
5 that?

6 A. Yes, I did. I did. I researched it thoroughly.

7 Q. And you determined that income for tax purposes meant what?

8 A. For tax purposes meant a corporate profit.

9 Q. Okay. So, on your own -- by reading my books and reading  
10 the court decisions referred to in my books -- at some point you  
11 came to the conclusion that income meant a corporate profit; is  
12 that correct?

13 A. That's correct.

14 Q. Okay. So that's why you put it there.

15 Now, when you put it there, did you believe when you  
16 put it there -- or when -- or when you accepted my -- let's  
17 establish one other thing.

18 Um, when you -- when you wrote -- when you signed your  
19 amended return, did you believe at that time that you  
20 erroneously reported sources of income in lieu of income itself.

21 A. Yes.

22 Q. Yes.

23 So you believed that statement to be true when you made  
24 it?

25 A. Yes.

1 Q. Okay. The next statement you said, "In addition, we had no  
2 statutory income tax 'liability' for this year."

3 When you signed this document and sent it in, did you  
4 believe that you had no liability for income taxes?

5 A. That's correct.

6 Q. You did.

7 How did you make that determination?

8 A. By examining the, uh, U.S. Tax Code, which I have right  
9 here --

10 Q. Okay.

11 A. -- with me.

12 Q. So, when you examined the United States Tax Code on your  
13 own, you could not find any reference in that Code that provided  
14 for a liability for income tax; is that correct?

15 A. That's correct.

16 Q. You just didn't take my word for it; you checked it out.

17 A. That's correct.

18 Q. Okay.

19 MR. NEIMAN: Your Honor, I'm gonna object to the line  
20 of questioning. Mr. Dentice's beliefs and his tax returns,  
21 that's not the relevance of his testimony here today. It's  
22 beyond the scope, uh, in that regard.

23 MR. CRISTALLI: Your Honor --

24 MR. SCHIFF: Your Honor --

25 MR. NEIMAN: We're relitigating --

1           MR. SCHIFF: Your Honor, the judge -- the prosecutor  
2           tried to pretend that I told him to do all these things and he  
3           did it without researching it on his own. And the prosecutor  
4           doesn't want the jury to know that people researched the law and  
5           can't find any law that makes them liable. And that's why he's  
6           doing it. And this is relevant --

7           THE COURT: The pros- --

8           MR. SCHIFF: -- because this is his return, not mine.

9           THE COURT: The prosecutor can ask what research was  
10          done on redirect.

11          MR. SCHIFF: The prosecutor has suggested that this  
12          document is false, and I'm gonna prove that every word in that  
13          document is correct. Okay.

14          THE COURT: At some time I assume, not now. You're  
15          gonna do it sometime.

16          MR. SCHIFF: Pardon me? I didn't hear that.

17          THE COURT: Well, you're not doing it now. You're not  
18          going to --

19          MR. SCHIFF: Well, I'm going over this document to see  
20          if he believed what he --

21          THE COURT: You're not going to tell the jury what the  
22          law is.

23          MR. SCHIFF: I'm not telling them what the law is. I'm  
24          asking him why he sent in this document, that he -- all right.

25



1 BY MR. SCHIFF:

2 Q. Now, the third thing you said, Dr. Dentice, is you said,  
3 "... we had no statutory income tax 'liability', pursuant to  
4 Sections 26 CFR 301 6401... and 26 CFR 301 6401..., [and  
5 therefore] our overpayment should have been automatically  
6 refunded to us pursuant to the provisions contained in these two  
7 sections."

8 Is that what you wrote?

9 A. Yes, um...

10 Q. And --

11 THE COURT: Wait a minute. No, he didn't write it.  
12 He's already testified he didn't write it; you wrote it.

13 MR. SCHIFF: All right.

14 BY MR. SCHIFF:

15 Q. Um, when you signed that document, Doctor, and sent it in,  
16 you -- you believed that those regulations enabled you to get a  
17 refund; is that correct?

18 A. That's correct.

19 Q. Did -- did I show you those regulations in the statutes and  
20 that's why you believed you could say it?

21 A. That's correct.

22 Q. So you saw in the regulations that you were --

23 THE COURT: Okay, you've asked that question about five  
24 times.

25 MR. SCHIFF: Okay.

1 THE COURT: Move on.

2 BY MR. SCHIFF:

3 Q. So, at the time you sent this in, you believed all those  
4 statements were true; is that correct?

5 A. That's correct.

6 Q. Okay. Now, as far -- after -- uh, and I suggested that you  
7 file an amended return --

8 THE COURT: Now you're testifying again.

9 MR. SCHIFF: No.

10 BY MR. SCHIFF:

11 Q. Did I suggest that you file an amended return showing that  
12 you erroneously reported income that you didn't have, that you  
13 paid a tax pursuant to a liability you didn't incur, and that  
14 you request a refund pursuant to regulations that provided for  
15 it? Isn't that what I suggested you do?

16 A. Yes, you did.

17 Q. Okay.

18 A. And these are they right here.

19 Q. Okay. And didn't I suggest that you tell that also to  
20 Barbara Beard?

21 A. Well, I think Barbara Beard was telling me because she  
22 consulted with you, you know, and --

23 Q. But you told Barbara Beard, an attorney, that you suggested  
24 that I suggested that you file this amended return.

25 THE COURT: Okay.

1 MR. NEIMAN: I'm gonna object.

2 THE COURT: That's enough.

3 MR. SCHIFF: No.

4 BY MR. SCHIFF:

5 Q. Did -- did --

6 THE COURT: That's -- that is, again, a --

7 MR. SCHIFF: I didn't hear.

8 THE COURT: That's an incomprehensible question.

9 BY MR. SCHIFF:

10 Q. I'm asking him: If you told Barbara Beard that I suggested

11 you file an amended return like this.

12 MR. NEIMAN: I'm gonna object to hearsay.

13 THE COURT: Sustained.

14 MR. SCHIFF: Did he tell -- it's not -- did he tell

15 that to Barbara Beard.

16 THE COURT: Listen --

17 THE WITNESS: Do you want me to answer his question,

18 your Honor?

19 THE COURT: If you can.

20 BY MR. SCHIFF:

21 Q. Did you discuss the amended return with Barbara Beard?

22 A. I did -- I did, uh, discuss it with her. And, as to who

23 suggested what first, I don't have an exact recollection of

24 that.

25 Q. Okay. Isn't it a fact that you didn't -- that you did not

1 submit the amended return -- well, isn't it a fact that when you  
2 came to see me in Las Vegas it was about four or five months  
3 before you were indicted?

4 A. I believe that's correct, yes.

5 Q. And you did not submit the amended return as I had initially  
6 suggested you do prior to being indicted?

7 A. Again, that's recollection. But I believe that's correct.

8 Q. Well, isn't it a fact that you filed the amended return  
9 after you were indicted?

10 A. I -- I believe that's correct.

11 Q. Okay. And didn't you tell me that the U.S. Attorney --  
12 unless you withdrew the amended return, he was going to have a  
13 superseding indictment -- he wanted you to withdraw the amended  
14 return or he was gonna seek a superseding indictment and  
15 charging you with filing a false amended return and -- and  
16 charge you on it? Didn't you tell me that?

17 A. Um, Mr. Schiff, again, I don't remember who told what. But  
18 I have seen documents to that effect here recently.

19 Q. Okay. In any case, uh, you told me that after you were  
20 indicted for tax evasion you then told me that they were gonna  
21 also indict you for filing, um, this amended return; is that  
22 correct?

23 A. Again, this is -- this is all recollection.

24 Q. Okay.

25 A. And it -- it appears to be, you know, true. But I --

1 Q. Okay.

2 A. -- I don't wanna misspeak.

3 Q. Were you -- all right. Were you aware when I told you that  
4 I wrote to Mr. Richard Pietrofeso, who is the District Attorney,  
5 telling him that I took full responsibility for the amended  
6 return and requesting that I be called in front of the Grand  
7 Jury so I can testify the validity and the accuracy and the  
8 honesty of your amended return? Do you recall me telling you  
9 that?

10 A. I recollect seeing documents recently --

11 Q. Okay. I want to --

12 A. -- to that effect, yes.

13 Q. All right. The Government is trying to make some --

14 THE COURT: No commentary.

15 MR. SCHIFF: All right.

16 Here is -- here is -- I wanna put in as an exhibit.  
17 You already have it. Here is a letter. I want to put this in  
18 as an exhibit.

19 MR. IGNALL: What number is it?

20 MR. NEIMAN: What number?

21 MR. IGNALL: Mr. Schiff, what number is this?

22 MR. SCHIFF: Yeah, it's in the -- I didn't put a number  
23 on this. Here. I'll show it to you if you give me the list of  
24 exhibits.

25

1 (Document shown to Government counsel.)

2 MR. SCHIFF: Yeah, yeah, it's Exhibit 2078.

3 MR. IGNALL: Okay.

4 MR. SCHIFF: You can write it out. 2078.

5 MR. NEIMAN: Your Honor, the Government's objecting to

6 this exhibit on relevancy and hearsay grounds.

7 MR. SCHIFF: This exhibit is highly relevant, your

8 Honor, because the Government tried to convey the impression

9 that I tried to duck responsibility for the -- for the zero

10 return. I wrote to the Assistant U.S. Attorney --

11 THE COURT: Let me see it. Hand it to the clerk.

12 MR. SCHIFF: -- and I took full responsibility.

13 THE CLERK: Did you say it had a number?

14 MR. SCHIFF: Yeah. 20 --

15 THE CLERK: 2078? All right.

16 (Defendant Schiff's Exhibit No. 2078, marked

17 for identification.)

18 (Document handed to the Court.)

19 THE COURT: The objection is sustained based on hearsay

20 and relevance grounds.

21 MR. SCHIFF: Well --

22 THE COURT: No. That's the ruling.

23 MR. SCHIFF: Well, your Honor --

24 THE COURT: Move on.

25 MR. SCHIFF: -- how can it be hearsay --

1 THE COURT: Move on. Do not argue with the Court.

2 Move on.

3 MR. SCHIFF: All right.

4 BY MR. SCHIFF:

5 Q. Now, isn't it a fact, uh, Dr. Dentice, that I volunteered to  
6 testify at your trial? And, as a matter of fact, your attorney  
7 didn't even want me to testify; isn't that a fact?

8 A. I'm quite certain that you volunteered to, um, testify and  
9 it's my -- my beliefs that he didn't want you to testify even  
10 though he didn't, uh, ever come right out and say that to me  
11 personally.

12 Q. As a matter of fact, do you recall, um -- I got so many  
13 exhibits here -- as a matter of fact, do you recall your  
14 attorney telling the jury --

15 MR. NEIMAN: Objection. Hearsay.

16 MR. SCHIFF: Here's -- here's --

17 THE COURT: Sustained.

18 MR. SCHIFF: -- here's a trial transcript.

19 (Document shown to Mr. Neiman.)

20 MR. SCHIFF: Do you want to see this? This is already  
21 an exhibit. I -- I introduced -- I introduced as Exhibit 2040 a  
22 number of pages of the trial transcript. This is merely page  
23 45. Well, this is already -- this is a portion of that exhibit.  
24 This is merely page 40- -- 45.

25 THE CLERK: You haven't provided any 2040 to the Court

1 so far.

2 (Defendant Schiff's Exhibit No. 2040, marked  
3 for identification.)

4 MR. SCHIFF: Well, this is --

5 MR. NEIMAN: Your Honor, the Government would object to  
6 the admittance of the transcript. We would not object to the  
7 questioning of the witness --

8 MR. SCHIFF: Well --

9 MR. NEIMAN: -- with regards to the contents.

10 MR. SCHIFF: Well, okay.

11 MR. NEIMAN: It all goes to notice.

12 MR. SCHIFF: Do you want me to read from the  
13 transcript, your Honor?

14 THE COURT: No. I want you to ask a question.

15 MR. SCHIFF: Okay. I'll ask you a question.

16 BY MR. SCHIFF:

17 Q. Would it refresh your recollection, Doctor, if I showed  
18 you --

19 THE COURT: You haven't asked a question to show his  
20 recollection is impaired.

21 BY MR. SCHIFF:

22 Q. I said --

23 THE COURT: I want you to listen to the statement I  
24 just made. You do not refresh recollection unless you ask a  
25 question first and show that his recollection is impaired.



1 MR. SCHIFF: Okay.

2 BY MR. SCHIFF:

3 Q. Do you recall your attorneys telling the jury that he didn't  
4 believe what I told you and that he wasn't gonna produce any  
5 evidence to support my beliefs?

6 A. Um...

7 Q. Do you believe that -- do you recall him saying that?

8 THE COURT: Let him answer the question without --

9 THE WITNESS: I don't -- I don't recall it exactly.  
10 Could you refresh my memory, please?

11 BY MR. SCHIFF:

12 Q. Could you read from that portion of the transcript?

13 THE WITNESS: The Court, do you want me to read this?

14 THE COURT: No. You read it to yourself --

15 THE WITNESS: Oh, okay.

16 THE COURT: -- and see if your recollection is  
17 refreshed.

18 THE WITNESS: Okay. Okay. Go ahead, Mr. Schiff.

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

21 BY MR. SCHIFF:

22 Q. Does that refresh your recollection?

23 A. Uh, regarding my, uh, attorney's opinion, yes, it does.

24 Q. Regarding your attorney's willingness to support the amended  
25 return as being valid.

1 A. Yes. Is this Mr. Conners or Mr. -- I guess it is  
2 Mr. Conners, yes.

3 Q. I don't know. I think it's Conners.

4 A. Okay. Yes.

5 Q. What does he say to the jury?

6 THE COURT: No. You're not going to read it. You  
7 could ask --

8 BY MR. SCHIFF:

9 Q. Well, what --

10 THE COURT: -- the question.

11 BY MR. SCHIFF:

12 Q. -- does he say essentially?

13 A. Essentially he says that he's not gonna produce any  
14 evidence, uh, that he believes in you.

15 Q. But then he goes on and say -- well, what -- what --

16 THE COURT: No, no. Ask a question.

17 BY MR. SCHIFF:

18 Q. -- what does --

19 THE COURT: Ask a question.

20 BY MR. SCHIFF:

21 Q. -- he say further?

22 THE COURT: No. You ask a question.

23 MR. SCHIFF: Okay.

24 BY MR. SCHIFF:

25 Q. Further on what does he say with --

1 THE COURT: No.

2 BY MR. SCHIFF:

3 Q. -- respect to --

4 THE COURT: You ask a question.

5 BY MR. SCHIFF:

6 Q. -- you and your wife?

7 THE COURT: You ask the question and he will answer it  
8 if he can.

9 MR. SCHIFF: Okay.

10 BY MR. SCHIFF:

11 Q. So, after he tells the jury that he doesn't believe the  
12 material in your amended return and he's not gonna put in any  
13 evidence to support it, he tells the jury that you and your wife  
14 believed it; is that correct?

15 A. I think it states here that my wife believes it.

16 Q. Okay. So basically -- all right. So basically he undercut  
17 our ability to prove that your amended return was valid; is that  
18 correct?

19 A. You're asking for my opinion?

20 Q. Yes.

21 A. I -- I would think so, yes.

22 Q. Okay. Now, do you recall -- when the Government went to  
23 prove that your amended return is false, do you remember what  
24 the Government's expert witness said when they asked her if she  
25 understood the amended return? Do you recall what she said?

1 MR. NEIMAN: Objection to relevance.

2 MR. SCHIFF: The --

3 THE COURT: Sustained.

4 MR. SCHIFF: -- the relevance is -- the relevance is he  
5 was convicted because ineffective -- not because the amended  
6 return was wrong, but the Government's witness said she didn't  
7 understand it. Here --

8 THE COURT: It's not --

9 MR. SCHIFF: -- it's in the transcript.

10 THE COURT: -- it's not coming in. The --

11 MR. SCHIFF: Pardon me?

12 THE COURT: -- relevance of his testimony is notice to  
13 you --

14 MR. SCHIFF: Well, he said --

15 THE COURT: -- sir.

16 MR. SCHIFF: -- the Government is saying that it's  
17 irrelevant. The Government said he was convicted of filing this  
18 return, that it was wrong. And I'm saying his own attorney  
19 didn't defend it and the --

20 THE COURT: We're not going --

21 MR. SCHIFF: -- and the Government put on --

22 THE COURT: Mr. Schiff --

23 MR. SCHIFF: -- an expert. I have it -- I have her  
24 testimony right here.

25 THE COURT: Mr. Schiff --

1 BY MR. SCHIFF:

2 Q. Would it refresh --

3 THE COURT: -- you are either going to start abiding by  
4 the rules of this Court and the rulings that I make or there are  
5 going to be sanctions. Do you understand?

6 MR. SCHIFF: Okay.

7 THE COURT: Move on.

8 BY MR. SCHIFF:

9 Q. Okay. Now --

10 THE COURT: Mr. Schiff --

11 BY MR. SCHIFF:

12 Q. -- would it refresh -- here.

13 THE COURT: Mr. Schiff --

14 BY MR. SCHIFF:

15 Q. -- here is the --

16 THE COURT: -- you're not moving on. You just keep  
17 going back to the same question I've made my ruling on. Now, I  
18 want you to stop it.

19 MR. SCHIFF: I am simply saying -- here is the -- the  
20 transcript. The Government put in a bunch of transcript pages.  
21 I didn't object.

22 MR. NEIMAN: No, your Honor. The Government hasn't put  
23 in any transcript --

24 THE COURT: Well, it's not tit for tat in here, sir.

25 MR. SCHIFF: I -- could I have a sidebar conference on

1 this?

2 THE COURT: We'll take a recess in a few minutes. Move  
3 on with your questions.

4 MR. SCHIFF: Well, this is a different question I'm  
5 asking him. I -- I -- I think this is highly relevant. Can  
6 you --

7 THE COURT: I have made my ruling. If you're going  
8 back over the same ground --

9 MR. SCHIFF: So, in other words --

10 THE COURT: -- I'm warning you --

11 MR. SCHIFF: -- you're --

12 THE COURT: -- sir.

13 MR. SCHIFF: -- you're preventing me from...

14 BY MR. SCHIFF:

15 Q. All right. Now, Dr. Dentice, wasn't the substance -- let me  
16 put these documents back because these are -- I made these  
17 exhibits -- do you recall what you were charged with in the  
18 Indictment? Do you recall what you were charged with in the  
19 Indictment with respect to the amended returns?

20 A. Uh, I believe it's violation of 7206, U.S.C. Code --

21 Q. Well, what --

22 A. -- 7602.

23 Q. -- did the Indictment specifically accuse you of?

24 A. I don't, uh...

25 Q. Would it refresh your recollection --

1 A. Yes.

2 Q. -- if I showed you the Indictment with respect...

3 A. Yes, yes, it would.

4 MR. SCHIFF: This is an exhibit, 2037.

5 (Shown to Government counsel.)

6 MR. SCHIFF: Can I approach the witness?

7 THE COURT: You may.

8 Has it been marked.

9 THE CLERK: It is now.

10 THE COURT: What is the number?

11 THE CLERK: 2037 he said.

12 (Defendant Schiff's Exhibit No. 2037, marked

13 for identification.)

14 THE WITNESS: Would you rephrase your question, sir?

15 BY MR. SCHIFF:

16 Q. Well, the -- I said, do you recall what -- what you were

17 charged with in filing the amended returns?

18 A. Now, I assume this is the amended return here. It says

19 "Count 7" --

20 Q. Yeah.

21 Doesn't it say --

22 A. -- on it.

23 Q. -- that you filed a false -- you didn't believe it was true

24 and it was false?

25 A. Um, essentially paraphrasing that I didn't believe

1 everything that was on it --

2 Q. Well --

3 A. -- and that I believed I had income that was substantially

4 higher than zero.

5 Q. In other words, the Indictment essentially said that you

6 didn't believe what you put on your amended return?

7 A. That's correct.

8 Q. In other words, you didn't believe it?

9 A. That's correct.

10 Q. Do you recall at your sentencing the judge said you did

11 believe it?

12 A. Yes, I do.

13 Q. Do you recall me telling your attorneys that -- at your

14 sentencing that Judge Gonzalez, um, uh, held you innocent and

15 then sentenced you as if you were guilty? Do you recall me

16 saying that, that she pronounced you innocent before she

17 sentenced you? Do you recall that?

18 A. I -- I recall you saying to the attorneys that, uh, "She

19 just pronounced him innocent."

20 Q. She just -- at sentencing she pronounced you innocent,

21 didn't she?

22 A. No, no, not at sentencing. You -- you -- you said that to

23 the U.S. Attorneys. We're talking about what you said to the

24 U.S. Attorneys --

25 Q. But --



1 A. -- after the trial.

2 Q. -- we're saying -- what -- what -- what did she say when she  
3 sentenced you about your believing...

4 A. Essentially -- essentially she said that I did believe in  
5 it.

6 Q. Essentially she said you believed --

7 A. Yes.

8 Q. -- that you're entitled to the refund, didn't she?

9 A. That's correct.

10 Q. You were not willful, were you?

11 A. No.

12 MR. SCHIFF: I want to put this...

13 (Shown to Government counsel.)

14 MR. NEIMAN: What is this?

15 MR. SCHIFF: That's from the transcript. That's the  
16 sentencing.

17 (Pause in the proceedings.)

18 BY MR. SCHIFF:

19 Q. Would this refresh your recollection --

20 THE COURT: Well, there's no question pending.

21 MR. SCHIFF: All right.

22 BY MR. SCHIFF:

23 Q. So essentially --

24 THE COURT: -- that he hasn't been able to answer.

25 MR. SCHIFF: Okay.

1 BY MR. SCHIFF:

2 Q. Do you recall --

3 THE COURT: Back over to the podium.

4 BY MR. SCHIFF:

5 Q. -- do you recall Judge Gonzalez specifically saying at your  
6 sentencing that you believed you were entitled to the refund?

7 THE COURT: That has been asked and answered. That has  
8 been asked and answered. He said yes.

9 BY MR. SCHIFF:

10 Q. So I was sitting in the audience and --

11 THE COURT: You're testifying. Strike.

12 BY MR. SCHIFF:

13 Q. Was I sitting in the audience when I heard her say that?

14 A. I don't know where you were sitting, Mr. Schiff.

15 Q. Well --

16 A. I assume you were, but I don't know.

17 Q. Yeah. Well, wasn't I at your sentencing?

18 THE COURT: Asked and answered.

19 BY MR. SCHIFF:

20 Q. Was I at your sentencing?

21 THE COURT: Asked and answered.

22 (Discussion between Mr. Leventhal and  
23 Mr. Schiff.)

24 BY MR. SCHIFF:

25 Q. Okay. Now, when the U.S. Attorney -- when the U.S. attorney

1 walked out of the courtroom, did you observe me follow the U.S.  
2 Attorney down that corridor?

3 A. Yes, I did.

4 Q. How many inches from his ear would you say my lips were?

5 A. I don't know exactly, but you were close to him.

6 Q. Did I follow him all the way down?

7 A. Yes, to the --

8 Q. Do you recall --

9 A. -- bridge crossing over.

10 Q. -- what I said to him as I followed him down?

11 THE COURT: What is the relevance of this?

12 BY MR. SCHIFF:

13 Q. Do you --

14 THE COURT: What is the relevance of what you --

15 MR. SCHIFF: The relevance --

16 THE COURT: -- said to the U.S. Attorney?

17 BY MR. SCHIFF:

18 Q. Well, what did you hear me --

19 THE COURT: It is not relevant.

20 MR. SCHIFF: All right.

21 BY MR. SCHIFF:

22 Q. When I came back --

23 THE COURT: Move on. Don't go back over it.

24 MR. SCHIFF: I'm not. I'm just saying. All right.

25

1 BY MR. SCHIFF:

2 Q. Now, when I came back following the U.S. Attorney, I found  
3 you and your two attorneys standing there; is that correct?

4 A. I believe that's correct.

5 Q. What did I say to your two attorneys, if you recall?

6 A. I'm paraphrasing now. "She just pronounced him innocent."

7 Q. Yes. I said to your two attorneys: "Didn't you hear what  
8 she said? She just pronounced him innocent. He believed he was  
9 entitled to a refund."

10 Isn't that what I said?

11 A. That's what I just said, yes. Something to that effect.

12 Yes.

13 Q. Wasn't that the substance of my, um, amicus brief?

14 A. You know, unfortunately, Mr. Schiff, I -- one thing I didn't  
15 research is that brief.

16 Q. Okay. Now, were you aware that following your sentencing I  
17 wrote to your judge -- oh, when I testified -- when I testified  
18 for you, before I testified do you recall the judge in that case  
19 telling me about my -- whether I needed an attorney and reading  
20 me a bunch of rights, that I was gonna -- do you recall her  
21 doing that?

22 A. Yes, I do.

23 Q. In other words, she was trying to warn me, in your view,  
24 that --

25 THE COURT: Testifying.

1           MR. SCHIFF: All right.

2           BY MR. SCHIFF:

3           Q. So she read me -- while I was taking responsibility, she

4           warned me about testifying in your behalf; is that right?

5           A. She warned you that you could face criminal charges.

6           Q. Right.

7           A. That's correct.

8           Q. Did that phase me?

9           A. That's -- that's up to you. I don't...

10          Q. No. I testified regardless of that --

11          A. Yes, you --

12          Q. -- without an attorney?

13          A. -- continued to testify, yes.

14          Q. All right. Now, you recall when I got there that I had some

15          exhibits, two or three pages of exhibits, I wanted to pass out

16          to the jury? Do you recall?

17          A. I remember you had exhibits. I don't know what to extent --

18          what extent they were, yes.

19          Q. All right. They were trying to support your amended return.

20                 And do you recall your attorney coming over to me and,

21          uh, I wanted to pass the exhibits -- do you recall me -- do you

22          recall the judge saying I couldn't pass out the exhibits?

23          A. I read documents to that effect here recently, yes.

24          Q. Did your attorney attempt to make those exhibits exhibits so

25          I could pass them out?

1           MR. NEIMAN: I'm gonna object to relevance of this  
2 question.

3           MR. SCHIFF: The relevance --

4           THE COURT: It's completely irrelevant. Mr. Schiff, a  
5 witness --

6           MR. SCHIFF: The relevance is that --

7           THE COURT: Listen, Mr. Schiff. A witness does not  
8 come into court in a case and try to pass out exhibits to the  
9 jury. That is so outrageous that I can't believe that you're  
10 even bringing it up. Now --

11          MR. SCHIFF: Well --

12          THE COURT: -- end it.

13          MR. SCHIFF: -- your Honor --

14          THE COURT: That is outrageous on your part to expect  
15 that the judge would allow you as a witness to hand out exhibits  
16 to the jury --

17          MR. SCHIFF: Well --

18          THE COURT: -- without the consent of counsel.

19          MR. SCHIFF: I agree. I agree. The thing is that his  
20 attorney should have asked me what I wanted to --

21          THE COURT: No.

22          MR. SCHIFF: -- pass out.

23          THE COURT: That is irrelevant. You don't sit here and  
24 second-guess what the attorney did in front of this jury.

25          MR. SCHIFF: The attorneys prevented me from trying to

1 support --

2 THE COURT: Mr. Schiff --

3 MR. SCHIFF: All right.

4 THE COURT: -- all of this is irrelevant.

5 MR. SCHIFF: It's not irrelevant. How can it be

6 irrelevant --

7 THE COURT: Mr. Schiff --

8 MR. SCHIFF: -- when the Government's --

9 THE COURT: Mr. Schiff --

10 MR. SCHIFF: -- trying to prove --

11 THE COURT: -- Mr. Schiff, you do not argue with the

12 Court. I have ruled that it is irrelevant.

13 MR. SCHIFF: All right.

14 Well, all I want to say, your Honor, is that the

15 Government is trying to suggest that I told Dr. Dentice to file

16 amended returns. And, because of that, he was convicted when

17 the judge pronounced him innocent before sentencing him.

18 THE COURT: He --

19 MR. SCHIFF: All right.

20 BY MR. SCHIFF:

21 Q. Now --

22 THE COURT: Mr. Schiff, the evidence before the Court

23 is that --

24 MR. SCHIFF: All right.

25 THE COURT: -- he was found guilty and the conviction

1 was affirmed by the Ninth Circuit.

2 MR. SCHIFF: Well, but the judge said he believed --  
3 here's -- here's -- here's the transcript that --

4 THE COURT: Mr. Schiff --

5 MR. SCHIFF: All right. All right.

6 MR. NEIMAN: Your Honor, the transcript --

7 BY MR. SCHIFF:

8 Q. Dr. Dentice -- Dr. Dentice --

9 MR. CRISTALLI: Your Honor, I have to object. I don't  
10 believe, um, there was any testimony in terms of an affirmance  
11 from the Ninth Circuit. I may have missed it, but I don't  
12 believe that there was.

13 THE COURT: There was.

14 MR. NEIMAN: There was.

15 MR. CRISTALLI: Was there?

16 THE COURT: Yes, there was.

17 MR. SCHIFF: Okay.

18 BY MR. SCHIFF:

19 Q. Dr. Dentice, when you filed your amended return, there were  
20 three statements on there: One, you had no income; B, you're  
21 entitled to a refund; and, three, you didn't believe you had any  
22 income tax liability.

23 THE COURT: That question --

24 BY MR. SCHIFF:

25 Q. When you filed --



1 THE COURT: -- has been asked and answered.

2 BY MR. SCHIFF:

3 Q. All right. So you believed it then --

4 THE COURT: Mr. Schiff --

5 BY MR. SCHIFF:

6 Q. -- is that correct?

7 THE COURT: Mr. Schiff, that question has also been

8 asked and answered.

9 MR. SCHIFF: Okay.

10 BY MR. SCHIFF:

11 Q. Do you still believe it now?

12 A. Yes.

13 Q. Do you believe it now?

14 THE COURT: That is irrelevant whether he believes it

15 now.

16 MR. SCHIFF: Well... But -- well, it's relevant

17 because the prosecutor asked him if he's paying income taxes.

18 So the inference is --

19 THE COURT: Mr. --

20 MR. SCHIFF: -- he doesn't believe it.

21 THE COURT: -- Mr. Schiff, I've already made my ruling.

22 We're going to take our mid-morning break. We'll be in

23 recess for approximately 15 minutes.

24 Wait for the jury to leave.

25

1 (Jury leaves the courtroom at 10:30 a.m.)

2 THE COURT: The Exclusionary Rule has been enforced.

3 That means you don't discuss your testimony.

4 Okay. We are in recess.

5 Sidebar with counsel.

6 (Sidebar conference was held as follows:)

7 THE COURT: Okay. There has to be some consequence for  
8 you continuing to disregard my rulings and going back to the  
9 very same question attempting to get in the same material that  
10 has been identified as irrelevant or inadmissible. The  
11 consequence is going to be that in the future you will risk a  
12 contempt citation by the Court, direct contempt, and I will  
13 impose sanctions. And I will -- I'll do it outside the presence  
14 of the jury. But you're -- you're facing some time for each  
15 contempt that you commit hereafter.

16 MR. SCHIFF: Okay.

17 THE COURT: You're delaying the trial.

18 MR. SCHIFF: I'm --

19 THE COURT: You do not honor the rulings of the Court.  
20 And so that's got to be the consequence because so far there's  
21 been no consequence and you keep doing --

22 MR. SCHIFF: Okay.

23 THE COURT: -- the same thing I asked you to stop.

24 MR. SCHIFF: Okay.

25 Here is the implications with the -- with the zero

1 return. The Government attempted to suggest that I prepared  
2 these amended return, took no responsibility, and he was  
3 convicted --

4 THE COURT: You're not gonna reargue.

5 MR. SCHIFF: I'm not rearguing.

6 THE COURT: You are.

7 MR. SCHIFF: All I'm saying is that --

8 THE COURT: Exactly.

9 MR. SCHIFF: -- is that his --

10 THE COURT: You're rearguing.

11 MR. SCHIFF: -- is that he was convicted because of  
12 ineffective counsel. There was nothing -- the -- the -- the --  
13 the --

14 THE COURT: You're not gonna retry the case.

15 MR. SCHIFF: But it wasn't my fault.

16 THE COURT: The issue is not anything other than notice  
17 to you that your theories had been rejected.

18 MR. SCHIFF: But -- but don't you think it's  
19 significant that -- that -- that the witness for the Government  
20 would ask if she understood the amended return said no?

21 THE COURT: We're not gonna spend our time retying the  
22 San Diego case.

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

24 THE COURT: That's exactly --

25 MR. SCHIFF: -- I'm not trying to --

1 THE COURT: -- what you're doing.

2 MR. BOWERS: Your Honor, just briefly --

3 MR. SCHIFF: Well, I don't understand.

4 MR. BOWERS: -- we'd renew our motion for severance for  
5 the record.

6 MR. CRISTALLI: I will join.

7 MR. IGNALL: I don't know if it makes any difference --  
8 I mentioned this to Mr. Bowers -- the Government's willing to  
9 agree that they haven't waived their --

10 MR. SCHIFF: He --

11 MR. IGNALL: -- motion to sever --

12 MR. SCHIFF: -- the judge --

13 MR. IGNALL: -- if they don't make it again.

14 THE COURT: Yeah. Well --

15 THE REPORTER: I can't follow. Excuse me.

16 MR. BOWERS: I think for appellate purposes --

17 THE COURT: Yeah.

18 MR. BOWERS: -- each time there's a --

19 THE COURT: Well, here's what we need to do: We need  
20 to agree that, you know, rather than taking a sidebar --

21 MR. BOWERS: Absolutely, yeah.

22 THE COURT: -- at a critical time we'll denominate this  
23 as motion number whatever.

24 MR. BOWERS: I wish I knew.

25 THE COURT: And so you hold up your fingers, renew

1 motion No. 7.

2 MR. SCHIFF: Wait. Look, your Honor --

3 THE COURT: Okay.

4 MR. SCHIFF: -- this whole trial is about my belief and  
5 giving false information. The fact is this judge said at  
6 sentencing that he believed he was entitled to a refund.

7 MR. BOWERS: Irwin, don't -- don't point out what he's  
8 gonna do right here.

9 MR. SCHIFF: I mean, I don't understand. So you're  
10 saying I can't protect myself --

11 THE COURT: No, I'm not.

12 MR. SCHIFF: -- from --

13 THE COURT: I'm saying you need to listen to the  
14 rulings of the Court. And, if you continue to disregard them as  
15 you have repeatedly, I am going to impose sanctions because  
16 there has to be a penalty for you doing that.

17 MR. SCHIFF: I don't understand how the Government  
18 could introduce pages from the transcript and I can't.

19 THE COURT: The ruling is the ruling. Whether you like  
20 it or not, you don't disregard it.

21 MR. NEIMAN: Mr. Schiff, we didn't introduce the  
22 transcript.

23 MR. SCHIFF: Well, I don't know the difference. You  
24 referred to the transcript.

25

1 (Sidebar conference concluded and the  
2 following is held in open court:)

3 (Recess from 10:34 a.m. to 10:48 a.m.)

4 THE CLERK: All rise.

5 THE COURT: Bring the jurors back in.

6 THE CLERK: Yes, sir.

7 MR. NEIMAN: Your Honor, just one small issue before we  
8 bring the jury in.

9 We -- the Government handed up to your clerk a immunity  
10 order for a witness which we anticipate getting to at some point  
11 this afternoon. Just...

12 THE COURT: Okay. Has opposing counsel seen the  
13 motion?

14 MR. NEIMAN: They've been provided a copy.

15 THE COURT: Any commentary on the --

16 MR. CRISTALLI: No objection.

17 THE COURT: No objection?

18 MR. BOWERS: On the -- on the immunity? Only that --  
19 is that what we're talking about here? I'm sorry.

20 THE COURT: Yeah.

21 MR. BOWERS: Only that, um -- are we gonna -- at some  
22 point is the jury ever gonna hear from the Government what use  
23 immunity is or the Court or...

24 THE COURT: Well, there will be an instruction on it,  
25 yes. At the end there will be an instruction.

1 MR. BOWERS: Okay.

2 THE COURT: The question is --

3 MR. BOWERS: I mean, is it fair to say for the purposes  
4 of any examination simply that use immunity means they can't use  
5 his testimony -- or they can't use his testimony here in court  
6 directly again him? Is that a fair characterization?

7 MR. CRISTALLI: I think we'll cover it on  
8 cross-examination I'm sure.

9 MR. IGNALL: Your Honor, we proposed -- I think it's --

10 THE COURT: It was with the last witness, so -- that  
11 was given immunity.

12 MR. IGNALL: Yeah. We proposed an instruction. I  
13 think it's a pattern instruction, 4.9.

14 THE COURT: It is. I always give it where immunity is  
15 offered. There will be an instruction.

16 MR. BOWERS: Okay. Well, I just don't want to get in  
17 trouble for misstating what the Government believes they're  
18 givin' the guy.

19 THE COURT: Well --

20 MR. BOWERS: Okay.

21 THE COURT: -- you've said it, they didn't disagree.  
22 So...

23 MR. BOWERS: There we go. Thank you, your Honor.

24 THE CLERK: Mr. Modafferi, will you bring the witness  
25 in, please?

1 MR. MODAFFERI: Oh, sure.

2 THE CLERK: Thank you.

3 (Pause in the proceedings.)

4 THE COURT: Still waiting.

5 (Pause in the proceedings.)

6 THE CLERK: Ready?

7 THE COURT: Yes.

8 (Jury enters the courtroom at 10:52 a.m.)

9 THE COURT: Please be seated.

10 Will counsel stipulate to the presence of the jury?

11 MR. NEIMAN: Yes, your Honor.

12 MR. BOWERS: Yes, your Honor.

13 MR. CRISTALLI: Yes, your Honor.

14 THE COURT: Mr. Schiff, you may resume your

15 examination.

16 BY MR. SCHIFF:

17 Q. Dr. Dentice, uh, after you filed those amended returns under

18 my direction, did I do everything I possibly could to support

19 the validity of those amended returns, including making two

20 appearances at your trial and filing an amicus brief to the

21 Court? In other words, did I do everything I possibly could to

22 support the validity of --

23 A. You did a great deal, yes.

24 Q. Did I charge you any money for coming to -- where was the

25 court?



