

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

- - - - -

HONORABLE EDWARD RAFFEDIE, DISTRICT COURT JUDGE PRESIDING

- - - - -

UNITED STATES OF AMERICA,)
)
 PLAINTIFF,)
)
 VS.)
)
 JUAN RAMON MATTA-BALLESTEROS)
 DEL POZO, RUBEN ZUNO-ARCE,)
 JUAN JOSE BERNABE-RAMIREZ,)
 AND JAVIER VASQUEZ-VELASCO,)
)
 DEFENDANTS.)
 _____)

COPY

CASE NO: CR 87-422(F)-ER

VOLUME 2

REPORTERS' TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, MAY 16, 1990

LOS ANGELES, CALIFORNIA

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ALSO PRESENT:

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SPANISH INTERPRETERS

1 LOS ANGELES + CALIFORNIA WEDNESDAY, MAY 16, 1990
2 + 9:30 A.M.

3 (JURY PRESENT:)

4 THE COURT: GOOD MORNING.

5 THE COURTROOM: GOOD MORNING.

6 THE COURT: COUNSEL, DO YOU HAVE SOME FURTHER CROSS
7 EXAMINATION FOR THIS WITNESS?

8 MR. MEZA: YES. THANK YOU.

9 THE COURT: LET THE RECORD SHOW THAT ALL DEFENDANTS
10 AND ALL THE COUNSEL ARE PRESENT AND THE JURORS ARE ALL PRESENT.
11 PROCEED.

12
13 JAMES KUYKENDALL + PLAINTIFF'S WITNESS, PREVIOUSLY SWORN

14
15 CROSS-EXAMINATION + (RESUMED)

16 BY MR. MEZA:

17 Q. NOW, MR. KUYKENDALL, YOU TOLD US YESTERDAY THAT THIS
18 ZACATECAS RAID IN MAY OF '84 -- THAT THERE WERE TWO PREPARATORY
19 MEETINGS; ONE ON THE 17TH OF MAY AND 25TH OF MAY, CORRECT?

20 A. YES, SIR, THAT'S CORRECT.

21 Q. AND PRIOR TO THE MAY 17TH MEETING, JUST PRIOR TO IT,
22 SOMETIME IN MID MAY OF 1984, YOU HAD A CONVERSATION WITH MR.
23 HEATH, DID YOU NOT, CONCERNING RAIDING THE ZACATECAS FIELDS?

24 A. YES, SIR.

25 Q. AND AT THE TIME YOU HAD THAT CONVERSATION WITH MR. HEATH,

1 YOU HAD ALREADY VERIFIED THAT THERE WERE FIELDS OUT THERE, AT
2 LEAST IN PREPARATION, RIGHT?

3 A. THAT IS CORRECT.

4 Q. AND MR. HEATH WANTED TO RAID THOSE FIELDS WITHIN A SHORT
5 TIME AFTER THIS CONVERSATION, RIGHT?

6 A. YES.

7 Q. AND IN YOUR CONSIDERED OPINION, THAT RAID AT THE TIME
8 MR. HEATH WANTED IT, WAS PREMATURE, WAS IT NOT?

9 A. YES.

10 Q. AND YOU EXPRESSED THAT CONCERN TO MR. HEATH, CORRECT?

11 A. YES.

12 Q. JUST TO REMIND US AGAIN, MR. HEATH WAS THE NUMBER ONE
13 D.E.A. REPRESENTATIVE IN MEXICO; IS THAT CORRECT?

14 A. THAT IS RIGHT.

15 Q. AND MR. HEATH INDICATED THAT THE REASON HE WANTED THE RAID
16 DONE SOONER THAN WHAT YOU THOUGHT MIGHT BE APPROPRIATE WAS THAT
17 HE DIDN'T WANT THE MEXICAN GOVERNMENT TO TAKE CREDIT FOR THAT
18 RAID; ISN'T THAT RIGHT?

19 A. THAT'S BASICALLY CORRECT, YES.

20 Q. NOW, YOU TOLD US THAT DURING THE COURSE OF THE RAID ON THE
21 25TH, 26TH AND 27TH -- IT WAS A THREE-DAY RAID, WASN'T IT, OVER
22 THREE DAYS IN MAY?

23 A. IT BEGAN THE 26TH AND ENDED ABOUT THE 29TH. THE END OF
24 THE 28TH.

25 Q. TWO OR THREE DAYS?

1 A. YES.

2 Q. YOU TOLD US THAT DURING THAT COURSE OF THAT, THE M.F.J.P.
3 WAS INTERROGATING PEOPLE THAT THEY HAD DETAINED OR ARRESTED,
4 RIGHT?

5 A. YES.

6 Q. AND YOU INDICATED THAT SOME OF THOSE PEOPLE WANTED TO TALK
7 ABOUT FINANCIERS, CORRECT?

8 A. THAT'S CORRECT.

9 Q. AND YOU TOLD US THAT THE M.F.J.P. DIDN'T WANT TO HEAR THAT
10 AT THAT TIME AND THAT -- RIGHT?

11 A. THAT IS RIGHT.

12 Q. AND THAT YOU RIGHT A SPECIAL REQUEST FOR THEM TO ELICIT
13 THAT INFORMATION, RIGHT?

14 A. YES, IT IS.

15 Q. AND THEY, IN YOUR VIEW, REFUSED TO DO THAT, RIGHT?

16 A. THAT IS RIGHT.

17 Q. NOW, THESE PEOPLE THAT WERE DETAINED AND ARRESTED, THEY
18 REMAINED IN M.F.J.P. CUSTODY; DID THEY NOT?

19 A. YES, THEY DID.

20 Q. AFTER YOU LEFT, CORRECT?

21 A. YES.

22 Q. SO YOU DON'T KNOW IF THE M.F.J.P. DETECTIVE FOLLOWED UP ON
23 THAT INFORMATION CONCERNING FINANCIERS, DO YOU?

24 A. I HAD NO INFORMATION.

25 Q. ALL RIGHT. NOW, YOU ALSO TOLD US ABOUT THE -- YOU SAW

1 THIS HUGE QUANTITY OF MARIJUANA. DID ANYBODY EVER BOTHER
2 WEIGHING THAT? DID YOU HAVE SCALES OUT THERE?

3 A. THEY DIDN'T -- NO, THERE WERE NO SCALES.

4 Q. SO IT WAS A GUESSTIMATE ON YOUR PART AS TO HOW MUCH THIS
5 WAS, RIGHT?

6 A. THAT IS CORRECT.

7 Q. AND THESE BOXES THAT YOU SHOWED US PHOTOGRAPHS OF, DID YOU
8 GO THROUGH EVERY BOX TO DETERMINE WHAT WAS IN EACH AND EVERY
9 BOX?

10 A. NO, NOT THROUGH EVERY BOX.

11 Q. ALL RIGHT. YOU WENT THROUGH SOME OF THE BOXES AND JUST
12 ASSUMED THAT WHAT WAS IN ONE BOX WAS PROBABLY THE SAME IN THE
13 OTHER BOX, CORRECT?

14 A. THAT'S BASICALLY CORRECT.

15 Q. DID YOU TAKE SAMPLES OF ANY OF THE BOXES THAT YOU LOOKED
16 IN?

17 A. NO, WE DID NOT.

18 Q. SO THERE WAS NEVER ANY LABORATORY TEST TO DETERMINE WHAT
19 WAS IN THOSE BOXES THAT, IN YOUR OPINION, WAS MARIJUANA; IS
20 THAT CORRECT?

21 A. THE D.E.A. DID NOT DO ANY TESTS, NO.

22 Q. AROUND THE HASH OIL WHICH YOU TOLD US -- OR IN YOUR
23 OPINION YOU THOUGHT WAS HASH OIL -- DID YOU TAKE ANY SAMPLES
24 FROM THOSE BOTTLES?

25 A. NO.

1 Q. SO THEY WERE NEVER ANALYZED BY A D.E.A. LABORATORY?

2 A. NO, THEY WERE NOT.

3 Q. NOW, YOU TOLD US OF THIS HUGE QUANTITY THAT WAS SEIZED.
4 THAT WAS SEIZED BY THE M.F.J.P.; WAS IT NOT?

5 A. YES, IT WAS.

6 Q. AND IT WAS DESTROYED BY THE M.F.J.P., RIGHT?

7 A. YES.

8 Q. AND THEY WEREN'T KICKING ABOUT DESTROYING IT, WERE THEY?

9 A. NO.

10 Q. NOW, YOU ALSO TOLD US THAT OF THE HUNDRED OR 130 PEOPLE
11 DETAINED OR ARRESTED DURING THIS RAID, THAT THERE WERE NO
12 SIGNIFICANT PEOPLE, IN YOUR VIEW, WHO WERE ARRESTED; IS THAT
13 RIGHT?

14 A. NOT IN ZACATECAS.

15 Q. OH, FINE. MR. CHAVEZ WAS ARRESTED; WAS HE NOT?

16 A. YES, HE WAS.

17 Q. HE WAS A SIGNIFICANT PERSON AS FAR AS YOU WERE CONCERNED;
18 WAS HE NOT?

19 A. YES.

20 Q. MR. CHAVEZ WAS ARRESTED WHERE?

21 A. IN REYNOSA, MEXICO.

22 Q. HOW CLOSE IS THAT TO MC ALLEN, TEXAS?

23 A. IS IT LIKE RIGHT ACROSS THE BORDER, LIKE 15 MILES.

24 Q. NOT TOO FAR?

25 A. NO.

1 Q. MR. CHAVEZ WAS BROUGHT BACK TO ZACATECAS; IS THAT CORRECT?

2 A. YES, IT IS.

3 Q. AND DO YOU KNOW THE DATE THAT MR. CHAVEZ WAS ARRESTED?

4 A. I BELIEVE HE WAS ARRESTED IN THE EARLY MORNING HOURS OF
5 THE 26TH.

6 Q. AND WHEN WAS HE INTERROGATED OR QUESTIONED IN ZACATECAS?

7 A. LATER THAT DAY, IN THE LATE AFTERNOON OR EARLY EVENING OF
8 26TH.

9 Q. I'M SORRY. THE NAME OF THE TOWN HE WAS ARRESTED IN AGAIN?

10 A. REYNOSA.

11 Q. AND HOW FAR IS REYNOSA FROM ZACATECAS, APPROXIMATELY?

12 A. 300 MILES. 350 MILES.

13 Q. SO HE WAS FLOWN DOWN THERE; WOULD THAT BE FAIR TO SAY?

14 A. YES, HE WAS.

15 Q. AND HOW FAR IS ZACATECAS FROM FRESNILLO?

16 A. IT IS ABOUT 30 MILES.

17 Q. WHERE IS THE AIRPORT; IS IT AT ZACATECAS?

18 A. HALFWAY BETWEEN -- LOCATED HALFWAY BETWEEN ZACATECAS AND
19 FRESNILLO.

20 Q. NOW, WHERE WAS MR. CHAVEZ INTERROGATED IN THE ZACATECAS
21 AREA? WAS IT ZACATECAS OR FRESNILLO OR THE AIRPORT?

22 A. IN ZACATECAS.

23 Q. WHERE, SPECIFICALLY; IN AN OFFICIAL GOVERNMENT BUILDING
24 OR --

25 A. THAT'S CORRECT.

1 Q. AND WHO INTERROGATED HIM; THE M.F.J.P.?

2 A. M.F.J.P..

3 Q. DID YOU PARTICIPATE IN THAT INTERROGATION?

4 A. I WAS STANDING THERE.

5 Q. YOU DIDN'T ASK ANY QUESTIONS?

6 A. NO.

7 Q. DID AGENT CAMARENA ASK ANY QUESTIONS THAT YOU CAN RECALL?

8 A. I DON'T THINK SO.

9 Q. NOW, THIS RAID THAT YOU CONDUCTED OR PARTICIPATED IN IN
10 ZACATECAS, THAT RAID WAS GENERALLY CONSISTENT WITH THE D.E.A.'S
11 ROLE IN MEXICO; WAS IT NOT?

12 A. YES, IT WAS.

13 Q. AND YOU TOLD US YESTERDAY THAT THE D.E.A.'S ROLE HAD TO DO
14 WITH FERRETING OUT DRUG DEALERS IN MEXICO, RIGHT?

15 A. THAT IS RIGHT.

16 Q. AND WOULD IT BE FAIR TO SAY THAT BASICALLY THE D.E.A.'S
17 ROLE IN MEXICO WAS TO GATHER INTELLIGENCE CONCERNING DRUG
18 TRAFFICKING?

19 A. YES.

20 Q. AND YOU TOLD US THAT THERE WERE -- AND THEN ONCE THAT
21 INTELLIGENCE WAS GATHERED, YOU WERE SUPPOSED TO BE WORKING IN
22 COOPERATION WITH MEXICAN LAW ENFORCEMENT, CORRECT?

23 A. OH, YES.

24 Q. MORE SPECIFICALLY, THE M.F.J.P.?

25 A. RIGHT.

1 Q. WHICH, AS I RECALL, YESTERDAY YOU TOLD US WAS ROUGHLY THE
2 EQUIVALENT OF THE D.E.A. IN MEXICO; IS THAT RIGHT?

3 A. YES, IT IS.

4 Q. NOW, YOU TOLD US THAT THERE WERE LIMITATIONS ON THE
5 D.E.A.'S ROLE, RIGHT?

6 A. YES.

7 Q. WOULD YOU REPEAT SOME OF THOSE LIMITATIONS AGAIN?

8 A. WE HAD NO AUTHORITY TO MAKE ARRESTS, TO CONDUCT SEARCHES
9 OR TO MAKE SEIZURES.

10 Q. OKAY. YOU WEREN'T PERMITTED TO CARRY WEAPONS EITHER, WERE
11 YOU?

12 A. NO.

13 Q. YOU WEREN'T PERMITTED TO ACT INDEPENDENT OF MEXICAN LAW
14 ENFORCEMENT EITHER; WERE YOU?

15 A. WE COULD TAKE NO UNILATERAL ACTION, THAT IS CORRECT.

16 Q. IN OTHER WORDS, BASICALLY EVERYTHING THAT YOU, MEANING THE
17 D.E.A., DID IN MEXICO WAS SUPPOSED TO BE COORDINATED WITH THE
18 M.F.J.P., RIGHT?

19 A. YES.

20 Q. NOW, D.E.A. DID CONDUCT SEARCHES IN MEXICO; DID IT NOT?

21 A. NOT UNILATERALLY.

22 Q. EVERY TIME THERE WAS A SEARCH BY D.E.A., YOU'RE SAYING IT
23 WAS DONE WITH M.F.J.P. APPROVAL?

24 A. AS FAR AS I KNOW.

25 Q. YOU CARRIED WEAPONS; DID YOU NOT?

1 A. WHEN WE WERE IN THE COMPANY OF THE M.F.J.P..

2 Q. AND THERE WERE TIMES WHEN YOU DIDN'T -- I'LL WITHDRAW
3 THAT.

4 THERE WERE TIMES WHEN YOU DID ACT UNILATERALLY,
5 INDEPENDENT OF THE M.F.J.P. APPROVAL; ISN'T THAT CORRECT?

6 A. (NO RESPONSE.)

7 Q. -- IN YOUR INTELLIGENCE GATHERING ACTIVITIES?

8 A. IN WHAT MANNER?

9 Q. WELL, FOR EXAMPLE, YOU TOLD US ABOUT THIS OVER FLIGHT IN
10 ZACATECAS, THAT YOU HIRED, YOU HAD TO MAKE A SPECIAL EFFORT TO
11 HIRE MR. ZAVALA TO FLY.

12 A. YES, WE DID.

13 Q. AND THAT WAS A -- THAT IS AN EXAMPLE OF A UNILATERAL MOVE
14 ON YOUR PART, INDEPENDENT OF M.F.J.P. APPROVAL, RIGHT?

15 A. YES.

16 Q. AND THAT WASN'T THE ONLY TIME YOU HAD ACTED UNILATERALLY,
17 WAS IT?

18 A. AS FAR AS GATHERING THE INTELLIGENCE, NO, IT WAS NOT.

19 Q. WOULD IT BE ALSO FAIR TO SAY THAT YOU ACTED UNILATERALLY
20 IN CULTIVATING, IF NOT ALL OF YOUR INFORMANTS, AT LEAST SOME OF
21 YOUR INFORMANTS?

22 A. THAT IS CORRECT.

23 Q. AND THAT A LOT OF THE INTELLIGENCE YOU GATHERED FROM YOUR
24 INFORMANTS, YOU MAY HAVE PASSED THAT INFORMATION ON TO THE
25 M.F.J.P., BUT YOU NEVER TOLD THE M.F.J.P. WHAT THE SOURCE OF

1 THE INFORMATION WAS?

2 A. SOMETIMES.

3 Q. SOMETIMES, BUT NOT ALL THE TIME?

4 A. THAT IS CORRECT.

5 Q. NOW, YOU TOLD US YESTERDAY ABOUT DEVELOPING INFORMANTS OR
6 CULTIVATING -- I THINK YOUR PHRASE WAS CULTIVATING INFORMANT
7 COOPERATION.

8 YOU TALKED ABOUT THE THREE GENERAL CATEGORIES OF
9 INFORMANTS: PRIVATE CITIZENS, CITIZENS DOING THEIR DUTY, THE
10 PERSON WHO WAS IN THE BUSINESS, IN THE DRUG BUSINESS WHO HELPS
11 YOU OUT FOR WHATEVER HIS MOTIVATIONS ARE, AND THEN THERE IS
12 THAT THIRD PERSON WHO'S NOT IN THE DRUG BUSINESS BUT HAS SOME
13 SORT OF OCCUPATION OR POSITION OR KIND OF CAN GIVE YOU --

14 THE COURT: COUNSEL, YOU DON'T NEED TO PARAPHRASE THE
15 WITNESS'S TESTIMONY. WE HAVE ALL HEARD IT. GET ON WITH YOUR
16 QUESTION.

17 MR. MEZA: THANK YOU.

18 BY MR. MEZA:

19 Q. NOW, IN DEVELOPING THE PEOPLE WHO WERE IN THE DRUG
20 BUSINESS, YOU TALKED ABOUT MOTIVATION. WHAT TYPES OF
21 MOTIVATION WOULD CAUSE A PERSON WHO WAS IN THE DRUG BUSINESS TO
22 GIVE YOU INTELLIGENCE?

23 MR. CARLTON: OBJECT, YOUR HONOR, ON THE GROUNDS THAT
24 THAT IS SPECULATION.

25 THE COURT: SUSTAINED.

1 BY MR. MEZA:

2 Q. LET ME PUT IT THIS WAY. YOU TOLD US THAT YOU PAID
3 INFORMANTS, RIGHT?

4 A. YES, WE DID.

5 Q. YOU PAID THEM EITHER ON A MONTHLY BASIS OR ONE-TIME BASIS,
6 RIGHT?

7 A. YES.

8 Q. AND THAT WAS ONE OF THE WAYS BY WHICH YOU GOT INFORMANTS
9 TO COOPERATE, WAS BY PAYING THEM, RIGHT?

10 A. YES, IT IS.

11 Q. AND ANOTHER WAY THAT YOU GOT INFORMANTS TO WORK WITH YOU
12 WAS SUBSEQUENT TO AN ARREST; RIGHT?

13 Q. OR A PENDING PROSECUTION?

14 A. NOT IN MEXICO, SIR.

15 Q. BUT THAT WAS A WAY THAT YOU WOULD -- THAT IS A WAY THAT
16 YOU COULD CULTIVATE AN INFORMANT; IF THERE WAS A PENDING CASE
17 AGAINST THEM, PERHAPS YOU COULD WORK OUT A DEAL.

18 MR. CARLTON: OBJECTION, IRRELEVANT. HE TESTIFIED
19 THEY DID NOT DO THAT.

20 THE COURT: SUSTAINED.

21 BY MR. MEZA:

22 Q. NOW, WHEN YOU WERE DEALING WITH INFORMANTS, YOU ALWAYS --
23 THEY WERE SUSPECT. THEIR INFORMATION -- YOU ALWAYS TOOK IT
24 WITH A CERTAIN BIT OF SUSPICION; DID YOU NOT?

25 A. I DON'T THINK WE TOOK IT WITH SUSPICION; BUT IT WAS

1 SOMETHING THAT GENERALLY NEEDED TO BE CORROBORATED.

2 Q. ALL RIGHT. OKAY. NOW, ONE OF THE OTHER WAYS THAT YOU
3 GATHERED INTELLIGENCE WAS BY GOING THROUGH AND LOOKING AT THE
4 NEWS MEDIA; IS THAT FAIR TO SAY?

5 A. YES, SIR.

6 Q. AND YOU LOOKED AT THE NEWSPAPERS, T.V., AND RADIO IN THE
7 HOPES OF GETTING INFORMATION YOU MIGHT BE ABLE TO USE IN THE
8 INTELLIGENCE GATHERING ACTIVITY, RIGHT?

9 A. YES.

10 Q. AND ONE OF THE NEWS MEDIA THAT YOU UTILIZED WAS A MAGAZINE
11 CALLED "ALARMA"? ARE YOU FAMILIAR WITH THAT?

12 A. YES.

13 Q. AND IT WASN'T UNUSUAL TO FIND STORIES CONCERNING DRUG
14 ARRESTS OR DRUG SEIZURES AND THAT SORT OF THING IN ALARMA, WAS
15 IT?

16 MR. CARLTON: OBJECTION, YOUR HONOR, BEYOND THE
17 SCOPE.

18 THE COURT: OVERRULED.

19 THE WITNESS: NO, THAT WAS NOT UNUSUAL.

20 BY MR. MEZA:

21 Q. ALL RIGHT. NOW, TO CHANGE A LITTLE BIT, YESTERDAY IN
22 RESPONSE TO THE QUESTION CONCERNING WHAT WAS THE M.F.J.P., YOU
23 GAVE WHAT YOUR VIEW OF WHAT THEIR OFFICIAL FUNCTION WAS;
24 ROUGHLY EQUIVALENT TO THE D.E.A.

25 THEN YOU WERE ASKED WHAT THE D.F.S. WAS.

1 A. YES.

2 Q. AND YOU WERE ASKED WHAT THEIR FUNCTION WAS.

3 A. YES.

4 Q. AND I TOOK THAT QUESTION TO MEAN WHAT THEIR OFFICIAL
5 FUNCTION WAS. AND YOUR OPINION WAS THEY WERE PEOPLE WHO
6 ASSISTED DRUG DEALERS, ESSENTIALLY, RIGHT?

7 A. THEY DID THAT.

8 Q. BUT THEY HAD AN OFFICIAL FUNCTION, DIDN'T THEY?

9 A. YES.

10 Q. WHAT WAS THAT FUNCTION?

11 A. I BELIEVE THEY WERE TASKED WITH REPORTING ON THE POLITICAL
12 ACTIVITIES, ON POLITICAL ACTIVITIES WITHIN MEXICO.

13 Q. SORT OF LIKE AN INTERNAL SECRET SERVICE?

14 A. I SUPPOSE.

15 Q. THEY WERE SOMETHING THAT WAS ROUGHLY EQUIVALENT TO OUR
16 C.I.A.; WOULD THAT BE FAIR TO SAY?

17 A. I DON'T THINK SO.

18 Q. DIDN'T THEY DO POLITICAL INVESTIGATIONS? THAT'S WHAT YOU
19 TOLD US, RIGHT?

20 A. THAT IS CORRECT. I'M NOT SURE THAT'S WHAT THE C.I.A.
21 DOES.

22 Q. WELL, AT ONE POINT, THERE WERE C.I.A. PEOPLE STATIONED IN
23 MEXICO; WERE THERE NOT?

24 A. I'M SURE THERE WERE.

25 Q. WELL, IN YOUR DUTIES AS A D.E.A. AGENT IN MEXICO, DID YOU

1 EVER HAVE AN OPPORTUNITY TO SPEAK TO ANY C.I.A. PERSON IN
2 MEXICO?

3 MR. CARLTON: OBJECTION, YOUR HONOR. IRRELEVANT AND
4 BEYOND THE SCOPE.

5 THE COURT: OVERRULED. YOU MAY ANSWER.

6 THE WITNESS: YES.

7 BY MR. MEZA:

8 Q. AND ISN'T IT TRUE THAT DURING AT LEAST ONE OF THOSE
9 CONVERSATIONS, THAT YOU EXPRESSED TO A C.I.A. PERSONNEL YOUR
10 DISPLEASURE WITH THEIR CONNECTION WITH THE D.F.S.?

11 A. BASICALLY, YES.

12 Q. BY THE WAY, DO YOU KNOW A PERSON BY THE NAME OF FEDERICO
13 CASTEL DEL ORO?

14 A. I MET HIM ONCE.

15 Q. AND HOW LONG AGO WAS THAT, IF YOU CAN RECALL?

16 A. I THINK IT WAS 1983.

17 Q. THAT WAS IN MEXICO?

18 A. IN GUADALAJARA.

19 Q. AND WITHOUT -- WHERE DID YOU MEET HIM?

20 A. AT HIS OFFICE IN GUADALAJARA.

21 Q. AND WAS THAT A GOVERNMENT OFFICE, A PRIVATE OFFICE?

22 A. IT WAS A MEXICAN GOVERNMENT OFFICE YES.

23 Q. AND WHICH GOVERNMENT AGENCY WAS HE ASSOCIATED WITH?

24 A. THE D.F.S.?

25 Q. WHAT WAS HIS TITLE AT THAT TIME, IF YOU KNOW, IF HE HAD

1 ONE?

2 A. HE WAS THE COORDINATOR OF THE D.F.S. IN THAT AREA.

3 Q. ALL RIGHT. LET'S MOVE UP JUST A LITTLE BIT. DIRECTING
4 YOUR ATTENTION TO FEBRUARY 8, 1985, YOU TOLD US IN THE MORNING,
5 ABOUT 6:00, YOU GOT A PHONE CALL AND IMMEDIATELY -- CONCERNING
6 THE DISAPPEARANCE OF AGENT CAMARENA, RIGHT?

7 A. YES, IT IS.

8 Q. AND YOU TOLD US THAT ONE OF THE FIRST THINGS YOU DID WAS
9 YOU WENT TO THE LOCAL M.F.J.P. OFFICE.

10 THE COURT: COUNSEL, I WANT YOU TO STOP ASKING THIS
11 WITNESS WHAT HE TOLD US. IF YOU WANT TO QUESTION HIM ABOUT
12 WHAT HE SAID, YOU GO AHEAD AND DO THAT. WE ALREADY HEARD HIS
13 TESTIMONY.

14 MR. MEZA: FINE. OKAY.

15 BY MR. MEZA:

16 Q. ALL RIGHT. WHEN DID THE M.F.J.P. TROOPS BEGIN ARRIVING?

17 A. IN THE EVENING OF THE 8TH.

18 Q. AND IN THE EVENING OF THE 8TH THROUGH THE EARLY MORNING
19 HOURS OF THE NIGHT?

20 A. THROUGH THE EARLY MORNING OF THE NIGHT, AND A FEW OTHERS
21 STRAGGLED IN THROUGHOUT THE DAY AND NIGHT.

22 Q. AND, ROUGHLY, HOW MANY OF THOSE M.F.J.P. AGENTS WERE
23 THERE, APPROXIMATELY?

24 A. I WOULD SAY THERE MAY HAVE BEEN AS MANY AS 90 BY THE TIME
25 THEY ALL ARRIVED.

1 Q. NOW, YOU CALLED MR. HEATH ON THE MORNING OF THE 8TH.
2 ABOUT WHAT TIME WAS THAT?

3 A. I CALLED WALTER WHITE, THE ASSISTANT SPECIAL AGENT IN
4 CHARGE, PROBABLY AROUND 8:00, THE FIRST CALL, 7:30 OR 8:00.

5 Q. WAS THAT BEFORE OR AFTER YOU TALKED TO THE M.F.J.P.
6 PEOPLE?

7 A. THE FIRST CALL WAS BEFORE WE TALKED TO M.F.J.P.

8 Q. DID YOU TALK TO MR. HEATH AT ALL DURING THE COURSE OF THAT
9 DAY?

10 A. NOT THAT DAY.

11 Q. YOU SPOKE TO HIM THE NEXT DAY?

12 A. YES, I DID.

13 Q. WHEN YOU SPOKE TO MR. WHITE, THAT WAS IN MEXICO CITY?

14 A. HE WAS IN MEXICO CITY, THAT IS CORRECT.

15 Q. YOU ALSO TOLD US THAT YOU SPOKE WITH PAVON REYES -- WHEN,
16 IN THE EARLY MORNING HOURS OF THE 9TH.

17 A. ABOUT 8:30 OR 9:00 THE MORNING OF THE 9TH.

18 Q. AND HE HAD JUST ARRIVED FROM MEXICO CITY, RIGHT?

19 A. I THINK HE WAS COMING FROM COLIMA, AND HE HAD ARRIVED AT
20 THREE OR 4:00 IN THE MORNING AND GONE TO THE HOTEL TO REST.

21 Q. HOW FAR IS COLIMA FROM GUADALAJARA?

22 A. THREE HOURS.

23 Q. HOW FAR IS MEXICO CITY FROM GUADALAJARA?

24 A. BY AUTOMOBILE, FIVE HOURS.

25 Q. AND WHEN MR. HEATH -- WHAT TIME DID HE ARRIVE ON THE 9TH?

1 A. I'M SORRY?

2 Q. WHAT TIME DID HE ARRIVE ON THE 9TH?

3 A. HE ARRIVED ABOUT 8:00 IN THE MORNING OF THE 9TH.

4 Q. WHEN DID YOU SPEAK TO HIM?

5 A. ABOUT 8:30.

6 Q. HE ARRIVED BY HOW, TRAIN?

7 A. YES.

8 Q. IF I COULD HAVE JUST A MOMENT, YOUR HONOR.

9 (BRIEF PAUSE.)

10 JUST ONE LAST QUESTION. THIS MEETING THAT YOU HAD
11 WITH MR. DEL ORO, WAS THAT A SCHEDULED MEETING?

12 A. NO. HE SUMMONED ME TO HIS OFFICE.

13 Q. OKAY. AND HOW LONG DID THIS MEETING LAST?

14 A. HALF AN HOUR, 45 MINUTES.

15 Q. WHAT WAS THE PURPOSE OF THAT MEETING?

16 A. HE SAID HE WANTED TO INTRODUCE HIMSELF.

17 Q. THAT WAS JUST AN INTRODUCTORY MEETING; IS THAT RIGHT?

18 A. THAT IS CORRECT.

19 Q. YOU NEVER MET WITH HIM AFTER THAT AGAIN, AT LEAST IN
20 MEXICO?

21 A. I THINK PERHAPS I SAW HIM ON THE SIDEWALK ONE DAY AND JUST
22 EXCHANGED GREETINGS, BUT NO, THAT WAS THE ONLY TIME I EVER HAD
23 A MEETING.

24 MR. MEZA: THANK YOU VERY MUCH. I HAVE NOTHING
25 FURTHER.

CROSS-EXAMINATION +

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BY MR. STOLAR:

Q. GOOD MORNING.

A. GOOD MORNING.

Q. MY NAME IS MARTIN STOLAR, MR. MATTA'S ATTORNEY. YOU INDICATED TO US THAT YOU ARE SELF-EMPLOYED CURRENTLY.

A. YES.

Q. WHAT DO YOU DO?

A. BACKGROUND INVESTIGATIONS FOR PEOPLE SEEKING U.S. GOVERNMENT EMPLOYMENT.

Q. ARE YOU EMPLOYED BY THE GOVERNMENT IN AN OFFICIAL CAPACITY?

A. NO.

Q. WELL, PRIOR TO YOUR TESTIMONY HERE TODAY OR YESTERDAY, RATHER, DID YOU REVIEW ANY DOCUMENTS OR MATERIALS ABOUT YOUR TESTIMONY IN ORDER TO REFRESH YOUR RECOLLECTION?

A. YES.

Q. WHAT IS IT THAT YOU REVIEWED, IF YOU COULD TELL US?

A. I REVIEWED THE -- MY -- TRANSCRIPTS OF MY GRAND JURY TESTIMONY, THE TWO SEPARATE OCCASIONS WHEN I WAS BEFORE THE GRAND JURY.

Q. ACTUALLY, YOU WERE BEFORE THE GRAND JURY ON THREE SEPARATE OCCASIONS, WEREN'T YOU, ONCE IN WASHINGTON AND TWICE IN LOS ANGELES?

A. OKAY. RIGHT.

- 1 Q. OKAY.
- 2 A. AND A TRANSCRIPT OF THE PREVIOUS --
- 3 Q. PROCEEDINGS?
- 4 A. -- PROCEEDINGS.
- 5 Q. ALL RIGHT. ANYTHING ELSE?
- 6 A. TWO OR THREE DEA-6'S.
- 7 Q. DID YOU REVIEW AGENT CAMARENA'S 6'S?
- 8 A. NO.
- 9 Q. THE ONES THAT YOU HAD SIGNED AND APPROVED?
- 10 A. I GUESS I REVIEWED A COUPLE OF THEM, SIR.
- 11 Q. HOW ABOUT YOUR OWN 6'S; DID YOU WRITE 6'S?
- 12 A. YES, I DID. A FEW.
- 13 Q. WHEN YOU WOULD DEBRIEF AN INFORMANT, THAT IS, YOU
- 14 DEBRIEFED EVERY CONFIDENTIAL INFORMANT THAT RAN THROUGH YOUR
- 15 OFFICE WHEN YOU WERE THERE; DIDN'T YOU?
- 16 A. YES.
- 17 Q. DID YOU WRITE A REPORT WHEN YOU DEBRIEFED THEM?
- 18 A. NOT ALWAYS.
- 19 Q. COULD YOU TELL US ROUGHLY HOW MANY REPORTS YOU RECALL
- 20 WRITING ON YOUR DEBRIEFING OF INFORMANTS?
- 21 A. DURING WHAT PERIOD?
- 22 Q. THE TIME THAT YOU WERE IN GUADALAJARA?
- 23 A. NO, I CAN'T RECALL.
- 24 Q. MORE THAN ONE?
- 25 A. I'M SORRY?

1 Q. MORE THAN ONE?

2 A. I'M SURE.

3 Q. MORE THAN TEN?

4 A. I GUESS SO.

5 Q. DID YOU REVIEW ANY OTHER DOCUMENTS, SUCH AS CABLES OR
6 CORRESPONDENCE YOU MIGHT HAVE SENT TO MEXICO CITY OR EVEN TO
7 WASHINGTON?

8 A. I DON'T THINK SO.

9 Q. YOU DID SEND MESSAGES, CABLES TO MEXICO CITY; DIDN'T YOU?

10 A. FROM GUADALAJARA?

11 Q. FROM GUADALAJARA TO MEXICO CITY?

12 A. YES, YES.

13 Q. COVERING CONDUCT THAT YOUR OFFICE WAS ENGAGED IN, CONDUCT
14 THAT YOU WERE ENGAGED IN, COMMUNICATIONS TO MR. HEATH?

15 A. INFREQUENTLY, TO MEXICO CITY. THAT WAS MOSTLY DONE BY
16 TELEPHONE.

17 Q. OKAY. DID YOU EVER COMMUNICATE DIRECTLY WITH WASHINGTON?

18 A. YES.

19 Q. COVERING THE SUBJECT MATTER THAT YOU TALKED ABOUT HERE IN
20 YOUR DIRECT TESTIMONY?

21 A. YES.

22 Q. ALSO, WOULD IT BE FAIR TO SAY THAT BEFORE TESTIFYING HERE,
23 YOU SAT DOWN AND DISCUSSED YOUR TESTIMONY WITH MR. CARLTON?

24 A. THAT'S CORRECT.

25 Q. YOU DISCUSSED IT WITH MR. MEDRANO AS WELL?

1 A. A LITTLE BIT.

2 Q. WITH THE CASE AGENTS?

3 A. A LITTLE BIT.

4 Q. HOW MUCH TIME DID YOU SPEND GOING OVER WHAT YOUR TESTIMONY
5 WAS GOING TO BE, IF YOU RECALL?

6 A. A COUPLE OF HOURS.

7 Q. HOW MANY SESSIONS WOULD IT BE FAIR TO SAY?

8 A. THREE.

9 Q. THREE SESSIONS. BEFORE EACH ONE, DID YOU REVIEW YOUR
10 PRIOR TESTIMONY, PRIOR REPORTS THAT YOU WROTE?

11 A. BEFORE EACH ONE, NO, SIR.

12 Q. YOU INDICATED ALSO THAT YOU DID HAVE SOME CONTACT WITH THE
13 C.I.A. IN GUADALAJARA; IS THAT RIGHT?

14 A. NO, SIR.

15 A. IN MEXICO CITY?

16 A. RIGHT.

17 Q. IN 1987, WERE YOU STILL EMPLOYED BY THE D.E.A.?

18 A. YES, I WAS.

19 Q. WAS THAT WHEN WERE YOU IN WASHINGTON?

20 A. NO, I WAS IN LAREDO, TEXAS.

21 Q. IN LAREDO. ARE YOU AWARE OF OR DID YOU HAVE ANYTHING TO
22 DO WITH WRITING A D.E.A. REPORT CONCERNING THE CAMARENA CASE
23 INDICATING THAT MIGUEL ANGEL FELIX GALLARDO SUPPORTED THE
24 C.I.A.-BACKED NICARAGUAN CONTRAS BY RUNNING GUNS TO THEM?

25 MR. MEDRANO: OBJECTION, YOUR HONOR, OUTSIDE THE

1 SCOPE AND IRRELEVANT.

2 THE COURT: SUSTAINED.

3 BY MR. STOLAR:

4 Q. YOU KNOW WHO MR. FELIX GALLARDO IS; DON'T YOU?

5 A. YES, I DO.

6 Q. HE WAS ONE OF YOUR, WHAT YOU CHARACTERIZE AS SOMEBODY YOUR
7 OFFICE WAS "INTERESTED IN"; IS THAT RIGHT?

8 A. YES.

9 Q. WHILE WERE YOU IN GUADALAJARA, WERE YOU AWARE OF OUR ANY
10 ACTIVITIES OF MR. GALLARDO'S THAT WERE SANCTIONED BY THE UNITED
11 STATES GOVERNMENT?

12 A. BY THE UNITED STATES --

13 Q. GOVERNMENT?

14 A. NO, I AM NOT.

15 Q. YOU SPOKE ON YOUR DIRECT TESTIMONY ABOUT THE ATTEMPT TO
16 BUY HEROIN FROM MR. CHAVEZ; IS THAT RIGHT?

17 A. YES.

18 Q. TWO KILOGRAMS THAT MR. CAMARENA WAS ATTEMPTING TO BUY; IS
19 THAT CORRECT?

20 A. I THINK HE WAS TRYING TO BUY MORE THAN THAT.

21 Q. MORE THAN THAT?

22 A. YES.

23 Q. THAT'S A MAJOR AMOUNT OF HEROIN; ISN'T IT?

24 A. IT IS A LARGE QUANTITY.

25 Q. MR. MATTA WAS NOT THE SOURCE OF THAT HEROIN, AS FAR AS

1 YOU'RE CONCERNED, WAS HE?

2 A. NOT AS FAR AS I KNOW.

3 Q. YOU ALSO DISCUSSED SEVERAL PEOPLE WHO WERE FINANCING
4 MARIJUANA FIELDS IN ZACATECAS: MR. CARO, MR. FONSECA AND
5 MR. ESPARRAGOZA, MR. FERNANDEZ AND MR. MEDINA.

6 THAT WAS YOUR DIRECT TESTIMONY; WAS IT NOT?

7 A. YES.

8 Q. YOU DID NOT SAY THAT MR. MATTA WAS FINANCING ANY MARIJUANA
9 FIELDS; DID YOU?

10 A. NO, I DID NOT.

11 Q. NOW, YOU ALSO INDICATED THAT AT THE ZACATECAS RAID IN
12 MAY -- HOW MANY TONS OF MARIJUANA DID YOU ESTIMATE WAS SEIZED
13 OR WHAT WAS SUSPECTED AS MARIJUANA?

14 A. TEN TONS.

15 Q. TEN TONS. HOW MANY ACRES WAS THAT?

16 A. HOW MANY ACRES IS TEN TONS?

17 Q. YES.

18 A. IT WOULD BE ABOUT 10, 15 ACRES, IF IT WERE PLANTED.

19 Q. HOW MANY ACRES WERE BURNED AT ZACATECAS?

20 A. 50.

21 Q. AND AGENT CAMARENA WAS INVOLVED IN THAT; WAS HE NOT?

22 A. HE ARRIVED --

23 Q. LATER?

24 A. -- LATER.

25 Q. IN FACT, THERE WAS A SEIZURE IN 1982 THAT AGENT CAMARENA

1 WAS INVOLVED IN OF 220 ACRES OF MARIJUANA; WAS THERE NOT?

2 A. YES.

3 Q. WHERE WAS THAT?

4 A. IT WAS IN THE STATE OF SAN LUIS POTOSI, MEXICO.

5 Q. AND CAMARENA WAS INVOLVED IN THAT; WAS HE NOT?

6 A. YES, HE WAS.

7 Q. WHOSE MARIJUANA WAS THAT; DO YOU KNOW?

8 A. THE MAJOR PLANTER WAS A MAN NAMED ANTONIO PEREZ PARGA, BUT

9 HE WAS WORKING FOR JUAN ANTONIO -- FOR JUAN ESPARRAGOZA.

10 Q. FOR ESPARRAGOZA?

11 A. YES.

12 Q. NOT FOR CARO QUINTERO?

13 A. NOT AS FAR AS WE KNEW AT THAT TIME.

14 Q. HOW MANY TONS WOULD 220 ACRES OF GROWING MARIJUANA BE?

15 A. 200 TONS.

16 Q. 200 TONS?

17 A. PERHAPS.

18 Q. THAT'S FOUR TIMES AS LARGE AS THE ZACATECAS RAID; IS IT

19 NOT?

20 A. YES.

21 Q. AND THEN IN NOVEMBER OF 1984, THERE WAS AN EVEN BIGGER

22 SEIZURE; WASN'T THERE?

23 A. WELL, IT WOULD BE MORE THAN 200 TONS. PROBABLY 2,000

24 TONS.

25 Q. 2,000 TONS.

1 A. RIGHT.

2 Q. OF UNCURED MARIJUANA?

3 A. RIGHT.

4 Q. STILL SOAKING WET, SO TO SPEAK?

5 A. YES.

6 Q. IN 1984, NOVEMBER OF '84, THERE WAS AN EVEN BIGGER RAID
7 THAN THE ZACATECAS RAID; WAS THERE NOT?

8 A. YES.

9 Q. WHERE WAS THAT?

10 A. NEAR A PLACE CALLED BUFALO, CHIHUAHUA.

11 Q. BUFALO, CHIHUAHA. HOW MUCH WAS SEIZED THERE?

12 A. I THINK THE PRELIMINARY REPORTS WERE 10,000 TONS.

13 Q. 10,000 TONS. WHOSE MARIJUANA WAS THAT?

14 A. AMONG OTHERS, RAFAEL CARO QUINTERO.

15 Q. ONE WOULD IMAGINE MR. QUINTERO WOULD BE QUITE UPSET ABOUT
16 THAT MUCH MARIJUANA BEING TAKEN DOWN; WOULD HE NOT?

17 A. I WOULD THINK SO.

18 Q. I WOULD AGREE WITH YOU. THAT'S IN NOVEMBER, CORRECT?

19 A. YES, IT IS.

20 Q. A MONTH AFTER THE MEETING IN OCTOBER THAT MR. MATTA IS
21 SUPPOSED TO HAVE BEEN AT; ISN'T THAT RIGHT?

22 A. I DON'T KNOW ANYTHING ABOUT THAT MEETING, SIR.

23 Q. OKAY. GUADALAJARA IN '82, '83 AND '84 WAS -- IT WOULD BE
24 FAIR TO CHARACTERIZE THE CITY AS A VIOLENT CITY?

25 A. THERE WAS A LOT OF VIOLENCE IN THE CITY.

1 Q. TRAFFICKERS WERE SHOOTING EACH OTHER?

2 A. YES.

3 Q. STEALING FROM EACH OTHER?

4 A. I DON'T KNOW THAT.

5 Q. DID YOU READ A REPORT ABOUT A TRAFFICKER STEALING
6 FERTILIZER FROM ANOTHER ONE?

7 A. I THINK THAT HAPPENED IN ZACATECAS.

8 Q. ZACATECAS, ALL RIGHT. THERE WAS A LOT OF SHOOTING BACK
9 AND FORTH. POLICEMEN GOT KILLED IN GUADALAJARA; DIDN'T THEY?

10 A. YES.

11 Q. CIVILIANS GOT KILLED IN GUADALAJARA; DIDN'T THEY?

12 A. A FEW.

13 Q. TRAFFICKERS KILLED A LOT OF POLICEMEN; WOULD THAT BE FAIR
14 TO SAY? THAT WAS THE SITUATION AS OF FEBRUARY 1985?

15 A. WELL, IF THEY KILLED ONE, THAT'S A LOT FOR ME.

16 Q. DO YOU RECALL TESTIFYING AT THE GRAND JURY IN WASHINGTON
17 IN OCTOBER OF '85?

18 A. YES.

19 Q. DO YOU RECALL SAYING THERE THAT THE TRAFFICKERS, QUOTE,
20 "KILLED A LOT OF POLICEMEN"?

21 A. I THINK THEY DID.

22 Q. MR. CARO QUINTERO WAS, TO YOUR KNOWLEDGE, A VERY VIOLENT
23 MAN; WAS HE NOT?

24 A. YES.

25 Q. VERY HOT TEMPERED?

1 A. RIGHT.

2 Q. THE TRAFFICKERS WHO CAME WHO WERE IN GUADALAJARA, THE
3 PEOPLE, THE MARIJUANA TRAFFICKERS WHO YOU WERE INVESTIGATING --
4 BY THE WAY, THAT WAS PRIMARILY WHAT AGENT CAMARENA WAS DOING,
5 WAS IT NOT, WAS DEALING WITH THE MARIJUANA TRADE?

6 A. WHEN?

7 Q. DURING 1983, '84, EARLY '85.

8 Q. THE PRIMARY CASE THAT HE WAS INVESTIGATING DEALT WITH THE
9 CULTIVATION OF MARIJUANA AND THE TRAFFICKING IN HEROIN.

10 Q. HEROIN AND MARIJUANA; THAT WAS PRIMARILY WHAT OCCUPIED HIS
11 TIME; IS THAT RIGHT, DURING THAT PERIOD OF TIME?

12 A. DURING THAT PERIOD OF TIME, YES.

13 Q. AND THE TRAFFICKERS YOU LEARNED WHO WERE IN GUADALAJARA
14 HAD BASICALLY COME ALL FROM THE SAME AREA OF MEXICO; ISN'T THAT
15 RIGHT? SINALOA?

16 A. THE MAJOR PORTION OF THEM.

17 Q. THE MAJOR PORTION. SO THEY ALL HAD SORT OF GROWN UP
18 TOGETHER, CAME FROM THE SAME AREA AND PROBABLY KNEW EACH
19 OTHER'S FAMILIES; IS THAT RIGHT?

20 A. YES.

21 Q. AND THE PEOPLE WHO SEEMED TO BE THE BIGGEST OF THE
22 TRAFFICKERS, AS YOU INDICATED, WERE MR. FONSECA CARRILLO,
23 RIGHT?

24 A. YES.

25 Q. CARO QUINTERO?

1 A. RIGHT.

2 Q. AND THERE ARE OTHERS UNDER THEM WHO WERE LESS SIGNIFICANT
3 IN YOUR MIND; IS THAT RIGHT?

4 A. WHO WERE WHAT?

5 Q. LESS SIGNIFICANT?

6 A. NO, I DON'T THINK SO.

7 Q. PEOPLE LESS SIGNIFICANT THAT CARO QUINTERO. NOT MORE
8 SIGNIFICANT, LESS SIGNIFICANT?

9 A. I DO NOT THINK SO. I THINK THEY WERE OF EQUAL
10 SIGNIFICANCE.

11 Q. WE ARE MISUNDERSTANDING EACH OTHER, BUT WE'LL PUT FONSECA
12 AND CARO ON THE SAME LEVEL; IS THAT RIGHT, IN YOUR MIND?

13 A. I THINK SO.

14 Q. BUT THERE WERE OTHER GROWERS AROUND; WERE THERE NOT?

15 A. YES.

16 Q. JUST TO GET THIS CLEAR, WOULD IT BE FAIR TO SAY THAT
17 DURING YOUR TENURE, DURING THE PERIOD OF TIME THAT WE TALKED
18 ABOUT, '83, '84, '85, THAT AGENT CAMARENA CONCENTRATED ON CARO
19 QUINTERO AND FONSECA AND OTHER TRAFFICERS WHO WERE IN THE
20 MARIJUANA BUSINESS?

21 A. NO.

22 Q. YOU HAD AN AGENT NAMED HERNANDEZ; IS THAT RIGHT?

23 A. THERE WAS AN AGENT NAMED HERNANDEZ.

24 Q. HE ALSO DID MARIJUANA WITH CAMARENA?

25 A. HE WORKED WITH HIM ON THE CASES, YES.

1 Q. WERE THERE TIMES WHEN YOU ATTEMPTED TO CONVINCING HIGHER
2 D.E.A. OFFICIALS IN WASHINGTON THAT THE AMOUNTS OF MARIJUANA
3 THAT WERE BEING GROWN WERE SO BIG THAT THEY HAD TO DO SOMETHING
4 ABOUT IT, BUT THAT YOU WERE BASICALLY PUT DOWN AND THEY SAID
5 "CONCENTRATE ON MAKING ARRESTS OR HELPING TO MAKE ARRESTS FOR
6 STATISTICS"?

7 A. WELL, I WAS CONSTANTLY ATTEMPTING TO CONVINCING WASHINGTON,
8 D.C. OR MY SUPERIORS THAT THE PROBLEM WAS BIGGER THAN THEY
9 BELIEVED IT WAS.

10 Q. AND YOU HAD TROUBLE CONVINCING THEM TO DO SOMETHING ABOUT
11 IT; DIDN'T YOU?

12 A. YES.

13 Q. IN FACT, YOU HAD TO TAKE A PICTURE TO WASHINGTON
14 SHOWING -- IN 1983, YOU SHOWED THEM, TOOK A PICTURE TO
15 WASHINGTON TO SHOW AGENT CAMARENA IN A HUGE MARIJUANA FIELD TO
16 CONVINCING THEM THAT IT REALLY EXISTED; DIDN'T YOU DO THAT?

17 A. IT WAS 1983 AND '82, AND IT REALLY WAS JUST PICTURES OF
18 THE FIELDS. I DON'T RECALL THAT AGENT CAMARENA WAS STANDING IN
19 THE PICTURE, BUT YES.

20 Q. AND AND YOU TOLD US YESTERDAY, I BELIEVE, THAT MR. IBARRA
21 HERRERA, WHO WAS THE M.F.J.P. HEAD, KNEW AND WAS INVOLVED IN
22 PLANNING FOR THE ZACATECAS RAID; IS THAT CORRECT?

23 A. HE WAS THE HEAD.

24 Q. HE WAS THE HEAD.

25 A. AND HE WAS INVOLVED IN PLANNING, YES.

1 Q. AND AGENT CAMARENA WAS PRESENT AT LEAST AT THE FIRST
2 MEETING?

3 A. THAT'S CORRECT.

4 Q. SO IBARRA HERRERA KNEW WHO CAMARENA WAS; IS THAT RIGHT?

5 A. YES, HE DID.

6 Q. DID PAVON REYES, BEFORE HE BECAME ASSIGNED TO THIS CASE,
7 KNOW THAT AGENT CAMARENA WORKED FOR D.E.A.?

8 A. I DON'T KNOW THAT.

9 Q. HOW ABOUT COMANDANTE ALDANA OF THE D.F.S.?

10 MR. CARLTON: OBJECTION. THIS CALLS FOR SPECULATION.
11 BY MR. STOLAR:

12 Q. I'LL REPHRASE THE QUESTION. DID THEY EVER MEET?

13 A. NOT TO MY KNOWLEDGE.

14 Q. THE D.E.A. AND YOUR AGENTS WERE NOT INCONSPICUOUS IN
15 GUADALAJARA; WERE THEY?

16 A. NO.

17 Q. IT IS YOUR BELIEF, IS IT NOT, THAT MR. IBARRA HERRERA
18 WORKED FOR MR. CARO, IS THAT RIGHT? PASSED HIM INFORMATION,
19 AND PROTECTION?

20 A. I DON'T KNOW THAT.

21 Q. HE'S AN INDICTED DEFENDANT IN THIS CASE; ISN'T HE?

22 MR. CARLTON: OBJECTION, YOUR HONOR. THIS WITNESS'S
23 BELIEF IS IRRELEVANT.

24 THE COURT: OVERRULED.

25 THE WITNESS: YES, HE IS AN INDICTED DEFENDANT.

1 BY MR. STOLAR:

2 Q. AND HE KNEW WHO CAMARENA WAS PRIOR TO THE ZACATECAS RAID,
3 CORRECT?

4 A. YES.

5 Q. DID YOU KNOW OR DID YOU DO ANY WORK WITH A GENTLEMAN NAMED
6 MANUEL SALCIDO?

7 A. DID I EVER WORK WITH HIM?

8 Q. YES. DO YOU KNOW WHO HE IS?

9 A. I KNOW WHO HE IS.

10 Q. WHO IS HE?

11 A. HE'S A DRUG TRAFFICKER.

12 Q. IN GUADALAJARA?

13 A. AT THE TIME, HE SPENT AT LEAST SOME OF HIS TIME IN
14 GUADALAJARA.

15 Q. MARIJUANA TRAFFICKER?

16 A. I THINK HE TRAFFICKED EVERY DRUG THERE WAS.

17 Q. INCLUDING ASPIRIN, PROBABLY?

18 A. I DON'T KNOW THAT.

19 Q. DID YOU EVER DO ANY WORK WITH A GENTLEMAN OR DID YOU KNOW
20 A GENTLEMAN NAMED JAVIER GARCIA MANIAGUA?

21 A. I DON'T UNDERSTAND WHAT YOU MEAN, "DID I DO ANY WORK WITH
22 HIM?"

23 Q. DO YOU KNOW WHO HE IS?

24 A. YES, I KNOW WHO HE IS.

25 Q. HE'S THE CHIEF OF POLICE OF MEXICO CITY; IS HE NOT?

1 A. YES, HE IS.

2 Q. WAS HE IN GUADALAJARA IN 1984?

3 A. I'M CERTAIN HE WAS; THAT'S WHERE HE LIVED.

4 Q. WHAT WAS HIS POSITION IN 1984, IF ANY?

5 A. AS FAR AS I KNOW, HE HAD NO OFFICIAL POSITION.

6 Q. HE HAD NO OFFICIAL POSITION?

7 A. NOT TO MY KNOWLEDGE.

8 Q. HE WAS THE PRESIDENT AT ONE TIME OF THE P.R.I.; WAS HE
9 NOT?

10 A. I'VE READ THAT SOMEPLACE.

11 Q. COULD YOU DESCRIBE FOR THE LADIES AND GENTLEMEN OF THE
12 JURY WHAT THE P.R.I. IS.

13 Q. THE P.R.I. IS THE POLITICAL PARTY IN MEXICO TO WHICH THE
14 PRESIDENT, THE CURRENT PRESIDENT, BELONGS.

15 Q. AND THE PRESIDENT BEFORE THAT AND THE PRESIDENT BEFORE
16 THAT AND THE PRESIDENT BEFORE THAT?

17 A. THAT IS CORRECT.

18 Q. THE INSTITUCIONAL REVOLUTIONARY PARTY?

19 A. THAT'S CORRECT.

20 Q. DO YOU KNOW A GENTLEMAN NAMED JAVIER COELLO TREJO? THAT'S
21 J A V I E R, C O E L L O, T R E J O.

22 Q. I KNOW WHO HE IS; I DO NOT KNOW HIM.

23 Q. WHO IS HE?

24 A. HE IS THE CURRENT DEPUTY ATTORNEY GENERAL IN CHARGE OF THE
25 NARCOTICS PROBLEM IN MEXICO, I BELIEVE.

1 Q. WAS HE SO IN CHARGE WHEN WERE YOU THERE?

2 A. NO, HE WAS NOT.

3 Q. ON YOUR DIRECT TESTIMONY, YOU SAID THAT YOUR OFFICE DID
4 SOME - OR HAD SOME INFORMATION THAT MR. MATTA WAS A MAJOR
5 NARCOTICS TRAFFICKER; IS THAT RIGHT?

6 A. YES, IT IS.

7 Q. AND THAT WAS IN THE COCAINE TRADE; IS THAT CORRECT?

8 A. YES, IT IS.

9 Q. WHEN YOU TESTIFIED BEFORE THE GRAND JURY IN THIS DISTRICT
10 IN APRIL OF 1989, YOU WERE ASKED DURING THE THREE YEARS PRIOR
11 TO AGENT CAMARENA'S DISAPPEARANCE --

12 THE COURT: COUNSEL, IF YOU'RE READING FROM THE GRAND
13 JURY TRANSCRIPT, YOU SHOULD INDICATE THE PAGE AND LINE NUMBER
14 FOR THE BENEFIT OF COUNSEL. JUST READ THE PAGE --

15 MR. STOLAR: FOR THE RECORD?

16 THE COURT: YES, JUST STATE WHAT IT IS.

17 MR. STOLAR: ALL RIGHT. PAGES 7 AND 8, AND I'LL BE
18 MOVING TO 9.

19 BY MR. STOLAR:

20 Q. YOU WERE ASKED THERE: "FOR THE PAST THREE YEARS OF THE
21 INVESTIGATION, YOU WERE. . . .", YOU SAID: "WHO WERE THE
22 PARTICULAR NARCOTICS TRAFFICKERS THAT YOUR OFFICE WAS FOCUSING
23 ON AT THAT TIME?"

24 AND YOUR ANSWER WAS: "THE MOST IMPORTANT WAS
25 PROBABLY MIGUEL ANGEL FELIX GALLARDO, RAFAEL CARO QUINTERO,

1 ERNESTO FONSECA, EMILIO QUINTERO AND HIS BROTHER, JUAN JOSE, A
2 GUY NAMED JUAN ESPINOZA, ALSO KNOWN AS EL AZUL." YOU ANSWERED:
3 "YES, AND ANOTHER TRAFFICKER WAS CALLED COCHILOCO."

4 "THOSE WERE THE MAJOR ONES. THERE WERE OTHER
5 TRAFFICKERS, THERE WERE A LOT OF TRAFFICKERS. THOSE WERE THE
6 MAJOR ONES."

7 THAT WAS YOUR TESTIMONY; WAS IT NOT?

8 A. IF THAT'S WHAT IT SAYS, THAT IS RIGHT.

9 MR. STOLAR: SO STIPULATED?

10 MR. CARLTON: NEVER.

11 MR. MEDRANO: NO STIPULATION.

12 MR. STOLAR: NO STIPULATION.

13 BY MR. STOLAR:

14 Q. BUT THEN YOU WERE ASKED:

15 "Q. ARE YOU FAMILIAR WITH THE NAME JUAN RAMON MATTA
16 BALLESTEROS?"

17 AFTER YOU FAILED VOLUNTEERING, YOU WERE ASKED A
18 LITTLE WHILE LATER ARE YOU FAMILIAR WITH IT AND YOU SAID "YES".
19 WASN'T THAT YOUR TESTIMONY?

20 A. YES.

21 Q. YOU DIDN'T VOLUNTEER MR. MATTA'S NAME WHEN YOU WERE ASKED
22 ABOUT WHO THE MAJOR TRAFFICKERS WERE IN YOUR GRAND JURY
23 TESTIMONY. IT HAD TO BE PULLED OUT OF YOU; IS THAT RIGHT?

24 IS THAT A FAIR CHARACTERIZATION?

25 A. NO.

1 Q. WHEN YOU WERE ASKED WHO THE MAJOR TRAFFICKERS WERE, YOU
2 DIDN'T VOLUNTEER MR. MATTA'S NAME; DID YOU?

3 A. NO.

4 Q. AND IT WAS ONLY AFTER THE UNITED STATES ATTORNEY ASKED YOU
5 WHETHER YOU KNEW HIM THAT YOU SAID "YES, WE WERE ALSO
6 INVESTIGATING HIM"?

7 A. THAT'S CORRECT.

8 Q. NOW, YOU TESTIFIED YESTERDAY THAT SOMETIME IN 1984, YOU
9 GOT A WARNING, SUPPOSEDLY FROM FELIX GALLARDO; IS THAT RIGHT?

10 A. YES.

11 Q. WHEN IN 1984?

12 A. I BELIEVE IT WAS MARCH THE 28TH.

13 Q. DID YOU WRITE A REPORT ABOUT IT?

14 A. AGENT CAMARENA WROTE A REPORT ON IT.

15 Q. DID YOU CO-SIGN THAT REPORT?

16 A. IT WAS THROUGH ME TO THE AGENT IN CHARGE.

17 Q. DID YOU REVIEW THAT REPORT BEFORE YOU TESTIFIED TODAY OR
18 YESTERDAY?

19 A. NO.

20 Q. THAT WAS BEFORE THIS ZACATECAS RAID; WAS IT NOT?

21 A. YES.

22 Q. WAS THAT AFTER A COUPLE OF YOUR AGENTS HAD BEEN SHOVED
23 AWAY BY GALLARDO'S BODYGUARDS BECAUSE HE DIDN'T LIKE THEM BEING
24 SHADOWED?

25 THAT WARNING, SO-CALLED?

- 1 A. NO, I THINK THAT WAS PREVIOUS TO THAT.
- 2 Q. PREVIOUS TO THAT?
- 3 A. I BELIEVE.
- 4 Q. WHAT WAS THE NATURE OF THIS WARNING?
- 5 A. THE NATURE OF THE WARNING WAS TO TELL THE PERSON IN CHARGE
6 OF THE D.E.A. OFFICE, MYSELF, TO LEAVE MR. FELIX GALLARDO
7 ALONE.
- 8 Q. WHAT HAD YOU DONE TO HIM?
- 9 A. (NO RESPONSE.)
- 10 Q. HAD YOU ARRESTED HIM?
- 11 A. NO.
- 12 Q. HAD YOU CAUSED HIM TO BE ARRESTED?
- 13 A. NO.
- 14 Q. HAD YOU CAUSED ANY OF HIS ASSOCIATES TO BE ARRESTED?
- 15 A. NO.
- 16 Q. YOU SAID THERE WAS ANOTHER WARNING DELIVERED ALSO; IS THAT
17 RIGHT?
- 18 A. NO. THE WARNING WAS REPEATED.
- 19 Q. REPEATED BY WHOM?
- 20 A. A MAN NAMED MANUEL ESPINDOLA.
- 21 Q. WHO'S HE?
- 22 A. HE'S AN EX-M.F.J.P. COMANDANTE.
- 23 Q. WHO DID HE GIVE THAT REPEATED WARNING TO?
- 24 A. ME.
- 25 Q. DIRECTLY?

1 A. YES.

2 Q. DID YOU WRITE A REPORT ABOUT IT?

3 A. NO.

4 Q. YOU TESTIFIED IN THE GRAND JURY IN WASHINGTON, D.C. IN
5 OCTOBER OF 1985; IS THAT RIGHT?

6 A. YES.

7 Q. YOU DIDN'T TESTIFY ABOUT THAT WARNING, DID YOU?

8 Q. THAT MARCH '84 WARNING, DID YOU -- YOU NEVER TESTIFIED
9 ABOUT THAT THERE, DID YOU?

10 THE COURT: COUNSEL, IT IS NOT PROPER TO ASK A
11 WITNESS IF HE DIDN'T TESTIFY UNLESS HE WAS ASKED A QUESTION.

12 IF YOU HAVE THE QUESTIONS AND ANSWERS THEN YOU
13 CAN READ THOSE.

14 MR. STOLAR: THE PROBLEM IS IT IS NOT THERE. HE WAS
15 ASKED ABOUT WHO KIDNAPPED AGENT CAMARENA AND HIS BELIEF ABOUT
16 IT.

17 THE COURT: BUT THE WITNESS ANSWERED QUESTIONS WHEN
18 HE APPEARED BEFORE THE GRAND JURY. HE DOESN'T GO TESTIFY --
19 VOLUNTEER.

20 BY MR. STOLAR:

21 Q. WOULD IT BE FAIR TO SAY THAT YOUR OFFICE RECEIVED NO
22 WARNINGS FROM JUAN RAMON MATTA?

23 A. DIRECTLY?

24 Q. YES, SIR.

25 A. NO.

1 Q. IT IS FAIR TO SAY THAT?

2 A. YES, IT IS.

3 MR. STOLAR: THANK YOU. I HAVE NOTHING FURTHER.

4 THE COURT: DO YOU WISH TO CROSS-EXAMINE THE WITNESS?

5 MR. MEDVENE: NO QUESTIONS AT THIS TIME, YOUR HONOR.

6 MR. MEZA: I'M SORRY -- IF I COULD --

7 THE COURT: IS THERE ANY REDIRECT EXAMINATION?

8 MR. CARLTON: YES, YOUR HONOR, THERE IS.

9

10 REDIRECT EXAMINATION +

11 BY MR. CARLTON:

12 Q. MR. KUYKENDALL, I WOULD ASK YOU TO LOOK AT WHAT HAS BEEN
13 MARKED FOR IDENTIFICATION AS GOVERNMENT EXHIBIT 63.

14 AND THAT IS A PHOTOGRAPH, IS IT NOT?

15 A. YES, IT IS.

16 Q. DO YOU RECOGNIZE THE INDIVIDUAL IN THAT PHOTOGRAPH WITH
17 THE -- IN THE FOREGROUND?

18 A. YES, SIR, I DO.

19 Q. WHO'S THAT?

20 A. IT'S ENRIQUE CAMARENA.

21 Q. DO YOU RECOGNIZE THE LOCATION WHERE THAT PHOTOGRAPH WAS
22 TAKEN?

23 A. YES, SIR, I DO.

24 Q. WHAT IS THAT LOCATION?

25 A. IT IS ONE OF THE OFFICES, ONE OF THE ROOMS IN THE OFFICES

1 OF THE FEDERAL JUDICIAL POLICE HEADQUARTERS IN GUADALAJARA.

2 Q. IS THERE ANY INFORMATION IN THAT PHOTOGRAPH WHICH ALLOWS
3 YOU TO MAKE AN ESTIMATE AS TO WHEN IT WAS TAKEN?

4 A. WELL, I RECOGNIZE ONE OF THE PEOPLE IN THE BACKGROUND. HE
5 WAS AN AGENT OF THE M.F.J.P. WHO ARRIVED IN GUADALAJARA IN LATE
6 '82 AND LEFT IN '84.

7 AND AGENT CAMARENA HAS A MOUSTACHE IN THIS SNAPSHOT.
8 HE DIDN'T HAVE A MOUSTACHE IN '84.

9 Q. SO BASED ON THAT INFORMATION, DO YOU HAVE AN OPINION AS TO
10 WHEN THAT PHOTOGRAPH WAS TAKEN?

11 A. I WOULD THINK SOMETIME IN '83.

12 MR. CARLTON: I WOULD MOVE THAT THIS BE RECEIVED.

13 THE COURT: ALL RIGHT. THAT MAY BE RECEIVED.

14 (EXHIBIT # 63 RECEIVED IN EVIDENCE.)

15 BY MR. CARLTON:

16 Q. LET ME ASK YOU, MR. KUYKENDALL, TO LOOK IN THE BIN NEXT TO
17 YOU, AND I BELIEVE THERE IS A PHOTOGRAPH THERE MARKED
18 GOVERNMENT EXHIBIT 8-L, WHICH WE MISSED YESTERDAY.

19 DO YOU RECOGNIZE THAT PHOTOGRAPH?

20 A. YES, I DO.

21 Q. WHAT DOES IT DEPICT?

22 A. IT IS A PHOTOGRAPH OF THE PARKING LOT ADJACENT TO THE
23 FEDERAL JUDICIAL POLICE HEADQUARTERS IN ZACATECAS, AND THOSE
24 ARE BOXES OF MARIJUANA.

25 THE TWO GARBAGE CANS CONTAIN MARIJUANA SEEDS.

1 MR. CARLTON: I ASK THAT THAT BE RECEIVED.

2 THE COURT: THAT MAY BE RECEIVED.

3 (EXHIBIT # 8-L RECEIVED IN EVIDENCE.)

4 BY MR. CARLTON:

5 Q. NOW, MR. KUYKENDALL, IN DISCUSSING YOUR PLANS OR THE PLANS
6 FOR THE RAID OF THE ZACATECAS FIELDS WITH THE M.F.J.P. IN MAY
7 OF 1984, WERE THOSE PLANS TO BE MAINTAINED IN SOME SORT OF
8 CONFIDENTIALITY?

9 A. YES.

10 Q. WAS KNOWLEDGE OF THE PLANS TO BE LIMITED TO PEOPLE WHO HAD
11 A REAL NEED TO KNOW?

12 A. YES.

13 Q. WAS THE ARMY INVOLVED IN THOSE PLANS?

14 A. THERE WAS A REPRESENTATIVE OF THE ARMY AT THE MEETING, AT
15 THE LAST MEETING, YES, SIR.

16 Q. WAS THERE A REPRESENTATIVE OF THE ARMY AT THE FIRST
17 MEETING?

18 A. NO, THERE WAS NOT.

19 Q. WAS IT YOUR UNDERSTANDING THAT THE ARMY HAD A NEED TO KNOW
20 ABOUT THOSE PLANS AT THE CONCLUSION OF THE FIRST MEETING?

21 A. I HAD NO CONTROL OVER WHO WAS AT THE MEETING, SIR.

22 Q. WAS IT YOUR UNDERSTANDING THE ARMY WOULD BE INFORMED OF
23 THOSE PLANS?

24 A. YES.

25 Q. YOU EXAMINED SOME OF THE BOXES THAT YOU FOUND AT THE RANCH

1 AT ZACATECAS?

2 A. YES.

3 Q. DID ANY OF THE BOXES THAT YOU EXAMINED IN THE ROOM WHERE
4 YOU SAW THE BOXES OF MARIJUANA NOT HAVE MARIJUANA IN THEM?

5 A. NO.

6 Q. DOES HASHISH OIL HAVE ANY DISTINCTIVE CHARACTERISTICS
7 RECOGNIZED BY YOU?

8 A. IT IS THE COLOR OF MARIJUANA LEAVES AND IT SMELLS LIKE
9 MARIJUANA.

10 Q. IN THE COURSE OF YOUR WORK WITH THE D.E.A., HAVE YOU
11 FREQUENTLY ENCOUNTERED HASHISH OIL?

12 A. NOT FREQUENTLY, BUT I'VE SEEN IT.

13 Q. DID YOU RECOGNIZE -- AT THE TIME THAT YOU MADE THIS RAID
14 IN ZACATECAS, DID YOU RECOGNIZE THE APPEARANCE OF HASHISH OIL?

15 A. YES.

16 Q. DO YOU RECOGNIZE THE ODOR OF HASHISH OIL?

17 A. YES.

18 Q. MANUEL CHAVEZ WAS THE ONLY SIGNIFICANT TRAFFICKER ARRESTED
19 IN RELATION TO THESE RAIDS?

20 A. NO, SIR.

21 THE COURT: COUNSEL, THIS HAS ALL BEEN COVERED ON THE
22 DIRECT EXAMINATION. THIS IS REDIRECT.

23 BY MR. CARLTON:

24 Q. IN YOUR OPINION, DID THE ARREST OF MANUEL CHAVEZ HAVE ANY
25 CORRELATION WITH THE FACT THAT THE M.F.J.P. HAD NOT BEEN

1 INFORMED OF AGENT CAMARENA'S NEGOTIATIONS TO PURCHASE HEROIN?

2 A. YES.

3 Q. ON WHAT DO YOU BASE THAT OPINION?

4 A. I THINK HE WAS ARRESTED BECAUSE HE DIDN'T KNOW WE WERE
5 ATTEMPTING TO MAKE A HEROIN PURCHASE.

6 Q. WHAT WAS THE REASON YOU DID NOT TELL THE M.F.J.P. ABOUT
7 THAT NEGOTIATION?

8 MR. STOLAR: OBJECTION. IT WAS COVERED ON DIRECT.

9 MR. CARLTON: THAT WAS NOT ANSWERED, YOUR HONOR.
10 THAT QUESTION WAS NOT ANSWERED.

11 THE COURT: YOU MAY ANSWER THE QUESTION.

12 BY MR. CARLTON:

13 Q. WHY DID YOU NOT TELL THE M.F.J.P. OF THE NEGOTIATIONS TO
14 PURCHASE HEROIN FROM MANUEL CHAVEZ?

15 A. WE PLANNED TO MAKE HIS ARREST IN THE UNITED STATES, AND WE
16 HAD REASON TO BELIEVE HE WAS BEING PROTECTED BY SOME OFFICIALS
17 OF THE MEXICAN GOVERNMENT IN ZACATECAS.

18 Q. WHY DID YOU NOT TELL THE M.F.J.P. OF YOUR EFFORTS TO
19 NEGOTIATE A PURCHASE OF MARIJUANA FROM MANUEL CHAVEZ?

20 A. WE DIDN'T ACTUALLY INTEND TO MAKE THE PURCHASE. THE PLAN
21 WAS TO FIND OUT WHERE THE STASH WAS LOCATED, AND THEN THAT
22 WOULD HAVE BEEN PROVIDED. IT WAS, IN FACT, PROVIDED TO THE
23 MEXICAN OFFICIALS.

24 Q. IN YOUR OPINION, WOULD IT HAVE BEEN POSSIBLE FOR YOU, THE
25 D.E.A., TO HAVE CONDUCTED THE INVESTIGATION OF THE ZACATECAS

1 FIELDS WITHOUT THE ASSISTANCE OF CONFIDENTIAL INFORMANTS?

2 A. NO.

3 Q. WAS IT YOUR PRACTICE WHILE EMPLOYED IN GUADALAJARA TO
4 INFORM MEXICAN LAW ENFORCEMENT AUTHORITIES OF THE IDENTITIES OF
5 YOUR CONFIDENTIAL INFORMANT?

6 A. NO.

7 Q. WHY NOT?

8 A. WE WERE CONCERNED THAT THEY WOULD BE COMPROMISED, AND
9 THERE WAS -- IT WAS UNDERSTOOD BETWEEN OUR COUNTERPARTS AND
10 OURSELVES THAT WE DIDN'T DO THAT.

11 Q. IN 1984, WAS GUADALAJARA A CENTER OF DRUG ACTIVITY IN
12 MEXICO?

13 A. YES.

14 Q. WAS IT THE CENTER OF DRUG ACTIVITY IN MEXICO?

15 A. THAT'S MY OPINION.

16 Q. NOW, AMONG THE AGENTS IN THE GUADALAJARA OFFICE DURING
17 1984, WHO HAD DEVELOPED THE MOST CONFIDENTIAL INFORMANTS?

18 MR. STOLAR: OBJECTION. I OBJECT TO THE QUESTION.

19 THE COURT: PARDON?

20 MR. STOLAR: I OBJECT TO THE QUESTION. THE BASIS OF
21 THE OBJECTION IS IT WASN'T COVERED ON CROSS.

22 MR. MEZA: I JOIN, YOUR HONOR. BEYOND THE SCOPE AND
23 IT'S IRRELEVANT.

24 THE COURT: THE OBJECTION IS SUSTAINED. THIS IS
25 REDIRECT EXAMINATION.

1 BY MR. CARLTON:

2 Q. I BELIEVE ON YOUR CROSS-EXAMINATION YOU TESTIFIED THAT THE
3 D.E.A. AGENTS IN GUADALAJARA WERE VISIBLE IN GUADALAJARA, THEIR
4 ACTIVITIES WERE VISIBLE; IS THAT --

5 A. THEIR EVERYDAY ACTIVITIES, YES.

6 Q. AND AMONG THE AGENTS IN THE OFFICE DURING 1984, WHO DO YOU
7 BELIEVE WAS THE MOST VISIBLE TO YOUR LAW ENFORCEMENT
8 COUNTERPARTS IN GUADALAJARA?

9 MR. STOLAR: OBJECTION. SPECULATIVE, CALLS FOR A
10 CONCLUSION IN SOMEBODY ELSE'S MIND.

11 THE COURT: OVERRULED.

12 THE WITNESS: COULD I HAVE THE QUESTION AGAIN,
13 PLEASE?

14 BY MR. CARLTON:

15 Q. AMONG THE AGENTS IN YOUR GUADALAJARA OFFICE IN 1984, WHO
16 DO YOU THINK -- WHOSE ACTIVITIES DO YOU BELIEVE WERE MOST
17 VISIBLE TO YOUR MEXICAN LAW ENFORCEMENT COUNTERPARTS?

18 A. ENRIQUE CAMARENA.

19 Q. AND WHOSE ACTIVITIES DO YOU BELIEVE WERE MOST VISIBLE TO
20 THE TRAFFICKERS YOU WERE INVESTIGATING?

21 A. ENRIQUE CAMARENA.

22 Q. I BELIEVE THAT YOU TESTIFIED ON CROSS-EXAMINATION THAT
23 MOST OF THE MAJOR TRAFFICKERS IN GUADALAJARA IN 1984 HAD
24 ORIGINATED IN SINALOA?

25 A. THE MAJOR PORTION.

1 Q. FELIX GALLARDO WAS FROM SINALOA AS WELL?

2 A. YES.

3 Q. DO YOU KNOW WHETHER JAVIER GARCIA PANIAGUA WAS EVER THE
4 SECRETARY OF GOBERNACION IN MEXICO?

5 A. I REALLY DON'T KNOW, SIR.

6 Q. YOU HAD DIFFICULTY CONVINCING SOME OF YOUR SUPERIORS IN
7 WASHINGTON ABOUT THE SCOPE OF THE DRUG TRAFFIC IN MEXICO IN THE
8 1983-1984 PERIOD?

9 A. YES, SIR.

10 Q. DO YOU KNOW WHY YOU ENCOUNTERED THAT DIFFICULTY?

11 MR. STOLAR: OBJECTION. CALLS FOR THE OPERATIONS OF
12 SOMEBODY ELSE'S MIND.

13 THE COURT: SUSTAINED.

14 BY MR. CARLTON:

15 Q. WAS THERE ANY CHANGE IN THE DRUG TRAFFICKING SITUATION IN
16 MEXICO THAT YOU'RE AWARE OF IN THE EARLY 1980'S FROM THE PRIOR
17 PERIOD?

18 A. IN THE YEAR 1980?

19 Q. NO, IN THE EARLY 1980'S UP UNTIL FEBRUARY OF 1985?

20 A. I THINK THE TRAFFIC INCREASED DRAMATICALLY.

21 Q. ANY PARTICULAR KIND OF TRAFFICKING THAT INCREASED DURING
22 THAT PERIOD?

23 A. WELL, MARIJUANA, THE CULTIVATION OF MARIJUANA ESPECIALLY
24 INCREASED.

25 THE PASSAGE OF COCAINE FROM SOUTH AMERICA THROUGH

1 MEXICO WAS ALSO ON THE INCREASE THROUGH THAT PERIOD.

2 Q. WERE YOU CONCERNED FOR THE SAFETY OF ANY CONFIDENTIAL
3 INFORMANT WORKING WITH YOUR OFFICE WHOSE IDENTITY WOULD BE
4 REVEALED TO MEXICAN LAW ENFORCEMENT?

5 A. YES, I WAS.

6 Q. WHY WAS JUAN RAMON MATTA BALLESTEROS CONSIDERED A MAJOR
7 TRAFFICKER DURING THE TIME PERIOD YOU WERE THERE?

8 MR. STOLAR: OBJECTED TO. HE'S GOING TO TESTIFY TO
9 HEARSAY. HE WAS ALLOWED TO SAY IT BECAUSE HIS OFFICE TARGETED
10 HIM, BUT WHY HE WAS CONSIDERED A MAJOR TRAFFICKER HAS TO COME
11 BY HEARSAY.

12 THE COURT: THE OBJECTION IS OVERRULED.

13 MR. STOLAR: JUDGE RAFEEDIE, I EXPECT THERE IS GOING
14 TO BE DIRECT TESTIMONY THAT COMES IN REGARDING ALLEGATIONS
15 ABOUT THIS WITNESS.

16 RATHER THAN HAVE THIS AGENT GIVE A SUMMARY OF
17 ANY INTELLIGENCE, ET CETERA, THAT HAS COME IN THAT I CAN'T
18 QUESTION AND I HAVEN'T EVEN SEEN --

19 THE COURT: COUNSEL, I DON'T WANT ANY ARGUMENT ON
20 THIS. JUST BE SEATED.

21 THE WITNESS: BECAUSE OF INTELLIGENCE THAT WE
22 RECEIVED FROM CONFIDENTIAL INFORMANTS AND FROM OTHER D.E.A.
23 OFFICES AND ANOTHER LAW ENFORCEMENT AGENCIES IN OTHER COUNTRIES
24 CONCERNING THESE ACTIVITIES, AND THE FACT THAT HE WAS RESIDING
25 AND OPERATING IN GUADALAJARA.

1 BY MR. CARLTON:

2 Q. PRIOR TO MARCH 26 OF 1984, DID YOUR OFFERS HAVE AN ONGOING
3 INVESTIGATION OF FELIX GALLARDO?

4 A. MARCH THE --

5 Q. 26TH?

6 A. 26TH, YES.

7 Q. WHAT WAS THE NATURE OF THAT INVESTIGATION?

8 A. THERE HAD BEEN AN INVESTIGATION INTO THE ACTIVITIES OF
9 MIGUEL FELIX GALLARDO FOR FIVE OR SIX YEARS.

10 Q. DID THAT INVESTIGATION INVOLVE TAKING PHOTOGRAPHS OF
11 LOCATIONS ASSOCIATED WITH HIM?

12 A. YES.

13 Q. DID IT INVOLVE THE TAKING OF PHOTOGRAPHS OF PERSONS
14 ASSOCIATED WITH HIM?

15 A. YES.

16 Q. DID IT INVOLVE ATTEMPTS TO TAKE PHOTOGRAPHS OF FELIX
17 GALLARDO HIMSELF?

18 A. YES.

19 Q. DID THAT INVESTIGATION CONTINUE BEYOND MARCH OF 1984?

20 A. YES, IT DID.

21 Q. DID THAT INVESTIGATION INVOLVE ALSO JUAN RAMON MATTA
22 BALLESTEROS?

23 MR. STOLAR: OBJECTION.

24 THE COURT: OVERRULED.

25 THE WITNESS: YES, IT DID.

1 MR. CARLTON: MAY I HAVE A MOMENT, YOUR HONOR?

2 THE COURT: YES.

3 (DISCUSSION HELD OFF THE RECORD BETWEEN COUNSEL.)

4 MR. CARLTON: NOTHING FURTHER AT THIS TIME, YOUR
5 HONOR.

6 THE COURT: IS THERE ANY RE-CROSS-EXAMINATION?

7 MR. STOLAR: YES, SIR.

8

9 RE-CROSS-EXAMINATION +

10 BY MR. STOLAR:

11 Q. YOU SAID YOU RECEIVED INTELLIGENCE INFORMATION FROM OTHER
12 COUNTRIES REGARDING MR. MATTA; IS THAT RIGHT?

13 A. YES.

14 Q. WHAT OTHER COUNTRIES?

15 A. SPAIN.

16 Q. ANY OTHERS?

17 A. COLOMBIA.

18 Q. ANY OTHERS?

19 A. THAT'S ALL I CAN REMEMBER AT THIS TIME.

20 Q. HONDURAS?

21 A. YES, SIR.

22 MR. MEDRANO: OBJECTION, YOUR HONOR.

23 BY MR. STOLAR:

24 Q. THE UNITED STATES?

25 MR. MEDRANO: HE'S BADGERING THE WITNESS.

1 THE COURT: JUST A MOMENT. WAIT FOR THE WITNESS TO
2 ANSWER.

3 MR. STOLAR: I'M SORRY.

4 BY MR. STOLAR:

5 Q. ANYBODY FROM UNITED STATES?

6 A. YES.

7 Q. YOU RECEIVED INFORMATION FROM CONFIDENTIAL INFORMANTS
8 ABOUT MR. MATTA? THAT'S WHAT YOU SAID?

9 A. YES.

10 Q. COULD YOU TELL ME WHO THEY WERE?

11 A. SPECIFICALLY TO HIS NAME?

12 Q. YES.

13 A. NO.

14 Q. DID YOU RECEIVE ANY SPECIFIC INFORMATION ABOUT MR. MATTA'S
15 NAME FROM CONFIDENTIAL INFORMANTS THAT MADE YOU THINK HE'S A
16 MAJOR TRAFFICKER?

17 A. NO.

18 Q. ONLY FROM LAW ENFORCEMENT IN THIS COUNTRY DID THEY NAME
19 HIM; IS THAT CORRECT?

20 A. NO.

21 Q. DID THEY NAME HIM SPECIFICALLY, THE OTHER COUNTRY LAW
22 ENFORCEMENT?

23 A. I THINK SO, YES.

24 Q. BUT THE CONFIDENTIAL INFORMANTS DIDN'T; IS THAT CORRECT?

25 A. THAT IS CORRECT.

1 Q. WERE ANY OTHER SOURCES RELIED UPON FOR YOU TO COME TO THE
2 CONCLUSION THAT HE WAS INVOLVED AS A MAJOR TRAFFICKER?

3 A. YES.

4 Q. WHAT OTHER SERVICES WERE THOSE?

5 A. THE MEXICAN FEDERAL JUDICIAL POLICE.

6 Q. AS FAR AS YOU'RE CONCERNED THE MEXICAN FEDERAL JUDICIAL
7 POLICE WERE LIKE A SIEVE; ISN'T THAT RIGHT?

8 ANYTHING THAT THEY KNEW, THE TRAFFICKERS KNEW?

9 A. IT HAPPENED SOMETIMES.

10 Q. AND THE MEXICAN ARMY WAS LIKE THAT ALSO; WAS IT NOT?

11 A. IT HAPPENED SOMETIMES.

12 Q. THERE WAS AN INCIDENT ONCE WHERE YOU GAVE THE MEXICAN ARMY
13 INFORMATION ABOUT A MARIJUANA FIELD AND THEY REPORTED BACK TO
14 YOU THAT THEY HAD TAKEN DOWN AND BURNED THE FIELD, BUT IT
15 TURNED OUT THEY HARVESTED THE MARIJUANA INSTEAD; ISN'T THAT
16 CORRECT?