1 A. San Diego.

2 Q. San Diego.

3 Did I charge you for my appearances?

4 A. No.

5 Q. Did I charge you for filing the amicus brief?

6 A. No.

7 Q. Did I ever give you any reason to -- to believe [sic] the  
8 sincerity of my beliefs with respect to income tax?

9 A. No.

10 Q. I never gave you any reason to believe that I didn't hold  
11 these beliefs sincerely?

12 THE COURT: Mr. Schiff, you asked that question; it was  
13 answered.

14 BY MR. SCHIFF:

15 Q. I think you testified in front of the Grand Jury that you  
16 believed I was an expert at the time.

17 A. Yes.

18 Q. Now, you read my books?

19 A. For the most part, yes.

20 Q. All right. Do you still believe I'm an expert?

21 A. Yes.

22 Q. Despite the fact that you served 15 months in jail for  
23 filing the amended returns?

24 A. Yes.

25 MR. SCHIFF: No further questions.

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

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

3 THE COURT: Mr. Bowers?

4 MR. BOWERS: No, thank you, your Honor.

5 THE COURT: Redirect?

6 MR. NEIMAN: Very briefly, your Honor.

7

8 REDIRECT EXAMINATION

9 BY MR. NEIMAN:

10 Q. Mr. Dentice, you were charged with filing two sets of tax  
11 returns. Is that not correct?

12 A. Referring to the original charges and the subsequent  
13 1040X's?

14 Q. Yes.

15 A. Yes.

16 Q. You were charged with filing 1040's -- false 1040's --

17 A. That's correct.

18 Q. -- and false 1040X's?

19 A. That's correct.

20 Q. Mr. Schiff only advised you with regards to -- did  
21 Mr. Schiff advise you solely to the 1040X's?

22 A. Well, that's -- that's a complex question. I mean, he  
23 participated in the 1040, uh, X's directly, yes.

24 Q. Did he participate in any way with the 1040's?

25 A. Insofar as the Court is concerned, no.

1 Q. Were you convicted for filing the 1040's?

2 A. No.

3 Q. Were you convicted for filing the 1040X's which Mr. Schiff  
4 helped you prepare?

5 A. Yes.

6 MR. NEIMAN: Nothing further, your Honor.

7 THE COURT: Anything else?

8 MR. SCHIFF: No, nothing from me.

9 THE COURT: Okay. Thank you.

10 Government may call its next witness.

11 MR. NEIMAN: Your Honor, the United States will call  
12 Dr. Farooq Abdulla at this time.

13 (Pause in the proceedings.)

14 (Farooq Abdulla takes the witness stand.)

15 THE COURT: Right up here, sir.

16 THE CLERK: Go ahead up to the top of the stairs there.

17 THE COURT: First and last name spelled.

18 THE CLERK: Please remain standing. Raise your right  
19 hand.

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

23 THE WITNESS: The truth.

24 THE CLERK: Thank you. Please be seated.

25 Please state for the record your full name, spelling

1 both your first name and your last name.

2 THE WITNESS: Farooq Abdulla, F-a-r-o-o-q; last name,  
3 Abdulla, A-b-d-u-l-l-a.

4

5 FAROOQ ABDULLA,  
6 called as a witness on behalf of the Government, having been  
7 first duly sworn, was examined and testified as follows:

8

9 THE COURT: You may proceed.

10

11 DIRECT EXAMINATION

12 BY MR. IGNALL:

13 Q. Good morning, sir.

14 What do you do for a living?

15 A. I am a physician.

16 Q. And where are you a physician, Dr. Abdulla?

17 A. University Medical Center.

18 Q. And how long have you been there?

19 A. About 13 years.

20 Q. And what is your speciality?

21 A. Neonatology.

22 Q. And what does that mean for those of us who aren't doctors?

23 A. That is treating premature babies.

24 Q. How long have you been -- where do you currently live?

25 A. Uh, Las Vegas.

1 Q. And how long have you lived in Las Vegas?

2 A. Uh, 13 years.

3 Q. Have you ever heard of Irwin Schiff or Freedom Books?

4 A. Yes, sir.

5 Q. When did you first hear of Mr. Schiff?

6 A. I think that was back in, um, '98/'99. I don't remember

7 exactly.

8 Q. How did you first hear about Mr. Schiff?

9 A. I think one of the his sign boards on the street. Signs.

10 Q. On the street where? Do you recall?

11 A. Um, Sahara.

12 Q. All right. And what did that sign post say?

13 A. At that time, I think it said "Freedom Books" and something

14 about income.

15 Q. All right. Did you ever do anything after seeing that sign

16 with respect to Freedom Books?

17 A. Um, yeah. I got some flyers from there. Then I attended

18 one of the seminars.

19 Q. Where did you get these flyers?

20 A. From the, uh -- from that -- from the Freedom Books.

21 Q. Okay. Did you -- you said something about a seminar. Where

22 was that seminars held?

23 A. You know, I don't remember exactly where that was. It was

24 one of the local casinos.

25 Q. And who spoke at the seminar?

1 A. Uh, again, I -- I -- I don't remember exactly. But I think  
2 Irwin Schiff was one of the speakers also.

3 Q. All right. What did Mr. Schiff speak about generally at  
4 this seminar?

5 A. I don't remember the exact things. But I think it was  
6 something about, uh, taxes, how to file your taxes and all  
7 those.

8 Q. How to file them?

9 A. Yeah. Basically, um, that there was, uh, uh, uh -- that --  
10 that it is mandatory to file the taxes.

11 Q. Okay. How many people were at this seminar?

12 A. Again, I don't remember the exact numbers. But there were  
13 maybe at least 100 people, I would think.

14 Q. And how long did this seminar last?

15 MR. CRISTALLI: I'm sorry. Could we have a  
16 clarification. I didn't hear how many.

17 THE COURT: Over a hundred.

18 MR. CRISTALLI: Thank you.

19 THE COURT: At least a hundred.

20 MR. CRISTALLI: Thank you.

21 BY MR. IGNALL:

22 Q. How long did this seminar last, Dr. Abdulla?

23 A. It was a few hours.

24 Q. After the conference, did you ever have a chance to speak  
25 with Mr. Schiff?

1 A. Yes, I think I did.

2 Q. Can you describe when that was?

3 A. After the seminar. But, again, I don't remember any of that  
4 part of the conversation.

5 Q. You just remember speaking to Mr. Schiff?

6 A. Yeah, I do remember speaking to Mr. Schiff.

7 Q. Did you ever speak with Mr. Schiff again after the seminar?

8 A. Yeah. I had made some appointments to see him in his  
9 office.

10 Q. Did you ever go see Mr. Schiff in his office?

11 A. Yes, I did.

12 Q. What did you speak with Mr. Schiff about when you went to go  
13 see him?

14 A. Uh, about, you know, filing my taxes for me.

15 Q. Had you filed tax returns before you met with Mr. Schiff?

16 A. Uh, no. This was the first time I wanted him to file for my  
17 taxes.

18 Q. I'm sorry. That was a bad question.

19 Before you met Mr. Schiff, were you filing tax returns  
20 every --

21 A. Yes --

22 Q. -- year?

23 A. -- I did.

24 Q. And what were you reporting as wages on those tax returns?

25 A. Whatever my accountant was, uh, uh, figuring it out. So I

1 was reporting as the wages -- whatever it was there.

2 Q. You had an accountant prepare your tax return?

3 A. Yeah, an accountant prepare the taxes.

4 Q. And do you get a Form W-2 every year from the hospital?

5 A. Yes, I did.

6 Q. And, before you met Mr. Schiff, were you reporting the  
7 amount on that W-2 on your tax returns --

8 A. Yes.

9 Q. -- as wages?

10 When you met with Mr. Schiff to prepare your tax  
11 return, did you discuss whether you needed to report that W-2  
12 amount?

13 A. Yes, I discussed with him.

14 Q. What was -- tell me about that discussion.

15 A. Uh, as far as I remember, uh, that it was not mandatory and  
16 it was not in the law that you're supposed to file your taxes.

17 Q. And what did Mr. Schiff say he could do for you on your tax  
18 return?

19 A. He said -- he explain me how -- you know, how to file the  
20 taxes and he said you can file zero taxes.

21 Q. Did you have a discussion when you first went in to talk  
22 about this with Mr. Schiff about how the IRS would respond?

23 A. Yeah. He said IRS will send you letters that it is a  
24 frivolous tax return.

25 Q. Did he say what, if anything, he could do about that?



1 A. He said he has got certain, um -- certain answers and  
2 certain forms to fill out which he can give it to me.

3 Q. When you say "give," did you have to pay for any of this?

4 A. Excuse me, please?

5 Q. Did you have to pay for anything that Mr. Schiff provided?

6 A. Yeah, I had to pay for that.

7 MR. SCHIFF: I can't hear what he's saying.

8 BY MR. IGNALL:

9 Q. Did you pay for your initial consultation with Mr. Schiff?

10 A. Yes, I did.

11 Q. How much did you pay?

12 A. It should be on the receipts. I don't remember exactly what  
13 the amount was there.

14 MR. IGNALL: May I approach the witness, your Honor?

15 THE COURT: You may.

16 BY MR. IGNALL:

17 Q. If I could ask you to turn your attention to what we've  
18 marked for identification as Exhibit 211 -- I believe there are  
19 two documents in there -- can you tell me if looking at that  
20 refreshes your recollection as to how much you paid Mr. Schiff?

21 A. (Reviewing document.)

22 Yeah. The amount it says is a hundred fifty-one  
23 dollars. So, um, \$200 income preparation and \$200 for  
24 consultation.

25 Q. Does that refresh your recollection as to how much you paid

1 Mr. Schiff?

2 A. Yeah, that is correct.

3 Q. All right. Now, did you -- how much did you pay Mr. Schiff  
4 to prepare your income tax returns?

5 A. I think that should be on the receipts also. I don't recall  
6 how much.

7 Q. If you look at 211A on the right-hand side near the bottom,  
8 does that -- if you look at that -- does that refresh your  
9 recollection as to how much you paid to have your income tax  
10 return prepared?

11 A. (Reviewing document.)

12 Uh, yeah. That's what amount it is.

13 Q. All right.

14 MR. IGNALL: At this point, the Government moves into  
15 evidence Exhibit --

16 BY MR. IGNALL:

17 Q. Tell me: Do you recognize Exhibit 211A?

18 A. Yes.

19 Q. What is this?

20 A. This is the amount for income tax preparation and for  
21 consultation.

22 Q. Is this -- is this a receipt for the items you purchased at  
23 Freedom Books?

24 A. Yeah, that's what it is.

25 MR. IGNALL: At this point, the Government moves into

1 evidence Exhibit 211A.

2 MR. CRISTALLI: No objection.

3 MR. BOWERS: That's fine, your Honor.

4 MR. SCHIFF: No objection.

5 MR. IGNALL: If we could put that on the screen.

6 THE COURT: 211A is received.

7 MR. IGNALL: Thank you, your Honor.

8 (Government's Exhibit No. 211A, received into  
9 evidence.)

10 (Document displayed in open court.)

11 BY MR. IGNALL:

12 Q. I'm sorry. Now, if we look in the upper right-hand corner  
13 for the total, what does that number say?

14 A. \$551.

15 Q. Is that the amount of money you paid Mr. Schiff on the day  
16 of that receipt?

17 A. Uh, yeah. If it is there, probably I did pay that amount of  
18 money.

19 Q. All right. What's the date of this, uh, receipt?

20 A. Uh, 4-18 of 2000.

21 Q. Okay. Did you actually have Mr. Schiff prepare a tax return  
22 for you?

23 A. Yes, sir.

24 Q. If I could turn your attention to Exhibit 207 -- it should  
25 be in front of you now, Dr. Abdulla -- what is -- what is

1 Exhibit 207? I'm sorry. Do you recognize Exhibit 207? You may  
2 want to go past the first page.

3 A. (Reviewing document.)

4 Uh, yes, I do.

5 Q. What is Exhibit 207?

6 A. Uh, this is the 1040 U.S. individual Tax Court return for  
7 1999.

8 Q. Is it your tax return?

9 A. Yes, sir.

10 Q. Who prepared that tax return?

11 A. Uh, Mr. Schiff's office.

12 MR. SCHIFF: Is there a document in evidence? I didn't  
13 see it.

14 MR. IGNALL: At this point, the Government moves into  
15 evidence Exhibit 207.

16 THE COURT: 207. Any objection to 207? Cristalli?  
17 Mr. Cristalli?

18 (Pause in the proceedings.)

19 MR. CRISTALLI: No objection.

20 MR. BOWERS: I have no objection, your Honor.

21 THE COURT: Thank you.

22 Mr. Schiff?

23 MR. SCHIFF: No objection.

24 THE COURT: 207 is received.

25

1 (Government's Exhibit No. 207, received into  
2 evidence.)

3 MR. IGNALL: May we publish 207 to the jury?

4 THE COURT: You may.

5 (Document displayed in open court.)

6 MR. IGNALL: If we could turn to this next page and if  
7 we could highlight the top.

8 BY MR. IGNALL:

9 Q. Is that your name -- at the top of the return, is that your  
10 name and your wife's name, Dr. Abdulla?

11 A. Yes, sir.

12 Q. Okay. If we could down to line 7, can you read the amount  
13 written down on line 7?

14 A. Zero.

15 Q. Do you know who wrote in that -- that zero?

16 A. Excuse me?

17 Q. Do you know who wrote in the numbers on this tax return?

18 A. Yeah. One of the people in, uh, Mr. Schiff's office. Um, I  
19 don't recall her name. If you can give me some names, I might  
20 recall.

21 Q. Uh, does the name Cynthia Neun sound familiar?

22 A. Uh, I think Cynthia Neun.

23 MR. CRISTALLI: Objection. Foundation.

24 THE COURT: Foundation.

25

1 BY MR. IGNALL:

2 Q. Have you ever met Cynthia Neun?

3 A. Yes, in the office.

4 Q. Okay. Do you know whether or not she filled out any part of

5 your tax return?

6 A. Excuse me?

7 Q. Do you know if she filled out any part of your tax return?

8 A. Yeah. She fill out the numbers for me.

9 Q. All right. Do you see her here in the courtroom today?

10 A. Uh, yeah, I think so. Yeah.

11 Q. Can you identify her by what she's wearing?

12 A. Huh?

13 Q. Can you identify her what she's wearing?

14 A. Yeah. She's wearing the white jacket.

15 MR. IGNALL: Will the record reflect the identification

16 of Defendant Neun?

17 THE COURT: Yes.

18 BY MR. IGNALL:

19 Q. All right. So back to line 7, did you discuss your wages

20 with Mr. Schiff when you were at Freedom Books?

21 A. Yes, I did.

22 Q. Did you bring in your W-2's that you had gotten from the

23 hospital?

24 A. Yes, I did bring my W-2 forms also.

25 Q. And if we could turn your attention, go two more pages from

1       there and ask you: Is that a copy of your W-2?

2       A. Yes, sir.

3       Q. And how much does that W-2 show as "Wages, tips, [and] other  
4       compensation"?

5       A. \$183,320.

6       Q. And how much does that W-2 show as "federal income tax  
7       withheld"?

8       A. Excuse me?

9       Q. And it's just to the right of that, Box 2.

10      A. Box 2 says \$37,732.83.

11      Q. Did you seek a refund of taxes that you paid when you filled  
12      out -- or had someone at Freedom Books fill out your Form 1040  
13      for 1999?

14      A. Uh, you know, I don't recall. But, if it is recorded there,  
15      it should be correct.

16      Q. If you could -- if you could go back to page 2 of your tax  
17      return, does that refresh your recollection if you sought the  
18      refund?

19      A. Yeah, that is what it is.

20      Q. Upon whose suggestion did you seek that refund?

21      A. Uh, Mr. Irwin Schiff.

22      Q. Did you have a discussion with Ms. Neun about seeking a  
23      refund for the taxes that you had withheld?

24      A. I don't recall that.

25      Q. Okay. If I could turn your attention to the bottom of that

1 page 2 of your tax return, under -- is that your signature at  
2 the bottom?

3 A. Yes, sir.

4 Q. And below that in "Paid Preparer's Use Only," do you know  
5 whose signature that s?

6 A. That is Mr. Irwin Schiff.

7 Q. Did you ask Mr. Schiff to sign that tax return for you?

8 A. Yes, sir.

9 Q. Why did you ask him to do that? Did you tell him why you  
10 wanted to do it?

11 A. Because when my accountant prepares for my tax return, he  
12 signs it. So I requested him if he would sign it if he's  
13 preparing my tax return.

14 MR. SCHIFF: What was his answer? I didn't hear.

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

17 BY MR. IGNALL:

18 Q. Did you ever bring in any tax returns that you had prepared  
19 by your accountant when you had went in to Freedom Books?

20 A. I don't recall that.

21 Q. If I could turn your attention to the -- the -- it's  
22 probably -- two pages after this one on your tax return there  
23 appears to be a typed out letter.

24 Do you see that document, Dr. Abdulla?

25 A. Yes, sir.



1 Q. Did you file this in your tax return for 1999?

2 A. Uh, yes, sir.

3 Q. Did you write this letter?

4 A. I got this letter from Mr. Irwin Schiff's office.

5 Q. And did you -- at the top it says, "We, Farooq and Nighat  
6 Abdulla." Did you type that in yourself?

7 A. I -- I got it typed --

8 Q. Someone --

9 A. -- from --

10 Q. -- who typed it?

11 A. Um, I don't recall that.

12 Q. Where was it? Was it at Freedom Books?

13 A. Yes, sir.

14 Q. All right. Did you personally write any of the material  
15 that's contained in this two-page letter?

16 A. No, sir.

17 Q. Okay. Did you have a discussion with Mr. Schiff about this  
18 letter?

19 A. A brief discussion.

20 MR. SCHIFF: What -- what was his answer there?

21 THE COURT: A brief discussion.

22 BY MR. IGNALL:

23 Q. What -- what was that brief discussion?

24 A. Again, he -- I -- I don't recall exactly. But I think he  
25 just explained to me this is the letter. You can file it. Um,

1 and this is all the answers which the IRS is requesting.

2 Q. After filing this tax return, did you get a refund for your  
3 1999 withheld taxes?

4 A. No, sir.

5 Q. Did you get anything else from the IRS instead of a refund?

6 A. I think I got a letter back, um, from the IRS.

7 Q. If I could turn your attention to Exhibit 208, would you  
8 tell me if you recognize Exhibit 208?

9 A. (Reviewing document.) Yes, sir.

10 Q. What is Exhibit 208?

11 A. It says that "We have determined that the document referred  
12 to above is frivolous and your position has no basis in law."

13 Q. Who is this letter from, Dr. Abdulla?

14 A. The Internal Revenue Service.

15 Q. Is it addressed to you?

16 A. Yes, sir.

17 MR. IGNALL: Government moves into evidence  
18 Exhibit 208.

19 THE COURT: 208, any objection?

20 MR. CRISTALLI: No objection.

21 MR. BOWERS: I don't have any objection.

22 MR. SCHIFF: Was that the frivolous response letter?

23 MR. IGNALL: Yes.

24 MR. SCHIFF: No objection.

25 THE COURT: 208 is received.

1                   (Government's Exhibit No. 208, received into  
2                   evidence.)

3                   MR. IGNALL:  If we can publish that to the jury.

4                   (Document displayed in open court.)

5                   BY MR. IGNALL:

6                   Q.  Can you read it from that letter?  What is the tax period  
7                   that this letter concerns, what year?

8                   A.  The date says June 29th of 2000.

9                   Q.  Is that the date -- that's the date of the letter.

10                  A.  Date of the letter.

11                  Q.  Does it refer to the tax period?  I believe if you look on  
12                  the right-hand side.

13                  A.  For -- for 1999.

14                  Q.  Thank you.

15                  When you got this letter did you take it into Freedom  
16                  Books?

17                  A.  I think I did.

18                  Q.  Did you speak to Mr. Schiff when you went back in with this  
19                  letter?

20                  A.  I very vaguely remember.  I might have spoken to him.  Shown  
21                  him the letter.

22                  MR. SCHIFF:  Your Honor, he doesn't remember.

23                  THE COURT:  He said he vaguely remembers --

24                  MR. SCHIFF:  Speculation.

25                  THE COURT:  -- he might have spoken.

1 BY MR. IGNALL:

2 Q. Let me turn your attention to Exhibit 209.

3 A. (Complies.)

4 Q. Maybe I -- do you recall going into Freedom Books with any  
5 letters that you'd gotten from the IRS?

6 A. Yes, sir.

7 Q. Do you ever speak with Mr. Schiff about letters from the  
8 IRS?

9 A. Yes, sir.

10 Q. What did Mr. Schiff tell you when you got letters from the  
11 IRS?

12 A. I don't remember what he exactly told me. But all I  
13 remember that I got some -- some other forms to answer back to,  
14 uh, IRS.

15 Q. Did you say you bought those forms?

16 A. I got those forms.

17 Q. Did you have to pay for those forms?

18 A. I don't remember.

19 Q. If I could turn your attention -- looking at Exhibit 209, do  
20 you recognize Exhibit 209?

21 A. Yes, sir.

22 Q. Okay. What is Exhibit 209?

23 A. It is addressed to the Department of the Treasury, Internal  
24 Revenue Services.

25 Q. And is this a letter?

1 A. Yes, sir.

2 Q. Did you -- did you write this letter yourself?

3 A. No, sir.

4 Q. Where did you get this letter?

5 A. Uh, from, uh, Mr. Irwin Schiff's office.

6 Q. All right. And did you fill in the blanks yourself for this  
7 letter?

8 A. I did fill it up.

9 Q. Did you send this letter to the Internal Revenue Service?

10 A. Yes, sir.

11 MR. IGNALL: Government moves into evidence  
12 Exhibit 209.

13 THE COURT: 209?

14 MR. BOWERS: I have no objection.

15 MR. CRISTALLI: No objection.

16 MR. SCHIFF: No objection.

17 THE COURT: 209 is received.

18 (Government's Exhibit No. 209, received into  
19 evidence.)

20 BY MR. IGNALL:

21 Q. And, Dr. Abdulla, if I could turn your attention to just  
22 look at Exhibit 211B and let me ask you if that refreshes your  
23 recollection as to whether you ever paid for responses -- for  
24 response letters when you went into Freedom Books.

25 A. (Reviewing document.)

1           Whatever the receipts I have I did pay for those ones.

2       Q.   But, if you look at 211B, does that refresh your  
3       recollection if you...

4           MR. CRISTALLI:  Objection.  Asked and answered.

5       BY MR. IGNALL:

6       Q.   -- paid for anyone -- hold on.  I think we may be able to...

7           MR. CRISTALLI:  All right.

8           MR. IGNALL:  Let me withdraw that question at the  
9       moment.

10       BY MR. IGNALL:

11       Q.   Going back to Exhibit 209, there's certain arguments that --  
12       what's the -- let me -- let me back up here.

13           You say your -- read the first line to us.

14       A.   From Exhibit 209 you said?

15       Q.   Yes, please.

16       A.   "Dear Mr. Parizak

17           "Your letter of June 29, 2000, (attached) identifies  
18       you as being Chief, Examination Branch  However, IRS Manual  
19       MT" --

20       Q.   All right.  That's okay.  You said June 29th, 2000.  Is  
21       that -- did you write that letter in response to the letter that  
22       we've identified as Exhibit 208?

23       A.   Yes, sir.

24       Q.   And on whose suggestion did you send this letter in response  
25       to Exhibit 208?

- 1 A. Mr. Irwin's [sic] office.
- 2 Q. All right. And that's where you obtained the letter to  
3 begin with?
- 4 A. Yes, sir.
- 5 Q. All right. Thank you.
- 6 Did you ever get any more letters from the IRS?
- 7 A. I don't recall. But, uh, whatever is on the record those  
8 were the letters I received.
- 9 Q. All right. Did the IRS ever, uh, indicate to you that you  
10 had an additional tax due and owing?
- 11 A. Did it -- did it indicated that the tax return which I filed  
12 was frivolous and I -- I do need to correct that tax return and  
13 send them the amount of the penalty.
- 14 Q. Did the IRS ever send you any indication that they were  
15 going to file a lien or levy any of your property?
- 16 A. Not that I can recall.
- 17 Q. If I could turn your attention to Exhibit 210, if you can  
18 look over -- I believe it's three pages -- and tell me if you --  
19 if that refreshes your recollection about whether you had gotten  
20 any Notices of Liens or Levy from the IRS.
- 21 A. (Reviewing document.)
- 22 Yes, sir, I do recall receiving this letter.
- 23 Q. All right. Which letter are you looking at now?
- 24 A. "Urgent!!" on page No. 3.
- 25 Q. Okay. So you do recall the IRS sent you a letter saying

1 they were going to levy certain property?

2 A. Yes, sir --

3 Q. All right.

4 A. -- I do recall now.

5 Q. When you got that notice from the IRS, did you go down to

6 Freedom Books?

7 A. Yes, sir.

8 Q. Did you speak to anyone at Freedom Books about that notice?

9 A. Yes, sir.

10 Q. Do you remember who you spoke to?

11 A. No, sir.

12 Q. All right. Did you -- what did you get from Freedom Books,

13 if anything, in response to that letter when you brought it down

14 there, the notice?

15 A. Um, this other form here, the letter, Exhibit 210, the first

16 page.

17 Q. Okay. Did you get more than one letter?

18 A. Uh, these were two letters which are on Exhibit 210 which I

19 received.

20 Q. From -- from where?

21 A. From Freedom Books.

22 Q. All right.

23 MR. IGNALL: Government moves into evidence

24 Exhibit 210.

25 MR. CRISTALLI: No objection.



1 MR. BOWERS: No objection, your Honor.

2 MR. SCHIFF: No objection. What's 210?

3 THE COURT: 210 is received.

4 (Government's Exhibit No. 210, received into  
5 evidence.)

6 MR. IGNALL: All right. I'm sorry. Has 210 been  
7 received, your Honor?

8 THE COURT: It has.

9 MR. IGNALL: All right. Thank you.

10 (Document displayed in open court.)

11 BY MR. IGNALL:

12 Q. If I could turn your attention to the second page of  
13 Exhibit 210.

14 MR. SCHIFF: What is Exhibit 210?

15 BY MR. IGNALL:

16 Q. Did you write any part of this letter that's Exhibit --  
17 second page of Exhibit 210?

18 A. No, sir.

19 Q. All right. And can you read the first paragraph of that  
20 letter -- who is -- who is this letter sent to?

21 A. Director, IRS Service Center, Ogden, Utah.

22 Q. All right. Did you send this letter to the IRS in Ogden,  
23 Utah?

24 A. Yes, sir.

25 Q. All right. If you could read the first paragraph for us,

1 please.

2 A. "Dear Sir:

3 "I received an" -- "I received ... attached 'URGENT'  
4 from your Service Center, and while your name does not appear on  
5 that 'URGENT'-nor any name for that matter- I will be holding  
6 you, as the Director of the Service Center, responsible for  
7 sending it out for any seizure action stemming from it."

8 (Document displayed in open court.)

9 BY MR. IGNALL:

10 Q. All right. If I could turn your attention to the first page  
11 of Exhibit 210. Do you recognize this letter?

12 A. Yes, sir.

13 Q. Did you write any portion of this letter?

14 A. No, sir.

15 Q. To whom is this letter addressed?

16 A. "Charles O Rossotti, Commissioner, Internal Revenue  
17 Service."

18 Q. Did you send this letter to Mr. Rossotti?

19 A. Yes, sir.

20 Q. Did you send a copy of this letter to anyone else?

21 A. Copies to the -- yeah, at the on bottom, "Lawrence H  
22 Summers, Secretary of Treasury."

23 Q. If you read the first paragraph of this letter that you --  
24 I'm sorry. Where -- where did you get this letter?

25 A. From Mr., uh, Irwin Schiff's office.

1 Q. All right. If you read the first paragraph of the letter.

2 A. "Dear Commissioner Rossotti,

3 "Attached please find a copy of a letter that I sent to  
4 the Director of the IRS Service Center in Ogden Utah. My letter  
5 was in response to an 'URGENT' I received from him which  
6 informed me that the IRS would 'take my paycheck, bank account,  
7 auto or other property unless we do not receive payment in  
8 full ' The Notice was false and fraudulent on a variety of  
9 grounds, even overlooking the IRS's unauthorized and unwarranted  
10 penalty claim, the basis for the notice, as is clearly spelled  
11 out in my 2-page response to the notice, which is also  
12 attached."

13 Q. All right. Thank you.

14 What did the IRS do after you sent in this letter -- or  
15 these letters? Let me ask that differently.

16 Did these letters resolve your tax problems with the  
17 IRS?

18 A. No, sir.

19 MR. SCHIFF: Your Honor, I have an objection here.

20 THE COURT: What is your objection?

21 MR. SCHIFF: The Government is -- not that -- I sent  
22 out letters. At no time is the Government pointing out what in  
23 the letter is false or fraudulent. I mean, is it a crime just  
24 to send letters or -- he's putting in this stuff.

25 THE COURT: The question was did the letter resolve his

1 problems with the IRS. The answer was no.

2 MR. SCHIFF: But is there --

3 THE COURT: You don't like the question or you don't  
4 like the answer?

5 MR. SCHIFF: No. Is -- is there a suggestion that  
6 there's something in the letter that's false?

7 THE COURT: Listen, the Government has the right to ask  
8 the questions it wants to ask. You can't complain about the  
9 questions they ask unless they call for inadmissible evidence.  
10 He asked the question --

11 MR. SCHIFF: Well, the reason --

12 THE COURT: -- did this resolve your problems with the  
13 IRS? The answer was no. There is nothing objectionable about  
14 the question or the answer. Objection is overruled.

15 BY MR. IGNALL:

16 Q. Have you since resolved your problems with the IRS,  
17 Dr. Abdulla?

18 A. Say that again.

19 Q. Do you have any outstanding liabilities to the IRS right  
20 now, Dr. Abdulla?

21 A. Not at this time.

22 Q. How did you resolve them?

23 A. I paid back the taxes with penalty.

24 Q. Did you do that on the advice of Mr. Schiff?

25 A. Uh, no, sir.

1 Q. Did you go to another tax professional?

2 A. Yes, sir.

3 Q. Was that an accountant? a lawyer?

4 A. My accountant.

5 Q. Okay. And did you file a corrected tax return for the 1999  
6 year that we were looking at?

7 A. Yes, sir.

8 Q. Okay.

9 MR. SCHIFF: Objection, your Honor. There's no  
10 evidence that he put in -- that the returns he filed under my  
11 advice were not correct. There's no evidence --

12 THE COURT: Overruled.

13 MR. SCHIFF: -- so far --

14 THE COURT: Overruled.

15 MR. SCHIFF: Pardon me?

16 THE COURT: Overruled.

17 MR. SCHIFF: I -- I -- he -- he -- he just assumed that  
18 the zero return was not correct.

19 THE COURT: He said a corrected tax return. A  
20 corrected tax return.

21 MR. SCHIFF: But doesn't that assume that the zero  
22 return was not correct? And so far there's no evidence put in  
23 at this trial that it's not correct. He's assuming something  
24 that hasn't been proven.

25 THE COURT: The objection is overruled.

1 BY MR. IGNALL:

2 Q. Dr. -- Dr. Abdulla, did you later file a tax return for 1999  
3 reporting as wages the amount of money you earned at the  
4 hospital?

5 A. Yes, sir.

6 Q. Thank you.

7 Now, if I turn your attention back to Exhibit 211B, do  
8 you recognize that document?

9 A. (Reviewing document.)

10 Yes, sir.

11 Q. What is Exhibit 211B?

12 A. Say that again, please.

13 Q. What is Exhibit 211B?

14 A. Uh, it's just, uh, I think, a order form.

15 Q. For items that you purchased?

16 A. Uh, yes, sir.

17 Q. All right. What's the date of Exhibit 211B?

18 A. 4-30-01.

19 MR. IGNALL: At this point, the Government moves into  
20 evidence Exhibit 211B.

21 THE COURT: Any objection to 211B?

22 MR. IGNALL: B, your Honor.

23 MR. BOWERS: I have none.

24 MR. CRISTALLI: No objection. No objection.

25 MR. SCHIFF: No objection. What is --

1           THE COURT: 211B is received.  
2           (Government's Exhibit No. 211B, received into  
3           evidence.)  
4           MR. IGNALL: If we could publish Exhibit 211B.  
5           (Document displayed in open court.)  
6           BY MR. IGNALL:  
7           Q. How much -- how much did you spend on that day at Freedom  
8           Books, Dr. Abdulla?  
9           A. The receipt says "TOTAL SALE: 50" dollars.  
10          Q. All right.  
11          MR. IGNALL: If we could, uh, highlight where it says  
12          "SPECIAL INSTRUCTIONS."  
13          BY MR. IGNALL:  
14          Q. What does that say there, Dr. Abdulla?  
15          A. Uh, what -- what does -- could you please repeat your  
16          question?  
17          Q. Under "SPECIAL INSTRUCTIONS."  
18          A. Um, at 211B you said?  
19          Q. Right. 211B. There's something handwritten in after  
20          "prepare" -- after "SPECIAL INSTRUCTIONS."  
21          THE COURT: Look at the monitor there to your left,  
22          sir.  
23          THE WITNESS: Oh.  
24          (Reviewing document.) It says, "Prepaid for Response."  
25

1 BY MR. IGNALL:

2 Q. Is that it says "frivolous" or "friv"?

3 Let -- let me ask you: Did -- did you pay -- does this  
4 refresh your recollection as to whether you paid anyone at  
5 Freedom Books to prepare response letters that you sent to the  
6 IRS?

7 A. I don't recall that, sir.

8 Q. Do you recall what you were paying for as listed in  
9 Exhibit 211B?

10 MR. CRISTALLI: Objection. Asked and answered.

11 THE WITNESS: If there's --

12 THE COURT: The question overruled.

13 THE WITNESS: If where it says "TOTAL SALE: 50"  
14 dollars, I must have paid for that. But I have no recollection  
15 for that.

16 BY MR. IGNALL:

17 Q. All right. Thank you.

18 MR. IGNALL: One moment, your Honor.

19 THE COURT: Yes.

20 (Discussion between Mr. Ignall and  
21 Mr. Neiman.)

22 MR. IGNALL: No further questions, your Honor.

23 THE COURT: Okay.

24 Cross-examination?

25 MR. CRISTALLI: Just briefly, your Honor.



## CROSS-EXAMINATION

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BY MR. CRISTALLI:

Q. Good morning, Doctor.

Uh, Dr. Abdulla, you -- you've testified that you are a, uh, physician practicing in the field of, um, premature deliveries; correct?

A. Premature babies.

Q. Premature babies. I'm sorry.

And, um, so I would -- I would assume, then, therefore, sir, that you went through many years of education to achieve, uh, that professional status; correct?

A. Correct.

Q. You accomplished an undergrad -- you received an undergraduate degree. True?

A. Correct.

Q. You received a medical degree --

A. Correct.

Q. -- correct?

And I would assume that it is a speciality. So you would have had to do additional education for that area; correct?

A. Correct.

Q. Okay. Um, I would assume also you did your residency at some location; correct?

A. Correct.

1 Q. All right.

2 Uh, so -- and, during the course of your education, I

3 would assume, sir, that you had to study quite a bit --

4 A. Correct.

5 Q. -- right?

6 Um, and part of -- part -- part and parcel of your

7 studying would be digesting a lot of information. Correct?

8 A. Correct.

9 Q. Okay. So there came a point in time when you made a

10 decision, uh, to go and to attend a seminar that -- um, it was a

11 tax seminar as you testified to; correct?

12 A. Correct.

13 Q. Part of the tax seminar wasn't exclusively the teachings of

14 Irwin Schiff but, uh, part of the seminar was his teachings;

15 correct?

16 A. Correct.

17 Q. Okay. So -- so -- and you testified that about a hundred

18 people attended the seminar; correct?

19 A. Correct.

20 Q. Um, and, sir, I would assume, based on your educational

21 experience, um, you would consider yourself an intelligent man.

22 True?

23 A. Correct.

24 Q. And subsequent to you attending the seminar -- well, when

25 you attended the seminar, I would assume that you listened to

1       what was being said; correct?

2       A.   Correct.

3       Q.   And, during the course of the seminar, Mr. Schiff spoke;

4       right?

5       A.   Correct.

6       Q.   And he spoke to you directly as to why he believes that

7       there is no legal basis for, uh, income tax; correct?

8       A.   Correct.

9       Q.   And part and parcel of his seminar he, uh, presented to you

10      in support of his beliefs, um, documentation; correct?

11      A.   Correct.

12      Q.   Part of the documentation that he provided to you was cases,

13      case law.  True?  United States Supreme Court decisions.

14      A.   Correct.

15      Q.   Uh, part of the support for his, uh, teachings were sections

16      of the Internal Revenue Code; correct?

17      A.   Correct.

18      Q.   Um, part of his teachings were correspondence between, uh --

19      or with the, um, IRS agency itself; correct?

20      A.   Correct.

21      Q.   And after you had an opportunity, as an educated man, to sit

22      and listen to what was said at the seminar, you decided to go

23      and educate yourself further; correct?

24      A.   Correct.

25      Q.   And you went to Freedom Books; right?

1 A. Correct.

2 Q. And you received material from Freedom Books; right?

3 A. Right.

4 Q. Did you receive, sir, a copy of The Federal Mafia?

5 A. Yes, sir.

6 Q. Okay.

7 THE CLERK: Uh, Mr. Cristalli.

8 MR. CRISTALLI: Yes. Thank you.

9 Is this one already in?

10 THE CLERK: It's not admitted, but it is --

11 MR. CRISTALLI: But there is a copy admitted; correct?

12 THE CLERK: Pardon?

13 MR. CRISTALLI: There is a copy admitted?

14 THE CLERK: No, there's not.

15 THE COURT: No, not yet.

16 MR. CRISTALLI: Okay.

17 Um, let me just see.

18 (Pause in the proceedings.)

19 MR. CRISTALLI: Your Honor, may I approach the witness?

20 THE COURT: You may.

21 BY MR. CRISTALLI:

22 Q. Um, and, Doctor, I'm gonna approach with Defendant's

23 Proposed Exhibit 2004A. I'm gonna ask you if you recognize this

24 book as a book that is, uh, the same as the book that you

25 received from Freedom Books.

1 A. Sir, um, I -- I don't recall. But I did receive some book.  
2 But I don't recall if it was exactly the same book or not.

3 Q. Does that book look consistent with the book that you  
4 received from Freedom Books?

5 A. Probably, yes.

6 Q. Okay.

7 MR. CRISTALLI: Your Honor, I'd like to move for its  
8 admission.

9 MR. IGNALL: Your Honor, I believe --

10 MR. BOWERS: I think it's --

11 MR. IGNALL: -- it's already admitted. It may be  
12 Exhibit 2097.

13 MR. CRISTALLI: That's fine.

14 THE CLERK: No, no, no. I'm sorry. It's not.

15 MR. IGNALL: It's not.

16 THE CLERK: It's a part of the book.

17 MR. IGNALL: I'm sorry. What number is that listed as?

18 MR. CRISTALLI: This is listed as Defendant's  
19 Exhibit Proposed 2004A.

20 MR. BOWERS: It's admitted. I have no objection if you  
21 want to admit it. I thought it was admitted.

22 MR. IGNALL: I thought it was admitted. What --

23 MR. SCHIFF: I thought it was admitted too.

24 MR. CRISTALLI: Me too.

25 MR. IGNALL: I'm not sure -- what's the basis for

1 admitting it with this witness? I just don't know the relevance  
2 to this witness.

3 MR. CRISTALLI: He purchased one. He relied on it. He  
4 read it. He filed responses.

5 THE COURT: I don't -- I don't know that he's testified  
6 he read the entire book.

7 MR. CRISTALLI: Well, okay. I guess I could lay some  
8 further foundation.

9 BY MR. CRISTALLI:

10 Q. Um, Doctor, you purchased The Federal Mafia; correct?

11 A. Could you repeat your question, please?

12 Q. You purchased The Federal Mafia. True?

13 A. Yes.

14 Q. Or you had seen The Federal -- did you purchase it or did  
15 they just give it to you?

16 A. As I mentioned, if there's a receipt for that purchase, I  
17 may receive it. But I do not recall.

18 Q. You don't have a specific recollection as to whether or not  
19 you paid for it or you just received it?

20 A. I do not have that recollection, sir.

21 Q. Um, and you, um -- you read the content of The Federal  
22 Mafia; correct?

23 A. No, sir.

24 Q. You didn't read any of it?

25 A. I may have read part of it but not all of it.

- 1 Q. Okay. But you did read parts of The Federal Mafia.
- 2 A. I don't recall which parts did I read.
- 3 Q. Okay. Sir, do you recall reading any portions of The  
4 Federal Mafia?
- 5 A. At this time, I do not recall.
- 6 Q. Do you recall perusing The Federal Mafia?
- 7 A. Could you repeat that question, please?
- 8 Q. Do you recall looking at any portions of the interior  
9 portion of this book?
- 10 A. Yes, I do recall that.
- 11 Q. Okay.
- 12 MR. CRISTALLI: May I approach one moment, your Honor?  
13 I won't move for its admission right now.
- 14 BY MR. CRISTALLI:
- 15 Q. And, Doctor, I'm just gonna show you the -- actually, the  
16 first page of The Federal Mafia. And if I could ask you just,  
17 uh, to read that to yourself, if you would.
- 18 A. (Complies.)
- 19 Yes, sir, I did read it.
- 20 Q. You have had an opportunity to read that; correct?
- 21 A. At that time, I don't recall.
- 22 Q. You -- you just had an opportunity to read it though;  
23 correct?
- 24 A. I don't recall reading it at that time, sir.
- 25 Q. Did you have an opportunity to read that portion of the --

1 of the book as I just presented it to you?

2 A. Right now, yes.

3 Q. Okay. Basically, it's a, uh, disclaimer in terms of, uh,  
4 advising an individual to, uh, seek legal or other professional,  
5 uh, services in regard to any of the content of this book;  
6 correct?

7 A. That is correct.

8 Q. But you don't recall ever having an opportunity to read that  
9 portion -- or that portion of the book when you purchased -- or  
10 when you received it; correct?

11 A. I don't recall that.

12 Q. Okay. You also received other, uh, material from Freedom  
13 Books. Uh, would that be accurate to say?

14 A. Whatever the receipts are there that may be accurate to say.

15 Q. Well, you -- you -- you purchased, uh -- you purchased  
16 Federal Mafia in an effort to -- I would assume, to educate  
17 yourself on the specific practices of Mr. Irwin Schiff; correct?

18 A. Correct.

19 Q. And within the, um -- within The Federal Mafia, there was,  
20 um, the -- the support, um, for Mr. Schiff's teachings; correct?

21 A. Uh, could you repeat that again, please?

22 Q. Well, we already talked about at -- at the seminar there was  
23 references to United States Supreme Court decisions; correct?

24 A. That is correct.

25 Q. Uh, portions of the Internal Revenue Code; correct?



1 A. Correct.

2 Q. And other, um -- other material supporting Mr. Schiff's  
3 views. Right?

4 A. I don't recall any of those, but if you say so.

5 Q. Well, I don't want to put words in your mouth.

6 But, in any event, we're at least safe to say that you  
7 recall United States Supreme Court decisions and portions of the  
8 Internal Revenue Code; correct?

9 A. I don't recall any of those -- I don't recall any of those,  
10 sir.

11 Q. Within the content of The Federal Mafia?

12 A. I -- I don't remember what were the contents of that seminar  
13 at this time, sir.

14 Q. Okay. Um, as a -- as an educated person who has achieved a  
15 very high level of, um, professional education, it would be safe  
16 to say that you would want to digest as much information as --  
17 as you possibly can before making a determination on any  
18 particular subject; correct?

19 A. That's correct.

20 Q. Okay. And that's what you did in this particular case also.  
21 True?

22 A. Uh, could you repeat that question?

23 Q. Okay. You wanted to educate yourself on these practices  
24 before you implemented them; correct?

25 A. Correct.

1 Q. Okay. Now, um...

2 MR. CRISTALLI: Court's indulgence.

3 (Pause in the proceedings.)

4 BY MR. CRISTALLI:

5 Q. Okay. Now, sir, based on the, um -- based on the seminar  
6 that you went to and attended, the -- the information you  
7 gathered from that, based on the other material that you  
8 gathered and digested from Freedom Books, you never at any  
9 particular time, sir, did you, believe you were doing anything  
10 illegal?

11 A. Uh, could you repeat that again?

12 Q. Uh, did you believe you were committing a crime when you  
13 implemented those, um, practices as defined within Mr. Irwin  
14 Schiff's materials?

15 A. At that time I believed I was doing the right thing.

16 Q. Correct.

17 And, um, sir, you have not been, uh, charged criminally  
18 with, uh, any, uh -- any criminal offenses, have you?

19 A. No, sir.

20 Q. Okay. Has the Government promised you that there would be  
21 no criminal prosecution in exchange for your testimony here  
22 today?

23 A. No, sir.

24 Q. Okay. Do you think, uh, your testimony here today would  
25 have some -- nah, strike that.

1 MR. CRISTALLI: No further questions, your Honor.

2 Thank you, Doctor. Appreciate it.

3 MR. BOWERS: Just one question.

4

5 CROSS-EXAMINATION

6 BY MR. BOWERS:

7 Q. Good morning, Dr. Abdulla. My name is Chad Bowers. I'm the  
8 attorney for Larry Cohen. How are you?

9 A. Good. Thank you.

10 Q. You -- you have no idea who Mr. Cohen is; is that correct?  
11 You've never dealt with him at any time?

12 A. I don't recall seeing him.

13 Q. Okay. Thank you, Doctor. Have a nice day.

14 THE COURT: Mr. Schiff?

15 MR. SCHIFF: Yes.

16

17 CROSS-EXAMINATION

18 BY MR. SCHIFF:

19 Q. Um, Dr. Abdulla, you testified that you came to a seminar of  
20 mine.

21 A. Yes, sir.

22 Q. Well, that would either have been a two-day seminar or a one  
23 day, a full day. It's not a few hours. You were at a seminar.  
24 And was it a full day or two full days?

25 A. I only recall going -- attending one day.

1 Q. One day. But it was a full day?

2 A. For the full day.

3 Q. Do you recall getting documents passed out at the seminar?

4 A. Uh, I don't recall.

5 Q. If I showed you some documents, do you think that would  
6 stimulate your recollection?

7 A. It might.

8 MR. SCHIFF: This here has already been submitted, your  
9 Honor, as Exhibit 209 [sic]. Can I approach the witness?

10 THE COURT: You may.

11 THE CLERK: Mr. Schiff, would you like for me to give  
12 him this one so that you can have that one to work from?

13 MR. SCHIFF: Okay. Thank you.

14 MR. IGNALL: Mr. Schiff, what number is that?

15 MR. SCHIFF: 209 [sic].

16 THE CLERK: 2009, Mr. Ignall. 2009.

17 BY MR. SCHIFF:

18 Q. Do you recognize any of those documents?

19 A. Sir, I don't recall at this time.

20 Q. You don't recognize any of those documents?

21 THE COURT: Are you talking in the context of the  
22 seminar?

23 MR. SCHIFF: Yes.

24 THE WITNESS: Sir, I don't recall any of these  
25 documents at this time.

1 BY MR. SCHIFF:

2 Q. Do you recall me passing out documents at the seminar?

3 A. Uh, sir, again, I have to say I don't -- I do not recall  
4 that either.

5 Q. Okay. Do you recall at the seminar -- do you recall me  
6 discussing the history of the income tax?

7 A. Again, it has been so long I have no memories of that  
8 seminar, sir.

9 Q. Do you recall me discussing the meaning of income for tax  
10 purposes?

11 A. Yes, sir.

12 Q. Pardon me?

13 A. Yes, sir.

14 Q. You do recall that?

15 A. I do recall you discussing about getting information about  
16 the tax, uh, filing.

17 Q. Do you recall me passing out and going over the exhibits in  
18 The Federal Mafia where the Government refers to the voluntary  
19 nature of the income tax? Do you recall that, me discussing  
20 the -- the potential voluntary nature of the income tax?

21 A. Yes, I do recall that, uh, filing for tax return is a  
22 volunteer program, should be volunteer.

23 Q. Did you remember me asking the people in attendance how many  
24 people did not -- asking for a show of hands as to how many  
25 people did not believe that payment of income tax was voluntary?

1 Did you ask -- do you remember me asking for a show of hands on  
2 that question?

3 A. Yes, sir, I think do recall that.

4 Q. Okay. So you do recall me asking those people in attendance  
5 to raise their hand if they did not believe the payment of  
6 income tax was voluntary. You recall that?

7 A. Right, sir.

8 Q. Do you recall how many people raised their hands?

9 A. No, sir.

10 Q. You don't recall it?

11 A. I don't recall that, sir.

12 Q. But you do recall me asking that question?

13 A. I do.

14 Q. Do you recall were there any accountants or lawyers at that  
15 seminar?

16 A. No, sir, I don't recall that.

17 Q. You do know it was my practice to allow anybody to bring  
18 their accountant or lawyer to the seminar free of charge?

19 A. Yes, sir.

20 Q. Okay. Do you recall me having a question-and-answer period  
21 at the end of the seminar?

22 A. No, sir.

23 Q. You don't recall that.

24 A. I don't recall that.

25 Q. Now, during this all-day seminar, do you recall anybody

1 challenging or questioning what I was saying with respect to why  
2 you don't have to pay income taxes and the meaning of income?

3 A. There were lots of questions and answers.

4 Q. Yeah. But you don't -- but didn't I allow people to  
5 interrupt me and ask questions if I said something they didn't  
6 understand?

7 A. Yes, sir.

8 Q. That people were free to interrupt me; is that correct?

9 A. Could you repeat that question, the last one?

10 Q. Well, you recall it was my policy to allow people to --

11 THE COURT: Now you're testifying and you've repeated  
12 this same question over --

13 MR. SCHIFF: Well, I didn't --

14 THE COURT: -- and over.

15 MR. SCHIFF: -- hear his answer, your Honor.

16 THE COURT: Well, he said yes.

17 MR. SCHIFF: Yes. So all right. I -- I wasn't sure of  
18 his answer.

19 THE COURT: Move on.

20 BY MR. SCHIFF:

21 Q. Okay. So, on the basis of your coming to my seminar and  
22 getting documents and books that raised --

23 THE COURT: He said he didn't remember receiving any.

24 MR. SCHIFF: All right.

25

1 BY MR. SCHIFF:

2 Q. That raised some question in your mind whether or not you  
3 were legally required to pay income taxes, didn't it?

4 A. That's true.

5 Q. So then you came to my office and you had some further  
6 questions; right?

7 A. Right.

8 Q. And I suggested that you get and you purchase the -- the,  
9 um -- you purchased "Secrets [Of] Living an Income Tax Free  
10 Life," which is a three-and-a-half hour --

11 THE COURT: You're testifying now.

12 BY MR. SCHIFF:

13 Q. Well, you purchased --

14 MR. SCHIFF: Well, this is on the purchase. The  
15 document that he submitted shows that he purchased that  
16 particular item. There was a -- the Government submitted a  
17 purchase order.

18 THE COURT: Yeah, there is a purchase order.

19 MR. SCHIFF: Here it is.

20 THE COURT: It's 211. But --

21 MR. IGNALL: I believe it's 211A and 211B --

22 THE COURT: -- but --

23 MR. IGNALL: -- your Honor.

24 MR. SCHIFF: Exhibit 211A.

25 THE COURT: You're testifying as to how long the tape



1 was. That's not on the document.

2 MR. SCHIFF: Well, yes, it's circled, "Secrets To  
3 Living an Income Tax Free Life." It's circled.

4 THE COURT: Yeah, I know it's on there. You were  
5 testifying a moment ago as to a three-and-a-half-hour tape.

6 MR. SCHIFF: Well, he purchased --

7 THE WITNESS: Yes.

8 THE COURT: I'm telling you you can't testify, again.

9 BY MR. SCHIFF:

10 Q. Well, you purchased that "Secrets To Living An Income Tax  
11 Free Life," didn't you?

12 A. I did purchase it, yes, sir.

13 Q. Okay. So you -- and that's three and a half hours; right?

14 THE COURT: Well --

15 BY MR. SCHIFF:

16 Q. Did you watch that tape?

17 A. No, sir.

18 Q. Now, when you came to see me, didn't I specifically tell you  
19 to watch that tape?

20 A. You may have said so, sir.

21 Q. So I assumed that you watched that tape because you  
22 purchased it.

23 A. I did purchase --

24 MR. IGNALL: Objection to relevance --

25 THE WITNESS: -- I did not --

1 MR. IGNALL: -- calls for the witness to speculate --

2 THE COURT: Sustained.

3 MR. IGNALL: -- on what Mr. Schiff assumed.

4 BY MR. SCHIFF:

5 Q. Okay. Also, when you came to my office, as a matter of  
6 fact --

7 THE COURT: No. Don't testify.

8 BY MR. SCHIFF:

9 Q. -- because you --

10 MR. CRISTALLI: Ask a question.

11 BY MR. SCHIFF:

12 Q. -- you came. You came -- you showed me and you brought with  
13 you the tax return that --

14 THE COURT: You are testifying again. Ask a question.

15 BY MR. SCHIFF:

16 Q. Didn't you --

17 MR. SCHIFF: He -- he was asked this question when...

18 THE COURT: Ask the question.

19 BY MR. SCHIFF:

20 Q. Didn't -- didn't you bring the return that your accountant  
21 had already prepared for you for 1999?

22 A. Yes, sir.

23 Q. And you gave me a copy?

24 A. Yes, sir.

25 Q. Incidentally, he prepared this; you didn't?

1 A. Yes, sir.

2 Q. You just signed it.

3 Now, when you -- as a matter of fact, you and your --  
4 you made -- didn't you make numerous trips to my office?

5 A. Yes, sir.

6 Q. Okay. And each time you made a trip we would discuss some  
7 aspect of why I believe you don't have to pay income taxes?

8 A. Yes, sir.

9 Q. Now, I suggested to you that you have to study this  
10 material, didn't I?

11 A. Yes, sir.

12 Q. And I assumed you did.

13 THE COURT: You're testifying again.

14 BY MR. SCHIFF:

15 Q. All right. Wouldn't I have assumed you did? You  
16 probably -- did you tell me that you read this material?

17 THE COURT: That is an objectionable question.

18 BY MR. SCHIFF:

19 Q. All right. Did you tell me that you read my books, you  
20 watched the tape?

21 A. No, sir.

22 Q. You didn't tell me that.

23 Now, when we prepared this return for you, you already  
24 knew what it was gonna look like -- --

25 A. Yes, sir.

1 Q. -- because there was a copy in my book. So it was no secret  
2 to you that when we prepared your return for your signature you  
3 knew what it was gonna look like?

4 A. Yes, sir.

5 Q. However, when your accountant prepared your return, you  
6 didn't know what it was gonna look like because you didn't know  
7 what the final tax liability would be.

8 A. Correct.

9 Q. But you knew we were gonna report that you had zero income  
10 and -- and zero tax. You knew that.

11 A. Yes, sir.

12 Q. And, from the material I passed out in which you looked at  
13 and presumably reviewed, that's what you believed also.

14 A. Yes, sir.

15 Q. So, when you asked me to sign your return, I signed it  
16 indicating that I believed -- why did I sign your return?

17 A. As my --

18 MR. IGNALL: Objection. I'm not sure that the witness  
19 could say why Mr. Schiff did something. He can testify to what  
20 he --

21 THE COURT: Well, he's already testified to --

22 MR. IGNALL: -- observed.

23 THE COURT: -- why Mr. Schiff signed the return, that  
24 is, his accountant always signed the return, so he required  
25 Mr. Schiff to sign the return since --

1 MR. IGNALL: That's why he asked --

2 THE COURT: -- he prepared it.

3 MR. IGNALL: -- him to do it. Yes. Okay. I'm sorry,

4 your Honor.

5 BY MR. SCHIFF:

6 Q. So I signed it indicating I believed the information was

7 correct.

8 A. Yes, sir.

9 Q. But you knew what that information was gonna be before I

10 even signed it?

11 A. Yes, sir.

12 Q. Okay. Now, in the attachments that you put on your return,

13 which I assume you read -- you wouldn't sign -- would you sign

14 under penalty of perjury a document containing some 12

15 paragraphs without having read it?

16 A. I would try to read it first, sir.

17 THE COURT: I'm sorry?

18 THE WITNESS: I will try to read that first before I

19 sign it.

20 BY MR. SCHIFF:

21 Q. And, as a matter of fact, it wasn't like you came in and

22 signed it. You had taken it back and forth a few times.

23 A. Correct.

24 Q. Okay. Now, on the document that you sent in -- if I can put

25 the document on the...

1           On line 7 where it says "wages, salaries," your forms,  
2   you said you had zero income from wages and salaries; is that  
3   correct? You said that.

4   A. Yes, sir.

5   Q. Or you agreed to it.

6   A. Yes, sir.

7   Q. However, on line 67 [sic], you attached a form showing that  
8   you had received wages because you attached a W-2; is that  
9   correct?

10   A. Yes, sir.

11   Q. Well, how could you have sent in a document claiming you  
12   didn't receive wages, at the same time send in a document saying  
13   you did receive wages? How could you have done that?

14           THE COURT: Which line are you referring to?

15           MR. SCHIFF: Pardon me?

16           THE COURT: Which line are you referring to?

17           MR. SCHIFF: Well, line 7 in his income return. It --

18           THE COURT: We passed that.

19           MR. SCHIFF: -- says, "Wages, salaries and tips."

20           THE COURT: What's the next line you're asking him to  
21   look at?

22           MR. SCHIFF: Well, the next line is line 57, "Federal  
23   income tax withheld from Form[] W-2." If he attached it, he  
24   would have shown that he had wages.

25           THE COURT: No, that has nothing to do with wages.

1 That is tax withheld.

2 MR. SCHIFF: Yeah. But a W-2 is an indication of tax  
3 withheld from -- from -- from wage -- from wages. A W-2 is --  
4 if I --

5 THE COURT: So what's your question?

6 MR. SCHIFF: If I --

7 THE COURT: What is your question?

8 BY MR. SCHIFF:

9 Q. Well, how could you have sent in a document saying that you  
10 had no income from wages, at the same time send in a document  
11 showing you had wages? Isn't that strange?

12 A. Yes, sir.

13 Q. You must have had a good reason for believing you could do  
14 that?

15 A. That's what I was told. That's what I was told, uh, from  
16 your office that you can still send a zero return.

17 Q. Now, Doctor, nobody told you in our office to file this.  
18 Nobody said to you file this return, did they?

19 A. Correct.

20 Q. Nobody told you that. You filed this document of your -- of  
21 your own free will.

22 A. Yes, sir.

23 Q. And I'm assuming that when you filed you believed that every  
24 statement on it was correct?

25 A. Correct.

1 Q. Now, I know it's -- a long time has gone by. But there must  
2 have been a reason that you believe that you can report that you  
3 received no income from wages even though you received wages?

4 A. Yes, sir, I do.

5 Q. Do you have any recollection as to why you could have  
6 believed that?

7 A. Yes, sir. I did receive wages and I did have federal --

8 Q. But --

9 A. -- income tax withheld also.

10 Q. The point I'm making is --

11 MR. IGNALL: Objection.

12 THE COURT: No.

13 BY MR. SCHIFF:

14 Q. The point I'm trying to ask you --

15 THE COURT: You ask the question.

16 BY MR. SCHIFF:

17 Q. Did you have some understanding -- was there something you  
18 learned from my books and my seminars that led you to believe  
19 that even though you had wages that did not constitute income  
20 within the meaning of our Internal Revenue laws? At some point  
21 did you realize that?

22 A. All I realized from your seminar was that it was not  
23 mandatory to file the income tax.

24 Q. Now, you said -- very good -- now, you said you learned at  
25 my seminar that it was not -- what evidence at my seminar did we



1 present that might have indicated to you that paying income tax  
2 was not mandatory?

3 A. There was some, uh -- some citations from the -- from the  
4 income tax book, which I don't recall.

5 Q. Well, if you look at those documents we passed out, wasn't  
6 the first document -- and maybe you may recall it --

7 THE COURT: He's already --

8 MR. SCHIFF: All right.

9 THE COURT: -- testified he didn't remember  
10 documents --

11 MR. SCHIFF: Okay.

12 THE COURT: -- being passed out.

13 MR. SCHIFF: All right.

14 BY MR. SCHIFF:

15 Q. Isn't there in The Federal Mafia in the first chapter a  
16 number of documents in which the Government claims the payment  
17 of income tax is voluntary? Aren't there a number of documents  
18 in the first chapter that say that?

19 MR. SCHIFF: Well, does -- does he have the book there?

20 THE COURT: No.

21 MR. SCHIFF: Does he was The Federal Mafia?

22 THE COURT: No, he --

23 BY MR. SCHIFF:

24 Q. Would that recollect --

25 THE COURT: -- he needs to answer the question if he

1 can do so --

2 BY MR. SCHIFF:

3 Q. Would -- would --

4 THE COURT: -- without --

5 MR. SCHIFF: -- I mean, he just said he learned at the

6 seminar payment is voluntary.

7 BY MR. SCHIFF:

8 Q. Would that have been because we went over a number of

9 government documents which stated the payment is voluntary?

10 A. That's correct.

11 Q. Would that have been the reason?

12 A. That is correct, sir.

13 Q. So it wasn't because I said the payment is voluntary. We

14 produced documents in which the government said payment is

15 voluntary.

16 A. That is correct, sir.

17 Q. Okay. Now, as a matter of fact, in the return that you

18 filed, the first statement on that return is -- can you look at

19 that first statement? Just -- just read the first paragraph.

20 THE COURT: Which are you referring to?

21 THE WITNESS: You want my to read this one?

22 BY MR. SCHIFF:

23 Q. Yeah. Just read it.

24 A. "Establishes an income tax 'liability' as, for" --

25 Q. It says, "We" -- just read the first -- first four lines.

1 A. "Establishes an income tax li-" -- "Establishes an income  
2 tax 'liability' as, for example, Code Sections 4401, 5005, and  
3 5703 do with respect to wagering, alcohol, and tobacco taxes."

4 Q. Okay. So -- so either in my office or at the seminar I must  
5 have gone over -- did I go over with you those three sections  
6 which established liability with respect to wagering, alcohol,  
7 and tobacco taxes? Did I do that?

8 A. Sir, you may have gone through it, but I don't recall at  
9 this time.

10 Q. But -- but when you said -- when you --

11 THE COURT: Mr. Schiff --

12 MR. SCHIFF: All right.

13 THE COURT: -- Mr. Schiff, I know you don't like the  
14 answer. But he's given the answer.

15 MR. SCHIFF: All right.

16 THE COURT: Move on.

17 MR. SCHIFF: Let me just ask him. Well, all right.

18 BY MR. SCHIFF:

19 Q. When you filed this, did -- did we discuss this at my  
20 seminar?

21 THE COURT: He already answered that.

22 MR. SCHIFF: All right. All right.

23 THE COURT: He said he didn't remember.

24 MR. SCHIFF: Okay.

25

1 BY MR. SCHIFF:

2 Q. Had you ever -- before you filed this, had you attempted to

3 verify what you were saying there?

4 A. Uh, no, sir.

5 Q. Pardon me?

6 A. No, sir.

7 Q. No, you didn't attempt to verify.

8 Okay. Now, I want to ask you if you simply read, um,

9 paragraph 6.

10 A. "It should also be noted that we had 'zero' income according

11 to the Supreme Court's definition of income (See Note #1), since

12 in Merchant's Loan & Trust C V Smietanka, 255 U S 509, (at pages

13 518 & 519)that court held that 'The word (income) must be given

14 the same meaning in all the Income Tax Acts of Congress that was

15 given to it in the Corporation Excise Tax Act of 1909 '

16 Therefore since we no earnings in 1999, that would have been

17 taxable as 'income' under the Corporation Excise Tax ... of

18 1909, we can only swear to having 'zero' income in 1999.

19 Obviously, since we know the legal definition of 'income', if we

20 were to swear to having received any other amount of 'income',

21 we would be committing perjury under both 18 U S C 1621 and

22 U S C 7206 Therefore, not wishing to commit perjury under

23 either statute, we can only swear to having 'zero' income in

24 19-" -- "for 1999."

25 Q. Now, you think you testified that you purchased from me The

1 Great Income Tax Hoax. The Great Income Tax Hoax, did you  
2 purchase that book?

3 A. Uh....

4 Q. Did you purchase this book?

5 A. If I have the receipt, I --

6 Q. The Great Income Tax Hoax.

7 A. If I have the receipt for that, I may have. But I do not  
8 recall that, sir.

9 Q. You don't recall.

10 A. I don't recall that.

11 Q. Okay. So, on the document you filed and swore to under  
12 penalty of perjury, you indicated that you had no income within  
13 the meaning of certain Supreme Court cases; is that correct?

14 A. That is correct, sir.

15 Q. So it's not like you just put zeroes down. There was some  
16 legal basis for your having done so.

17 A. That is correct.

18 Q. Also, I would ask you to read paragraph 7.

19 A. Paragraph 7?

20 Q. Yes.

21 A. "We are also putting the IRS on notice that our 1999 tax  
22 return and claim for refund can not be considered 'frivolous' on  
23 any basis - pursuant to Code Section 6702 For one thing, there  
24 is no statute that requires us to make a 'self-assessment '  
25 Therefore, how can we be charged with a penalty for not doing

1 something relatively [sic] incorrectly - that no statute require  
2 us do at all? In addition, my return and claim for refund is  
3 based on 13...

4 Q. It's carried over, yes. "... based on 13 Supreme Court."  
5 Can you read that?

6 A. Uh, "... Supreme Court decisions, 9 Internal Revenue Code  
7 Sections, 3 Privacy Act Notice provisions, and numerous other  
8 references As such, it can not be termed 'frivolous' on any  
9 basis as the term is defined and understood Additionally, our  
10 return is not designed to 'delay or impede the administration of  
11 Federal income tax laws,' since it is designed to be our final  
12 statement under those 'laws ' Furthermore, no IRS employee has  
13 any delegated authority to designate if a return is 'frivolous'  
14 and impose a penalty, not" -- "nor is there an legislative  
15 regulation implementing Section 6702 Therefore, that Statute is  
16 benign."

17 Q. Therefore -- well, you knew that there was a possibility of  
18 them saying your return was frivolous and imposing a penalty; is  
19 that correct? It was right in your return.

20 A. That is correct.

21 Q. Now, when you filed that return, did you believe it was  
22 frivolous on any basis? Did you believe it was frivolous?

23 A. At that time, I did not.

24 Q. Do you -- do you have any understanding of what the word  
25 "frivolous" means?

1 A. It's incorrect.

2 Q. Pardon me?

3 A. Basically it is not the correct return.

4 Q. Well, frivolous --

5 A. Yes, sir.

6 Q. -- does it mean without any basis, frivolous, silly?

7 A. Right.

8 Q. Okay. We just pointed out that in the return you filed you

9 cited some 30 legal references. Did you -- did you believe that

10 on that basis your return could be termed "frivolous"?

11 A. Could you repeat that question again, sir?

12 Q. Well, do you believe that your return was frivolous on the

13 basis of all the court decisions? Did you believe -- when you

14 got that letter saying it was frivolous when you came -- did

15 you --

16 THE COURT: You've already asked that question twice --

17 MR. SCHIFF: Well, I didn't --

18 THE COURT: -- and he said --

19 MR. SCHIFF: -- hear the question.

20 THE COURT: I'll tell you the answer.

21 "At that time, I did not."

22 BY MR. SCHIFF:

23 Q. Oh, you didn't think it was frivolous.

24 THE COURT: That was several minutes --

25 MR. SCHIFF: Okay.

1 THE COURT: -- ago.

2 MR. SCHIFF: Okay.

3 BY MR. SCHIFF:

4 Q. So, you didn't --

5 THE COURT: "At that time, I did not."

6 BY MR. SCHIFF:

7 Q. -- think it was frivolous.

8 Now, you could have, if you wanted to, answer that  
9 frivolous letter on your own, couldn't you have?

10 A. Yes, sir.

11 Q. But, when you came to Freedom Books, we had an answer  
12 already prepared, citing the statutes. And it was some six  
13 pages. So you determined it was easier to use one of our  
14 prepared letters rather than start from scratch and answer it  
15 yourself; isn't that right?

16 A. That is correct, sir.

17 Q. I won't get into it. But you explained why you didn't think  
18 it was frivolous.

19 A. Yes, sir.

20 Q. Right. It was easier to adopt one of our letters.

21 The point -- do you recall when you came to my office,  
22 Doctor, I said to you: Look, you have to understand what you're  
23 doing here. You have to understand this return? Uh, you're --

24 THE COURT: Is that a question?

25 MR. SCHIFF: All right. I'm trying to go back.



1 BY MR. SCHIFF:

2 Q. You're a member of a legal -- of a medical corporation; is

3 that correct?

4 A. Could you say that --

5 Q. Medical corporation.

6 A. What is your question?

7 Q. You're -- you're -- you're a member of a -- of a medical

8 corporation; is that correct?

9 A. Yes, sir.

10 Q. Do you remember me explaining to you and using your medical

11 corporation saying to you, well, if your medical corporation has

12 no profit, it pays no income taxes regardless of how much

13 income? Do you remember me using your medical corporation as an

14 example of why your medical corporation, though it has a lot of

15 income, might not pay any income tax? Do you recall me

16 specifically getting into your medical corporation?

17 A. Sir, I don't recall. I'm sorry.

18 Q. You don't recall that?

19 A. I don't.

20 Q. In any case, I didn't tell you to file a zero return. Uh,

21 you testified under -- that you filed it based on my suggestion.

22 Did I suggest that you file it?

23 A. Yes, sir.

24 Q. I did?

25 A. Yes, sir.

1 Q. Knowing that there were certain consequences that might  
2 prevail? I didn't say to you, look, there are certain risks in  
3 doing this, um, and you have to know what you're doing? I  
4 didn't explain that to you?

5 A. Yes, sir, you did.

6 Q. I said I believed you --

7 THE COURT: Now, wait a minute.

8 BY MR. SCHIFF:

9 Q. -- had no income.

10 THE COURT: You're -- you're --

11 BY MR. SCHIFF:

12 Q. Did I -- all right.

13 THE COURT: -- you're testifying.

14 BY MR. SCHIFF:

15 Q. Did I make it clear to you that I believed you had no  
16 income, that you were entitled to a refund? But I certainly  
17 made it clear that chances are you weren't gonna get a refund;  
18 isn't that correct?

19 A. Could -- could you repeat the question, sir?

20 Q. Well, didn't I make it clear to you that only few people got  
21 refunds?

22 A. Yes, sir.

23 Q. Okay. All right. Now, in coming to my seminar -- and  
24 there's a hundred people there. Some could have been  
25 accountants, lawyers, truck drivers, waitresses --

1 THE COURT: You're testifying now.

2 BY MR. SCHIFF:

3 Q. -- and I --

4 THE COURT: You're testifying.

5 MR. SCHIFF: All right. All right.

6 THE COURT: Stop --

7 BY MR. SCHIFF:

8 Q. In hearing me --

9 THE COURT: -- testifying.

10 BY MR. SCHIFF:

11 Q. -- give a lecture all day, subjecting myself to questions,  
12 reading my books -- well, which part you read -- in speaking to  
13 me in my office for two or three hours, at least, did I give you  
14 any reason to believe that my belief with respect to income tax  
15 I held sincerely and honestly and I believed sincerely that no  
16 law required you to pay income taxes and also I believe that you  
17 had no income? Did I give you any reason to believe that I  
18 didn't believe those things?

19 MR. IGNALL: Objection. That's somewhat compound.

20 THE COURT: It is --

21 MR. SCHIFF: All right. Let me --

22 THE COURT: -- very compound.

23 MR. SCHIFF: -- go back.

24 BY MR. SCHIFF:

25 Q. Did I give you -- I'm sorry. Did I give you any -- well...

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

3 MR. SCHIFF: I don't know what that meant. But I  
4 wanna...

5 BY MR. SCHIFF:

6 Q. Did I give you any reason to believe that I didn't hold my  
7 beliefs sincerely and honestly?

8 A. I thought whatever you said at that time you believed in  
9 that truly.

10 Q. Okay. Thank you very much.

11 MR. SCHIFF: No further questions.

12 THE COURT: Redirect?

13 MR. IGNALL: Briefly, your Honor.

14 THE COURT: Okay.

15

16 REDIRECT EXAMINATION

17 BY MR. IGNALL:

18 Q. In filling out and filing that zero return we looked at for  
19 1999, Dr. Abdulla, did you rely on anyone else other than  
20 Mr. Schiff and the people at Freedom Books?

21 A. And myself. No, sir.

22 Q. And yourself.

23 A. Yeah.

24 Q. Okay. Did Mr. Schiff ever tell you about any court that  
25 disagreed with his position, any court decision?

1 A. I do not recall that, sir.

2 Q. Did Mr. Schiff ever tell you about a Federal Court telling  
3 him personally at a probation hearing that his zero return was  
4 not valid?

5 A. Yes, sir.

6 Q. He did tell you that?

7 A. Yes, sir. Sir, could you repeat that question again?

8 Q. Did Mr. Schiff ever tell you that at a probation hearing a  
9 federal judge told him that a zero return that writes down zero  
10 as wages is not correct?

11 A. Sir, I don't recall -- I don't recall that.

12 Q. You don't recall Mr. Schiff ever telling you about that?

13 A. No, sir, I don't recall that. I'm sorry.

14 Q. Did Mr. Schiff ever tell you about any cases that rejected  
15 his claim that taxes are optional?

16 A. I remember him saying that taxes are optional.

17 Q. No.

18 Did he ever tell you about a court case that disagreed  
19 with that position?

20 A. Sir, again, I would have to say I do not recall all the  
21 conversation.

22 MR. IGNALL: No further questions, your Honor.

23 MR. CRISTALLI: No questions your Honor.

24 MR. BOWERS: No questions.

25 MR. SCHIFF: I have...

## 1 RE-CROSS-EXAMINATION

2 BY MR. SCHIFF:

3 Q. Doesn't my book, which unfortunately you didn't read cover  
4 to cover, explains in great detail of my -- my --

5 THE COURT: Mr. Schiff --

6 BY MR. SCHIFF:

7 Q. -- probation hearing --

8 THE COURT: -- Mr. Schiff, ask him a question --

9 MR. SCHIFF: Okay.

10 BY MR. SCHIFF:

11 Q. Did --

12 THE COURT: -- without telling him.

13 MR. SCHIFF: Okay.

14 BY MR. SCHIFF:

15 Q. Did you read in my book about the probation hearing that he  
16 refers to?

17 A. I don't recall reading that, sir.

18 Q. Uh, did you recall reading in my book, for instance, a news  
19 article entitled "Back In Jail Schiff Accused of Not Paying  
20 Income Taxes"? This is -- they violated me for parole. Do you  
21 remember seeing that?

22 A. I recall that -- you mentioning that --

23 Q. So --

24 A. -- you have been gone to jail.

25 Q. So there was no question that -- did you recall reading in

1 my book how Simon & Scheuster turned over a hundred and fifty  
2 thousand of revenue to the IRS?

3 A. I don't --

4 Q. Do you recall that?

5 A. -- I do not recall that, sir.

6 Q. Do you recall reading in my book that I was prosecuted for  
7 allegedly tax evasion? Do you recall reading that in my book?

8 A. I do recall --

9 Q. Okay.

10 A. -- that you were prosecuted.

11 Q. And did you happen to notice -- in connection with all the  
12 documents the Government introduced, did you happen to notice  
13 the Government didn't point out what one statement, one line  
14 from any of those documents that he claims was false? Did you  
15 happen to notice that?

16 MR. IGNALL: Objection. Relevancy.

17 MR. SCHIFF: All right.

18 THE COURT: What are you talking about?

19 MR. SCHIFF: I'm asking if he noticed it.

20 THE COURT: If he noticed what?

21 MR. SCHIFF: That in all the documents the Government  
22 introduced from a zero return --

23 THE COURT: In this case? In this case or in where?

24 MR. SCHIFF: In this case. I asked him if he happened  
25 to notice.

1           THE COURT: The documents that were introduced while he  
2 was on the witness stand?

3           MR. SCHIFF: Yeah.

4           THE COURT: All right. What is the question?

5           MR. SCHIFF: The Government showed him the zero return  
6 he filed also under my direction; the Government showed him the  
7 response and the frivolous letter. And I asked him did he  
8 happen to notice that the Government did not point out to any  
9 statement in any of those documents which the Government claimed  
10 was false.