17 A. THAT IS RIGHT.

18 MR. STOLAR: I HAVE NOTHING FURTHER.

19 THE COURT: ANY OTHER RE-CROSS-EXAMINATION?

20 MR. MEZA: YES. THANK YOU.

21

22 RE-CROSS-EXAMINATION +

23 BY MR. MEZA:

24 Q. I HAVE A FEW LIMITED AREA QUESTIONS, SOME OF WHICH WAS
25 RAISED IN CO-COUNSEL'S CROSS-EXAMINATION IF I COULD JUST BE

1 PERMITTED. IT'S VERY LIMITED.

2 THE COURT: ALL RIGHT.

3 MR. MEZA: THANK YOU.

4 BY MR. MEZA:

5 Q. YOU TOLD US THAT - CONCERNING THE CHAVEZ INVESTIGATION -
6 THAT M.F.J.P. WAS A CONSULTANT; ISN'T THAT RIGHT?

7 A. I'M SORRY?

8 Q. WAS M.F.J.P. A CONSULTANT CONCERNING THE CHAVEZ
9 INVESTIGATION?

10 A. WHICH PART OF THE CHAVEZ INVESTIGATION, SIR?

11 Q. ANY PART? I'LL WITHDRAW THAT.

12 WAS M.F.J.P. CONSULTED CONCERNING THE CHAVEZ
13 INVESTIGATION?

14 A. YES.

15 Q. THEY ARRESTED HIM, DIDN'T THEY, IN REYNOSO?

16 A. YES.

17 Q. THEY KNEW WHY THEY WERE ARRESTING HIM, RIGHT?

18 A. YES.

19 Q. ALL RIGHT. NOW, THESE FIELDS THAT CO-COUNSEL MENTIONED
20 WHERE THESE OTHER SEIZURES OCCURRED, I THINK CHIHUAHUA?

21 A. THAT'S CORRECT.

22 Q. AND BUFFALO OR BUFALO?

23 A. THAT'S THE SAME SEIZURE.

24 Q. OH. ALL RIGHT. THOSE SEIZURES WERE CONDUCTED BY
25 M.F.J.P.; WERE THEY NOT?

1 A. RIGHT.

2 Q. AND M.F.J.P. DESTROYED ALL THAT STUFF?

3 A. APPARENTLY SO.

4 Q. YOU DON'T HAVE ANY INFORMATION TO THE CONTRARY, DO YOU,
5 THAT THEY DIDN'T DESTROY IT?

6 A. NO, I DON'T.

7 Q. NOW, IN TERMS OF ACTING UNILATERALLY, YOU SAID WHEN YOU --
8 IN TERMS OF YOUR UNILATERAL ACTION IN MEXICO, THE D.E.A.'S
9 UNILATERAL -- THERE WAS AN INFORMAL AGREEMENT WITH MEXICO,
10 RIGHT, CONCERNING THAT?

11 A. YES.

12 Q. AND THERE IS A SECTION -- YOU'RE FAMILIAR WITH THE D.E.A.
13 MANUAL?

14 A. I THINK SO, YES.

15 Q. THERE IS A SECTION IN THERE, IS THERE NOT, CONCERNING
16 AGREEMENTS WITH HOST NATIONS?

17 A. I BELIEVE THERE IS.

18 Q. AND THAT IF THERE IS AN AGREEMENT WITH THE HOST NATION
19 THAT THERE SHOULD BE NO UNILATERAL ACTIVITY THAT, IN FACT,
20 THERE SHOULD BE NO UNILATERAL ACTIVITY; IS THAT CORRECT,
21 GENERALLY SPEAKING?

22 A. I BELIEVE THAT'S CORRECT.

23 Q. AND THAT IF THERE IS TO BE UNILATERAL ACTIVITY, THERE HAS
24 TO BE APPROVAL FOR THAT ACTIVITY; ISN'T THAT RIGHT?

25 A. I THINK SO. I DON'T RECALL EXACTLY WHAT IT SAID.

1 Q. AND THAT APPROVAL HAS TO COME FROM EITHER THE HOST
2 COUNTRY'S -- THE U.S. AMBASSADOR TO THE HOST COUNTRY, RIGHT?

3 DOES THE MANUAL PROVIDE FOR THAT?

4 A. I DON'T RECALL HOW IT'S WORDED.

5 Q. LET ME ASK YOU IN ANY OF YOUR UNILATERAL ACTIVITY, DID YOU
6 OVER CONTACT THE U.S. AMBASSADOR TO MEXICO DO SEE IF IT WAS
7 OKAY WITH HIM?

8 A. I'M SURE WE DID SOMETIMES, YES.

9 Q. DID YOU?

10 A. NO.

11 MR. MEZA: I HAVE NOTHING FURTHER. THANK YOU.

12 THE COURT: ALL RIGHT. ANY OTHER QUESTIONS FOR THIS
13 WITNESS?

14 MR. NICOLAYSEN: NO, YOUR HONOR.

15 MR. CARLTON: JUST A COUPLE, YOUR HONOR.

16 THE COURT: ALL RIGHT. JUST A MOMENT.

17

18 FURTHER + REDIRECT EXAMINATION

19 BY MR. CARLTON:

20 Q. IN THE COURSE OF YOUR INVESTIGATIONS, INVESTIGATIONS BY
21 THE D.E.A. OFFICE IN GUADALAJARA, WAS IT YOUR PRACTICE AFTER
22 INTELLIGENCE HAD BEEN GATHERED AND YOU WISHED ACTION TO BE
23 TAKEN TO PRESENT YOUR INTELLIGENCE INFORMATION TO MEXICAN
24 AUTHORITIES?

25 MR. STOLAR: OBJECTION. OUTSIDE THE SCOPE.

1 MR. CARLTON: IT WAS WITHIN THE SCOPE OF WHAT MR.
2 MEZA JUST ASKED.

3 THE COURT: THE OBJECTION IS SUSTAINED.

4 BY MR. CARLTON:

5 Q. IN YOUR OPINION AND PRACTICE, WHILE YOU WERE IN
6 GUADALAJARA WAS INTELLIGENCE GATHERING CONSIDERED TO BE WITHIN
7 THE CONFINES OF THE AGREEMENT WITH MEXICO, BETWEEN MEXICO AND
8 THE D.E.A.?

9 A. YES.

10 Q. THE FLIGHTS DURING THE RAIDS OF THE ZACATECAS FIELDS WERE
11 CONTROLLED BY THE M.F.J.P.?

12 THE COURT: COUNSEL, WE HAVE BEEN OVER THIS. NOW,
13 LET'S NOT --

14 MR. CARLTON: NOTHING FURTHER, YOUR HONOR.

15 THE COURT: LET'S NOT BELABOR THINGS.

16 YOU MAY STEP DOWN.

17 WE'LL TAKE OUR MORNING RECESS AT THIS TIME.

18 THE CLERK: THIS COURT IS NOW IN RECESS.

19 (BRIEF RECESS.)

20 (JURY PRESENT:)

21 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

22 MR. CARLTON: THE GOVERNMENT CALLS GUADALUPE GOMEZ.

23 THE COURT: SWEAR THE INTERPRETER.

24 THE CLERK: PLEASE RAISE YOUR RIGHT HAND AND STATE
25 YOUR NAME FOR THE RECORD, PLEASE.

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THE INTERPRETER: LENNE ROSEN-KABE.

L. ROSEN-KABE, OFFICIAL COURT + INTERPRETER, SWORN
TO TRANSLATE ENGLISH TO SPANISH AND SPANISH TO ENGLISH

THE COURT: SWEAR THE WITNESS.

THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

JUAN FERNANDEZ, ALSO + KNOWN AS GUADALUPE GAMES,
PLAINTIFF'S WITNESS + SWORN

THE CLERK: YOU MAY BE SEATED. PLEASE STATE YOUR FULL
NAME FOR THE RECORD AND SPELL YOUR LAST NAME.

THE WITNESS: (TESTIFYING THROUGH INTERPRETER:)
GUADALUPE GAMES. (AS STATED.)

THE COURT: AND SPELL YOUR LAST NAME.

THE WITNESS: G A M E S. (AS SPELLED.)

DIRECT EXAMINATION +

BY MR. CARLTON:

Q MR. GOMEZ, DO YOU WORK FOR THE DRUG ENFORCEMENT
ADMINISTRATION?

A YES.

Q AND IN WHAT CAPACITY?

A INFORMANT.

Q HOW LONG HAVE YOU WORKED FOR THE D.E.A. IN THAT CAPACITY?

1 A NINE YEARS.

2 Q DID YOU HAVE OCCASION TO MEET AN INDIVIDUAL NAMED MANUEL
3 CHAVEZ IN THE COURSE OF YOUR WORK FOR FOR D.E.A.?

4 A EXCUSE ME?

5 Q CHAVEZ.

6 A YES.

7 Q WHEN DID YOU FIRST MEET HIM?

8 A IN THE SUMMER OF 1983.

9 Q WERE YOU WORKING AS A D.E.A. INFORMANT AT THE TIME THAT YOU
10 MET HIM?

11 A YES.

12 Q WHAT WAS THE PURPOSE OF YOUR MEETING HIM AT THAT TIME?

13 A BECAUSE OF A HEROIN TRANSACTION.

14 Q WAS THIS A HEROIN TRANSACTION THAT YOU WERE ATTEMPTING TO
15 ARRANGE ON BEHALF OF THE D.E.A.?

16 A YES.

17 Q WAS ANYONE WORKING WITH YOU ON THIS TRANSACTION?

18 A YES.

19 Q WHO WAS THAT?

20 A MARIO ALVAREZ.

21 Q AND WAS MARIO ALVAREZ A D.E.A. AGENT?

22 A YES.

23 Q WAS THE TRANSACTION THAT YOU WERE WORKING ON CONCLUDED AT
24 THAT TIME?

25 A NO.

1 Q AND DID YOU CONTINUE TO MEET WITH MANUEL CHAVEZ?

2 A YES.

3 Q DID YOU HAVE OCCASION TO MEET WITH MANUEL CHAVEZ IN THE
4 STATE OF ZACATECAS IN MEXICO?

5 A YES.

6 Q AND, AGAIN, WAS THIS IN THE COURSE OF YOUR WORK AS A D.E.A.
7 INFORMANT?

8 A EXCUSE ME?

9 Q WAS THIS IN THE COURSE OF YOUR WORK AS A D.E.A. INFORMANT
10 THAT YOU MET WITH HIM IN ZACATECAS?

11 A YES.

12 Q AND WHY DID YOU TRAVEL TO ZACATECAS TO MEET WITH HIM?

13 A THIS WAS BECAUSE OF A REQUEST BY THE D.E.A.

14 Q WAS THERE A PURPOSE IN YOUR MEETING WITH HIM IN ZACATECAS?

15 A YES.

16 Q WHAT WAS THAT PURPOSE?

17 A A HEROIN TRANSACTION.

18 Q SO YOU WERE CONTINUING YOUR NEGOTIATIONS WITH HIM?

19 A YES.

20 Q WHILE YOU WERE IN ZACATECAS MEETING WITH MANUEL CHAVEZ, DID
21 YOU LEARN ABOUT A JOB THAT HE HAD?

22 A YES.

23 Q AND WHAT JOB WAS THAT?

24 A HE WAS THE MANAGER OF THE MARIJUANA RANCHES IN ZACATECAS.

25 MR. MEZA: OBJECTION, YOUR HONOR. MOVE TO STRIKE.

1 IT'S NONRESPONSIVE TO THE QUESTION.

2 THE COURT: OVERRULED.

3 BY MR. CARLTON:

4 Q AND WHILE YOU WERE MEETING WITH MANUEL CHAVEZ IN ZACATECAS
5 AT THIS TIME, DID HE OFFER YOU A JOB?

6 THE INTERPRETER: THE INTERPRETER DID NOT HEAR.

7 BY MR. CARLTON:

8 Q WHILE YOU WERE MEETING WITH MANUEL CHAVEZ IN ZACATECAS AT
9 THIS TIME, DID HE OFFER YOU A JOB?

10 A YES.

11 Q AND WHAT JOB DID HE OFFER YOU?

12 A THAT OF A HELPER.

13 Q CAN YOU SPECIFY A LITTLE BIT MORE WHAT THE JOB WAS?

14 A THAT I SHOULD HELP HIM IN THE RUNNING OF THE MARIJUANA
15 RANCHES AND THOSE VERY CONFIDENTIAL ERRANDS THAT NEEDED TO BE
16 DONE.

17 Q DID MANUEL CHAVEZ SHOW YOU ANY MARIJUANA WHILE YOU WERE
18 THERE?

19 A YES.

20 Q AND WHERE WAS THAT?

21 A ON THE RANCH, MERCURIO.

22 Q DO YOU KNOW HOW MUCH MARIJUANA HE SHOWED TO YOU?

23 A ACCORDING TO HIM, THERE WERE 20 TO 30 TONS.

24 Q AND WAS THIS RANCH LOCATED NEAR ANY PARTICULAR TOWN OR CITY
25 IN ZACATECAS?

1 A YES.

2 Q WHAT TOWN OR CITY WAS THAT?

3 A VILLA DE COZ.

4 Q IS THAT NEAR A LARGER CITY?

5 A FRESNILLO, ZACATECAS.

6 Q DID YOU PROVIDE THIS INFORMATION TO THE D.E.A.?

7 A YES.

8 Q TO WHOM AT THE D.E.A. DID YOU PROVIDE THIS INFORMATION?

9 A ENRIQUE CAMARENA.

10 Q AND DO YOU RECALL WHEN THAT WAS?

11 A ABOUT IN SEPTEMBER IN 83.

12 Q THAT YOU PROVIDED THE INFORMATION TO AGENT CAMARENA?

13 A YES.

14 Q DID AGENT CAMARENA GIVE YOU ANY INSTRUCTIONS AS TO YOUR
15 INVOLVEMENT IN THIS INVESTIGATION?

16 A YES.

17 Q WHAT WERE THOSE INSTRUCTIONS?

18 A THAT I SHOULD FIND OUT WHERE THE RANCHES WERE LOCATED AND
19 THAT WE SHOULD CONTINUE NEGOTIATING FOR THE HEROIN.

20 Q DID HE GIVE YOU ANY INSTRUCTIONS ABOUT THE JOB THAT CHAVEZ
21 HAD OFFERED TO YOU?

22 A YES.

23 Q WHAT DID HE INSTRUCT YOU TO DO?

24 A THAT I SHOULD TRY TO LOCATE ALL THE ASSOCIATES AND THE
25 HOUSES AND STOREHOUSES THAT WERE BEING USED.

1 Q DID HE INSTRUCT YOU TO ACCEPT THE JOB?

2 A YES.

3 Q AND DID YOU IN FACT ACCEPT THAT JOB?

4 A YES.

5 Q NOW, IN THE COURSE OF THIS INVESTIGATION, DID YOU CONTINUE
6 TO REPORT TO AGENT CAMARENA?

7 A YES.

8 Q AND DID YOU REPORT TO HIM ON A REGULAR BASIS?

9 A YES.

10 Q NOW, AFTER ACCEPTING THE JOB THAT MANUEL CHAVEZ HAD OFFERED
11 TO YOU, DID YOU ACTUALLY GO TO PERFORM THAT JOB?

12 A YES.

13 Q AND DURING WHAT PERIOD OF TIME DID YOU HAVE THAT JOB?

14 A FROM FOUR TO SIX MONTHS.

15 Q TO WHOM DID YOU REPORT IN THAT JOB?

16 A MANUEL CHAVEZ.

17 Q YOU REPORTED DIRECTLY TO HIM?

18 A YES.

19 Q WHERE DID YOU LIVE WHILE YOU WERE IN THAT JOB?

20 A FRESNILLO, ZACATECAS.

21 Q AND CAN YOU DESCRIBE YOUR DUTIES IN WORKING FOR MANUEL
22 CHAVEZ DURING THE PERIOD THAT YOU DID WORK FOR HIM?

23 A YES.

24 Q WOULD YOU PLEASE DO THAT?

25 A I WOULD DRIVE WITH HIM WHEN WE WENT OUT TO DO OPERATIONS,

1 SUCH AS BUYING RANCHES.

2 THE INTERPRETER: ONE MOMENT.

3 THE WITNESS: (STILL THROUGH INTERPRETER:) INSTRUCT
4 PEOPLE IN WORKING THE RADIO THAT WE HAD FOR COMMUNICATION.

5 MR. STOLAR: JUDGE RAFFEDIE, COULD YOU ASK THE WITNESS
6 TO SPEAK UP?

7 MR. CARLTON: PERHAPS WE COULD MOVE THE MICROPHONE A
8 LITTLE CLOSER.

9 THE COURT: YES. PLEASE SPEAK UP. KEEP YOUR VOICE A
10 LITTLE LOUDER.

11 THE WITNESS: TO TAKE THE WORKERS TO THE FIELDS, TO
12 TAKE THE MONEY TO PAY THEM, AND EVERYTHING HAVING TO DO WITH
13 CONFIDENTIAL ERRANDS.

14 BY MR. CARLTON:

15 Q NOW, IN THE COURSE OF YOUR WORK FOR MANUEL CHAVEZ, DID YOU
16 THEN BECOME FAMILIAR WITH HIS DUTIES, AS WELL?

17 A YES.

18 Q AND WHAT WAS HIS POSITION?

19 A HE WAS THE GENERAL ADMINISTRATOR.

20 Q THE GENERAL ADMINISTRATOR OF WHAT?

21 A OF THE MARIJUANA RANCHES.

22 Q DO YOU KNOW HOW MANY MARIJUANA RANCHES HE ADMINISTERED?

23 A APPROXIMATELY 40.

24 Q AND WHERE WERE THESE RANCHES LOCATED?

25 A IN THE STATE OF ZACATECAS

1 Q DO YOU KNOW TO WHOM MANUEL CHAVEZ REPORTED?

2 A TO RAFAEL CARO QUINTERO.

3 Q NOW, IN THE COURSE OF YOUR WORK FOR MANUEL CHAVEZ, DID YOU
4 BECOME FAMILIAR WITH THE OPERATIONS THAT HE SUPERVISED?

5 A YES.

6 Q DID YOU ALSO BECOME FAMILIAR WITH THE PERSONS WHO
7 CONTROLLED THOSE RANCHES?

8 A YES.

9 Q WAS THERE A PARTICULAR LOCATION FROM WHICH CHAVEZ
10 SUPERVISED ALL OF HIS MARIJUANA RANCHES?

11 A YES.

12 Q WHERE WAS THAT LOCATED?

13 A IN FRESNILLO, ZACATECAS.

14 Q WHAT KINDS OF OPERATIONS WERE CENTERED IN FRESNILLO?

15 A THE BANKS; THE HOTELS; THE COMMUNICATIONS, CENTRAL.

16 Q ANYTHING ELSE?

17 A AND THE STORES WHERE WE WOULD GET OUR FOOD SUPPLIES.

18 Q WHAT DID YOU USE THE HOTELS FOR IN FRESNILLO?

19 A TO HOUSE THE PEOPLE WHO WERE WORKING FOR US.

20 Q DO YOU RECALL THE NAMES OF THE HOTELS THAT YOU USED?

21 A YES.

22 Q WHAT WERE THOSE NAMES?

23 A HOTEL DEL FRESNO, HOTEL LA FORTUNA, HOTEL LAS VEGAS, HOTEL
24 CASA BLANCA.

25 Q WERE ANY OF THOSE HOTELS USED IN PARTICULAR FOR MEMBERS OF

1 THE D.F.S.?

2 A YES.

3 Q AND WHICH HOTELS WERE USED FOR THAT PURPOSE?

4 A LA FORTUNA, CASA BLANCA.

5 Q YOU SAID THERE WAS A RADIO COMMUNICATION CENTER IN
6 FRESNILLO?

7 A YES.

8 Q DID YOU OPERATE THAT RADIO SYSTEM?

9 A YES.

10 Q DID YOU BECOME FAMILIAR WITH THE FREQUENCIES THAT IT COULD
11 UTILIZE?

12 A YES.

13 Q HOW MANY SUCH FREQUENCIES WERE THERE?

14 A FOUR.

15 Q AND WHAT WERE THOSE FREQUENCIES?

16 A F1, FEDERAL JUDICIAL; F2, FEDERAL DOCTORATE; F3, STATE
17 POLICE; AND NO. 4 WAS US.

18 Q NOW, IN THE COURSE OF RUNNING THESE MARIJUANA RANCHES,
19 THEN, DID MANUEL CHAVEZ HAVE OCCASION TO CONTACT THE D.F.S.
20 USING THIS RADIO SYSTEM?

21 MR. MEZA: OBJECTION, YOUR HONOR. NO FOUNDATION.

22 THE COURT: WELL, ASK. A PERSONAL KNOWLEDGE
23 FOUNDATION IS REQUIRED HERE.

24 BY MR. CARLTON:

25 Q IN THE COURSE OF YOUR WORK WITH MANUEL CHAVEZ, DID YOU HAVE

1 OCCASION TO USE THIS RADIO SYSTEM TO CONTACT THE D.F.S.?

2 A YES.

3 Q AND DID YOU HAVE OCCASION TO USE THIS SAME RADIO SYSTEM TO
4 CONTACT THE FEDERAL JUDICIAL POLICE?

5 A YES.

6 Q LIKewise, DID YOU HAVE OCCASION TO USE THIS RADIO SYSTEM TO
7 CONTACT THE STATE JUDICIAL POLICE?

8 A YES.

9 Q AND DO YOU KNOW FROM YOUR OWN PERSONAL INVOLVEMENT WHETHER
10 THOSE AGENCIES USED THAT SYSTEM TO COMMUNICATE WITH YOU?

11 A YES.

12 Q THEY DID?

13 A YES.

14 Q NOW, YOU'VE IDENTIFIED THE RANCHES SUPERVISED BY MANUEL
15 CHAVEZ AS MARIJUANA RANCHES. DOES THAT MEAN THAT MARIJUANA WAS
16 TO BE GROWN ON THESE RANCHES?

17 A YES.

18 Q AND WHEN WAS PLANTING ON THESE RANCHES TO BEGIN?

19 A SOME IN JANUARY, OTHERS IN MARCH; AND THE LAST ONES WERE TO
20 BE PLANTED TOWARD THE END OF MAY.

21 Q ARE WE TALKING 1984?

22 A YES.

23 Q AND WHEN WAS THE HARVEST TO COMMENCE?

24 A ONE POSSIBLY IN NOVEMBER AND THE END OF DECEMBER.

25 Q DO YOU KNOW HOW MUCH TOTAL LAND WAS PLANNED TO BE PLANTED

1 WITH MARIJUANA?

2 A APPROXIMATELY 6,000 HECTARES.

3 Q DO YOU KNOW HOW MUCH ACRES ARE IN A HECTARE?

4 A YES.

5 Q HOW MANY?

6 A TWO AND A HALF.

7 Q AND WAS THERE AN ESTIMATE AS TO WHAT THE PRODUCTION OF
8 MARIJUANA WOULD BE PER HECTARE?

9 A YES.

10 Q WHAT WAS THAT ESTIMATE?

11 A A TON IN SOME PARTS; IN OTHERS, A TON AND A HALF; AND IN
12 OTHERS, LESS THAN A TON.

13 Q DO YOU KNOW HOW MANY ACRES OF LAND WERE ACTUALLY PLANTED
14 WITH MARIJUANA DURING THE PERIOD THAT YOU WERE THERE?

15 A NOT EXACTLY.

16 Q DO YOU HAVE AN ESTIMATE?

17 A ABOUT 300 HECTARES.

18 Q NOW, DO YOU KNOW HOW MANY WORKERS WERE PLANNED TO BE HIRED
19 TO CULTIVATE AND WORK IN THESE FIELDS?

20 A FROM 2 TO 3,000, MORE OR LESS.

21 Q HOW MANY WERE ACTUALLY HIRED DURING THE PERIOD THAT YOU
22 WORKED THERE?

23 A WELL, AROUND 4- TO 500 WOULD ARRIVE.

24 Q WERE THESE WORKERS HOUSED IN THE FIELDS?

25 A YES.

1 Q DO YOU KNOW WHERE FOOD FOR THESE WORKERS WAS ACQUIRED?
2 A YES.
3 Q WHERE WAS THAT?
4 A FROM THE CONASUPO STORES.
5 Q AND WHAT ARE CONASUPO STORES, IF YOU KNOW?
6 A THEY'RE GOVERNMENT STORES.
7 Q ARE THEY MARKETS, FOOD MARKETS?
8 A YES.
9 Q AND DID MANUEL CHAVEZ BUY THIS FOOD?
10 A YES.
11 Q DID HE BUY THIS FOOD ON CREDIT?
12 A YES.
13 Q I.
14 Q NOW, DID YOU ACTUALLY VISIT THESE FIELDS WHERE THE
15 MARIJUANA WAS GROWN?
16 A YES.
17 Q AND DID YOU SEE THE WORKERS AT THE FIELDS?
18 A YES.
19 Q ONCE PLANTING COMMENCED AT THE FIELDS, WERE THE WORKERS
20 ALLOWED TO LEAVE?
21 A NO.
22 Q WERE THERE GUARDS AT THE FIELDS?
23 A YES.
24 Q WERE THESE GUARDS ARMED?
25 A YES.

1 Q NOW, DID YOU BECOME FAMILIAR, DURING THE PERIOD YOU WORKED
2 FOR MANUEL CHAVEZ, WITH THE PEOPLE WHO CONTROLLED THESE
3 RANCHES?

4 A YES.

5 Q DID MANUEL CHAVEZ OWN THESE RANCHES?

6 A NO.

7 MS. KELLY: OBJECTION, YOUR HONOR. LACK OF
8 FOUNDATION. THE OBJECTION IS LACK OF FOUNDATION.

9 THE COURT: OVERRULED.

10 MR. CARLTON: PARDON ME. I DIDN'T HEAR THE ANSWER.

11 THE WITNESS: I DIDN'T HEAR.

12 BY MR. CARLTON:

13 Q ALL RIGHT. DID MANUEL CHAVEZ OWN THESE RANCHES?

14 A NO.

15 Q DID YOU EVER LEARN WHO THE OWNERS OF THE RANCHES WERE?

16 A YES.

17 MS. KELLY: THE OBJECTION IS LACK OF FOUNDATION, YOUR
18 HONOR, AGAIN.

19 THE COURT: OVERRULED.

20 THE WITNESS: YES.

21 BY MR. CARLTON:

22 Q WERE THESE THE PEOPLE TO WHOM MANUEL CHAVEZ REPORTED?

23 A YES.

24 Q AND CAN YOU PLEASE IDENTIFY SOME OF THE PEOPLE WHO
25 CONTROLLED THESE RANCHES?

1 A YES.

2 Q WHO WERE THEY?

3 MS. KELLY: YOUR HONOR, OBJECTION AGAIN.

4 THE REPORTER: I DIDN'T HEAR THE GROUNDS.

5 THE COURT: I DIDN'T, EITHER; BUT I THINK IT WAS NO
6 FOUNDATION. IS THAT RIGHT?

7 MS. KELLY: YES, YOUR HONOR.

8 THE COURT: NO FOUNDATION.

9 WHAT IS THE PENDING QUESTION?

10 MR. CARLTON: THE PENDING QUESTION'S ASKING HIM TO
11 IDENTIFY THE MAJOR PERSONS WHO CONTROLLED THESE RANCHES.

12 THE WITNESS: SHOULD I ANSWER?

13 MR. CARLTON: YES, PLEASE.

14 THE WITNESS: RALPH CARO QUINTERO, ERNESTO FONSECA, EL
15 AZUL, COCHILOCO.

16 BY MR. CARLTON:

17 Q EXCUSE ME. DO YOU KNOW THE GIVEN NAME. TRUE NAME OF EL
18 AZUL?

19 A JUAN ESPARRAGOZA --

20 Q AND LIKEWISE, DO YOU KNOW -- EXCUSE ME.

21 A ESPARRAGOZA MORENO.

22 Q AND DO YOU KNOW THE TRUE NAME OF COCHILOCO?

23 A MANUEL SALCIDO UZETA.

24 Q ANY OTHERS?

25 A ALFREDO FERNANDEZ, RAMIRO MIRELES, ANTONIO PEREZ PARGA. I

1 DON'T REMEMBER ANY OTHERS.

2 Q DO YOU KNOW WHO CONTROLLED EVERYTHING?

3 MS. KELLY: OBJECTION, YOUR HONOR. THE QUESTION IS
4 UNINTELLIGIBLE, ALSO.

5 THE COURT: YES. THE QUESTION IS AMBIGUOUS.

6 MR. CARLTON: YES. I WILL REPHRASE IT, YOUR HONOR.

7 THE COURT: BE MORE SPECIFIC.

8 BY MR. CARLTON:

9 Q DO YOU KNOW, MR. GOMEZ, WHO CONTROLLED ALL OF THE
10 OPERATIONS THAT WERE BEING SUPERVISED BY MANUEL CHAVEZ?

11 A RAFAEL CARO QUINTERO.

12 Q WERE YOU INVOLVED IN MAKING ANY PAYOFFS TO LAW ENFORCEMENT
13 AUTHORITIES IN RELATION TO THESE MARIJUANA RANCHES?

14 A YES.

15 Q DID YOU REPORT YOUR ACTIVITIES IN THIS REGARD TO AGENT
16 CAMARENA?

17 A YES.

18 Q WAS THERE A SCHEDULE FOR MAKING THESE PAYOFFS?

19 A THERE WAS A PARTICULAR DAY.

20 Q WHAT PARTICULAR DAY WAS THAT?

21 A THE END OF THE MONTH.

22 Q AND WHAT AGENCIES, WHAT LAW ENFORCEMENT AGENCIES, DID YOU
23 PARTICIPATE IN DELIVERING PAYMENTS TO?

24 MR. MEZA: OBJECTION, YOUR HONOR. OBJECTION, YOUR
25 HONOR. THERE'S NO FOUNDATION AND IT MISSTATES THE EVIDENCE.

1 THE COURT: THE OBJECTION IS OVERRULED.

2 THE WITNESS: WHAT WAS THE QUESTION?

3 BY MR. CARLTON:

4 Q WHAT LAW ENFORCEMENT AGENCIES DID YOU PARTICIPATE IN MAKING
5 PAYMENTS TO?

6 A THE FEDERAL JUDICIAL POLICE, THE D.F.S., THE STATE JUDICIAL
7 POLICE, AND THE CITY POLICE.

8 Q NOW, WAS THERE A PARTICULAR INDIVIDUAL TO WHOM YOU
9 DELIVERED MONEYS FOR THE D.F.S.?

10 A YES.

11 Q WHO WAS THAT?

12 A POLICE CHIEF NUNO APARICIO.

13 Q I BELIEVE YOU USED THE WORD "COMANDANTE."

14 A YES.

15 Q AND I THINK -- WHAT WAS APARICIO'S POSITION?

16 A HE WAS A MAJOR.

17 Q COMANDANTE. DID THAT CHANGE AT SOME POINT? DID MONEYS FOR
18 THE D.F.S. -- DID YOU DELIVER MONEYS TO ANOTHER PERSON?

19 MR. MEZA: I'M GOING TO OBJECT. THERE'S NO FOUNDATION
20 TO SHOW THAT MONEYS INDIVIDUALLY ACCEPTED WERE FOR THE
21 PURPOSE -- WERE DIRECTED TOWARD THE AGENCIES AS A WHOLE.
22 THERE'S NO FOUNDATION.

23 THE COURT: I DON'T THINK THERE'S ANY SUCH FOUNDATION
24 AS THAT REQUIRED. YOU CAN CROSS-EXAMINE THE WITNESS ON ANY
25 QUESTION YOU WANT WHEN THE OPPORTUNITY COMES. HE'S TESTIFYING

1 ABOUT WHAT HE DID.

2 MR. MEZA: I WOULD AGREE HE CAN TESTIFY WHAT HE DID
3 WITH AN INDIVIDUAL. THE LARGER IMPLICATIONS OF THAT, THERE'S
4 NO FOUNDATION FOR HIM TO MAKE THE ASSERTION.

5 MR. CARLTON: I'LL FILL IN THE BACKGROUND, YOUR HONOR.

6 Q MR. GOMEZ, DO YOU KNOW THE PURPOSE FOR MAKING THESE
7 PAYMENTS OF MONEY TO VARIOUS LAW ENFORCEMENT OFFICIALS?

8 A FOR THEM TO PROTECT US.

9 Q AND WHEN YOU SAY "PROTECT US," WHAT DO YOU MEAN BY THAT?

10 A THAT THEY SHOULD NOT INTERFERE WITH THE PLANTING, THAT THEY
11 SHOULD LOOK AFTER THE ROADS WHERE WE HAD THE FIELDS.

12 Q WHAT DOES THAT MEAN?

13 A THE MARIJUANA RANCHES.

14 Q I MEAN "LOOKING AFTER THE ROADS," WHAT DOES THAT TERM MEAN?

15 A THAT PEOPLE WHO HAD NOTHING TO DO WITH THIS BUSINESS DIDN'T
16 COME AROUND.

17 Q ANYTHING ELSE?

18 A AND THEY WERE TO PROTECT US AGAINST ANY KIND OF TROUBLE.

19 Q DID THAT INCLUDE PROVIDING INFORMATION AS TO WHETHER D.E.A.
20 AGENTS WERE IN THE AREA?

21 A AS FAR AS ANY PERSON NOT HAVING TO DO WITH THAT BUSINESS.

22 Q DID, TO YOUR KNOWLEDGE, ANY D.F.S. AGENTS PROVIDE ANY OTHER
23 SERVICES TO THIS MARIJUANA GROWING OPERATION?

24 A TRANSPORTATION OF THE MARIJUANA.

25 Q NOW, WHO IN THE FEDERAL JUDICIAL POLICE DID YOU PARTICIPATE

1 IN MAKING PAYMENTS TO?

2 A COMANDANTE GALO GUTIERREZ.

3 Q AND WHO IN THE ZACATECAS STATE JUDICIAL POLICE DID YOU
4 PARTICIPATE IN MAKING PAYMENTS TO?

5 A COMANDANTE PULIDO.

6 Q DO YOU KNOW WHETHER COMANDANTE GALO GUTIERREZ ACTUALLY
7 INVESTED IN THE MARIJUANA FIELDS?

8 A YES.

9 Q DID HE DO THAT?

10 A YES, ALONG WITH MANUEL CHAVEZ.

11 Q LIKewise, DO YOU KNOW WHETHER COMANDANTE APARICIO INVESTED
12 IN THESE MARIJUANA FIELDS?

13 MS. KELLY: OBJECTION, YOUR HONOR, TO THE QUESTION, AS
14 LACKING FOUNDATION.

15 THE COURT: HOW ABOUT IT, COUNSEL? WHY DON'T YOU LAY
16 SOME FOUNDATION FOR THESE QUESTIONS? YOU'RE ASKING THIS
17 WITNESS FOR CONCLUSIONS.

18 BY MR. CARLTON:

19 Q DID YOU EVER LEARN FROM MANUEL CHAVEZ WHETHER GALO
20 GUTIERREZ HAD INVESTED IN MARIJUANA FIELDS?

21 MR. STOLAR: OBJECTION. HEARSAY.

22 THE COURT: SUSTAINED.

23 BY MR. CARLTON:

24 Q DID YOU EVER SEE A SHIPMENT OF RIFLES ARRIVE FOR USE IN THE
25 MARIJUANA FIELDS?

1 A YES.

2 Q HOW MANY SUCH SHIPMENTS DID YOU SEE?

3 A ONE.

4 Q AND DO YOU KNOW HOW LARGE THAT SHIPMENT WAS?

5 A THERE WERE SUPPOSED TO BE 300.

6 Q HOW MANY DID YOU ACTUALLY SEE, DO YOU KNOW?

7 A THERE WERE ABOUT 60, IN A CAR.

8 Q AND DID YOU HAVE SOME INVOLVEMENT IN DELIVERING THOSE GUNS
9 SOMEPLACE?

10 A YES.

11 Q WHERE DID YOU DELIVER THEM?

12 A TO ONE OF MANUEL CHAVEZ'S HOUSES.

13 Q DO YOU KNOW WHO HAD DELIVERED THOSE RIFLES TO YOU?

14 A SOME D.F.S. AGENTS.

15 Q DID YOU EVER SEE RAFAEL CARO QUINTERO?

16 A YES.

17 Q HOW MANY TIMES DID YOU SEE HIM?

18 MR. STOLAR: OBJECT TO THE QUESTION. CAN WE FIX THE
19 TIME WE'RE TALKING ABOUT?

20 THE COURT: I ASSUME HE'S TALKING ABOUT WHEN HE
21 WORKED --

22 MR. STOLAR: I ASSUME SO, TOO, BUT --

23 THE COURT: OBJECTION'S OVERRULED.

24 THE WITNESS: THREE OR FOUR TIMES.

25 BY MR. CARLTON:

1 Q AND DURING WHAT PERIOD DID YOU SEE CARO QUINTERO?

2 A FROM JANUARY TO THE BEGINNING OF MAY.

3 Q OF 1984?

4 A YES.

5 Q AND WHAT WAS THE LOCATION WHERE YOU SAW CARO QUINTERO ON
6 THOSE OCCASIONS?

7 A AT THE FRESNO HOTEL, AT MANUEL CHAVEZ'S HOUSE, AT THE LA
8 FORTUNA MOTEL.

9 Q WERE ALL OF THOSE LOCATIONS IN FRESNILLO, ZACATECAS?

10 A YES.

11 Q AND ON EACH THOSE OCCASIONS WAS CARO ACCOMPANIED BY
12 BODYGUARDS?

13 A YES.

14 Q APPROXIMATELY HOW MANY?

15 A 20, 30; SOMETIMES MORE.

16 Q DO YOU KNOW WHETHER ANY OF THOSE BODYGUARDS WERE D.F.S.
17 AGENTS?

18 A YES.

19 Q HOW DO YOU KNOW THAT?

20 A BECAUSE THESE WERE PEOPLE WHO WOULD ARRIVE AT MANUEL'S
21 HOUSE.

22 Q DID YOU SEE THEIR CREDENTIALS?

23 A YES.

24 Q NOW, WHEN WAS THE FIRST OCCASION THAT YOU SAW CARO QUINTERO
25 IN FRESNILLO?

1 A DURING THE MONTH OF JANUARY.
2 Q OF 1984?
3 A YES.
4 Q WHERE WAS THIS? WHERE IN FRESNILLO?
5 A AT THE EL FRESNO HOTEL.
6 Q AND DID YOU SEE CARO MEET WITH SOMEONE AT THAT TIME?
7 A WITH MANUEL CHAVEZ.
8 Q DID CARO GIVE ANY MONEY TO CHAVEZ AT THAT TIME?
9 A YES.
10 Q AND WHAT WAS THAT MONEY FOR?
11 A FOR HIM TO BUY RANCHES AND EQUIPMENT AND TO GIVE MONEY TO
12 THE POLICEMEN.
13 Q AND DID YOU ACCOMPANY CHAVEZ IN DELIVERING THE MONEY TO THE
14 POLICEMEN?
15 A YES.
16 Q WHEN WAS THE NEXT OCCASION THAT YOU SAW CARO IN FRESNILLO?
17 A FEBRUARY.
18 Q AND WHERE DID THIS TAKE PLACE?
19 A AT THE LA FORTUNA MOTEL.
20 Q DID YOU SEE CARO MEET WITH ANYONE ON THAT OCCASION?
21 A YES.
22 Q WHO WAS THAT?
23 A COMMANDER APARICIO, MANUEL CHAVEZ.
24 Q DO YOU KNOW WHAT OCCURRED DURING THAT MEETING?
25 MR. STOLAR: OBJECT TO THE HEARSAY.

1 THE COURT: YES. SUSTAINED, UNLESS HE WAS PRESENT.

2 BY MR. CARLTON:

3 Q WERE YOU PRESENT DURING THAT MEETING?

4 A YES.

5 Q AND WHAT OCCURRED DURING THAT MEETING?

6 MR. STOLAR: SAME OBJECTION, AS TO WHAT OTHER PEOPLE
7 SAID AT THE MEETING: HEARSAY. WHAT OTHER PEOPLE SAID IS
8 HEARSAY.

9 THE COURT: OVERRULED.

10 THE WITNESS: HE GOT TOGETHER WITH COMMANDER APARICIO
11 AND MANUEL CHAVEZ AND GAVE THEM MONEY FOR THEM TO CONTINUE ON
12 PURCHASING WHAT WAS NEEDED, AND TO GIVE THEM INSTRUCTIONS.

13 BY MR. CARLTON:

14 Q WAS THERE ANOTHER OCCASION THAT YOU SAW CARO IN FRESNILLO?

15 A YES.

16 Q WHEN WAS THAT?

17 A IN APRIL.

18 Q AND DID YOU SEE WITH WHOM HE MET ON THAT OCCASION?

19 A YES.

20 Q WHO DID HE MEET WITH?

21 A MANUEL CHAVEZ, MIKE RAMOS, DANIEL LUCERO, ANTONIO BRITO,
22 RAMIRO MIRELES, AND QUITE A FEW OTHER PEOPLE.

23 Q DID ANY OF THOSE INDIVIDUALS THAT YOU'VE JUST NAMED HAVE
24 ANY AFFILIATION WITH THE D.F.S.?

25 A YES.

1 Q WHO HAVE THE PEOPLE THAT YOU NAMED WERE AFFILIATED WITH THE
2 D.F.S.?

3 A MIKE RAMOS, DANIEL LUCERO, ANTONIO BRITO, AND I DON'T
4 REMEMBER THE NAMES OF THE OTHERS.

5 Q DID RAMOS AND LUCERO TO YOUR KNOWLEDGE HAVE ANY INVOLVEMENT
6 IN THE OPERATION OF THE MARIJUANA RANCHES?

7 A THEY WOULD PROTECT.

8 Q DID YOU EVER SEE CARO IN FRESNILLO MEETING WITH GALO
9 GUTIERREZ?

10 A YES. THEY GOT TOGETHER AT MANUEL CHAVEZ'S HOUSE.

11 Q DO YOU KNOW -- I'M SORRY. (PAUSE.)

12 DID YOU SEE ON THAT OCCASION ANY OTHER PERSONS THAT
13 CARO MET WITH?

14 A WELL, THERE WERE VARIOUS PEOPLE THERE.

15 Q WAS COMANDANTE VIELMA.

16 A WHO?

17 Q VIELMA. COMANDANTE VIELMA.

18 A YES.

19 Q AND DID YOU EVER LEARN THE PURPOSE OF THIS MEETING?

20 A YES.

21 Q HOW DID YOU LEARN THAT PURPOSE?

22 THE INTERPRETER: I'M SORRY, COUNSEL. I DIDN'T CATCH
23 THE QUESTION.

24 BY MR. CARLTON:

25 Q HOW DID YOU FIRST LEARN OF THE MEETING?

1 A THROUGH MANUEL CHAVEZ.

2 Q AND WHAT WAS THE PURPOSE OF THE MEETING?

3 MR. STOLAR: OBJECTION. HEARSAY.

4 THE COURT: SUSTAINED.

5 BY MR. CARLTON:

6 Q AT SOME POINT DURING THE PERIOD THAT YOU WERE WORKING FOR
7 MANUEL CHAVEZ, DID YOU INTRODUCE AGENT CAMARENA TO HIM?

8 A YES.

9 Q DO YOU RECALL WHEN THAT OCCURRED?

10 A NOVEMBER OF 83.

11 Q WHAT WAS THE PURPOSE OF YOUR INTRODUCING AGENT CAMARENA TO
12 MANUEL CHAVEZ?

13 A IT WAS FOR A HEROIN TRANSACTION.

14 Q HAD AGENT CAMARENA ASSUMED A FALSE IDENTITY WHEN YOU
15 INTRODUCED HIM TO MANUEL CHAVEZ?

16 A YES.

17 Q WHAT WAS THAT FALSE IDENTIFY?

18 A JAVIER QUINTERO.

19 Q AND WAS AGENT CAMARENA IMPERSONATING A DRUG DEALER AT THAT
20 TIME?

21 A YES.

22 Q DURING THE PERIOD THAT YOU WORKED FOR MANUEL CHAVEZ, WERE
23 YOU INVOLVED IN NEGOTIATIONS BETWEEN CHAVEZ AND CAMARENA FOR
24 THE PURCHASE OF HEROIN?