11          MR. IGNALL: Objection, your Honor. Calls for a legal  
12 conclusion.

13          THE COURT: Sustained.

14          MR. SCHIFF: Well, isn't that a factual question? The  
15 Government didn't do it. I don't know why it's legal. All  
16 right.

17          THE COURT: Sustained.

18          MR. SCHIFF: No further questions.

19          THE COURT: Any further?

20          MR. IGNALL: Nothing from the Government, your Honor.

21          THE COURT: All right. The witness is excused.

22          We'll be in recess until 1:30 p.m. Standard admonition  
23 continues.

24          THE WITNESS: Thank you, sir.

25          THE COURT: Thank you.



1                   (Jury leaves the courtroom at 12:18 p.m.)

2                   THE COURT: 1:30.

3                   MR. BOWERS: Thank you, your Honor.

4                   (Lunch break, 12:19 p.m. to 1:32 p.m.)

5                   THE CLERK: All rise.

6                   Where's Mr. Cristalli?

7                   THE COURT: Be seated, please.

8                   MR. IGNALL: Your Honor --

9                   THE COURT: Yes.

10                  MR. IGNALL: -- I had suggested to Ms. Vannozzi -- and

11 she probably relayed that to you -- Mr. Cardiff is here. He's

12 not our next witness; he'll be the witness after that.

13                  THE COURT: Okay.

14                  MR. IGNALL: But I don't know if the Court wanted to

15 inquire of him about his immunity right now outside of the

16 presence of the jury so we wouldn't have to take a break so we

17 can move quickly. We're amenable either way.

18                  THE COURT: I'm trying to remember what I did on the

19 last one.

20                  MR. IGNALL: I think we did it at sidebar with

21 Ms. Mitchell.

22                  THE COURT: Okay.

23                  I can do it outside the presence of the jury. We have

24 one -- one matter that came up during the break and that is

25 Juror No. 9, Eric Lombardo, disclosed to the clerk that he

1 recognized, uh, Dr. Abdulla from UMC. Didn't know him by name;  
2 just recognized, uh, his face once he walked in. However,  
3 further stated that he has never had any conversations with, uh,  
4 Dr. Abdulla.

5 MR. BOWERS: Is he an employee at UMC, your Honor?

6 THE COURT: Yes.

7 THE CLERK: Um-hum. I think so.

8 MR. IGNALL: Has the Court made inquiry of him, your  
9 Honor?

10 THE COURT: I haven't. I'll be happy to do it if you  
11 wish. But he represented to the clerk he's never had a  
12 conversation with Dr. Abdulla; he just recognized him as someone  
13 that works at the hospital. If you wish --

14 MR. IGNALL: Well...

15 THE COURT: -- if you wish me to inquire, I will.

16 MR. CRISTALLI: I don't think so.

17 MR. IGNALL: The Government doesn't see any need for  
18 that.

19 MR. CRISTALLI: Not on behalf of Ms. Neun, your Honor.

20 THE COURT: Mr. Bowers?

21 MR. BOWERS: No. Thank you, your Honor.

22 THE COURT: Mr. Schiff?

23 MR. SCHIFF: No, I have no objection.

24 MR. BOWERS: We didn't find out anything more about the  
25 juror with the marshals, your Honor?

1 THE COURT: No.

2 MR. IGNALL: Mr. Bowers, I think one of the agents here  
3 found out that they were just walking out coincidentally at the  
4 same time.

5 MR. BOWERS: Oh, okay. That'll be it. Thank you.

6 THE COURT: Satisfied?

7 MR. BOWERS: Yep.

8 THE COURT: Okay.

9 MR. BOWERS: If it's true.

10 THE COURT: Okay.

11 THE CLERK: Do you want Mr. Carlyle [sic] or --

12 THE COURT: Cardiff.

13 THE CLERK: The witness.

14 THE COURT: Yeah, have him come in. Have him come in  
15 while you're lining up the jurors.

16 THE CLERK: Mr. Ignall, if you could get your witness,  
17 Mr. Cardiff.

18 MR. IGNALL: Okay.

19 THE COURT: Is this Mr. Cardiff?  
20 You can just stand there, sir.

21 MR. CARDIFF: Oh.

22 THE COURT: The Court has said signed an order for use  
23 immunity. Are you familiar with what that is? And basically  
24 what it is, is the testimony you offer today can't be used  
25 against you?

1 MR. CARDIFF: Yes.

2 THE COURT: And do you have any questions? Have you  
3 had an opportunity to consult with counsel?

4 MR. CARDIFF: Yes.

5 THE COURT: And are you satisfied that you've had the  
6 legal advice and counsel that you need in order to decide  
7 whether to testify?

8 MR. CARDIFF: Yes.

9 THE COURT: Okay.  
10 Does counsel wish me to make any further inquiry?

11 MR. IGNALL: No, your Honor.

12 THE COURT: Okay.

13 MR. BOWERS: As I understand the offer, that only  
14 applies to Mr. Cardiff and not his spouse at this point.  
15 Correct, your Honor?

16 THE COURT: That's all I signed was for Mr. Cardiff.

17 MR. BOWERS: Thank you, Judge.

18 THE COURT: Is she going to be testifying?

19 MR. IGNALL: Yes.

20 THE COURT: She will?

21 MR. NEIMAN: No. She will not --

22 THE COURT: Oh --

23 MR. NEIMAN: -- your Honor.

24 THE COURT: -- okay.

25 MR. BOWERS: Not through the Government at least.

1 THE COURT: Okay. All right.  
2 So you can wait outside, sir. Thank you.  
3 MR. CARDIFF: Thank you.  
4 MR. IGNALL: Thank you.  
5 (Pause in the proceedings.)  
6 THE CLERK: Go on in.  
7 (Jury enters the courtroom at 1:37 p.m.)  
8 THE COURT: Please be seated.  
9 Will counsel stipulate to the presence of the jury?  
10 MR. IGNALL: Yes, your Honor.  
11 MR. CRISTALLI: Yes, your Honor.  
12 MR. BOWERS: Of course, your Honor.  
13 MR. SCHIFF: Yes, your Honor.  
14 THE COURT: Thank you.  
15 Government will call its next witness.  
16 MR. IGNALL: United States calls Charles Earnest.  
17 (Pause in the proceedings.)  
18 (Charles Vincent Earnest takes the witness  
19 stand.)  
20 THE CLERK: Please raise your right hand.  
21 You do solemnly swear that the testimony you shall give  
22 in the cause now pending before this court shall be the truth,  
23 the whole truth, and nothing but the truth, so help you God?  
24 THE WITNESS: Yes, I do.  
25 THE CLERK: Thank you. Please be seated.

1           Please state for the record your full name and spell  
2 your last name.

3           THE WITNESS: Charles Vincent Earnest, E-a-r-n-e-s-t.

4

5                           CHARLES VINCENT EARNEST,  
6 called as a witness on behalf of the Government, having been  
7 first duly sworn, was examined and testified as follows:

8

9           THE COURT: Go ahead.

10

11                           DIRECT EXAMINATION

12 BY MR. IGNALL:

13 Q. Good afternoon, Mr. Earnest.

14           Where do you reside?

15 A. In Las Vegas.

16 Q. What do you do here in Las Vegas?

17 A. I have a painting business.

18 Q. And do you own the painting business?

19 A. Yes.

20 Q. How long have you had that painting business?

21 A. 20 years.

22 Q. Uh, and how do customers pay you when you get -- when you do  
23 a job for them?

24 A. Uh, they pay me in -- I have various customers. Um, they  
25 pay me by check mainly.

1 Q. All right. Do any customers ever give you a Form 1099 or  
2 something else that -- that reports how much money they've paid  
3 you in a given year?

4 A. I get 1099's at the end of the year from a lot of -- most of  
5 my clients.

6 Q. Okay. Have you ever heard of Irwin Schiff?

7 A. Yes, I have.

8 Q. How did you first hear of Mr. Schiff?

9 A. I heard him on a radio broadcast, uh, uh, advertising or  
10 talking about a seminar I was gonna have.

11 Q. Do you recall when that was?

12 A. Uh, early 2001.

13 Q. And what did Mr. Schiff talk about on this radio show?

14 A. Uh, just that there's no law that requires you to pay income  
15 tax. And, if you wanna know more about it, come down to the  
16 seminar.

17 Q. Did you go to a seminar?

18 A. Yes.

19 Q. Where was that seminar held?

20 A. I can't remember. In one of the hotels off of Tropicana, I  
21 believe. I can't remember.

22 Q. Did you have to pay to go to the seminar?

23 A. I can't remember if you had to pay or if it was free. It  
24 was -- I can't remember.

25 Q. How long did the seminar last?

- 1 A. It was a two-day seminar.
- 2 Q. Who spoke at the seminar?
- 3 A. Irwin.
- 4 Q. Did anyone else speak?
- 5 A. Not to my knowledge -- or I can't remember.
- 6 Q. While you were at the seminar, did you purchase any  
7 materials?
- 8 A. Yeah. He had a, uh -- what was called the "Truck Driver's  
9 Special" or whatever. It was a collection of all his books and  
10 tapes and stuff.
- 11 Q. And you purchased it?
- 12 A. And I purchased that, yes.
- 13 Q. Did Mr. Schiff promote any materials for purchase during the  
14 seminar?
- 15 A. He just said that if -- these books are available if you  
16 wanted to buy them. I don't know if that's promoting or not.
- 17 Q. Okay. Do you recall how much money you spent at the seminar  
18 to purchase materials?
- 19 A. Uh, two, three hundred dollars. I -- I really don't have --  
20 I can't remember exactly.
- 21 MR. IGNALL: May I approach the witness, your Honor?
- 22 THE COURT: You may.
- 23 BY MR. IGNALL:
- 24 Q. If I could turn your attention to Exhibit 162.
- 25 A. Okay.



1 Q. Do you recognize either of the documents in Exhibit 162? I  
2 think there's an "A" and a "B" in there. Am I right?

3 A. Um, I don't really recognize them. It seems like what I --  
4 it was where I was living at the time. It was, uh, nothing that  
5 I filled out, so...

6 Q. So you've never seen these documents before?

7 A. I think I was shown them earlier by your staff --

8 Q. But --

9 A. -- confirming that, yeah, I did have them and I said, yeah,  
10 this seems like the seminar I went to and everything. So I have  
11 seen them before, but I don't remember the day of the  
12 registration and all that seeing them.

13 Q. Does looking at either of these documents refresh your  
14 recollection now as you sit here about how much money you spent  
15 at the seminar?

16 A. Well, this one says 200.

17 Q. I'm asking if looking at that now helps you remember how  
18 much you spent.

19 A. You know, I don't -- it doesn't really because I thought it  
20 was like three, four hundred dollars. But I'm surprised that it  
21 was almost \$800. But, if this says it is, then it must have  
22 been. But --

23 Q. We can get back to that in a minute. Thank you.

24 THE COURT: Which one were you looking at? Were you  
25 look at "A" or "B" or both?

1 THE WITNESS: I was lookin' at both of them.

2 THE COURT: Okay.

3 THE WITNESS: One is the registration. I can't  
4 remember it cost. It was so long ago and I do so many things in  
5 the painting business I can't clue my mind. It doesn't zone in  
6 on me that, yeah, now I remember it. But I don't dispute the  
7 fact that it is it. But I just don't --

8 MR. IGNALL: Okay.

9 THE WITNESS: -- remember per se yes, it was, you know.

10 BY MR. IGNALL:

11 Q. But it's possible you spent somewhere around a thousand  
12 dollars --

13 A. It is.

14 Q. -- on materials.

15 A. Yes, it is possible.

16 Q. Okay. Did you ever visit Freedom Books after you went to  
17 the seminar?

18 A. Yes.

19 Q. When did you first go down to Freedom Books?

20 A. I can't really remember a specific date. It -- probably  
21 during a couple months after the seminar I would imagine.

22 Q. All right. Did you meet with anyone in particular at  
23 Freedom Books?

24 A. I met with Irwin Schiff.

25 Q. And what did you discuss with Mr. Schiff?

1 A. Just the contents of the books and, uh, more -- more on the  
2 subject, I would -- I would suppose.

3 Q. Which subject is that?

4 A. Uh, the filing zero.

5 Q. The zero tax return?

6 A. Yes.

7 Q. Okay. Before you went to the -- the seminar of Mr. Schiff,  
8 did you file your own tax returns?

9 A. Well, I had -- yes, I had -- I didn't personally, no. I had  
10 accountants and everything do it. I don't -- I don't do  
11 anything on my own. I just have accountants do everything and  
12 bookkeepers and such like that.

13 Q. And had you filed tax returns prepared by your accountant?

14 A. Yes.

15 Q. And what did you report as income on those tax returns you  
16 filed before meeting Mr. Schiff? Not the actual number but what  
17 did you include as income.

18 A. All my business. I mean, I -- I'm incorporated. So I have  
19 my corporate return; I have my personal return. And I file both  
20 of them every year.

21 Q. All right. What did Mr. Schiff tell you was a zero return?

22 A. Uh, he said a zero return means that you aren't liable for  
23 any federal income taxes. So the way that he -- that his  
24 literature and from his explanation that you aren't liable for  
25 any of the taxes. They are more geared around, uh, piggybacking

1 on the tax for, uh, alcohol -- alcohol and tobacco and -- and  
2 that and nothing specifically says your income is geared  
3 towards, uh, being taxed.

4 Q. At some point, did you make a decision to file a zero tax  
5 return?

6 A. Yes.

7 Q. Did you do it yourself?

8 A. I -- I did the first year 2000 -- it was 2001 taxes. It  
9 was, um -- I did a zero in 2001 and 2000. So, if I met with  
10 Irwin, it must have been in 2002 because that's when the taxes  
11 were done and that's when I filed the return.

12 Q. All right.

13 A. So I would say that, uh, the first year I went to him and he  
14 filled out a return for me and signed the return and sent it in.  
15 And that was the 2001 return that was actually done in 2002.

16 Q. If I could turn your attention to what we've marked as  
17 Exhibit 160. I'm hoping it's in front of you now.

18 A. (Complies.) Okay.

19 Q. Do you recognize Exhibit 160? Probably not that first page,  
20 would be my guess, but starting on the second page.

21 A. Yes.

22 Q. What is Exhibit 160?

23 A. It is a -- my 2001 taxes and it is filled out as a zero  
24 return. And it has a -- I did pay in some taxes that year. So  
25 it was to get refunded the taxes that I did pay in.

1 MR. IGNALL: At this point, the Government moves into  
2 evidence Exhibit 160.

3 MR. CRISTALLI: No objection.

4 MR. BOWERS: Uh, no objection, your Honor.

5 MR. SCHIFF: No objection.

6 THE COURT: 160 is received.

7 (Government's Exhibit No. 160, received into  
8 evidence.)

9 MR. IGNALL: May we publish Exhibit 160?

10 THE COURT: You may.

11 (Document displayed in open court.)

12 BY MR. IGNALL:

13 Q. If we could look at the middle section under "Income," what  
14 did you write down on line 7?

15 A. Uh, zero.

16 Q. Did you earn any money -- I'm sorry -- and then what did you  
17 write down as your total income on line 22?

18 A. Zero.

19 Q. Did you earn any money during 2001 from your painting  
20 business?

21 A. According to Irwin Schiff I didn't in a taxable sense.

22 Q. But did you earn money? Were you paid for your services --

23 A. Yes.

24 Q. -- during 2001?

25 A. Yes.

1           MR. SCHIFF: I have to object, your Honor, because no  
2 expert has -- there's been no -- the Government's put on nobody  
3 who has testified that the receipt of earnings constitutes  
4 income within the meaning of the statute.

5           THE COURT: Well, case isn't over yet. The fact that  
6 they don't present their witnesses in the order that you want  
7 them to doesn't mean --

8           MR. SCHIFF: All right.

9           THE COURT: -- that it's not admissible.

10 BY MR. IGNALL:

11 Q. Did you have a discussion with Mr. Schiff about how much  
12 money you had earned from your painting business during 2001?

13 A. Uh, I might have. I don't recall specifically.

14 Q. Is there -- if you look two more pages into the tax return,  
15 is there a W-2 form in there?

16 A. Uh, yes.

17 Q. Did you provide that W-2 to Mr. Schiff?

18 A. I -- I don't know if I provided it to Mr. Schiff or if I  
19 just wrote it in myself.

20 Q. All right. If I can turn your attention to the second page  
21 of the tax return --

22 A. Okay. I got...

23 Q. -- at some point --

24 A. Well, the flip side of the first page?

25 Q. It's page 2 of the tax return.

1 A. Okay. Got it.

2 Q. Under "Payments," did you report that there -- that you had  
3 income taxes withheld?

4 A. Yes.

5 Q. Did you tell Mr. Schiff that you had income tax withheld?

6 A. Yes.

7 Q. Did you tell him what business you were in and how that came  
8 about?

9 A. Yes.

10 Q. What did you tell him?

11 A. I have a painting business.

12 Q. All right. Did you seek a refund of those taxes already  
13 withheld?

14 A. According to this return, I did.

15 Q. And is that your signature at the bottom of the tax return?

16 A. Yes.

17 Q. All right. And under "Paid Preparer's Use Only," do you see  
18 a signature there?

19 A. Yes.

20 Q. Do you know whose signature that is?

21 A. I believe it's Irwin Schiff's.

22 Q. Did Mr. Schiff prepare your tax return, this tax return  
23 we're looking at?

24 A. I don't know if he prepared this one or just signed it. I  
25 think that I might have prepared it and he signed it.

- 1 Q. Did you ask him to sign it?
- 2 A. Yes.
- 3 Q. All right. If I could turn your attention two more pages  
4 back, there's a two-page typed out letter. Do you recognize  
5 that letter?
- 6 A. 3 of 4 and 4 of 4?
- 7 Q. Yes.
- 8 A. Okay.
- 9 Q. Do you recognize those two pages?
- 10 A. Yes, I do.
- 11 Q. Did you send these two pages with your tax return to the  
12 Internal Revenue Service?
- 13 A. I believe I did.
- 14 Q. Did you write -- did you compose what's written on these two  
15 pages yourself?
- 16 A. No, I didn't.
- 17 Q. Where did you get this language?
- 18 A. Uh, from Mr. Schiff's office.
- 19 Q. Did someone at Mr. Schiff's office prepare this for you?
- 20 A. Uh, they must have. I received them from Mr. Schiff's  
21 office. So someone got them for me or he got them for me.  
22 Someone got them for me.
- 23 Q. Did you rely on anyone else's information when you decided  
24 to send in this zero tax return for 2001?
- 25 A. No.



1 Q. Did you end up getting a tax refund for the taxes that you  
2 had withheld for 2001?

3 A. No.

4 Q. Did you get -- I'm sorry -- did you pay Mr. Schiff to  
5 prepare your tax return?

6 A. I -- I think I did, but I can't remember, uh, what it was or  
7 in what form it was.

8 Q. Do you remember testifying before the Grand Jury in the  
9 investigation of this matter?

10 A. Yes.

11 Q. All right. And did you testify under oath?

12 A. Yes.

13 Q. Okay.

14 MR. IGNALL: If I may have one moment, your Honor?

15 THE COURT: You may.

16 (Pause in the proceedings.)

17 BY MR. IGNALL:

18 Q. Do you recall if in the Grand Jury you were asked if you  
19 paid Mr. Schiff for his services?

20 A. I believe I was.

21 Q. Okay. Do you remember what your answer was then?

22 A. I don't. I would think it was the same as today, but I  
23 can't remember --

24 Q. Okay.

25 A. -- what it was.

1 Q. All right.

2 A. I mean, if it was different, I -- I don't know. Maybe you  
3 could refresh my memory.

4 Q. If I --

5 MR. IGNALL: May I approach the witness, your Honor?

6 THE COURT: You may.

7 BY MR. IGNALL:

8 Q. Do you recall telling the Grand Jury that you paid  
9 Mr. Schiff \$500 in cash?

10 A. (Reviewing document.)

11 I don't recall saying that. But I -- if I did and it's  
12 down here, then I must have.

13 Q. Was your --

14 A. That sounds about right.

15 Q. What was the day that you testified before the Grand Jury?  
16 Do you recall how long ago that was?

17 A. Okay. Let me think.

18 Q. It may be...

19 A. Well, do you want me to look or...

20 Q. Well, see if that refreshes your recollection --

21 A. Okay. Yeah --

22 Q. -- if you --

23 A. -- 'cuz I mean --

24 Q. -- look at that transcript.

25 THE COURT: Do you need the lights up, sir?

1 THE WITNESS: No, I don't.

2 Wow, it was a long time ago. Two years ago.

3 BY MR. IGNALL:

4 Q. So is it fair to say that your memory is probably a little  
5 bit better two years ago than it is today?

6 A. Yes.

7 Q. All right. Thank you.

8 A. But then I must admit that I got in a traffic accident. And  
9 this is about -- this is on October 1st -- no, this is August  
10 1st -- and I got the notice to go down by a certain date to  
11 appear in court. And I forgot that I went down and appeared and  
12 I was kinda questioning my office manager why she didn't remind  
13 me. And she said it's already taken care of; you don't have to  
14 appear.

15 So my memory is getting worse and worse as I get older.  
16 It must be because I couldn't even remember I went down to the  
17 courthouse and, you know, set up traffic school for this ticket.  
18 I went, wow, I don't even remember goin' down there. That's  
19 this morning I realized that. And I went Alzheimer's is settin'  
20 in or something, but...

21 Q. Did you ever get -- after you sent in your zero return for  
22 the 2001 tax period, did you get any correspondence from the  
23 IRS?

24 A. Uh, yes, I did.

25 Q. If I could turn your attention to Exhibit 161, do you

1 recognize this document?

2 MR. IGNALL: May I approach the witness again, your  
3 Honor?

4 THE COURT: You may.

5 THE WITNESS: Okay, 161. Oh.

6 MR. IGNALL: Thanks.

7 BY MR. IGNALL:

8 Q. Do you recognize Exhibit 161, Mr. Earnest?

9 A. Yes. Yes, I do.

10 Q. What is Exhibit 161?

11 A. Uh, it's saying that I, uh, sent in a --

12 Q. I'm sorry. Is this a letter?

13 A. Yes, this is a letter.

14 Q. From whom?

15 A. From the IRS.

16 Q. To?

17 A. To me.

18 Q. Have you seen this letter before?

19 A. Yes, I have.

20 Q. Okay. And what is this letter?

21 A. This is a letter stating that the -- the zero return for  
22 2001, in their opinion, is a frivolous return.

23 MR. IGNALL: At this point, the Government moves into  
24 evidence Exhibit 161.

25 THE COURT: Cristalli?

1 MR. CRISTALLI: No objection, your Honor.

2 MR. BOWERS: Nothing --

3 THE COURT: Bowers?

4 MR. BOWERS: -- your Honor.

5 MR. SCHIFF: No objection.

6 THE COURT: 161 is received.

7 (Government's Exhibit No. 161, received into  
8 evidence.)

9 BY MR. IGNALL:

10 Q. What did you do after you got this letter that we've marked  
11 as Exhibit 161?

12 A. Uh, I think I got consultation from Mr. Schiff on how to  
13 react to this letter and he gave me some more literature to send  
14 to the IRS, which I did. And then eventually it says if I don't  
15 pay it I owe \$500, and I believe I sent the IRS a check for  
16 \$500.

17 Q. You did ultimately get a \$500 penalty?

18 A. I didn't get it. I think I just sent it in.

19 Q. Well, let's go back.

20 You brought this letter down to Mr. Schiff. And what  
21 happened? He provided something else for you?

22 A. Uh, there was a, uh -- some more like -- some more, um,  
23 pamphlet information to send to the IRS stating why it wasn't  
24 frivolous and why it was a legitimate return.

25 Q. And did any of those letters resolve your tax problem with

1 the IRS?

2 A. Um, they just kept sending me -- no, they kept sending me  
3 letters saying that I owed for 2001.

4 Q. Have you resolved your tax liabilities with the IRS?

5 A. Yes, I have.

6 Q. How did you resolve them?

7 A. Uh, an IRS agent contacted me and I was audited for that  
8 year and he came to a determination on what I owed and -- with  
9 penalties and interest and -- and that's how it was resolved.

10 Q. Did you owe penalties and interest on top of tax for the  
11 years that you filed a zero return?

12 A. Well, according to the IRS, I did. So yes.

13 Q. And have you paid those?

14 A. I'm still waiting for the letter to come back. This is all  
15 in the last six months that this has been happening and it  
16 hasn't come down to that yet. It just came down from the  
17 auditing and waiting for a response from the IRS.

18 Q. Thank you.

19 MR. IGNALL: One moment, your Honor.

20 THE COURT: Yes.

21 (Discussion between Mr. Ignall and  
22 Mr. Neiman.)

23 MR. IGNALL: No further questions.

24 THE COURT: Cross-examination?

25 MR. CRISTALLI: Not on behalf of Ms. Neun, your Honor.

1 THE COURT: Bowers?

2 MR. BOWERS: Nothing.

3 THE COURT: Mr. Schiff?

4

5 CROSS-EXAMINATION

6 BY MR. SCHIFF:

7 Q. Mr. Earnest --

8 A. Mr. Schiff.

9 Q. -- you stated that you came to my seminar; is that correct?

10 A. Yes --

11 Q. It was --

12 A. -- I did.

13 Q. -- a two-day seminar.

14 A. Yes, it is -- it was, yes.

15 Q. Looking at the order form that the Government submitted as  
16 an exhibit, it says two persons. Uh, did you come with somebody  
17 besides yourself?

18 A. I brought my office manager.

19 Q. Oh. All right. So whatever you paid it was for two?

20 A. I -- I would imagine. I couldn't remember payin' for one.  
21 I couldn't remember that it cost anything to go. But -- but if  
22 I did, then --

23 Q. Well, all I'm saying -- on the order form, it says two  
24 persons.

25 A. Okay.

1 Q. I just wanted to clarify that.

2 Uh, now, you recall at my seminar I passed out  
3 documents, sheet of documents, and my seminar followed these  
4 documents. Is that your recollection?

5 A. I don't remember anything really specific except for --

6 Q. Would it refresh your recollection if I showed you the  
7 documents?

8 A. It wouldn't really because I can't remember that much -- I  
9 just remember in general how -- I couldn't even remember how  
10 much it was for the seminar. I don't think I would remember  
11 specific documents.

12 Q. Okay. But it was a two-day seminar; right?

13 A. Yes, it was.

14 Q. So I must have covered a lot of ground.

15 A. You must have, yes.

16 Q. Okay. Do you recall me discussing the history of the income  
17 tax?

18 A. Yes.

19 Q. Do you recall me discussing the Supreme Court declaring an  
20 income tax unconstitutional in 1895?

21 A. I -- I believe so.

22 Q. And then we discussed why it was held unconstitutional? Do  
23 you remember that?

24 A. Yes.

25 Q. And then we discussed the passage of the Sixteenth



1 Amendment?

2 A. I believe so.

3 Q. Okay.

4 A. I -- I can't really remember what we discussed at that time  
5 or what I further read.

6 Q. Okay.

7 A. I mean, I can't put myself back in that seminar. There --  
8 there's too much of a blur.

9 Q. Do you remember me discussing -- it's actually the legal  
10 meaning of "income" for tax purposes?

11 A. Yes.

12 Q. And do you remember me discussing why the legal meaning for  
13 tax purposes was different from the meaning of "income" used in  
14 its everyday sense?

15 A. Yes.

16 Q. You remember that.

17 And do you remember me supporting that distinction with  
18 Supreme Court cases?

19 A. Yes.

20 Q. Okay. Do you remember that during the course of the seminar  
21 I asked for a show of hands as to who didn't believe the income  
22 tax was voluntary? Do you remember that?

23 A. I don't.

24 Q. You don't remember. Okay.

25 A. I don't remember that, no.

1 Q. In any case, we spent two days discussing aspects of the  
2 income tax which you had never considered before.

3 A. That's true.

4 Q. Okay. And, because of this seminar, there were doubts put  
5 in your mind as to whether you were legally required to pay  
6 income taxes.

7 A. Yes, there is.

8 Q. And there were a number of people at that seminar.

9 A. Yes, there -- there was 20 or 30 people, I believe.

10 Q. Okay. And do you recall me allowing anybody to interrupt me  
11 with a question during the course of the seminar?

12 A. Yes, a certain -- yes.

13 Q. And do you recall at the end of the seminar I had a long  
14 time for questions and answers?

15 A. Yes.

16 Q. Did you stay for the question-and-answer period?

17 A. I believe I did.

18 Q. Did you hear anybody ask a question that I couldn't answer?

19 A. Not to my recollection.

20 Q. And we took several breaks during the course of the two  
21 days, didn't we?

22 A. Yes.

23 Q. Did you hear anybody suggesting that this was a bunch of  
24 bunk; you know, that -- anybody disbelieving what -- what they  
25 were hearing?

1 A. No.

2 Q. No.

3 Did everybody seem to be believing what I was  
4 presenting?

5 A. From my recollection --

6 Q. Okay.

7 A. -- yes.

8 Q. Now, would it be safe to say that as a result of your  
9 staying two days and listening to my seminar you were persuaded  
10 that there was no law that required you to pay income taxes?

11 A. Yes, I was.

12 Q. And was it safe to say that as a result of hearing me for  
13 two days you were persuaded that you had no income for tax  
14 purposes?

15 A. Yes.

16 Q. Okay. So what persuaded you is not my persuasion but the  
17 statutes and the court decisions that I provided you in the  
18 documents.

19 A. Yes, that's true.

20 Q. Yes.

21 And, as a matter of fact, didn't you buy the Internal  
22 Revenue Code?

23 A. Yes, I believe I did.

24 Q. Now, according to the sales slips that the Government  
25 provided, you paid for the seminar, uh, January 8th and you --

1 and you bought additional material on the 12th.

2 A. Okay.

3 Q. So it's safe to say that as a result of your listening to  
4 the seminar you thought enough of what you heard to even buy  
5 additional material, is that correct --

6 A. That's correct.

7 Q. -- to do additional research --

8 A. Yes.

9 Q. -- and you bought the Internal Revenue Code?

10 A. Yes.

11 Q. Okay. Now, according to your -- according to what you told  
12 the Grand Jury that you prepared -- you prepared, uh -- you  
13 prepared the, uh -- your return for the year 2001.

14 A. Yes.

15 Q. I didn't prepare it.

16 A. Yes.

17 Q. You prepared it.

18 A. Yes.

19 Q. So all you did is that you came into my office and asked me  
20 to check -- I mean --

21 A. Yes --

22 Q. Now --

23 A. -- I asked -- yes.

24 Q. -- now, isn't it a fact that the return you prepared was  
25 almost identical with the return that I passed out at my

1 seminar?

2 A. Yes. Most likely, yes.

3 Q. So it was a very simple matter for you to prepare it?

4 A. Um-hum.

5 Q. Now, the return that you prepared contained some 13 and 14  
6 paragraphs. Assuming you believed everything in each paragraph  
7 based on the court decisions and the statutes, wouldn't it be  
8 easier for you to submit the return that I pre-prepared rather  
9 than you starting from scratch and making up your own return?  
10 Wasn't it easier to simply adopt my sample return, assuming it  
11 contained all the statements that you have come to accept?

12 A. Yes.

13 Q. It was easier.

14 A. Right.

15 Q. But, once you signed it and sent it in and filled in the  
16 dates and the amounts, it became your tax return.

17 A. Yes.

18 Q. Incidentally, before that you said you had accountants  
19 prepare your tax return.

20 A. Yes.

21 Q. What did you pay your accountant to prepare your tax return?

22 A. I don't know specifically because my office manager takes  
23 care of all that.

24 Q. You don't --

25 A. It's a couple --

1 Q. -- know what you paid.

2 A. -- grand, couple of thousand dollars.

3 Q. Couple of thousand.

4 A. Yes.

5 Q. So what you paid me was a lot less than what you paid your  
6 accountant?

7 A. Yes.

8 Q. Okay. Now, if I can ask you to look at your tax return that  
9 you prepared. What's that Government's Exhibit...

10 A. Okay. I got it.

11 Q. Okay. Now, what did you -- what did you put in the first  
12 two paragraphs of your return?

13 A. I put single.

14 Q. And -- and you start, "I, Charles [sic] Earnest." Right?

15 A. Oh, that one? Yeah, "Charles Earnest."

16 Q. You want to just read the first four lines?

17 A. Uh, you mean where I fill in my name?

18 Q. Yeah, yeah. Just read the first four lines.

19 A. Well, it says, Charles V. Earnest. If a joint return,  
20 spouse ... N/A and gives my address, uh...

21 Q. No, no. I'm sorry. On the attachment. On the attachment.

22 A. On the attachment.

23 Q. Yeah.

24 A. So not the actual return?

25 Q. That would be page 3 of 4.

1 A. Oh, okay, okay. I'm sorry.

2 "I, Charles" -- it's misspelled it says "Carles." But  
3 it's "Charles ... Earnest, am submitting this as part of my 2001  
4 income tax return, even though I know that no section of the" --  
5 "that no section of the entire [sic] Revenue Code

6 "[Number] 1) Establishes an income tax 'liability', as  
7 for example, Code Sections 4401, 5005, and 5703 do not [sic]  
8 respect to wagering" --

9 Q. I'm sorry. "Do with respect."

10 A. -- "alcohol, and ... taxes."

11 Q. Okay. So, in the first two paragraphs, you stated you were  
12 filing this return even though you believed you had -- there was  
13 no statute making you liable --

14 A. Yes.

15 Q. -- even though you had checked out Section 4401, 5005, and  
16 5703.

17 Now, how did you make that determination? How did you  
18 determine that -- that you presumably had no income tax  
19 liability?

20 A. Well, I bought the IRS Code and I looked at these sections  
21 and I couldn't see where this pertained to anything that I --  
22 that pertained to any income that I received.

23 Q. In other words, when you bought the Internal Revenue Code, I  
24 had some red tabs --

25 A. Yes.

1 Q. -- right here?

2 A. Yes.

3 Q. There were red tabs. There were blue tabs. There were  
4 green tabs.

5 A. Yes.

6 Q. Where I had put the red tabs, do you recall what those Code  
7 sections indicated?

8 A. I don't. Not off the top of my head --

9 Q. Not off the top of your head.

10 Well, would it refresh your recollection if I presented  
11 you with the code that --

12 A. Yes.

13 Q. Okay. You can start with the first red tab.

14 THE CLERK: Mr. Cristalli has marked that as  
15 Exhibit 2500.

16 BY MR. SCHIFF:

17 Q. What does the -- incidentally, do you recall -- do you  
18 recall me giving you instructions with the Code that explained  
19 the different colors?

20 A. Uh, no, I don't.

21 Q. All right. But you recall -- all right. What did the first  
22 red tab --

23 A. I mean, you could have and you probably did. I don't  
24 remember instructions on that.

25 Q. Well, if I showed you the instructions, would that...



1 A. It -- it could. But I...

2 Q. All right. Would this refresh your recollection if -- do  
3 you recall receiving this with the Code book you purchased  
4 from... Does that refresh your recollection?

5 A. (Reviewing document.)  
6 I believe this came with the book.

7 Q. It did.

8 A. Okay.

9 Q. So you recall receiving that with the Code book?

10 A. Vaguely.

11 Q. All right.

12 A. I mean, I don't remember --

13 Q. Can you --

14 A. -- specifically.

15 Q. -- read the first paragraph.

16 MR. IGNALL: Objection, your Honor. I'm not sure what  
17 this is.

18 MR. SCHIFF: That's --

19 THE WITNESS: This or the Code Book?

20 MR. SCHIFF: No, those are the instructions that --

21 THE WITNESS: Read the first paragraph --

22 MR. SCHIFF: -- came with the Code.

23 THE COURT: There's an objection.

24 (Document handed to the Court.)

25 THE COURT: Hasn't been marked; hasn't been shown to

1 Government.

2 MR. SCHIFF: So can he --

3 THE COURT: No. It hasn't been marked. It hasn't been  
4 shown to --

5 MR. SCHIFF: Oh, okay.

6 THE COURT: -- opposing counsel.

7 MR. SCHIFF: I just was gonna -- I wasn't gonna put it  
8 in as an exhibit. I...

9 THE COURT: If you want to show it to the witness, it  
10 has to be marked.

11 MR. SCHIFF: I -- I still don't understand. Someone  
12 says I don't have to put it an exhibit; I just have --

13 THE COURT: You don't have to put it in as an exhibit,  
14 but you have to have it marked --

15 MR. SCHIFF: Marked. All right.

16 THE COURT: -- and identified.

17 MR. SCHIFF: Let's have it marked.

18 MR. LEVENTHAL: You don't have to put everything in.  
19 You get it marked --

20 MR. SCHIFF: I didn't intend to put it in. I just  
21 asked him to read it. I apologize.

22 THE COURT: Ms. Clerk.

23 MR. SCHIFF: I'm having trouble understanding how to do  
24 these things.

25

1 BY MR. SCHIFF:

2 Q. So you have the document?

3 THE WITNESS: He has -- the red tab -- he has -- the  
4 instructions he -- he took from me.

5 MR. SCHIFF: All right.

6 THE COURT: It's Exhibit 2108.

7 (Defendant Schiff's Exhibit No. 2108, marked  
8 for identification.)

9 BY MR. SCHIFF:

10 Q. Can you just read the first paragraph --

11 MR. IGNALL: Objection, your Honor.

12 BY MR. SCHIFF:

13 Q. -- which explains --

14 MR. IGNALL: I still haven't seen it. I don't know if  
15 it's admissible or what it is.

16 THE COURT: Yes.

17 BY MR. SCHIFF:

18 Q. -- which explains the red tabs. That's all.

19 THE COURT: We have a procedure here: You have it  
20 marked. Then you have it shown to opposing counsel --

21 MR. SCHIFF: Okay.

22 THE COURT: -- and then you can ask your questions.

23 (Discussion between Mr. Leventhal and  
24 Mr. Schiff.)

25

1 (Pause in the proceedings.)

2 BY MR. SCHIFF:

3 Q. So you just wanna read the instructions?

4 MR. IGNALL: Well, objection, your Honor. Hasn't been  
5 moved for admission yet. I'm not sure what the relevance of it  
6 is.