25 A YES.

1 Q AND WERE YOU INVOLVED IN THE SALE BY CHAVEZ OF
2 APPROXIMATELY SIX OUNCES OF HEROIN AT SOME POINT?

3 A YES.

4 Q WHEN DID THAT OCCUR?

5 A IN APRIL OF 84.

6 Q AND DID YOU CONTINUE TO NEGOTIATE WITH CHAVEZ FOR LARGER
7 QUANTITIES OF HEROIN?

8 A YES.

9 Q WAS THAT AT THE DIRECTION OF AGENT CAMARENA?

10 A YES.

11 Q AT SOME POINT, DID YOU LEARN THAT THE INVESTIGATION WAS
12 GOING TO BE ENDED?

13 A YES.

14 Q WHEN WAS THAT?

15 A TOWARD THE END OF MAY OF 84.

16 Q HOW DID YOU LEARN THAT?

17 A CAMARENA CALLED ME ON THE PHONE.

18 Q AND HE TOLD YOU THAT?

19 A YES.

20 Q DID YOU THEN MEET WITH HIM?

21 A YES.

22 Q WHEN DID YOU MEET WITH HIM?

23 A IN MAY, BUT I DON'T RECALL THE DATE.

24 Q WAS IT WITHIN A MATTER OF DAYS?

25 A YES.

1 Q WHERE DID YOU MEET WITH HIM?

2 A IN MONTERREY.

3 Q AND DID YOU THEN TRAVEL WITH AGENT CAMARENA SOMEWHERE ELSE?

4 A YES.

5 Q WHERE DID YOU TRAVEL TO?

6 A LAREDO, TEXAS.

7 Q DID YOU AND AGENT CAMARENA THEN DEVELOP A PLAN FOR BRINGING
8 THIS INVESTIGATION TO AN END?

9 A YES.

10 Q WHAT WAS THAT PLAN?

11 A TO TRY TO CATCH THE GREATEST PART POSSIBLE OF THE DRUGS.

12 Q AND WHEN YOU SAY "THE DRUGS," ARE YOU REFERRING TO HEROIN?

13 A AND MARIJUANA.

14 Q WERE YOU NEGOTIATING WITH CHAVEZ TO PURCHASE MARIJUANA FROM
15 HIM?

16 A YES.

17 Q HOW MUCH MARIJUANA WERE YOU NEGOTIATING FOR?

18 A 90 TONS.

19 Q AND IN THE COURSE OF YOUR EFFORTS TO PURCHASE MARIJUANA
20 FROM MANUEL CHAVEZ, DID YOU HAVE OCCASION TO FLY TO ZACATECAS
21 CITY?

22 A YES.

23 Q WHAT WAS THE PURPOSE OF YOUR DOING THAT?

24 A TO SEE THE QUALITY OF THE MARIJUANA AND TO SEE THE LANDING
25 STRIP AND THE MANNER IN WHICH IT WAS GOING TO BE PAID FOR.

1 Q NOW, WHEN YOU SAID, "TO SEE THE LANDING STRIP," WHAT WAS
2 THAT LANDING STRIP TO BE USED FOR?

3 A FOR THE PLANE THAT WE WERE GOING TO LOAD THE MARIJUANA
4 ONTO.

5 Q THE 90 TONS OF MARIJUANA?

6 A (NO AUDIBLE RESPONSE.)

7 Q THE 90 TONS OF MARIJUANA?

8 A IN PARTS.

9 Q NOW, WHEN YOU ARRIVED IN ZACATECAS CITY, WHAT HAPPENED?

10 A WE WERE RECEIVED BY MANUEL CHAVEZ.

11 Q WERE THERE ANY GUARDS IN THE AREA?

12 A YES. THERE WAS THE FEDERAL JUDICIAL POLICE AND THE D.F.S.,
13 AND ALSO THE CITY POLICE.

14 Q AFTER MEETING WITH MANUEL CHAVEZ, WHAT DID YOU DO?

15 A HE INTRODUCED US TO RAMIRO MIRELES.

16 Q AND WHO WAS RAMIRO MIRELES?

17 A THE SUPPOSED OWNER OF THE MARIJUANA.

18 Q DID YOU THEN TRAVEL SOMEWHERE ELSE?

19 A YES.

20 Q WHERE DID YOU TRAVEL TO?

21 A TO A GAS STATION.

22 Q WHAT DID YOU DO THERE?

23 A FROM THERE, WE WENT -- WE TOOK ANOTHER CAR.

24 Q AND DID YOU EVENTUALLY SEE SOME MARIJUANA?

25 A YES.

1 Q WHERE WAS THAT?

2 A ON THE OUTSKIRTS OF ZACATECAS CITY.

3 Q WAS THAT A RANCH?

4 A (NO AUDIBLE RESPONSE.)

5 Q WAS IT AT A RANCH?

6 A YES.

7 Q NOW, MR. GOMEZ, LOOKING AT THE PHOTOGRAPH WHICH IS ON THE
8 TABLE IN FRONT OF YOU, DO YOU RECOGNIZE THAT PHOTOGRAPH?

9 A YES.

10 Q WHAT IS IT?

11 A IT'S THE WAREHOUSE WHERE THE MARIJUANA WAS.

12 MR. MEZA: YOUR HONOR, MIGHT WE HAVE AN EXHIBIT
13 NUMBER, PLEASE?

14 THE COURT: YES. STATE THE EXHIBIT NUMBER, COUNSEL.

15 MR. CARLTON: I BELIEVE, YOUR HONOR, THIS IS EXHIBIT

16 B B.

17 Q AFTER SEEING THE MARIJUANA, DID YOU THEN RETURN TO LAREDO?

18 A TO THE ZACATECAS AIRPORT.

19 Q AND FROM THERE, DID YOU RETURN TO LAREDO?

20 A NO.

21 Q WHERE DID YOU GO FROM THERE?

22 A TO MEASURE THE AIRSTRIP WHERE WE WERE GOING TO LOAD THE
23 MARIJUANA.

24 Q I SEE. AND AFTER DOING THAT, DID YOU EVENTUALLY RETURN TO
25 LAREDO?

1 A YES.

2 Q AND DID YOU TELL AGENT CAMARENA WHAT YOU HAD SEEN?

3 A YES.

4 Q DID YOU PROVIDE HIM WITH THE LOCATION OF THE RANCH AT WHICH
5 YOU'D SEEN THE MARIJUANA?

6 A YES.

7 Q AND THEN DID YOU PARTICIPATE IN EFFORTS TO PURCHASE HEROIN
8 FROM MANUEL CHAVEZ?

9 A YES.

10 Q DID YOU CONTACT MANUEL CHAVEZ BY TELEPHONE IN THIS REGARD?

11 A YES.

12 Q DID YOU MAKE ARRANGEMENTS WITH HIM FOR HIM TO DELIVER
13 HEROIN?

14 A YES.

15 Q WHERE WAS THE HEROIN TO BE DELIVERED?

16 A IN MC ALLEN, TEXAS.

17 Q AND WAS THE HEROIN EVENTUALLY DELIVERED BY CHAVEZ TO MC
18 ALLEN?

19 A YES.

20 Q WAS IT DELIVERED -- WELL, WHERE DID YOU MEET WITH CHAVEZ IN
21 RELATION TO ACQUIRING THIS HEROIN?

22 A IN REYNOSA, TAMAULIPAS.

23 Q DID YOU AND CHAVEZ THEN ATTEMPT TO CROSS THE BORDER AT MC
24 ALLEN?

25 THE INTERPRETER: TO WHERE, COUNSEL? EXCUSE ME.

1 MR. CARLTON: TO CROSS THE BORDER.

2 THE WITNESS: YES.

3 BY MR. CARLTON:

4 Q AND WAS MANUEL CHAVEZ ALLOWED TO CROSS THE BORDER?

5 A NO.

6 Q DID YOU CONTINUE ON AND MEET WITH AGENT CAMARENA?

7 A YES.

8 Q DID YOU DRIVE A CAR THAT MANUEL CHAVEZ HAD GIVEN TO YOU?

9 A YES.

10 Q WHAT DID CHAVEZ DO THERE?

11 A HE WENT BACK TO REYNOSA.

12 Q NOW, WHEN YOU MET WITH AGENT CAMARENA, WAS THE CAR GIVEN TO
13 YOU BY CHAVEZ SEARCHED IN YOUR PRESENCE?

14 A YES.

15 Q WAS SOMETHING FOUND IN THAT CAR?

16 A YES.

17 Q WHAT WAS FOUND?

18 A HEROIN.

19 Q NOW, DID AGENT CAMARENA LEAVE YOU AT THAT TIME?

20 A YES.

21 Q AND WHERE DID HE GO TO?

22 A TO REYNOSA.

23 Q FOR WHAT PURPOSE?

24 A I DON'T KNOW. I DON'T KNOW.

25 Q DID YOU EVER SEE HIM AGAIN?

1 A NO.

2 THE COURT: WE'LL TAKE OUR AFTERNOON RECESS, OUR NOON
3 RECESS, AT THIS TIME. WE WILL RECONVENE AT 1:30.

4 PLEASE KEEP IN MIND, LADIES AND GENTLEMEN, YOUR DUTY
5 NOT DISCUSS THIS CASE WITH EACH OTHER OR ANYONE ELSE.

6 (COMMOTION IN COURTROOM.)

7 THE COURT: ORDER IN THE COURT. COURT IS STILL IN
8 SESSION. ORDER. I'M TRYING TO INSTRUCT JURY.

9 PLEASE KEEP IN MIND YOUR DUTY NOT TO DISCUSS THIS CASE
10 WITH EACH OTHER OR WITH ANYONE ELSE, NOT TO READ, SEE OR HEAR
11 ANYTHING ABOUT THIS CASE AND NOT TO FORM OR EXPRESS ANY OPINION
12 OR CONCLUSION ABOUT IT UNTIL IT HAS BEEN SUBMITTED TO YOU.

13 WE'LL ADJOURN UNTIL 1:30.

14 THE CLERK: PLEASE RISE.

15 THE CLERK: YOU MAY BE SEATED.

16 (JURY ABSENT:)

17 THE COURT: DID ONE OF YOU WANT TO TAKE SOMETHING UP
18 WITH THE COURT.

19 MS. KELLY: YOUR HONOR, JUST BRIEFLY, I JUST WANTED TO
20 THIS OPPORTUNITY TO RENEW THE SEVERANCE MOTION I FILED ON
21 BEHALF OUR CLIENT, JUAN JOSE BERNABE RAMIREZ, BASED ON THE
22 CROSS-EXAMINATION OF MR. STOLAR AND RULE 14 DEFENSES. I JUST
23 WANTED TO DO THAT OUTSIDE OF THE PRESENCE OF THE JURY, YOUR
24 HONOR.

25 THE COURT: WELL, IF YOU WISH TO FILE A WRITTEN

1 MOTION, I THINK THAT'S WAY YOU SHOULD DO IT.

2 WHAT IS THE BASIS OF THIS NEW MOTION?

3 MS. KELLY: YOUR HONOR, I HAD FILED A SEVERANCE MOTION
4 BEFOREHAND.

5 THE COURT: YES, I KNOW; AND IT'S BEEN RULED ON.

6 MS. KELLY: YES, YOUR HONOR, I KNOW; AND I'M TRYING TO
7 PRESERVE THE RECORD BY RENEWING IT.

8 MR. STOLAR IS SEEKING TO ELICIT EVIDENCE THROUGH
9 CROSS-EXAMINATION WHICH I BELIEVE IS INCONSISTENT TO MY
10 CLIENT'S DEFENSE AND HARMFUL TO HIS INTERESTS. SO I'M TRYING
11 TO PRESERVE THE RECORD BY RENEWING IT.

12 THE COURT: WELL, DO YOU WANT TO BE SPECIFIC ABOUT
13 WHAT YOU'RE REFERRING TO? WHAT IS THE EVIDENCE THAT YOU
14 INTRODUCED?

15 MS. KELLY: YOUR HONOR, MR. STOLAR IS REPEATEDLY
16 ELICITING INFORMATION ABOUT THE CARTEL AND THE MARIJUANA
17 CARTEL. AND I BELIEVE THE GOVERNMENT IS GOING TO ASSOCIATE MY
18 CLIENT WITH ERNESTO FONSECA.

19 AND I BELIEVE THAT BASED ON MR. STOLAR'S
20 REPRESENTATIONS TO ME AS TO WHAT HIS DEFENSE IS WITH RESPECT TO
21 THE MARIJUANA ENTERPRISE VERSUS THE COCAINE ENTERPRISE, THAT
22 HIS -- IN EFFECT, HE'S ESTABLISHING THE MOTIVE FOR THE
23 GOVERNMENT. I MEAN, HE'S ESTABLISHING THE GOVERNMENT CASE AS
24 WELL AS THE GOVERNMENT ESTABLISHING THEIR CASE, YOUR HONOR.

25 THE COURT: THE MOTION IS DENIED.

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MS. KELLY: THANK YOU.

THE CLERK: PLEASE RISE.

(NOON RECESS.)

---0---

1 LOS ANGELES + CALIFORNIA, WEDNESDAY, MAY 16, 1990
2 + 1:30 P.M.

3 (JURY PRESENT:)

4 THE COURT: YOU MAY PROCEED.

5
6 JUAN FERNANDEZ, ALSO + KNOWN AS GUADALUPE GAMES,
7 PLAINTIFF'S WITNESS + SWORN

8
9 DIRECT EXAMINATION + (RESUMED)

10 BY MR. CARLTON:

11 Q MR. GOMEZ, IS THE NAME GUADALUPE GOMEZ A NAME THAT YOU USE
12 IN YOUR WORK AS A D.E.A. INFORMANT?

13 A (TESTIFYING THROUGH INTERPRETER:) YES.

14 Q IS THAT YOUR REAL NAME?

15 A NO.

16 Q DO YOU USE THAT NAME FOR YOUR PROTECTION?

17 A YES.

18 Q NOW, HAVE YOU BEEN PAID FOR YOUR WORK AS A D.E.A.
19 INFORMANT?

20 A YES.

21 Q HOW MANY INVESTIGATIONS, IF YOU KNOW, HAVE YOU WORKED ON
22 FOR THE D.E.A.?

23 A MORE THAN 80.

24 Q DO YOU KNOW HOW MUCH MONEY YOU'VE BEEN PAID IN TOTAL FOR
25 THOSE INVESTIGATIONS?

1 A MORE OR LESS.

2 Q AND HOW MUCH WAS THAT?

3 A OVER \$200,000.00.

4 Q HOW MUCH HAVE YOU BEEN PAID BY THE D.E.A. FOR YOUR WORK IN
5 RELATION TO THIS PARTICULAR INVESTIGATION?

6 A ABOUT \$15,000.00.

7 MR. CARLTON: CAN WE MOVE THE MICROPHONE A LITTLE BIT
8 CLOSER?

9 THE COURT: WELL, THE WITNESS NEEDS TO SPEAK UP.

10 (MICROPHONE MOVED CLOSER TO WITNESS.)

11 BY MR. CARLTON:

12 Q AND HOW MUCH WERE YOU PAID IN TOTAL FOR YOUR WORK ON THE
13 ZACATECAS INVESTIGATION THAT YOU'VE TESTIFIED ABOUT TODAY?

14 A OVER \$40,000.00.

15 Q AND WAS A PORTION OF THAT A REWARD OF SOME SORT?

16 A YES.

17 Q HOW MANY YEARS HAVE YOU WORKED FOR THE D.E.A.?

18 A NINE YEARS.

19 MR. CARLTON: NOTHING FURTHER AT THIS TIME, YOUR
20 HONOR.

21 THE COURT: YOU MAY CROSS-EXAMINE THE WITNESS.

22 CROSS-EXAMINATION +

23 BY MR. STOLAR:

24 Q MR. GOMEZ -- OR IS IT FERNANDEZ?

25 A GOMEZ.

1 Q OR FERNANDEZ?

2 A FERNANDEZ.

3 Q HAVE YOU EVER TESTIFIED BEFORE IN A CASE FOR THE D.E.A.?

4 A YES.

5 Q HOW MANY TIMES, ABOUT?

6 A ONCE.

7 Q IN A TRIAL BEFORE A JURY?

8 A YES.

9 Q AND YOU PREPARED YOUR TESTIMONY FOR TODAY BY SITTING DOWN
10 AND TALKING TO MR. CARLTON ABOUT WHAT YOU WERE GOING TO SAY?

11 A YES.

12 Q ROUGHLY HOW MANY TIMES DID YOU SIT DOWN AND DISCUSS WITH
13 HIM WHAT YOUR TESTIMONY WAS GOING TO BE?

14 A THREE OR FOUR TIMES.

15 Q AND CAN YOU TELL US ROUGHLY HOW MUCH TIME YOU'D SPEND WITH
16 HIM EACH TIME YOU'D TALK ABOUT YOUR TESTIMONY?

17 A A COUPLE OF HOURS. I DON'T KNOW EXACTLY.

18 Q A COUPLE OF HOURS EACH TIME?

19 A POSSIBLY MORE, POSSIBLY LESS.

20 Q WHEN WAS THE LAST TIME YOU TALKED TO HIM ABOUT WHAT YOU
21 WERE GOING TO SAY?

22 A LAST MONDAY.

23 Q AND HAVE YOU SAT DOWN AND ALSO TALKED WITH ANY OF THE
24 AGENTS ABOUT WHAT YOUR TESTIMONY WAS GOING TO BE INDEPENDENTLY
25 OF MR. CARLTON?

1 A WELL, THE ONES THAT INTERPET FOR ME.

2 Q ALL RIGHT. THAT WAS ONLY WITH MR. CARLTON, OR WERE THERE
3 TIMES THAT YOU TALKED ABOUT YOUR TESTIMONY WHEN MR. CARLTON
4 WASN'T THERE?

5 A MR. CARLTON WAS PRESENT.

6 Q WERE THERE TIMES YOU TALKED TO THE AGENTS WITHOUT MR.
7 CARLTON BEING PRESENT?

8 A NOT ABOUT THE CASE.

9 Q ABOUT YOUR TESTIMONY?

10 A WELL, I HAD TO SPEAK WITH MR. CARLTON, NOT WITH THE AGENTS.

11 Q DID THE AGENTS GIVE YOU INSTRUCTIONS AS TO HOW TO TESTIFY,
12 HOW TO SIT IN THE WITNESS BOX?

13 A NO.

14 Q DID MR. CARLTON?

15 A YES.

16 Q DID YOU ALSO GO OVER SOME DOCUMENTS, ANY DOCUMENTS, IN
17 PREPARATION FOR YOUR TESTIMONY?

18 A YES.

19 Q WHAT KINDS OF DOCUMENTS DID YOU GO OVER?

20 A THE ONES THAT THERE WERE, THE REPORTS.

21 Q REPORTS THAT YOU MADE?

22 A HAVING TO DO WITH MY INFORMATION.

23 Q IN OTHER WORDS, REPORTS THAT SOMEBODY ELSE MADE ABOUT
24 THINGS THAT YOU TOLD THEM?

25 A THAT IS CORRECT.

1 Q THAT'S NOT ALL YOU REVIEWED, THOUGH, IS IT?

2 A (LAUGHTER.) WELL, WHO DID IT: YOU OR I?

3 Q I'M ASKING YOU: WEREN'T THERE OTHER THINGS THAT YOU READ
4 OVER, OTHER DOCUMENTS?

5 A AND I AM ANSWERING YOU: NO.

6 Q YOU DIDN'T LOOK AT THE PRIOR TESTIMONY THAT YOU GAVE?

7 A NO.

8 Q DID ANYBODY ELSE READ YOUR PRIOR TESTIMONY TO YOU SO YOU'D
9 KNOW WHAT YOU SAID BEFORE THE GRAND JURY?

10 A NO.

11 Q DID YOU READ -- DID YOU GO OVER THE TRANSCRIPT OF A
12 TELEPHONE CALL THAT WAS RECORDED THAT YOU MADE?

13 A THIS TIME? NO.

14 Q NOT IN PREPARATION FOR YOUR TESTIMONY IN THIS TRIAL?

15 A NO.

16 Q DID YOU GO OVER THE RECORDS, THE REPORTS, OF THE AMOUNTS OF
17 MONEY THAT YOU'D RECEIVED OVER THE NINE YEARS? DID YOU READ
18 THOSE BEFORE YOU TESTIFIED?

19 A YES.

20 (MR. STOLAR CONFERS WITH CO-COUNSEL OFF THE RECORD.)

21 BY MR. STOLAR:

22 Q ROUGHLY 10 PAGES DETAILING YOUR NINE YEARS OF COLLECTING
23 MONEY FROM D.E.A.; RIGHT?

24 A NO.

25 Q NOT 10 PAGES?

1 A I DIDN'T SEE 10 PAGES.

2 Q 13 PAGES?

3 A LESS.

4 MR. STOLAR: 13 PAGES. THANK YOU.

5 THE COURT: DO YOU WISH TO CROSS-EXAMINE THIS WITNESS?

6 MR. MEZA: YES. THANK YOU.

7 CROSS-EXAMINATION +

8 BY MR. MEZA:

9 Q WHAT IS YOUR TRUE NAME?

10 A JUAN FERNANDEZ.

11 Q SO WHEN THE CLERK ASKED YOU TO GIVE YOUR NAME, YOU WEREN'T
12 BEING TRUTHFUL WITH HER WHEN YOU RAISED YOUR HAND AND SWORE
13 UNDER OATH TO TELL THE TRUTH; ISN'T THAT RIGHT?

14 A I DIDN'T EVEN HEAR WHEN SHE ASKED ME FOR MY NAME.

15 Q YOU DIDN'T HEAR HER ASK FOR YOUR NAME?

16 A NO.

17 Q IN OTHER WORDS, DO YOU RECALL GIVING THE NAME, INITIALLY,
18 OF GUADALUPE GOMEZ? DO YOU RECALL DOING THAT?

19 A THAT'S THE ONE THAT I USE.

20 Q RIGHT. NOW, YOU TOLD US THAT YOU USED THE GOMEZ NAME TO
21 PROTECT YOURSELF; RIGHT?

22 A YES.

23 Q WHEN WERE YOU FIRST INTRODUCED TO AGENT CAMARENA.

24 A IN 1983.

25 Q AND WHICH NAME DID YOU USE WHEN YOU IDENTIFIED YOURSELF TO

1 AGENT CAMARENA?

2 A JUAN.

3 Q JUAN FERNANDEZ?

4 A JUST JUAN.

5 Q ARE YOU SAYING, THEN, FOR THE PERIOD OF TIME THAT YOU KNEW
6 AGENT CAMARENA, HE ONLY KNEW YOU BY THE NAME OF JUAN?

7 A AND ALSO BY THE OTHER NAMES THAT I WAS USING UNDERCOVER.

8 Q HOW MANY OTHER NAMES WERE THERE THAT AGENT CAMARENA KNEW
9 YOU BY?

10 A AS JOSE.

11 Q I'M ASKING FOR HOW MANY. WHAT IS THE NUMBER OF NAMES THAT
12 YOU USED?

13 A THREE.

14 Q AND WHAT WERE THOSE NAMES?

15 A GUADALUPE GOMEZ, JUAN, AND JOSE, WHEN I WAS INVESTIGATING A
16 CASE.

17 Q DID YOU EVER TELL AGENT CAMARENA THAT YOUR NAME WAS JUAN
18 FERNANDEZ?

19 A THERE WAS NEVER ANY NEED.

20 Q WELL, MY QUESTION IS: DID YOU EVER TELL HIM THAT, WHAT
21 YOUR NAME WAS?

22 A JUST JUAN.

23 Q NOW, DO YOU KNOW A D.F.S. AGENT OR SOMEONE WHO WAS A D.F.S.
24 AGENT BY THE NAME OF FEDERICO DEL ORO CASTEL?

25 A I DON'T REMEMBER.

1 Q DIRECTING YOUR ATTENTION TO ON OR ABOUT MAY 25TH 1984 AND
2 THE HEROIN DEAL THAT WAS SET UP, DID YOU SET UP A HEROIN DEAL
3 BETWEEN MR. CHAVEZ AND A D.E.A. AGENT BY THE NAME OF ALVAREZ?

4 A YES.

5 Q AND DID THIS HEROIN DEAL, DID THAT ARISE OUT OF THE SAME
6 COMMUNICATIONS YOU TOLD US ABOUT CONCERNING AGENT CAMARENA?

7 A YES.

8 Q WHEN MR. CHAVEZ AND YOU ATTEMPTED TO CROSS THE BORDER FROM
9 REYNOSA TO TEXAS, HE WAS STOPPED; CORRECT?

10 A YES.

11 Q AND HAD YOU EVER ATTEMPTED TO MAKE A CROSSING FROM MEXICO
12 INTO TEXAS WITH MR. CHAVEZ PREVIOUS TO THAT TIME?

13 A WE HAD ALREADY CROSSED ONCE.

14 Q ALL RIGHT. HAD MR. CHAVEZ -- YOU'RE TALKING ABOUT YOURSELF
15 AND MR. CHAVEZ ALREADY CROSSED ONCE; IS THAT RIGHT?

16 A YES.

17 Q OTHER THAN THE TIME YOU TOLD US ABOUT, WAS THERE ANY OTHER
18 TIME THAT YOU AND MR. CHAVEZ CROSSED FROM MEXICO INTO TEXAS
19 WHERE MR. CHAVEZ WAS NOT PERMITTED OR NOT ALLOWED TO ENTER THE
20 UNITED STATES?

21 A NO. IT DID NOT HAPPEN ANOTHER TIME.

22 Q THAT WAS THE ONLY TIME, ON MAY 25TH OR 26TH; RIGHT?

23 A THAT'S CORRECT.

24 Q NOW, YOU SAID YOU DROVE A CAR ACROSS THE BORDER ON THAT
25 DATE THAT WAS GIVEN TO YOU BY MR. CHAVEZ; CORRECT?

1 A COULD ASK YOU THE QUESTION AGAIN?

2 Q YOU DROVE A CAR ACROSS THE BORDER, DID YOU NOT, FROM MEXICO
3 TO TEXAS?

4 A YES.

5 Q AND THAT CAR WAS PROVIDED TO YOU BY MR. CHAVEZ; CORRECT?

6 A YES.

7 Q AND THIS CAR WAS SUPPOSED TO CONTAIN HEROIN; RIGHT?

8 A CORRECT.

9 Q AND THIS WAS IN CONNECTION WITH THIS HEROIN DEAL THAT YOU
10 SAID WAS SET UP; RIGHT?

11 A YES.

12 Q WELL, ISN'T IT TRUE THAT IT WASN'T A HEROIN DEAL, IT WAS A
13 MARIJUANA DEAL?

14 A NO. IT WAS A HEROIN DEAL THAT WE DID.

15 Q OKAY. DO YOU RECALL TESTIFYING BEFORE A FEDERAL GRAND JURY
16 IN THE CENTRAL DISTRICT OF CALIFORNIA ON MAY 13TH 1987?

17 A YES.

18 Q AND BY THE WAY, YOU IDENTIFIED YOURSELF AT THAT HEARING AS
19 GUADALUPE GOMEZ; IS THAT RIGHT?

20 A JOSE GUADALUPE GOMEZ.

21 Q AND DO YOU REMEMBER BEING ASKED YOUR NAME WHEN YOU WERE
22 FIRST INTRODUCED TO THE GRAND JURY?

23 A I GAVE THAT NAME.

24 Q RIGHT. AND YOU WERE UNTRUTHFUL WITH THEM, WEREN'T YOU?
25 BECAUSE THAT ISN'T YOUR REAL NAME, IS IT?

1 A IT'S THE NAME THAT I WORK WITH.

2 Q DID YOU TELL THE GRAND JURY THAT THAT WAS THE NAME YOU
3 WORKED WITH?

4 MR. CARLTON: OBJECTION, YOUR HONOR. HE ONLY
5 RESPONDED TO THE QUESTIONS ASKED IN FRONT OF THE GRAND JURY.

6 THE COURT: I DIDN'T HEAR YOU, COUNSEL. SPEAK UP.

7 MR. CARLTON: OH. THIS IS AN IMPROPER QUESTION. HE
8 ASKED WHETHER THE WITNESS HAD TOLD GRAND JURY SOMETHING, AND
9 THAT LACKS FOUNDATION.

10 THE COURT: YES. THE OBJECTION IS SUSTAINED.

11 BY MR. MEZA:

12 Q WELL, YOU WERE ASKED TO STATE YOUR NAME, WEREN'T YOU?

13 A NO.

14 Q I'M REFERRING TO THAT GRAND JURY TRANSCRIPT AT PAGE 3, LINE
15 3 THROUGH 6.

16 AND WEREN'T YOU ASKED THE FOLLOWING QUESTION BY THE
17 FOREPERSON, QUOTE:

18 "STATE YOUR NAME AND SPELL IT FOR COURT REPORTER."

19 AND YOU ANSWERED:

20 "GUADALUPE JOSE, GUADALUP GOMEZ, G O M E Z," END QUOTE.

21 DIDN'T YOU SAY THAT?

22 A I SAID JOSE GUADALUPE GOMEZ.

23 Q THANK YOU. DIDN'T ALSO TELL THAT GRAND JURY THAT YOU HAD
24 NEGOTIATED A MARIJUANA DEAL BETWEEN MR. CHAVEZ AND THE D.E.A.?

25 A AS WELL. WE DID TWO DEALS.

1 Q WELL, DIDN'T YOU TELL THE GRAND JURY THAT YOU DROVE THE CAR
2 ACROSS THE BORDER AND THAT THE CAR HAD MARIJUANA IN IT?

3 A THE CAR THAT I CROSSED IN HAD HEROIN.

4 Q WELL, I'M NOT ASKING YOU ABOUT THAT. I'M ASKING YOU WHAT
5 YOU TOLD THE GRAND JURY.

6 THE COURT: COUNSEL, YOU CAN READ FOR THE JURY WHAT HE
7 TOLD THE GRAND JURY IF YOU WANT TO.

8 MR. MEZA: THANK YOU. THANK YOU. I WOULD ASK COUNSEL
9 TO DIRECT THEIR ATTENTION, IF THEY CHOOSE, TO PAGE 24, 25, 26,
10 AND 27 OF THE MAY 13TH 1987 GRAND JURY TRANSCRIPT, BEGINNING AT
11 LINE 5 ON PAGE 24:

12 "Q AFTER YOU INSPECTED THE AIRSTRIP, WHAT DID HE DO AT THAT
13 TIME?

14 "A WE RETURNED TO THE ZACATECAS AIRPORT. WE SAID GOODBYE
15 THERE AT THE AIRPORT. BEFORE LEAVING, I SAID TO MANUEL TO GET
16 THE MARIJUANA READY, TOO, BECAUSE MY BOSS IS INTERESTED IN
17 DOING BUSINESS WITH HIM.

18 "Q WHEN YOU REFER TO YOUR BOSS, ARE YOU REFERRING TO SPECIAL
19 AGENT CAMARENA?

20 "A THAT IS SO.

21 "Q HOW MUCH MARIJUANA WAS NEGOTIATED OR WHAT QUANTITY?

22 "A WE WERE TRYING TO -- WE WERE GOING THE TRY ASK FOR SEVEN
23 KILOS," END QUOTE.

24 Q YOU TOLD US ABOUT A 90-KILO DEAL; RIGHT?

25 A WHAT ARE YOU TALKING ABOUT: THE MARIJUANA OR HEROIN?

1 Q I'M TALKING ABOUT WHAT YOU TESTIFIED TO AT THE GRAND JURY.

2 A I THINK THAT'S INCORRECTLY TRANSCRIBED.

3 Q SO YOU'RE SAYING THE COURT REPORTER MADE THE MISTAKE; IS
4 THAT RIGHT?

5 A WHOEVER WROTE THAT.

6 Q OKAY.

7 Q I'LL CONTINUE. QUOTE, AND THIS IS AT LINE 19:

8 "AFTER YOU HAD THIS CONVERSATION WITH MANUEL CHAVEZ ABOUT
9 THE MARIJUANA, WHAT HAPPENED NEXT?

10 "A WE FLEW BACK THE LAREDO.

11 "Q DID YOU MEET WITH ENRIQUE CAMARENA AT THAT TIME?

12 "A THAT IS SO.

13 "Q DID YOU RELATE TO ENRIQUE CAMARENA WHAT YOU HAD" --

14 THE COURT: SLOW DOWN, BECAUSE THIS HAS TO BE
15 TRANSLATED.

16 MR. MEZA: YES. I'M SORRY, YOUR HONOR.

17 "A THAT IS SO.

18 "Q WHAT DID SPECIAL AGENT CAMARENA SAY?

19 "A THAT WE WERE GOING TO MAKE THE NECESSARY CALLS FOR THE
20 PURCHASE OF THE MARIJUANA, TOO, AND WE MOVED TO ANOTHER CITY.

21 "Q WHAT HAPPENED NEXT?

22 "A WE WENT TO MC ALLEN.

23 "Q MC ALLEN, TEXAS?

24 "A YES. FROM THERE, MANUEL WAS CALLED, FOR HIM TO MAKE THE
25 DELIVERY OF MARIJUANA TO US IN MC ALLEN. HE WAS READY WITH THE

1 MONEY.

2 "Q WHAT DID MANUEL CHAVEZ SAY?

3 "A THAT EVERYTHING WAS OKAY, THAT WHEN HE GOT TO REYNOSA HE
4 WOULD CALL US RIGHT AWAY.

5 "Q DID MANUEL CHAVEZ IN FACT CALL FROM YOU REYNOSA?

6 "A THAT IS SO.

7 "Q WAS THAT AGAIN IN MAY 1984?

8 "A THAT IS SO.

9 "Q WHAT DID MANUEL CHAVEZ SAY WHEN HE CALLED?

10 "A THAT EVERYTHING WAS READY.

11 "Q DID MANUEL CHAVEZ SAY THAT HE HAD THE SIX OR SEVEN KILOS OF
12 MARIJUANA, OR HOW MUCH DID HE HAVE?

13 "A HE DIDN'T GIVE US AN EXACT AMOUNT.

14 "Q WHAT ELSE DID MANUEL CHAVEZ SAY.

15 "HE SAID THAT HE WAS READY TO DO BUSINESS, TO GO PICK HIM
16 UP IN REYNOSA.

17 "Q WHAT HAPPENED NEXT?

18 "A I WENT. AN AGENT TOOK ME TO A BLOCK AWAY FROM HIS HOTEL.

19 "Q THIS WAS IN MEXICO?

20 "A YES, IN REYNOSA.

21 "Q DID YOU MEET WITH MANUEL CHAVEZ AT HIS HOTEL?"

22 THE COURT: COUNSEL, I DIDN'T MEAN FOR YOU TO READ THE
23 ENTIRE GRAND JURY TESTIMONY.

24 IF THERE ARE SOME ANSWERS IN THERE THAT ARE
25 INCONSISTENT WITH THE WITNESS'S IN-COURT TESTIMONY, YOU SHOULD

1 FOCUS ON THOSE AND READ THOSE. IF YOU'VE ALREADY DONE, THEN I
2 THINK YOU SHOULD STOP.

3 MR. MEZA: YOUR HONOR, I WAS TRYING TO KEEP IT IN
4 CONTEXT, BUT I'LL EDIT AS MUCH AS I CAN. (PAUSE.) OKAY.

5 "Q WHAT HAPPENED AT THAT MEETING?

6 "A HE TOLD ME, 'WE'RE READY, WE'RE READY,' AND WE GOT INTO THE
7 CAR. WE HEADED FOR MC ALLEN. WE WERE STOPPED BY THE MEXICAN
8 POLICE AS WE ENTERED THE INTERNATIONAL BRIDGE, AND WE HAD TO
9 GIVE MONEY, BUT THEY WOULDN'T LET MANUEL GO BY OR CROSS."

10 AND I'M EDITING:

11 "Q SO WHAT HAPPENED AT THAT TIME?

12 "A MANUEL WENT BACK TO THE MOTEL AND I DROVE THE CAR OVER TO
13 MC ALLEN.

14 "Q DID THE CAR HAVE MARIJUANA IN IT?

15 "A THAT IS SO.

16 "Q DID YOU TAKE THE MARIJUANA TO THE D.E.A. OFFICE?

17 "A THAT IS SO.

18 "Q AND DID YOU MEET WITH SPECIAL AGENT CAMARENA?

19 "A THAT IS SO.

20 "Q DID YOU TELL SPECIAL AGENT CAMARENA WHAT HAD HAPPENED?

21 "A YES.

22 "Q WHAT DID SPECIAL AGENT CAMARENA SAY?

23 "A THAT -- OR -- THEY WENT TO GET IT OUT OF THE CAR AND WEIGH
24 IT.

25 "Q THIS WAS THE MARIJUANA?

1 "A THAT IS SO.

2 "WHAT HAPPENED NEXT?"

3 THE COURT: COUNSEL, I THINK THAT'S ENOUGH. IF YOU
4 ASK QUESTIONS OF THIS WITNESS AND, BASED ON HIS ANSWERS, IF YOU
5 WANT TO READ FROM THE GRAND JURY TESTIMONY, THAT'S FINE; BUT I
6 DON'T THINK YOU CAN JUST GO ON READING IT.

7 MR. MEZA: NO. I WAS JUST FINISHING UP. I WAS TRYING
8 TO ESTABLISH WHAT HIS TESTIMONY WAS.

9 THE COURT: WELL, ASK THE WITNESS A QUESTION.

10 BY MR. MEZA:

11 Q DIDN'T YOU TESTIFY TO THAT IN FRONT OF THE GRAND JURY, ALL
12 THAT I'VE JUST QUOTED?

13 A (SPEAKS IN SPANISH.)

14 Q YES OR NO: DID YOU TESTIFY TO IT OR NOT?

15 THE COURT: JUST A MOMENT. (PAUSE.)

16 THE WITNESS: THE WAY -- (PAUSE.)

17 THE COURT: GO AHEAD.

18 THE WITNESS: THE WAY HE READ IT, IT'S WRITTEN
19 INCORRECTLY.

20 BY MR. MEZA:

21 Q SO YOU THINK THERE WAS A PROBLEM IN WHAT, THE TRANSLATION?

22 A THAT'S POSSIBLE.

23 Q WELL, WHAT OTHER POSSIBLY WOULD THERE BE?

24 MR. MEDRANO: OBJECTION. THAT CALLS FOR SPECULATION.

25 THE COURT: SUSTAINED.

1 BY MR. MEZA:

2 Q WELL, IF THERE WASN'T A MISTAKE, THEN THAT'S EXACTLY WHAT
3 YOU TESTIFIED TO; ISN'T THAT RIGHT?

4 A I TESTIFIED THE TRUTH.

5 Q WELL, THE REPORTER TOOK IT DOWN. IS IT YOUR POSITION,
6 THEN, THAT THE REPORTER MADE A MISTAKE?

7 MR. CARLTON: OBJECTION, YOUR HONOR. THIS IS ASKED
8 AND ANSWERED.

9 THE COURT: SUSTAINED.

10 BY MR. MEZA:

11 Q YOU TOLD US ABOUT A SALE OF HEROIN IN APRIL 1984 CONCERNING
12 CHAVEZ AND THE D.E.A.; RIGHT?

13 A THAT IS CORRECT.

14 Q AND YOU ALSO TESTIFIED TO THAT HEROIN SALE IN FRONT OF THIS
15 GRAND JURY, DID YOU NOT?

16 A I DON'T REMEMBER, BUT IT'S POSSIBLE.

17 MR. MEZA: WELL, IF I CAN REFRESH THE WITNESS'S
18 RECOLLECTION BY READING THE SAME TRANSCRIPT, AT PAGE 29, LINES
19 12 THROUGH 16, QUESTION, QUOTE:

20 "ONE POINT THAT I FORGOT TO MENTION. IN APRIL 1984, DURING
21 HOLY WEEK, DID YOU HAVE OCCASION TO BE PRESENT WITH MANUEL
22 CHAVEZ WHEN HE DISTRIBUTED A SIX-OUNCE QUANTITY OF HEROIN?

23 "A THAT IS SO," END QUOTE.

24 Q YOU TESTIFIED TO THAT, DIDN'T YOU?

25 A THAT'S CORRECT.

1 MR. MEZA: I HAVE NOTHING FURTHER.

2 THE COURT: ANY CROSS-EXAMINATION OF THIS WITNESS?

3 MR. MEDVENE: WE HAVE NO QUESTIONS, YOUR HONOR.

4 MR. NICOLAYSEN: NOTHING, YOUR HONOR.

5 THE COURT: ANY REDIRECT?

6 MR. CARLTON: NOTHING, YOUR HONOR.

7 THE COURT: THE WITNESS MAY STEP DOWN.

8 MR. CARLTON: YOUR HONOR, THE GOVERNMENT CALLS MARIO
9 ALVAREZ TO THE STAND.

10 THE COURT: ALL RIGHT.

11 (WITNESS SUMMONED TO COURTROOM.)

12 THE COURT: THIS WAY, PLEASE.

13 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

14

15 MARIO LUIS ALVAREZ + PLAINTIFF'S WITNESS, SWORN

16

17 THE CLERK: PLEASE BE SEATED. PLEASE STATE YOUR FULL
18 NAME FOR THE RECORD AND SPELL YOUR LAST NAME.

19 THE WITNESS: MARIO LUIS ALVAREZ, A L V A R E Z.

20 DIRECT EXAMINATION +

21 BY MR. CARLTON:

22 Q MR. ALVAREZ, BY WHOM ARE YOU EMPLOYED?

23 A I'M A SPECIAL AGENT WITH THE DRUG ENFORCEMENT
24 ADMINISTRATION.

25 Q HOW LONG HAVE YOU BEEN EMPLOYED IN THAT POSITION?

1 A APPROXIMATELY 19 YEARS.

2 Q WHERE ARE YOU PRESENTLY ASSIGNED?

3 A THE MC ALLEN, TEXAS, DISTRICT OFFICE.

4 Q WHEN WERE YOU FIRST ASSIGNED TO THAT OFFICE?

5 A IN SEPTEMBER OF 1983.

6 Q DID YOU PARTICIPATE IN AN INVESTIGATION WITH AGENT ENRIQUE
7 CAMARENA IN MAY OF 1984?

8 A YES, I DID.

9 Q DO YOU RECALL THE OBJECT OF THAT INVESTIGATION?

10 A I WAS ACTING IN AN UNDERCOVER CAPACITY, PURCHASING HEROIN.

11 Q WHO WERE YOU PURCHASING THE HEROIN FROM?

12 A FROM MANUEL CHAVEZ OF DURANGO. DURANGO, MEXICO.

13 Q WAS THAT HEROIN EVENTUALLY DELIVERED?

14 A YES, IT WAS.

15 Q WHERE WAS IT DELIVERED?

16 A MC ALLEN, TEXAS.

17 Q WHO DELIVERED IT?

18 A A CONFIDENTIAL INFORMANT.

19 Q AND DID YOU EVENTUALLY SEE THAT HEROIN?

20 A YES, I DID.

21 Q WHERE DID YOU FIND IT?

22 A IT WAS CONCEALED UNDER THE REAR SEAT OF A VEHICLE.

23 MR. CARLTON: NOTHING FURTHER, YOUR HONOR.

24 THE COURT: ANY QUESTIONS FOR THIS WITNESS?

25 DEFENSE COUNSEL: NOTHING, YOUR HONOR.

1 THE COURT: YOU MAY STEP DOWN.

2 CALL YOUR NEXT WITNESS.

3 MR. MEDRANO: THE GOVERNMENT WOULD CALL, YOUR HONOR,
4 AUGUSTIN BUENO GONZALEZ TO THE STAND SUMMON.

5 THE COURT: WHO WAS THE WITNESS?

6 MR. MEDRANO: AUGUSTIN BUENO GONZALEZ. AND MAY WE
7 HAVE THE COURT INTERPRETER AGAIN ASSIST US, YOUR HONOR?

8 THE COURT: YES.

9 (WITNESS SUMMONED TO COURTROOM.)

10 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

11

12 AUGUSTIN BUENO GONZALEZ + PLAINTIFF'S WITNESS, SWORN

13

14 THE CLERK: PLEASE BE SEATED. PLEASE STATE YOUR FULL
15 NAME FOR THE RECORD.

16 THE WITNESS: AUGUSTIN BUENO.

17 THE CLERK: AND SPELL YOUR LAST NAME.

18 THE COURT: PLEASE ASK THE WITNESS TO SPEAK UP WHEN HE
19 GIVES HIS ANSWERS SO WE CAN HEAR IT, TOO, EVEN THOUGH WE MAY
20 NOT UNDERSTAND IT.