7 THE COURT: What is your question?

8 MR. IGNALL: There may be some foundational questions  
9 that would --

10 MR. SCHIFF: The relevance is --

11 THE COURT: What's your question first --

12 MR. SCHIFF: The relevance is, is that he --

13 THE COURT: No. What's your question first?

14 MR. SCHIFF: If he wants to read --

15 THE COURT: He can't read it. You're gonna have to ask  
16 him a question.

17 BY MR. SCHIFF:

18 Q. So do you remember what the red tabs signified on the Code  
19 book that you purchased from me?

20 A. I think the red tags [sic], from my recollection without  
21 reading this, signified where the different, um, sections in  
22 here or codes that was stated in this article that I've already  
23 read -- the Code 4401, 5005, 5703 -- so that I could read for  
24 myself that these things, uh, involved wagering, alcohol, and  
25 tobacco taxes.

1 Q. Those -- I'm not sure I understood your answer.

2 A. Uh, the red tags -- I -- from my recollection, the red  
3 tags -- I don't -- I don't recall.

4 Q. Well -- well, do you recall the instructions? The  
5 instructions explain a little more detail. Could -- could you  
6 read the first paragraph of the instructions which explains what  
7 the red tabs are for?

8 MR. IGNALL: Objection, your Honor. It hasn't been  
9 admitted and I'm still not sure what the relevance is.

10 MR. SCHIFF: We just admitted it, I thought.

11 THE COURT: No. It hasn't been admitted.

12 MR. SCHIFF: Well --

13 THE COURT: He can't identify it. He said he  
14 doesn't --

15 MR. SCHIFF: He said --

16 THE COURT: -- remember it.

17 BY MR. SCHIFF:

18 Q. All right. Could you read from those red tab -- but your  
19 Code book that you purchased from me had those red tabs in it?

20 A. Yes, it had red tags on it, yes.

21 Q. And would you have gone to the red tabs to see --

22 A. I probably would have went to all the tabs --

23 Q. Right.

24 Will you read --

25 A. -- throughout the book.

1 Q. All right. Can you go to the first red tab?

2 A. The first red --

3 Q. So your Code book looked just like; is that right?

4 A. I don't recall. I'd have to see my Code book. It was a

5 big, thick book like this, said IRS --

6 Q. But it had the red tabs and the green tabs and yellow tabs?

7 A. From my recollection, it had different colored tabs in it,

8 yes.

9 Q. Can you read -- can go to the first red tab?

10 A. Yes. "A," amortization.

11 Q. Is there something highlighted on that page? Had to do with

12 maybe -- had to do with --

13 A. It's highlighted. It says, "Liabilities for Occupational

14 Taxes."

15 Q. What does it say?

16 A. Well, it says go to 5143.

17 Q. And is -- is there something highlighted and underlined?

18 MR. SCHIFF: Can I approach --

19 THE WITNESS: It just -- it goes down to another one

20 and it highlights Occupational Taxes and it gives these --

21 BY MR. SCHIFF:

22 Q. What does it say? Can I...

23 A. I'm not sure what you're asking me.

24 Q. Oh, no, no, no. That's the index.

25 A. Well, you said "A."

1 Q. Oh, I'm sorry.

2 A. I went to "A."

3 Q. I meant this right here.

4 A. Oh. Well, I went to "A." Okay.

5 Q. See, here. In other words, you go here.

6 A. Yeah.

7 Q. Okay.

8 A. You said go to "A." And this is red tag "A."

9 Q. I'm sorry.

10 A. And then I went to red tag "A." So it was an index. Okay.

11 Q. Okay. And what does it say?

12 MR. IGNALL: Objection, your Honor, to this line of

13 inquiry. If -- if Mr. Earnest can say he had a discussion with

14 Mr. Schiff about going this through this book together, then it

15 might be relevant. Beyond that --

16 THE COURT: It is. It's just --

17 MR. IGNALL: -- we're just picking and choosing

18 certain --

19 THE COURT: Yeah.

20 MR. IGNALL: -- Code sections to read.

21 THE COURT: You're --

22 MR. SCHIFF: It's relevant because I haven't seen him

23 since and he had the Code book, your Honor, and he had -- I'm

24 just trying to say how the Code, um, influenced his filing the

25 zero return and not me.

1 THE COURT: Well, it's -- you know, the Code that  
2 you've handed him, you admitted already, was marked up by you.  
3 You marked up whatever you wanted to and that's what he's looked  
4 at. He's testified to that.

5 What more do you want to ask him?

6 BY MR. SCHIFF:

7 Q. Well, wasn't your Code book marked like that?

8 A. Yes.

9 MR. SCHIFF: I mean, the reason I mark -- without the  
10 markings, your Honor, he wouldn't know where to look in the  
11 Code. It would be -- it would be -- it would be a hodgepodge.

12 THE COURT: Okay.

13 MR. SCHIFF: Nobody wouldn't [sic] understand it.

14 THE COURT: He -- he can't answer your question.

15 MR. SCHIFF: Can -- can he go through --

16 THE COURT: No, he's not gonna go through the Code  
17 book.

18 MR. SCHIFF: Just those red tabs.

19 THE COURT: No. It's not --

20 MR. SCHIFF: All right.

21 THE COURT: -- going happen because had has already  
22 testified he doesn't remember it.

23 MR. SCHIFF: All right.

24 BY MR. SCHIFF:

25 Q. Do you recollect that --



1           MR. SCHIFF: Can I ask him about what the red tabs  
2 mean?

3           THE COURT: He already said he didn't --

4 BY MR. SCHIFF:

5 Q. Would the red tabs have influenced how you filed -- why you  
6 might have said you had no income tax liability?

7 A. If they -- if they took me to the -- the -- the sections  
8 that state what income is, then -- then yes.

9 Q. Yes.

10           In other words, in your -- in your zero return, you  
11 indicated you refer to Sections 4401, 5005, and 5703. Weren't  
12 there red tabs at those Code sections?

13 A. I believe there are, yes.

14 Q. And those red -- those Code sections would have shown, uh,  
15 that -- that there was a provision for payment --

16           MR. IGNALL: Objection it sounds --

17 BY MR. SCHIFF:

18 Q. -- of waging --

19           MR. IGNALL: -- like testimony.

20           THE COURT: It is testimony.

21 BY MR. SCHIFF:

22 Q. Okay. Um, I ask you to go to paragraph 6 of your zero  
23 return.

24 A. (Complies.)

25 Q. Now, when you file -- you -- when you filed your -- your

1 zero return, you stated in paragraph -- what did you state?

2 A. Could you give me a number?

3 Q. Yeah, paragraph 6 --

4 A. I know. But --

5 Q. -- of the attachment.

6 A. -- is there a number or something on the page so I can --

7 Q. Yeah.

8 A. -- 'cuz I'm not --

9 Q. Well, there's 1, 2, 3, 4. It's about three --

10 THE COURT: No. He's on the attachment, not on the  
11 return.

12 THE WITNESS: Oh, it's on --

13 MR. SCHIFF: On the attachment.

14 THE WITNESS: Oh, paragraph 6 of the attachment.

15 Excuse me.

16 Okay. Got it.

17 BY MR. SCHIFF:

18 Q. What does it say?

19 A. It says, "It should also be noted that I had 'zero' income  
20 according to the Supreme Court's definition of income (See Note  
21 #1), since in Merchant's Loan & Trust Co[mpany] v Smietanka, 255  
22 U S 509, (at page[] 518 and 519), that" -- "that court held that  
23 'The word (income) must be given the same meaning in all the  
24 Income Tax Acts of Congress that was given to it in the  
25 Corporation Excise Tax ... of 1909' Therefore, since I [have]

1 no earnings in 2001 that would have been taxable as 'income'  
2 under the Corporation Excise Tax ... of 1909, I can only swear  
3 to have 'zero' income in 2001 Obviously, since I know that" --  
4 "the legal definition of 'income,' if I were to swear to hav[e]  
5 received any other amount of 'income,' I" -- "I would be  
6 committing perjury under both 18 U S" -- "U S C 1621 and "U S C  
7 7206 Therefore, not wishing to commit perjury under either  
8 statute, I can only swear to having 'zero' income in 2001."

9 BY MR. SCHIFF:

10 Q. So, when you filed that document, you believed that only a  
11 corporate profit constituted income within the meaning of the  
12 law; is that right?

13 A. Yes.

14 Q. So, when the prosecutor said to you, well, you had wages  
15 during that period of time, when you filed this you didn't  
16 believe that wages constitute taxable income; isn't that right?

17 A. That's true.

18 Q. Did you buy the book -- you must have. You bought The Great  
19 Income Tax Hoax; isn't that right?

20 A. Yes.

21 Q. Do you recall this book?

22 A. Uh, yes.

23 Q. Do you recall reading this book?

24 A. Uh, yes. Not in -- I mean, I've like read all the books. I  
25 couldn't specify --

1 Q. Right.

2 A. -- things that that particular book --

3 Q. Okay.

4 A. -- because I read --

5 Q. All right. Now, there are two chapters in this. Did you  
6 read the chapter in this book entitled -- entitled, "Income,  
7 What Is It?"

8 A. I -- I must have. I --

9 Q. And there's another --

10 A. -- can't remember.

11 Q. -- and it was followed by another chapter. It says, "Why No  
12 One Can Have Taxable Income." Do you remember reading that?

13 A. I don't specifically. But I must have because I read all of  
14 the literature.

15 Q. But, in any case, there's a lot of Code sections -- there's  
16 a lot of court decisions in this book, isn't there?

17 A. I -- I would imagine there is. I can't remember that one  
18 from the other books. It's been a couple years.

19 Q. Okay. But, in any case, when you filed your return then,  
20 you believed that that statement was true; is that correct?

21 A. Yes.

22 Q. Okay. So when the Government uses the term "income," that's  
23 not the same sense that we use it when we talk about taxable  
24 income; it's really corporate profit.

25 A. Yeah. You define income; they define income. Income I --

1 I -- from the IRS is money received for services rendered.

2 Q. But did you recall me stating at the seminar that the word  
3 "income" is not defined in the Internal Revenue Code? Do you  
4 remember --

5 A. Yes.

6 Q. -- do you remember me saying that?

7 A. Yes.

8 Q. And I -- remember me saying that in order to look for the  
9 legal meaning of income we had to look outside the Code to what  
10 the court said the legal meaning of income was?

11 A. Yes.

12 Q. And we provided you with a number of cases that said that  
13 the court said that the word "income" meant a corporate profit.

14 A. Yes.

15 Q. And we spent a lot of time on it. Okay.

16 Now, can I direct your attention to, um -- to, um,  
17 paragraph 9. Paragraph 9.

18 A. Okay.

19 Q. What did you say in paragraph 9?

20 A. "Moreover, since, as of this date, no assessment of 2001  
21 income tax[] (as provided for in Chapter 63) has ever been made  
22 against me, and since no court of competent jurisdiction has, as  
23 of this date, ruled that I owe any income tax[] for the year  
24 2001, the IRS has absolutely no legal basis to hold the  
25 \$16,589 32 [sic] of my money it is now holding in payment of

1 2001 income taxes."

2 Q. So basically you said that since no assessment had been made  
3 against you and no court had determined that you owed the tax,  
4 they had 16,000 of your money and you're asking for it back; is  
5 that right?

6 A. Yes.

7 Q. Okay. Now, the Government has introduced some documents.  
8 For instance, the Government introduced document DS008623.

9 MR. SCHIFF: Can you put that document -- can you put  
10 that document on the screen.

11 MR. IGNALL: What is that document? What Exhibit  
12 number?

13 MR. SCHIFF: Well, it's exhibit -- it's -- it's 4340.  
14 It says 4340 for the year --

15 MR. IGNALL: What -- do you know what exhibit it was --

16 MR. SCHIFF: Well, I don't know. It's DS008623.

17 (Pause in the proceedings.)

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

20 MR. SCHIFF: Well, I -- well, here -- here is a  
21 document showing his -- this is Charles V. Earnest -- I mean, I  
22 got it from the Government.

23 MR. IGNALL: Objection, your Honor, to Mr. Schiff  
24 reading from a document that's not in evidence.

25 MR. SCHIFF: Well --

1 MR. IGNALL: I'm not sure what the relevance is.

2 MR. SCHIFF: This is his 4340 which shows what he owed  
3 as of that date.

4 THE COURT: Well, you'll have to have it marked.

5 MR. SCHIFF: Oh, all right. Can you have it marked?

6 THE COURT: We went through this. You have to have it  
7 marked.

8 MR. SCHIFF: All right. I thought --

9 THE COURT: Show it to opposing counsel.

10 MR. SCHIFF: I --

11 THE COURT: Then we'll discuss it.

12 MR. SCHIFF: I thought they put it in. It's his 4340.  
13 Well, there are three documents that are associated with that.

14 THE COURT: What is the number, Ms. Clerk?

15 THE CLERK: 2109.

16 (Defendant Schiff's Exhibit No. 2109, marked  
17 for identification.)

18 (Document shown to Government counsel.)

19 MR. SCHIFF: Okay.

20 BY MR. SCHIFF:

21 Q. So what this document says --

22 MR. IGNALL: Objection, your Honor. Mr. Schiff can  
23 ask --

24 MR. SCHIFF: Okay.

25 MR. IGNALL: -- the witness --

1 MR. SCHIFF: Okay.

2 MR. IGNALL: -- if he's seen the document.

3 BY MR. SCHIFF:

4 Q. Well, have you --

5 MR. SCHIFF: I don't think he's ever seen it. I don't  
6 know.

7 THE COURT: Well, if he hasn't seen it, you're not --

8 MR. SCHIFF: Well --

9 THE COURT: -- gonna get it in through him.

10 MR. SCHIFF: Well, this is his -- this is his -- this  
11 is his document.

12 THE COURT: Well, it's not his document until --

13 BY MR. SCHIFF:

14 Q. Have you seen --

15 THE COURT: -- he says it is. Step back over -- step  
16 back over and ask him your question. Back to the podium.

17 THE WITNESS: (Reviewing document.)

18 MR. SCHIFF: Usually, your Honor, individuals don't --

19 THE COURT: Do you have questions for him now?

20 MR. SCHIFF: No.

21 THE COURT: The question was: Have you seen this  
22 document?

23 MR. SCHIFF: Can I have a timeout while I get some  
24 help?

25 THE COURT: The question was: Have you seen this



1 document? Can you answer that?

2 THE WITNESS: I don't recall seeing this document.

3 THE COURT: Okay.

4 MR. SCHIFF: All right. Well, wait a minute. This is  
5 a very important document. Can I get some help here?

6 THE COURT: You can.

7 MR. SCHIFF: Huh?

8 THE COURT: Yeah.

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

11 THE WITNESS: Oh, this one? Yeah. I remember it now.

12 (Pause in the proceedings.)

13 BY MR. SCHIFF:

14 Q. Okay. Do you know what a -- do you know...

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

17 BY MR. SCHIFF:

18 Q. Uh, Mr. Earnest, would you recognize --

19 THE COURT: Do you wish to approach?

20 MR. SCHIFF: Yes.

21 THE COURT: Do you have an unmarked document again?

22 MR. SCHIFF: Yes.

23 THE COURT: What is the procedure?

24 MR. SCHIFF: All right.

25

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

3 MR. SCHIFF: But he says he hasn't seen that document  
4 that's in front of him.

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

7 BY MR. SCHIFF:

8 Q. Have you ever seen that document?

9 A. Not to my knowledge. I don't remember it.

10 MR. SCHIFF: Well, I got three documents. They are all  
11 4340's. Ask I can him if he's seen either of these documents?

12 THE COURT: Have you had them marked?

13 MR. SCHIFF: These are all documents based on his --

14 THE COURT: Have you had those marked?

15 MR. SCHIFF: All right. Trouble is the public rarely  
16 sees these documents. But the government --

17 THE COURT: We don't need a speech. I just asked you  
18 if you've had them marked.

19 What are the numbers, Ms. Clerk?

20 THE CLERK: It's, um, looks like it's a two-page  
21 document, your Honor. And so it will be marked collectively as  
22 2110.

23 (Defendant Schiff's Exhibit No. 2110, marked  
24 for identification.)

25 THE COURT: Have opposing counsel seen the document?

1 MR. SCHIFF: Do I show them to the Government now?

2 THE COURT: Show it to the Government.

3 MR. SCHIFF: I'll get the hang of it yet.

4 (Document shown to Mr. Ignall.)

5 THE COURT: Step back to the podium.

6 MR. SCHIFF: I need the document back because I don't  
7 have copies.

8 BY MR. SCHIFF:

9 Q. Have you ever seen those documents?

10 A. (Reviewing documents.)

11 MR. SCHIFF: Your Honor --

12 THE COURT: Just a minute. Let him answer the  
13 question.

14 THE WITNESS: I can't -- I might have. I don't  
15 remember seeing --

16 BY MR. SCHIFF:

17 Q. Well, is your name on those documents?

18 A. Yes, they are.

19 Q. Od those documents affect you as far as you know?

20 A. Uh, yeah, I -- I believe it does. This, I think, is the  
21 penalty --

22 Q. Right.

23 A. -- for the \$500 penalty I think.

24 Q. Yeah. Well, it shows --

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

1 MR. SCHIFF: Okay.

2 MR. IGNALL: Objection, your Honor.

3 THE COURT: The question is --

4 MR. IGNALL: I'm not sure --

5 THE COURT: -- does he remember it.

6 MR. IGNALL: -- what the relevance is with this  
7 witness.

8 THE COURT: He doesn't remember it.

9 MR. SCHIFF: Okay. Can I have the documents back? If  
10 you can --

11 THE COURT: No. They are marked now. They're in the  
12 possession of the clerk.

13 MR. SCHIFF: Well --

14 THE COURT: You can't take them back. They are part --

15 MR. SCHIFF: Well --

16 THE COURT: -- of the record for identification only.

17 MR. SCHIFF: Okay, okay.

18 BY MR. SCHIFF:

19 Q. So -- so you were not aware that as of 12-13 the Government  
20 claimed that it was only a zero assessment, that as of 12-13  
21 that document -- you weren't aware that that document said you  
22 owed the government no taxes for the year --

23 MR. IGNALL: Objection. Compound, assumes facts not if  
24 evidence.

25 MR. SCHIFF: Well --

1 THE COURT: Yes --

2 MR. SCHIFF: -- that document.

3 THE COURT: -- sustained. Testifying.

4 MR. SCHIFF: Well, I'm asking him if he was --

5 THE COURT: He says he doesn't --

6 MR. SCHIFF: -- aware.

7 THE COURT: -- remember it, sir. It's -- it's -- you

8 can't get it in through this witness if he doesn't remember.

9 MR. SCHIFF: Well, how can I get it in, your Honor?

10 THE COURT: Well, you get the custodian to do a

11 certification, like all of the other documents that have been

12 received from the IRS. That would be one way. But I'm not here

13 to give you legal advice.

14 MR. SCHIFF: Well, the point is, your Honor...

15 (Discussion between Mr. Leventhal and

16 Mr. Schiff.)

17 BY MR. SCHIFF:

18 Q. You've never seen that document which is -- shows you what

19 you owe as [sic] a specific date?

20 MR. IGNALL: Objection. Asked --

21 MR. SCHIFF: That's the Government's --

22 MR. IGNALL: -- and answered.

23 MR. SCHIFF: -- document. I got it from the

24 government.

25 THE COURT: Doesn't matter where you got it. If he

1 can't identify it, it is not admissible.

2 MR. SCHIFF: Well, then do I get the documents back?

3 THE COURT: No. They are marked. They are --

4 MR. SCHIFF: They are marked.

5 THE COURT: -- part of the court record now.

6 MR. SCHIFF: Um, okay.

7 THE COURT: Next question.

8 BY MR. SCHIFF:

9 Q. Now, Mr. Earnest --

10 A. Yes.

11 Q. -- based on your hearing me lecture for two whole days,  
12 reading my material, meeting with me at my office, did I ever  
13 give you ever any reason to believe that I didn't believe that  
14 you owed no income taxes as a matter of law? Did I ever give  
15 you any reason to believe that I was not sincere in my beliefs  
16 with respect to my ideas and views on income taxes?

17 A. No.

18 Q. No.

19 And, um, as you sit there, uh, do you believe that the  
20 information that you put on your, uh, zero return was correct  
21 now?

22 A. According to what I've read in the IRS, I believe that what  
23 I put on the zero return is true.

24 Q. You -- you believe it?

25 A. Yes.

1 Q. So why -- why don't you use the material today?

2 A. For the same reason I'm sitting here in court. I'd rather  
3 just pay the money than go through the hassle of prosecution.

4 Q. In other words, even though you may think it's correct, you  
5 feel that you still could have problems even though you believe  
6 the information's correct; is that correct?

7 A. Yes.

8 MR. SCHIFF: All right. No further questions.

9 THE COURT: Redirect?

10

11

REDIRECT EXAMINATION

12 BY MR. IGNALL:

13 Q. Mr. Earnest, did Mr. Schiff's apparent sincerity in his  
14 seminars have any influence on your decision whether to buy any  
15 of his materials?

16 A. Somewhat. You know, I read all the information. I read all  
17 the books provided to me. I've read the Code book. And that is  
18 ultimately what gave me, you know, the ultimate decision to do  
19 what I did. I wouldn't do something just on his sincerity --

20 Q. Well --

21 A. -- on the information that was provided.

22 Q. Did Mr. Schiff ever tell you about any court cases that  
23 ruled that wages were indeed income?

24 A. I don't -- I -- I think there was some literature in -- in  
25 what I read that specified to that. But I can't be -- be

1 specific on it with my recollection.

2 Q. And you said you believed that what you were doing was legal  
3 at the time you did it; correct?

4 A. Yes.

5 Q. And did you base that belief on the materials that you'd  
6 gotten from Mr. Schiff?

7 A. Yes.

8 MR. IGNALL: No further questions.

9 MR. CRISTALLI: No questions, your Honor.

10 MR. SCHIFF: No further questions.

11 MR. BOWERS: Nothing, your Honor.

12 THE COURT: Did you read the entire Code?

13 THE WITNESS: No.

14 THE COURT: Did you read Section 1?

15 THE WITNESS: I don't recall what section I read. I  
16 mainly looked up the sections that are...

17 THE COURT: Marked in red?

18 THE WITNESS: Well, the sections of the information  
19 that pertained to income tax and the definition of income tax  
20 and where to find it in here so I could read it for myself.

21 THE COURT: Would you take a look at that? Section 1  
22 on the left.

23 THE WITNESS: (Reviewing book.)

24 It says, part one, chapter one.

25 THE COURT: Look for Section 1.



1 THE WITNESS: Okay. "Section 1. Tax imposed"?

2 THE COURT: Did you read that?

3 MR. SCHIFF: Your Honor --

4 THE WITNESS: No, I didn't.

5 THE COURT: Okay. And it's not marked in red, is it?

6 THE WITNESS: No.

7 MR. SCHIFF: Your Honor?

8 THE COURT: Yes.

9 MR. SCHIFF: Is this an adversarial proceeding?

10 THE COURT: Of course it is.

11 MR. SCHIFF: Who is my adversary in the courtroom?

12 THE COURT: The Government.

13 MR. SCHIFF: You're not my adversary?

14 THE COURT: I am entitled to ask questions under the

15 rules any time I want in a case.

16 MR. SCHIFF: Well, as long as you're asking that

17 question, can I ask him some questions --

18 THE COURT: You can ask a follow-up question --

19 MR. SCHIFF: -- Section 1.

20 THE COURT: -- if it's related to what I asked him.

21 MR. SCHIFF: Yes, it's directly related.

22 THE COURT: All right. Go ahead.

23

24

25

## REXCROSS-EXAMINATION

1  
2 BY MR. SCHIFF:  
3 Q. Do you recall in my seminar I spent a lot of time --  
4 THE COURT: I didn't talk about your seminar.  
5 MR. SCHIFF: I'm sorry. No, no.  
6 THE COURT: I asked him if he read --  
7 MR. SCHIFF: Yes.  
8 BY MR. SCHIFF:  
9 Q. Did you --  
10 THE COURT: -- Section 1.  
11 BY MR. SCHIFF:  
12 Q. -- are you familiar with the Privacy Act Notice?  
13 THE COURT: Mr. Schiff --  
14 BY MR. SCHIFF:  
15 Q. Are you familiar --  
16 THE COURT: -- if you wish to ask him a question  
17 regarding my question --  
18 MR. SCHIFF: Yes.  
19 THE COURT: -- you may. I asked him if he read  
20 Section --  
21 MR. SCHIFF: Section 1.  
22 THE COURT: -- 1 --  
23 MR. SCHIFF: Okay.  
24 THE COURT: -- and I asked him if Section 1 was marked  
25 in that book.

1 BY MR. SCHIFF:

2 Q. Is Section 1 referred to in the Privacy Act Notice in the  
3 1040 booklet?

4 THE COURT: Mr. Schiff, you can ask him --

5 MR. SCHIFF: Okay.

6 THE COURT: -- a question related to the question I  
7 asked.

8 MR. SCHIFF: Okay.

9 BY MR. SCHIFF:

10 Q. Does Section 1 say you have to pay income taxes?

11 THE COURT: I didn't ask him what Section 1 said, sir.

12 MR. SCHIFF: You said imposed.

13 THE COURT: I asked him if he read it.

14 MR. SCHIFF: Well --

15 THE COURT: If you wish to cross-examine him as to  
16 whether he read it, you may.

17 MR. SCHIFF: Well, what is the relevance of Section 1?  
18 I don't understand.

19 THE COURT: I just asked him if he read it.

20 MR. SCHIFF: Well, I thought that the relevancy you  
21 were referring that you meant that Section 1 required him to pay  
22 income taxes or made him liable. That's what I thought the  
23 relevance --

24 THE COURT: You can --

25 MR. SCHIFF: -- was.

1 THE COURT: -- you can ask him a question related to  
2 the two questions I asked him but no more.

3 MR. SCHIFF: I'm sorry. I'm sorry. I misunderstood  
4 what you were saying.

5 BY MR. SCHIFF:

6 Q. But you didn't read Section 1?

7 A. No, I didn't, not at Chapter 1 --

8 MR. SCHIFF: Well, he can read it if he wants to now.

9 THE COURT: I didn't ask him to read it.

10 MR. SCHIFF: Okay.

11 THE COURT: I just asked if he had.

12 MR. SCHIFF: Okay. No further questions.

13 MR. CRISTALLI: Nothing, your Honor. I do need a  
14 moment of the Court's time, however.

15 THE COURT: When -- when we get to a break --

16 MR. CRISTALLI: Yes, sir.

17 THE COURT: -- we'll do that.

18 MR. BOWERS: Same -- same thing with Mr. Cristalli  
19 about housekeeping with the next witness involved.

20 THE COURT: Okay. All right.

21 Any further questions of this witness?

22 MR. IGNALL: No, your Honor.

23 THE COURT: All right.

24 You are excused.

25 MR. BOWERS: Your Honor, may I -- may I approach the

1 clerk with a housekeeping issue?

2 THE COURT: You may, yes.

3 We have about 15 minutes till we take our break.

4 Government's next witness.

5 MR. BOWERS: Just so the Court understands what we're  
6 doing, there -- there's a document, um, separate from the  
7 Government's exhibit as proposed. So I -- I'm going to give it  
8 to the clerk. We're going to mark it as the Government's  
9 Exhibit 192A.

10 THE COURT: All right.

11 MR. BOWERS: And we have agreed, you know, subject to  
12 ongoing stipulations about these matters or -- ongoing  
13 discussions to admit this document in conjunction with 192 of  
14 the Government's.

15 MR. NEIMAN: Your Honor, the United States would call  
16 Jason Cardiff to the stand.

17 MR. BOWERS: I'm sorry. One more thing, Mr. Neiman.

18 THE COURT: Is this related to the next witness?

19 MR. BOWERS: Oh, absolutely. Yeah, this is -- this is  
20 his document.

21 The other is the Government has submitted a document  
22 that is substantially similar to what I'm gonna mark as  
23 Defendant's next exhibit in order. There's a note on it and --  
24 and so I just wanted to...

25 THE COURT: Okay. What is that one going to be

1       numbered?

2               MR. BOWERS:  This is going to be 24...

3               THE CLERK:  28 --

4               MR. BOWERS:  2840...

5               THE CLERK:  -- 44.

6                       (Defendant Cohen's Exhibit No. 2840, marked

7                       for identification.)

8               MR. BOWERS:  Yeah.

9               And I'll show them to counsel and so forth when the

10              time arises.  Thank you, your Honor.

11              THE COURT:  Thank you.

12                       (Pause in the proceedings.)

13                       (Jason Cardiff takes the witness stand.)

14              THE CLERK:  Please go on up to the top of the stairs

15              there.  Remain standing.  Raise your right hand.

16              You do solemnly swear that the testimony you shall give

17              in the -- excuse me -- you do solemnly swear that the testimony

18              you shall give in the cause now pending before this court shall

19              be the truth, the whole truth, and nothing but the truth, so

20              help you God?

21              THE WITNESS:  I do.

22              THE CLERK:  Thank you.

23              THE COURT:  Please be seated.

24              THE CLERK:  Please be seated.

25              Please state for the record your full name and spell

1 your last name.

2 THE WITNESS: Jason Cardiff, C-a-r-d-i-f-f.

3

4 JASON CARDIFF,

5 called as a witness on behalf of the Government, having been

6 first duly sworn, was examined and testified as follows:

7

8 THE COURT: Go ahead.

9 MR. NEIMAN: Thank you, your Honor.

10

11 DIRECT EXAMINATION

12 BY MR. NEIMAN:

13 Q. Good afternoon, Mr. Cardiff.

14 A. Hello.

15 Q. Mr. Cardiff, where do you live?

16 A. Upland, California.

17 Q. And where is Upland, California?

18 A. Southern California, just outside of Claremont.

19 Q. And what do you do in Upland?

20 A. I have a media company where I --

21 Q. Mr. Cardiff, I'm gonna ask that you speak into the --

22 A. There we go.

23 Q. -- microphone so that everyone could hear you.

24 A. I have a media and advertising company.

25 Q. And that's the name of that media and advertising --

1 A. Kelly Media Group.

2 Q. And what is your position with Kelly Media Group?

3 A. I'm the owner.

4 Q. And what is it that the Kelly Media Group sells?

5 A. Uh, we sell -- uh, we sell television time from Canada and  
6 telephone services for, uh -- for people on TV.

7 Q. Who is your primary client?

8 A. Our primary client is People United for Christ.

9 Q. And is that a company?

10 A. Yeah. My father-in-law's company.

11 Q. Did you file tax returns for years 1999 and 2000?

12 A. Yes.

13 Q. How many sets of tax returns did you file in those two  
14 years?

15 A. Um...

16 Q. Federal -- federal income tax returns. I'm sorry.

17 A. Um, well, I filed, uh, federal income tax returns once.

18 Q. And did you file amended returns for 1990 [sic] and 2000 as  
19 well?

20 A. Yes.

21 MR. BOWERS: I'm sorry, your Honor.

22 Just for the record, are we talking about 2001 as well?  
23 Because he said three years before; we've only mentioned two.

24 MR. NEIMAN: Three years.

25



1 BY MR. NEIMAN:

2 Q. '99, 2000, and 2001, sir --

3 A. Yes.

4 Q. -- did you file tax returns?

5 A. Yes.

6 Q. Did you seek a refund for the taxes in those years?

7 A. Yes, I did.

8 Q. What information did you report on your 1040, your tax  
9 return?

10 A. Uh, reported income, withholding, and write-offs.

11 Q. And where -- did that information come from a W-2?

12 A. Yes, it did.

13 Q. Did you seek a refund?

14 A. Yes, I did.

15 Q. Did you have an accountant prepare your tax returns for  
16 those years?

17 A. Yes, I did.

18 Q. Were you entitled to the entire amount of the refund that  
19 you asked for?

20 A. No, I was not.

21 Q. Why not?

22 A. Because I prepared the W-2 myself.

23 Q. What do you mean you prepared the W-2 yourself?

24 A. Uh, I typed out the W-2 and increased the withholdings.

25 Q. So you lied on the Form W-2?

1 A. Yes, I did.

2 Q. Did you do that for years '99, 2000, and 2001?

3 A. Yes, all three.

4 Q. And did you falsify a Form W-2 for all three years?

5 A. Yes.

6 Q. If I can show you what's been marked as -- what was the  
7 number again?

8 MR. BOWERS: 192 -- 192 and 192A.

9 BY MR. NEIMAN:

10 Q. 192 and 192A.

11 MR. NEIMAN: If I may have a moment, your Honor. I'm  
12 sorry.

13 THE COURT: You may.

14 (Pause in the proceedings.)

15 MR. NEIMAN: If I may approach the witness, your Honor,  
16 with Government's Exhibits 192, 193 and 194?

17 THE COURT: You may.

18 MR. NEIMAN: Thank you.

19 BY MR. NEIMAN:

20 Q. If you could take a look at Government's Exhibits 192, 193,  
21 and 194.

22 A. (Complies.)

23 Q. Are those your 1040's that you filed for years '99, 2000,  
24 and 2001?

25 A. Yes, they are.

1 Q. And do all those 1040's contain -- or did you attach to  
2 those 1040's a falsified Form W-2?

3 A. (Reviewing documents.)

4 Yes, they do.

5 MR. NEIMAN: If we could show Government's Exhibit 192.  
6 I'm sorry. I haven't moved them in yet, have I? I apologize,  
7 your Honor.

8 Your Honor, at this time the Government would move  
9 Exhibits 192 and 193 and 194 into evidence.

10 THE COURT: Does that include 192A?

11 MR. NEIMAN: And 192A. I apologize.

12 MR. BOWERS: No objection.

13 THE COURT: Cristalli?

14 MR. CRISTALLI: No, your Honor.

15 THE COURT: Schiff?

16 MR. SCHIFF: No objection.

17 MR. NEIMAN: I apologize again for jumping the gun  
18 there.

19 THE COURT: It's all --

20 MR. NEIMAN: If we could show --

21 THE COURT: -- right. 192, 192A, 193, and 194 will be  
22 received.

23 (Government's Exhibit Nos. 192, 192A, 193,  
24 and 194, received into evidence.)

25

1 (Document displayed in open court.)

2 BY MR. NEIMAN:

3 Q. If we can look at 192. Is this your original 1040 for year

4 1999?

5 A. Uh, yeah -- yes. I believe so, yes.

6 Q. If we could go to the second page of the 1040, what's the

7 amount of the refund you sought on line 64 -- or I'm sorry --

8 65?

9 A. \$11,574.

10 Q. And line 64 is taxes withheld?

11 A. Yes. I...

12 Q. And what's that number?

13 A. \$67,679.

14 Q. And is that the figure that you falsified on the W-2?

15 A. Yes.

16 MR. NEIMAN: If I may publish Government's Exhibit 192A

17 to the jury?

18 THE COURT: You may.

19 MR. NEIMAN: May I approach, your Honor?

20 THE COURT: You may.

21 MR. NEIMAN: I apologize. There's not a copy in the

22 binder, so...

23 (Pause in the proceedings.)

24 (Document displayed in open court.)

25

1 BY MR. NEIMAN:

2 Q. Looking at Government's Exhibit 192A, Box 2 of your 1099  
3 from Rusnak/Pasadena -- where were you employed during year  
4 1999?

5 A. Rusnak/Pasadena.

6 Q. And is what is that?

7 A. It's a chain of automobile dealerships.

8 Q. And what did you do for the auto --

9 A. I was the sales manager.

10 Q. And, looking at Box 2, the amount withheld, 42312.21, is  
11 that what that says?

12 A. I believe so, yes.

13 Q. Is that that the amount you doctored?

14 A. Yes.

15 Q. How did you doctor it?

16 A. I bought W-2's and just retyped them.

17 THE CLERK: Would you turn the light off there. It  
18 bothers people's eyes. Thank you.

19 BY MR. NEIMAN:

20 Q. Did you create similar W-2's for years 2000 and 2001?

21 A. Yes.

22 Q. Did you seek refunds in each year which you weren't entitled  
23 to?

24 A. Yes, I did.

25 Q. Did you get paid those refunds?

1 A. Yes, I did.

2 Q. Have you paid them back to the United States?

3 A. Yes, I have.

4 Q. Were you subpoenaed to testify before a Grand Jury in this  
5 matter?

6 A. Uh, yes, I was.

7 Q. And, when I say "this matter," the investigation into  
8 Mr. Schiff, Mr. Cohen, and Ms. Neun?

9 A. Yes.

10 Q. And did you swear to tell the truth at that hearing?

11 A. I did.

12 Q. Under oath in front of the Grand Jury?

13 A. Yes.

14 Q. Were you asked about the Forms W-2?

15 A. I was.

16 Q. Did you tell the truth?

17 A. Uh, no.

18 Q. What did you tell the Grand Jury?

19 A. I -- I don't remember exactly what I told them.

20 Q. Were you forthcoming?

21 A. No, I was not.

22 Q. Why were you not forthcoming?

23 A. Uh, because I knew that there was still an outstanding issue  
24 that hadn't been cleared up.

25 Q. The outstanding issue being your Forms W-2?

1 A. Yes.

2 Q. Going back to your falsified Forms W-2, uh, did there come a  
3 time when you made contact with Irwin Schiff and Freedom Books?

4 A. Uh, Freedom Books --

5 Q. When --

6 A. -- yes.

7 Q. -- did you make that contact?

8 A. Um, I -- I don't -- I don't remember exactly.

9 Q. Do you remember the year?

10 A. Um, I don't -- I don't exactly remember the year. I think  
11 it was around 2001.

12 MR. NEIMAN: Your Honor, if I may approach --

13 THE COURT: You may.

14 MR. NEIMAN: -- to provide him documents to refresh his  
15 memory. I'm approaching with Government's Exhibit 195 through  
16 202.

17 BY MR. NEIMAN:

18 Q. Mr. Cardiff, if I can direct your attention to Exhibit 195,  
19 if you can review that and see if the date on that would refresh  
20 your memory as to when you made contact with Freedom Books?

21 A. Uh, it says December of 2002.

22 Q. Is that consistent with your recollection and your  
23 memorandum?

24 A. It could be, yes.

25 Q. Is it possible you may have made contact a few months

1 earlier?