21 THE WITNESS: AUGUSTIN BUENO, B U E N O.

22 DIRECT EXAMINATION +

23 BY MR. MEDRANO:

24 Q MR. BUENO, COULD I ASK YOU TO SPEAK DIRECTLY INTO THE
25 MICROPHONE SO WE CAN ALL HEAR YOU?

1 A THAT'S FINE.

2 Q MR. BUENO, HOW OLD ARE YOU, SIR?

3 A 35.

4 Q WHERE WERE YOU BORN?

5 A IN CULIACAN, SINALOA.

6 Q WHAT IS YOUR CURRENT PROFESSION?

7 A I CURRENTLY WORK AT THE SWAP MEET. I SELL SHOES AND
8 CLOTHING OF ALL KINDS.

9 Q YOU BUY AND SELL ITEMS AT A SWAP MEET; IS THAT CORRECT?

10 A NO. I SELL.

11 Q NOW, MR. BUENO, YOU DO SPEAK AND UNDERSTAND SOME ENGLISH,
12 DO YOU NOT, SIR?

13 A YES.

14 Q WOULD YOU BE MORE COMFORTABLE, HOWEVER, PROCEEDING WITH THE
15 ASSISTANCE OF THE INTERPRETER TODAY?

16 A YES.

17 Q DO YOU KNOW A MAN BY THE NAME OF INES CALDERON QUINTERO?

18 A YES.

19 Q WHO IS THIS MAN?

20 A HE WAS MY BOSS FOR A PERIOD OF TIME.

21 Q WAS HE ANY RELATIONSHIP TO RAFAEL CARO QUINTERO?

22 A YES.

23 Q WHAT WAS THAT, MR. BUENO?

24 A THEY WERE COMPADRES.

25 Q WHEN DID YOU FIRST MEETS INES CALDERON QUINTERO?

1 THE COURT: JUST A MOMENT. WHAT DOES "COMPADRE" MEAN?

2 THE WITNESS: "COMPADRE" MEANS WHEN SOMEBODY BAPTIZES
3 SOMEBODY ELSE'S CHILD.

4 BY MR. MEDRANO:

5 Q WOULD THAT BE A GODFATHER, IN ENGLISH, SIR?

6 A YES.

7 Q WHEN DID YOU FIRST MEET INES CALDERON QUINTERO?

8 A IN 76.

9 Q DOES INES CALDERON HAVE A BROTHER?

10 A YES.

11 Q DO YOU KNOW HIS NAME?

12 A YES.

13 Q WHAT IS THAT, SIR?

14 A RENE CALDERON QUINTERO.

15 Q WHEN YOU WORKED FOR INES CALDERON QUINTERO, WHAT WAS YOUR
16 JOB?

17 A I WAS HIS BODYGUARD.

18 Q IN THE EARLY 1980'S, MR. BUENO, WAS INES CALDERON QUINTERO
19 INVOLVED IN COCAINE TRAFFICKING?

20 MR. STOLAR: OBJECTION. LEADING.

21 THE COURT: SUSTAINED. RESTATE YOUR QUESTION.

22 BY MR. MEDRANO:

23 Q BESIDES BEING A BODYGUARD FOR INES CALDERON, DID YOU DO
24 ANYTHING ELSE TO HELP INES CALDERON QUINTERO?

25 A YES.

1 Q WHAT WAS THAT, MR. BUENO?

2 A I MADE DELIVERIES AND I RECEIVED DELIVERIES SEVERAL TIMES.

3 Q DELIVERIES OF WHAT?

4 A OF COCAINE.

5 Q I WANT TO DIRECT YOUR ATTENTION TO 1982, LATE 1982 OR EARLY
6 1983. DID YOU EVER HAVE AN OCCASION TO GO TO THE CITY OF
7 GUADALAJARA IN MEXICO?

8 A YES.

9 Q DID YOU GO ALONE?

10 A NO.

11 Q WHO WENT WITH YOU?

12 A RENE, INES' BROTHER.

13 Q DID YOU GO TO A CITY BEFORE YOU WENT TO GUADALAJARA?

14 A YES.

15 Q WHERE WAS THAT?

16 A IN THE STATE OF CULIACAN.

17 Q DID YOU GO TO A CITY WITHIN THE STATE OF CULIACAN?

18 A TO CULIACAN.

19 Q AFTER CULIACAN, DID YOU GO TO GUADALAJARA?

20 A YES.

21 Q UPON ARRIVING IN GUADALAJARA, DID YOU GO TO A SPECIFIC
22 RESIDENCE IN GUADALAJARA?

23 A YES.

24 Q WHOSE RESIDENCE WAS THIS?

25 MR. STOLAR: OBJECT. NO FOUNDATION LAID FOR THAT.

1 THE COURT: WELL, STRIKE THAT. YOU CAN RESTATE THAT
2 QUESTION ANOTHER WAY.

3 BY MR. MEDRANO:

4 Q MR. BUENO, DO YOU RECALL THE NAME OF THE STREET WHERE THIS
5 RESIDENCE WAS FOUND IN GUADALAJARA?

6 A YES.

7 Q THE NAME OF THE STREET?

8 A PROVIDENCIA.

9 Q HAD YOU BEEN TO THAT HOUSE BEFORE?

10 A NO.

11 Q IS THIS HOUSE -- STRIKE THAT.

12 WAS THIS HOUSE IN GUADALAJARA CLOSE TO ANY PARTICULAR
13 HOTEL OR HOTELS?

14 MR. STOLAR: OBJECT TO THE LEADING. LET THE WITNESS
15 TESTIFY.

16 THE COURT: SUSTAINED.

17 BY MR. MEDRANO:

18 Q DID YOU END UP STAYING -- STRIKE THAT.

19 AFTER YOU ARRIVED AT THE HOUSE, WHAT HAPPENED?

20 A WE ARRIVED AND PEOPLE STARTED TO ARRIVE.

21 Q WHO STARTED TO ARRIVE AT THE HOUSE?

22 THE COURT: JUST A MOMENT. THAT QUESTION IS NOT
23 CLEAR. ARE YOU ASKING THE WITNESS IF HE KNOWS THE NAMES OF
24 SOME OF THE PEOPLE WHO ARRIVED AT THE HOUSE?

25 MR. MEDRANO: I'LL REPHRASE THAT, YOUR HONOR.

1 THE COURT: ALL RIGHT.

2 BY MR. MEDRANO:

3 Q DID YOU KNOW THE NAMES OR IDENTITIES OF THE PEOPLE THAT
4 STARTED ARRIVING AT THIS HOUSE IN GUADALAJARA?

5 A YES.

6 Q WHAT WERE SOME OF THOSE NAMES?

7 A RAFAEL CARO QUINTERO, MIGUEL FELIX GALLARDO, DON NETO, AND
8 INES, AND RUDOLFO LEPE, AND SOME OTHER PERSONS THAT I DIDN'T
9 KNOW. THERE WERE MANY, MANY PEOPLE THERE.

10 Q DON NETO. WAS THERE ANOTHER NAME FOR DON NETO?

11 A HIS NAME IS ERNESTO FONSECA.

12 Q HAVE YOU EVER HEARD OF SOMEONE BY THE NAME OF CACHAS?

13 A YES. HE WAS THERE AS WELL.

14 Q AND DID YOU KNOW CACHAS BY ANY OTHER NAME?

15 A JESUS FELIX. JUST THAT.

16 Q IN ADDITION TO THESE PEOPLE, MR. BUENO, WERE THERE
17 BODYGUARDS ALSO PRESENT?

18 MR. STOLAR: OBJECT TO THE LEADING. LEADING.

19 THE COURT: WHAT WAS THE QUESTION?

20 MR. MEDRANO: IF THERE WERE BODYGUARDS PRESENT.

21 THE COURT: OVERRULED. HE MAY ANSWER.

22 THE WITNESS: YES.

23 BY MR. MEDRANO:

24 Q MR. BUENO, WERE YOU AND THE OTHERS AWAITING THE RIVAL OF
25 ANYONE ELSE?

1 A YES.

2 Q WHO WAS THAT, SIR?

3 A MR. MATTA BALLESTEROS.

4 Q MR. BUENO, WHERE DID YOU END UP SLEEPING, OR STAYING THE
5 NIGHT, THAT EVENING?

6 A THERE IN THAT HOUSE.

7 Q I WANT TO DIRECT YOUR ATTENTION TO THE FOLLOWING DAY, MR.
8 BUENO. DO PEOPLE -- STRIKE THAT.

9 DOES ANYONE ARRIVE AT THE HOUSE THE FOLLOWING MORNING?

10 A YES. MR. RAFAEL QUINTERO ARRIVED.

11 Q WHO ELSE?

12 A WELL, DON NETO, AND ALL OF THEM: CACHAS, INES, AND RENE,
13 AND FELIX GALLARDO; AND THAT DAY, MR. BALLESTEROS ARRIVED.

14 Q MR. BUENO, YOU SHOULD HAVE SOME EXHIBITS IN FRONT OF YOU,
15 SIR. IF I CAN ASK YOU TO LOOK AT GOVERNMENT'S EXHIBIT 15,
16 WHICH SHOULD BE A LARGE PHOTOGRAPH, I BELIEVE.

17 THE COURT: IS THAT IN FRONT OF THE WITNESS?

18 THE CLERK: ALL THE EXHIBITS ARE BEFORE THE WITNESS.

19 MR. MEDRANO: I BELIEVE IT'S RIGHT BEHIND THE WITNESS,
20 YOUR HONOR.

21 (INTERPRETER HOLDS UP EXHIBIT.)

22 THE COURT: 15?

23 THE INTERPRETER: YES, YOUR HONOR.

24 BY MR. MEDRANO:

25 Q CAN I ASK TO YOU TAKE A LOOK, MR. BUENO, IF YOU WOULD, AT

1 THAT EXHIBIT, GOVERNMENT'S EXHIBIT 15?

2 A (COMPLIES.)

3 Q CAN YOU TELL ME WHAT THIS IS?

4 A THIS IS MR. FELIX GALLARDO.

5 Q IS THAT A PHOTOGRAPH OF HIM?

6 A YES.

7 MR. MEDRANO: YOUR HONOR, WE SEEK ITS ADMISSION AT
8 THIS TIME.

9 THE COURT: IT MAY BE ADMITTED.

10 (EXHIBIT 15 # RECEIVED IN EVIDENCE.)

11 MR. MEDRANO: MAY THE WITNESS SHOW IT BRIEFLY TO THE
12 JURY, YOUR HONOR?

13 THE COURT: YES.

14 BY MR. MEDRANO:

15 Q CAN YOU SHOW IT TO THE JURY, MR. BUENO?

16 A (COMPLIES.)

17 Q YOU SHOULD ALSO HAVE IN FRONT OF YOU, MR. BUENO, A
18 GOVERNMENT'S EXHIBIT 16 A AND B. CAN I ASK TO YOU FIND THAT
19 IN FRONT OF YOU?

20 THE COURT: WHAT'S THE EXHIBIT?

21 MR. MEDRANO: 16 A AND B, YOUR HONOR.

22 THE COURT: ALL RIGHT.

23 BY MR. MEDRANO:

24 Q WHAT'S THE EXHIBIT NUMBER OF THE ONE YOU HAVE IN FRONT OF
25 YOU, MR. BUENO?

1 A 16 B.

2 Q CAN I ASK TO YOU IDENTIFY THAT FOR US?

3 A YES. IT'S MR. CARO QUINTERO.

4 MR. MEDRANO: YOUR HONOR, WE SEEK ITS ADMISSION AND
5 PUBLICATION TO THE JURY AT THIS TIME.

6 THE COURT: WELL, IT MAY BE RECEIVED.

7 (EXHIBIT 16 B # RECEIVED IN EVIDENCE.)

8 THE WITNESS: (DISPLAYS EXHIBIT.)

9 BY MR. MEDRANO:

10 Q IF YOU CAN PUT THAT DOWN, MR. BUENO, WHY DON'T YOU PULL UP
11 ANOTHER EXHIBIT AND TELL ME WHAT THE NUMBER IS THERE IN FRONT
12 OF YOU.

13 A 16 A.

14 Q AND WOULD YOU IDENTIFY THAT FOR US?

15 A YES. IT'S MR. RAFAEL CARO QUINTERO.

16 MR. MEDRANO: WE MOVE ITS ADMISSION, YOUR HONOR.

17 THE COURT: IT MAY BE ADMITTED.

18 (EXHIBIT 16 A # RECEIVED IN EVIDENCE.)

19 BY MR. MEDRANO:

20 Q THANK YOU, MR. BUENO. CAN YOU PULL UP THE NEXT EXHIBIT IN
21 FRONT OF YOU?

22 A (COMPLIES.) THIS IS NO. 17.

23 Q WOULD YOU IDENTIFY THAT?

24 A YES. THIS IS ERNESTO FONSECA.

25 MR. MEDRANO: WE SEEK ITS ADMISSION, YOUR HONOR.

1 THE COURT: IT MAY BE RECEIVED.

2 (EXHIBIT 17 # RECEIVED IN EVIDENCE.)

3 Q CAN YOU HOLD IT UP JUST BRIEFLY, MR. BUENO?

4 A (COMPLIES.)

5 Q OKAY. WOULD YOU PULL UP THE NEXT EXHIBIT IN FRONT OF YOU
6 AND IDENTIFY IT BY NUMBER?

7 A (COMPLIES.) THIS IS 18.

8 Q WOULD YOU TELL US WHAT THAT IS?

9 A YES. THIS IS CACHAS.

10 Q IS THAT THE MAN YOU IDENTIFIED ALSO AS JESUS FELIX?

11 A YES.

12 MR. MEDRANO: YOUR HONOR, WE SEEK ITS ADMISSION.

13 THE COURT: IT MAY BE RECEIVED.

14 (EXHIBIT 18 # RECEIVED IN EVIDENCE.)

15 BY MR. MEDRANO:

16 Q MR. BUENO, YOU INDICATED A MAN BY THE NAME OF JUAN MATTA
17 SHOWED UP AT THIS MEETING; IS THAT CORRECT?

18 A YES.

19 Q DO YOU SEE THIS MAN IN THE COURTROOM TODAY, MR. BUENO?

20 A (NO AUDIBLE RESPONSE.)

21 Q AND FEEL FREE STAND UP IF IT'S NECESSARY.

22 A (SURVEYS COURTROOM: .) YES. IT'S THE MAN WHO'S OVER
23 THERE. (POINTING)

24 Q CAN YOU DESCRIBE WHAT HE'S WEARING, SIR, BRIEFLY?

25 MR. STOLAR: I'LL AGREE FOR THE RECORD THAT HE'S

1 INDICATED MY CLIENT, MR. MATTA.

2 THE COURT: VERY WELL. THAT'S NOT NECESSARY. THE
3 WITNESS HAS INDICATED MR. MATTA.

4 BY MR. MEDRANO:

5 Q WHEN THE DEFENDANT MATTA BALLESTEROS ARRIVED, WHO DID HE
6 ARRIVE WITH?

7 A HE ARRIVED WITH MR. RAFAEL CARO.

8 Q WERE THERE BODYGUARDS PRESENT AT THIS MEETING?

9 A YES.

10 Q WERE YOU PRESENT AT THIS MEETING, MR. BUENO, TO HEAR THE
11 CONVERSATION OR DISCUSSION THAT OCCURRED?

12 A YES.

13 Q WOULD YOU TELL US WHAT WAS DISCUSSED AT THIS MEETING?

14 MR. STOLAR: OBJECT. IT'S ALL HEARSAY COMING IN, WITH
15 NO CONSPIRACY CHARGE ON THE QUESTION THAT THE WITNESS HAS
16 TESTIFIED ABOUT. IT'S ALL HEARSAY.

17 THE COURT: OVERRULED. IT MAY BE RECEIVED
18 PROVISIONALLY, SUBJECT TO A MOTION TO STRIKE.

19 MR. STOLAR: JUDGE, IF I MAY, THERE'S NO CONSPIRACY
20 CHARGE CONCERNING THE SUBJECT MATTER THE WITNESS IS GOING TO
21 TESTIFY ABOUT IN THIS CASE; NONE WHATSOEVER.

22 MR. MEDRANO: THAT'S THE SUBJECT OF THE SECTION 1959
23 COUNTS, YOUR HONOR, THE NARCOTICS ENTERPRISE.

24 MR. STOLAR: YES, EXCEPT THAT THAT IS NOT A
25 CONSPIRACY. IT IS AN ENTERPRISE. AND THERE'S NO EXCEPTION IN

1 THE HEARSAY RULES FOR CO-ENTERPRISE IN HEARSAY.

2 MR. NICOLAYSEN: YOUR HONOR, I WOULD JOIN IN THAT
3 OBJECTION. THERE IS A SECTION OF THE RICO STATUTE DOES ALLOW
4 THE GOVERNMENT TO CHARGE A CONSPIRACY TO COMMIT AN ENTERPRISE
5 VIOLATION, BUT IT'S NOT IN THE INDICTMENT AND IT'S NOT BEFORE
6 THE COURT TODAY. SO TO SUBMIT -- TO ASK A WITNESS TO TESTIFY
7 ABOUT OUT-OF-COURT STATEMENTS --

8 THE COURT: ALL RIGHT. COUNSEL, IT IS NOT PROPER TO
9 ARGUE IN FRONT OF THE JURY ABOUT THESE MATTERS. IF YOU WISH TO
10 BE HEARD ABOUT THEM FURTHER, WE WILL DO SO AT THE RECESS.

11 MR. NICOLAYSEN: I WOULD RESPECTFULLY ASK TO BE HEARD,
12 YOUR HONOR.

13 MR. STOLAR: YOUR HONOR, YOU HAVE A WRITTEN MOTION FROM
14 ME ON THIS SUBJECT.

15 THE COURT: WHEN WAS IT FILED?

16 MR. STOLAR: IT WAS FILED ON TUESDAY MORNING.

17 THE COURT: YESTERDAY?

18 MR. STOLAR: NO. TUESDAY MORNING -- YES, YESTERDAY.

19 MR. MEDRANO: WE RECEIVED IT YESTERDAY, YOUR HONOR.

20 MR. STOLAR: YESTERDAY MORNING.

21 THE COURT: WELL, THEN WE SHOULD PASS ON THIS, HEARING
22 IT, UNTIL THAT HAS BEEN RULED ON.

23 MR. MEDRANO: YOUR HONOR, THAT HAS BEEN RULED ON,
24 PRETRIAL, BY THE COURT ALREADY.

25 MR. STOLAR: NOT WHEN I WAS A PARTY.

1 MR. MEDRANO: IN TWO MANNERS, YOUR HONOR. FIRST, THE
2 CONSPIRACY IS ENCOMPASSED WITHIN THE 1959 CHARGE; AND SECOND OF
3 ALL, YOU MAY RECALL IN THE PRETRIAL MOTION, AFTER DISMISSING
4 COUNT 3 --

5 THE COURT: WELL, I THINK WE'D BETTER TAKE A RECESS AT
6 THIS TIME. THE JURY MAY BE EXCUSED FOR A BRIEF RECESS.

7 THE CLERK: PLEASE RISE.

8 (JURY ABSENT:)

9 THE CLERK: YOU MAY BE SEATED.

10 THE COURT: WE DO HAVE CONSPIRACY CHARGES, CONSPIRACY
11 TO KIDNAP A FEDERAL AGENT.

12 MR. STOLAR: YES, SIR.

13 THE COURT: IN WHICH THREE OF THESE DEFENDANTS ARE
14 CHARGED.

15 MR. STOLAR: YOUR HONOR, CAN THE WITNESS BE EXCUSED
16 WHILE WE DISCUSS THAT?

17 MR. NICOLAYSEN: WOULD I MOVE THAT, AS WELL, YOUR
18 HONOR.

19 MR. STOLAR: THE WITNESS IS STILL ON THE WITNESS
20 STAND.

21 THE COURT: I UNDERSTAND THAT. I DON'T SEE ANY REASON
22 FOR HIM TO BE EXCUSED.

23 MR. STOLAR: ALL RIGHT. IF YOU LOOK AT THE BEGINNING
24 DATE FOR COUNT 6 -- I'VE GOT TO LOOK AT THE INDICTMENT -- THIS
25 TESTIMONY -- PARDON ME.

1 MR. MEDRANO HAS JUST INDICATED -- AND I BELIEVE IT'S
2 TRUE -- THAT THIS TESTIMONY IS BEING OFFERED FOR PURPOSES OF
3 PROVING AN ENTERPRISE. THERE IS THE 1959 COUNT, A SUBSTANTIVE
4 COUNT, OF VIOLENCE IN AID OF RACKETEERING.

5 THE CONSPIRACY TO KIDNAP IS NOT WHAT THIS TESTIMONY IS
6 BEING OFFERED ABOUT.

7 THE COURT: HOW DO YOU KNOW THAT?

8 MR. STOLAR: HE SAID SO.

9 THE COURT: WHO SAID SO?

10 MR. STOLAR: MR. MEDRANO.

11 THE COURT: IS THAT TRUE?

12 MR. MEDRANO: THIS IS OFFERED, YOUR HONOR, NOT ONLY ON
13 THE CONSPIRACY REGARDING THE KIDNAPPING, BUT THE CONSPIRACY
14 REGARDING THE 1959.

15 MR. NICOLAYSEN: YOUR HONOR, THERE IS NO SUCH THING IN
16 THE INDICTMENT AS A CONSPIRACY ON SECTION 1959.

17 MR. CARLTON: YOUR HONOR, THIS IS ASTOUNDING, BECAUSE
18 THE DEFENSE MOVED EARLIER IN A PRETRIAL MOTION AND YOU GRANTED
19 THEIR MOTION TO DISMISS THE OLD COUNT 3, WHICH IS THE
20 CONSPIRACY TO COMMIT 1959, THE COURT MAY RECALL.

21 THE COURT: THAT WAS WHY I DISMISSED COUNT 3, BECAUSE
22 I SAID YOU COULD NOT CHARGE THE SEPARATE CONSPIRACY WHEN 1959
23 ITSELF CONTAINED A CONSPIRACY PROVISION AMONG THE ACTS WHICH
24 ARE PROHIBITED.

25 MR. MEDRANO: CORRECT, YOUR HONOR.

1 MR. STOLAR: EXCUSE ME. EXCUSE ME.

2 THE COURT: JUST A MOMENT. ONE AT A TIME HERE. DON'T
3 GET SO EXCITED.

4 MR. MEDRANO: AT THAT TIME, YOUR HONOR -- CORRECT,
5 YOUR HONOR, THAT'S EXACTLY WHAT YOU DID. AND AFTER YOUR
6 RULING, GOVERNMENT COUNSEL ASKED YOU POINTEDLY THAT IF WE HAD
7 OUR DRUTHERS, WE'D PREFER THAT YOU DISMISS THE SUBSTANTIVE
8 1959, BECAUSE WE WANTED TO MAINTAIN THE CONSPIRACY LANGUAGE.

9 AND YOUR REPLY TO THAT AT THAT TIME, AT A PRETRIAL
10 HEARING, YOUR HONOR -- AND THE DEFENSE COUNSEL WERE PRESENT AND
11 ADVISED -- IF THEIR POSITION WAS THAT CONSPIRACY WAS
12 ENCOMPASSED WITHIN THE 1959, HENCE, TO ESTABLISH NARCOTICS
13 ENTERPRISE, ALL THE CO-CONSPIRATORS' STATEMENTS IN THE
14 CONSPIRACY WOULD BE ALLEGED AND INTRODUCED BY THE GOVERNMENT,
15 YOUR HONOR.

16 SO THIS CONSPIRACY, AS MR. STOLAR IS PARTIALLY
17 ACCURATE, DOESN'T GO TO THE COUNT 6 CONSPIRACY TO KIDNAP AN
18 AGENT. BUT THIS CONSPIRACY, CO-CONSPIRATORS' STATEMENTS, YOUR
19 HONOR, GOES TO THE 1959 NARCOTICS ENTERPRISE. AND TO SHOW
20 NARCOTICS ENTERPRISE --

21 THE COURT: WELL, WHAT IS IT: A CONSPIRACY TO DO
22 WHAT? TO COMMIT A VIOLENT ACT?

23 MR. MEDRANO: CORRECT, YOUR HONOR. AND IN ADDITION,
24 TO GENERATE AND FURTHER THE INTERESTS OF THE NARCOTICS
25 ENTERPRISE.

1 THAT'S WHY THE GOVERNMENT'S BURDEN IS TO ESTABLISH FOR
2 THE BENEFIT OF THE JURY THAT A NARCOTICS ENTERPRISE EXISTED.
3 AND TO DO THAT, YOUR HONOR, YOU HAVE TO SHOW WHO THE PLAYERS
4 WERE. AND TO DO THAT, YOUR HONOR, YOU HAVE TO SHOW WHAT
5 CO-CONSPIRATORS' STATEMENTS WERE STATED BY THE DEFENDANTS.

6 SO THIS IS NOT NEWS TO THE DEFENSE, YOUR HONOR.
7 THEY'VE KNOWN THIS SINCE THAT PRETRIAL MOTION, LITERALLY WEEKS
8 AND WEEKS AGO.

9 AND FINALLY, YOUR HONOR --

10 MR. STOLAR: MAY I?

11 THE COURT: JUST A MOMENT.

12 MR. MEDRANO: ONE FURTHER THING, YOUR HONOR. MR.
13 STOLAR WAS WAS AWARE OF THAT RULING AND HE SERVES -- (PAUSE.)

14 (COURT CONFERS WITH LAW CLERK OFF THE RECORD.)

15 MR. MEDRANO: DESPITE BEING AWARE OF THAT RULING
16 LITERALLY AT LEAST TWO MONTHS AGO, WE GET MR. STOLAR'S' 11TH
17 HOUR MOTION ON TUESDAY MORNING, YOUR HONOR, WHEN HE HAD --

18 THE COURT: MOTIONS ARE OVER WITH, MR. STOLAR.

19 MR. STOLAR: THAT WAS FILED --

20 THE COURT: UNLESS THERE IS SOMETHING THAT'S
21 UNANTICIPATED, YOU'RE NOT SUPPOSED TO BE FILING MOTIONS WHEN
22 YOU WERE GIVEN TIME BEFORE THE TRIAL.

23 LEAVE THAT ASIDE FOR NOW.

24 MR. STOLAR: MAY I BE HEARD?

25 THE COURT: YES.

1 MR. STOLAR: 1959 CHARGES VIOLENT CRIME IN AID OF
2 RACKETEERING. IT DOESN'T CHARGE CONSPIRACY TO COMMIT VIOLENT
3 CRIME IN AID OF RACKETEERING.

4 IN ORDER TO ESTABLISH THE RACKETEERING, THERE ARE A
5 COUPLE OF ELEMENTS THAT HAVE TO BE ESTABLISHED. ONE OF THEM IS
6 RACKETEERING ACTIVITY, AND THE OTHER ONE IS AN ENTERPRISE.

7 AN ENTERPRISE IS DEFINED IN 1959 AS A GROUP OF PEOPLE
8 PARTNERSHIP, ASSOCIATION, ET CETERA. THERE IS NO CONSPIRACY.

9 IT USES SECTION 1961 RICO LANGUAGE, AND IT REFERS TO
10 RICO TO ESTABLISH THE PATTERN OF RACKETEERING ACTIVITY AND THE
11 RACKETEERING ENTERPRISE.

12 IF YOU LOOK AT RICO ITSELF, THERE IS A CLEAR
13 DISTINCTION BETWEEN A CONSPIRACY AND THE ENTERPRISE, BECAUSE IN
14 RICO, 1962(D), ONE CAN'T CONSPIRE TO COMMIT 1961 -- 1962(A),
15 (B) OR (C). AND THE EXISTENCE OF THE ENTERPRISE IS DIFFERENT
16 THAN THE CONSPIRACY. AND RULE 8 --

17 THE COURT: THERE WAS A CONSPIRACY CHARGE HERE --

18 MR. STOLAR: THAT'S CORRECT.

19 THE COURT: -- COUNT 3, WHICH WAS A CONSPIRACY TO
20 KNOWINGLY AND INTENTIONALLY KIDNAP, TORTURE, INTERROGATE AND
21 MURDER SPECIAL AGENT ENRIQUE CAMARENA SALAZAR.

22 MR. STOLAR: YES, SIR.

23 THE COURT: SOME OF THE DEFENDANTS CHALLENGED THIS
24 COUNT 3 AS BEING DUPLICITOUS (AS STATED) --

25 MR. STOLAR: YES, SIR.

1 THE COURT: -- ON THE THEORY IT WAS ALREADY COVERED BY
2 COUNT 2 AND THAT IT SHOULD NOT BE A SEPARATE COUNT.

3 I ACCEPTED THAT THEORY AND DISMISSED THIS COUNT 3,
4 TELLING THE GOVERNMENT THAT SECTION 1959 ALLEGED CONSPIRACY AS
5 WELL AS A NUMBER OF OTHER ACTS WITH RESPECT TO THE RACKETEERING
6 ENTERPRISE.

7 IF YOU'RE NOW TAKING A POSITION THAT BECAUSE I DID
8 THAT, THE GOVERNMENT CANNOT INTRODUCE EVIDENCE OF
9 CO-CONSPIRATORS' STATEMENTS, THEN I THINK I WILL REINSTATE THE
10 COUNT 3 CONSPIRACY COUNT WHICH I DISMISSED, BECAUSE I DISMISSED
11 IT ON THE GROUND THAT IT WAS DUPLICITOUS OF THE OTHER COUNT
12 THAT CHARGES 1959.

13 MR. NICOLAYSEN: NOT COUNT 2, THOUGH, YOUR HONOR.
14 THAT HAS TO DO WITH LA LANGOSTA.

15 MR. STOLAR: IT'S COUNT 3 -- COUNT 4 AND 5 ARE THE
16 ONES WE'RE TALKING ABOUT. OLD COUNTS 4 AND 5. RIGHT.

17 MS. KELLY: 3.

18 THE COURT: WELL, IN THE RULING THAT I MADE HERE, I
19 SAID THAT:

20 COUNT 3 OF THE SIXTH SUPERSEDING INDICTMENT
21 IS DISMISSED. IT IS UNDERSTOOD THAT COUNT 4 ALLEGES,
22 AMONG OTHER THINGS: CONSPIRACY TO COMMIT A VIOLENT
23 ACT IN FURTHERANCE OF AN ENTERPRISE TO ENGAGE IN
24 RACKETEERING ACTIVITY.

25 THAT IS IN MY ORDER.

1 MR. NICOLAYSEN: MAY I BE HEARD ON BEHALF OF MY
2 CLIENT, YOUR HONOR?

3 THE COURT: HOW IS YOUR CLIENT INVOLVED IN THIS?

4 MR. NICOLAYSEN: YOUR HONOR, MY CLIENT IS NOT NAMED IN
5 COUNT 3. THEREFORE --

6 THE COURT: THEN WHY SHOULD YOU BE HEARD?

7 MR. NICOLAYSEN: BECAUSE PURPORTEDLY THE GOVERNMENT IS
8 ASKING THIS WITNESS TO TESTIFY ABOUT OUT OF COURT HEARSAY
9 STATEMENTS WHICH THE GOVERNMENT WOULD WANT TO INTRODUCE ON A
10 CONSPIRACY THEORY WHICH THE COURT HAS JUST SAID IS PART OF THE
11 ENTERPRISE ALLEGATION, PURSUANT TO COUNT 3, IF WILL YOU.

12 HOWEVER, MY CLIENT IS NOT NAMED IN THAT COUNT. I
13 DON'T BELIEVE THAT MY CLIENT SHOULD BE SUBJECT TO ANY
14 OUT-OF-COURT STATEMENTS. I WOULD AT LEAST ASK FOR A LIMITING
15 INSTRUCTION.

16 MR. MEDRANO: I WOULD POINT OUT HOWEVER, YOUR HONOR,
17 THAT MR. NICOLAYSEN'S CLIENT IS NAMED IN ANOTHER COUNT THAT
18 ALLEGES THE IDENTICAL NARCOTICS ENTERPRISE.

19 MR. STOLAR: CORRECT. SO IT DOES AFFECT HIM.
20 CORRECT.

21 THE COURT: I'M GOING TO HAVE TO HAVE A PRIVATE TALK
22 HERE WITH ALL COUNSEL WHEN WE'RE THROUGH THIS AFTERNOON,
23 BECAUSE WE HAVE TO LAY DOWN SOME GUIDELINES.

24 I'M OVERRULING YOUR OBJECTION BECAUSE -- OR IN LIEU OF
25 THAT, I WOULD REINSTATE COUNT 3 AND LET THE GOVERNMENT PROCEED

1 ON COUNT 3. WHAT WOULD HAPPEN THEN?

2 MR. STOLAR: I DON'T KNOW IF YOU CAN DO THAT.
3 JEOPARDY IS ATTACHED. I DON'T KNOW IF YOU CAN RE-ADD A COUNT
4 AFTER THE TESTIMONY HAS BEGUN.

5 I'VE NEVER HAD IT HAPPEN, ANYWAY, IT JUST OCCURS TO
6 ME.

7 THE COURT: WELL, I THINK YOU PEOPLE ARE SANDBAGGING
8 THE GOVERNMENT. ON THE ONE HAND, YOU CLAIM THAT THE CONSPIRACY
9 COUNT IS DUPLICITOUS BECAUSE IT'S ALREADY COVERED BY THE OTHER
10 COUNT. NOW YOU'RE SAYING BECAUSE THERE IS NO CONSPIRACY COUNT.
11 WHICH I DISMISSED AS DUPLICITOUS, THAT THE GOVERNMENT CANNOT
12 ASK THIS WITNESS ABOUT STATEMENTS MADE BY ALLEGED
13 CO-CONSPIRATORS, WHEN MY ORDER CLEARLY STATES THAT:

14 COUNT 3 IS DISMISSED. IT IS UNDERSTOOD THAT
15 COUNT 4 ALLEGES, AMONG OTHER THINGS, CONSPIRACY TO
16 COMMIT A VIOLENT ACT IN FURTHERANCE OF AN ENTERPRISE
17 ENGAGED IN RACKETEERING.

18 IF THE EVIDENCE THAT IS SOUGHT TO BE ELICITED FROM
19 THIS WITNESS IS IN SUPPORT OF THIS COUNT, THEN IT CAN BE
20 ELICITED.

21 MR. MEDVENE: MAY I BE --

22 MR. STOLAR: THERE IS NO CONSPIRACY CHARGED. IT'S
23 DUPLICITOUS BECAUSE IT'S PLED IN EXACTLY THE SAME LANGUAGE, BUT
24 THERE'S NO DIFFERENCE IN WHAT IT IS. BUT IT IS A SUBSTANTIVE
25 CRIME THAT IS CHARGED.

1 AND THE RULE -- THE RULES OF EVIDENCE ALLOW FOR THE
2 ADMISSION OF CO-CONSPIRATOR'S HEARSAY WHERE THERE IS A
3 CONSPIRACY CHARGED. THAT'S WHAT IT'S ABOUT.

4 HERE, THERE'S NO CONSPIRACY. LET THEM ESTABLISH THE
5 ENTERPRISE WITH COMPETENT EVIDENCE WHICH DOES NOT CONSIST OF
6 OUT-OF-COURT STATEMENTS MADE BY PARTIES OUT OF THE COURTROOM
7 AND NOT SUBJECT TO BEING CROSS-EXAMINED.

8 MR. MEDRANO: WE WILL DO THAT, YOUR HONOR. AND ALL
9 THESE ARE BEING ADMITTED SUBJECT TO A MOTION TO STRIKE.

10 THE COURT: JUST AS IN THE CONSPIRACY CASE, THE COURT
11 MAY RECEIVE THIS EVIDENCE PROVISIONALLY, SUBJECT TO A MOTION TO
12 STRIKE, WITHOUT REQUIRING INDEPENDENT PROOF OF AN ENTERPRISE.

13 I'VE BEEN THROUGH THIS CASE BEFORE, YOU KNOW.

14 MR. STOLAR: I KNOW THAT.

15 THE COURT: SO I KNOW WHAT TYPE OF EVIDENCE MAY BE
16 PRESENTED IN THIS TRIAL.

17 MR. STOLAR: BUT THAT'S EXACTLY -- WITH ALL DUE
18 RESPECT, IT'S THE CONFUSION BETWEEN ENTERPRISE, WHICH IS A
19 SEPARATE ELEMENT THAT HAS TO BE ESTABLISHED, AND CONSPIRACY,
20 WHICH IS A CRIME.

21 ENTERPRISE IS NOT A CRIME. ENTERPRISE IS A MATTER OF
22 PROOF.

23 CONSPIRACY IS A CRIME. AND THAT'S WHY CO-CONSPIRATOR
24 HEARSAY IS ALLOWED TO COME IN.

25 BUT TO ESTABLISH AN ENTERPRISE AS AN ELEMENT OF A

1 SUBSTANTIVE CRIME SHOULD -- IS NOT SOMETHING THAT THE
2 CO-CONSPIRATOR HEARSAY RULE IS DESIGNED FOR. WE'RE NOT TALKING
3 ABOUT THE BOURJAILLY PROBLEM AND THE SILVERMAN PROBLEM HERE.

4 THE COURT: THE OBJECTION IS OVERRULED. THIS WITNESS
5 MAY TESTIFY TO STATEMENTS. IT WILL BE RECEIVED AS STATEMENTS
6 OF -- PROVISIONALLY RECEIVED AS STATEMENTS MADE BY ALLEGED
7 CO-CONSPIRATORS IN FURTHERANCE OF THE CONSPIRACY, WHICH THIS
8 COURT SAID COULD BE PURSUED IN THE 1959 COUNT WHEN IT DISMISSED
9 AS DUPLICITOUS, ON YOUR MOTION -- I DON'T KNOW IF IT WAS YOUR
10 MOTION, BUT A MOTION OF SOME OF THESE DEFENDANTS, IN WHICH YOU
11 MAY HAVE JOINED.

12 MR. MEDVENE: IF THE COURT PLEASE, MAY I BRIEFLY BE
13 HEARD?

14 THE COURT: YES.

15 MR. MEDVENE: IT WAS OUR MOTION ORIGINALLY, YOUR
16 HONOR.

17 THE COURT: YES.

18 MR. MEDVENE: I THINK WE'RE TALKING ABOUT TWO SEPARATE
19 THINGS.

20 THE ARGUMENT WAS THAT THE 1959 COUNT, THAT 3 SHOULD GO
21 BECAUSE THE 1959 COUNT WAS BASICALLY ALLEGED IN COUNTS 3 AND 4
22 IN CONSPIRATORIAL LANGUAGE; IN OTHER WORDS, THE UNDERLYING
23 CONSPIRACY TO VIOLATE A -- TO COMMIT A VIOLENT ACT.

24 THEY ALLEGED A CONSPIRACY TO COMMIT A VIOLENT ACT IN
25 COUNT 3, A CONSPIRACY TO COMMIT A VIOLENT ACT IN COUNT 4. YOUR

1 HONOR RULED THAT SINCE THEY ARGUED CONSPIRACY IN BOTH, ONE
2 WOULD BE DISMISSED.

3 I THINK WHAT MR. STOLAR IS SAYING IS THAT'S A
4 DIFFERENT ISSUE THAN THE ENTERPRISE ITSELF. IN OTHER WORDS,
5 IT'S A CONSPIRACY TO COMMIT A VIOLENT ACT IN AID OF AN
6 ENTERPIRSE.

7 ALL WE WERE TALKING ABOUT IN THE MOTION WAS THE
8 CONSPIRACY TO COMMIT A VIOLENT ACT. AND WE SAID THEY PLED THAT
9 TWICE, THE CONSPIRACY TO COMMIT A VIOLENT ACT, IN 3 AND 4. WE
10 NEVER GOT TO THE ENTERPRISE ELEMENT.

11 YOU DISMISSED 3 BECAUSE THEY PLED TWO CONSPIRACIES.
12 ALL MR. STOLAR'S SAYING -- AND AGAIN, WITH DUE RESPECT, WE
13 AGREE -- IS TO PROVE THE ENTERPRISE ITSELF, IT'S NOT A
14 CONSPIRACY TO COMMIT AN ENTERPRISE. YOU'D HAVE TO PROVE THE
15 ENTERPRISE INDEPENDENTLY, NOT BY CO-CONSPIRATORS' STATEMENTS,
16 BECAUSE THERE --

17 THE COURT: WELL, WHAT IS THE POINT? THEY STILL HAVE
18 TO PROVE THE ENTERPRISE.

19 MR. STOLAR: RIGHT.

20 MR. MEDVENE: THEY HAVE TO PROVE THE ENTERPRISE, BUT
21 NOT PURPORTEDLY BY CO-CONSPIRATOR ADMISSIONS. THAT'S NOT WHAT
22 WE'RE SAYING.

23 THE COURT: WELL, BUT THE CO-CONSPIRATOR ADMISSIONS
24 CAN COME IN SUBJECT TO BEING STRICKEN IF THE ENTERPRISE IS NOT
25 PROVED.

1 MR. MEDVENE: DUE DEFERENCE, YOUR HONOR.
2 CO-CONSPIRATOR ADMISSIONS CAN ONLY COME IN IF THEY WERE
3 OFFERED -- AND MR. MEDRANO SAYS THEY'RE NOT -- IF THEY WERE
4 OFFERING IT TO PROVE THE CONSPIRACY TO COMMIT THE VIOLENT ACT.

5 MR. MEDRANO SAYS THEY'RE NOT OFFERING IT TO PROVE THE
6 VIOLENT ACT; THEY'RE APPROVING IT OFFERING IT TO PROVE THE
7 ENTERPRISE.

8 THE COURT: I DIDN'T HEAR HIM SAY THAT.

9 MR. MEDVINE: I THINK HE SAID THAT IN THE FIRST BACK
10 AND FORTH WITH MR. STOLAR.

11 MR. STOLAR: THEY'RE OFFERING IT TO PROVE THE
12 EXISTENCE OF THE ENTERPRISE IN A COUNT WHERE THERE'S NO
13 CONSPIRACY CHARGED.

14 THE COURT: WELL, I DISAGREE THAT THERE'S NO
15 CONSPIRACY CHARGED IN THAT COUNT.

16 MR. MEDVENE: NO CONSPIRACY AS TO COMMIT ENTERPRISE.

17 MR. STOLAR: THAT WAS COUNT 4 -- THERE'S NO CONSPIRACY
18 TO COMMIT ENTERPRISE.

19 COUNT 5 CHARGES 18 U.S. CODE SECTION 1959 AND 2. THE
20 PENALTIES FOR VIOLATING THIS ARE DIFFERENT THAN THE PENALTIES
21 FOR VIOLATING 371.

22 THE COURT: I UNDERSTAND THAT.

23 MR. STOLAR: AND 371 IS OUT OF THE CASE. 371 IS THE
24 CONSPIRACY. THAT'S -- YOU KNOW, CO-CONSPIRATOR HEARSAY COMES
25 ROARING IN IF THERE'S A SUFFICIENT SUBJECT TO CONNECT IT.

1 TO PROVE A SUBSEQUENT DEVELOPMENT, IT'S AS IF PROVING
2 THE VIOLENT ACT ITSELF THROUGH --

3 THE COURT: COUNSEL, YOU'RE REPEATING YOURSELF NOW.

4 MR. STOLAR: NO, NO. I'M SORRY. IT'S THE SAME.

5 THE COURT: THE ARGUMENT DOESN'T TAKE ON ANY GREATER
6 LUSTER BY REPETITION. YOU'VE MADE YOUR POINT.

7 MR. STOLAR: ONE OF THE ELEMENTS OF THE CRIME IS A
8 VIOLENT ACT. THEY HAVE A CO-CONSPIRATOR HEARSAY THAT SAYS THEY
9 COMMITTED THE VIOLENT ACT.

10 THE COURT: ALL RIGHT. JUST A MOMENT.

11 WHAT ARE YOU PROPOSING TO ELICIT FROM THIS WITNESS?

12 MR. MEDRANO: THESE STATEMENTS, YOUR HONOR, ARE
13 CO-CONSPIRATOR STATEMENTS THAT HELP TO ESTABLISH THE NARCOTICS
14 ENTERPRISE.

15 NOW, THE CHARGE HERE IS CONSPIRACY TO COMMIT VIOLENT
16 CRIMES IN FURTHERANCE OF A NARCOTICS ENTERPRISES.

17 NOW, NARCOTICS ENTERPRISE -- AND THERE'S CASE LAW ON
18 THIS, YOUR HONOR. THE STATEMENTS -- THE CO-CONSPIRATOR
19 STATEMENTS ARE ADMISSIBLE TO ESTABLISH A NARCOTICS ENTERPRISE.

20 NOW, THE SANDBAGGING ELEMENT ABOUT THIS, YOUR HONOR,
21 IS, FIRST, WE WERE MADE AWARE OF THIS YESTERDAY; AND SECOND OF
22 ALL, THIS IS PROPERLY A RULE 12 PRETRIAL MOTION WHERE IT COULD
23 HAVE BEEN PROPERLY BRIEFED FOR YOU. BUT TO BRING IT UP FOR THE
24 FIRST TIME HERE, WHEN ALL COUNSEL HAD NOTICE OF WHAT OUR
25 POSITION IS WITH THE ADDITION OF CO-CONSPIRATOR STATEMENTS TO

1 ESTABLISH THE NARCOTICS ENTERPRISE IS FUNDAMENTALLY UNFAIR.

2 WE'D BE MORE THAN HAPPY TO BRIEF IT, BUT THEY'VE NEVER
3 FILED A MOTION, YOUR HONOR. AND THE MOTION WE RECEIVED
4 YESTERDAY, BY THE WAY, IS A VERY CURSORY ONE AND DOES NOT GO
5 INTO THIS DETAIL IN TERMS OF THE ORAL ARGUMENT THAT MR. STOLAR
6 IS SUGGESTING.

7 MR. STOLAR: LET ME MAKE A SUGGESTION, IF I MAY. TO
8 BE PERFECTLY FRANK WITH YOU, I DID NOT EXPECT TO SEE THIS
9 WITNESS TODAY. WE GOT THE 3500 MATERIAL ON THIS WITNESS MONDAY
10 EVENING.

11 MR. MEDRANO: IT WAS AVAILABLE SINCE MONDAY MORNING.

12 MR. STOLAR: WHO TOLD US THAT? WHO TOLD US MONDAY IN
13 COURT THAT WE COULD GET IT?

14 MR. MEDRANO: MONDAY MORNING, ALL DEFENSE COUNSEL WERE
15 TOLD THAT IT WAS AVAILABLE. IT'S NOT OUR FAULT THAT MR. STOLAR
16 DOESN'T PICK IT UP UNTIL MONDAY EVENING.

17 MR. STOLAR: I PICKED IT UP MONDAY NIGHT. WHAT AM I
18 GOING TO DO: READ IT IN COURT? DO I GET IT MONDAY MORNING AND
19 HAVE TO BE SADDLED WITH THE 48-HOUR RULE?

20 SO I DON'T HAVE MY MATERIALS HERE. I HAVE NOTHING
21 HERE TO CROSS-EXAMINE THIS WITNESS WITH.

22 THIS IS A SERIES OF THE CASES THAT THEY'VE CITED, OF
23 1962(B) CASES. THEY'RE NOT 1959 CASES, YOUR HONOR.

24 PERHAPS WE'LL TAKE A RECESS WITH THIS WITNESS, PUT ON
25 SOMEBODY ELSE, AND LET'S FIGURE THIS QUESTION OUT, BECAUSE IT'S

1 NOT UNUSUALLY -- IT'S NOT AN EASY ONE.

2 THE COURT: WELL, I THINK MAYBE THAT IS APPROPRIATE,
3 TO DO THAT.

4 MR. MEDRANO: YOUR HONOR, MAY I BE HEARD ON THIS? LET
5 ME FLAG FOR THE COURT SEVERAL THINGS.

6 FIRST OF ALL, AS OF THIS MORNING, YOUR HONOR, JENCKS
7 MATERIAL FOR 33 WITNESSES HAS BEEN PROVIDED TO THE DEFENSE. WE
8 MET OUR 48-HOUR RULE AS TO THIS WITNESS, BECAUSE THAT DISCOVERY
9 OR JENCKS MATERIAL WAS AVAILABLE SINCE MONDAY MORNING.

10 AND FINALLY, YOUR HONOR, THIS MAN WILL BE UP HERE FOR
11 A WHILE. IT WAS ANTICIPATED THAT HE WOULD TESTIFY BASICALLY
12 FOR THE REST OF THE AFTERNOON. IF HE IS EXCUSED NOW BECAUSE
13 MR. STOLAR HAS RAISED THIS AT THE 11TH HOUR, I'M NOT SO SURE
14 THAT WE CAN FILL IN THE REST OF THE AFTERNOON WITH WITNESSES,
15 BECAUSE WE DIDN'T ANTICIPATE HAVING TO TAKE A RECESS WITH THIS
16 WITNESS WITH THIS BELATED MOTION BY MR. STOLAR.

17 BUT THE MAIN THING, YOUR HONOR, IS THIS: THIS IS A
18 SUBSTANTIVE ISSUE. IT'S A RULE 12 ISSUE. WHEN YOU RULED ON
19 YOUR PRETRIAL MATTER, OUR POSITION WAS CLEAR. IT'S UNFAIR TO
20 RAISE THIS WHEN THIS MAN IS ON THE STAND ON DIRECT.

21 THE COURT: WELL, BUT THIS RAISES AN ISSUE: IT'S
22 WHETHER THESE CO-CONSPIRATORS' STATEMENTS CAN BE USED TO PROVE
23 THE ENTERPRISE. THIS IS WHAT HE'S OBJECTING TO.

24 MR. MEDRANO: I UNDERSTAND. LET ME STATE THIS,
25 HOWEVER, YOUR HONOR: REGARDLESS, ANY STATEMENT BY MATTA, I

1 WOULD NOW JUST ADVISE THE COURT, IS A RULE 801 ADMISSION
2 AGAINST HIM DIRECTLY, SO IT COMES IN ANYWAY. AND IT'S ALSO
3 ADMISSIBLE UNDER RULE 803, SUBSECTION 6, THE STATE OF MIND
4 EXCEPTION.

5 THE COURT: WELL, ARE YOU GOING TO ELICIT STATEMENTS
6 MADE BY MR. MATTA FROM THIS WITNESS?

7 MR. MEDRANO: THAT'S CORRECT, YOUR HONOR.

8 THE COURT: IS THAT ALL?

9 MR. MEDRANO: THEN THERE'S THE CO-CONSPIRATORS: CARO
10 WAS THERE, FONSECA WAS THERE, FELIX GALLARDO WAS THERE.

11 GALLARDO, BY THE WAY, IS A NAMED DEFENDANT IN THE CASE
12 AND A CO-CONSPIRATOR, SO HE HAS -- IN ANSWER TO YOUR QUESTION,
13 IN ADDITION TO MATTA'S STATEMENTS, WE WERE GOING TO ELICIT
14 TESTIMONY FROM TWO OR THREE OF THE OTHER CO-CONSPIRATORS, AS
15 WELL.

16 YOUR HONOR, WE WOULD RESPECTFULLY ASK THE FOLLOWING,
17 BECAUSE I THINK THIS IS FAIREST WAY TO HANDLE IT IN LIGHT OF
18 THE BELATED MOTION: THIS MAN SHOULD BE ENTITLED TO TESTIFY.
19 WE ARE NOT AVERSE, YOUR HONOR, IF THE DEFENSE IS SO INCLINED,
20 TO BRINGING HIM BACK TOMORROW BECAUSE MR. STOLAR SIMPLY FORGOT
21 TO BRING HIS MATERIALS TODAY, OR EVEN LATER. HE CAN BE
22 RECALLED AT ANY TIME.

23 BUT WE ARE READY TO GO WITH THIS WITNESS, YOUR HONOR;
24 WE HAVE BEEN FOR WEEKS. AND I THINK IT'S SANDBAGGING OF THE
25 HIGHEST MAGNITUDE TO PULL THIS ON US AT THE 11TH HOUR --

1 MR. STOLAR: THE PERSONAL ATTACKS ARE NOT NECESSARY
2 HERE. THIS IS A VERY SERIOUS QUESTION.

3 IT'S AS IF THE COURT IS BEING ASKED TO ALLOW AN
4 OUT-OF-COURT DECLARANT'S STATEMENT ABOUT WHAT AND IN-COURT
5 PERSON SAID ABOUT THE MURDER OR THE KIDNAPPING IN ORDER TO
6 PROVE ONE OF THE ELEMENTS OF THE 1959 SUBSTANTIVE CHARGE.

7 THE COURT: WELL, DON'T THEY HAVE TO PROVE THAT THESE
8 DEFENDANTS CONSPIRED TOGETHER TO COMMIT THE ACTS? DON'T THEY?

9 MR. STOLAR: NO. THEY HAVE TO PROVE THE EXISTENCE OF
10 AN ENTERPRISE.

11 THE COURT: WELL, THAT'S A SEPARATE ELEMENT OF PROOF,
12 BUT THEY CAN PROVE THAT SOME OTHER WAY.

13 MR. STOLAR: THAT'S WHAT THEY'RE USING THIS TO PROVE,
14 THOUGH.

15 THE COURT: NOT NECESSARILY. THEY ARE USING THAT TO
16 PROVE WHAT THESE PEOPLE SAID.

17 MR. STOLAR: THEY'RE USING TO IT PROVE THE EXISTENCE
18 OF THE ENTERPRISE, ONE OF THE ELEMENTS OF 1959, AS ANOTHER
19 ELEMENT OF 1959 IS A VIOLENT ACT, AND IT'S ANOTHER ELEMENT,
20 THAT IS, THE RACKETEERING ACTIVITY. IN OTHER WORDS, COULD THEY
21 PROVE BY HEARSAY --

22 THE COURT: JUST A MOMENT.

23 MR. STOLAR: -- COULD THEY --

24 THE COURT: JUST A MOMENT.

25 MR. STOLAR: I'M SORRY.

1 MR. MEDVENE: YOU HAVE IT IN A NUTSHELL, YOUR HONOR.
2 THEY'RE TWO DIFFERENT THINGS: CONSPIRACY TO COMMIT VIOLENT
3 ACTS AND THE ENTERPRISE.

4 IF THEY'RE SAYING THEY'RE GOING TO OFFER IT FOR THE
5 CONSPIRACY TO PROVE A VIOLENT ACT, THAT'S ONE SITUATION. IF
6 THEY'RE SAYING, AS THEY HAVE, IT'S TO PROVE THE ENTERPRISES,
7 THAT'S ANOTHER.

8 AND WE SAY THERE'S NO LAW. AND IT'S NOT DEFENSE
9 SIDE'S, IT'S THEIR BURDEN, TO PUT ON COMPETENT EVIDENCE. SO
10 THEY HAVE TO SHOW, BY NONCONSPIRACY, THE ENTERPRISE.

11 THE COURT: WELL, ALL RIGHT. SO THEY DON'T SHOW IT.
12 IF THEY PUT ON THESE STATEMENTS AND THAT'S NOT EFFICIENT TO
13 PROVE THE ENTERPRISE, YOU CAN MOVE FOR ACQUITTAL ON THIS.

14 MR. MEDVENE: BUT HE CAN'T PUT ON THE STATEMENTS,
15 BECAUSE THEY'RE NOT OFFERING THE STATEMENTS TO PROVE THE
16 VIOLENT ACT.

17 THE COURT: LIMIT -- THEY ARE. LIMIT TO WHAT THEY'RE
18 OFFERING THEM FOR. THEY'RE HAVING HIM TESTIFY TO WHAT HE HEARD
19 PEOPLE SAY.

20 THERE IS A CONSPIRACY CHARGED HERE.

21 MR. MEDVENE: YES, SIR. BUT THE U.S. ATTORNEY WAS
22 KIND ENOUGH TO TELL YOU HE'S NOT OFFERING IT ON THE CONSPIRACY
23 TO DO A VIOLENT ACT. HE'S LIMITING HIS OFFER TO PROVE THE
24 ENTERPRISE, AND HE CANNOT DO THAT.

25 THE COURT: WHY CAN'T HE DO THAT?

1 MR. MEDVENE: BECAUSE YOU CAN'T PROVE AN ENTERPRISE --
2 THE COURT: CAN'T YOU PROVE AN ENTERPRISE BY WHAT
3 PEOPLE SAY AND DO?

4 MR. STOLAR: YES, BUT NOT OUT-OF-COURT
5 CO-CONSPIRATORS, WHERE THERE'S NO CONSPIRACY.

6 MR. MEDVENE: THAT'S THE ISSUE. THAT'S THE ISSUE.

7 MR. MEDRANO: WE DISAGREE, YOUR HONOR.

8 MR. CARLTON: YOUR HONOR, MAY I JUST MAKE ONE POINT?
9 I THINK THE FACT OF THE STATEMENT BEING MADE HERE IS
10 ITSELF EVIDENCE OF THE ENTERPRISE. THE VERY FACT THEY WERE
11 COMMUNICATED -- YOU'LL HEAR WHAT THEY ARE -- WILL CONSTITUTE
12 TANGIBLE AUDIBLE EVIDENCE THAT THE ENTERPRISE EXISTS.

13 THE COURT: WHAT IS AN ENTERPRISE? YOU'LL FIND IN THE
14 STATUTE THERE'S AN ASSOCIATION OF PERSONS TOGETHER TO -- IT CAN
15 BE ANY TYPE OF ASSOCIATION, ALMOST.

16 MR. STOLAR: PARTNERSHIP, ASSOCIATION, CORPORATION,
17 OTHER LEGAL ENTITY OR ANY UNION OR GROUP OF INDIVIDUALS
18 ASSOCIATED IN FACT.

19 THE COURT: ALL RIGHT. SO IF A GROUP OF INDIVIDUALS
20 MEETS AND DISCUSSES ITS COMMON PLAN TO COMMIT ACTS OF VARIOUS
21 TYPES, ISN'T THAT EVIDENCE OF SOME ENTERPRISE?

22 MR. STOLAR: IF THE STATEMENTS OF MR. FONSECA, MR.
23 CARO, MR. GALLARDO, MR. -- WHOEVER THE REST OF THESE PEOPLE
24 ARE, ARE OFFERED AGAINST MY CLIENT TO PROVE A SUBSTANTIVE
25 ELEMENT OF A SUBSTANTIVE CRIME, I CAN'T CROSS-EXAMINE THOSE

1 PEOPLE. I'M DEPRIVED OF THE 6TH AMENDMENT CONFRONTATION RIGHT,
2 THAT IF A MAN SAYS SOMETHING ABOUT WHAT MY CLIENT SAID, I CAN
3 CROSS-EXAMINE HIM ABOUT THAT.

4 THE COURT: THAT'S TRUE IN EVERY CONSPIRACY CASE.

5 MR. STOLAR: BUT THIS IS NOT A CONSPIRACY. THIS IS A
6 SUBSTANTIVE DEVELOPMENT.

7 THE COURT: WELL, IT IS A CONSPIRACY, TOO.

8 MR. STOLAR: IT'S A CONSPIRACY WITH THE KIDNAPPING,
9 BUT THAT'S NOT --

10 THE COURT: IT'S A CONSPIRACY TO COMMIT A VIOLENT ACT
11 IN FURTHERANCE OF A RACKETEERING ENTERPRISE.

12 MR. STOLAR: CORRECT. SO THE VIOLENT ACT HAS TO BE
13 PROVEN. IT'S NOT A CONSPIRACY TO DO THAT. IT IS COMMITTING A
14 VIOLENT ACT IN FURTHERANCE OF A RACKETEERING ENTERPRISE.

15 THE COURT: THERE COMES A TIME WHEN ARGUMENT HAS
16 DIMINISHING RETURN. THAT TIME HAS COME. WHAT WE NOW NEED IS A
17 RULING.

18 MR. STOLAR: WHAT ABOUT ASKING THE WITNESS TO COME
19 BACK? HE'S UNDER THEIR CONTROL.

20 THE COURT: JUST A MOMENT. I'VE HEARD YOUR ARGUMENT.
21 YOU'RE REPEATING YOURSELF, AND --

22 MR. STOLAR: YOU LIKED THAT BEFORE.

23 THE COURT: -- WE'RE GOING TO TAKE A SHORT RECESS.

24 MR. STOLAR: OKAY.

25 MR. MEZA: BEFORE THE COURT RECESSES, WE WANT TO JOIN

1 IN THE ARGUMENT -- OBJECTION, YOUR HONOR, OF COUNSEL.

2 MR. NICOLAYSEN: LIKewise, YOUR HONOR, I WANT TO JOIN
3 IN THE DEFENSE OBJECTION.

4 THE COURT: I'M SURE YOU DO.

5 COURTROOM: (LAUGHTER.)

6 THE COURT: WE'LL RECONVENE AT 3:00.

7 (BRIEF RECESS.)

8 (JURY ABSENT:)

9 THE COURT: ALL RIGHT, COUNSEL. HERE'S WHAT THE COURT
10 BELIEVES IS APPROPRIATE TO DO IN THIS CASE. THE COURT NEEDS
11 TIME TO STUDY THIS ISSUE, WHETHER OR NOT THIS EVIDENCE IS
12 ADMISSIBLE.

13 THE DEFENDANTS SHOULD BE APPRISED THAT THERE ARE A
14 NUMBER OF CASES THAT HAVE ESTABLISHED THAT THE CO-CONSPIRATOR
15 EXCEPTION TO THE HEARSAY RULE APPLIES TO OTHER SITUATIONS,
16 WHERE EVEN THE CRIME OF CONSPIRACY IS NOT CHARGED, IF THERE IS
17 CONCERTED ACTION OR A COMMON SCHEME OR PLAN.

18 THE GOVERNMENT HAS CITED SEVERAL OF THOSE CASES TO THE
19 COURT. UNFORTUNATELY, THEY HAVE NOT CITED A RICO CASE, WHETHER
20 OR NOT THAT APPLIES IN A RICO ENTERPRISE; AND THAT WOULD BE
21 VERY HELPFUL.

22 IF THESE STATEMENTS -- FIRST OF ALL, WE HAVE EVIDENCE
23 HERE THAT, IF BELIEVED, ESTABLISHES THE EXISTENCE OF AN
24 ENTERPRISE INDEPENDENT OF ANY STATEMENTS. WE'VE HAD EVIDENCE
25 THAT THESE PEOPLE THAT HAVE BEEN NAMED BY WITNESSES WERE

1 ENGAGED IN NARCOTIC TRAFFICKING AND CULTIVATING MARIJUANA ON
2 VAST RANCHES, THEY HAVE BEEN DEALING IN MARIJUANA AND HEROIN
3 AND COCAINE, AND --

4 MR. STOLAR: NOT COCAINE.

5 THE COURT: -- THE PEOPLE HAVE BEEN NAMED TOGETHER AS
6 HAVING AN INTEREST IN THIS.

7 THIS IS EVIDENCE THAT COULD BE TAKING AS EVIDENCE OF
8 THE EXISTENCE OF AN ENTERPRISE.

9 MR. STOLAR: NOT COCAINE YET.

10 THE COURT: SO THE QUESTION IS: GIVEN THAT, IN A
11 RACKETEERING ENTERPRISE OF THE TYPE THAT IS CHARGED HERE, CAN
12 STATEMENTS MADE BY ALLEGED MEMBERS OF THE ENTERPRISE BE
13 RECEIVED IN THE SAME WAY THAT STATEMENTS OF CO-CONSPIRATORS CAN
14 BE RECEIVED?

15 THE GOVERNMENT HAS CITED SEVERAL CASES, WHICH I HAVE
16 LOOKED AT, WHICH SUGGEST THAT WHERE YOU HAVE A JOINT VENTURE OR
17 A COMMON PLAN OR SCHEME OR OPERATION OR CONCERTED ACTIVITY,
18 THAT EVEN THOUGH CONSPIRACY IS NOT CHARGED, THAT THE EXCEPTION
19 TO THE HEARSAY RULE MAY NEVERTHELESS APPLY.

20 THE BRIEF THAT YOU FILED -- AND I'M BEING VERY
21 GENEROUS WHEN I CALL IT THAT -- CONTAINS NOT A SINGLE CASE, NOT
22 A SINGLE AUTHORITY ON THE SUBJECT. SO IF YOU EXPECT TO BE
23 TAKEN SERIOUSLY, SOMEBODY HAS TO DO SOME RESEARCH AND PRESENT
24 THE COURT WITH SOME LEGAL AUTHORITY.

25 I WOULD SUGGEST THAT THE GOVERNMENT LOOK FOR THE

1 APPLICATION OF THIS PRINCIPLE IN RICO ENTERPRISE CASES. AND I
2 DIRECT, THEN, THAT TESTIMONY OF THIS WITNESS SHOULD BE DEFERRED
3 UNTIL THE COURT HAS HAD AN OPPORTUNITY TO RULE ON THAT.

4 AND THIS GIVES ME AN OPPORTUNITY TO TELL COUNSEL THAT
5 I DO NOT LIKE SURPRISES, THAT THESE MOTIONS SHOULD BE FILED IN
6 ENOUGH TIME TO GIVE THE COURT SUFFICIENT TIME TO STUDY MOTIONS AND
7 DO THE NECESSARY RESEARCH TO MAKE AN INTELLIGENT RULING ON
8 THEM.

9 OFF-THE-CUFF RULINGS ARE RARELY PRODUCTIVE. ALTHOUGH
10 I THINK MY LEGAL INSTINCTS ARE GOOD, WE SHOULD NOT HAVE TO
11 DEPEND ON LEGAL INSTINCT. WE SHOULD DO THE NECESSARY RESEARCH
12 AND MAKE THE PROPER DECISION.

13 SO DO YOU HAVE ANOTHER WITNESS THAT CAN BE CALLED AT
14 THIS TIME?

15 MR. MEDRANO: YES, YOUR HONOR, ALTHOUGH, CAN I --

16 THE COURT: OR CAN YOU ELICIT FROM THIS WITNESS OTHER
17 TESTIMONY UNRELATED TO THE CONVERSATIONS THAT HE MAY HAVE
18 OVERHEARD?

19 MR. MEDRANO: PROBABLY NOT, YOUR HONOR, UNTIL WE GET A
20 RULING FROM YOU.

21 THE COURT: ALL RIGHT. WELL, I'LL BE GLAD TO MAKE
22 THAT RULING JUST AS QUICKLY AS I HAVE SOME BRIEFING DONE ON IT.
23 IF YOU CAN GET THAT TO ME BY TOMORROW MORNING, OR TOMORROW
24 SOMETIME, WHY, WE'LL RULE ON IT PROMPTLY.

25 MR. MEDRANO: VERY WELL, YOUR HONOR.

1 IN TERMS OF ENSUING WITNESSES, I JUST --

2 THE COURT: LOOK, DO YOU HAVE WITNESSES HERE?

3 MR. MEDRANO: YES, YOUR HONOR.

4 THE COURT: I KNOW YOU DON'T LIKE TO CALL PEOPLE OUT
5 OF ORDER, BUT I'M NOT GOING TO SIT IDLE HERE FOR THE NEXT HOUR
6 AND A HALF OR SO IF YOU HAVE PEOPLE THAT CAN BE PRESENTING
7 TESTIMONY TO THIS JURY.

8 MR. MEDRANO: YES, YOUR HONOR. WE DO. I CAN GET
9 STARTED.

10 WITH YOUR PERMISSION, WE WILL CALL BACK MR. BUENO AT A
11 LATER TIME, TO NOT UPSET HIS CHRONOLOGY.

12 THE COURT: YES. ALL RIGHT.

13 MR. MEDRANO: WE CAN CALL AT THIS TIME, THEN, HECTOR
14 SANTANA TO THE STAND.

15 THE COURT: VERY WELL, AND WE MUST SUMMON THE JURY.

16 (WITNESS SUMMONED TO COURTROOM.)

17 THE CLERK: PLEASE RISE.

18 (JURY PRESENT:)

19 (JURY PRESENT:)

20 THE CLERK: YOU MAY BE SEATED.

21 THE COURT: LADIES AND GENTLEMEN, THE TESTIMONY OF THE
22 LAST WITNESS IS BEING INTERRUPTED. HE WILL BE RECALLED LATER,
23 SO WE'RE DEFERRING THAT UNTIL A LATER TIME. WE'RE NOW CALLING
24 ANOTHER WITNESS.

25 WHO IS YOUR NEXT WITNESS?

1 MR. MEDRANO: MR. HECTOR SANTANA, YOUR HONOR.

2 THE COURT: ALL RIGHT. SWEAR THE WITNESS.

3 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

4

5 HECTOR LUIS SANTANA + PLAINTIFF'S WITNESS, SWORN

6

7 THE CLERK: PLEASE BE SEATED. PLEASE STATE YOUR FULL
8 NAME FOR THE RECORD AND SPELL YOUR LAST NAME.

9 THE WITNESS: HECTOR LUIS SANTANA, S A N T A
10 N A.

11

DIRECT EXAMINATION +

12

BY MR. MEDRANO:

13

Q GOOD AFTERNOON, MR. SANTANA. WHERE ARE YOU CURRENTLY
14 EMPLOYED, SIR?

15

A SPECTRUM AUTO.

16

Q AND WHERE IS THAT LOCATED?

17

A WEST PALM BEACH, FLORIDA.

18

Q YOUR AGE, MR. SANTANA?

19

A 28.

20

Q MR. SANTANA, ARE YOU FLUENT IN ANY LANGUAGE OTHER THAN
21 ENGLISH?

22

A SPANISH.

23

Q I WANT TO DIRECT YOUR ATTENTION TO THE YEAR 1983, MR.
24 SANTANA. WHERE DID YOU RESIDE AT THAT TIME?

25

A IN WEST PALM BEACH, FLORIDA.

1 Q WHO WERE YOU EMPLOYED BY IN 1983?

2 A VON'S AUTO REPAIR.

3 Q WHAT CITY WERE THEY LOCATED IN?

4 A ALSO IN WEST PALM BEACH.

5 Q AND IN 1983, MR. SANTANA, WERE YOU MARRIED AT THAT TIME?

6 A YES, I WAS.

7 Q YOUR WIFE'S NAME AT THAT TIME?

8 A LISETTE RIVERON.

9 Q ARE YOU STILL MARRIED TO LISETTE RIVERON?

10 A NO, I'M NOT.

11 Q DIVORCED?

12 A YES.

13 Q AND THE TIME FRAME WHEN YOU WERE MARRIED AND WHEN YOU WERE
14 DIVORCED?

15 A TWO YEARS.

16 Q HAVE YOU EVER BEEN HEARD OF SOMEONE BY THE NAME OF JOSE
17 MELO, M E L O?

18 A YES, I HAVE.

19 Q WHEN DID YOU MEET JOSE MELO, MR. SANTANA?

20 A BACK IN THE SPRING OF 83.

21 Q DESCRIBE FOR US THE CIRCUMSTANCES, IF YOU WILL.

22 A WELL, HIS WIFE WENT TO THE COURTHOUSE IN WEST PALM -- IN
23 DEL REY BEACH, AND SHE WANTED TO GET MARRIED. AND AT THE TIME,
24 MY EX-SISTER-IN-LAW WAS WORKING AT THE COURTHOUSE, AND SHE
25 ASKED HER IF SHE KNEW ANYBODY THAT COULD GET THEM MARRIED. SO

1 MY SISTER-IN-LAW GAVE HER OUR NUMBER, AND SHE CALLED US AND HAD
2 US COME OVER THERE AND MARRY THEM, BECAUSE MY EX-WIFE WAS A
3 PUBLIC NOTARY IN FLORIDA.

4 Q THAT WAS LISETTE RIVERON?

5 A LISETTE RIVERON; RIGHT.

6 Q AT THAT TIME, MR. SANTANA, ARE NOTARY PUBLICS IN THE STATE
7 OF FLORIDA PERMITTED TO CONDUCT MARRIAGES?

8 A YES, THEY ARE.

9 Q DO YOU REMEMBER THE NAME OF JOSE MELO'S THEN FIANCEE AND
10 LATER WIFE?

11 A MARGARITA.

12 Q I BELIEVE YOU HAVE IN FRONT OF YOU, MR. SANTANA, A
13 PHOTOGRAPH IDENTIFIED AS GOVERNMENT'S EXHIBIT 167. CAN I ASK
14 TO YOU LOOK THROUGH WHAT YOU HAVE IN FRONT OF YOU AND LOCATE
15 THAT EXHIBIT?

16 A THE PICTURE?

17 Q YES, SIR. CAN YOU IDENTIFY -- WELL, IS THAT 167?

18 THE COURT: THE YELLOW TAG.

19 THE WITNESS: YES.

20 BY MR. MEDRANO:

21 Q AND WOULD YOU IDENTIFY FOR THE JURY WHAT THAT IS?

22 A LOOKS LIKE A PICTURE OF JOSE MELO.

23 MR. MEDRANO: YOUR HONOR, WE SEEK ITS ADMISSION AT
24 THIS TIME.

25 MS. KELLY: OBJECTION, YOUR HONOR. RELEVANCE.

1 MR. STOLAR: I'D ASK THAT IT BE RECEIVED SUBJECT TO
2 CONNECTION.

3 THE COURT: WELL, IT IS RECEIVED SUBJECT TO BEING
4 CONNECTED UP TO THIS CASE IN SOME WAY.

5 MR. MEDRANO: THANK YOU, YOUR HONOR.

6 (EXHIBIT 167 # RECEIVED IN EVIDENCE.)

7 BY MR. MEDRANO:

8 Q WHEN YOU MET JOSE MELO AND HIS WIFE MARGARITA, DID YOU AND
9 YOUR WIFE BECOME FRIENDS WITH THEM THEREAFTER?

10 A YES, WE BECAME FRIENDS.

11 Q WOULD YOU SOCIALIZE?

12 A YEAH, ABOUT ONCE A WEEK.

13 Q GO TO CHURCH TOGETHER?

14 A GO TO CHURCH, HAVE DINNER OVER THE HOUSE.

15 Q NOW, MR. SANTANA, AT ANY POINT IN 1983, DO YOU EMBARK ON
16 ANY TYPE OF BUSINESS VENTURE WITH JOSE MELO?

17 A YES, WE DO.

18 Q JUST DESCRIBE FOR THE JURY WHAT THAT WAS?

19 A WELL, FIRST HE PROPOSED TO ME FIXING JEEPS, AND HE WILL BUY
20 THEM, I WILL FIX THEM, AND HE WILL SELL THEM IN SOUTH AMERICA.

21 MR. STOLAR: MAY I ASK THAT THE HEARSAY OF MR. MELO
22 NOT BE RECEIVED? THE WITNESS SAID, "HE PROPOSED TO ME THAT WE"
23 DO SOMETHING AND, "HE SAID TO ME THAT WE" DO SOMETHING.

24 MR. MEDRANO: THIS WILL ESTABLISH THIS WITNESS'S
25 ACTIONS.

1 THE COURT: WELL, LET THIS WITNESS DESCRIBE WHAT HE
2 DID WITH THIS PERSON, NOT HAVING HIM GET INTO CONVERSATIONS.
3 CAN'T YOU DO THAT?

4 MR. MEDRANO: CERTAINLY, YOUR HONOR.

5 Q MR. SANTANA, DID YOU START A BUSINESS IN 83 WITH JOSE MELO?

6 A YES, WE DID.

7 Q AND CAN YOU TELL US WHAT TYPE OF BUSINESS IT WAS?

8 A IT WAS IMPORT AND EXPORT BUSINESS.

9 Q IMPORT/EXPORT OF WHAT?

10 A WELL, IT MAINLY WAS BUYING PARTS HERE AND HE WOULD SELL
11 THEM IN COLOMBIA.

12 Q BUYING PARTS?

13 A AIRPLANE PARTS.

14 Q AIRPLANE PARTS?

15 A AIRPLANE.

16 Q AIRPLANE PARTS?

17 A RIGHT.

18 Q PURCHASED IN THE UNITED STATES?

19 A RIGHT.

20 Q AND TO BE EXPORTED WHERE?

21 A TO COLOMBIA, SOUTH AMERICA.

22 Q TO ANY SPECIFIC BUYER?

23 A AEROLINEAS ESPECIALES OF COLOMBIA.

24 THE REPORTER: PARDON?

25 THE WITNESS: AEROLINEAS ESPECIALES.

1 THE REPORTER: I NEED THE SPELLING.

2 MR. MEDRANO: A E R O L I N E A S, E S P
3 E C I A L E S, I BELIEVE.

4 Q AEROLINEAS ESPECIALES; IS THAT CORRECT, MR. SANTANA?

5 A I DIDN'T FOLLOW.

6 Q WELL, THE NAME OF IT WAS AEROLINES ESPECIALES?

7 A YEAH. THAT WAS THE NAME, YES.

8 Q WHY WERE YOU NECESSARY FOR THE FORMATION OF THE COMPANY?

9 MR. STOLAR: OBJECTION. NO FOUNDATION.

10 THE COURT: SUSTAINED.

11 BY MR. MEDRANO:

12 Q WAS THIS COMPANY GOING TO HAVE OFFICERS?

13 A YES, IT WAS.

14 Q WHO WERE GOING TO BE THE OFFICERS?

15 A I WILL BE PRESIDENT, JOSE MELO WILL BE VICE-PRESIDENT, AND
16 LISETTE RIVERON WILL BE SECRETARY.

17 Q WHO WAS GOING TO PUT UP THE MONEY TO PURCHASE THE AIRPLANE
18 PARTS?

19 A APPARENTLY HE WAS.

20 Q JOSE MELO?

21 A HE WAS. JOSE MELO.

22 Q DO YOU HAVE IN FRONT OF YOU, SIR, GOVERNMENT'S EXHIBIT 21,
23 MR. SANTANA?

24 A YES.

25 Q AND WOULD YOU IDENTIFY WHAT THAT IS FOR THE JURY?

1 A IT'S A STATE OF FLORIDA TITLE OF INCORPORATION.

2 Q ARTICLES OF INCORPORATION?

3 A YES.

4 Q WERE THESE THE ARTICLES OF INCORPORATION FOR YOUR COMPANY
5 THAT YOU FORMED WITH JOSE MELO?

6 A YES, THEY WERE.

7 Q AND CAN YOU GIVE US THE DATE THAT THE COMPANY WAS FORMED,
8 SIR?

9 A JUNE 6TH 1983.

10 Q AND IN WHAT STATE WAS THAT?

11 A FLORIDA.

12 MR. MEDRANO: YOUR HONOR, THESE ARE -- THAT EXHIBIT IS
13 SELF-AUTHENTICATING UNDER RULE 902 BECAUSE IT HAS A SEAL FROM
14 THE STATE OF FLORIDA, THE SECRETARY. WE MOVE ITS ADMISSION AT
15 THIS TIME.

16 MS. KELLY: SAME OBJECTION, YOUR HONOR.

17 THE COURT: YOU HAVE TO SPEAK UP, COUNSEL.

18 MS. KELLY: SORRY, YOUR HONOR. THE OBJECTION IS BASED
19 ON RELEVANCE.

20 MR. STOLAR: I WOULD JUST LIKE TO EXAMINE THE ORIGINAL
21 OF IT.

22 THE COURT: DO YOU HAVE A COPY OF IT?

23 MR. STOLAR: I DO HAVE A COPY. I WANT TO MAKE SURE
24 THE ORIGINAL IS THE SAME AS WHAT I HAVE.

25 THE COURT: ALL RIGHT. WELL, THE EXHIBIT WILL BE

1 RECEIVED SUBJECT TO STRIKING.

2 MR. STOLAR: AGAIN ASK THAT IT BE RECEIVED SUBJECT TO
3 CONNECTION.

4 THE COURT: YES.

5 (EXHIBIT 21 # RECEIVED IN EVIDENCE.)

6 MR. STOLAR: THANK YOU.

7 BY MR. MEDRANO:

8 Q MR. MELO -- I APOLOGIZE FOR THAT.

9 MR. SANTANA, ON THAT EXHIBIT 21, THOSE ARTICLES OF
10 INCORPORATION, WHAT WAS THE NAME OF THE COMPANY?

11 A ATLANTIC IMPORT AND EXPORT CORPORATION.

12 Q INCORPORATED IN WHAT STATE?

13 A FLORIDA.

14 Q IF I CAN ASK TO YOU TURN TO THE LAST PAGE OF THAT EXHIBIT,
15 SIR, IS YOUR NAME TYPED ON IT, ON THE LAST PAGE?

16 A (EXAMINES ITEM.) YES, IT IS.

17 Q AND IS THERE A SIGNATURE BY YOUR TYPED NAME?

18 A YES, THERE IS.

19 Q AND IS THAT YOUR SIGNATURE, SIR?

20 A YES, IT IS.

21 Q IF YOU RECALL, MR. SANTANA, DID AN ATTORNEY-AT-LAW ASSIST
22 IN PREPARING THE ARTICLES OF CORPORATION FOR ATLANTIC IMPORT
23 AND EXPORT?

24 A YES, IT WAS.

25 Q NAME OF THE LAWYER?

1 A CONRAD KULATZ.

2 Q WHO PAID FOR CONRAD KULATZ'S SERVICES?

3 A JOSE MELO DID.

4 Q DID ATLANTIC IMPORT AND EXPORT HAVE ANY PROFITS?

5 A VERY LITTLE.

6 Q WHAT IS "VERY LITTLE"?

7 A NOT EVEN A THOUSAND DOLLARS.

8 Q MR. SANTANA, AS PRESIDENT OF THE COMPANY, ARE YOU AT ANY
9 TIME ADVISED WHETHER THE COMPANY HAS OBTAINED AN AIRCRAFT?

10 A YES, I WAS.

11 Q IF I CAN ASK TO YOU TURN TO GOVERNMENT'S EXHIBIT 22, IS
12 THAT IN FRONT OF YOU?

13 A I SEE IT.

14 Q NOW, WOULD YOU IDENTIFY FOR THE JURY WHAT GOVERNMENT'S
15 EXHIBIT 22 IS?

16 A IT'S AGREEMENT FOR US, FROM 840 COMMANDER, TO OUR COMPANY,
17 ATLANTIC IMPORT AND EXPORT.

18 Q FOR AN AEROCOMMANDER 840 AIRCRAFT?

19 A YES.

20 Q WAS THIS AIRCRAFT DEEDED, PURSUANT TO THAT DOCUMENT, TO
21 YOUR COMPANY?

22 A (EXAMINES EXHIBIT.) YES.

23 Q AND IF I CAN ASK TO YOU TURN TO THE LAST PAGE OF THAT
24 DOCUMENT, IS YOUR SIGNATURE ANYPLACE ON THAT LAST PAGE?

25 MR. STOLAR: THE DOCUMENT'S NOT IN EVIDENCE YET. I

1 OBJECT TO HIM READING IT.

2 THE COURT: HE MAY ANSWER WHETHER HIS SIGNATURE IS ON
3 THE LAST PAGE.

4 THE WITNESS: YES, IT IS.

5 MR. MEDRANO: YOUR HONOR, THIS EXHIBIT IS
6 SELF-AUTHENTICATED PURSUANT TO RULE 902, BECAUSE IT IS A PUBLIC
7 DOCUMENT UNDER SEAL; THE ORIGINAL IS. MR. STOLAR'S BEEN
8 PROVIDED WITH COPIES OF IT.

9 MR. STOLAR: I'VE NEVER SEEN ONE WITH THE SEAL ON IT,
10 HOWEVER.

11 MR. MEDRANO: WE SEEK ITS ADMISSION.

12 THE COURT: WELL, THE EXHIBIT WILL BE RECEIVED.

13 MR. STOLAR: SUBJECT TO ITS CONNECTION?

14 THE COURT: YES, SUBJECT TO A MOTION TO STRIKE.

15 MR. STOLAR: OKAY.

16 (EXHIBIT 22 # RECEIVED IN EVIDENCE.)

17 BY MR. MEDRANO:

18 Q WERE ANY OF THE FUNDS OF THE COMPANY ATLANTIC IMPORT/EXPORT
19 USED TO BY THAT AEROCOMMANDER 840?

20 A NO, IT WAS NOT.

21 Q AS PART OF YOUR RESPONSIBILITY AS THE PRESIDENT OF THIS
22 COMPANY, DID YOU EVER HANDLE INVOICES?

23 A INVOICES, YES.

24 Q YOU PERSONALLY DID IT?

25 A ME AND MY -- AND LISETTE RIVERON AND JOSE MELO.

1 MR. MEDRANO: I APOLOGIZE, YOUR HONOR. I'M HAVING
2 DIFFICULTY HEARING.

3 Q YOU AND LISETTE RIVERON?

4 A YES.

5 Q WHAT WERE THESE INVOICES FOR, MR. SANTANA?

6 A FOR AIRPLANE PARTS.

7 Q IN YOUR -- STRIKE THAT.

8 DURING YOUR ENTIRE ASSOCIATION WITH ATLANTIC IMPORT
9 AND EXPORT DID YOU PERSONALLY EVER SEE AN AIRPLANE PART?

10 A AN AIRPLANE PART?

11 Q THAT WAS PART OF THE INVOICES?

12 A NO, I DIDN'T.

13 Q DO YOU HAVE IN FRONT YOU -- YOU SHOULD -- GOVERNMENT'S
14 EXHIBIT 20, SEVERAL PHOTOGRAPHS? IT MIGHT BE BEHIND YOU, TO
15 YOUR RIGHT, MR. SANTANA.

16 MR. SANTANA, RIGHT BEHIND YOU, I BELIEVE.

17 A THIS?

18 Q YES, SIR. IF YOU WOULD PULL THAT UP, IS THAT GOVERNMENT'S
19 EXHIBIT 20?

20 A YES, IT IS.

21 Q NOW, WOULD YOU IDENTIFY WHAT THAT IS, SIR?

22 A (DISPLAYED.) IT'S AN 840 COMMANDER.

23 Q AND WAS THIS THE AIRCRAFT THAT WAS TRUST DEEDED TO ATLANTIC
24 IMPORT?

25 A LOOKS LIKE IT.

1 MR. MEDRANO: YOUR HONOR, WE WOULD SEEK ADMISSION OF
2 THESE PHOTOGRAPHS AT THIS TIME.

3 MR. STOLAR: IT'S NOT THE AIRCRAFT.

4 THE COURT: WELL, YOU'RE NOT A WITNESS.

5 MR. STOLAR: BUT HE SAID IT LOOKS LIKE IT.

6 MR. MEDRANO: IT GOES TO WEIGHT, NOT ADMISSIBILITY,
7 YOUR HONOR.

8 THE COURT: THE EXHIBIT MAY BE RECEIVED.

9 (EXHIBIT 20 # RECEIVED IN EVIDENCE.)

10 THE COURT: THERE MAY BE OTHER TESTIMONY ABOUT IT.

11 MR. STOLAR: I UNDERSTAND, BUT THERE'S A WAY TO
12 IDENTIFY IT. IT HAS A TAIL NUMBER ON IT.

13 MR. MEDRANO: YOUR HONOR, I'LL ESTABLISH SHORTLY THAT
14 HE HAS SEEN THE AIRCRAFT, AS PART OF MY DIRECT.

15 MS. KELLY: YOUR HONOR, I DO HAVE AN OBJECTION ON
16 RELEVANCE.

17 THE COURT: OVERRULED.

18 BY MR. MEDRANO:

19 Q MR. SANTANA, WHO DID THE MAINTENANCE ON THE AEROCOMMANDER
20 840?

21 A BECKETT AVIATION OF SCOTTSDALE, ARIZONA.

22 AN INTERPRETER: YOUR HONOR, I COULDN'T UNDERSTAND.

23 THE COURT: WOULD YOU PLEASE SPEAK UP A LITTLE AND
24 PULL THAT MICROPHONE A LITTLE TOWARD YOU?

25 THE WITNESS: BECKETT AVIATION OF SCOTTSDALE, ARIZONA.

1 BY MR. MEDRANO:

2 Q MR. SANTANA, I WANT TO DIRECT YOUR ATTENTION TO THE FALL OF
3 1983. DID YOU EVER HAVE OCCASION TO GO TO SCOTTSDALE, ARIZONA?