2 A. Yeah. I may have -- may have called them. But this is  
3 around the time, I guess.

4 Q. How did you hear of Freedom Books?

5 A. Over the radio.

6 Q. What did you hear on the radio?

7 A. Uh, that they could help, uh, with tax issues and that you  
8 don't have to pay taxes and, uh, items to that effect.

9 Q. Do you remember what -- what radio station you were  
10 listening to?

11 A. It was -- I believe it was KLOS 97.1.

12 Q. And was Mr. -- who was on the radio? Was it a commercial?  
13 Was it a guest appearance? Do you remember what you heard?

14 A. No. I believe it was a commercial with, uh, Mr. Schiff and,  
15 uh, I think some testimonies as well.

16 Q. How did you know it was Mr. Schiff? Did he identify himself  
17 on the radio show?

18 A. I can't remember that.

19 Q. After hearing the commercial, did you call the bookstore?

20 A. Uh, not -- not right away but eventually I did, yes.

21 Q. What did you do in the meantime?

22 A. I just didn't call instantly.

23 Q. Okay.

24 A. I heard the commercial a couple more times.

25 Q. Why did you call the bookstore?



1 A. Uh, because I wanted to fix my W-2 issue.

2 Q. Meaning your falsified W-2's?

3 A. My falsified W-2's, yes. I wanted to correct them.

4 Q. And did you speak to anybody?

5 A. Um, I spoke to several different people that answered the  
6 phone.

7 Q. The first time you called Freedom Books, do you remember who  
8 you spoke to?

9 A. Uh, no, I don't. Somebody with a very deep-sounding voice.

10 Q. And what did the person tell ya on the other end?

11 A. Uh, he was -- just guided me through the ordering process.

12 Q. Did you -- what he was suggesting you order, if anything?

13 A. A book and a video package, I think, for the most part.

14 Q. Do you remember what this kit was called, if anything?

15 A. No.

16 Q. Do you remember how much this kit cost?

17 A. Around a hundred dollars.

18 Q. And what did you get for the hundred dollars?

19 A. Um, a book and a video, I think.

20 Q. What was the name of the book?

21 A. Um, I'm not sure.

22 Q. Does the name Federal Mafia sound familiar?

23 A. Yes, it does.

24 Q. Is that the name of the book you bought?

25 A. I think so.

- 1 Q. Did you read the book?
- 2 A. Uh, skimmed through it. I didn't read it cover to cover.
- 3 Q. How much of the book did you read?
- 4 A. 10 percent, 8 percent, few pages.
- 5 Q. Did you watch this video that you purchased?
- 6 A. 10 minutes maybe.
- 7 Q. What did you see on the video?
- 8 A. Uh, saw some people, uh, standing, you know, at a fireplace
- 9 with some constitutional -- or some, you know, music playing and
- 10 that was about all that I watched.
- 11 Q. Who was on the video?
- 12 A. Um, Irwin Schiff.
- 13 Q. Did he identify himself as Irwin Schiff?
- 14 A. I think he did, yes. And that's all I -- a couple other
- 15 people, but I don't remember who else it was.
- 16 Q. After skimming the book and watching about 10 minutes of the
- 17 video, did you call back to Freedom Books?
- 18 A. Yes, I did.
- 19 Q. Who did you speak to on that second phone call?
- 20 A. I think on the second phone call it was a -- a gentleman
- 21 named "Woody."
- 22 Q. And what did Woody tell you on the telephone?
- 23 A. Uh, he told me that I needed to get in touch with Larry
- 24 Cohen.
- 25 Q. And who -- who did he say, if anything, about who Larry

1 Cohen was?

2 A. Uh, he told me Larry Cohen was the -- sort of one of the  
3 more knowledgeable people in the office about tax issues.

4 Q. Did Mr. Cohen get on the telephone with you at that point?

5 A. I don't -- I don't think it was quite at that point. I  
6 think he called me back.

7 Q. Do you remember how -- how long after this phone call with  
8 Woody that Mr. Cohen called you?

9 A. Relatively quickly I believe.

10 Q. What did Mr. Cohen tell you on the telephone call this first  
11 time?

12 A. Um, I don't totally remember the full conversation. But we  
13 discussed, uh, taxes and tax returns and their system.

14 Q. And what is their system?

15 A. Of -- of zero returns and -- and so on and so forth. I --  
16 that's all I remember basically for the most part.

17 Q. Did Mr. Cohen offer you assistance with your tax situation?

18 A. Yes, he did.

19 Q. Did you tell him at the first or second initial contact  
20 about the falsified Forms W-2?

21 A. Uh, no.

22 Q. Did Mr. Cohen request that you send him any information?

23 A. Yes. He -- he asked me to send him everything that I had.

24 Q. And what did you send him?

25 A. I sent him all my W-2's that I had and all of my tax

1 returns.

2 Q. Did you send correct W-2's or doctored W-2's?

3 A. No. I sent the -- I think I sent some correct and some  
4 doctored if I can remember.

5 Q. Did you ask Mr. Cohen to prepare amended returns for you?

6 A. Uh, yes, I did.

7 Q. And did Mr. Cohen tell you that it would cost you anything  
8 to have these amended returns prepared?

9 A. Um, I can't -- I can't -- I don't remember that conversation  
10 as far as that. But I know that he did --

11 Q. Did Mr. --

12 A. -- discuss --

13 Q. -- Cohen prepare amended returns for you?

14 A. Yes, he did.

15 Q. Do you know how much it cost or how much you paid Mr. Cohen?

16 A. I think it was approximately \$2,000.

17 Q. How did you receive these amended returns?

18 A. Uh, two -- two of them he gave to me -- I believe it was in  
19 person. Maybe it was one. It was one or two -- and then the  
20 others he FedEx'd back to me.

21 Q. Where did -- when did you meet Mr. Cohen in person?

22 A. I met him here in Las Vegas.

23 Q. What were the circumstances of that meeting?

24 A. Uh, I was coming up for a, uh, bachelor party, uh, dinner  
25 and told him I was gonna be in town if he wanted to get

1 together.

2 Q. And what was the purpose of this face-to-face meeting?

3 A. I just wanted to meet him and talk to him face to face.

4 Q. Where did this meeting take place?

5 A. It was at the, um -- I think it was the Paris Hotel in one  
6 of the coffee cafes.

7 Q. What was Mr. Cohen dressed like?

8 A. Uh, I think black pants and a -- like a silk shirt of some  
9 sort.

10 Q. Did he seem professional?

11 A. Fairly, yes.

12 Q. If I could direct your attention to Government's  
13 Exhibit 196, 197, and 198, do you recognize those documents?

14 A. (Reviewing documents.)

15 Yes, I do.

16 Q. How do you recognize those documents?

17 A. Uh, these -- these are the, uh, amended returns that were  
18 prepared for me by Larry Cohen.

19 Q. Do you see Mr. Cohen in the courtroom here today?

20 A. Yes, I do.

21 Q. Can you please identify him by what he's wearing or where  
22 he's sitting?

23 A. Sitting in -- standing -- sitting now.

24 THE COURT: Identification.

25 MR. NEIMAN: Thank you, your Honor.

1           Also, your Honor, at this time the Government would  
2 move into evidence Exhibits 196, 197, and 198.

3           MR. BOWERS: No objection.

4           MR. CRISTALLI: No objection.

5           MR. SCHIFF: No objection.

6           THE COURT: Received.

7                   (Government's Exhibit Nos. 196, 197, and 198,  
8                   received into evidence.)

9           MR. NEIMAN: If we could publish, please, Government's  
10 Exhibit 196.

11 BY MR. NEIMAN:

12 Q. Up at the top portion, is this your 1040 -- 1040X for year  
13 1999?

14 A. Yes. Yes, it is.

15 Q. That's for you and your wife?

16 A. Yes.

17 Q. If we can look at, uh, lines -- line 1 saying, "Adjusted  
18 gross income." Column A, what's the amount you had?

19 A. I'm sorry. What was that?

20 Q. Column A on line 1 of the "Adjusted gross income" --

21 A. Yes.

22 Q. -- what's the amount you listed on your original 1040?

23 A. Uh, I believe it is, yes.

24 Q. What is the amount?

25 A. Oh, on the original?

1 Q. Yes.

2 A. Uh --

3 Q. By looking at column A?

4 A. Oh. 254,000.

5 Q. And column B nets out to zero, does it not?

6 A. Uh, yes. Yes, it does.

7 Q. And you had provided Mr. Cohen with your original 1040?

8 A. Uh, yes, I had.

9 Q. And do you know where Mr. Cohen got these figures on the  
10 1040X?

11 A. I believe -- I believe the original 1040 and W-2's.

12 Q. If we can look at line 10, "Total tax," what's the amount of  
13 total tax on your original 1040?

14 A. 56,105.

15 Q. And what is the amount -- correct amount according to the  
16 1040X?

17 A. Uh, where is that found?

18 Q. Columns -- column C, "Correct amount" on line 10.

19 A. It says -- is says zero.

20 Q. If we look at line 11 titled "Federal income withheld," line  
21 11 says \$67,679, does it not?

22 A. Yes, it does.

23 Q. Is that your -- is that the correct amount or is that the  
24 doctored W-2 --

25 A. No. That's --

1 Q. -- amount?

2 A. -- that's the doctored amount that I doctored.

3 Q. Column B, net change of minus 32,000 and change. Is that  
4 what it says?

5 A. Yes.

6 Q. Leaving a correct, according to column C, amount withheld  
7 of -- your guess is as good as mine. I believe it says \$35,634?

8 A. Yes. Correct.

9 Q. Did you seek a refund for the additional amount withheld?

10 A. Yes, I did.

11 Q. And what was the amount of refund you sought on your 1040X?

12 A. Um, I'm not -- there it is. 20- -- \$24,060.

13 Q. Did you ever get that refund?

14 A. No, I did not.

15 Q. If I could direct your attention back to the, uh, top  
16 portion of -- or, I guess, the "NOT LIABLE" portion.

17 A. Okay.

18 Q. Who wrote "NOT LIABLE" on this tax return?

19 A. Uh, I believe Larry Cohen.

20 Q. And did you ever ask Mr. Cohen what it meant to be not  
21 liable?

22 A. Yes, I did.

23 Q. And what did Mr. Cohen explain to you?

24 A. He told me that it was one of his latest developments in  
25 filing these amended returns.



1 Q. Did he say whether or not he discussed this not liable  
2 return with Mr. Schiff?

3 A. Uh, I -- I had -- I had asked him and he -- he did. He said  
4 that, uh -- that was the best I could remember was that  
5 Mr. Schiff was not interested in the not liable returns.

6 MR. SCHIFF: What did he say?

7 BY MR. NEIMAN:

8 Q. Did Mr. Cohen say whether or not he was working at a new --  
9 or doing a new form of income tax preparation?

10 A. Um, he had said he's working on, uh, possibly having another  
11 organization, yes.

12 Q. Does the name "Consultants By Five" sound familiar?

13 A. Yes, it does.

14 Q. And what is Consultants By Five?

15 A. I -- I don't know exactly.

16 Q. Is it a name that Mr. Cohen referenced to you?

17 A. Yes.

18 Q. Did Mr. Cohen ever suggest, uh -- or ever suggest you give  
19 any money -- what to do with the refund when you received it?

20 A. He -- he had said there's a legal fund, uh, with 10 percent  
21 that you could give back when you get your refund to their  
22 company.

23 Q. Did he say what the name of this fund was?

24 A. No.

25 Q. Did you ever make a donation to this fund?

1 A. No.

2 Q. And did you file this not liable return?

3 A. Yes, I did.

4 Q. If I could direct your attention to Exhibit 200, I believe.

5 I -- the number may be wrong. I apologize. Not 200. 197.

6 (Document displayed in open court.)

7 BY MR. NEIMAN:

8 Q. Is this your 1040X for year 2000?

9 A. Yes, it is.

10 Q. Signed under the penalties of perjury at the bottom by  
11 yourself and your wife?

12 A. Yes.

13 Q. Is this the -- who prepared this return?

14 A. Uh, Larry Cohen.

15 Q. Were the circumstances surrounding this return similar to  
16 the return we just discussed, Government's Exhibit 196?

17 A. Exactly the same.

18 Q. You sought a refund in the amount of \$14,074 on the bottom?

19 A. Yes.

20 Q. Did you ever get a refund in that amount?

21 A. No.

22 Q. If we can go to the second page of that return.

23 (Document displayed in open court.)

24 BY MR. NEIMAN:

25 Q. If you look down at the bottom, the language is -- can you

1 please read that language?

2 A. "PLEASE BE ADVISED THAT WE ARE AMENDING OUR 2000 1040 FORM  
3 AFTER CAREFUL STUDY AND RESEARCH OF THE LAWS, CODES, CFR  
4 REGULATION[] OF TITLE 26 AND USC TITLE 26 AND THE IRS ...  
5 INSTRUCTION BOOKLET WE HAVE DETERMINED THAT WE ARE 'NOT LIABLE'  
6 PLEASE REFUND THE AMOUNT AS SHOWN ABOVE."

7 Q. Who prepared that statement?

8 A. Uh, I -- I'm not sure. I believe it was Larry Cohen.

9 Q. Did you prepare --

10 A. No --

11 Q. -- that statement?

12 A. -- no, no.

13 Q. When you got the returns from Mr. Cohen, was that statement  
14 on there?

15 A. Yes, it was.

16 Q. What's the date that these -- this return was filed?

17 A. Uh, looks like February of '05 [sic].

18 MR. NEIMAN: If we can move on to Government's  
19 Exhibit 198.

20 THE COURT: Did you say February --

21 THE WITNESS: Yes, February...

22 THE COURT: -- of '05?

23 THE WITNESS: February of '03. I'm sorry.

24 THE COURT: Thank you.

25 THE WITNESS: I apologize. February 5th.

1 THE COURT: Thank you.

2 (Document displayed in open court.)

3 BY MR. NEIMAN:

4 Q. Did Mr. Cohen give you these returns, Government's  
5 Exhibit 197, 198, and 199 when you met with him here in  
6 Las Vegas?

7 A. Uh, he gave me two and mailed me one. I don't know which  
8 ones they -- I don't know the order.

9 Q. Looking at Government's Exhibit 198, is this your 1040X for  
10 year 2001?

11 A. Yes, it is.

12 Q. And are the circumstances surrounding this not liable return  
13 the same as the one we've discussed with Government's  
14 Exhibit 196 and 197?

15 A. Yes, they are.

16 Q. The amount of refund you sought in year 2001 was how much?

17 A. \$14,776.

18 Q. Did you get a refund in that amount?

19 A. No.

20 Q. Looking at page 2, there's a similar statement as we saw --  
21 is there a similar statement as we saw in Government's  
22 Exhibit 197?

23 A. Yes, there is.

24 Q. And did you prepare this statement or --

25 A. No, no --

1 Q. -- was that on --

2 A. -- I did not.

3 Q. -- the returns?

4 If I could direct your attention to Government's  
5 Exhibit 200. Do you recognize Government's Exhibit 200?

6 A. Uh, yes.

7 Q. What is Government -- without reading the contents, what is  
8 Government's Exhibit 200?

9 A. It's Larry Cohen's invoice.

10 Q. And did you receive -- how did you receive this invoice?

11 A. Uh, I'm not sure. Probably through the mail.

12 MR. NEIMAN: Your Honor, at this time the Government  
13 would move into evidence Exhibit 200.

14 MR. BOWERS: No objection.

15 MR. CRISTALLI: No objection.

16 MR. NEIMAN: And 201.

17 MR. SCHIFF: No objection.

18 MR. BOWERS: I don't really object to 201, although...  
19 Well, I...

20 THE COURT: Do you wanna do them separately?

21 MR. NEIMAN: I can do them separately. Just trying to  
22 speed it along.

23 MR. BOWERS: 200's fine. It's not a problem.

24 THE COURT: 200 is received. No objection.

25

1                   (Government's Exhibit No. 200, received into  
2                   evidence.)

3                   MR. NEIMAN: Okay. I'll get to 201 in a minute.

4                   If we could publish, please, Government's Exhibit 200.  
5 Can you blow up the letterhead at the top?

6                   (Document displayed in open court.)

7 BY MR. NEIMAN:

8 Q. Who is this invoice from?

9 A. Larry Cohen -- Lawrence Cohen.

10 Q. What's the date of this invoice?

11 A. Uh, it's February 18th, 2003.

12 Q. And what does the body of the invoice say?

13 A. "For services rendered, [for] amended tax returns of federal  
14 and state ... years 1999,2000,2001, [and] 2001."

15 Q. Does it ask you to remit -- remit money?

16 A. Yes. \$2,000.

17 Q. Did Mr. Cohen prepare returns for you for the State of  
18 California?

19 A. Yes, he did.

20 Q. And did those returns look similar to your federal returns?

21 A. Yes, they do.

22 Q. Did they contain the language "not liable" on them as well?

23 A. I believe so.

24 Q. If we can look at the second page of Government's  
25 Exhibit 200.

1           MR. NEIMAN:  If we could blow up the top portion with  
2           the writing on it.

3                       (Document displayed in open court.)

4           BY MR. NEIMAN:

5           Q.  If you could please read -- I know it's hard to see on the  
6           screen -- the -- what it says on there, what the entry is.

7           A.  Uh, it's a check stub for Lawrence Cohen, uh, dated March  
8           1st of 2003; original amount, 2000; balanced owed, 1,000; and  
9           the payment of 1,000 cut on March 1st, 2003.  And then it  
10          references '99, 2000, 2001, and 2002 at the bottom.

11          Q.  How did you pay Mr. Cohen the \$2,000?

12          A.  Uh, by check.

13          Q.  If I could direct your attention to Government Exhibit 201.  
14          Do you have Government Exhibit 201 --

15          A.  Yes, I do.

16          Q.  -- in front of you?

17                       Is that the check that you used to pay Mr. Cohen?

18          A.  Uh, yes, it is, I believe.

19                       MR. NEIMAN:  Your Honor, at this time the United States  
20          would move into evidence Exhibit 201.

21                       MR. BOWERS:  Your Honor, I -- I don't have an  
22          objection.  But I'd like for the witness to have an opportunity  
23          to review what appears to be the same document.  It appears that  
24          the Government's Proposed 201 has been slightly modified.  Um,  
25          my next exhibit in order is the same exhibit with additions and

1 writing, I believe, are from Mr. Cardiff. So if he could review  
2 those simultaneously and shed some light on it --

3 THE COURT: Okay.

4 MR. BOWERS: -- that might be helpful.

5 THE COURT: Ms. Clerk, do you have that?

6 THE CLERK: I do.

7 THE COURT: What is it marked again or numbered?

8 MR. BOWERS: I believe it's 2844, your Honor.

9 THE CLERK: It is.

10 THE COURT: 2844. Okay.

11 BY MR. NEIMAN:

12 Q. Is that a copy of the same check?

13 A. (Reviewing document.)

14 Yes, it is.

15 MR. NEIMAN: I'm sorry, Ms. Vannozzi. What was the  
16 exhibit --

17 MR. BOWERS: 2844.

18 THE CLERK: 2844.

19 (Pause in the proceedings.)

20 MR. NEIMAN: If -- your Honor, has 201 been received?

21 THE COURT: Not yet. I -- I didn't get agreement by --

22 MR. CRISTALLI: I have no --

23 THE COURT: -- Mr. Bowers.

24 MR. BOWERS: I just want to clarify --

25 THE COURT: Okay. Voir dire. Take him on voir dire.



1 MR. BOWERS: Just very briefly.

2 You can stay here, Mr. Neiman. Just real quick.

3

4

VOIR DIRE EXAMINATION

5 BY MR. BOWERS:

6 Q. Mr. Cardiff, the document you have in front of you that's  
7 labeled, uh, "Plaintiff's Exhibit" -- or I'm sorry --  
8 Defendant's Exhibit 2844 contains a note at top of the page; is  
9 that correct?

10 A. Yes.

11 Q. Does -- other -- other than that note, does that appear to  
12 be substantially the same as the exhibit being offered by the  
13 Government?

14 A. Yes, it does.

15 Q. Do you recognize the handwriting on that note?

16 A. It's -- yes, I do.

17 Q. Does that appear to be your handwriting?

18 A. Yes, it does.

19 Q. Do you have a recollection of having written that note?

20 A. Um, yes, I do.

21 Q. Okay. And...

22 MR. BOWERS: Then I would move for admission of both  
23 documents at the same time, your Honor.

24 THE COURT: Any objection to 2844?

25 MR. NEIMAN: No, your Honor. No objection.

1 MR. BOWERS: Thank you, your Honor.

2 THE COURT: Okay. 2844 and 201 are received.

3 (Defendant Cohen's Exhibit No. 2844, received  
4 into evidence.)

5 (Government's Exhibit No. 201, received into  
6 evidence.)

7 THE COURT: Go ahead.

8 MR. NEIMAN: If we may publish Government's  
9 Exhibit 201?

10 THE COURT: You may.

11 MR. NEIMAN: Thank you.

12 If we could just blow up the check.

13 (Document displayed in open court.)

14

15 DIRECT EXAMINATION (Continued)

16 BY MR. NEIMAN:

17 Q. Mr. Cardiff, who is this check made payable to?

18 A. Lawrence Cohen.

19 Q. What's the amount of the check?

20 A. \$1,000.

21 Q. Did you make another payment to Mr. Cohen in the amount of a  
22 thousand dollars?

23 A. Yes, I believe we did.

24 Q. And is that your signature or your wife's signature at the  
25 bottom?

1 A. My wife's.

2 Q. Where did you send this check?

3 A. I'm not sure. I believe it was to Larry's home.

4 Q. At the time you filed your 1040X's seeking a refund --

5 A. Yes.

6 Q. -- did you expect a refund?

7 A. Uh, yes, I did.

8 Q. Did Mr. Cohen ever warn you that you may receive a letter

9 from the IRS rejecting the, uh, tax return?

10 A. No, he didn't.

11 Q. Did he warn you or tell you that people who had followed

12 Mr. Schiff's advice had gone -- or had been convicted of tax

13 crimes?

14 A. No.

15 Q. Did he tell you whether or not the people who followed the

16 advice of Mr. Schiff were being fined?

17 A. No.

18 Q. If I could show you Government Exhibit 202, which I believe

19 you have in front of you, do you recognize Government

20 Exhibit 202?

21 A. Yes, I -- yes, I do.

22 Q. Without revealing the contents of it, what is Government

23 Exhibit 202?

24 A. Uh, it's a letter telling us that our return is -- is

25 frivolous.

1 Q. And what did you do after you received this letter?

2 A. I -- I contacted Larry.

3 MR. NEIMAN: Your Honor, at this time the Government  
4 would move into evidence Government Exhibit 202.

5 MR. BOWERS: I have no objection to that, your Honor.

6 MR. CRISTALLI: No objection.

7 MR. SCHIFF: No objection.

8 THE COURT: 202 is received.

9 (Government's Exhibit No. 202, received into  
10 evidence.)

11 MR. NEIMAN: If may I, please, publish Government  
12 Exhibit 202.

13 (Document displayed in open court.)

14 BY MR. NEIMAN:

15 Q. If we could first look at the date of this letter, what is  
16 the date?

17 A. June 20th, 2003.

18 Q. And who is this letter addressed to?

19 A. Uh, Jason and Amy Cardiff.

20 Q. That would be yourself?

21 A. Yes.

22 Q. Looking at the right -- top right-hand side, the tax year  
23 and the form, what tax year was this for?

24 A. 1999.

25 Q. And what was the form?

1 A. 1040X.

2 Q. Was that the not liable return we -- we just saw a few  
3 minutes ago?

4 A. Yes, it was.

5 Q. Just looking at the first sentence, if you could just read,  
6 I guess, what the first sentence says.

7 A. You want me to read it?

8 Q. Please.

9 A. Yeah.

10 "We have determined that the document(s) referred to  
11 above is a frivolous document."

12 Q. Looking at the second full paragraph, does the letter  
13 encourage you to seek advice from competent tax counsel or an  
14 attorney qualified to practice?

15 A. Yes, it does.

16 Q. And who did you seek advice from after receiving this  
17 letter?

18 A. Larry Cohen.

19 Q. How did you make contact with Mr. Cohen?

20 A. I called him.

21 Q. Where did you call him at?

22 A. I'm not -- I'm not sure, either on his cell phone or at the  
23 office -- their office.

24 Q. And what did you say to Mr. Cohen when you spoke to him  
25 about this letter?

1 A. I asked him about this letter.

2 Q. And what did he tell you in response?

3 A. He told me it was a form letter that's automatically  
4 generated when you file these returns and that it's harmless.

5 THE COURT: Okay. We're going to take our break.  
6 We're mid afternoon. Be in recess approximately 15 minutes.

7 (Jury enters the courtroom at 3:17 p.m.)

8 THE WITNESS: Am I done?

9 THE COURT: No. We're just taking a 15-minute recess.

10 THE WITNESS: Do I get to go or...

11 THE COURT: Yeah, you get to go outside. But you gotta  
12 come back. We're not finished. Exclusionary Rule is in effect.  
13 So you're not able to discuss your testimony with other  
14 witnesses.

15 THE WITNESS: No problem.

16 THE COURT: Okay.

17 (Mr. Cardiff leaves the courtroom.)

18 THE COURT: Do you have a matter?

19 MR. IGNALL: Well, your Honor --

20 MR. NEIMAN: We'll discuss it with --

21 MR. IGNALL: With counsel.

22 MR. CRISTALLI: Well, I do have a matter that I need to  
23 address.

24 MR. IGNALL: Can we excuse the witness first for the  
25 moment?

1 THE COURT: Witness is excused for the moment. Please  
2 don't forget to come back in 15 minutes.

3 THE WITNESS: Okay.

4 THE COURT: Okay.

5 (Witness leaves the courtroom.)

6 MR. CRISTALLI: Thank you, your Honor.

7 There is an issue I need to address for the purpose of  
8 the record. During the -- or during the course of the testimony  
9 by Mr. Charles Earnest, specifically at the conclusion of his  
10 testimony, the Court directed a question to him I believe in  
11 response to his last testimony in that he still believed in his  
12 position that he does not have a legal obligation to pay income  
13 tax based on not only the re- -- not only the -- the teachings  
14 of, uh, Irwin Schiff and his material but also on independent  
15 research that he conducted.

16 Uh, at the conclusion of that particular testimony,  
17 your Honor stood up and handed him a copy of the IRS Code open  
18 to Title 26, Section 1. And my assessment was your Honor was  
19 going to basically demonstrate to this particular witness that  
20 there was a legal responsibility to pay tax -- income tax  
21 pursuant to Title 6 [sic], Section 1.

22 My concern with regard to the colloquy between your  
23 Honor and the witness is not that your Honor does not have the  
24 legal right to ask questions but rather pursuant to Rule 614 of  
25 the, uh, procedures and rules, the federal procedures and rules,

1 specifically 614, specific -- specifically addressing calling  
2 and interrogation of witnesses by the Court, Subsection B,  
3 interrogation by the Court, "The Court may interrogate  
4 witnesses, whether called by itself or by a party."

5 And then referring to Note to Sub- -- Subdivision B,  
6 "The authority of the judge to question witnesses is also well  
7 established." [Citing] McCormick, Section 8, pages 12 through  
8 13; Maguire, Weinstein, et al., Cases on Evidence 737 through  
9 739 (5th Ed. 1965); 3 Wigmore, Section 784. "The authority is,  
10 of course, abused when the judge abandons his proper role and  
11 assumes that of an advocate."

12 Furthermore, your Honor, pursuant to United States v.  
13 Filani, 74 F.3d 378 (2nd Cir. 1996), "In determining whether  
14 defendant received fair trial, presiding judge cannot  
15 interrogate so zealously as to give jury impression of  
16 partisanship or foster idea that judge believes one version of  
17 an event and not [the other]."

18 Um, through the examination of this particular witness  
19 with regard to, uh, the citation that was given to him, it  
20 appears through my observations that your Honor did in fact give  
21 an impression to the jury of some sort of par- -- parti- -- I'm  
22 sorry -- partisanship, um, that favors the Government's position  
23 with regard to that.

24 Now, in terms of instructions to the, uh, jury, I  
25 believe it is well established, specifically under the Federal



1 Rules of Criminal Procedure, Rule 30, Jury Instruction, (C):  
2 "[The] Time for Giving Instructions. The court may instruct the  
3 jury before or after the arguments are completed, or ... both  
4 times."

5 Um, furthermore, instructions are given to the jury in  
6 open court at any time after the close of the evidence but  
7 before the jury deliberates.

8 Obviously, um --

9 THE COURT: You call -- wait a minute. You're wasting  
10 a lot of time. You're calling what I did an instruction of law?

11 MR. CRISTALLI: I don't know, your Honor, what it was.

12 THE COURT: You're reaching, Counsel. And -- and I'll  
13 let you finish. But you're wasting a lot of time because you  
14 are reaching.

15 MR. CRISTALLI: Okay. And that's fine, your Honor.  
16 I'm just making this part of the record. I -- I enforce at this  
17 particular time to move for a mistrial based on --

18 THE COURT: Mistrial is denied.

19 MR. CRISTALLI: Thank you.

20 MR. BOWERS: Your Honor, just briefly. I have to join  
21 in that. And add whatever it is that the Court was doing it  
22 also did with Melvin Lewis and Ms. Morgan. And, again, I'm --  
23 I'm stating this for the record. I don't expect that to change  
24 the Court's decision but would like to address this -- join in  
25 Mr. Cristalli's motion and add those additional comments to it

1 at this time.

2 MR. SCHIFF: I would also join in that motion.

3 THE COURT: Okay. All right.

4 Well, the question was asked in response to the witness  
5 statement that he researched the Code, so I asked him if he read  
6 Section 1. I didn't comment on what was in Section 1. I just  
7 asked him if he had read it and if it was marked. That was  
8 certainly not prejudicial. It was just to ask the question:  
9 You said you read the Code or researched the Code, did you read  
10 Section 1?

11 The jury has no idea what is in Section 1 from my  
12 question. So you're -- you're reaching, Counsel, both of you.

13 MR. BOWERS: Well, just briefly, your Honor, I agree  
14 with that and I think that would be correct if the same thing  
15 hadn't happened with Mr. Lewis where we did get into detail.

16 THE COURT: Well, it -- it needs to be pointed out that  
17 in the process of questioning this witness repeatedly, uh, you  
18 have -- you have not objected when Mr. Schiff attempted to state  
19 what the law was and had them read out of the book or out of his  
20 statements, uh, things that there is no law that requires it. I  
21 just asked him if he had read any other sections of the Code  
22 other than the ones that have been pointed out in this  
23 paperwork.

24 MR. BOWERS: Well --

25 THE COURT: With respect to the instruction, waiting

1 until the end, you have all agreed over and over again in this  
2 that interim instructions were appropriate. I did not instruct  
3 the jury in this case. But the -- the statement that we  
4 instruct at the beginning and at the end is -- is facetious as  
5 you, Mr. Cristalli, know very well you yourself have requested  
6 curative instructions throughout and Mr. Bowers has agreed with  
7 them.

8 So that is the ruling. It is -- it is not prejudicial.  
9 It was taken in the context that it was -- that it was given.  
10 There is nothing wrong with it.

11 MR. BOWERS: Just briefly in conclusion, your Honor, I  
12 think the remedy you proposed at sidebar this morning was  
13 appropriate and I would urge the Court to use that to the extent  
14 available --

15 THE COURT: Well, you've all agreed -- let's talk about  
16 that -- you've all agreed that you were going to give me an  
17 interim instruction --

18 MR. BOWERS: Well --

19 THE COURT: -- on the law. Have you --

20 MR. IGNALL: Your Honor --

21 THE COURT: -- and what progress has been made on that?

22 MR. IGNALL: If I may address that, your Honor.

23 Mr. Bowers and I have discussed it; I will discuss it a  
24 little bit with Mr. Cristalli. And I -- I have drafted  
25 something up. But I think where we may be talking past each

1 other a little bit is I understand from Mr. Bowers and  
2 Mr. Cristalli that they object to the Court giving any  
3 instruction of the law at this time, although the Government  
4 proposes that we do. However, I think they have said they are  
5 willing to work with us on the language of that instruction if  
6 the Court determines over their objection to give such an  
7 instruction. And I have something that I can talk to them at a  
8 break about a little bit later if that's --

9 THE COURT: Go ahead and speak to them at the break.  
10 The -- your position that only -- only one side can give -- can  
11 give the law and, that is, through reading of these documents I  
12 think is -- is -- I don't think that's appropriate.

13 MR. BOWERS: And just to be clear --

14 THE COURT: That's what you're doing.

15 MR. BOWERS: -- for the record, I think -- and  
16 Mr. Cristalli can disagree or not -- I think our position is we  
17 don't want a temporary instruction on these issues. Um, if --  
18 if we're going to be forced to have one, we would prefer that  
19 over direct questioning from the Court and we'd prefer to be  
20 able to agree on that. But we don't want to waive that  
21 objection for any later purposes because we don't think it's  
22 appropriate.

23 THE COURT: Well, as you were advised, even the jury  
24 gets to ask questions in this courtroom. That is -- that is a  
25 permitted practice. And, as you've already pointed out, Rule

1 614 of the Rules of Evidence allows this Court to do it. I do  
2 it all the time. And there was nothing prejudicial about the  
3 questions I asked or that would give the jury an idea that I  
4 have a position one way or the other with respect to the outcome  
5 of this case. My interest is in --

6 MR. SCHIFF: May I make one final --

7 THE COURT: -- making sure that --

8 MR. SCHIFF: -- comment on that, your Honor?

9 THE COURT: -- that the jury is fully informed.

10 MR. SCHIFF: My objection if there was something in  
11 Section 1 that had bearing on it, it was up to the government to  
12 raise an issue and not the Court if this is indeed an  
13 adversarial --

14 THE COURT: I just asked him if -- we didn't even get  
15 into Section 1. You know that. We just --

16 MR. SCHIFF: I know, but --

17 THE COURT: -- I asked him if he read it and he said he  
18 didn't.

19 MR. SCHIFF: But the implication in the jury is that  
20 there was something in Section 1 that would have invalidated  
21 what he had testified.

22 THE COURT: Oh, I don't think so. That's the spin you  
23 would want put on it. And, of course, you just want your  
24 version to come out which is -- as I pointed out repeatedly, is  
25 not the law.

1           MR. SCHIFF: No, I didn't say it was the law. He did  
2 his research and he determined.

3           THE COURT: Well, that was --

4           MR. SCHIFF: Nobody reads the whole --

5           THE COURT: -- the whole point; he didn't do his  
6 research. He -- he read what you marked and nothing more.

7           MR. SCHIFF: But he was free to read anything he wanted  
8 to read.

9           THE COURT: And the question was did he read it and he  
10 said no.

11          MR. SCHIFF: There are thousands of sections in that  
12 Code book.

13          MR. BOWERS: Thank you, your Honor.

14          THE COURT: We're going to bring the jury back in.  
15 You've used up the 15 minutes and they've got an hour left to go  
16 and we're movin' on.

17          MR. IGNALL: Should we discuss the jury charge after --

18          THE COURT: After --

19          MR. IGNALL: -- today's...

20          THE COURT: -- after today's --

21          MR. IGNALL: All right. We'll do that.

22          THE CLERK: Bring the witness back in?

23                   (Pause in the proceedings.)

24          MR. NEIMAN: I can't talk to you if it's about your  
25 testimony. I assume that's what it is?

1 THE WITNESS: Yes.

2 MR. NEIMAN: I assume that's the rule?

3 THE COURT: The ruling is the witnesses are not allowed  
4 to discuss their testimony with other witnesses.

5 (Discussion between Mr. Neiman and the  
6 witness.)

7 (Pause in the proceedings.)

8 THE COURT: Ms. Clerk, I think we have everyone  
9 present.

10 MR. BOWERS: We have everyone, your Honor.

11 MR. NEIMAN: Yes.

12 (Jury enters the courtroom at 3:33 p.m.)

13 THE COURT: Please be seated.

14 Will counsel stipulate to the presence of the jury?

15 MR. BOWERS: Absolutely, your Honor.

16 MR. CRISTALLI: Yes, your Honor.

17 MR. NEIMAN: Yes, your Honor.

18 MR. SCHIFF: Yes, your Honor.

19 THE COURT: Thank you.

20 Go ahead.

21 MR. NEIMAN: Thank you, your Honor.

22 BY MR. NEIMAN:

23 Q. Mr. Cardiff, I believe we were discussing Government's  
24 Exhibit 202, the frivolous letter you received after filing your  
25 1999 1040X.

1           Did you make -- did you make contact with Mr. Cohen  
2 after receiving this letter?

3 A. Yes, I did.

4 Q. And what did Mr. Cohen advise you after receiving this  
5 letter?

6 A. Um, he told me it was a automatically generated letter, um,  
7 and that, um, they are gonna keep sending them but it's nothing  
8 to worry about.

9 Q. Did he give you advice as to whether or not to pay the  
10 penalty imposed by this letter?

11 A. He told me that -- that I could make it go away by paying  
12 the penalty.

13 Q. And did you pay the penalty?

14 A. I -- I believe we did.

15 Q. When did you make the payment on that penalty?

16 A. I -- I'm not certain.

17 Q. Do you still follow the advice of Larry Cohen or Irwin  
18 Schiff when it comes to filing tax returns?

19 A. Uh, no, definitely not.

20 Q. You file normal tax returns reporting your W-2 wages  
21 correctly now?

22 A. Yes, I do.

23 Q. Have you settled with the IRS for your tax liability for  
24 years '99, 2000, and 2001?

25 A. Yes, I have.



1 Q. Approximately how much did you pay the IRS with regards to  
2 tax, penalties, and interest for those three year?

3 A. Approximately 220- -- \$235,000.

4 Q. And did you incur legal fees also associated with these  
5 costs?

6 A. Yes, I did.

7 Q. And were some of these expenses -- or some of those taxes,  
8 penalties, and interest associated with the doctored W-2's in  
9 addition to the not liable returns?

10 A. I believe so.

11 Q. Mr. Cardiff, you've been given immunity for your testimony  
12 here today, haven't you?

13 A. Yes.

14 Q. And is it your understanding that pursuant to this immunity  
15 the United States cannot use any truthful testimony from you  
16 today against you in any criminal proceeding?

17 A. Yes, it is.

18 MR. NEIMAN: I have nothing further, your Honor.

19 THE COURT: Thank you.

20 THE WITNESS: Thank you.

21 THE COURT: Cross-examination?

22 MR. BOWERS: Yeah.

23 THE COURT: Mr. Bower [sic].

24 MR. BOWERS: I have a little bit --

25 THE COURT: Bowers.

1 MR. BOWERS: -- for this witness, your Honor.

2 THE COURT: Okay.

3 MR. BOWERS: Just a moment. I need to get some  
4 documents here. I apologize.

5

6 CROSS-EXAMINATION

7 BY MR. BOWERS:

8 Q. Mr. Cardiff, my name is Chad Bowers. I didn't have a chance  
9 to introduce you [sic] before because we were talking about that  
10 document and sort of a strange process. I'm Larry Cohen's  
11 attorney.

12 Before we begin, Mr. Neiman discussed immunity with  
13 you. Do you recall that just now?

14 A. Yes.

15 Q. What's your understanding of what immunity is here for you  
16 today?

17 A. Uh, my testimony cannot be used against me.

18 Q. Okay. All right. Um, and I -- I believe Mr. Neiman made  
19 the comment that your testimony here today cannot be used  
20 against you if it's truthful; is that correct?

21 A. Correct.

22 Q. And, uh, do -- do you have an understanding of perjury and  
23 truthfulness?

24 A. Yes.

25 Q. Okay. I mean, so -- okay.

1           Um, you have an exhibit there. It is Exhibit 2844.  
2       It's -- it's a letter. As I understand it, you faxed a banking  
3       record to Mr. Holland, Agent David Wayne, also known as Sam  
4       Holland, of the Treasury Service? Is that what that document  
5       is?

6       A. I know the exhibit. I can't find it in this. But yes.

7           THE COURT: What are you looking for, Counsel?

8           MR. BOWERS: I would just like the exhibit. I made,  
9       you know, some commotion about it. I'd like to show it on the  
10      ELMO so we understand what we're talking about.

11          THE COURT: Which one are you looking for?

12          MR. BOWERS: It's 2844, your Honor.

13          THE COURT: Oh. The same one that --

14          MR. BOWERS: Yes.

15          THE COURT: The photo of the check?

16          MR. BOWERS: Yeah, with -- with --

17          THE COURT: Can you find that?

18          THE WITNESS: Uh...

19          THE COURT: It was the photo of the --

20          THE WITNESS: Here it is.

21          THE COURT: -- check with the --

22          THE WITNESS: I found it.

23          THE COURT: -- notation on it.

24          MR. BOWERS: I'm gonna approach the witness if I could,  
25      your Honor --

1 THE COURT: You may.

2 MR. BOWERS: -- just to get this document.

3 Thank you, Mr. Cardiff.

4 THE WITNESS: Um-hum.

5 MR. BOWERS: So let me know if you have any problem  
6 seeing it.

7 (Document displayed in open court.)

8 BY MR. BOWERS:

9 Q. Um, you recognize this to be your handwriting; right?

10 A. Yes.

11 Q. And this was the exhibit that we admitted; correct?

12 A. Correct.

13 Q. And could you read for me what that says?

14 A. "Sam -

15 "Here is the copy from B of A.

16 "Thank you."

17 Q. Okay. And do you have reason to believe that we're talking  
18 about Mr. Holland, Agent Sam Holland, or you are when you  
19 wrote --

20 A. Yes --

21 Q. -- "Sam" there?

22 A. -- yes.

23 Q. Okay. All right. That's all for -- for right now with  
24 respect to that.

25 Uh, do you know that -- I'm sorry -- do you know the

1 timing of when you provided this to Mr. Holland?

2 A. In between when he asked for it and, I think, the Grand Jury  
3 testimony.

4 Q. Okay. Let me -- let me establish a little timeline.

5 You initially were contacted by Agent Holland on  
6 January 7th of 2004; is that correct?

7 A. I believe so.

8 Q. And you met with Agent Holland and Mr. Steiner at the People  
9 United for Christ Incorporated; is that -- is that right?

10 A. Yes.

11 Q. Does that sound correct?

12 A. Correct.

13 Q. Okay. And I -- I know you also met with Mr. Holland last  
14 month at your attorney's office in Claremont. Do you recall  
15 that meeting?

16 A. Um, I met with a --

17 Q. Oh, I'm sorry.

18 A. -- gentleman.

19 Q. I spoke out of turn. You met with Mr. Steiner but not  
20 Mr. Holland; is that right?

21 A. Correct.

22 Q. And the Government's attorney?

23 A. Correct.

24 Q. And your attorneys there in California; correct?

25 A. Yes.

1 Q. Okay. You presumably met with Mr. Steiner and/or Agent  
2 Hol- -- I'm sorry -- Agent Holland or Agent Steiner prior to  
3 your Grand Jury testimony; is that correct?

4 A. Yes.

5 Q. And I understood your Grand Jury testimony to be given on  
6 January 21st, 2004. Does that --

7 A. Correct.

8 Q. -- sound familiar?

9 A. I think so, yeah.

10 Q. Okay. Any other contact besides this letter, your Grand  
11 Jury testimony, and the two interviews uh, with either  
12 Agent Steiner or Agent Holland that you can recall as we sit  
13 here today?

14 A. Not -- not, uh, that I can recall as far as meetings, no.

15 Q. As far as meetings or just in general contact?

16 A. I -- I don't recall too many other meetings than that, no.

17 Q. Do you recall any other telephone calls or other sorts of  
18 communication?

19 A. Um, there may have been a few telephone calls, but I'm  
20 not -- I'm not certain of those.

21 Q. Do you recall what the substance may have been in any of  
22 those to the best your recollection?

23 A. No.

24 Q. No. Okay.

25 Um, let's go back to 1999 and 2001 for a minute. Um,

1 you at that time were selling cars for several car dealerships;  
2 is that correct?

3 A. I was the sales manager.

4 Q. You were the sales manager. So you weren't actually selling  
5 cars?

6 A. Correct.

7 Q. Okay. And, uh, I believe at the end of tax year 2001, or  
8 calendar year 2001, you went to work for Reverend Popoff's  
9 organization, the People -- I'm sorry. Let me get this  
10 correct -- People United for Christ, Incorporated; is that  
11 correct?

12 A. Uh, I've done work for them throughout the years. But, at  
13 the end of 2001, I went to, uh, House of Imports Mercedes Benz.

14 Q. Okay. I -- I --

15 MR. BOWERS: If I could have the Government put up, um,  
16 I believe it's Exhibit, um -- I believe Exhibit 2000 [sic] --  
17 I'm sorry -- Exhibit 194, the W-2 associated with that which is  
18 the last page of that exhibit.

19 (Document displayed in open court.)

20 MR. BOWERS: Keep going. One more. One more. I guess  
21 I read the wrong exhibit. I'm sorry. Let me make this easier.

22 BY MR. BOWERS:

23 Q. Would you agree that in 2000 you received a W-2 for yourself  
24 from, uh, People United for Christ, Incorporated?

25 A. I think so. I can't be sure.

1 Q. Okay.

2 A. May have been a 1099.

3 Q. But -- but some employment was done and moneys received --

4 A. Um-hum.

5 Q. -- in that year? Okay.

6 Um, so I -- I want to be clear just -- just so we

7 understand what happened. There was some discussion with the

8 Government of you, uh, changing W-2 -- W-4 -- or I'm sorry --

9 W-2 terms [sic] -- returns and then providing those to your

10 accountant; correct?

11 A. Correct.

12 Q. Okay. And so, if I understand it, uh, the end of the year

13 comes and folks down at the dealership are talking and somebody

14 says, hey, I have sent in or I have heard of someone sending in,

15 uh, a W-2 to the government that instead of withholding \$10,000,

16 like the employer really did, I say they withheld \$20,000 and

17 that works. Is that somewhat akin to the substance of what you

18 understood to have happened?

19 A. Somewhat, yes.

20 Q. Okay. And the individual who may have supplied you with

21 that information is not in this courtroom today nor charged in

22 this Indictment to the best of your knowledge; right?

23 A. Correct.

24 Q. Okay. So what you then did is thought, hey, this is -- this

25 might work; this sounds like a good idea to me or something to



1       that effect.  Correct?

2       A.  Correct.

3       Q.  And you proceeded to OfficeMax or some other place where W-2

4       forms are sold; is that correct?

5       A.  Yes.

6       Q.  You either rigged up a computer or a typewriter or something

7       along those lines and you inserted a false number where the

8       withholding should be; is that correct?

9       A.  Yes.

10      Q.  Okay.  And if I understand this, correct me if you're -- if

11      I'm wrong, in 1999 you claimed a withholding of \$67,679.  Does

12      that sound right now?

13      A.  Sounds about right --

14      Q.  Okay.

15      A.  -- yes.

16      Q.  I mean, we can go through the exhibits.  So I -- I don't

17      want to trick you.  But, if you think somethin's off, let me

18      know.

19      A.  Sounds right, yes.

20      Q.  Okay.  And does it sound -- also sound correct to you that

21      what was really withheld that year was about \$32,000 less and

22      there'd really only been 35,000 withhold?

23      A.  That's about right --

24      Q.  Okay.

25      A.  -- I believe.

1 Q. And then in 2000 you went through this same or similar  
2 process and claimed that 69,000, roughly, had been withheld; is  
3 that right?

4 A. I believe so, yeah.

5 Q. Okay. And, in fact, does it sound correct to you that only  
6 28,000 was really withheld that year?

7 A. May have been, yes.

8 Q. Okay. And then again in 2001 you claimed 78,000 was  
9 withheld and really only 34,000 was withheld. Does that's sound  
10 correct?

11 A. Sounds about right, yes.

12 Q. And, in each of those years when you filed these returns  
13 based on the forged W-2's, you signed a tax return under penalty  
14 of perjury; is that correct?

15 A. Yes, I did.

16 Q. And you also had your wife sign that same tax return or she  
17 did sign it; is that correct?

18 A. She did sign it.

19 Q. Did you discuss with her the contents of that tax return  
20 prior to her signing it?

21 A. No.

22 Q. Did you provide her with any information about the  
23 information in the tax return when she signed it?

24 A. No.

25 Q. So you never informed your wife that you were lying on that

1 tax return; correct?

2 A. Correct.

3 Q. Indeed, as we sit here today, your wife has no knowledge  
4 that you did that, does she?

5 A. Correct.

6 Q. Okay. Does your wife even know you're in court today?

7 A. Of course.

8 Q. Why -- why did you tell you her you were in court today?

9 A. Uh, because of -- I was being put on as a witness for --  
10 against Larry Cohen.

11 Q. Did you mention to her that the whole reason this started is  
12 because you lied to the IRS independent of anyone associated  
13 with Freedom Books? Or did you leave that part out?

14 A. No, I did not mention that.

15 Q. Okay. All right. Just making sure.

16 Now, I also wanna be clear: You received the requested  
17 refund in each of those years, didn't you?

18 A. Yes.

19 Q. So when you said, hey, Larry asked for a refund that I  
20 didn't get, that wasn't -- I don't think you were trying to lie  
21 to us here today. But that wasn't exactly right because you had  
22 already gotten those refunds. Correct? You just didn't get a  
23 second one.

24 A. What was that?

25 Q. Well, let me give you an example. In tax year '99 --

1 A. Yeah.

2 Q. -- you requested \$11,500 back. You got that; you cashed  
3 that check. Does that sound about right?

4 A. Yes.

5 Q. And then you requested another \$24,000 after you had Larry  
6 prepare your return; is that correct?

7 A. No.

8 Q. That wasn't the refund request you asked for in the amended  
9 1040X?

10 A. No, I did not ask for that request.

11 Q. Well --

12 A. That's the Larry --

13 Q. -- I'm sorry.

14 A. -- told me --

15 Q. Let's --

16 A. -- the system worked.

17 Q. -- let me speak more precisely.

18 When you signed that document that had \$24,000 down as  
19 the -- as the correct amount due back to you -- does that sound  
20 right?

21 A. Yes.

22 Q. Okay. And so, when you said to Mr. Neiman you never got  
23 that 24,000, uh, what you meant was you never got 35,000 but you  
24 did get 11 and a half thousand back; is that right?

25 A. I'm not -- I'm not really following you. I apologize.

1 Q. Well, I -- I don't want to belabor the point. Let me try it  
2 one more time.

3 You filed a return for 1999 on your own accord with  
4 some information you had forged and lied about.

5 A. Right.

6 Q. And that return requested a refund of \$11,500; correct?

7 A. Correct.

8 Q. Subsequent to that you thought, uh, this needs to be fixed.  
9 And, in the course of dealing with Mr. Cohen, you submitted  
10 another document that incidentally did correct and report the  
11 actual reporting amount, didn't they? The 1040X's fixed this  
12 first lie to the IRS you had engaged in; right?

13 A. I'm not sure.

14 Q. Okay. Well, let's pull them up and -- and we can maybe talk  
15 about that. I believe the first one is contained at 196.

16 (Document displayed in open court.)

17 BY MR. BOWERS:

18 Q. This is your -- your 1040X prepared with, uh, Mr. Cohen.  
19 And what I'm talking about -- if Agent Steiner would be so kind  
20 as to highlight row 11 for us. Thank you, Agent.

21 You see that 67,000 there?

22 A. Yes.

23 Q. That was that number you made up because your buddy at the  
24 car dealership suggested you could get away with it; right?

25 A. For the most part.

1 Q. And, interestingly enough, this 32,000 here is your actual  
2 correct withholding for that year; right?

3 A. Yes.

4 Q. Okay. All right. So we agree.

5 Now, do I need to show you each year's return or do you  
6 agree --

7 A. No.

8 Q. -- that part of what Mr. Cohen did was correct that lie you  
9 had made? That was part of what he did is he told the truth  
10 about your withholding to the IRS; correct?

11 A. I'm not sure. I've got --

12 Q. Okay. Well, we'll go each year.

13 Do you agree that's what he did in 1999?

14 A. No.

15 Q. No. You don't -- you don't think that 32,000 --

16 A. The question is --

17 Q. -- is the correct number?

18 A. -- did he correct the issue with the IRS.

19 Q. No, no, no. That's not the question.

20 The question is: Did he correct your false withholding  
21 report to the IRS?

22 A. Yes, he did.

23 Q. Okay. Now, do we agree that he did that in subsequent years  
24 or do we --

25 A. Yes, he did.

1 Q. -- need to look at it. Okay. So we're on the same page  
2 there.

3 So when you went to Larry and said: I made a big  
4 mistake. I lied to the IRS. Can you help me?, with respect to  
5 what you had lied to the IRS about, uh, Larry fixed that, didn't  
6 he? About the amount of your withholding being false, he  
7 reported the correct withholding --

8 A. I -- I would have to say no.

9 Q. No, you wouldn't.

10 A. I would say he didn't fix it, no.

11 Q. Okay. So let me ask you this: This number right there,  
12 that 32,000, is that your withholding --

13 A. Yes --

14 Q. -- in 1999?

15 A. -- yes, it is.

16 Q. And 67,000 was a -- was a false number; right? That was a  
17 lie?

18 A. Correct.

19 Q. So Larry straightened that out in that year; right?

20 A. No.

21 Q. That issue, the withholding issue.

22 A. No.

23 Q. Okay. So, you know, I don't understand why you don't agree  
24 that --

25 A. Well, because he typed something on a piece of paper doesn't

1 mean he straightened it out.

2 Q. Okay. Well, we'll get to that.

3 Do you agree that number's -- that 32,000 is what  
4 should have been there if you're withholding --

5 A. I think --

6 Q. -- all along?

7 A. -- so, yeah.

8 Q. Do you agree that he put that number that should have been  
9 there all along for each of those years?

10 A. Yes.

11 Q. Okay. Thank you. Maybe that was my fault. I apologize.

12 Um, now, let's take a look at, um, line 23.

13 (Document displayed in open court.)

14 BY MR. BOWERS:

15 Q. This says you want \$24,000 refunded to you; right?

16 A. That's what it says, yes.

17 Q. And you didn't tell Larry you had already been given  
18 \$11,000, did ya?

19 A. I did not tell him that verbally.

20 Q. Right.

21 A. But I --

22 Q. So he didn't know --

23 A. He was aware of it.

24 Q. Oh, he was aware of it. How was he aware of it?

25 A. Uh, he -- he told me that he -- he saw the issues.



1 Q. Well, I understand he saw the issues. But he didn't have  
2 any way of knowing whether you actually got this refund check or  
3 not, did he?

4 A. I -- I'm not certain if it came up or not. But, for some  
5 reason, I -- I believe he was.

6 Q. But you just said you didn't tell him. So it would have had  
7 to have been some other way; right?

8 A. I'm not sure.

9 Q. You don't know. Okay.

10 All right. So, anyway, you're telling -- or testimony  
11 here today is that you didn't get any more than your first  
12 11,000 that you asked for; right? Not -- not that you didn't  
13 get the 24; you just --

14 A. Correct.

15 Q. Okay. All right. And we agree that's what happened in all  
16 three of those tax years --

17 A. Yes.

18 Q. -- right? Okay.

19 Now, just so we're also clear, this, uh, process you  
20 engaged in with these three tax years, there was no ideological  
21 or philosophical motivation behind this; right? This -- this  
22 wasn't based on an interpretation of the Tax Code or anything  
23 else? This was simply you wanted the money; right?

24 A. Correct. Yeah, I would say it was greed.

25 Q. Yeah, I think pure greed was -- was a phrase you'd used at

1 one point describing that.

2 Did you tell Larry Cohen in -- in this process that the  
3 accountant was the one who had made those changes to the W-2's?

4 A. No.

5 Q. You -- you owned up to it from day one?

6 A. No. I -- I never really discussed it.

7 Q. You never really discussed this with Larry.

8 A. Correct.

9 Q. Do you know where Larry got the correct information for your  
10 withholding if you didn't discuss it with him?

11 A. Um, I -- I -- I'm pretty sure he -- I -- I got the W-2's,  
12 the correct W-2's, and faxed them to him.

13 Q. Those correct W-2's haven't appeared here today, have they?

14 A. No.

15 Q. Let me ask you somethin' else. You said you read 10 percent  
16 of The Federal Mafia, watched the video, didn't really know what  
17 was goin' on. Is that correct?

18 A. Yes.

19 Q. But you did read enough of The Federal Mafia and you did pay  
20 enough attention to go do something that wasn't advised in The  
21 Federal Mafia; isn't that correct?

22 A. What was that?

23 Q. With respect to your W-4, your exemptions, where The Federal  
24 Mafia and Irwin Schiff's teachings generally counsel you to  
25 declare yourself exempt; right? Is this is that your

1 understanding or did you not read enough?

2 A. I don't know.

3 Q. Didn't read enough. Okay.

4 But you did go down and when you were gonna get a big  
5 commission from a car sale you would -- you would -- you would  
6 declare exempt and then, once the commission had come and -- and  
7 the big commission was gone, you would go back to regular  
8 withholding; is that right?

9 A. No.

10 Q. That's not correct?

11 A. No.

12 Q. Let me, uh, refresh your recollection with some testimony we  
13 discussed earlier.

14 Is it consistent with your recollection that on or  
15 about August 4th of this year at 3:10 in the afternoon at your  
16 attorney's office in Claremont, California, you met with agents  
17 of the government, including Mr. Neiman, Mr. Miller -- Agent  
18 Miller, and Agent Steiner?

19 A. Yes.

20 Q. Is that correct?

21 A. Yeah.

22 Q. Did you take notes of that meeting?

23 A. No. They -- they took notes.

24 Q. They took notes.

25 A. Yeah.

1 Q. Okay. And let me -- I'm gonna --

2 MR. BOWERS: If I may approach the witness, Judge, I  
3 would like to see if showing him a document refreshes his  
4 recollection as to what transpired at that meeting?

5 THE COURT: Do you have a question first and then you  
6 can -- then you can -- if this is being --

7 BY MR. BOWERS:

8 Q. Well, let me ask this --

9 THE COURT: -- if this is being used for impeachment,  
10 you need to ask the question first.

11 MR. BOWERS: Well, I -- I did ask the question. I  
12 asked the witness if this is what he did about his W-4's and he  
13 denied it.

14 THE COURT: Well --

15 THE WITNESS: No. I didn't --

16 THE COURT: -- but you weren't asking him about a prior  
17 statement. So --

18 THE WITNESS: Right.

19 THE COURT: -- that's --

20 MR. BOWERS: Okay.

21 THE COURT: -- that's what --

22 BY MR. BOWERS:

23 Q. Well, let me ask you this --

24 THE COURT: -- you're focusing on. You have to ask --

25 MR. BOWERS: That's correct.

1 THE COURT: -- a question first.

2 MR. BOWERS: Thank you, your Honor.

3 BY MR. BOWERS:

4 Q. At that meeting, did you state to government agents that

5 that is what you had done with your W-4's, meaning you -- you

6 would increase -- you -- you would get rid of the exemption when

7 a big commission check was coming in big and then when a big

8 commission check wasn't there, you'd go back and change it?

9 A. Yes, I did.

10 Q. Okay.

11 A. But not because of the book.

12 Q. Well, that was my whole point --

13 A. Oh, okay.

14 Q. -- is you -- you just made this up on your own. This didn't

15 have anything to do with what any --

16 A. Right.

17 Q. -- anybody in this room --

18 A. Correct.

19 Q. -- every told anyone --

20 A. Correct.

21 Q. -- correct? That was my --

22 A. Yeah --

23 Q. -- point.

24 A. -- no. That's correct.

25 Q. Yeah.

1           So it has nothin' to do with these people. That was  
2 you on your own.

3 A. Yes, it was.

4 Q. Right. Okay. All right.

5           When did you first learn the IRS had begun a criminal  
6 investigation against you?

7 A. Uh, when my, um -- my attorney had told me that.

8 Q. And when did you hire your attorney?

9 A. I'm not certain as to the date. I believe it was just after  
10 the Grand Jury investigation -- or the Grand Jury trial.

11 Q. Just so we're clear, when you -- when you made this  
12 arrangement regarding your withholding with your employer, that,  
13 again, was not philosophically or ideologically motivated; that  
14 was simply an effort to make sure you got as much money as  
15 possible; is that correct?

16 A. Yes.

17 Q. Okay. Did you bounce the first check you gave to Larry  
18 Cohen?

19 A. Uh, I'm not sure.

20 Q. Let me see if it would refresh your recollection to address  
21 you to --

22 A. I've already seen it. It said "NSF" on there. But I don't  
23 know if it bounced or not.

24 Q. Okay. I wanna clear something up.

25           What was it that you gave Larry Cohen money for?

1 A. Filing -- for my amended return work that he did.

2 Q. For the return work that he did --

3 A. Yes.

4 Q. -- right? Okay.

5 THE COURT: Amended return.

6 THE WITNESS: Amended return.

7 BY MR. IGNALL:

8 Q. Amended return.

9 So he prepared eight amended returns; is that correct?

10 A. Yes.

11 Q. What else did he do or what else did you buy for your money?

12 A. That was it is.

13 Q. That was it? Nothin' more?

14 A. No.

15 Q. All right. So let me -- let me ask you some questions about

16 that.

17 At one point you had an audit that Mr. Cohen attended

18 on your behalf; is that correct?

19 A. Yes.

20 Q. Did he charge you for that?

21 A. I don't -- I don't believe he ever attended the audit.

22 Q. I didn't ask that question, did I? I asked if he charged

23 you for the audit.

24 A. Uh, I can't -- I don't know if it was part of the 2,000 or

25 not.

1 Q. How about the 30-something phone calls you made to  
2 Mr. Cohen? Did he charge you for any of those?

3 A. I'm not -- I don't know if it was part of his 2,000 or not.

4 Q. Well, did you -- were you ever billed separately?

5 A. No.

6 Q. Did Mr. Cohen ever ask you for additional money?

7 A. No.

8 Q. Did Mr. Cohen ever pursue you to make the contribution to  
9 the Freedom fund he discussed?

10 A. No. He told me about it. He never --

11 Q. Right. But he never pursued it, did he?

12 A. Right.

13 Q. Right.

14 How about when Mr. Goodike (phonetic) wrote a letter on  
15 your behalf to the IRS because Mr. Cohen had been enjoined from  
16 doing anything? Did he charge you for that?

17 A. No.

18 Q. Okay. And, just so we're clear, if we could turn and  
19 publish, again, Exhibit 200 --

20 (Document displayed in open court.)

21 BY MR. BOWERS:

22 Q. -- this is the only document you -- you've ever seen  
23 discussing money from Larry Cohen; is that correct?

24 A. Yes.

25 Q. Okay.



1           MR. BOWERS: Can we blow that up maybe, Agent Steiner,  
2 up there? Yeah. Thank you. Yeah, perfect. Okay.

3 BY MR. BOWERS:

4 Q. And what is -- what is -- that says "Lawrence N. Cohen  
5 Consultant"; correct?

6 A. Yes.

7 Q. Okay. First of all, it doesn't say Lawrence N. Corner, Esq.  
8 or J.D. or attorney; right?

9 A. Right.

10 Q. CPA? Anything like that? Those aren't referenced; correct?

11 A. Correct.

12 Q. But it also doesn't mention "Consultants By Five"; correct?

13 A. Correct.

14 Q. No discussion of Larry Goodike; correct? Is that --

15 A. Correct.

16 Q. -- correct?

17           And you've never received any other requests for  
18 payment than this?

19 A. Correct.

20 Q. Now, are you testifying that Larry's request for payment  
21 from you for this and the donation to the Freedom fund -- is it  
22 your testimony that that only covered the preparation of these  
23 returns or is it your testimony that you don't recall all these  
24 other things that you discussed that were covered as part of  
25 this fee?

1 A. I don't really recall what was -- what -- what exactly  
2 everything was discussed for this fee.

3 Q. Okay. So, if Mr. Cohen's testimony were that this number  
4 was rep- -- meant to represent the invariable audit that was  
5 coming and any work that needed to be done to correct these  
6 various problems with the returns that you had lied about, would  
7 you dispute that?

8 MR. NEIMAN: Objection.

9 THE COURT: Wait a minute.

10 MR. NEIMAN: Assumes facts not in evidence. It's --

11 THE COURT: Sustained.

12 MR. NEIMAN: -- argumentative. It's --

13 MR. BOWERS: I'll withdraw the question.

14 BY MR. BOWERS:

15 Q. What did you talk about on your 30 phone calls to Mr. Cohen?

16 A. Uh, mainly about my -- my tax situation.

17 Q. Did Mr. Cohen ever explain to you his theory?

18 A. Yes, he did.

19 Q. Do you recall a discussion regarding OMB numbers?

20 A. Uh, yes, I do.

21 Q. What's your recollection -- what's -- what's your  
22 understanding of that discussion?

23 A. I don't -- I don't -- I still don't totally understand what  
24 he -- what he was talking about.

25 Q. Was it -- if I showed you what an OMB number is on a tax

1 return, would that refresh your recollection?

2 A. I don't think it would.

3 Q. How seriously did you take your conversations with Larry  
4 Cohen about those issues?

5 A. Very seriously.

6 Q. Very seriously. Okay.

7 But you don't recall anything about what you talked  
8 about other than there were some OMB numbers mentioned?

9 A. Uh, most -- most of the conversation was repetitive.

10 Q. But you don't seem to recall what it was?

11 A. Not -- not verbatim, no.

12 Q. Well, not verbatim then. What was the gist of it?

13 A. In regards to my returns, uh, and -- and the -- and the, uh,  
14 returns that Larry had prepared for me working as far as  
15 cleaning up any, uh, issues I had outstanding.

16 Q. What understanding, if any, did you gain in these 30  
17 conversations of the specifics of why Larry believed it would  
18 work?

19 A. Um, his basic issue every time was that there's no law that  
20 says you have to pay income tax.

21 Q. Okay. And he also mentioned the OMB numbers; correct?

22 A. Not so often. A couple times. That's why I don't really --

23 Q. So you're --

24 A. -- it's complicated --

25 Q. -- about those.

1 A. -- yeah.

2 Q. But they were mentioned; right? You don't remember what --  
3 what was goin' on with them?

4 A. Correct.

5 Q. How about the 1040 instruction manual, uh, and the section  
6 under Income? Did they discuss that with you?

7 A. No.

8 Q. No, never -- foreign source income doesn't mean anything?

9 A. He talked about foreign source income.

10 Q. Okay. What -- what do you recall about that?

11 A. Not very much.

12 Q. Sure. Okay. I understand.

13 Um, do you recall Larry explaining to you that it was  
14 important to make your own decisions and to study this stuff  
15 before you did anything; that he was there for advice but you  
16 were the one with the ultimate call?

17 A. Uh, no.

18 Q. No. You don't recall that?

19 How about, uh, when we file -- when -- when you and  
20 your wife filed these 1040 amended X's -- and let's just go, for  
21 drill, to, uh, 196, if Agent Steiner could be so kind.

22 (Document displayed in open court.)

23 MR. BOWERS: There's page 2 there. One more. One  
24 more. Thank you.

25 Could we blow up this -- this section here (pointing)?

1 BY MR. BOWERS:

2 Q. This -- this text, do you remember this, Mr. Cardiff?

3 A. Yes.

4 Q. Um, now, do you have an understanding whether this document  
5 was signed under penalty of perjury or not?

6 A. Yes.

7 Q. You do? You believe it was signed under penalty of perjury?

8 A. I don't understand the question.

9 Q. Do you know whether a 1040X is a document that when you  
10 affix your signature the penalty of perjury is attached to that  
11 document?

12 A. No.

13 Q. You don't know that?

14 A. No.

15 Q. Okay. We'll get to that momentarily.

16 Um, this part here, did you ever read this before  
17 you --

18 A. Yes --

19 Q. -- signed it?

20 A. -- I did.

21 Q. Did you ever discuss it with Larry?

22 A. Um, yes.

23 Q. Did you ever say: Larry, uh, I haven't done any careful  
24 study and research. This is very serious to me. But I don't  
25 know what I'm doing? Can we talk about this?

1 A. Uh, I asked him to talk about it, yeah.

2 Q. Okay. And was he unwilling to? Did he say --

3 A. No, no.

4 Q. -- no, I want more money?

5 A. No, no, no.

6 Q. He'd talk to you about this all day long, wouldn't he?

7 A. Yeah.

8 MR. BOWERS: Okay. Let's flip back to the other page

9 there.

10 (Document displayed in open court.)

11 MR. BOWERS: If we could go to where it says "Sign

12 Here" on -- yeah, thank you. Thank you, Agent. If we can blow

13 that up.

14 BY MR. BOWERS:

15 Q. You could probably see it a little better. But could you

16 read to me, Mr. Cardiff, where -- the very first words above

17 your signature?

18 A. "Under penalt[y] of perjury."

19 Q. Okay. Does that refresh your recollection that you -- you

20 may have known these documents were signed under penalty of

21 perjury?

22 A. Yes.

23 Q. So do you now believe that at the time you signed these

24 documents you were aware that penalty of perjury attached to

25 them?

1 A. No.

2 Q. No. This is the first you were learning of it here today?

3 A. No.

4 Q. No.

5 When -- when did you learn that it was perjury to  
6 file --

7 A. I -- I'm not certain but not -- you know, not today but  
8 certainly not when I signed them.

9 Q. So sometime between when ya initially sent in the false  
10 W-2's and then signed these other tax returns that weren't true  
11 and signed the first tax returns that weren't true and testified  
12 before the Grand Jury and gave inconsistent statements to Agent  
13 Holland, somewhere along that process, you learned what perjury  
14 was?

15 A. Yes.

16 Q. Okay. Now, I believe you testified that you incurred  
17 \$235,000 in penalties as a result of this process; is that  
18 correct?

19 A. Penalties and taxes.

20 Q. Sure, sure.

21 A. Everything.

22 Q. And presumably some of the refund you had to give back you  
23 were never entitled to would be included in there; right?

24 A. A very small portion, yes.

25 Q. Yeah, okay.

1           And, uh, you also paid \$1500 in frivolous penalties.

2           Right?

3           A.   I think so.

4           Q.   Okay.  Let's take those out.

5                    Other than the \$1500 in frivolous penalties, what, if  
6           any, understanding do you have of that \$235,000 was caused by  
7           your own initial false tax returns?

8           A.   Uh, the majority.

9           Q.   Okay.  Thank you.

10                   What investigation or research did you do into  
11           Mr. Goodike?

12           A.   Uh, none.

13           Q.   None.

14           A.   Very little.  I mean...

15           Q.   Did you know that he was -- at one point he's a legitimate  
16           tax preparer with traditional tax ideas?

17           A.   No.

18                   MR. NEIMAN:  I'm gonna object to relevance to this line  
19           of questions.

20                   MR. BOWERS:  Well --

21                   THE COURT:  What is the relevance?

22                   MR. BOWERS:  -- Mr. Cardiff has suggested on one hand  
23           that Mr. Cohen and Mr. Goodike were engaged in some sort of  
24           business relationship for which the only evidence that will be  
25           presented at this entire trial is his testimony.  So I think



1 if -- if that is what they are out to establish I should be able  
2 to cross-examine him on that.

3 MR. NEIMAN: Your Honor, that -- on direct examination  
4 Mr. Cardiff never uttered the words "Mr. Goodike." He's --

5 THE COURT: Yeah. I --

6 MR. NEIMAN: -- here to satisfy his --

7 MR. BOWERS: He did utter the words "Consultants By  
8 Five."

9 THE COURT: He mentioned Consultants By Five --

10 MR. BOWERS: Well, if we could, your Honor --

11 THE COURT: -- as another company.

12 MR. BOWERS: I -- I have documents here provided by the  
13 Government -- well, I -- I can take care of this another way as  
14 well.

15 BY MR. BOWERS:

16 Q. Did you associate Consultants with [sic] Five by -- with  
17 Larry Goodike?

18 A. Yes, I did.

19 Q. In fact, Larry Goodike wrote a letter where he was listed  
20 with Consultants By Five on your behalf; correct?

21 A. I believe so, yes.

22 MR. BOWERS: Okay. Did we fix this problem, your  
23 Honor, for the purposes of the rest of the cross-examination,  
24 the relationship between Consultants By Five and Mr. Goodike?

25 THE COURT: He's given his answer.

1           MR. NEIMAN: Yeah. I would still object to the  
2 relevance.

3           MR. BOWERS: Well, again, I -- I reiterate that the  
4 Government's accusing Larry of operating a separate business  
5 known as Consultants By Five. And --

6           MR. NEIMAN: And the witness --

7           MR. BOWERS: -- it's clear from the witness's testimony  
8 that that is a business associated with Mr. Goodike, not  
9 Mr. Cohen.

10          MR. NEIMAN: If Mr. Goodike had any involvement with  
11 the false returns charged in the Indictment, that -- that would  
12 be a different story and I think that would be a fair question  
13 to the witness. But to go into all this other stuff of  
14 Mr. Goodike --

15          MR. BOWERS: You can't bring a witness in to make  
16 insinuations about something and then not allow me to follow up  
17 with it, your Honor.

18          THE COURT: Are you speaking to me or are you speaking  
19 to counsel?

20          MR. BOWERS: I would never argue with counsel directly,  
21 your Honor. I'm addressing that at you.

22          THE COURT: Well, you said I brought the witness in and  
23 now I can't stop you from going into it. I didn't bring the  
24 witness in.

25          MR. BOWERS: Oh, I'm sorry. I -- I was speaking in an

1 improper way of saying, you know, you can't do this. I  
2 apologize.

3 THE COURT: I'm just looking to see the -- where the  
4 comment was made about Goodike and Consultants Five [sic].

5 (Pause in the proceedings.)

6 THE COURT: Yes. Uh, he was working on another  
7 organization, forming or carrying another organization,  
8 Consultants By Five. Uh, and that was, uh -- that was what was  
9 mentioned. I -- I do vaguely recall hearing the, uh, name  
10 "Goodike" but that was the context.

11 MR. BOWERS: Well, I think if -- if the Court will give  
12 me a second, I think that his --

13 THE COURT: I'll give you a second subject to motion to  
14 strike. It -- it --

15 MR. BOWERS: Well, I don't -- I don't wanna prejudice  
16 anybody. But I think he just testified that he associates Larry  
17 Goodike with Consultants By Five.

18 THE COURT: Correct.

19 MR. BOWERS: Okay. Well, that's it. That's my point.  
20 It's Larry Goodike, not Larry Cohen. That's it. I think he  
21 just established it.

22 BY MR. BOWERS:

23 Q. Okay. So, if we can return, your testimony was Larry was  
24 gonna start this Consultants By Five, Larry Cohen; is that  
25 correct? That's what he told you at some point?

1 A. That's the impression I got.

2 Q. Okay. But it was also clear to you that any donation he --

3 he discussed with you was to be made to Schiff and Freedom

4 Books; correct?

5 A. Correct.

6 Q. He never said make a donation to Consultants By Five --

7 A. Correct.

8 Q. -- right?

9 A. Yeah, correct. Yeah.

10 Q. Okay. You had a regular CPA firm prepare your 2002 tax

11 returns; is that correct?

12 A. Yes.

13 Q. And when we mean "regular," we mean like, you know,

14 H&R Block or somebody completely steeped in traditional

15 accounting practices; correct?

16 A. Yes.

17 Q. You failed to mention to them, uh, this whole business of

18 the false withholding and the false refunds and so forth;

19 correct?

20 A. Yes.

21 Q. Okay. Um, there was some suggestion that you -- you may

22 blame Mr. Cohen for problems in your marriage that this has

23 created. Is that my understanding?

24 THE COURT: That was during his testimony, his direct?

25 MR. BOWERS: I believe when we -- let me ask the

1 question another way, your Honor.

2 THE COURT: All right.

3 BY MR. BOWERS:

4 Q. You -- you've indicated here today that you haven't -- well,  
5 no. Let me ask it a different way.

6 You -- you've indicated that your wife's aware that  
7 you're here today regarding Lawrence Cohen and your involvement  
8 with Freedom Books; right?

9 A. Yes.

10 Q. Uh, has that caused any problems in your marriage?

11 A. Uh, yes.

12 Q. And you acknowledge, though, that you've never informed her  
13 that this process was started totally unrelated to Larry Cohen;  
14 correct?

15 A. Correct.

16 Q. You work for Kelly Media Group where you buy media in  
17 Canada; is that correct?

18 A. Yes.

19 Q. And is your primary consumer of that media Mr. Reverend  
20 Popoff -- or Reverend Popoff and the People United for Christ.