4 A YES, I DID.

5 Q WHY, MR. SANTANA?

6 A TO SEE THE AIRPLANE AND PAY FOR SOME DAMAGE THAT WAS DONE
7 TO THE PLANE.

8 Q DID YOU TAKE MONEY WITH YOU TO SCOTTSDALE?

9 A YES.

10 Q HOW MUCH?

11 A APPROXIMATELY \$27,000.00.

12 Q WHO PROVIDED YOU WITH \$27,000.00?

13 A JOSE MELO.

14 Q THAT'S THE MONEY YOU TOOK TO SCOTTSDALE?

15 A YES.

16 Q UPON YOUR ARRIVAL -- STRIKE THAT.

17 DID YOU GO TO ANY PARTICULAR AIRLINE COMPANY FOR
18 MAINTENANCE IN SCOTTSDALE?

19 A REPHRASE THAT AGAIN, PLEASE. REPHRASE.

20 Q WHAT AIRLINE DID YOU GO TO TAKE THE MONEY TO?

21 A OH. BECKETT AVIATION.

22 Q AND DID YOU MEET ANYONE FROM BECKETT AVIATION WHEN YOU WERE
23 IN SCOTTSDALE?

24 A YES, I DID.

25 Q WHO WAS THAT, SIR?

1 A JOHN PAUL JONES.

2 Q WHO WAS THIS MAN?

3 A SHOP FOREMAN FOR BECKETT AVIATION.

4 Q WHEN YOU WERE IN SCOTTSDALE AT BECKETT AVIATION, DID YOU
5 SEE THE AEROCOMMANDER 840?

6 A YES, I DID.

7 Q THE PHOTOGRAPHS YOU JUST IDENTIFIED, DID THAT LOOK LIKE THE
8 AIRCRAFT THAT YOU SAW IN ARIZONA?

9 A LOOKS LIKE IT.

10 Q AFTER THAT ARIZONA TRIP -- STRIKE THAT.

11 BEFORE THE ARIZONA TRIP, WERE YOU IN CONTACT WITH JOSE
12 MELO?

13 A BEFORE THE ARIZONA TRIP?

14 Q YES.

15 A YES, I WAS.

16 Q AFTER THE ARIZONA TRIP, WERE YOU STILL IN CONTACT WITH JOSE
17 MELO?

18 A WE STARTED LOSING CONTACT.

19 Q EXPLAIN WHAT YOU MEAN BY THAT.

20 A WELL, APPARENTLY HE LEFT THE COUNTRY AND -- HAD A HARD TIME
21 REACHING HIM.

22 Q DID YOU TRY TO REACH HIM?

23 A YES, I DID.

24 Q WHAT DID YOU TRY TO DO TO FIND HIM OR REACH HIM?

25 A WELL, I WOULD CALL HIM -- WOULD CALL HIM AT HIS HOUSE AND

1 HE WAS NOT THERE. HIS WIFE WAS STILL THERE, BUT HE WASN'T.
2 AND SHE SAID HE WAS OUT OF THE COUNTRY.

3 AND I WOULD TELL HER TO LET HIM GET IN TOUCH WITH ME,
4 TELL HIM TO GET IN TOUCH WITH ME. AND HE DID, YOU KNOW, AFTER
5 A WHILE.

6 Q DID JOSE MELO EVER LEAVE YOU PHONE NUMBERS WHERE YOU COULD
7 REACH HIM?

8 A YES, HE DID.

9 Q DID YOU EVER TRY THOSE PHONE NUMBERS?

10 A YES, I DID.

11 Q DID YOU FIND HIM AT THOSE PHONE NUMBERS?

12 A NEVER COULD.

13 Q ARE YOU EVER EVENTUALLY ABLE TO REACH HIM?

14 A NO, HE REACHED ME.

15 Q AT THAT TIME, DID YOU EXPRESS YOUR DISPLEASURE OVER NOT
16 BEING ABLE TO FIND HIM?

17 MR. STOLAR: OBJECTION. CAN WE HAVE THE TIME? TIME:
18 WHEN DID HE REACH HIM?

19 THE COURT: WELL, THAT'S --

20 BY MR. MEDRANO:

21 Q DO YOU KNOW WHEN IT WAS YOU REACHED HIM -- APOLOGIZE, YOUR
22 HONOR.

23 A WHEN DID HE REACH HIM?

24 THE COURT: OKAY. IT'S NOT NECESSARY THAT HE EXPRESS
25 THE TIME. THAT IS NOT A BASIS FOR OBJECTION, IN OTHER WORDS.

1 YOU CAN CROSS-EXAMINE ABOUT IT.

2 BY MR. MEDRANO:

3 Q DID YOU EXPRESS YOUR DISPLEASURE THAT YOU COULDN'T FIND
4 HIM?

5 A YES, I DID.

6 Q DID YOU ARRANGE TO GET TOGETHER WITH JOSE MELO WHEN YOU
7 FINALLY DID REACH HIM?

8 A YEAH. WE ARRANGED.

9 A WHERE DID YOU DECIDE TO MEET HIM?

10 A IN GUADALAJARA, MEXICO.

11 Q DID YOU GO DO GUADALAJARA?

12 A YES, I DID.

13 Q DO YOU RECALL THE YEAR THAT YOU WENT TO GUADALAJARA FOR
14 THIS TRIP?

15 A REPHRASE THAT AGAIN.

16 Q DO YOU RECALL WHEN IT WAS, OR THE YEAR, THAT YOU WOULD GO
17 TO GUADALAJARA?

18 A I CAN'T RECALL RIGHT NOW, THE YEARS. IT'S A LONG TIME AGO.

19 Q WOULD IT HAVE BEEN AFTER THE FALL OF 1983, THE SCOTTSDALE,
20 ARIZONA, TRIP?

21 A WELL, YEAH, IT WAS AFTER THAT.

22 Q DID YOU GO TO ARIZONA ALONE, MR. SANTANA?

23 A TO WHERE?

24 Q STRIKE THAT. DID YOU GO TO GUADALAJARA ALONE?

25 A NO. I WENT WITH MY WIFE, THEN, LISETTE RIVERON, AND HER

1 FATHER AND MOTHER.

2 Q YOUR THEN IN-LAWS?

3 A YES.

4 Q WHEN YOU ARRIVED AT GUADALAJARA, WHERE DID YOU PROCEED TO?

5 A WELL, HE TOLD ME THAT HE HAD RESERVATIONS AT THE PLAZA DEL
6 SOL, AND WHEN I GOT THERE, THERE WAS NO RESERVATIONS.

7 Q NONE AVAILABLE FOR YOU?

8 A NOT FOR ME.

9 Q WAS JOSE MELO THERE?

10 A NO, HE WASN'T.

11 Q WHAT'S THE NEXT THING YOU DID?

12 A WELL, HE TOLD ME THAT --

13 MR. STOLAR: OBJECTION. HEARSAY.

14 THE COURT: SUSTAINED.

15 BY MR. MEDRANO:

16 Q WITHOUT SAYING WHAT JOSE MELO TOLD YOU, WHERE DID YOU GO
17 NEXT, IF ANYWHERE?

18 A I WENT TO THE AIRPORT.

19 Q WHY DID YOU GO TO THE AIRPORT?

20 A WELL, APPARENTLY THERE WAS SUPPOSED TO BE A GUY THERE
21 THAT -- HE HUNG A PLANE THERE; HE USED TO HAVE A HANGAR THERE.

22 Q YOU WERE STILL TRYING TO FIND JOSE MELO?

23 A YES.

24 Q IS THAT WHY YOU FLEW TO THE GUADALAJARA AIRPORT?

25 A YES.

1 Q DID YOU FIND JOSE MELO AT THE GUADALAJARA AIRPORT?

2 A I DID.

3 Q DO YOU END UP LEAVING GUADALAJARA?

4 A YES, I DO.

5 Q WITHOUT EVER HAVING CONTACTED JOSE MELO?

6 A (NO AUDIBLE RESPONSE.)

7 THE COURT: WHAT'S YOUR ANSWER?

8 THE WITNESS: NO.

9 THE COURT: YOU DON'T MEAN YOU DID NOT CONTACT HIM?

10 THE WITNESS: NO. COULDN'T GET AHOLD OF HIM.

11 BY MR. MEDRANO:

12 Q BUT YOU TRIED?

13 A YES, I TRIED.

14 Q AT ANY POINT, MR. SANTANA, DO YOU LEARN OF THE ACQUISITION
15 OF AN AEROCOMMANDER 1,000 AIRPLANE?

16 A YES, I DID.

17 Q AGAIN BY ATLANTIC IMPORT AND EXPORT CORPORATION?

18 A YES.

19 Q MR. SANTANA, DO YOU ULTIMATELY DISSOLVE THIS CORPORATION?

20 A YES.

21 Q WHY?

22 MR. STOLAR: OBJECTION.

23 MR. MEDRANO: GROUNDS, YOUR HONOR.

24 THE COURT: PARDON?

25 MR. MEDRANO: WHAT WERE THE GROUNDS FOR THE OBJECTION?

1 THE COURT: THE OBJECTION'S OVERRULED.

2 MR. STOLAR: THE GROUNDS FOR THE OBJECTION ARE THAT
3 HE'S GOING TO BE, I BELIEVE, SPEAKING ABOUT ANOTHER LEGAL
4 PROCEEDING IN ANOTHER STATE.

5 MR. MEDRANO: THAT'S INCORRECT, YOUR HONOR.

6 MR. STOLAR: OKAY. I'LL WITHDRAW OBJECTION.

7 THE COURT: ALL RIGHT.

8 BY MR. MEDRANO:

9 Q WHY DID YOU SEEK TO DISSOLVE THIS CORPORATION?

10 A WELL, I COULDN'T REACH JOSE, AND THERE WAS NO PLANES GOING
11 AT ALL, AND THERE WAS NO PROFIT BEING MADE.

12 Q WHEN WAS IT DISSOLVED?

13 A I BELIEVE IN 84.

14 THE COURT: WHAT YEAR?

15 THE WITNESS: 1984.

16 BY MR. MEDRANO:

17 Q WERE THE FUNDS OF ATLANTIC IMPORT AND EXPORT CORPORATION
18 EVER USED TO PURCHASE EITHER AIRCRAFT?

19 A NO, SIR.

20 MR. MEDRANO: MAY I HAVE JUST ONE MOMENT, YOUR HONOR?

21 (GOVERNMENT COUNSEL CONFER OFF THE RECORD.)

22 MR. MEDRANO: YOUR HONOR, NO FURTHER DIRECT BY THE
23 GOVERNMENT.

24 THE COURT: CROSS-EXAMINE THE WITNESS.

25 CROSS-EXAMINATION +

1 BY MR. STOLAR:

2 Q GOOD AFTERNOON. THESE INVOICES THAT YOU SPOKE ABOUT, YOU
3 HAD CHARGE OF THOSE? YOU HAD THEM IN YOUR PHYSICAL POSSESSION?

4 A YES.

5 Q DO YOU STILL HAVE THEM?

6 A NO. I TURNED THEM OVER.

7 Q TO WHOM DID YOU TURN THEM OVER?

8 A TO THE D.E.A.

9 Q IN WHAT YEAR?

10 A 85.

11 Q AND DO YOU REMEMBER THE NAME OF THE PERSON YOU TURNED THEM
12 OVER TO?

13 A CAN'T RECALL RIGHT NOW.

14 Q IN DISCUSSING YOUR PREPARATION FOR TESTIFYING, DID MR.
15 MEDRANO, MR. CARLTON, MR. KUEHL HAVE THEM? DID YOU SEE THEM
16 HERE IN LOS ANGELES?

17 A YES.

18 Q UPSTAIRS?

19 A YES.

20 MR. STOLAR: OKAY. THANK YOU. I HAVE NOTHING
21 FURTHER.

22 THE COURT: ANY OTHER QUESTIONS FOR THIS WITNESS?

23 DEFENSE COUNSEL: NOTHING, YOUR HONOR.

24 THE COURT: YOU MAY STEP DOWN.

25 MR. MEDRANO: YOUR HONOR, AT THIS TIME THE GOVERNMENT

1 WOULD CALL MR. WALTER SCHUMACHER. HE'S RIGHT OUTSIDE THE
2 COURTROOM, YOUR HONOR.

3 THE COURT: ALL RIGHT.

4 (WITNESS SUMMONED TO COURTROOM.)

5 THE COURT: COME FORWARD PLEASE. COME RIGHT OVER HERE
6 AND RAISE YOUR RIGHT HAND, PLEASE.

7

8 WALTER K. SCHUMACHER + PLAINTIFF'S WITNESS, SWORN

9

10 THE CLERK: PLEASE BE SEATED. PLEASE STATE YOUR FULL
11 NAME FOR THE RECORD AND SPELL YOUR LAST NAME.

12 THE WITNESS: WALTER K SCHUMACHER. AND I'M SORRY, I
13 DIDN'T HEAR.

14 THE CLERK: SPELL YOUR LAST NAME.

15 THE WITNESS: S C H U M A C H E R.

16 MR. MEDRANO: MR. SCHUMACHER, FEEL FREE TO ADJUST THAT
17 MICROPHONE SO WE CAN HEAR YOU.

18 THE WITNESS: (COMPLIES.)

19 MR. MEDRANO: THANK YOU, SIR.

20 THE WITNESS: HOW'S THIS?

21 COURTROOM: (LAUGHTER.)

22 THE COURT: DON'T NEED TO BE TOO CLOSE.

23 DIRECT EXAMINATION +

24 BY MR. MEDRANO:

25 Q WHAT IS YOUR PROFESSION, MR. SCHUMACHER.

1 A I'M PRESIDENT OF SKYTEL AVIATION. I'VE BEEN IN THE
2 AVIATION BUSINESS FOR APPROXIMATELY 23 YEARS.

3 Q HOW LONG HAVE YOU BEEN INVOLVED WITH SKYTEL AVIATION?

4 A SINCE THE COMPANY'S FOUNDING IN 1967.

5 Q WHAT DOES SKYTEL AVIATION DO?

6 A WE ARE A GENERAL AVIATION -- WHAT'S REFERRED TO AS A FIXED
7 BASE OPERATION IN FORT LAUDERDALE, FLORIDA, ENGAGING IN THE
8 SALE OF AIRCRAFT, MAINTENANCE OF AVIONICS, CHARTER, FLIGHT
9 SCHOOL AND ANY ANCILIARY FUNCTIONS TO DO WITH AVIATION.

10 Q IN THE 1980'S, MR. SCHUMACHER, DID SKYTEL AVIATION EVER
11 DEAL WITH AN AIRCRAFT CALLED AN AEROCOMMANDER?

12 A YES. WE WERE THE DISTRIBUTOR IN THE SOUTHEASTERN UNITED
13 STATES FOR THAT AIRCRAFT SINCE 1967.

14 Q IS THAT STILL THE CASE, YOU DISTRIBUTE AEROCOMMANDERS?

15 A NOT TODAY. THE AIRCRAFT IS NO LONGER IN PRODUCTION, SINCE
16 1985.

17 Q YOUR POSITION WITH SKYTEL AVIATION, PLEASE?

18 A I AM THE PRESIDENT OF THE COMPANY AND THE OWNER.

19 Q AND THE CITY THAT SKYTEL AVIATION IS BASED OUT OF?

20 A IT'S LOCATED IN FORT LAUDERDALE, FLORIDA.

21 Q ARE YOU A PILOT?

22 A YES, I AM.

23 Q HOW LONG HAVE YOU FLOWN?

24 A SINCE 1960.

25 Q ARE YOU LICENSED FOR A SPECIFIC TYPE OF AIRCRAFT, MR.

1 SCHUMACHER?

2 A I FLY -- I'M LICENSED TO FLY SINGLE AND ALL ENGINE
3 AIRCRAFT, HELICOPTERS AND SO FORTH.

4 Q DO YOU STILL FLY?

5 A YES, I DO.

6 Q IN ABOUT 1982 OR 1983, DID YOU KNOW A PERSON BY THE NAME OF
7 PATRICK HOSMANN? PATRICK HOSMANN?

8 A H O S M A N N, YES. I EMPLOYED HIM AS A SALESMAN.

9 Q WHEN DID YOU EMPLOY HIM?

10 A APPROXIMATELY 1981, 1982; IN THAT AREA.

11 Q UNTIL APPROXIMATELY WHEN, IF YOU STILL RECALL?

12 A UNTIL SEVERAL MONTHS AGO.

13 Q TO YOUR KNOWLEDGE, DOES PATRICK HOSMANN SPEAK SPANISH?

14 A YES. PATRICK HOSMANN SPENT MOST OF HIS LIFE IN ARGENTINA
15 AND HE'S BILINGUAL.

16 Q I'D LIKE TO DIRECT YOUR ATTENTION TO 1983, THE MIDDLE OF
17 1983, MR. SCHUMACHER.

18 HAVE YOU EVER HEARD OF THE NAME OF JOSE MELO?

19 A YES, I HAVE.

20 Q WHEN DID YOU MEET JOSE MELO?

21 A I MET JOSE MELO AT SKYTEL AVIATION; AND I BELIEVE THE FIRST
22 TIME I MET HIM, HE WAS THERE IN CONJUNCTION WITH EITHER HAVING
23 MAINTENANCE DONE OR BUYING AIRCRAFT PARTS.

24 Q GIVE US A TIME FRAME WHEN YOU MET HIM.

25 A JUST SOMETIME IN 1983, I BELIEVE. I CAN'T GIVE YOU AN

1 EXACT MONTH.

2 Q SHORTLY AFTER SEEING HIM, DID YOU EVER SEE AN AEROCOMMANDER
3 840 IN THE WORKING AREA OF SKYTEL AVIATION?

4 A YES. THE AIRCRAFT ARE THERE FREQUENTLY.

5 Q AND THAT AIRCRAFT WAS AFFILIATED WITH WHO? DO YOU KNOW?

6 MR. STOLAR: OBJECTION. THERE'S NO SPECIFIC AIRCRAFT
7 REFERRED TO.

8 THE COURT: WHAT AIRCRAFT ARE YOU REFERRING TO.

9 MR. MEDRANO: "DID YOU EVER SEE AN AEROCOMMANDER 840
10 AT SKYTEL AFTER MEETING JOSE MELO?" THAT'S THE QUESTION, YOUR
11 HONOR.

12 THE COURT: WELL, THAT WASN'T THE QUESTION, BUT HE MAY
13 ANSWER THAT ONE.

14 THE WITNESS: THE ANSWER TO YOUR QUESTION IS: YES, I
15 SAW THE COMMANDER 840 THAT HAD AN AFFILIATION WITH JOSE MELO.

16 MR. MEDRANO: IF YOU RECALL, DO YOU -- MAY I HAVE JUST
17 ONE MOMENT, YOUR HONOR?

18 (CONFERS WITH CO-COUNSEL OFF THE RECORD.).

19 JUST ONE MOMENT, YOUR HONOR.

20 Q DO YOU RECALL NAME OF THE REGISTRATION NUMBER FOR THE
21 AEROCOMMANDER THAT YOU SAW THERE?

22 A NOT SPECIFICALLY ALL THE NUMBERS. I KNOW IT ENDED WITH A
23 K, WHICH IN AVIATION TERMINOLOGY IS REFERRED TO AS "KILO." IT
24 MAY HAVE BEEN A FIVE NINE KILO.

25 I REMEMBER ITS COLOR. IT HAD BASICALLY A METALLIC

1 GRAY STRIPE, AND POSSIBLY AND BLUE AND SILVER.

2 Q AT ANY TIME, MR. SCHUMACHER, ARE THERE NEGOTIATIONS BETWEEN
3 YOURSELF AND JOSE MELO OVER THE PURCHASE OF AN AIRCRAFT?

4 A YES. THE FIRST TIME I MET MR. MELO, HE WAS LOOKING TO BUY
5 A JET AIRCRAFT -- I BELIEVE A CESSNA CITATION -- AND THE
6 PARTICULAR AIRPLANE THAT YOU JUST MENTIONED, A COMMANDER 840,
7 WAS AN AIRPLANE THAT HE HAD MENTIONED THAT HE WANTED TO USE AS
8 A TRADE-IN.

9 Q TO OBTAIN WHAT KIND OF AN AIRCRAFT?

10 A TO BUY A JET AIRCRAFT.

11 Q ANYTHING ELSE THROWN IN THE POT, IN TERMS OF THINGS TO BE
12 TRADED FOR?

13 A AS I RECALL, AS THE NEGOTIATIONS CONTINUED, HE MENTIONED --

14 MR. STOLAR: OBJECTION. HEARSAY.

15 THE COURT: OVERRULED.

16 BY MR. MEDRANO:

17 Q YOU MAY ANSWER, SIR.

18 A AS I RECALL, DURING THE NEGOTIATIONS TO BUY THIS JET, HE
19 MENTIONED THAT THEY HAD -- THERE WAS A HOUSE LOCATED ON ONE OF
20 THE ISLANDS IN MIAMI BEACH THAT THEY WANTED TO TRADE.

21 Q DID YOU EVER DETERMINE THE VALUE OF THE HOUSE?

22 A I DROVE TO MIAMI ALONG WITH SOME OF THE PEOPLE IN MY
23 COMPANY, INSPECTED THE HOUSE, AND MADE TELEPHONE CALLS TO REAL
24 ESTATE AGENTS, AND CAME UP WITH AN APPROXIMATE VALUE.

25 I'VE NEVER, YOU KNOW, BEEN IN THE BUSINESS OF TRADING

1 A HOUSE, BUT WE TRIED TO ACCOMMODATE.

2 Q AS PART OF YOUR NEGOTIATIONS, WAS A VALUE ATTACHED TO THE
3 HOUSE?

4 A YES. I BELIEVE IT WAS SOMEWHERE AROUND A COUPLE HUNDRED
5 THOUSAND, IN THAT BALLPARK.

6 Q DID THIS DEAL REACH FRUITION?

7 A NO, IT DID NOT.

8 Q FELL THROUGH?

9 A YES, IT DID.

10 Q WOULD YOU TELL US YOUR NEXT CONTACT, THEN, WITH JOSE MELO?

11 A I WAS CONTACTED, ACTUALLY, BY ONE OF THE DISTRIBUTORS FOR
12 AEROCOMMANDER IN PORTLAND, OREGON, WHO INDICATED THAT HE HAD A
13 TELEPHONE CALL FROM AN INDIVIDUAL BY THE NAME OF MELO, WHO WAS
14 LOOKING TO BUY AN AEROCOMMANDER 1,000. AND HE GAVE ME A
15 TELEPHONE CONTACT WHERE I COULD REACH MELO.

16 MR. MEDRANO: YOUR HONOR, I BELIEVE THAT MADAM CLERK
17 HAS GOVERNMENT 167 WITH HER. MAY I HAVE THAT PLACED IN FRONT
18 OF THE WITNESS? IT'S A SMALL PHOTOGRAPH.

19 THE CLERK: 167?

20 MR. MEDRANO: 167. THE PREVIOUS WITNESS HAD USED IT.

21 I'LL MOVE ON FOR NOW, YOUR HONOR.

22 THE COURT: GO AHEAD.

23 BY MR. MEDRANO:

24 Q AFTER THIS INQUIRY BY JOSE MELO, WHAT DO YOU DO NEXT?

25 A WELL, I CONTACTED MR. MEDVENE AT THE TELEPHONE NUMBER THAT

1 WAS GIVEN TO ME BY MR. RALSTON, THE DISTRIBUTOR. AND AT THAT
2 TIME, WE STARTED NEGOTIATIONS; OR AT LEAST I DETERMINED THAT HE
3 WAS INTERESTED IN BUYING A USED AIRCRAFT, A USED AEROCOMMANDER
4 1,000.

5 Q THAT JOSE MELO WAS?

6 A WELL, HE WAS HANDLING THE NEGOTIATIONS. HE DID NOT SAY
7 SPECIFICALLY THAT IT WAS FOR HIM OR ANYBODY ELSE, JUST THAT HE
8 WAS INTERESTED IN OBTAINING ONE.

9 Q I BELIEVE A PHOTOGRAPH HAS BEEN PLACED IN FRONT OF YOU,
10 GOVERNMENT'S EXHIBIT 167. IS THAT CORRECT?

11 A CORRECT. 167.

12 Q WOULD YOU IDENTIFY WHAT THAT IS?

13 A IT IS A -- APPROXIMATELY A 2 BY 2 PHOTOGRAPH OF AN
14 INDIVIDUAL THAT TO ME APPEARS TO BE JOSE MELO.

15 Q YOU CAN GO AHEAD AND PUT THAT DOWN.

16 WHAT IS THE NEXT THING THAT HAPPENED IN TERMS OF THESE
17 NEGOTIATIONS?

18 A AS I RECALL, THE NEXT THING THAT I DID WAS ATTEMPT TO
19 LOCATE, IN THE AEROCOMMANDER DISTRIBUTION NETWORK, A USED
20 COMMANDER 1,000; AND THE ONLY ONE THAT WE COULD FIND THAT WAS
21 IN THE PRICE RANGE OF WHAT HE WAS LOOKING FOR WAS ONE THAT WAS
22 LOCATED WITH A DISTRIBUTOR IN CARACAS, VENEZUELA.

23 Q CAN YOU GIVE US A TIME FRAME OF WHEN THIS OCCURRED?

24 A SOMEWHERE, AS BEST I RECALL, IN THE SPRING OF 1984.

25 Q DO YOU LOCATE AN AEROCOMMANDER 1,000?

1 A THAT IS CORRECT.

2 Q WHERE?

3 A IN CARACAS, VENEZUELA.

4 Q NOW, PATRICK HOSMANN AT THIS TIME IS ONE OF YOUR EMPLOYEES?

5 A YES, HE IS.

6 Q DURING THIS TIME, DO YOU GIVE ANY SPECIFIC INSTRUCTIONS TO
7 PATRICK HOSMANN?

8 A WELL, DURING THE CONVERSATIONS THAT I HAD WITH MELO, WE
9 ATTEMPTED TO DETERMINE THE PRICE RANGE THAT HE WAS INTERESTED
10 IN PURCHASING THE AIRCRAFT FOR, AND IT MATCHED WHEN WE GAVE THE
11 SPECIFICATIONS OF THE AIRPLANE THAT WE HAD AND THE ONE IN
12 VENEZUELA. AND THEY APPEARED -- IT APPEARED TO BE SOMETHING
13 THAT THEY WOULD BE INTERESTED IN.

14 AND THE EXPENSES TO FLY IT -- AT THE TIME, I DID NOT
15 MENTION, MR. MELO WAS CALLING FROM GUADALAJARA, MEXICO. AND
16 THE EXPENSES WERE APPROXIMATELY \$10,000.00 TO FLY THE AIRPLANE
17 ROUND TRIP, PLUS THE PILOTS, PLUS HOTELS, ET CETERA, FROM
18 VENEZUELA TO MEXICO.

19 AND THIS IS WHAT MR. SULZBURGER, WHO WAS HANDLING THE
20 SALE OF THE AIRPLANE, WANTED TO BRING THE AIRPLANE TO MEXICO.

21 Q DID YOU OBTAIN A DEPOSIT THEN IN ORDER TO GO FORWARD WITH
22 THESE NEGOTIATIONS?

23 A WELL, WHAT I DID, SINCE MR. HOSMANN SPOKE SPANISH, I SENT
24 HIM DOWN ON THE AIRLINES TO MEXICO, TO OBTAIN THE DEPOSIT,
25 BEFORE WE COULD PROCEED. AND HE DID OBTAIN A DEPOSIT, A

1 \$10,000.00 DEPOSIT, FROM MR. MELO.

2 Q AND WHERE HAD YOU SENT HIM TO GET THE DEPOSIT?

3 A GUADALAJARA, MEXICO.

4 Q AT ANY POINT AFTER THAT, GETTING THE DEPOSIT, DO YOU EVER
5 GO TO GUADALAJARA YOURSELF?

6 A YES. AS SOON AS MR. HOSMANN RECEIVED THE DEPOSIT, I
7 CONTACTED MR. SULZBURGER. AND I WENT, I BELIEVE THAT SAME DAY,
8 LATER ON A FLIGHT STO GUADALAJARA, TO GO DOWN AND HELP
9 NEGOTIATE THE SALE.

10 Q DO YOU GO DOWN THERE ON A COMMERCIAL FLIGHT?

11 A YES, I DID.

12 Q ARE YOU MET BY ANYONE AT THE GUADALAJARA AIRPORT UPON YOUR
13 ARRIVAL?

14 A I WAS MET BY MR. HOSMANN AND MR. MELO.

15 Q WHERE DID YOU STAY THAT NIGHT IN GUADALAJARA?

16 A WE STAYED AT A HOTEL IN DOWNTOWN. IT WAS A CIRCULAR
17 BUILDING, PROBABLY A SECOND-RATE HOTEL, PLAYA -- I DON'T KNOW.
18 I THINK PLAYA DEL SOL OR PLAYA -- SOMETHING LIKE THAT.

19 Q ARE YOU FAMILIAR WITH A HOTEL CALLED PLAZA DEL SOL?

20 A I BELIEVE THAT'S WHAT IT WAS.

21 Q IS THAT WHERE YOU STAYED?

22 A I BELIEVE SO.

23 Q WHO TOOK YOU TO THAT?

24 A MR. HOSMANN HAD ALREADY CHECKED IN AND MR. MELO HAD TAKEN
25 MR. HOSMANN TO THE HOTEL.

1 Q HAD THIS AEROCOMMANDER 1,000 FROM VENEZUELA ARRIVED IN
2 GUADALAJARA YET?

3 A NO, IT HAD NOT.

4 Q WHEN DOES THAT OCCUR?

5 A IT WAS SUPPOSED TO OCCUR THAT SAME DAY, BUT IT DID NOT GET
6 THERE UNTIL IN AFTERNOON OF THE NEXT DAY.

7 Q LET'S GO TO THE NEXT DAY. DO YOU HAVE AN OCCASION TO GO TO
8 THE GUADALAJARA AIRPORT THE FOLLOWING DAY?

9 A YES. WE WENT OUT TO THE AIRPORT TO WAIT ON THE AIRCRAFT.

10 Q WHILE AT THE AIRPORT WAITING FOR AEROCOMMANDER 1,000, DO
11 YOU SEE ANY OTHER AIRPLANES?

12 A THE ANSWER TO YOUR QUESTION IS: I DID SEE MANY OTHER
13 AIRCRAFT THAT DAY. I MEAN, MYSELF AND MR. HOSMANN WALKED
14 AROUND THE AIRPORT WHILE WE WERE WAITING, BECAUSE WE WAITED
15 QUITE A WHILE. WE DID SEE QUITE A FEW GENERAL AVIATION
16 AIRCRAFT.

17 Q THIS IS A BAD QUESTION. LET ME REPHRASE IT.

18 DID YOU SEE ANY AEROCOMMANDER 840'S WHILE YOU WERE
19 WAITING FOR THE 1,000, THE AIRCRAFT, TO ARRIVE?

20 A YES. WE SAW TWO AEROCOMMANDER 840'S LOCATED IN THE HANGAR
21 THAT BELONGED TO THE CESSNA AIRCRAFT DEALER IN GUADALAJARA,
22 MEXICO.

23 Q DESCRIBE THE SHAPE -- THE PHYSICAL SHAPE, I MEAN -- WHETHER
24 NEW OR WHATEVER, OF THOSE TWO AEROCOMMANDER 840'S.

25 MR. STOLAR: OBJECT TO THE QUESTION. RELEVANCE.

1 MR. MEDRANO: YOUR HONOR, THIS WILL BE ESTABLISHED BY
2 THE GOVERNMENT WITH SOME LATER WITNESSES.

3 THE COURT: ALL RIGHT. YOU MAY --

4 MR. STOLAR: TWO UNSPECIFIED AEROCOMMANDER 840'S.

5 THE COURT: OBJECTION IS OVERRULED.

6 THE WITNESS: WOULD YOU REPEAT THE QUESTION, PLEASE?

7 BY MR. MEDRANO:

8 Q WHAT SHAPE WERE THESE TWO AEROCOMMANDER 840'S IN?

9 A THE TWO AEROCOMMANDERS I SAW WERE LOCATED IN A HANGAR THAT
10 BELONGED TO THE CESSNA DEALER. AND WE LOOKED THEM OVER, JUST
11 WALKING AROUND THEM. AND THEY APPEARED TO BE AIRCRAFT THAT
12 COSMETICALLY HAD NOT BEEN, YOU KNOW, WELL CARED FOR. THEY
13 HAD -- YOU KNOW, WERE DIRTY AND THE PROPS WERE PITTED.

14 Q WHAT DOES THAT MEAN: PITTED PROPS?

15 A WELL, IT HAD SIGNS OF EROSION FROM GRAVEL OR SAND OR, YOU
16 KNOW, OPERATING POSSIBLY IN AREAS THAT HAD SAND ON THE RUNWAY
17 OR IN ROUGH FIELDS OR GRAVEL AND THINGS LIKE THAT. BUT THE
18 AIRCRAFT LOOKED LIKE THEY WERE WELL USED.

19 Q HOW ABOUT THE NOSE OF THE TWO AIRCRAFT: ANY SIGNS OF ABUSE
20 OR WEAR THERE?

21 A IT SHOWED SIGNS OF EROSION.

22 MR. MEDRANO: MADAM CLERK, I BELIEVE YOU HAVE BEHIND
23 YOU GOVERNMENT'S EXHIBIT 20, A LARGE BILLBOARD WITH SEVERAL
24 PHOTOGRAPHS.

25 COULD I PLACE THAT BEFORE THE WITNESS, YOUR HONOR?

1 THE COURT: GO AHEAD.

2 (EXHIBIT 20 DISPLAYED.)

3 BY MR. MEDRANO:

4 Q MR. SCHUMACHER, THAT'S GOVERNMENT'S EXHIBIT 20 FOR
5 IDENTIFICATION. DO YOU REMEMBER WHAT THAT AIRCRAFT IS?

6 A WELL, THEY'RE ALL AEROCOMMANDERS. AND THE ONLY
7 IDENTIFICATION THAT WOULD INDICATE THE MODEL WOULD BE THE LOWER
8 RIGHT PHOTOGRAPH, WHICH DOES SAY 840 ON THE WINGLET.

9 AND THAT AIRCRAFT APPEARS TO BE THE PAINT SCHEME OF
10 THE AIRCRAFT THAT I FIRST SAW AT SKYTEL. ALTHOUGH THE NUMBER
11 THAT'S ON THE AIRCRAFT DOES NOT HAVE A K, IT'S THE SAME TYPE OF
12 PAINT SCHEME.

13 Q AIRCRAFT, DO THEY FREQUENTLY EVER CHANGE REGISTRATION
14 NUMBERS?

15 A YES, THEY CHANGE. THEY CHANGE FROM OWNER TO OWNER. AN
16 OWNER CAN REQUEST THEIR INITIALS OR CORPORATE IDENTITY, OR THEY
17 CAN BE DONE FOR A \$5.00 CHECK THROUGH THE FEDERAL AVIATION
18 AGENCY.

19 Q YOU SAID "SIMILAR TO THE ONE YOU SAW AT SKYTEL." WAS THAT
20 THE ONE ASSOCIATED WITH JOSE MELO?

21 A YES, IT WAS.

22 Q DURING THIS TIME, ARE YOU AWAITING THE ARRIVAL OF MR.
23 SULZBURGER OF VENEZUELA --

24 A YES.

25 Q -- WITH THE AEROCOMMANDER 1,000?

1 A THAT IS CORRECT.

2 Q DOES HE EVER ARRIVE?

3 A YES. HE ARRIVES SOMETIME IN THE EARLY PART OF THE
4 AFTERNOON, TO THE BEST OF MY KNOWLEDGE.

5 MR. STOLAR: HAS THE EXHIBIT BEEN OFFERED IN EVIDENCE?

6 MR. MEDRANO: THAT'S BEEN ADMITTED ALREADY, YOUR
7 HONOR.

8 MR. STOLAR: OFFERED FOR IDENTIFICATION.

9 MR. MEDRANO: AND ADMITTED BY A PREVIOUS WITNESS.

10 MR. STOLAR: OH. THAT'S NOT -- SORRY.

11 BY MR. MEDRANO:

12 Q AFTER THE ARRIVAL OF THE AEROCOMMANDER 1,000, DOES ANYONE
13 ELSE ARRIVE AT THE GUADALAJARA AIRPORT?

14 A TO THE BEST OF MY KNOWLEDGE, AFTER MR. SULZBURGER ARRIVED
15 AND CLEARED CUSTOMS AND SO FORTH, THE AIRCRAFT WAS TAKEN OVER
16 TO THE PARKING AREA NEAR THE CESSNA HANGAR.

17 AND AT THAT TIME, SHORTLY THEREAFTER, SEVERAL VEHICLES
18 AND PROBABLY 15 TO 20 PEOPLE ARRIVED. MR. MELO WAS THERE AND
19 SEVERAL PEOPLE ARRIVED WHO I BELIEVE WAS THE PRINCIPALS
20 INVOLVED IN BUYING THE AIRCRAFT.

21 Q NOW, WHEN YOU SAID -- GIVE ME AN APPROXIMATE NUMBER OF THE
22 TOTAL PEOPLE THAT HAD ARRIVED IN THE SEPARATE VEHICLES.

23 A AT LEAST 15 OR 20 PEOPLE: MEN, WOMEN, CHILDREN.

24 MR. MEDRANO: MADAM CLERK, YOU SHOULD HAVE BEHIND YOU
25 GOVERNMENT'S EXHIBIT 14, A LARGE PHOTOGRAPH, FROM THE PREVIOUS

1 WITNESS.

2 THE CLERK: THIS LARGE ONE?

3 MR. MEDRANO: YES.

4 MR. STOLAR: EXHIBIT 15.

5 MR. MEDRANO: I MISSPOKE. THAT'S CORRECT.

6 MAY THAT BE PLACED IN FRONT OF THE WITNESS, YOUR
7 HONOR?

8 (EXHIBIT DISPLAYED.)

9 BY MR. MEDRANO:

10 Q I'D LIKE TO YOU LOOK AT GOVERNMENT'S EXHIBIT 15. DO YOU
11 RECOGNIZE WHAT THAT IS?

12 A THE PICTURE -- THERE WERE PEOPLE THAT I BELIEVED WERE TWO
13 PRINCIPALS INVOLVED, THAT WERE INVOLVED IN THE PURCHASE OF THE
14 AIRCRAFT.

15 THERE WAS A TALLER THIN MAN AND A MAN THAT WAS
16 PROBABLY MORE MY SIZE THAN -- YOU KNOW, IN HEIGHT AND WEIGHT.
17 AND THE GENTLEMAN THAT I SAW DID NOT HAVE A MUSTACHE AT THAT
18 TIME, BUT THERE WAS FACIAL RESEMBLANCE WITH THAT PICTURE TO THE
19 TALLER THIN MAN THAT WAS THERE TO BUY THE AIRPLANE.

20 Q ONE OF THE TWO PRINCIPALS?

21 A YES. BUT I DO NOT RECALL THE MUSTACHE ON THE GENTLEMAN AT
22 THE TIME.

23 Q IN 1984?

24 A IN 1984.

25 Q NOW, YOU MENTIONED A SECOND PRINCIPAL; IS THAT CORRECT?

1 A THAT IS CORRECT.

2 Q I WOULD LIKE YOU TO LOOK AROUND THIS COURTROOM, SIR, AND
3 ASK YOU TO IDENTIFY THIS MAN, IF HE IS EVEN PRESENT IN THE
4 COURTROOM.

5 THE WITNESS: ALL RIGHT. CAN I STAND UP?

6 MR. MEDRANO: YES. PLEASE DO.

7 THE WITNESS: (SURVEYS COURTROOM.) I BELIEVE THE
8 GENTLEMAN -- THE SECOND GENTLEMAN FROM THE LEFT ON THAT TABLE,
9 ALTHOUGH HIS PHYSICAL APPEARANCE IS DIFFERENT TODAY, NOT ONLY
10 IN ATTIRE, BUT BECAUSE OF THE MUSTACHE, BUT I BELIEVE THE --
11 AND ALSO THE HAIRSTYLE -- THE GENTLEMAN SITTING SECOND ON THE
12 TABLE.

13 MR. STOLAR: THE WITNESS HAS INDICATED MY CLIENT.

14 THE COURT: YES, INDICATING MR. MATTA.

15 BY MR. MEDRANO:

16 Q YOU MAY HAVE A SEAT, MR. SCHUMACHER.

17 A (COMPLIES.)

18 Q WHEN YOU MET MATTA BALLESTEROS AT THAT AIRPORT, DO YOU
19 RECALL WHAT HE WAS WEARING THAT DAY?

20 A THE GENTLEMAN THAT I REFERRED TO WAS WEARING A TANNISH-GOLD
21 ENSEMBLE OF A SHIRT AND PANTS. AND THE OTHER GENTLEMAN WAS
22 DRESSED IN THE LATIN -- YOU KNOW, LIKE A PANT SUIT, MAN'S PANT
23 SUIT, I THINK A GREENISH COLOR, THAT I RECALL.

24 A WHEN YOU SAY THIS "OTHER MAN," ARE YOU REFERRING TO
25 GOVERNMENT'S EXHIBIT 15, THAT PHOTOGRAPH?

1 A YES, I AM. UH-HUH.

2 Q WAS THIS AIRCRAFT EXAMINED BY MATTA BALLESTEROS?

3 MR. STOLAR: OBJECTION. HE "BELIEVES" THIS IS THE
4 MAN, SO LET'S REFER TO HIM CORRECTLY.

5 I OBJECT ON THAT BASIS.

6 THE COURT: OVERRULED.

7 BY MR. MEDRANO:

8 Q DID MATTA EXAMINE THE PLANE?

9 A YES, HE DID.

10 Q DID THAT TALL MAN, GOVERNMENT'S EXHIBIT 15, ALSO EXAMINE
11 THE AIRCRAFT?

12 A YES, HE DID.

13 Q DID THEY EXAMINE THE INSIDE?

14 A TO THE BEST OF MY KNOWLEDGE, THEY LOOKED IN THE DOOR, YES.

15 Q THE OUTSIDE OF THE AIRCRAFT?

16 A YES.

17 Q DID THE OTHER MEMBERS OF THE PARTY ACCOMPANYING THE TWO
18 PRINCIPALS ALSO EXAMINE THE AIRCRAFT?

19 A THERE WERE MANY PEOPLE WALKING AROUND THE AIRPLANE, LOOKING
20 AT IT; YES, SIR.

21 Q AT THE AIRPORT, WAS THERE A NEGOTIATION AS TO THE PRICE OF
22 THE AEROCOMMANDER 1,000?

23 A ALL CONVERSATIONS THAT OCCURRED AT THE AIRPORT WERE IN
24 SPANISH -- AND UNFORTUNATELY I DON'T SPEAK SPANISH -- AND MR.
25 HOSMANN TRANSLATED SOME OF THE CONVERSATIONS. BUT THERE WAS

1 CONVERSATIONS TO DO WITH THE HOURS ON THE AIRPLANE, THE
2 EQUIPMENT AND SOME CONVERSATION ON PRICING.

3 Q APPROXIMATELY -- STRIKE THAT.

4 AT ANY POINT LATER ON, ON THIS SAME DATE, DO YOU
5 RETURN OR GO TO A HOTEL?

6 A YES.

7 Q WHERE?

8 A WE CHECKED INTO A DIFFERENT HOTEL. WE CHECKED INTO THE
9 GUADALAJARA HYATT HOUSE, THE EXCELSIOR HYATT HOUSE.

10 Q MY APOLOGIES, BUT TO BACKTRACK JUST FOR A MOMENT, WAS JOSE
11 MELO ALSO AT THE SHOWING OF THE AIRCRAFT TO THE TWO PRINCIPALS?