21 A. Not of television time, no.

22 Q. Not of television time.

23 What -- what kind of time is it that they are the prime  
24 consumer of?

25 A. Who is the prime consumer?

1 Q. I'm sorry. I must have misunderstood your testimony.

2 I believed you said that People for Christ [sic] and  
3 Reverend Popoff were one of the larger customers with Kelly  
4 Media Group; is that correct?

5 A. Yes, it is.

6 Q. Okay. And I mistook it for buying television time. What is  
7 it they buy?

8 A. Uh, they buy phone services.

9 Q. They buy phone -- what kind of phone services do they buy?

10 A. Uh, we answer and transcribe all of their incoming telephone  
11 calls.

12 Q. So you operate a call center?

13 A. Yes.

14 Q. In-bound telemarketing --

15 A. Correct.

16 Q. -- correct?

17 And why is it that People United for Christ needs an  
18 inbound telephone marketing center?

19 MR. NEIMAN: I'm gonna object to the relevance.

20 THE COURT: What is the relevance?

21 MR. BOWERS: The Government raised this in a discussion  
22 with what this gentleman did for a living. Again, I should be  
23 allowed to follow up on this on cross.

24 MR. NEIMAN: It was just to establish background on how  
25 Mr. Cardiff earns --

1 THE COURT: It was.

2 MR. NEIMAN: -- a living.

3 THE COURT: It was -- it just asked him where he worked  
4 and what they did.

5 MR. BOWERS: I mean, that -- that paints a particular  
6 portrait of an individual, your Honor. And, when the  
7 Government's allowed to go into background, I should be allowed  
8 to follow up on it.

9 THE COURT: What is the relevance? I mean, it's just  
10 background. What -- what -- how is it germane to the issues in  
11 this case?

12 MR. BOWERS: Well, your Honor, I think that there's a  
13 question of Mr. Cardiff's credibility in this instance. Um,  
14 when the Government prevents -- presents Mr. Cardiff as being  
15 associated with some sort of charitable or religious  
16 organization to bolster that creditability, I should be allowed  
17 to inquire as to what's goin' on.

18 MR. NEIMAN: I'm gonna object to the characterization  
19 of --

20 THE COURT: Yeah.

21 MR. NEIMAN: -- what the Government --

22 THE COURT: Sustained.

23 It's -- he just testified to where he worked. It  
24 was -- I didn't see it as a bolstering of anything. He just  
25 said he -- who he performed services for. Uh, that doesn't mean

1 that because you work for some religious -- or perform services  
2 for -- for -- you go down and fix the telephone at the church  
3 doesn't mean you're -- you know, that you're putting your  
4 credibility out based on the fact they would have you in the  
5 church or the roof didn't come in. You know, I just don't see  
6 any -- what your point is here.

7 MR. BOWERS: Well, your Honor, I guess, you know,  
8 that's your decision. I'm moving on; correct, your Honor?

9 THE COURT: Yes --

10 MR. BOWERS: Thank you.

11 THE COURT: -- please.

12 BY MR. BOWERS:

13 Q. Uh, Larry contacted you, uh, when you found out you'd been  
14 subpoenaed by a Grand Jury; is that correct?

15 A. I believe so, yes.

16 Q. Okay. Uh, Larry never asked you to do anything to tell the  
17 truth to that Grand Jury, did he?

18 A. That's correct.

19 Q. As a matter of fact, the whole time you knew Larry Cohen he  
20 never did anything to suggest to you, uh, that he didn't believe  
21 exactly what he was talking to you about, did he?

22 A. I -- I don't know what he believed.

23 Q. Well, you -- you've testified you didn't really understand  
24 what he was talkin' about. But he was the one who talked to you  
25 about it all day long, wasn't he?



1 A. Yes.

2 Q. Okay. Um, isn't it true that you wanted to develop a  
3 relationship, uh, with Larry Cohen in part to sell some of your  
4 services to Mr. Schiff?

5 A. I had mentioned it, yes.

6 Q. As a matter of fact, didn't you discuss, uh, producing a  
7 \$15,000 infomercial where Mr. Schiff could put his ideas on  
8 television and you could do the media buying?

9 A. Early on yes --

10 Q. Okay.

11 A. -- I discussed that.

12 Q. All right. I wanna talk just briefly about, uh, some of  
13 your testimony committed so far. Um, in particular, I want to  
14 talk about, uh, your testimony in front of the Grand Jury back  
15 in January of 2004. Do you recall any of that?

16 MR. NEIMAN: Your Honor, if Mr. -- objection just on --  
17 improper impeachment I believe is where --

18 THE COURT: It is.

19 MR. NEIMAN: -- we're heading here.

20 MR. BOWERS: Okay. Well --

21 THE COURT: If you want to ask him if he said --

22 BY MR. BOWERS:

23 Q. Did you --

24 THE COURT: -- said something --

25 MR. BOWERS: Okay.

1 THE COURT: -- at an --

2 MR. BOWERS: Okay.

3 THE COURT: -- earlier time --

4 MR. BOWERS: I appreciate that.

5 THE COURT: -- you can use it.

6 MR. BOWERS: Thank you, your Honor. Thank you.

7 BY MR. BOWERS:

8 Q. How many times did you tell the Grand Jury that you didn't

9 know anything about the disparities in your W-2's?

10 A. I'm not sure.

11 Q. Would it surprise you to learn that five separate occasions

12 during your testimony in front of the Grand Jury you pretended

13 to not know anything about the disparities in your W-2's?

14 A. I -- I -- I don't know how many times it was.

15 Q. Would it refresh your recollection if we went through each

16 one.

17 A. Uh, no. I mean, yeah, it would -- yeah, sure. I mean, if

18 you say it's five, I don't know --

19 Q. You'll buy that number?

20 A. -- many it is. Yeah.

21 Q. Okay.

22 A. It's possible, yeah.

23 Q. But it -- well, I mean, I -- I wanna go through each one. I

24 don't want to argue with you.

25 Can we agree at least four times you did that?

1 A. Okay.

2 Q. Okay. And you were -- you were under oath at that  
3 proceeding, weren't you?

4 A. Yes.

5 Q. Hands, same as here, perjury -- you understood all that  
6 stuff?

7 A. Yeah.

8 Q. Okay. Had a chance to talk to the Government attorneys.  
9 They were different but you discussed this with 'em prior to  
10 that testimony?

11 A. Discussed?

12 Q. What -- what the proceeding meant, what perjury was, the  
13 importance of telling the truth in a court of law -- those kinds  
14 of things.

15 A. Yes.

16 Q. Okay. There was some discussion with the Government about  
17 whether you were forthcoming or not, uh, in front of the Grand  
18 Jury. Indeed, you actually lied to them; correct? It wasn't  
19 just that you didn't volunteer information.

20 A. Correct.

21 Q. Okay. Just so we're clear, it was an actual affirmative  
22 misstatement of the truth; right?

23 And you also did that with, uh, Agent Holland and Agent  
24 Steiner when they first met you prior to testifying before the  
25 Grand Jury; is that correct? You lied to them.

1 A. Uh, I don't --

2 Q. You don't know?

3 A. -- remember that.

4 Q. All right. Well, just a moment here.

5 Do you remember meeting with your wife, uh, back at  
6 January of 2004 at People United for Christ with Agent Holland  
7 and Agent Steiner?

8 A. Yes.

9 Q. Okay. (Pause.)

10 Do you recall, uh, talking to Agent Steiner and Agent  
11 Holland about, uh, your request for refunds prior to your  
12 involvement with Larry?

13 A. No, I don't recall that.

14 Q. Okay. (Pause.)

15 MR. BOWERS: I don't have anything further.

16 Thank you.

17 THE COURT: Okay. Let's see. You went first, didn't  
18 you? Yes.

19 MR. CRISTALLI: Nothing on behalf --

20 THE COURT: Cristalli?

21 MR. CRISTALLI: -- of Ms. Neun, your Honor.

22 THE COURT: Thank you.

23 Mr. Schiff, questions? Cross-examination, Mr. Schiff?

24 MR. SCHIFF: No, I have nothing.

25 THE COURT: Redirect?

1 MR. NEIMAN: None, your Honor.

2 THE COURT: Thank you.

3 THE WITNESS: Thank you.

4 THE COURT: The witness is excused.

5 Um, it looks like we're at four -- a little after 4:20.

6 How much time will the next Government witness take? Do you

7 want to get started?

8 MR. IGNALL: I think we should get started, your Honor.

9 THE COURT: Okay. Call your next witness, please.

10 MR. IGNALL: Government calls Phillip Parrinelli.

11 (Phillip Parrinelli takes the witness stand.)

12 THE CLERK: Please remain standing and raise your right

13 hand.

14 You do solemnly swear that the testimony you shall give

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

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

17 THE WITNESS: I do.

18 THE CLERK: Please be seated.

19 Please state for the record your full name and spell

20 your last name.

21 THE WITNESS: It's Phillip T. Parrinelli,

22 P-a-r-r-i-n-e-l-l-i.

23 THE CLERK: I didn't get your --

24 THE COURT: Would you --

25 THE CLERK: -- first name.

1 THE COURT: Yes.

2 THE CLERK: Would you spell your first name, please?

3 THE WITNESS: Phillip, P-h-i-l-l-i-p. I'm sorry.

4

5 PHILIP PARRINELLI,

6 called as a witness on behalf of the Government, having been

7 first duly sworn, was examined and testified as follows:

8

9 THE COURT: There you go. Thank you. Pull it close.  
10 You'll need it right there.

11 THE WITNESS: Better?

12 THE COURT: All right. Thank you.

13 Go ahead.

14 MR. IGNALL: Your Honor, may I approach the witness?

15 THE COURT: You may.

16

17 DIRECT EXAMINATION

18 BY MR. IGNALL:

19 Q. Good afternoon, Mr. Parrinelli.

20 A. Yes, sir.

21 Q. I'm gonna hand you a few documents that we've already marked  
22 as exhibits. If I could ask you to look at Exhibit 132 on the  
23 exhibits right in front of you there.

24 A. Yeah, 132. Okay.

25 Q. Do you recognize Exhibit 132?

1 A. The first page? I...

2 Q. You probably don't recognize the first page; start with the  
3 second page.

4 A. Oh. This is my income tax return.

5 Q. Do -- do you recognize this?

6 A. Of course. I did myself --

7 Q. What is this?

8 A. -- according to the laws of the United States, the  
9 Constitution.

10 Q. All right. What -- what is this document that's  
11 Exhibit 130 --

12 A. It was the 10- --

13 Q. I'm sorry. 132?

14 A. -- a 1040, 1991 1040.

15 Q. Prepared by you?

16 A. Of course, you know. Sure.

17 Q. When -- when did you prepare this document?

18 A. Oh, this -- that I don't -- that probably was 19 -- it  
19 was --

20 Q. If you look at the second page --

21 A. -- 2000.

22 Q. If you look at the second page, is that your signature --

23 A. Yeah.

24 Q. -- on this document?

25 A. Yeah. Well, let me look at the date, yeah. Is 11-20-01.

1 Q. So that's 2001? I'm sorry.

2 A. Yes.

3 Q. All right. Is this an accurate copy of the tax return that  
4 you filed with the IRS for 1991?

5 A. Sure is.

6 MR. IGNALL: At this point, the Government moves into  
7 evidence Exhibit 132.

8 MR. CRISTALLI: No objection.

9 MR. BOWERS: No objection, your Honor.

10 MR. SCHIFF: No objection.

11 THE COURT: 132 is received.

12 (Government's Exhibit No. 132, received into  
13 evidence.)

14 MR. IGNALL: If we could publish 132 to the jury.

15 (Document displayed in open court.)

16 BY MR. IGNALL:

17 Q. Mr. Parrinelli, if you could look -- you can -- there's a  
18 screen right --

19 A. Yeah.

20 Q. -- next to -- you have it in front of you. There's also a  
21 screen to your left. I don't know if that might be easier to  
22 see.

23 If you look under the Income section, what did you put  
24 down on line 7 as wages, salaries, and tips?

25 A. It's zero. That's --



1 Q. What did you put down --

2 A. -- that was my income that year.

3 Q. All right.

4 A. You know, that, again, according to the laws and the

5 Constitution of the United States.

6 Q. All right. Well, we'll get to that in a second.

7 On line 23 for total income, what number did you write

8 down?

9 A. The same thing, zero.

10 Q. All right. Did you have any assistance in preparing this

11 tax return?

12 A. No. I prepared it myself.

13 Q. If we look down on the second page --

14 A. Yes.

15 Q. -- is there a name that appears on the bottom under "Paid

16 Preparer"?

17 A. Yes. That's -- that's my name there and then I had the nice

18 lady Cynthia just look it over.

19 Q. She looked it over?

20 A. Yeah. And then she offered to sign that and...

21 Q. Okay.

22 A. She's very intelligent person, very smart.

23 Q. Do you recognize the person who signed that tax return here?

24 A. Of course I do. Of course I do. It's the lady over there.

25 Q. All right.

1           MR. IGNALL: Record reflect the witness has identified  
2 Defendant Neun?

3           THE COURT: Witness [sic] will so reflect.

4 BY MR. IGNALL:

5 Q. Were you working during the year 2001?

6 A. I think I --

7 Q. I'm sorry. Were you working in the year 1991?

8 A. 2001 I think --

9 Q. No, no. I'm sorry. Were you working during the year 1991?

10 A. Oh, '91. Well, I was -- I was more -- I believe at that  
11 time I was like in a small office. You can say -- you can say  
12 work. I wasn't making much money.

13 Q. Were you earning any money?

14 A. I was working.

15 Q. Were you earning any money?

16 A. Not much, you know. But I was working.

17 Q. What were you doing?

18 A. Um, I had opened office. First I had opened, like,  
19 paralegal office and I was doing some, um, real estate. Because  
20 I used to work with TRW --

21 Q. Okay.

22 A. -- and then, um, I was laid off, so I began something on my  
23 own.

24 Q. All right. When you filled out this tax return for 1991  
25 with the zeroes, did you do that on the advice of anyone?

1 A. Yes, yes, sir.

2 Q. On whose advice?

3 A. Well, it was many people, you know. One, of course, was --

4 Mr. Schiff was one, but he was not the only one. Um, because

5 when you do something like this, um, you need to hear and listen

6 from many different people. And, of course, Mr. Schiff was one

7 of them. But I looked on the Internet. I'd -- I -- I talked to

8 the other people. I bought some books, you know. So it was all

9 kind of knowledge I got from -- you know, the same thing, a

10 judge that we listen to one person and the other person or the

11 jury they would listen to one side or the other side --

12 Q. All right.

13 A. -- then make up their mind.

14 Q. All right. Mr. Parrinelli --

15 A. The same thing I did myself. I applied my knowledge. Okay?

16 Even before I met, you know -- I met Mr. Schiff, I -- like I

17 said, when you -- these are -- these are very important

18 documents. So you need to be very knowledgeable. And I didn't

19 get no help from the IRS because that's what I want to get --

20 MR. IGNALL: Objection, your Honor. This is

21 nonresponsive.

22 THE WITNESS: Okay. So I had --

23 THE COURT: Sustained.

24 THE WITNESS: -- I had to do research on my own.

25 THE COURT: Why don't you just listen to the questions,

1       okay, rather than --

2               THE WITNESS: I'm just very proud.

3               THE COURT: -- I know you have a story you want to  
4       tell.

5               MR. BOWERS: He's trying, Judge.

6               THE COURT: But just --

7               THE WITNESS: Okay.

8               THE COURT: -- answer the questions.

9               THE WITNESS: Okay.

10              THE COURT: -- that are asked you.

11       BY MR. IGNALL:

12       Q.    And I'm not sure "objection" is the right word there, but...

13              All right. Mr. Parrinelli, how did you come to bring  
14       this tax return to Ms. Neun to look over and sign?

15       A.    Because I attend some of the seminars, so I just --

16       Q.    Whose seminars?

17       A.    Mr. Schiff's seminars. So I had great fortune to meet him  
18       and meet Cindy.

19       Q.    And what did Mr. Schiff say about these tax returns at his  
20       seminars?

21       A.    Uh, well, what he said it -- he was talking about the law,  
22       okay, and he was explaining the different codes, the IRC Code  
23       and the Constitution, and he showed the law, okay, that, you  
24       know, required us to do certain things and told us to do other  
25       things. And --

1 Q. Did Mr. Schiff --

2 A. -- there was --

3 Q. I'm sorry. I didn't mean to cut you off.

4 A. I'm sorry.

5 Q. Did Mr. Schiff say anything at the seminar about whether you

6 had to report wages that you'd earned on your tax return?

7 A. Yeah. No. Mr. Schiff said that the wages were not taxable,

8 uh, because according to the -- to the Code only as a corporate

9 income would fall under the umbrella of --

10 Q. Is that why you wrote down zeroes --

11 A. No.

12 Q. -- on this tax return?

13 A. Yeah. What I did I did -- like I say, I did my research.

14 And then I -- I convinced myself that that was the case, you

15 know, on the Internet and many other -- other sources. Then I

16 decide, you know -- I was convinced that Mr. Schiff was right,

17 was correct, because he was --

18 Q. All right. Why -- why did you bring this tax return down to

19 have Ms. Neun look at it?

20 A. Uh, because I knew them. I knew them as -- before I said,

21 it was the very first time I had filled this out. So I want to

22 make sure that I was doing this right because I don't want to

23 waste my time, the IRS time, you know, doing something that was

24 not correct.

25 Q. Where did you bring it? What location did you go to?

1 A. Here in Las Vegas.

2 Q. Do you know where it was in Las Vegas?

3 A. Yes. I think it was Sahara, Sahara --

4 Q. Okay. What --

5 A. -- Street.

6 Q. -- was there a name of the business?

7 A. Oooh. I -- I -- name of the business...

8 Q. Does the name "Freedom Books" sound familiar?

9 A. Yeah. Of course, Freedom Books. Yes.

10 Q. All right. Did you have a discussion with Ms. Neun about

11 what you did for a living when you came down there?

12 A. No, no, not really. I -- I don't think I did.

13 Q. Was there any particular reason you asked Ms. Neun to sign

14 this return?

15 A. Like I said, because I want to make sure I was correct.

16 Q. Correct according to whom?

17 A. According to me -- according to the laws, the laws of the

18 United States, the laws in the Code.

19 Q. So you wanted her to determine whether that was correct

20 according to the law?

21 A. Yeah, kind of -- like her -- like her recommendation or

22 suggestion, something like that. Just to look it over.

23 Q. Did you pay Ms. Neun to --

24 A. No, no. I want to pay, but she didn't accept no money.

25 Q. Did you ever purchase anything from Mr. Schiff?

1 A. Yeah, I've been buying books. Yes, I've been buying books.

2 Q. Did you buy any forms or anything else from Mr. Schiff?

3 A. Uh, forms? I -- I don't remember no forms. But books,  
4 yeah. Book, yes.

5 Q. Did you ever pay to attend a seminar?

6 A. Yes, I been paying --

7 Q. Okay.

8 A. -- for the seminars.

9 Q. Did you ever see Mr. Schiff on -- in the media anywhere, on  
10 TV --

11 A. Yes.

12 Q. -- radio, newspaper?

13 A. Yes.

14 Q. Where did you see him?

15 A. Um, I did at -- I think it was at Fox News.

16 Q. Is that how you first heard of Mr. Schiff?

17 A. Yes, yes.

18 Q. All right.

19 A. Yes.

20 Q. What led you to go to the seminar to begin with? How did  
21 you learn about it?

22 A. Because a lot of things bother me. Um, I came to the United  
23 States here in 1970, a beautiful country --

24 Q. I'm sorry.

25 A. -- beautiful --

1 Q. Mr. Parrinelli, I think --

2 A. But, you know -- well you asked me a --

3 Q. I think -- I think I misspoke on the question. I think my  
4 question was unclear.

5 I want to know how you first learned about the seminar  
6 that you ended up attending.

7 A. About the seminars? Might have been the Internet. That I  
8 don't remember --

9 Q. Okay.

10 A. -- you know.

11 Q. I'm sorry. I -- I asked an unfair question before. So I  
12 apologize for that.

13 Did you ever bring any Forms W-2 or 1099 to Freedom  
14 Books?

15 A. Now, when I -- when I had the tax return, of course, they  
16 were attached. But -- but didn't get no copy of it or anything  
17 like that.

18 Q. I'm sorry. You brought them where?

19 A. But they were together. When -- when Cindy was looking over  
20 the return, of course, the W-2 was attached to it.

21 Q. You did, you had W-2's attached.

22 A. I think they were attached --

23 Q. Okay.

24 A. -- yes.

25 Q. And, if I could turn your attention, uh, a few pages in



1 probably about your fourth page on Exhibit 130- -- I believe  
2 it's -- make sure we're on the right page -- it's Exhibit 132  
3 that's already been admitted.

4 A. Which page?

5 Q. I think it would be probably the fourth page --

6 A. Oh.

7 Q. -- in your document stack there.

8 A. The one I see on the screen here?

9 Q. It should be on the screen there, yes.

10 A. Yeah. They keep on changing. I didn't see the last page on  
11 the screen.

12 Q. If we could go --

13 A. The very last page, yeah.

14 Q. -- it's 132. It's probably the first page after the tax  
15 return, the letter.

16 A. Under this document with my name?

17 Q. Do you see a letter or a two-page typed document that says,  
18 "I, Phillip Tyrone" --

19 A. Yes, yes --

20 Q. -- Parrinelli"?

21 A. Yes, I see. Yes.

22 Q. Do you recognize -- do you recognize those pages there?

23 A. Yes, I do. Of course I do.

24 Q. I think it's three pages actually.

25 A. Yes, of course.

1 Q. Did you attach those pages --

2 A. Yes, I did.

3 Q. -- to the tax return you filed --

4 A. Of course.

5 Q. -- with the IRS?

6 A. Surely. Yes, I did.

7 Q. Did you compose any of the language in those three pages?

8 A. I did some identification but not -- maybe a couple of

9 lines, not very much. But I did -- I did for some

10 identification but not very much.

11 Q. Where did you get the majority of the language that is

12 included here in these three pages?

13 A. Yeah, that was from, uh -- from Mr. Schiff, yes.

14 Q. You got it from Mr. Schiff?

15 A. Yes --

16 Q. Okay.

17 A. -- yes.

18 Q. Did you ever talk to Mr. Schiff about attaching this to your

19 tax return?

20 A. No, no, no. What I did I got this here. And then, like I

21 said, I did some research. You know, make sure I was doing the

22 right thing. And then I -- I -- I followed -- they have a lot

23 of court cases here that talked about, you know, the corporate

24 taxes and all that --

25 Q. And --

1 A. -- you know. You have court cases.

2 Q. Who -- who gave you the cases?

3 A. Well, they -- they were -- they were in the, um -- in the  
4 form here.

5 Q. All right.

6 A. But then I double-checked them to make sure --

7 Q. All right.

8 A. -- that in fact was according to law, that what I was doing  
9 was according to the law and not try to break -- break any law  
10 or anything like that.

11 Q. All right. If I could turn your attention to Exhibit 133,  
12 do you recognize this document?

13 A. Yes.

14 Q. What is Exhibit 133?

15 A. Yeah, that's, again, my return for 1992, my income tax  
16 return 1040.

17 Q. And what -- what day did you sign that tax return?

18 A. Let me look. That's 11-27-01.

19 MR. IGNALL: At this point, Government moves into  
20 evidence Exhibit 133.

21 MR. CRISTALLI: No objection.

22 MR. BOWERS: No objection, your Honor.

23 MR. SCHIFF: No objection.

24 THE COURT: 133 is received.

25

1 (Government's Exhibit No. 133, received into  
2 evidence.)

3 MR. IGNALL: And for clar- -- in the interest of speed,  
4 we have also move in Exhibits 134 and 135. These are also  
5 self-authenticating public documents that I think --

6 MR. CRISTALLI: No objection.

7 MR. SCHIFF: No objection.

8 MR. BOWERS: That's -- that's fine.

9 THE COURT: 134 and 135 are received.

10 (Government's Exhibit Nos. 134 and 135,  
11 received into evidence.)

12 BY MR. IGNALL:

13 Q. Quickly going through Exhibit 133, Mr. Parrinelli, what  
14 number did you write down on line 7 as wages, salaries, and  
15 tips?

16 A. Oh, zero.

17 Q. How about for line 23 for total income?

18 A. Yeah, that -- that is my total income, like zero income.

19 Q. Why did you write down zero?

20 A. Yeah, because I -- I just explained to you. I did some  
21 research -- research and there is no law that requires me to  
22 file a 1040.

23 Q. Okay.

24 A. I even asked the IRS; they didn't have answer.

25 Q. All right. I'm sorry.

1 A. You know, there is no -- no --

2 THE COURT: Just answer the question.

3 THE WITNESS: Yes, that's what I'm doing.

4 BY MR. IGNALL:

5 Q. Okay. I'm sorry. Again, I think that was my fault --

6 A. Because --

7 Q. -- for being unclear.

8 A. -- because of the research I did --

9 Q. Okay.

10 A. -- and...

11 Q. Did you get any information from Mr. Schiff or anyone at

12 Freedom Books about this?

13 A. Also. Yes, of course, sir.

14 Q. Did you bring this tax return into anyone at Freedom Books?

15 A. Yes. Like the first one, yes.

16 Q. And to whom did you bring it?

17 A. I'm sorry?

18 Q. To whom did you bring this tax return?

19 A. Uh, it was Cynthia. Cynthia, yeah.

20 Q. Did you ask Ms. Neun to look this tax return over?

21 A. Yes, I did.

22 Q. Just like with the previous return we looked at?

23 A. Yes.

24 Q. All right.

25 A. Like any other one.

1 Q. Did you ask her to sign the document and --

2 A. Yeah, because I -- I believe the resource because -- say if

3 I have to go to the IRS, she -- she might be able to help me out

4 with that.

5 Q. Okay. Why did you think you might have to go to the IRS?

6 A. Oh, if you don't think that, you're dummy.

7 Q. All right.

8 A. Sorry. Because everybody --

9 Q. But you --

10 A. -- go to the IRS --

11 Q. -- you didn't --

12 A. -- you know.

13 Q. You didn't have a discussion --

14 A. You make me laugh, you know.

15 Q. -- with Ms. Neun about that?

16 Were -- were you working during 1992?

17 A. Yeah. I think it was like '91. Like I said, I start a

18 business myself.

19 Q. Were you working during the year 1992?

20 A. Yeah. Like I had -- yes, you know, I was making no money.

21 But I was...

22 Q. You were earning some money?

23 A. (Laughing.)

24 Q. Okay. And then if we look at -- there's also a three-page

25 letter attachment to this tax return.

1 A. Yes.

2 Q. And I believe I asked you this about -- for the 1991 return,  
3 but I'm gonna ask it again: Did you -- did you compose the  
4 language in this three-page --

5 A. Yeah, like the other one. You know, like the other one. I  
6 do maybe some slight -- slight look to ensure myself like  
7 before, you know, that everything was correct --

8 Q. But the rest of it --

9 A. -- and according to law. Yes.

10 Q. -- the rest of it you got from where?

11 A. From Mr. -- Mr. Schiff, Freedom Books.

12 Q. Okay. If I could turn your attention to Exhibit 134, do you  
13 recognize Exhibit 134?

14 A. Yes, sir.

15 Q. What is Exhibit 134?

16 A. I'm sorry?

17 Q. What is Exhibit 134?

18 A. 134, again, is a 1040 income tax return from 1993.

19 Q. All right. And did you bring this tax return into Freedom  
20 Books?

21 A. Yes, I did. Yes.

22 Q. And who did you show this tax return to?

23 A. Cynthia. Cynthia.

24 Q. And why did you show it to --

25 A. Again, for the --

1 Q. -- Ms. Neun?

2 A. -- same reason I showed the other one.

3 Q. Okay. And on what day did you sign this tax return?

4 A. Again, 11-26-01.

5 Q. So 2001?

6 A. Yes, sir.

7 Q. All right. Did you file this tax return with the Internal  
8 Revenue Service?

9 A. Yes, I did.

10 Q. Okay. And same question about the, uh, three-page  
11 attachment: Did you include that --

12 A. Yeah.

13 Q. -- in what you sent --

14 A. Like the other one.

15 Q. -- to the Internal Revenue Service?

16 A. Yes, like the other one.

17 Q. And is this the same language in the attachment that you  
18 included in the previous two returns?

19 A. I think so.

20 Q. All right.

21 A. I think so.

22 Q. So you have the same answer about who wrote it?

23 A. Yes, sir.

24 Q. Okay. If I could turn your attention to Exhibit 135, do you  
25 recognize Exhibit 135?



1 A. Yes, sir. Yeah, the 1040 income tax return for --

2 Q. For what year?

3 A. 1994.

4 Q. And were you working during 1994?

5 A. Yes. Like, you know, the same thing, like --

6 Q. You were earning a living of some sort.

7 A. Yes, same thing.

8 Q. Okay. And what did you write down for your total income on

9 line 22?

10 A. Like zero income. That was my income.

11 Q. And did you bring this, uh, tax return into Freedom Books?

12 A. Yes, sir.

13 Q. And did you show it to anyone at Freedom Books?

14 A. Yes, to Cynthia.

15 Q. And why -- again, why did you show this to Cindy?

16 A. Again, for the same reason, you know in case -- like I said

17 before, if I had gone to the IRS they asked me to, you know --

18 Q. All right. And did you ask Ms. Neun to sign this document

19 as the preparer?

20 A. I'm sorry?

21 Q. Did you ask Ms. Neun to sign this document as the preparer?

22 A. I -- I might have. You know, I might -- might have asked

23 her --

24 Q. Okay. But you asked her to look it over and review it?

25 A. I don't -- I don't -- I'm not sure.

1 Q. Did you ask her to look it over and review it?

2 A. Oh, yes, yes, yes.

3 Q. And when did you sign this document --

4 A. It's for --

5 Q. -- your 1994 tax return?

6 A. -- 11-30-2001.

7 Q. All right. And did you send this document in to the

8 Internal Revenue Service?

9 A. Yes, I did.

10 Q. All right. And does this document also contain that same

11 attachment that we've looked at in the last three returns?

12 A. Yes, yes, yes, sir.

13 Q. And do you have the same answer for who prepared the

14 language in there --

15 A. Yes, the same answer.

16 Q. -- all right, as with the earlier ones?

17 A. Yes.

18 Q. Did you bring -- for all of these four returns that we've

19 introduced, did you bring in your W-2's to Freedom Books?

20 A. Like I said, the -- if I had any, they would be stapled

21 together with the return.

22 Q. Okay.

23 A. The return was ready to be mailed in.

24 Q. All right.

25 MR. IGNALL: One moment, your Honor.

1 THE COURT: Yes. I don't think you moved for 135's  
2 admission yet.

3 MR. IGNALL: I thought I did both of those. But I move  
4 into evidence Exhibit 135.

5 MR. CRISTALLI: No objection.

6 MR. BOWERS: No objection, your Honor.

7 MR. SCHIFF: No objection.

8 THE COURT: 135 is received.

9 (Government's Exhibit No. 135, received into  
10 evidence.)

11 BY MR. IGNALL:

12 Q. Mr. Parrinelli --

13 A. Yes, sir.

14 Q. -- how many times did you go into Freedom Books?

15 A. Oooh, that's hard to answer, you know. I did go -- I go --  
16 I did go several times, yeah. Every time --

17 Q. Several times?

18 A. I'm sorry?

19 Q. How many times? I'm sorry.

20 A. Oooh, how many times I do not...

21 Q. More than five?

22 A. Very hard. Probably five, you know. Maybe more than five.  
23 I can't -- I can't -- I can't really tell, you know.

24 Q. And you met with --

25 A. I did go several times, yes.

1 Q. And you met with Ms. Neun when you were in there?

2 A. Yes, I did.

3 Q. What did you observe Ms. Neun's role to be at Freedom Books  
4 when you were in there?

5 A. Umm, because I was there only...

6 Q. Pardon me?

7 A. I was there only shortly. Every time I went there was for  
8 really short time.

9 Q. What did you observe Ms. Neun doing when you went in there?

10 A. I can't -- I can't really say. You know, I don't know. I  
11 don't know. She was there. She was there.

12 Q. She was there.

13 Did you ever see her meeting with anybody other than  
14 you?

15 A. No, no. There were other people there too, but I...

16 Q. Did you have a meeting with Mr. Schiff --

17 A. Yes --

18 Q. -- when you went --

19 A. Yes.

20 Q. -- into Freedom Books?

21 A. Yes.

22 Q. Did you ever talk to him about whether -- about what your  
23 occupation was?

24 A. Not very much, no. No, not -- I was, you know, teaching  
25 before then. I was -- I was teaching also. I was -- so we

1 talked about that, about my teaching of computer science...

2 Q. Did you talk to him about you bringing in your returns to  
3 have Ms. Neun read them over and comment on them and sign them?

4 A. I don't -- I don't remember that. I don't remember if I  
5 talked with him.

6 Q. All right.

7 MR. IGNALL: All right. No further questions, your  
8 Honor.

9 THE COURT: Okay. We're going to take our break unless  
10 there are no questions of this witness.

11 MR. CRISTALLI: Your Honor, I do have a few -- while it  
12 won't be lengthy, I do have some questions.

13 THE COURT: Well, is it going -- we're at a quarter to.  
14 So --

15 MR. CRISTALLI: That's fine. We can recess.

16 THE COURT: -- it sounds like you're gonna be more than  
17 15 minutes.

18 MR. CRISTALLI: I could be, your Honor. I don't  
19 wanna --

20 THE COURT: Okay.

21 MR. CRISTALLI: -- mislead the Court.

22 THE COURT: All right. We will recess for this  
23 evening.

24 Tomorrow morning open?

25 THE CLERK: Yes, sir.

1 THE COURT: 9:00 a.m.

2 The admonition to not discuss the case among yourselves  
3 or with others or to allow yourselves to be influenced by media  
4 coverage or to form any conclusions until the case is submitted  
5 to you for deliberations still apply.

6 Thank you. 9:00 a.m.

7 (Jury leaves the courtroom at 4:44 p.m.)

8 THE COURT: Thank you.

9 Yeah, you can go.

10 (Witness leaves the courtroom.)

11 THE COURT: Further matters of business?

12 MR. IGNALL: Just one brief one, your Honor.

13 THE COURT: All right.

14 (Discussion between Mr. Ignall and  
15 Mr. Bowers.)

16 MR. IGNALL: Your Honor --

17 THE COURT: Yes.

18 MR. IGNALL: -- I just want to put on the record one  
19 stipulation that we agreed to earlier and if we -- and we'll put  
20 it on the record when the jury's in. I just want to do that so  
21 we don't have to bring another witness in tomorrow.

22 THE COURT: Okay.

23 MR. IGNALL: We want to -- we've agreed that documents  
24 that are identified as Exhibits 212 through -- well, I'm  
25 sorry -- 212 through 230A and 235, 236, 237, and 237A as well

1 as -- I'm sorry -- I think that's it. I'm sorry. I apologize,  
2 your Honor.

3 It's Exhibits 212 through 231 and then 232 through  
4 237A. The stipulation is that all parties agree that those  
5 items were seized by the IRS during the execution of a search  
6 warrant at Freedom Books. Defendants are not waiving any Fourth  
7 Amendment objections they have to the introduction of that  
8 evidence but this would prevent us from having to bring in the  
9 seizing agent just to authentic- -- to complete the chain of  
10 custody for those documents.

11 MR. CRISTALLI: On behalf of Ms. Neun, that is correct,  
12 your Honor.

13 MR. BOWERS: Yeah, that's fine. I think we have a  
14 standing agreement that whenever we say "no objection" to any of  
15 the documents seized in the search warrant that we retain that  
16 right.

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

19 MR. SCHIFF: No. I tried to put in a document --

20 THE COURT: Let's address --

21 MR. SCHIFF: -- 4340 --

22 THE COURT: -- let's address these first.

23 MR. BOWERS: Just as to these documents.

24 THE COURT: Do you have any objection?

25 MR. SCHIFF: No, no.

1 THE COURT: All right. 212 through 231 and 232 to 237A  
2 will be received pursuant to stipulation of the parties.

3 (Government's Exhibit Nos. 212 through 237A,  
4 received into evidence.)

5 THE COURT: Okay. Now, Mr. Schiff, you wanted to  
6 commitment on something?

7 MR. SCHIFF: There was a document that I gave that was  
8 marked but it wasn't admitted and I think some kind of  
9 stipulation when we --

10 MR. BOWERS: No. I think --

11 MR. NEIMAN: Not to relevance.

12 MR. BOWERS: -- it's neither in or out. And the  
13 proposition was you can meet with the Government to see if you  
14 can get it.

15 MR. NEIMAN: Well, what Mr. Schiff's referring to is  
16 the Form 4340, or the Certificate of Assessment of Payments, for  
17 Mr. Earnest. I -- I told Mr. Schiff we wouldn't require him to  
18 call the custodian to authenticate it; however, Government would  
19 maintain its objection on relevancy grounds to the admissibility  
20 of the document.

21 MR. SCHIFF: The problem is that's a government  
22 document. I believe that that government document which he  
23 never saw validates the zero return.

24 Now, how can I get in a government document that  
25 validates the zero return even though he never -- people don't



1 see 4340's.

2 THE COURT: Discuss it with your advisory counsel. My  
3 paycheck's a government document, but it's not coming in.

4 MR. SCHIFF: I -- I --

5 THE COURT: Yeah, just the mere fact it's a government  
6 document doesn't mean that it's relevant. And that's the  
7 Government's objection.

8 Okay. We are in recess.

9 MR. SCHIFF: Does she still have the document? It was  
10 marked.

11 THE COURT: She should, yeah. If it was marked, she  
12 has it.

13 MR. SCHIFF: Can you tell me what the exhibit number  
14 is, please? I want to get a photocopy of it.

15 (Proceedings adjourned at 4:49 p.m.)

16 --oOo--

17 I hereby certify that pursuant to Section 753, Title 28, United  
18 States Code, the foregoing is a true and correct transcript of  
19 the stenographically reported proceedings held in the  
20 above-entitled matter.

21

22 DATED:

FELICIA RENE ZABIN, RPR, CCR NO. 478

23

24

25