12 A YES.

13 Q YOU GO TO WHICH HOTEL LATER THAT DAY?

14 A THE HYATT HOUSE. THE HYATT.

15 Q DO YOU MEET WITH OTHERS AT THE HOTEL?

16 A MR. SULZBURGER AND THE PEOPLE THAT CAME FROM VENEZUELA GOT
17 ROOMS IN THE HOTEL. WE HAD DINNER, AND LATER THAT NIGHT, MR.
18 MELO CAME DO THE HOTEL.

19 Q WERE YOU PRESENT FOR A MEETING?

20 A YES.

21 Q HOW ABOUT PATRICK HOSMANN, YOUR EMPLOYEE?

22 A YES.

23 Q AT THIS MEETING, WAS THERE A NEGOTIATION AS TO THE PRICE OF
24 THE AIRCRAFT?

25 A YES, THERE WAS.

1 Q DID THIS DEAL GO THROUGH FOR THE SALE OF THE AEROCOMMANDER
2 1,000?

3 A NO.

4 Q WHY?

5 A THE OFFER FOR THE AIRPLANE WAS SUBSTANTIALLY LESS THAN WHAT
6 THE CUSTOMER WHO OWNED THE AIRPLANE WANTED.

7 Q THE FOLLOWING DAY, DID YOU STAY IN GUADALAJARA?

8 A AS I RECALL, WE LEFT ON THE FIRST FLIGHT TO GO BACK,
9 BECAUSE IT APPEARED THAT NOTHING WAS GOING TO HAPPEN.

10 Q AND THIS IS THE NEXT DAY?

11 A YES.

12 Q COMMERCIAL FLIGHT?

13 A YES.

14 Q DOES PATRICK HOSMANN, YOUR EMPLOYEE, ALSO GO WITH YOU?

15 A HE RETURNS TO FORT LAUDERDALE, AS WELL.

16 Q I'D LIKE TO DIRECT YOUR ATTENTION NOW TO JULY OF 1984, MR.
17 SCHUMACHER. AT THAT TIME, DO YOU HAVE ANY ADDITIONAL CONTACT
18 WITH JOSE MELO?

19 A APPROXIMATELY MAYBE TWO MONTHS AFTER THE INCIDENT THAT WE
20 HAVE BEEN TALKING ABOUT, I WAS CONTACTED AGAIN BY MR. MELO
21 REGARDING A COMMANDER 1,000. AND THIS TIME, THE CONVERSATION
22 WAS RELATIVE TO A NEW ONE, WHICH WE HAD AT THAT TIME IN
23 INVENTORY.

24 Q DID YOU QUOTE A PRICE FOR THIS AEROCOMMANDER 1,000?

25 A YES. SOMEWHERE IN THE \$1,300,000.00 RANGE.

1 Q DID YOU AGREE TO SHOW ANOTHER AEROCOMMANDER 1,000 TO JOSE
2 MELO AND HIS REPRESENTATIVES?

3 A WELL, WE HAD CONVERSATION WITH MR. MELO EXPRESSING OUR
4 DISAPPOINTMENT OVER THE LAST INCIDENT. AND THIS TIME, HE SAID
5 THAT THEY WERE VERY SERIOUS IN BUYING AND WE WOULD NOT HAVE
6 PROBLEMS.

7 Q DO YOU DESIRE ANOTHER DEPOSIT BEFORE YOU'LL SHOW THE
8 AIRCRAFT?

9 A WE HAD SET A PRICE. I TOLD HIM THE PRICE WAS FIRM, AND I
10 TOLD THAT WE WOULD REQUIRE A \$50,000.00 DEPOSIT ON THE AIRCRAFT
11 PRIOR TO SHOWING THE AIRPLANE.

12 Q DID MR. MELO PROVIDE A \$50,000.00 DEPOSIT?

13 A TO THE BEST OF MY KNOWLEDGE, WE RECEIVED THE \$50,000.00
14 DEPOSIT FROM A REPRESENTATIVE OF A COMPANY IN PALM BEACH THAT
15 WAS AFFILIATED WITH MELO PRIOR TO SHOWING THE AIRCRAFT; THAT'S
16 CORRECT.

17 Q I'D LIKE TO DIRECT YOUR ATTENTION NOW TO ABOUT JULY 17,
18 1984. DO YOU HAVE AN OCCASION TO TRAVEL TO THE CITY OF
19 GUADALAJARA AGAIN?

20 A WHEN WE RECEIVED THE DEPOSIT, MR. MELO ASKED US TO FLY THE
21 AIRCRAFT TO GUADALAJARA FOR INSPECTION.

22 Q WHO FLIES THIS AIRCRAFT TO GUADALAJARA?

23 A MYSELF AND MR. HOSMANN.

24 Q DO YOU RECALL, SIR, THE REGISTRATION NUMBER ON THE
25 AEROCOMMANDER 1,000 YOU FLEW DOWN THERE?

1 A I RECALL MORE THE SERIAL NUMBER OF THE AIRCRAFT, WHICH WAS
2 SERIAL NUMBER 40 -- IT WAS THE 43RD COMMANDER 1,000. AND I
3 BELIEVE IT WAS -- ENDED IN 63 SIERRA, 9663 SIERRA SOMETHING.

4 Q DO YOU HAVE ANY DOCUMENT THAT YOU CAN USE TO REFRESH YOUR
5 MEMORY ON THIS ISSUE?

6 A YES, I DO.

7 MR. MEDRANO: YOUR HONOR, WITH THE COURT'S PERMISSION,
8 MAY THIS WITNESS EXAMINE THAT DOCUMENT?

9 THE COURT: YES.

10 THE WITNESS: I NEED MY BRIEFCASE.

11 MR. MEDRANO: IS THAT IN THE COURTROOM, SIR?

12 THE WITNESS: I BROUGHT IT IN. IT WAS GIVEN THERE AT
13 THE DOOR.

14 MR. MEDRANO: YOUR HONOR, MAY I APPROACH WITH THE
15 BRIEFCASE?

16 THE COURT: YES.

17 (BRIEFCASE PROVIDED TO WITNESS.)

18 THE WITNESS: THANK YOU. (EXAMINES DOCUMENT.)

19 YES, I WAS CORRECT: 9963 S.

20 BY MR. MEDRANO:

21 Q IS PATRICK HOSMANN WITH YOU IN THE AIRPLANE WHEN YOU GO TO
22 GUADALAJARA?

23 A YES, HE IS.

24 Q ARE YOU MET BY ANYONE AT THE GUADALAJARA AIRPORT?

25 A YES. WE WERE MET BY JOSE MELO AND A GENTLEMAN WHO WAS A

1 LATIN PILOT.

2 Q WAS ANY TYPE OF DEMONSTRATION FLIGHT THEN DONE WITH THE
3 AEROCOMMANDER 1,000?

4 A YES. AFTER WE CLEARED CUSTOMS, THEY REQUESTED THAT WE GO
5 UP ON APPROXIMATELY A ONE-HOUR DEMONSTRATION FLIGHT.

6 Q AFTER THAT, DO YOU RECALL WHETHER OR NOT THE TWO SAME
7 PRINCIPALS-- EXHIBIT 15 IN THAT PHOTOGRAPH, THE TALL GENTLEMAN
8 AND MATTA BALLESTEROS -- DO YOU KNOW IF THEY SHOWED UP AT THE
9 GUADALAJARA AIRPORT AGAIN?

10 A TO THE BEST OF MY KNOWLEDGE, SOMETIME THAT DAY, AFTER WE
11 ARRIVED, IT WAS A VERY BRIEF VISIT BY THOSE GENTLEMEN TO
12 INSPECT THE AIRPLANE; BUT IT WAS VERY, VERY, VERY, VERY QUICK
13 AND MOMENTARY.

14 Q THEREAFTER, DO YOU LEAVE THE GUADALAJARA AIRPORT?

15 A NO.

16 Q WHAT HAPPENS NEXT?

17 A FROM ALL THE TRANSACTIONS THAT OCCURRED DURING THE
18 DEMONSTRATION FLIGHT WITH THE PILOT AND MR. MELO AND THE
19 CONVERSATIONS PRIOR TO GOING GUADALAJARA AND SO FORTH, IT
20 APPEARS THAT THE AIRPLANE IS ACCEPTABLE.

21 AND AT THAT TIME, WE CHECK INTO THE HYATT HOUSE HOTEL,
22 THE EXCELSIOR HYATT AGAIN. AND AFTER CHECK-IN, WE WENT TO THE
23 LOUNGE ON THE LOBBY FLOOR, AND MR. MELO WAS THERE; AND THE
24 CESSNA DEALER, MR. HUGO DE VERA; AND A GENTLEMAN: TALL, THIN,
25 MUSTACHE; 50, MAYBE 53 YEARS OLD.

1 AND WE SAT DOWN AND HAD A BEER AND SOFT DRINKS; AND AT
2 THAT TIME, A PURCHASE ORDER WAS SIGNED ON THE AIRCRAFT.

3 Q WAS THERE DISCUSSION OR NEGOTIATION BETWEEN YOU AND ONE OF
4 THOSE REPRESENTATIVES SPECIFICALLY?

5 A WELL, MOST OF THE CONVERSATION WAS IN SPANISH, EXCEPT FOR
6 THE CONVERSATION WITH MR. DE VERA AND MR. HOSMANN. BUT THERE
7 WASN'T THAT MUCH NEGOTIATION; JUST MORE AND MORE A FORMALITY OF
8 SIGNING, SINCE I HAD STATED WHAT THE PRICE WAS GOING TO BE
9 BEFORE I WENT DOWN MEXICO.

10 Q WHAT WAS THE PRICE AGAIN, SIR?

11 A I'D HAVE TO REFER TO MY NOTES, BUT SOMEWHERE A MILLION
12 THREE OR A LITTLE BIT OVER.

13 Q LET ME ASK YOU, THEN, TO LOOK AT GOVERNMENT'S EXHIBIT 25,
14 WHICH IS IN FRONT YOU, I BELIEVE. DO YOU SEE THAT, SIR?

15 A NO. THERE'S NOTHING HERE --

16 Q I THINK THE TAG IS ON THE BACK OF ONE OF THE SHEETS.

17 A THERE'S NOTHING MARKED 25. THERE'S A 167, A 24, AND
18 THERE'S ONE THAT HAS NO NUMBER ON IT.

19 Q THAT IS 25 THERE. IT ACCIDENTALLY WAS OMITTED.

20 WOULD YOU DESCRIBE WHAT THAT DOCUMENT IS?

21 A THAT IS AN AIRCRAFT RETAIL PURCHASE AGREEMENT.

22 Q AND JUST EXPLAIN TO US BRIEFLY WHAT THAT IS, WHAT A
23 PURCHASE AGREEMENT IS.

24 A IT'S A STANDARD FORM PROVIDED BY THE AEROCOMMANDER FACTORY,
25 AND IT LISTS THE TERMS OF THE PURCHASE AND THE NOMENCLATURE ON

1 THE AIRPLANE AND THE SPECIFICATIONS.

2 Q AND WAS THIS DOCUMENT SIGNED BY YOU ON A SPECIFIC DATE?

3 A THE BACK OF THE DOCUMENT HAS THE DATE OF THE 18TH OF JULY,
4 84.

5 Q AND IS THIS THE DATE THAT YOU EXECUTED THE DOCUMENT AT THAT
6 HOTEL?

7 A YES.

8 Q AND THE PRICE OF THE AIRCRAFT, AGAIN?

9 A THE PRICE OF THE AIRCRAFT APPEARS TO BE -- THE COPY ISN'T
10 REAL GOOD, BUT APPEARS TO BE 1,325,000.

11 Q AND THE PURCHASER OF THE AIRCRAFT?

12 A THE PURCHASER OF THE AIRCRAFT IS ATLANTIC IMPORT/EXPORT
13 CORPORATION, WEST PALM BEACH, FLORIDA.

14 Q AND THAT WAS SIGNED BY THE REPRESENTATIVE OF THAT COMPANY
15 IN YOUR PRESENCE?

16 A IT WAS SIGNED BY A GENTLEMAN, THE LATIN GENTLEMAN I
17 DESCRIBED THAT HAD THE MUSTACHE AND WAS TALL. AND HE SIGNED IT
18 AS REPRESENTATIVE OF ATLANTIC IMPORT/EXPORT.

19 AND BELOW THAT, IT SAYS: JOSE MELO, SECRETARY.

20 Q THAT EXHIBIT, SIR, IS A RECORD THAT'S MADE AND MAINTAINED
21 PURSUANT TO YOUR SUPERVISION AS AN OFFICER IN THE COMPANY; IS
22 THAT RIGHT?

23 A YES. YES, IT IS.

24 Q AND DOES THIS RECORD REFLECT AN ACTUAL TRANSACTION THAT
25 OCCURRED? THAT IS, THE PURCHASE OF THE AEROCOMMANDER 1,000?

1 A THAT IS CORRECT.

2 Q AND IS THIS RECORD MADE AND MAINTAINED IN THE REGULAR
3 COURSE OF YOUR BUSINESS?

4 A YES, IT IS.

5 Q AND IS IT THE REGULAR COURSE OF YOUR BUSINESS TO MAINTAIN
6 AND KEEP RECORDS OF THIS NATURE?

7 A YES.

8 MR. MEDRANO: YOUR HONOR, I'M GOING TO SEEK THE
9 ADMISSION OF THIS EXHIBIT AT THIS TIME.

10 THE COURT: IT MAY BE RECEIVED.

11 MR. STOLAR: MAY I ASK IF HIS SIGNATURE APPEARS ON THE
12 DOCUMENT, AS WELL?

13 THE WITNESS: YES, IT DOES.

14 THE COURT: HE ALREADY TESTIFIED TO THAT.

15 (EXHIBIT 25 # RECEIVED IN EVIDENCE.)

16 BY MR. MEDRANO:

17 Q AND THE REGISTRATION NUMBER FOR THE AEROCOMMANDER 1,000
18 THAT YOU SOLD ON JULY 18, 1984, IN GUADALAJARA?

19 A IT'S UNITED STATES REGISTRATION NO. 9963 S, LIKE IN SAM.

20 Q WERE TO YOU RECEIVE AN INITIAL DOWN PAYMENT FOR THE
21 AEROCOMMANDER 1,000?

22 A WE RECEIVED A DOWN PAYMENT BEFORE WE LEFT FORT LAUDERDALE,
23 YES.

24 Q AFTER THE RECEIPT OF THAT PURCHASE AGREEMENT, WERE YOU TO
25 RECEIVE AN ADDITIONAL DOWN PAYMENT?

1 A WE WERE TO RECEIVE, AS WE WERE TOLD THAT WE WOULD RECEIVE,
2 THE ENTIRE PURCHASE PRICE; THAT THEY WERE PURCHASING IT.

3 Q WHEN WERE YOU TO RECEIVE THAT?

4 A WE WERE TOLD BY MR. MELO THAT WE WOULD BE PAID FOR THE
5 AIRCRAFT WHEN WE ARRIVED IN MEXICO AND THAT WE WOULD RECEIVE A
6 CASHIER'S CHECK FOR THE AIRCRAFT.

7 Q FOR WHAT DOLLAR AMOUNT?

8 A FOR THE BALANCE OF THE ONE MILLION THREE TWENTY-FIVE LESS
9 THE DEPOSIT.

10 Q WERE YOU TO GET THIS THIS DAY OR THE NEXT DAY?

11 A IT WASN'T SPECIFICALLY CLEAR WHEN WE WERE TO GET IT, BUT WE
12 WERE TO GET IT UPON OUR VISIT TO GUADALAJARA.

13 Q LET ME DIRECT YOUR ATTENTION, THEN, TO THE FOLLOWING DAY,
14 JULY 19TH, 1984.

15 ON THIS DATE, DO YOU HAVE AN OCCASION TO GO TO THE
16 GUADALAJARA AIRPORT AGAIN?

17 A YES. WE WENT TO THE GUADALAJARA AIRPORT IN THE MORNING.

18 Q WHO GOES WITH YOU TO THE AIRPORT?

19 A MR. HOSMANN, AND I BELIEVE WE WERE PICKED UP POSSIBLY BY
20 MR. DE VERA. WE WERE PICKED UP AT THE HOTEL AND GIVEN A RIDE
21 TO THE AIRPORT.

22 Q WHAT HAPPENS AFTER YOU ARRIVE AT THE GUADALAJARA AIRPORT?

23 A WE WERE TOLD UPON ARRIVAL THAT IT WAS IMPOSSIBLE FOR US TO
24 BE PAID IN A CHECK OR BY WIRE TRANSFER AND THAT THEY INTENDED
25 TO PAY US IN CASH.

1 Q DO YOU RECEIVE CASH ON THIS DAY?

2 A WE RECEIVED TWO SUITCASES.

3 Q NOW, EXPLAIN TO US THE CIRCUMSTANCES UNDER WHICH THIS IS
4 DELIVERED TO YOU?

5 A A CHEVROLET BLAZER, FOUR-WHEEL-DRIVE TYPE VEHICLE, CAME UP,
6 PARKED IN ONE OF THE HANGARS, AND ONE OR TWO PEOPLE DELIVERED
7 TWO SAMSONITE SUITCASES TO THE AIRPLANE THAT APPEARED TO BE
8 EXTREMELY HEAVY.

9 Q ANY GUARDS AROUND THE MONEY?

10 A THERE WERE PROBABLY TWO OR THREE OR FOUR PEOPLE. NO
11 WEAPONS PER SE, NO.

12 Q THEY APPEAR TO BE GUARDS TO YOU?

13 MR. STOLAR: OBJECTION.

14 MS. KELLY: OBJECTION, YOUR HONOR.

15 MR. MEDRANO: I'LL MOVE ON, YOUR HONOR.

16 THE COURT: SUSTAINED.

17 BY MR. MEDRANO:

18 Q IS JOSE MELO PRESENT WHEN THIS MONEY'S DELIVERED TO YOU?

19 A I CANNOT SAY FOR SURE WHETHER HE WAS THERE AT THAT TIME OR
20 NOT. I'M SORRY.

21 Q IS IT POSSIBLE HE WAS THERE WHEN YOU RECEIVED THE MONEY?

22 MR. STOLAR: (SEATED.) OBJECTION.

23 THE COURT: SUSTAINED.

24 MR. STOLAR: (STANDS.) I'M SORRY.

25 THE COURT: STRIKE THE ANSWER.

1 BY MR. MEDRANO:

2 Q HOW MUCH MONEY IS IN THE TWO SUITCASES?

3 A I WAS TOLD THAT THEY WERE GIVING US 1 MILLION DOLLARS.

4 Q WERE YOU SURPRISED TO RECEIVE 1 MILLION DOLLARS IN CASH?

5 A YES.

6 Q UP TO THAT TIME IN YOUR DEALINGS IN SELLING AIRCRAFT, WAS
7 IT TYPICAL OR NORMAL FOR YOU TO RECEIVE SUCH LARGE SUMS OF
8 MONEY IN CASH.

9 MR. STOLAR: OBJECTION.

10 THE COURT: OVERRULED, WITHOUT GROUNDS.

11 MR. STOLAR: CASH IS LEGAL TENDER, JUST LIKE CASHIER'S
12 CHECKS ARE.

13 MR. MEDRANO: ASKING ABOUT HIS EXPERIENCE.

14 THE COURT: THE OBJECTION IS IRRELEVANT.

15 MR. STOLAR: YES, IRRELEVANT.

16 THE COURT: IT IS.

17 MR. STOLAR: WELL, IT'S ALMOST 4:30, JUDGE. I'M
18 SORRY.

19 MR. MEDRANO: I'LL MOVE ON, YOUR HONOR.

20 Q DO YOU LEAVE GUADALAJARA WITH 1 MILLION DOLLARS IN CASH?

21 A NOT WITHOUT CONTACTING THE UNITED STATES TO ALERT THEM OF
22 WHAT HAD HAPPENED.

23 Q DO YOU RETURN TO THE STATES WITH THE MONEY?

24 A WE HAD NO ALTERNATIVE; BUT, YES, WE DID.

25 Q IN FLIGHT, DO YOU OPEN THE SUITCASES?

1 A I WAS THE ONLY PILOT ON BOARD THE AIRCRAFT. MR. HOSMANN IS
2 NOT A PILOT.

3 WHEN THE AIRCRAFT REACHED ALTITUDE AND WE CAME BACK TO
4 PROBABLY 27 OR 28,000 FEET, AND I FELT THAT WE WERE SAFELY ON
5 OUR WAY BACK TO THE UNITED STATES, I PUT THE AIRCRAFT ON
6 AUTOPILOT AND I WENT IN THE BACK OF THE AIRPLANE AND, VERY
7 FRANKLY, PEEKED; YES.

8 COURTROOM: (LAUGHTER.)

9 BY MR. MEDRANO:

10 Q DO YOU GIVE ANY KIND OF RECEIPT TO THE PERSON WHO DELIVERED
11 THE MONEY TO YOU?

12 A THE SUITCASES WERE NEVER OPENED --

13 Q IF I CAN JUST ASK TO YOU ANSWER THE QUESTION: DO YOU GIVE
14 A RECEIPT TO ANYONE FOR RECEIPT OF THE MONEY?

15 A YES. I WROTE SOMETHING IN LONGHAND, BECAUSE I DID NOT WANT
16 THE RESPONSIBILITY OF "ACCEPTING," QUOTE/UNQUOTE, THESE TWO
17 SUITCASES, BECAUSE I -- THEY JUST APPEARED TO BE HEAVY, AND
18 THERE COULD HAVE BEEN BRICKS IN IT. I DO NOT -- WHEN I LEFT, I
19 DID NOT KNOW WHAT WAS IN THOSE TWO SUITCASES.

20 Q CAN YOU LOOK AT GOVERNMENT'S EXHIBIT 24 AND IDENTIFY THAT
21 FOR US?

22 A (COMPLIES.) IT'S MY HANDWRITING AND IT IS A RECEIPT THAT I
23 WROTE.

24 Q REFLECTING RECEIPT OF THE MONEY?

25 A IT'S DATED 19 JULY, 19 -- AND THE LAST NUMBER IS DELETED

1 OFF; BUT PROBABLY 1984, YES.

2 Q AND DOES IT REFLECT THE RECEIPT OF 1 MILLION DOLLARS,
3 APPROXIMATELY?

4 A I STATED:

5 "IN ACCORDANCE WITH THE RETAIL PURCHASE
6 ORDER DATED 18 JULY 1984 FOR GULF STREAM COMMANDER
7 1,000 N 9963 SIERRA, THIS IS TO ACKNOWLEDGE THAT I
8 HAVE RECEIVED AN ADDITIONAL DEPOSIT IN THE SUM OF 1
9 MILLION U.S.

10 "I HAVE NOT COUNTED THIS DEPOSIT AND WILL
11 HAVE IT RECEIVED AND COUNTED BY A UNITED STATES BANK
12 UPON MY ARRIVAL."

13 SIGNED, MYSELF.

14 MR. MEDRANO: YOUR HONOR WE'D SEEK ADMISSION OF
15 GOVERNMENT'S EXHIBIT 24 AT THIS TIME.

16 MR. STOLAR: MAY I INQUIRE IF THAT IS AN ORIGINAL
17 DOCUMENT OR PHOTOCOPY?

18 THE COURT: WHAT IS IT?

19 MR. MEDRANO: IS THAT A PHOTOCOPY, MR. SCHUMACHER, OR
20 IS THAT THE BEST ORIGINAL?

21 THE WITNESS: THIS DOCUMENT IS A PHOTOCOPY.

22 THE COURT: THE ORIGINAL IS WHERE? IS THAT WHAT YOU
23 GAVE TO SOMEONE?

24 THE WITNESS: THE DOCUMENT WAS WRITTEN ON THE PAPER
25 THAT I HAD AT THE TIME IN GUADALAJARA, WHICH WAS A NOTEBOOK

1 PAPER. AND I GAVE THE ORIGINAL TO MR. HUGO DE VERA OR WHOEVER
2 WAS WITH ME THERE AT THE AIRPORT.

3 AND I OBVIOUSLY -- I DON'T THINK I HAD CARBON PAPER
4 WITH ME, ALTHOUGH I MAY HAVE. AND I EITHER WROTE A SECOND COPY
5 AND BROUGHT IT BACK OR MADE A CARBON, OR IF I HAD CARBON PAPER
6 IN MY POSSESSION, I MADE A CARBON OF IT AT THE AIRPORT,
7 POSSIBLY.

8 BY MR. MEDRANO:

9 Q THE ORIGINAL WENT TO THE BUYER?

10 A I BELIEVE IT DID, YES.

11 MR. MEDRANO: WE SEEK ITS ADMISSION, YOUR HONOR.

12 MR. STOLAR: WE STILL HAVEN'T GOTTEN AN EXPLANATION
13 WHAT THIS IS.

14 THE COURT: THE OBJECTION'S OVERRULED. THE EXHIBIT
15 MAY BE RECEIVED.

16 (EXHIBIT 24 # RECEIVED IN EVIDENCE.)

17 MR. STOLAR: OKAY.

18 MR. MEDRANO: AT THIS TIME, YOUR HONOR, MIGHT THIS BE
19 A GOOD TIME TO BREAK? OR I CAN CONTINUE.

20 THE COURT: OH, DO YOU HAVE MORE WITH THIS WITNESS.

21 MR. MEDRANO: IF YOU GIVE ME JUST ONE MOMENT, I CAN
22 TELL YOU.

23 THE COURT: WELL, WE'LL TAKE OUR AFTERNOON RECESS AT
24 THIS TIME. WE WILL RECONVENE TOMORROW MORNING AT 9:30.

25 THE JURY IS EXCUSED. REMEMBER MY CONTINUING

1 ADMONITION TO YOU ABOUT EXPOSURE TO PUBLICITY OR DISCUSSIONS
2 ABOUT THIS CASE.

3 YOU MAY BE EXCUSED.

4 (JURY ABSENT:)

5 THE CLERK: YOU MAY BE SEATED.

6 THE COURT: I WANT TO HAVE A LITTLE TALK HERE WITH
7 COUNSEL THAT I SHOULD HAVE HAD BEFORE THE TRIAL, AND INTENDED
8 TO, BUT DIDN'T GET AROUND TO DO IT.

9 I THINK THAT WE CAN ACHIEVE A GOOD DEAL MORE HARMONY
10 HERE IF WE OBSERVE A FEW LITTLE POINTS. AND WHAT I'M SAYING IS
11 BY WAY OF GUIDANCE, AND I'M NOT SUGGESTING TO YOU HOW YOU
12 SHOULD TRY YOUR CASE OR WHAT YOU SHOULD DO; BUT THERE ARE SOME
13 AREAS HERE IT OCCURRED TO ME MIGHT BE WORTH MENTIONING.

14 AND I'M ADDRESSING ALL COUNSEL HERE.

15 YOU MAY STEP DOWN, SIR.

16 THE WITNESS: (COMPLIES.)

17 THE COURT: NOW, SOME OF THE --

18 MR. STOLAR: MAY I HAVE ONE MINUTE?

19 THE COURT: COUNSEL, DON'T INTERRUPT, PLEASE.

20 SOME OF THE CROSS-EXAMINATION THAT HAS TAKEN PLACE IS
21 POINTLESS, IN MY VIEW. YOU KNOW YOUR CASES BETTER THAN I DO,
22 AND I'M NOT SUGGESTING WHAT YOU SHOULD DO OR SHOULD NOT DO.

23 BUT AT LEAST BEFORE YOU ENGAGE IN CROSS-EXAMINATION,
24 YOU OUGHT TO DETERMINE IF IT RELATES TO YOUR CLIENT AT ALL. WE
25 HAD A GOOD DEAL OF CROSS-EXAMINATION HERE THAT IN MY VIEW WAS

1 SOMEWHAT POINTLESS, THAT DID NOT RELATE IN ANY WAY TO THE
2 CHARGES AGAINST THE COUNSEL WHO'S REPRESENTING THAT PERSON.

3 AND THERE ARE A LOT OF THINGS IN THIS CASE THAT ARE
4 NOT SUBJECT TO DISPUTE, AS I UNDERSTAND IT. I MEAN, THERE ARE
5 SOME THINGS THAT ALL COUNSEL MAY AGREE UPON. IF THAT'S TRUE,
6 THEN WE SHOULD NOT SPEND A LOT OF TIME TRYING TO DISPROVE
7 THINGS THAT ARE ACCEPTED BY ALL AS BEING FACT, IF THAT IS CASE.

8 THE SAME IS TRUE ABOUT OBJECTIONS. YOU PEOPLE KNOW
9 WHAT THE GOVERNMENT'S CASE IS. THEY'VE LAID IT OUT IN WRITING,
10 IN THE TRIAL BRIEFS THAT THEY HAVE FILED. YOU KNOW THE
11 EVIDENCE THAT THEY EXPECT TO OFFER. AND SOMETIMES THESE
12 OBJECTIONS THAT ARE BEING MADE ARE BEING MADE SIMPLY BECAUSE
13 THEY HAVEN'T REACHED THE POINT.

14 IF YOU KNOW THAT SOMETHING IS EVENTUALLY GOING TO BE
15 OFFERED AND ACCEPTED, THESE OBJECTIONS THAT ARE MADE ALONG THE
16 WAY SEEM TO BE LITTLE MORE THAN A DELAYING TACTIC. SO I THINK
17 THAT YOU MIGHT WANT TO THINK ABOUT WHETHER OR NOT TO OBJECT TO
18 SOMETHING THAT IS ULTIMATELY GOING TO COME IN.

19 YOU MIGHT -- AND WHEN YOU'RE HAVING EXHIBITS PLACED
20 BEFORE A WITNESS WHO DOESN'T KNOW ANYTHING ABOUT THE EXHIBITS,
21 DOESN'T KNOW WHAT THEY ARE, YOU SHOULD DIRECT THE WITNESS AND
22 TELL HIM WHERE THE EXHIBIT NUMBER CAN BE FOUND, TELL HIM WHAT
23 TO DO WITH THE EXHIBIT WHEN HE'S FINISHED WITH IT. DON'T LEAVE
24 HIM HANGING, HOLDING THING. TELL HIM TO PUT IT DOWN, PICK UP
25 ANOTHER EXHIBIT OR WHATEVER, BUT GIVE HIM SOME DIRECTION.

1 AS I SAY, THESE ARE JUST THINGS I THROW OUT FOR YOUR
2 GUIDANCE. I'M NOT TRYING TO INTIMIDATE ANYONE OR SUGGEST TO
3 YOU HOW YOU SHOULD TRY YOUR CASE.

4 AND, PUTTING ON WITNESSES, I THINK YOU SHOULD JUST TRY
5 ELICIT THE FACT THAT YOU WANT FROM THAT WITNESS AND GET TO THE
6 POINT AND NOT BEAT AROUND THE BUSH. THAT MAKES THINGS A LOT
7 EASIER.

8 NOW, THAT'S ALL I CAN THINK OF TODAY, BUT I WILL MAKE
9 SOME MORE NOTES TOMORROW --

10 COURTROOM: (LAUGHTER.)

11 THE COURT: -- AND WE MAY HAVE SOME FURTHER
12 DISCUSSION.

13 MS. KELLY: IS YOUR HONOR SAYING YOU'RE ACCEPTING THE
14 EXHIBITS INTO EVIDENCE SUBJECT TO MOTIONS TO STRIKE? BECAUSE,
15 OF COURSE, THE RULE IS: IF YOU DON'T OBJECT, THEY'RE WAIVED.

16 THE COURT: I'M NOT SAYING ANYTHING LIKE THAT. THE
17 EXHIBITS I HAVE ACCEPTED, I HAVE ACCEPTED. THOSE THAT WERE
18 SUBJECT TO A MOTION TO STRIKE, I ACCEPTED SUBJECT TO A MOTION
19 TO STRIKE.

20 I SAID IF YOU KNOW SOMETHING IS GOING TO GET IN THERE
21 ALREADY -- YOU ALREADY HAVE THE EVIDENCE THAT THE GOVERNMENT IS
22 GOING TO USE AND WHAT IS EVENTUALLY GOING TO COME IN OR NOT --
23 IF THE OBJECTION IS MADE BECAUSE ALL OF IT HASN'T YET BEEN
24 PRESENTED, IT REALLY DOES NOT ACCOMPLISH MUCH. THAT'S WHAT I'M
25 SAYING.

1 MS. KELLY: YES, YOUR HONOR. MY CONCERN ONLY IS THAT
2 IF I BELIEVE THE EVIDENCE ISN'T ADMISSIBLE AND I THEN DON'T
3 OBJECT, I WAIVE MY RIGHT.

4 THE COURT: WELL, I JUST SAID THIS IS FOR YOUR
5 GUIDANCE. YOU MAY MAKE ANY OBJECTION THAT YOU WISH AT ANY TIME
6 THAT YOU WISH.

7 BUT MANY OF THE OBJECTIONS THAT HAVE BEEN MADE SIMPLY
8 REQUIRE A CHANGE IN THE QUESTION, AND THE EVIDENCE IS GOING TO
9 GET IN ANY WAY EVENTUALLY, SO ALL IT DOES IS DEMONSTRATE HOW
10 SMART WE ARE. AND WE DON'T NEED THAT. I KNOW YOU'RE ALL VERY
11 SMART.

12 ALL RIGHT. WE'LL ADJOURN HERE. I HAVE A COUPLE OF
13 OTHER MATTERS TO TAKE UP.

14 (PROCEEDINGS ADJOURNED TILL MAY 17, 1990.)

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			PG	LN
(EXHIBIT	#	63 RECEIVED IN EVIDENCE.)	42	14
(EXHIBIT	#	8-L RECEIVED IN EVIDENCE.)	43	3
(EXHIBIT 15	#	RECEIVED IN EVIDENCE.)	116	10
(EXHIBIT 16 B	#	RECEIVED IN EVIDENCE.)	117	7
(EXHIBIT 16 A	#	RECEIVED IN EVIDENCE.)	BY	117 18
(EXHIBIT 17	#	RECEIVED IN EVIDENCE.)	Q	118 2
(EXHIBIT 18	#	RECEIVED IN EVIDENCE.)		118 14
(EXHIBIT 167	#	RECEIVED IN EVIDENCE.)	BY	148 6
(EXHIBIT 21	#	RECEIVED IN EVIDENCE.)		152 5
(EXHIBIT 22	#	RECEIVED IN EVIDENCE.)	BY	154 16
(EXHIBIT 20	#	RECEIVED IN EVIDENCE.)		156 9
(EXHIBIT 25	#	RECEIVED IN EVIDENCE.)	BY	188 15
(EXHIBIT 24	#	RECEIVED IN EVIDENCE.)		194 16
LOS ANGELES	+	CALIFORNIA WEDNESDAY, MAY	4	1
MAY 16, 1990	+	9:30 A.M. (JURY	4	2
JAMES KUYKENDALL	+	PLAINTIFF'S WITNESS,	4	13
CROSS-EXAMINATION	+	(RESUMED) BY MR. MEZA:	4	15
CROSS-EXAMINATION	+	BY MR. STOLAR: Q.	21	1
REDIRECT EXAMINATION	+	BY MR. CARLTON: Q.	41	10
RE-CROSS-EXAMINATION	+	BY MR. STOLAR: Q. YOU	51	9
RE-CROSS-EXAMINATION	+	BY MR. MEZA: Q. I	53	22
FURTHER	+	REDIRECT EXAMINATION BY	56	18
OFFICIAL COURT	+	INTERPRETER, SWORN TO	58	3
JUAN FERNANDEZ, ALSO	+	KNOWN AS GUADALUPE GAMES,	58	9
PLAINTIFF'S WITNESS	+	SWORN THE	58	10
DIRECT EXAMINATION	+	BY MR. CARLTON: Q MR.	58	18
LOS ANGELES	+	CALIFORNIA, WEDNESDAY, MAY	91	1
MAY 16, 1990	+	1:30 P.M. (JURY	91	2
JUAN FERNANDEZ, ALSO	+	KNOWN AS GUADALUPE GAMES,	91	6
PLAINTIFF'S WITNESS	+	SWORN	91	7
DIRECT EXAMINATION	+	(RESUMED) BY MR. CARLTON:	91	9
CROSS-EXAMINATION	+	BY MR. STOLAR: Q MR.	92	22
CROSS-EXAMINATION	+	BY MR. MEZA: Q WHAT	96	7
MARIO LUIS ALVAREZ	+	PLAINTIFF'S WITNESS, SWORN	107	15
DIRECT EXAMINATION	+	BY MR. CARLTON: Q MR.	107	20
BUENO GONZALEZ	+	PLAINTIFF'S WITNESS, SWORN	109	12
DIRECT EXAMINATION	+	BY MR. MEDRANO: Q MR.	109	22
HECTOR LUIS SANTANA	+	PLAINTIFF'S WITNESS, SWORN	145	5
DIRECT EXAMINATION	+	BY MR. MEDRANO: Q	145	11
CROSS-EXAMINATION	+	BY MR. STOLAR: Q GOOD	163	25
WALTER K. SCHUMACHER	+	PLAINTIFF'S WITNESS, SWORN	165	8
DIRECT EXAMINATION	+	BY MR. MEDRANO: Q	165	23
AS GOVERNMENT		EXHIBIT 63. AND	41	13
(		EXHIBIT # 63 RECEIVED IN	42	14

		PG	LN
MARKED GOVERNMENT	EXHIBIT	8-L, WHICH WE MISSED	42 18
(	EXHIBIT	# 8-L RECEIVED IN	43 3
MIGHT WE HAVE AN	EXHIBIT	NUMBER, PLEASE?	85 12
YES. STATE THE	EXHIBIT	NUMBER, COUNSEL.	85 14
YOUR HONOR, THIS IS	EXHIBIT	8 B. Q AFTER	85 15
YOU SHOULD HAVE SOME	EXHIBIT	S IN FRONT OF YOU,	115 14
LOOK AT GOVERNMENT'S	EXHIBIT	15, WHICH SHOULD BE A	115 15
THE CLERK: ALL THE	EXHIBIT	S ARE BEFORE THE	115 18
(INTERPRETER HOLDS UP	EXHIBIT	.) THE	115 21
IF YOU WOULD, AT THAT	EXHIBIT	, GOVERNMENT'S	116 1
EXHIBIT, GOVERNMENT'S	EXHIBIT	15? A (COMPLIES.)	116 1
(	EXHIBIT	15 # RECEIVED IN	116 10
BUENO, A GOVERNMENT'S	EXHIBIT	16 A AND B. CAN I	116 18
COURT: WHAT'S THE	EXHIBIT	? MR.	116 20
Q WHAT'S THE	EXHIBIT	NUMBER OF THE ONE YOU	116 24
(	EXHIBIT	16 B # RECEIVED IN	117 7
WITNESS: (DISPLAYS	EXHIBIT	.) BY MR. MEDRANO:	117 8
YOU PULL UP ANOTHER	EXHIBIT	AND TELL ME WHAT THE	117 11
(	EXHIBIT	16 A # RECEIVED IN	117 18
YOU PULL UP THE NEXT	EXHIBIT	IN FRONT OF YOU? A	117 20
(	EXHIBIT	17 # RECEIVED IN	118 2
YOU PULL UP THE NEXT	EXHIBIT	IN FRONT OF YOU AND	118 5
(	EXHIBIT	18 # RECEIVED IN	118 14
AS GOVERNMENT'S	EXHIBIT	167. CAN I ASK TO	147 13
YOU AND LOCATE THAT	EXHIBIT	? A THE PICTURE?	147 15
HONOR. (	EXHIBIT	167 # RECEIVED IN	148 6
SIR, GOVERNMENT'S	EXHIBIT	21, MR. SANTANA? A	150 22
THESE ARE -- THAT	EXHIBIT	IS	151 12
ALL RIGHT. WELL, THE	EXHIBIT	WILL BE RECEIVED	151 25
YES. (	EXHIBIT	21 # RECEIVED IN	152 5
MR. SANTANA, ON THAT	EXHIBIT	21, THOSE ARTICLES OF	152 9
THE LAST PAGE OF THAT	EXHIBIT	, SIR, IS YOUR NAME	152 14
TURN TO GOVERNMENT'S	EXHIBIT	22, IS THAT IN FRONT	153 11
WHAT GOVERNMENT'S	EXHIBIT	22 IS? A IT'S	153 15
A (EXAMINES	EXHIBIT	.) YES. Q AND IF	153 22
YOUR HONOR, THIS	EXHIBIT	IS SELF-AUTHENTICATED	154 5
THE COURT: WELL, THE	EXHIBIT	WILL BE RECEIVED.	154 12
OKAY. (	EXHIBIT	22 # RECEIVED IN	154 16
-- GOVERNMENT'S	EXHIBIT	20, SEVERAL	155 14
IS THAT GOVERNMENT'S	EXHIBIT	20? A YES, IT IS.	155 19
THE COURT: THE	EXHIBIT	MAY BE RECEIVED.	156 8
(	EXHIBIT	20 # RECEIVED IN	156 9
OF YOU, GOVERNMENT'S	EXHIBIT	167. IS THAT	171 10
YOU GOVERNMENT'S	EXHIBIT	20, A LARGE BILLBOARD	175 23
AHEAD. (	EXHIBIT	20 DISPLAYED.) BY	176 2
THAT'S GOVERNMENT'S	EXHIBIT	20 FOR	176 4
MR. STOLAR: HAS THE	EXHIBIT	BEEN OFFERED IN	177 5
YOU GOVERNMENT'S	EXHIBIT	14, A LARGE	177 25
MR. STOLAR:	EXHIBIT	15. MR.	178 4
HONOR? (	EXHIBIT	DISPLAYED.) BY	178 8
LOOK AT GOVERNMENT'S	EXHIBIT	15. DO YOU RECOGNIZE	178 10
TO GOVERNMENT'S	EXHIBIT	15, THAT PHOTOGRAPH?	179 25
MAN, GOVERNMENT'S	EXHIBIT	15, ALSO EXAMINE THE	180 10
TWO SAME PRINCIPALS--	EXHIBIT	15 IN THAT	185 7

			PG	LN
LOOK AT GOVERNMENT'S	EXHIBIT	25, WHICH IS IN FRONT	186	13
SECRETARY. Q THAT	EXHIBIT	, SIR, IS A RECORD	187	20
THE ADMISSION OF THIS	EXHIBIT	AT THIS TIME.	188	9
THAT. (	EXHIBIT	25 # RECEIVED IN	188	15
LOOK AT GOVERNMENT'S	EXHIBIT	24 AND IDENTIFY THAT	192	20
OF GOVERNMENT'S	EXHIBIT	24 AT THIS TIME.	193	15
OVERRULED. THE	EXHIBIT	MAY BE RECEIVED.	194	14
(	EXHIBIT	24 # RECEIVED IN	194	16
WHEN YOU'RE HAVING	EXHIBIT	S PLACED BEFORE A	196	19
ANYTHING ABOUT THE	EXHIBIT	S, DOESN'T KNOW WHAT	196	20
TELL HIM WHERE THE	EXHIBIT	NUMBER CAN BE FOUND,	196	22
WHAT TO DO WITH THE	EXHIBIT	WHEN HE'S FINISHED	196	23
DOWN, PICK UP ANOTHER	EXHIBIT	OR WHATEVER, BUT GIVE	196	25
YOU'RE ACCEPTING THE	EXHIBIT	S INTO EVIDENCE	197	14
LIKE THAT. THE	EXHIBIT	S I HAVE ACCEPTED, I	197	17

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REPORTERS' CERTIFICATION

WE, THE UNDERSIGNED REPORTERS, HEREBY CERTIFY THAT THE
FOREGOING IS A CORRECT TRANSCRIPT FROM THE RECORD OF
PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

Julie Churchill
JULIE A. CHURCHILL, CSR
OFFICIAL COURT REPORTER

DATED: May 30, 1990

Susan A Lee
SUSAN A. LEE, CSR
OFFICIAL COURT REPORTER

DATED: May 30, 1990